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VIA ELECTRONIC MAIL & OVERNIGHT DELIVERY

Honorable Kristi Izzo, Secretary
State of New Jersey
Board of Public Utilities
44 South Clinton Avenue, 8th Floor
Trenton, New Jersey 08625

**Re: Gas Rate Discount Reply Comments
Compliance Filings
Docket No: PSE&G GT11090616**

Dear Secretary Izzo:

Please accept this letter as the reply comments of Public Service Electric and Gas Company ("PSE&G") to the comments received from New Jersey Large Energy Users Coalition ("NJLEUC") in the above-referenced matter.

BACKGROUND

PSE&G's compliance filing arose out of the Board's decision in the Generic Proceeding to Consider Prospective Standards for Gas Distribution Utility Rate Discounts, Docket Nos. GR10100761 and ER10100762 (the "Proceeding"). The goals of the Proceeding were to provide transparency and certainly to assure that discounted rates were "just and reasonable" and not "discriminatory or preferential" as required by N.J.S.A. 48:2-21.1. During the stakeholder process in this Proceeding, the participants identified six issues, including "the criteria and process that the Board should establish to determine whether or not an entity has the ability to bypass the utility's gas distribution system and what rates should be charged to such entities."¹

In response to that goal, as set forth in the August 18, 2011 Board Order in this Proceeding, the Board directed the gas distribution utilities to file with the Board:

¹ August 18, 2011 Board Order in the Proceeding ("August 18 Order").

tariff sheets that set forth the minimum information that must be submitted by a customer seeking a discounted rate based on a physical bypass threat. In addition, we will require that each utility file with this Board tariff sheets that establish criteria it will use to determine whether a customer is eligible for a discounted rate on any other grounds.

On September 16, 2011, PSE&G filed a proposed Contract Gas Service (“CGS”) Rate Schedule (the “Rate Schedule”) as its compliance tariff in the Proceeding. The Rate Schedule is compliant with the Board’s August 18th Order by providing a mechanism for PSE&G to offer discounts for gas delivery service in limited circumstances and subject to Board approval. The Rate Schedule supports the objective of providing a clear and unambiguous process for discounts to gas transportation service where such discount is necessary to avoid a bypass or is otherwise justified and in the best interest of PSE&G’s existing customers. The Rate Schedule provides, as directed by the Order, that all contracts for discounted delivery rates would have to be reviewed and approved by the BPU prior to implementation. Further, in order to ensure transparency the proposed tariff provides that once approved by the Board, the discounted delivery rates would not be considered confidential.

NJLEUC filed comments objecting to the Rate Schedule. Specifically, in its November 8, 2011 comments, NJLEUC incorrectly argues that PSE&G’s CSG Rate Schedule would establish “non-negotiable delivery charges that would apply to all customers that present a viable bypass opportunity.”² NJLEUC further claims that “the application of” these “one-size fits all bypass rates contemplated by the PSE&G filing is inconsistent with the Order’s admonition that bypass-related discounted rates must be predicated on the unique circumstances and economics associated with a proposed bypass.”³ NJLEUC states that the Rate Schedule “lacks transparency and erects an impenetrable, incomprehensible barrier to any customer.”⁴

I. CONTRARY TO NJLEUC’S ASSERTIONS, PSE&G’S PROPOSED RATE SCHEDULE IS FULLY COMPLIANT WITH THE BPU’S ARTICULATED OBJECTIVES IN THE PROCEEDING

Reviewing the Rate Schedule, it is clear that NJLEUC’s comments are completely inaccurate. The Rate Schedule provides transparency and certainty to the discounted rate process by providing each customer with a clear understanding of the discounted rate to be offered in a proposed bypass and how that rate is determined. This provides more assurance to the customer and to the Board that the rate will be “just and reasonable” and not “unjustly discriminatory or preferential”.⁵ Each customer that requests a discounted rate due to a proposed bypass will be treated exactly the same under this Rate Schedule.

A. The Rate Schedule Comports with the BPU’s Policy Goal Of Keeping Customers on the Distribution System.

² November 8, 2011 Comments of NJLEUC at p. 3.

³ Id.

⁴ Id.

⁵ N.J.S.A. 48:2-21.1

Despite NJLEUC's allegations to the contrary, the Rate Schedule is not a "one-size fits all" proposal. If a customer has a unique situation that it believes permits a lower rate than set forth in the Alternative Delivery Cost section of the Rate Schedule, the customer can apply to PSE&G under the Other Considerations Section⁶ of the Rate Schedule to negotiate the actual discounted rate. That section states:

The Delivery Charges may not be lower than an amount sufficient to generate a return on the capital investments made by Public Service and recovery of marginal and embedded costs, including depreciation, to provide service to the customer under this rate schedule. Delivery Charges will be based on an agreement reached with Public Service and approved by the Board of Public Utilities.

