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VIA ELECTRONIC DELIVERY

Sherri L. Golden, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

**In The Matter of the Verified Petition of The College of New Jersey For
Relief From A Penalty Assessed By Public Service Electric and Gas
Company
BPU Docket No. GC18111234**

Dear Secretary Golden:

In accordance with N.J.A.C. 1:1-12.2, Public Service Electric and Gas Company (“PSE&G” or the “Company”) hereby submits this letter brief in opposition to the motion to supplement the record (“Motion”) filed on October 5, 2023 by The College of New Jersey (“TCNJ”, the “College”, or the “Petitioner”). In that Motion, TCNJ requests that the New Jersey Board of Public Utilities (the “Board” or “BPU”) permit the College to submit evidence that it would suffer hardship if the Board enforces the penalty. This new evidence may be introduced, according to TCNJ, since Rate Counsel, in its September 14, 2023 motion for summary disposition, “for the first time” advanced an argument that the full CIG penalty should be brought to bear against TCNJ because (in Rate Counsel’s estimation), that penalty would not “create a hardship”. Similarly, TCNJ asserts in support of its Motion to introduce new evidence that “a hardship argument has never been raised by any party to these proceedings until now.”

TCNJ’s assertions in support of its Motion to supplement the record are incorrect. Whether or not TCNJ will suffer hardship as a consequence of enforcement has always been an issue in the case and *was introduced by TCNJ itself*. As discussed in Rate Counsel’s motion, the Board’s rules require that a party seeking a waiver, as TCNJ is in essence requesting here, must “include[e] a full statement setting forth the type and degree of hardship or inconvenience that would result if full compliance with the rule(s) would be required” and to provide supporting documentation.¹ Consistent with that requirement, petitioner TCNJ claimed from the very outset that enforcement of the penalty in this case would create hardship, citing “constrained monetary support [from the State] and the increasingly limited ability of families to pay for a college education”; stating that “the magnitude of this penalty . . . exceeds TCNJ’s entire CIG expense for all of 2017, and

¹ Rate Counsel’s Brief in Support of Motion for Summary Decision, dated September 14, 2023 (“RC Brief”), at 12.

represents an approximately \$300 additional cost to be borne by the families of each and every TCNJ student”; that the “grossly excessive penalty contained in the tariff is even harder to defend when it is assessed against a not-for-profit institution of higher education”; and that “there is no sound public policy that would require TCNJ, a not-for-profit component unit of the State of New Jersey, to unjustly enrich others.”²

In PSE&G’s April 19, 2023 Answer to the Amended Petition, the Company addressed the fact that while citing hardship in its grounds for relief, TCNJ has failed to establish that the College, notwithstanding the substantial benefit it has received to date and that it continues to receive under the grandfathered CIG rate, would face hardship were it required to abide by the tariff. PSE&G specifically noted that, notwithstanding assertions that enforcement of the penalty would cause hardship, TCNJ has presented no evidence that PSE&G’s residential customers – the group most directly impacted by TCNJ’s refusal to abide by the tariff -- are more capable of absorbing this loss than is TCNJ.³ In discovery in this case, TCNJ confirmed that annual support received by the College from the State has remained fairly constant since 2015 at approximately 29-30 million dollars, and actually reached \$31,875,000 in 2023.⁴

Thus, TCNJ’s claim that the issue of hardship was raised for the first time by Rate Counsel in September 2023 is clearly incorrect, and TCNJ’s Motion to supplement the record should be denied. Moreover, even if the Board permits introduction of the proffered Certification of Richard Schweigert (“Schweigert Cert.”), that certification fails on its face to establish sufficient hardship to justify the requested waiver, and PSE&G’s and Rate Counsel’s September 14, 2023 motions for summary disposition should be granted.

The assertions that TCNJ is “facing major financial challenges . . . due to the COVID pandemic and the severe inflation of the last couple of years”, that the College’s current reserve account is “below the institution’s desired level”, and that payment of the tariff penalty will “exacerbate[] what is already a serious financial crunch” (Schweigert Cert., at ¶¶ 2-3, 5), even if true, fail to establish that TCNJ will suffer significant hardship if required to abide by the tariff. Indeed, the same assertions could be made regarding many institutions and individuals in New Jersey, including many of PSE&G’s commercial/industrial and residential customers.

Moreover, certain key assertions in the Schweigert Certification make clear that compliance with the interruptible tariff will not cause undue hardship to TCNJ. For example, Mr. Schweigert claims that to address on-going budget pressure, TCNJ has already increased tuition and reduced scholarship money made available to students (Schweigert Cert., at ¶ 4). However, there is no assertion that compliance with the penalty provision, which PSE&G has already suggested could be paid over time,⁵ will result in tuition increases or reduced scholarship money. Similarly, while Mr. Schweigert states that TCNJ is “considering programmatic cuts” (Schweigert

² See TCNJ’s Verified Petition in this matter, dated November 18, 2018, at ¶¶ 1, 15, 28, 29; see also TCNJ’s Verified Amended Petition, dated March 8, 2023, at ¶¶ 1, 15, 35, 40.

³ See PSE&G’s Answer to the Amended Petition, dated April 19, 2023, at 7-8 (noting that approximately 39 percent of the population in PSE&G’s service territory can be considered low income, based on the definition of low-income provided by the New Jersey Housing Authority, while by at least one measure, only 18% of TCNJ’s students can be considered low income, based on publicly-available data in the Integrated Postsecondary Education Data System).

⁴ See response to PSEG-TCNJ-0004.

⁵ See PSE&G Motion for Summary Disposition dated September 14, 2023, at 10.

Cert., at ¶ 6), there is no suggestion that those cuts will actually occur, or that they will only occur if TCNJ is not excused from complying with the interruptible tariff.

In light of the foregoing, PSE&G respectfully requests that the Board deny TCNJ's Motion to supplement the record. In addition, for the reasons stated in PSE&G's September 14 motion for summary disposition and October 5 letter brief in opposition to TCNJ's motion for summary disposition, the Amended Petition should be dismissed, and TCNJ should be directed to pay the penalty amount due, with appropriate interest.

Respectfully submitted,

A handwritten signature in blue ink that reads "Matthew Weissman". The signature is written in a cursive style.

Matthew M. Weissman

cc: Service List