



Agenda Date: 2/17/23

Agenda Item: 2C

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE VERIFIED PETITION OF	)	DECISION AND ORDER ON
THE COLLEGE OF NEW JERSEY FOR RELIEF	)	MOTION TO INTERVENE,
FROM A PENALTY ASSESSED BY PUBLIC	)	DESIGNATION OF PRESIDING
SERVICE ELECTRIC & GAS COMPANY	)	COMMISSIONER, AND SETTING
	)	MANNER OF SERVICE AND BAR
	)	DATE
	)	
	)	DOCKET NO. GC18111234

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
James H. Laskey, Esq., Norris McLaughlin, P.A., Counsel to The College of New Jersey
Matthew M. Weissman, Esq., General State Regulatory Counsel, Public Service Electric and Gas Company

BY THE BOARD:

On November 9, 2018, the College of New Jersey ("TCNJ") filed a petition with the New Jersey Board of Public Utilities ("Board" or "BPU") for relief from a penalty assessed by Public Service Electric and Gas Company ("PSE&G") regarding the consumption of natural gas during a period of interruption in January 2018 ("Petition")

Background

TCNJ is a public college in Ewing, New Jersey that enrolls approximately 7,400 students. TCNJ owns, maintains, and operates an on-campus cogeneration plant ("Cogen") that supplies electricity and steam for heating throughout its campus. The Cogen receives supply service from PSE&G under a tariff known as Basic Gas Supply Service - Cogeneration Interruptible ("CIG"). The CIG tariff requires customers upon advance notice of not less than 8 hours, to discontinue natural gas use. Consistent with this requirement, TCNJ maintains a fuel oil backup for the Cogen.

On January 4, 2018, TCNJ received a notice from PSE&G to switch over to oil effective the following morning. TCNJ switched to its oil backup on January 5, 2018, prior to the published PSE&G interruption time. Approximately 30 minutes into the interruption by PSE&G, a mechanical failure shut down TCNJ's backup fuel oil system. TCNJ declared an emergency and

notified PSE&G that TCNJ needed to go back on natural gas in order to protect the health and wellbeing of the campus community. PSE&G assessed TCNJ a penalty of \$2,359,532 for not curtailing service during the interruption period. This penalty is the subject of TCNJ's petition.

In the Petition, TCNJ requested that the Board: 1) investigate the circumstances leading up to the assessment of the penalty, 2) determine what a just and reasonable assessment might be for the gas that was used, 3) determine a fair payment plan for whatever assessment is ultimately arrived at, and 4) grant any other relief as may be just and reasonable.

PSE&G Motion to Intervene

On December 24, 2018, PSE&G filed a motion to intervene pursuant to N.J.A.C. 1:1-16.1 *et seq.* ("Motion"). According to the Motion, PSE&G is a New Jersey public utility, as defined by N.J.S.A. 48:2-13, engaged in the purchase, distribution, and sale of natural gas for more than 1,800,000 customers located within the State of New Jersey, including TCNJ. PSE&G explained that as a New Jersey public utility, it is engaged in the purchase, transmission, distribution, and sale of electric energy and related utility services to more than 2,100,000 residential, commercial, and industrial customers.

The Motion provided that TCNJ is an interruptible gas customer of PSE&G, and that TCNJ has filed the subject petition seeking relief from a penalty assessed by PSE&G pursuant to its tariff for gas service for TCNJ not curtailing service during an interruption period in January 2018.

PSE&G stated that it has a substantial interest in this matter because it provides gas service to TCNJ, and TCNJ challenges the penalty provision set forth in PSE&G's gas tariff. PSE&G asserted that the Board's determination in this proceeding may have precedential impact in future cases when an interruptible gas customer does not curtail service during an interruption. Thus, PSE&G claimed that its interest in this proceeding is sufficiently different from that of any party so as to add measurably and constructively to the scope of this matter.

PSE&G further asserted that it can assist the BPU in its determination of this matter by providing the BPU with relevant billing and tariff information. Finally, PSE&G represented that the granting of its motion will not cause undue delay or confusion.

TCNJ Response to PSE&G's Motion to Intervene

On January 4, 2019, TCNJ filed a response to PSE&G's motion to intervene stating that it has no objection to the granting of PSE&G's motion. TCNJ submitted that PSE&G should be required to comply with N.J.A.C. 14:1-6.1, and file an answer with the Board regarding TCNJ's petition.

