



October 7, 2022

VIA E-MAIL ONLY

Carmen Diaz, Acting Secretary
Board of Public Utilities
44 S. Clinton Ave., 1st Floor
P.O. Box 350
Trenton, NJ 08625-0350

**Re: In the Matter of the New Jersey Board of Public Utilities’ Response to the
COVID-19 Pandemic
BPU Docket No. AO20060471**

Dear Acting Secretary Diaz:

Please accept this correspondence on behalf of Public Service Electric and Gas Company (“PSE&G” or the “Company”) in reply to the initial responses and comments dated September 19, 2022 of the Division of Rate Counsel (“Rate Counsel”) on the COVID-19-related regulatory asset and cost recovery questions presented in the July 20, 2022 Order of New Jersey Board of Public Utilities (“Board”) President Fiordaliso.¹

PSE&G notes that in comments dated September 16, 2022, the New Jersey Utilities Association (“NJUA”) has addressed the questions presented on the same subjects covered by Rate Counsel. PSE&G supports the NJUA’s comments, and submits this brief reply to elaborate on certain issues addressed by Rate Counsel.

During A Public Health Emergency Like COVID-19, The Regulatory Compact Is More Important, Not Less

As detailed in the NJUA comments, the legislative history of the Electric Discount and Energy Competition Act, and in particular the Societal Benefits Charge embodied in N.J.S.A. 48:3-60(a)(1), is clear that the Board, and the Legislature, intended to “preserve the provision and funding for existing social protection programs,” including among other things “the costs associated with serving ‘bad debt’ customers” *Restructuring the Electric Power Industry in New Jersey*, Docket No. EX94120585Y (April 30, 1997) at 9. The Board recognized that electric utilities have also been relied upon to be *an integral part of a societal safety net for those less fortunate consumers who are unable to pay their utility bills* for reasons beyond their control”, and “should not be financially or competitively disadvantaged as a result.” *Id.* Thus the Board recommended “timely recovery of these costs by utilities,” *id.*, notwithstanding that these cost will likely fluctuate due to a variety of factors.

¹ In the Matter of the New Jersey Board of Public Utilities’ Response to the COVID-19 Pandemic, Docket No. AO20060471, Order Setting Comment Schedule (July 20, 2022) (“July 2022 Order”).

The NJUA comments also detail how the regulatory compact, including the right to recover prudently incurred costs, is the foundation upon which regulated, investor-owned utilities operate, ensuring balance between customer and shareholder interests. It was against this backdrop that the Board on July 2, 2020, near the outset of the pandemic, “authoriz[ed] each of the State’s utilities to create a COVID-19 regulatory asset by deferring the prudently incurred incremental costs related to COVID-19”²

Rate Counsel’s assertion that “ratepayers should not be charged with 100% of the COVID-related deferred expense rate recovery” would change the rules in the middle of the game, in direct contravention of the Board’s July 2, 2020 order and the history of public utility regulation in this state. Similarly, Rate Counsel’s suggestion that the state’s electric distribution companies should be allowed to recover through the SBC “only their regular, ongoing uncollectible expenses and should not include extraordinary, non-recurring deferred incremental COVID-related uncollectibles” would be contrary to the letter and purpose of the SBC mechanism, has no basis in law or public policy, and would represent impermissible retroactive ratemaking. It is important to recognize that the extended moratorium on customer shut-offs during the pandemic changed the rules under which utilities operate, and has resulted in a significant portion of PSE&G’s on-going incremental costs. PSE&G is entitled to recovery of all costs generated by changes made by the state that are beyond the Company’s control.

