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April 16, 2024

**Via Electronic Mail**

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

**Re: Rate Counsel's Response to Motions**

**In the Matter of the Petition of Elizabethtown Gas Company for  
Approval to Implement an Infrastructure Investment Program ("IIP")  
and Associated Cost Recovery Mechanism Pursuant to N.J.S.A. 48:2-21  
and N.J.A.C. 14:3-2A  
BPU Docket No. GR23120882**

Dear Secretary Golden:

Please accept for filing this response on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") to the following motions filed in the above-referenced matter: (1) Motion to Intervene dated February 6, 2024 filed on behalf of the New Jersey Large Energy Users Coalition ("NJLEUC"); (2) Motion to Intervene dated February 27, 2024 filed on behalf of the Engineers Labor-Employer Cooperative ("ELEC"); (3) Motion to Participate dated February 27, 2024 filed on behalf of the Utility and Transportation Contractors Association of New Jersey ("UTCANJ"); (4) Motion to Participate dated February 28, 2024 filed on behalf of Skoda Contracting Co. ("Skoda"); and (5) Motion to Participate dated February 29, 2024 filed on behalf of New Jersey Laborers-Employers Cooperation and Education Trust ("NJLECET").

## **DISCUSSION**

On December 11, 2023, Elizabethtown Gas Company (“ETG” or “Company”) filed the above-referenced petition with the Board of Public Utilities (“BPU” or “Board”) seeking authorization to implement a second Infrastructure Investment Program (“IIP 2” or “Program”). The Board authorized the Company’s initial Infrastructure Investment Program in June 2019.<sup>1</sup> The Company is seeking approval to invest \$625 million in order to implement a five-year Program to: (1) install approximately 250 miles of new main and retire approximately 274 miles of at-risk cast iron, vintage steel and vintage plastic mains and associated services; (2) continue to upgrade the Company’s legacy low pressure system to elevate pressure; and (3) install approximately 35,000 excess flow valves where appropriate to services on the upgraded system.<sup>2</sup> Rate Counsel previously filed a response on February 2, 2024, to the Motion to Participate dated January 23, 2024 filed on behalf of Public Service Electric and Gas Company. The above-mentioned entities subsequently filed motions to intervene and/or participate in this matter. Rate Counsel’s responses to these motions are as follows.

### **NJLUEC Motion to Intervene**

NJLEUC states that it was formed, in part to monitor regulatory and rate proceedings involving the State’s electric and natural gas utilities, and has consistently been granted intervenor status in the Company’s regulatory, merger, rate, and infrastructure proceedings.<sup>3</sup> NJLEUC states that its members purchase natural gas distribution service from Elizabethtown on a usage basis.<sup>4</sup> NJLEUC further states that the issues in this proceeding will “substantially,

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<sup>1</sup> I/M/O the Petition of Elizabethtown Gas Company to Implement an Infrastructure Investment Program and Associated Recovery Mechanism Pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:3-2A, BPU Docket No. GR18101197, Final Decision and Order Approving Stipulation (June 12, 2019), (“Petition”).

<sup>2</sup> Petition, para. 6.

<sup>3</sup> NJLEUC Motion, para. 1.

<sup>4</sup> Id.

specifically and directly affect” its members within the meaning of the Uniform Rules, and therefore, intervention is appropriate.<sup>5</sup> Rate Counsel has no objection to NJLEUC’s intervention.

### **ELEC Motion to Intervene**

ELEC states that it is a labor-management organization that provides work to developers, union contractors and members of the International Union of Operating Engineers Local 825.<sup>6</sup> ELEC states that its members will be directly impacted by the Program due to the potential employment opportunities ELEC believes will be available to its members.<sup>7</sup> ELEC further states that its intervention will add measurably and constructively as it can provide input on the manpower requirements of the Program and the market for operating engineers used on the construction work under the Program.<sup>8</sup>

Under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq., a party may move to intervene only if it has a statutory right to intervene, or “will be substantially, specifically and directly affected by the outcome of a contested case.”<sup>9</sup> Furthermore, the Board must consider the nature and extent of the moving party’s interest in the outcome of the case; whether or not the moving party’s interest is sufficiently different from that of any other party so as to add measurably and constructively to the case; and to avoid confusion or undue delay stemming from the movant’s inclusion.<sup>10</sup>

ELEC has failed to demonstrate that it is entitled to intervenor status. While its members have an economic interest in participating in ETG’s construction projects, ELEC has not asserted

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<sup>5</sup> Id. at para. 6.