PSE&G's Answer to TCNJ's Petition

On February 7, 2019, PSE&G filed an answer addressing the various points in TCNJ's Petition. PSE&G asserted that the penalty it billed TCNJ is consistent with its BPU approved tariff for gas service and the Board's October 2, 2000 order in Docket No. GO00020088, and the applicable provisions of the PSE&G gas tariff are just and reasonable.¹ PSE&G further asserted that it takes no position with respect to TCNJ's request for relief.

¹ In re the Matter of the Board's Review of Energy and Home Heating Oil Markets, BPU Docket No. GO00020088, dated October 2, 2000.

DISCUSSIONS AND FINDINGS

Motion to Intervene

In ruling on a motion to intervene, N.J.A.C. 1:1-16.3(a) requires that the decision-maker consider the following factors:

1. The nature and extent of the moving party's interest in the outcome of the case;
2. Whether that interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case;
3. The prospect for confusion and delay arising from inclusion of the party; and
4. Other appropriate matters.

If the standard for intervention is not met, N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant," if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, or file a statement or brief, or file exceptions, or all of these as determined by the trier of fact.

As the Board stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervenor's interest be specific, direct and different from that of the other parties so as to add measurably and constructively to the scope of the case. See In re the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, Docket No. EM05020106, Order dated June 8, 2005.

After consideration of the papers and given the lack of any objections, the Board **HEREBY FINDS**, pursuant to N.J.A.C. 1:1-16.6(b), PSE&G will be directly affected by the outcome of this proceeding, and will contribute to the development of a full and complete record for review by the Board in its evaluation. Therefore, the Board **HEREBY FINDS** that PSE&G has met the standards for intervention in this matter, as it has interests in this proceeding that are not represented by another party, and it will add measurably and constructively to the proceeding without causing delay. Accordingly, the Board **HEREBY GRANTS** PSE&G's motion for intervention on the basis of its representations that it will adhere to the scope of the issues to be addressed in this proceeding.

Designation of Commissioner

The Board **HEREBY DETERMINES** that this matter should be retained by the Board for hearing pursuant to N.J.S.A. 48: 2-32. The Board **HEREBY DESIGNATES** President Joseph L. Fiordaliso as the Presiding Officer authorized to establish and modify schedules and decide all motions during the pendency of these proceedings subject to ratification by the Board.

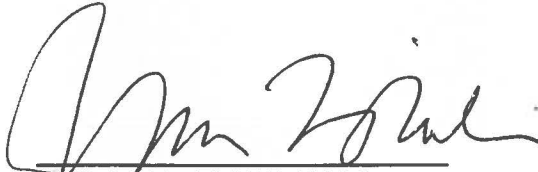
The Board **HEREBY DIRECTS** that all entities, other than PSE&G, seeking to intervene or participate in this matter to file the appropriate application with the Board on or before February 27, 2023. The Board **FURTHER DIRECTS** that any party wishing to file a motion for admission of counsel, pro hac vice, should do so concurrently with any motion to intervene or participate.

In addition, pursuant to the Board's Orders in In re 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 (Orders dated March 19, 2020 and June 10, 2020), all parties are **HEREBY DIRECTED** to serve all documents electronically. No hard copies shall be filed until the Board lifts the restrictions imposed by the Orders. The Board **FURTHER DIRECTS** that this Order be posted on the Board's website and served by electronic circulation to the service list.

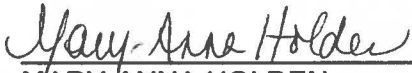
The effective date of this Board Order is February 24, 2023.

DATED: February 17, 2023

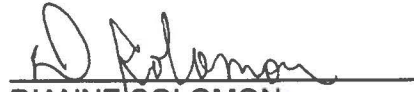
BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER



DR. ZENON CHRISTODOULOU
COMMISSIONER

ATTEST:



CARMEN D. DIAZ
ACTING SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities.

IN THE MATTER OF THE VERIFIED PETITION OF THE COLLEGE OF NEW JERSEY FOR RELIEF
FROM A PENALTY ASSESSED BY PUBLIC SERVICE ELECTRIC & GAS COMPANY DOCKET NO.
GC18111234

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