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March 22, 2023

Sherri L. Golden, Board Secretary
NJ Board of Public Utilities
44 South Clinton Avenue, 1st Floor
P.O. Box 350
Trenton, NJ 08625-0350

**Re: In the Matter of the Petition of Marcal Manufacturing, LLC
for a Three-Year Extension in Electric and Natural Gas
Societal Benefits Charges
BPU Docket No. GR22080486**

**In the Matter of the Rate Schedule CSG Transportation Service
Agreement Between Public Service Electric and Gas Company
and Marcal Manufacturing, LLC
BPU Docket No. GR22100657**

Dear Secretary Golden:

Please accept this letter as the non-objection of the New Jersey Division of Rate Counsel ("Rate Counsel") in connection with the above-referenced matters. Consistent with the March 19, 2020 Order of the New Jersey Board of Public Utilities ("BPU" or "Board") in I/M/O 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, this communication is being filed electronically with the Secretary of the Board and is being provided to each person on the service list by electronic mail only. No paper copies will follow. **Please acknowledge receipt of this letter.** Thank you for your consideration and attention to this matter.

INTRODUCTION AND BACKGROUND

These above-referenced matters involve (1) the petition filed by Marcal Manufacturing, LLC (“Marcal”) in the Board’s Docket No. GR22080486, (the “SBC Petition”) in which Marcal seeks approval for a three-year extension of the discounts it currently receives in the Societal Benefits Charge (“SBC”) rate billed to Marcal in connection with electric and gas service provided to it by Public Service Electric and Gas Company (“PSE&G”); and (2) the petition filed by PSE&G in the Board’s Docket No. GR22100657, (the “CSG Petition”) in which PSE&G seeks approval of a Rate Schedule CSG Amended Service Agreement between PSE&G and Marcal (“Amended CSG Agreement”), which provides for three-year extension of a discounted rate for gas distribution service provided to Marcal. For the reasons detailed below, Rate Counsel does not object to the relief sought in the two Petitions, subject to certain conditions as explained below.

Marcal, formerly Soundview Paper Company, LLC (“Soundview”) is the owner of a paper mill (the “Mill”) in Elmwood Park, New Jersey which produces bath tissue and paper towels from recycled paper. SBC Petition, par. 1, 4. In 2012, Marcal, which at that time was doing business as Soundview, acquired the Mill’s prior owner and subsequently invested in improvements to the Mill. SBC Petition, par. 2-3.

By Order dated November 16, 2015, the Board approved a CSG Transportation Service Agreement between Marcal and PSE&G, providing Marcal with a discounted rate for gas distribution service. In addition, the Board approved a discount of the SBC rate associated with Marcal’s gas distribution service. Marcal was required to pay only the Clean Energy Program (“CEP”) portion of the SBC. Both discounts were approved with a seven-year term commencing on December 1, 2015 and expiring on December 1, 2022. I/M/O Rate Schedule CSG

Transportation Service Agreement Between Public Service Electric and Gas Company and Marcal Manufacturing, LLC and the Potential Discount of Societal Benefits Charges, BPU Dkt. No. GR15060659, Order Approving Stipulation at 3, 4 (Nov. 16, 2015) (the “2015 CSG Order”)

By Order dated December 18, 2018 the Board approved a 50% reduction in the SBC paid by Marcal in connection with its electric usage. The discount was approved to remain in effect through the conclusion of the term of the 2015 CSG Transportation Service Agreement, and was conditioned on Marcal’s commitment not to withdraw funds from the CEP while the SBC reduction remained in effect. I/M/O the Petition of Soundview Paper Company, LLC for Approval of a Reduction of the Societal Benefits Charge, BPU Dkt. No. ER18070706, Decision and Order at 2, 6 (Dec. 18, 2018) (the “2018 Electric SBC Order”).

On January 30, 2019 a major fire resulted in significant damage to the buildings and equipment at the Englewood site and resulted in a shut-down of the Mill’s production. Out of over 500 employees that were employed at the Mill prior to the fire, only 100 were retained to assist with efforts to restart operations. SBC Petition, par. 3, 13.