<sup>6</sup> ELEC Motion, para. 1.

<sup>7</sup> Id. at para. 13.

<sup>8</sup> Id. at para. 19.

<sup>9</sup> N.J.A.C. 1:1-16.1(a).

<sup>10</sup> N.J.A.C. 1:1-16.3(a).

a legally protected right under N.J.S.A. Title 48 to receive work from ETG. However, Rate Counsel does not object to the granting of participant status to ELEC and acknowledges that ELEC was granted participant status in other infrastructure proceedings.<sup>11</sup>

### **UTCANJ Motion to Participate**

UTCANJ states that it is a trade association representing 1,000 member firms engaged in heavy, highway, utility, and marine construction, as well as remediation of brownfields and contaminated sites.<sup>12</sup> UTCANJ also states that it has a significant interest in the Company's accelerated replacement of its high risk pipeline facilities.<sup>13</sup> UTCANJ further states that its participation will add constructively to the proceeding and will not cause undue delay or confusion.<sup>14</sup> Rate Counsel is not opposed to UTCANJ's participation.

### **Skoda Motion to Participate**

Skoda states that it is a utility contractor that employs approximately 200 direct and indirect employees that work on the ETG distribution system.<sup>15</sup> Skoda also states that its members will be directly impacted by the Board's decision in this matter because it will have a precedential effect on New Jersey's other utility.<sup>16</sup> Skoda further states that its participation will add constructively to the proceeding and will not cause undue delay or confusion. Rate Counsel is not opposed to Skoda's participation.

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<sup>11</sup> I/M/O Public Service Electric and Gas Company for Approval of a Gas System Modernization Program and Associated Cost Recovery Mechanism, Dkt. No. GR15030272, Order (July 2, 2015); I/M/O/ Public Service Electric and Gas Company for Approval of a Gas System Modernization Program and Associated Cost Recovery Mechanism (GSMP II), Dkt. No. GR17070776, Order on Motions to Intervene or Participate (November 9, 2017); I/M/O Public Service Electric and Gas Company for Approval of the Second Energy Strong Program (Energy Strong II), Dkt. Nos. ER18060629 & GO18060630, Prehearing Order with Procedural Schedule November 30, 2018); I/M/O Public Service Electric and Gas Company for Approval of an Infrastructure Advancement Program (IAP), Dkt. Nos. EO2111211 & GO2111212, Prehearing Order with Procedural Schedule (March 1, 2022).

<sup>12</sup> UTCANJ Motion paras.1, 2.

<sup>13</sup> Id. a para. 2.

<sup>14</sup> Id. at paras. 7, 8.

<sup>15</sup> Skoda Motion, paras. 1, 2.

<sup>16</sup> Id. at para. 5.

### **NJLECET Motion to Participate**

NJLECET states that its membership comprises of unions engaged in the construction industry.<sup>17</sup> NJLECET states that its members are uniquely positioned to evaluate and comment upon the potential financial and environmental impact of the Program.<sup>18</sup> NJLECET further states its participation will add constructively to the case without causing undue delay or confusion.<sup>19</sup> Rate Counsel is not opposed to NJLECET's participation.

### **CONCLUSION**

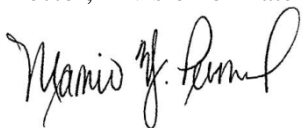
For the foregoing reasons, Rate Counsel recommends that (1) NJLEUC should be permitted to intervene, (2) ELEC should not be permitted to intervene but should be permitted to participate, (3) UTCANJ should be permitted to participate, (4) Skoda should be permitted to participate, and (5) NJLECET should be permitted to participate.

Thank you for your consideration and attention to this matter.

Respectfully Submitted,

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By:

  
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<sup>17</sup> NJLECET Motion para. 1.

<sup>18</sup> Id. at para. 2.

<sup>19</sup> Id. at para. 6.

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Elizabethtown Gas Company to  
Implement An Infrastructure  
Investment Program ("IIP") And  
Associated Recovery Mechanism  
Pursuant to N.J.S.A. 48:2-21 and  
N.J.A.C. 14:3-2A  
BPU Docket No. GR23120882

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