



State of New Jersey
DIVISION OF RATE COUNSEL
140 EAST FRONT STREET, 4TH FL
P.O. Box 003
TRENTON, NEW JERSEY 08625

PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

BRIAN O. LIPMAN
Director

January 13, 2023

VIA ELECTRONIC MAIL ONLY

Hon. Carmen D. Diaz, Acting Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350
Board.secretary@bpu.nj.gov

Re: **In the Matter of the Petition of Public Service Electric and Gas Company for
Approval of a Zero Emission Certificate Recovery Charge
BPU Docket No.: EO221000658**

Dear Secretary Diaz:

Please accept for filing these comments on behalf of the Division of Rate Counsel ("Rate Counsel") to the following Public Service Electric & Gas Company ("PSE&G" or "Company") petition referenced above.

As directed by the Board's Order in Docket No. EO20030254, dated March 19, 2020, Rate Counsel hereby submits this filing via email only to the Board Secretary and service list. **Please acknowledge receipt of these comments.** Thank you for your consideration and attention to this matter.

In May 2018 the State of New Jersey established the Zero Emissions Certificate (“ZEC”) Program and ordered the Board of Public Utilities (“Board” or “BPU”) to create a mechanism for the issuance of ZECs, which represent “the fuel diversity, air quality and other environmental attributes” of one megawatt-hour of nuclear generation, N.J.S.A. 48:3-87.4, and to create a Zero Emissions Certificate Recovery Charge (“ZEC Charge”). In the enabling legislation New Jersey also directed the State-regulated electric distribution companies (“EDCs”) to return excess monies collected in each EDC’s separate ZECRC interest-bearing account to its retail distribution customers at the end of each energy year. N.J.S.A. 48:3-87.5 3(j)(2).

On October 14, 2022, PSE&G filed a letter petition seeking to set its ZEC Reconciliation Charge rate (“ZECRC”) to zero as of January 31, 2023. On November 7, 2022, the Company amended its October 14, 2022 filing to correct a small filing error.

In October 2021, the Company filed to increase the ZECRC rate (i.e. to reduce the credit rate) from (\$0.000155) per kWh (w/o SUT) to (\$0.000087) per kWh (w/o SUT). PSE&G designed that proposed rate to return Energy Year 2021 over-collections of \$3,458,720 over a 12-month period commencing January 1, 2022. However, the proposed rate did not become effective until May 1, 2022, resulting in an excess return of over-collected dollar to customers. As a result, the Company estimates an under-collected balance, including interest, of \$1,191,060 as of January 2023. Additionally, during Energy Year 2022, the Company’s ZEC Reconciliation Charge over-collections totaled \$1,321,404. As a result, the estimated net balance for Energy Years 2021 and 2022, based on eight months of actual and five months of estimated Energy Year 2022 and 2023 data, would be an over-collected balance of only \$130,344 as of January 31, 2023, which is equivalent to a ZECRC credit rate of (\$0.000003). Given this small balance, the

Company is proposing to set the ZECRC to zero beginning February 1, 2023 and any remaining balance due to customers, including interest, will be carried over to the next year's ZEC Reconciliation Charge rate filing. PSE&G Petition, p.2; Attachment A, p.1.

The response to discovery request RCR-1, which PSE&G provided by letter dated December 28, 2022, indicates a revised ZECRC over-collected balance of \$80,576 as of January 31, 2023, equivalent to a ZECRC credit rate of (\$0.000002) when calculated based on actual data through November 2022. RCR-1; Attachment A, p.1.

The Company is also proposing that the Board allow this and future ZEC Reconciliation Charge Rate filings to be handled similar to BGS reconciliation filings each year through 30-day-notice compliance filings with provisional rates subject to additional examination by the Board. PSE&G Petition, p.2.

Two Virtual Public Hearings were held on January 5, 2023 at 4:30 PM and 5:30 PM. No members of the public appeared to comment.

