



January 30, 2023

**VIA ELECTRONIC MAIL** ([board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov))

Carmen D. Diaz, Acting Secretary  
Board of Public Utilities  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**Re: In the Matter of the Implementation of P.L. 2018, c.17 Energy and Water  
Benchmarking of Commercial Buildings  
BPU Docket No. QO21071023**

Dear Secretary Camacho-Welch:

On September 7, 2022 the BPU issued an order in the above-referenced proceeding (the “September 7<sup>th</sup> Order”) approving the New Jersey Building Energy and Water Benchmarking Program (the “Program” or “Benchmarking Program”), as required by the Clean Energy Act of 2018. The September 7<sup>th</sup> Order outlined several procedures and requirements for the Program in which Public Service Electric and Gas Company (“PSE&G” or the “Company”) has an interest, including the requirements for utilities to assist building owners and the New Jersey Board of Public Utilities (the “Board” or the “BPU”) in compiling benchmarking information, and the requirements for commercial buildings owners. A Notice of Stakeholder Meeting was issued on November 28, 2022 announcing two meetings regarding the procedures for owners and operators of commercial buildings larger than 25,000 square feet (that are located in New Jersey) to meet their reporting and other obligations under the Program. The Company respectfully submits the following in response to certain comments or issues raised and/or identified during these stakeholder meetings. Consistent with the Order issued by the Board in connection with *In the Matter of the New Jersey Board of Public Utilities’ Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations*, BPU Docket No. EO20030254, Order dated March 19, 2020, this document is being filed electronically with the Secretary of the Board and the New Jersey Division of Rate Counsel. No paper copies will follow.

**Request to Provide Benchmarking Data for Buildings under 25,000 Square Feet**

Per the September 7<sup>th</sup> Order, benchmarking is required for commercial (class 4A), state (subset of class 15C), and apartment properties (class 4C) in excess of 25,000 square feet.<sup>1</sup> Nonetheless during the December 13, 2022 stakeholder meeting a representative of the New Jersey Apartment Association proposed a voluntary pathway for owners of buildings less than 25,000 square feet to access data from

---

<sup>1</sup> September 7<sup>th</sup> Order, at p. 34.

New Jersey utilities for the purpose of engaging in the Program—a proposition which Staff appeared to support. While the September 7<sup>th</sup> Order “encourages building owners to benchmark all campus buildings, regardless of size, to generate a meaningful representation of a campus’s energy and water usage,”<sup>2</sup> the September 7<sup>th</sup> Order makes no provision for including buildings 25,000 square feet or less in the Program. As such, Staff’s apparent support of a “voluntary pathway” for owners of buildings less than 25,000 square feet to participate in the Benchmarking Program is troublesome as it attempts to expand the requirements of the Program established by the September 7<sup>th</sup> Order.

The September 7<sup>th</sup> Order not only limits the scope of the Benchmarking Program to buildings in excess of the 25,000 square foot threshold but it also limits cost recovery to all “reasonable and prudent costs of implementing the Benchmarking requirement.” Therefore if a utility were to submit for recovery of any costs expended in support of benchmarking efforts undertaken beyond the scope of this Program (i.e. for buildings 25,000 square feet or less that are not located within a campus), such cost recovery would not be consistent with the September 7<sup>th</sup> Order, and any such incurred costs would likely not be recoverable. PSE&G therefore requests that the Board maintain its limited scope for the Benchmarking Program—at buildings in excess of 25,000 square feet—and defer any discussion of expansion of the Program to a later date. As noted in NJUA’s January 20, 2022 comments “the Utilities believe that implementation will be challenging and support keeping the benchmarking initiative simple, at least at the beginning. The benchmarking process could then be expanded over time based upon experience and stakeholder feedback.”

### **Tracking usage data by meter or account number**

During the December 13, 2022 stakeholder meeting a member of the public asked whether utilities would be tracking usage data by meter number or account number, and expressed the complexities that arise when account numbers are linked to multiple meters. This issue was one that the Company raised in its initial comments in this proceeding. Since account numbers can change as customers move in and out of premises, it may be a challenge, as expressed in NJUA’s January 20<sup>th</sup> comments, to link all the correct accounts to a given premise. Therefore, the Company proposes, as it did in its January 20<sup>th</sup> comments, that the building owner provide the meter numbers in addition to contract account numbers associated with the premise. Inclusion of this information will help with confirming account information and providing complete data.. It was noted on page 24 of the order that “Staff does not agree with RECO and PSE&G’s suggestion that the building owner provide all the meter IDs to a utility to confirm the accuracy of these meter IDs. It would be impractical for an owner of a large multi-family building to enter each building unit to read the meter IDs for that unit and to confirm that the meter IDs match what the utility has on record.” Regarding confirmation with the utility that the meter numbers match records, the meter numbers are data points that can be worked with even if the information is outdated. For example, if there was a meter change and the building owner was not aware, PSE&G has access to historical meter numbers and can make the match.

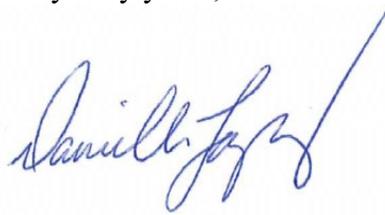
---

<sup>2</sup> *Id.*

**The 4/50 Rule re: consent**

Under the September 7<sup>th</sup> Order, “if there are fewer than four tenants in a particular building or if one tenant exceeds 50% of the energy consumption or water usage in a given building, then the building owner shall request **each** tenant’s written consent to allow the applicable utility to provide energy and water data to the building owner.”<sup>3</sup> Yet, during the December 13<sup>th</sup> meeting there was discussion that if there is one tenant that exceeds 50% of the usage for a given building, the owner would only have to acquire consent from that large energy user. Such interpretation directly contradicts the black letter of the 4/50 rule set forth in the Board’s September 7<sup>th</sup> Order and PSE&G therefore requests that the Board affirm the finding that consent from all tenants is required in situations where one tenant exceeds 50% of usage for a given building.

Very truly yours,



Danielle Lopez

---

<sup>3</sup> September 7<sup>th</sup> Order, at p. 11 (**emphasis added**).