By Order dated September 19, 2019, the Board approved a 75% discount in Marcal’s electric and gas SBC rates. The discounts were approved to remain in effect through the expiration of the 2015 CSG Transportation Service Agreement. In its Petition seeking the discounts, Marcal had indicated that it was considering applying for funds for a natural gas combine heat and power (“CHP”) facility, and therefore had sought the elimination of the condition prohibiting it from withdrawing SBC funds. The Order allowed Marcal to apply for SBC funds, but provided that if Marcal received significant state-funded assistance for a CHP or other clean energy project, the discounts would terminate when the clean energy project became fully operational. I/M/O the Petition of Soundview Paper Company, LLC to Modify the Electric

and Natural Gas Societal Benefits Charge Due to Changed Circumstances, BPU Dkt. No.

ER19070812, Decision and Order at 3, 5 (Sep, 27, 2019) (the “2019 Electric/Gas SBC Order”).

Marcal restarted manufacturing operations on January 31, 2020. Based on the equipment that was available after the fire, Marcal concentrated on the “Away-From-Home” market segment when it restarted operations. However, shortly after reopening, the COVID-19 pandemic began and many public places were closed, which was especially damaging to the Away-From-Home market segment which targeted products for offices, schools, restaurants, and other public places. As a result, Marcal curtailed its operations. Marcal stated in the SBC Petition that total losses from January 2020 to date are in excess of \$18 million. SBC Petition, par. 14-17.

In the current SBC Petition, Marcal requested a new three-year rate extension of the electric and gas SBC discounts approved in the 2019 Electric/Gas SBC Order to December 1, 2025. Marcal seeks this relief due to financial hardship associated with both the 2019 fire, the COVID-19 pandemic and the surge in natural gas and electric prices that occurred in 2022. SBC Petition, par. 36, 38. Marcal states that it is not seeking to change the terms under which the 75% SBC discounts were granted in the 2019 Electric/Gas SBC Order. SBC Petition, par. 29.

In the CSG Petition, PSE&G sought the Board’s approval of the Amended CSG Agreement. In its Petition, PSE&G stated that, given the financial challenges faced by Marcal, it is reasonable to extend the rate discount in order to prevent a loss of load, assure continued revenues, and potentially attract additional gas load and additional investment. The CSG Petition stated that the discounted rate still exceeds PSE&G’s marginal costs of providing service to Marcal. CSG Petition, p.3-5.

On November 9, 2022, in order to prevent the discounts from lapsing while the parties completed their review of the CSG Petition and SBC Petition, the Board issued orders temporarily extending the terms of the 75% electric and gas SBC discounts and the 2015 CSG Transportation Service until these matters are resolved. I/M/O the Petition of Marcal Manufacturing, LLC for a Three-Year Extension in Electric and Natural Gas Societal Benefits Charges, BPU Dkt. No. GR22080486, Decision and Order on Temporary Extension of SBC Discount (Nov. 9, 2022); I/M/O the Rate Schedule CSG Transportation Service Agreement Between Public Service Electric and Gas Company and Marcal Manufacturing, LLC, BPU Dkt. No. GR22100657, Decision and Order on Motion to Intervene and Temporary Extension of CSG Contract (Nov. 9, 2022).

ANALYSIS

Although there is not specific statutory provision for providing discounted SBC rates, the Board has found that it has the authority to grant such discounts under appropriate circumstances. I/M/O Generic Proceeding to Consider Prospective Standards for Gas Distribution Utility Rate Discounts and Associated Contract Terms and Conditions, BPU Docket Nos. GR10100761 and ER10100762, Order at 22-23(August 18, 2011) (“Gas Rate Discount Order”). SBC discounts have previously been granted to Marcal based on the Board’s findings that such discounts would benefit the State and ratepayers by preventing the loss of the customer to another location outside of the state while still requiring it to continue making some contribution to the SBC. 2018 Electric SBC Order at 6; 2019 Electric/Gas SBC Order at 5.