Rate Counsel has reviewed the petition and discovery responses for this matter and based on the facts and discovery responses specific to this petition does not object to PSE&G's request to set its ZECRC rate to be effective for Energy Year 2023 at \$0.000000. In addition, Rate Counsel does not disagree with the data in support of the originally calculated ZECRC over-collected balance of \$130,344 (with an associated ZECRC credit rate of \$0.000003) or the updated ZECRC over-collected balance of \$80,576 (with an associated ZECRC credit rate of \$0.000002).

In regard to PSE&G's request to allow future filings to be handled similarly to BGS reconciliation filings each year through a 30-day notice with provisional rates subject to additional examination by the Board, it is unclear to Rate Counsel how a compliance filing with a thirty day notice would satisfy the Board's statutory public hearing notice requirements if the proposed adjusted rate would lead to an increase in rates. In this regard, Rate Counsel notes that PSE&G made this same request in its prior October 2021 RECCR filing, but the Board declined to rule on that request on page 3 of its April 6, 2022 Order where it stated: "The Board declines at this time to predetermine that PSE&G's future RECCR adjustment filings will not require, or will not otherwise justify according to the Board's discretion, the holding of public hearings¹ ." Rate Counsel is unaware of any additional information in the record which would justify a change in the Board's prior decision on this issue.

In addition, it is unclear to Rate Counsel how a compliance filing with a thirty-day notice would satisfy the Board's statutory public hearing notice requirements if the proposed adjusted rate would lead to an increase in rates.

Respectfully submitted,

BRIAN O. LIPMAN, DIRECTOR
DIVISION OF RATE COUNSEL

By: /s/ **Bethany Rocque-Romaine**
Bethany Rocque-Romaine, Esq.
Assistant Deputy Rate Counsel

¹ In the Matter of the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants, Dkt. No. EO18080899; and In the Matter of the Petition of Public Service Electric and Gas Company for Approval of a Zero Emission Certificate Recovery Charge, Dkt. No. EO21101183 Order dated April 6, 2022, P. 3.

**I/M/O the Petition of Public
Service Electric and Gas
Company for Approval of a
Change to its Zero Emission
Certificate Recovery Charge
BPU Docket No. ER22100658**

SERVICE LIST

Carmen Diaz, Acting Secretary
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
P.O. Box 350
Trenton, NJ 08625
board.secretary@bpu.nj.gov

Robert Brabston, Esq.
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Robert.Brabston@bpu.nj.gov

Michael Beck, Esq.
Board of Public Utilities
44 South. Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Michael.Beck@bpu.nj.gov

Mike Kammer
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
Mike.Kammer@bpu.nj.gov

Stacy Peterson
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
Stacy.Peterson@bpu.nj.gov

Benjamin Witherell, Ph.D.
Board of Public Utilities
44 South. Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Benjamin.Witherell@bpu.nj.gov

Malike Cummings
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Malike.Cummings@bpu.nj.gov

Heather Weisband, Esq.
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
Heather.Weisband@bpu.nj.gov

Kevin Nedza
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
Kevin.Nedza@bpu.nj.gov

Ryan Moran
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
Ryan.Moran@bpu.nj.gov

Pamela Owen, DAG
Department of Law & Public Safety
Division of Law
R.J. Hughes Justice Complex
25 Market Street, P.O. Box 112
Trenton, NJ 08625
Pamela.Owen@law.njoag.gov

Matko Ilic, DAG
Department of Law & Public Safety
Division of Law
R.J. Hughes Justice Complex
25 Market Street, P.O. Box 112
Trenton, NJ 08625
Matko.Ilic@law.njoag.gov

Terel Klein, DAG
Department of Law & Public Safety
Division of Law
R.J. Hughes Justice Complex
25 Market Street, P.O. Box 112
Trenton, NJ 08625
Terel.Klein@law.njoag.gov

Brian O. Lipman, Director
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625
blipman@rpa.nj.gov

T. David Wand, Esq.
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625
dwand@rpa.nj.gov

Bethany Rocque-Romaine, Esq.
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625
bromaine@rpa.nj.gov

Debora Layugan
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625
dlayugan@rpa.nj.gov