In addition, the Alternative Delivery Cost of the Rate Schedule allows a customer who threatens a physical bypass to continue to obtain service from PSE&G at a rate that is the same or below what it would cost to bypass the system discounted rate. This maintains the customer on the distribution system while still attempting to obtain the highest rate possible from that customer.

Finally, NJLEUC argues that the Rate Schedule is too "complex" for a customer to determine whether it is a viable option in the time necessary to make an informed decision. Given the sophistication of the customers applicable to the Rate Schedule (customers using 150 or more therms per hour) and the millions of dollars in investments necessary for a bypass, the suggestion that the customer will not exhaust all options and carefully review the Rate Schedule prior to finalizing a bypass alternative strains credulity.

Contrary to NJLEUC's assertions, the Rate Schedule should enhance the customer's understanding of the discounted rate process. PSE&G's Rate Schedule provides the appropriate level of information necessary for all customers to understand how to apply for a discounted rate and what the approximate amount of the discounted rate will be prior to starting the process of requesting information from the interstate pipeline on a potential bypass or applying to the utility for a discounted rate. Accordingly, this should encourage all customers with viable reasons for discounted rate to approach the utility and start the application process.

Thus, the Rate Schedule balances the transparency and certainty required by the Board Order with the clear goal of maintaining customers on the distribution system.

B. The Proposed Rate Schedule Complies with the Board Order by Requiring a Bypass to be Both Economically and Physically Viable

NJLEUC once again misinterprets the Rate Schedule when it argues that the requirement that a customer seeking a discounted rate due to a bypass file a statement from the interstate pipeline company that the bypass is viable is meant to "hinder or dissuade customers from pursuing negotiated, bypass-related rates." PSE&G is not requesting that the interstate pipeline guarantee that a bypass will happen when it requires a statement that the bypass is viable, but

⁶ CSG Rate Schedule, Original Sheet 112B

simply that the bypass is practical or workable. The Rate Schedule appropriately requires something more concrete than the simple fact that the interstate pipeline is willing to interconnect, but something less than a full guarantee that the bypass will happen. PSE&G believes its requirement that the bypass be viable (both physically and economically) is consistent with the Board's requirements.

While it is true that PSE&G's language regarding the viability of the bypass does not mirror the language set forth in the August 18th Order, it is clear that it was not the Board's intention for the utilities to follow the Minimum Filing Requirements in the Order strictly. The Board stated:

At a minimum, the following information should be provided ("Minimum Filing Requirements"): (i) a statement from the interstate pipeline company that the proposed interconnection is operationally viable, that sufficient capacity is available and the pipeline would serve the party if requested.⁷

Given that these are only "minimum requirements" it is clear that a utility can request more than these requirements if desired. Therefore, PSE&G's requirement for a statement that the bypass is viable complies with the Board's Order.

C. PSE&G's Proposed Waiver of Confidentiality Comports with the Board's Goal of Transparency

Finally, NJLEUC takes exception to PSE&G's requirement that the discount rate, once approved, is not confidential. One of the biggest issues raised during the Proceeding was the lack of transparency of discounted rates. In response to that concern, PSE&G proposed that all discounted rates negotiated by PSE&G under the Rate Schedule would be public information and not subject to confidentiality.

NJLEUC argues that this approach is meant to discourage bypass by "threatening the disclosure of competitively sensitive information that could cause harm to bypass customers

⁷ Order at p. 24.

and/or result in adverse publicity for customers received discounted rates and charges.”⁸ This argument is particularly surprising given that, as implicitly admitted in its comments, NJLEUC has argued extensively against the confidential nature of these contracts. In fact, in its February 4, 2011 motion to compel discovery in this Proceeding, NJLEUC argued that the contracts themselves were not confidential.⁹ In addition, in its February 24, 2011 reply to the Motion to Compel, NJLEUC argued that “NJLEUC has no idea how the utilities determine eligibility for discounted rates or waivers of the SBC, or other charges, what proofs have been required and how discounted rates are determined.”¹⁰

By waiving the confidentiality of the contracts as part of the requirements for a discount, PSE&G is providing all interested parties a transparent view of (1) how it was determined that a discounted rate should apply, and (2) the process that determined what the discounted rate should be, thus meeting the spirit and letter of the Board’s August 18th Order.

For all the foregoing reasons, PSE&G respectfully requests that the Board accept its proposed CSG Rate Schedule and additional Gas Tariff sheets in compliance with the Order, and specify that the proposed tariff sheets are effective upon the date of the Order accepting them

Respectfully Submitted,

Public Service Electric and Gas Company

*Original Signed by
David K. Richter, Esq.*

By: _____
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cc: Attached service list

⁸ Comments of NJLUEC at 5.

⁹ February 4, 2011 Motion to Compel, p.2.

¹⁰ February 24, 2011 Reply of NJLEUC to the Utilities Opposition to Motion to Compel at p.2.

GAS DISCOUNTS RATES

BPU DOCKET NO. GR10100761 & ER10100762

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