Similar standards apply to discounts in gas distribution rates. Under the Gas Rate Discount Order and the implementing tariffs, gas utilities may offer discounted rates for natural gas distribution service (1) for customers that would otherwise bypass the utility’s distribution

system and receive service directly from an interstate pipeline, or (2) based on “other considerations.” Gas Rate Discount Order at 20, 24; PSE&G Tariff for Gas Service, Original Sheet No. 112. PSE&G seeks approval of the Amended CSG Agreement based on “other considerations.” CSG Petition, p. 4. Under PSE&G’s tariff, in determining whether to offer a discounted rate based on “other considerations,” the Company “will consider all relevant information provided by the customer and make a judgment as to whether or not the negotiated rates are necessary to prevent an economic bypass or the loss of load that could otherwise be served at rates that exceed marginal costs.” PSE&G Tariff for Gas Service, Original Sheet No. 112.

Rate Counsel has reviewed the SBC Petition and CSG Petition as well as information provided by Marcal and PSE&G in response to discovery requests, and is satisfied that the requested rate discounts are justified. Based on confidential information provided by Marcal in response to Rate Counsel’s discovery request RCR-A-7 and RCR-A-29 in connection with the SBC Petition, it appears that Marcal is experiencing significant financial challenges, and rate discounts are needed to prevent the loss of this customer. In connection with the CSG Petition, PSE&G’s confidential response to Rate Counsel’s discovery request RCR-PSE&G-4 provides documentation that the discounted rate exceeds PSE&G’s marginal costs of providing distribution service to Marcal.

For these reasons, Rate Counsel does not object to the granting of the proposed SBC discounts, or the approval of the Amended CSG Agreement. The discounted electric and gas SBC charges should be subject to the following conditions:

1. The discounted SBC rates will become effective on the date specified in the BPU’s Order, and will terminate on December 1, 2025. If Marcal determines the need for an uninterrupted extension of the reduced SBC rate based on substantially similar

financial conditions underlying Marcal's SBC Petition before the Board, Marcal will file a new petition six months in advance of December 1, 2025.

2. Marcal may apply for grants under the clean energy programs offered by the Board or PSE&G while the discounts are in effect. If Marcal elects to apply and then receives significant state-funded or ratepayer-funded assistance for a CHP facility or other clean energy project, then the discounts for the gas and electric SBC will immediately terminate when such CHP facility or other clean energy project becomes fully operational.
3. The discounted SBC rate will apply only to electric and gas utility service provided in connection with Marcal's paper production operation and related activities. Marcal should be required to report any change to the Board if it engages in business activities that are separate from its present production operation.

The first two conditions are similar to the conditions established by the Board in the 2019

Electric/Gas SBC Order. Rate Counsel proposed the third condition in order to assure that the

discounted SBC rate will not apply to any separate business venture that may be undertaken by

Marcal at the Elmwood Park site.

Rate Counsel notes that the Amended CSG Agreement includes provision that, in the event Marcal acquires a CHP facility at the Elmwood Part site, the discounted rate will not apply to service provided to the CHP. Amended CSG Agreement (redacted public version), par. 2.3.

In addition, the Board's approval of the Amended CSG Agreement should be subject to the following conditions:

1. The Amended CSG Agreement will become effective on the date specified in the BPU's Order, and will terminate on December 1, 2025. If Marcal determines the need for an uninterrupted extension of the discounted rates for gas distribution service, based on substantially similar financial conditions underlying Marcal's CSG Petition before the Board, Marcal will file a new petition in advance of December 1, 2025.
2. The discounted SBC rate will apply only to electric and gas utility service provided in connection with Marcal's paper production operation and related activities.

Sherri L. Golden, Board Secretary

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CONCLUSION

For the forgoing reasons, Rate Counsel believes it would be reasonable for the Board to grant the relief requested in the SBC Petition and the CSG Petition, in order to avoid the loss of Marcal's Elmwood Park facility and the benefits it provides to the State and to ratepayers. Such approval should be subject to the conditions set forth above.

Respectfully submitted,

Brian O. Lipman, Esq.
Director, Division of Rate Counsel

By: /s/ Sarah H. Steindel
Sarah H. Steindel, Esq.
Assistant Deputy Rate Counsel

cc: Service Lists

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Manufacturing, LLC for a Three-Year
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