Robert J. Henkes
Henkes Consulting
7 Sunset Road
Old Greenwich, CT 06870
rhenkes@optonline.net

Matthew M. Weissman, Esq.
Public Service Electric & Gas
80 Park Plaza, T5G
P.O. Box 570
Newark, NJ 07102-4194
matthew.weissman@pseg.com

Aaron Karp, Esq.
Public Service Electric & Gas
80 Park Plaza, T5G
P.O. Box 570
Newark, NJ 07102-4194
aaron.karp@pseg.com

Thomas C. Vogdes
Public Service Electric & Gas
80 Park Plaza, T5G
P.O. Box 570
Newark, NJ 07102-4194
thomas.vogdes@pseg.com

Stephen Swetz
Public Service Electric & Gas 80 Park
Plaza, T5G
P.O. Box 570
Newark, NJ 07102-4194
stephen.swetz@pseg.com

Donna M. Powell
Public Service Electric & Gas
80 Park Plaza, T5G
P.O. Box 570
Newark, NJ 07102-4194
donna.powell@pseg.com

Michele Falcao
Public Service Electric & Gas 80 Park
Plaza, T5G
P.O. Box 570
Newark, NJ 07102-4194
michele.falcao@pseg.com

Caitlyn White
Public Service Electric & Gas 80 Park
Plaza, T5G
P.O. Box 570
Newark, NJ 07102-4194
caitlyn.white@pseg.com

Margaret Comes, Esq.
Con Edison Co. of NY Law Dept.
4 Irving Place
New York, NY 10003
COMESM@coned.com

John L. Carley, Esq.
Con Edison Co. of NY Law Dept.
4 Irving Place
New York, NY 10003
carleyj@coned.com

Cheryl Ruggiero
Con Edison Co. of NY Law Dept.
4 Irving Place 2nd Floor Southeast
New York, NY 10003
ruggieroc@coned.com

Philip Passanante, Esq.
Atlantic City Electric Company
500 N. Wakefield Drive
P.O. Box 6066
Newark, DE 19714
philip.passanante@pepcoholdings.com

Heather Hall, Manager
Atlantic City Electric Company
500 N. Wakefield Drive
P.O. Box 6066
Newark, DE 19714
heather.hall@pepcoholdings.com

Cynthia Holland, Esq.
Atlantic City Electric Co.
500 N. Wakefield Drive
P O Box 6066
Newark, DE 19714
Cynthia.Holland@exeloncorp.com

Susan DeVito
Atlantic City Electric Company
500 N. Wakefield Drive
P.O. Box 6066
Newark, DE 19714
susan.devito@pepcoholdings.com

Thomas Hahn
Atlantic City Electric Company
500 N. Wakefield Drive
P.O. Box 6066
Newark, DE 19714
thomas.hahn@pepcoholdings.com

Mark Mader
Jersey Central Power & Light Co.
300 Madison Avenue
P.O. Box 1911
Morristown, NJ 07960
mamader@firstenergycorp.com

Thomas Donadio
Jersey Central Power & Light Co.
300 Madison Avenue
P.O. Box 1911
Morristown, NJ 07962
tdonadio@firstenergycorp.com

Joshua Eckert, Esq.
Jersey Central Power & Light Co.
300 Madison Avenue
P.O. Box 1911
Morristown, NJ 07960
jeckert@firstenergycorp.com

Kevin Siedt
Jersey Central Power & Light Co.
300 Madison Avenue
P.O. Box 1911
Morristown, NJ 07962
ksiedt@firstenergycorp.com

Yongmei Peng
Jersey Central Power & Light Co.
300 Madison Avenue
P.O. Box 1911
Morristown, NJ 07962
ypeng@firstenergycorp.com

Robert Oostdyk, Jr., Esq.
Murphy McKeon P.C.
51 Route 23 South
P.O. Box 70
Riverdale, NJ 07456
roostdyk@murphymckeonlaw.com

James Lampmann
Borough of Butler
1 Ace Road
Butler, NJ 07405
jlampmann@butlerborough.com