Rate Counsel’s assertion that “sharing” the incremental costs “would expose the utilities to a proxy for the economic reality faced by for-profit corporations” is unsupported and completely off the mark. As demonstrated over the past two-and-a-half years, the regulatory compact is more important, not less, in times of a health emergency like COVID-19. Throughout this difficult period, PSE&G and other utilities in New Jersey continued to provide safe, adequate and proper service, 24 hours a day, seven days a week. This included the continuation of all operations and maintenance, required construction, and other activities that by necessity require PSE&G employees to interact with customers, community members, and each other. And, unlike unregulated businesses, PSE&G and other New Jersey utilities managed these difficult circumstances and continued to provide service – including electric service to sustain health care operations and residential washing machines, and gas service to power businesses and heat homes -- during an extended period when an extraordinary number of customers were unable to pay their bills.

While the impacts of COVID-19 have begun to abate, it will be important during challenging times in the future to ensure that public utilities providing services that are the lifeblood of a modern society will be motivated to continue to provide that service, first and foremost, confident that the regulatory compact will be enforced. Rate Counsel’s proposal to allow recovery of only a portion of prudently incurred incremental costs should be rejected.

Rate Counsel’s Position That The Prudence Review Of Deferred COVID-19 Costs Should Occur In A Base Rate Case Is Contrary To Board Precedent And Would Undermine Administrative Efficiency

PSE&G agrees that, as stated in NJUA’s comments, “[e]ach utility should be given the opportunity to determine what path of recovery is best for them and propose it to the Board for approval.” We also note that in the only recent circumstance involving substantial deferred costs, following the significant storms of 2011 and 2012, the Board evaluated the prudence of utilities’ storm recovery costs in special proceedings

² July 2022 Order, at 1.

that enabled efficient review and evaluation of those costs.³ Thus, when PSE&G filed a subsequent base rate case in 2018, the prudence of those deferred costs had already been evaluated, helping to streamline the conduct and ultimate resolution of that case.⁴

While PSE&G has filed a motion seeking to extend the COVID deferral period to December 31, 2023 in light of its on-going, significant bad debt costs and incremental collection activities required to mitigate those costs, the Company recommends commencing the review of its COVID deferral to a date in advance of that end date, with completion of that evaluation sometime after December 31, 2023, which is the date by which PSE&G will file its next base rate case pursuant to prior agreement. In this manner PSE&G proposes to streamline and achieve an efficient settlement of that base rate case.

Rate Counsel's proposal to hold consideration of the prudence of deferred COVID-19 expenses until each utility's next base rate case, which Rate Counsel claims will "allow[] careful scrutiny of the utility's billing, collection, customer service and disconnection practices," is a red herring. Any necessary evaluation of those factors can more effectively be undertaken in a stand-alone COVID-19 proceeding focusing on those issues, rather than in a base rate case involving numerous unrelated issues. As was the case when the Board evaluated the utilities' deferred storm costs in stand-alone proceedings in 2013-2014, this would allow more time for review of prudently incurred costs focused on how the respective companies addressed the emergency, outside the scheduling constraints of a base rate case. The COVID-19 proceeding can be completed in time to be incorporated into the rate case resolution, without burdening the rate case itself with extraneous issues that can be resolved ahead of time, and without the second-guessing and opportunities for gamesmanship that Rate Counsel perhaps seeks to create. PSE&G proposes to commence the review of its COVID-19 deferral during calendar year 2023, in a manner that would allow completion of that evaluation sometime after the requested December 31, 2023 end date of the COVID deferral period.

PSE&G again thanks the Board for its consideration of these comments, and the September 16, 2022 comments of NJUA. Please do not hesitate to contact me if you wish to further discuss these comments.

Respectfully submitted,



Matthew M. Weissman

cc: Electronic Mailing List

³ See In the Matter of the Board's Establishment of a Generic Proceeding to Review the Prudence of Costs Incurred by Public Service Electric and Gas Company In Response to Major Storm Events in 2011 and 2012, Docket. No. AX13030196, Decision and Order Approving Stipulation (September 30, 2014).

⁴ See In the Matter of the Petition of Public Service Electric and Gas Company for Approval of an Increase in Electric and Gas Rates and for Changes in Tariffs for Electric and Gas Service, BPU Dkt. Nos. ER18010029 & GR18010030, Decision and Order Adopting Initial Decision and Stipulation (October 29, 2018).