



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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CLEAN ENERGY

IN THE MATTER OF THE PETITION OF DSM )  
NUTRITIONAL PRODUCTS TO DIRECT JCP&L TO ) ORDER ON PSE&G MOTION  
PROVIDE NET METERING CREDIT FOR EXISTING ) FOR INTERVENTION  
ON-SITE SOLAR GENERATION FACILITY ) DOCKET NO. QO21071021

**Parties of Record:**

**James A. Boyd, Jr., Esq.**, Archer & Greiner, P.C., on behalf of DSM Nutritional Products, LLC  
**Brian O. Lipman, Esq.**, Director, New Jersey Division of Rate Counsel  
**Gregory Eisenstark, Esq.**, Cozen O'Connor, on behalf of Jersey Central Power & Light Company

**BY PRESIDENT JOSEPH L. FIORDALISO:**

**BACKGROUND**

On July 29, 2021, DSM Nutritional Products, LLC ("DSM"), a limited liability corporation that operates a manufacturing facility in Belvidere, New Jersey ("Facility"), filed a petition with the New Jersey Board of Public Utilities ("Board") requesting that the Board direct Jersey Central Power & Light Company ("JCP&L" or "Company") to net meter the electricity produced by an on-site solar facility owned by DSM and to provide DSM with a retail credit on its electric bill for the energy produced by the solar facility since the date it commenced operation. In the petition, DSM stated that JCP&L refused to provide net metering treatment because of the existence of a combined heat and power ("CHP") cogeneration facility also located behind DSM's meter, and represented that DSM exhausted all informal means of resolving the matter.

On December 1, 2021, the Board retained this matter and designated the undersigned as Presiding Commissioner, who is authorized to rule on all motions that arise during the pendency of these proceedings and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. The Board also ruled on two motions to intervene. Further, the Board directed that any other entities seeking to intervene or participate in this matter file the appropriate application with the Board by January 3, 2021 and noted that any party wishing to file a motion for admission of counsel pro hac vice do so concurrently with any motion to intervene or participate.

## **THE MOTION**

On January 3, 2022, Public Service Electric and Gas Company (“PSE&G”) filed a motion to intervene pursuant to N.J.A.C. 1:1-16.1, et seq. or, in the alternative, to be granted participant status. PSE&G argued that any order issued by the Board in this matter that addresses net metering practices, including consideration of the retroactive relief requested by DSM, would directly impact PSE&G’s operations, finances, and customers. In particular, PSE&G identified an impact to its practices and service to similarly-situated customers with mixed behind-the-meter generation by both renewable and non-renewable sources. Further, PSE&G asserted that its interest in this matter is sufficiently different from that of any party so as to add measurably and constructively to the scope of the case. PSE&G stated that it can provide detail related to its customers and the possible broader impact of the relief requested by DSM that will supplement the record and aid the Board’s consideration of this matter. According to PSE&G, no other party or participant will represent its interests in this case, as specific interconnection practices, net metering decisions, tariffs, and customer profiles and characteristics vary between different utilities. Further, the Company asserted that its intervention will add measurably and constructively to the proceeding and that it will abide by the schedule set for this proceeding without causing undue delay or confusion.

## **RESPONSE**

On January 4, 2022, the New Jersey Division of Rate Counsel (“Rate Counsel”) filed its response to the motion. Noting that PSE&G does not assert that DSM’s Petition seeks any relief against PSE&G, Rate Counsel states that PSE&G will not be “specifically and directly” affected by the outcome of this matter and therefore should not be granted intervenor status. However, Rate Counsel does not oppose PSE&G’s alternative request for participant status. Rate Counsel believes that any Order issued in this matter is likely to have a precedential effect for PSE&G and that it thus has a significant interest in the outcome that warrants participant status.

## **DISCUSSION AND FINDINGS**

In considering the motion for intervention, I look to the standard set by N.J.A.C. 1:1-16.3(a). The rule requires that the decision-maker consider: (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.

As the Board has stated in previous proceedings, the application of these standards involves an implicit balancing test. I must balance the need and desire to allow for the development of a full and complete record to ensure consideration of a diversity of interests, with New Jersey Administrative Code requirements, recognizing a 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, e.g., In The Matter Of The Implementation of L. 2018, C. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants, BPU Docket No. EO18080899, Order dated November 19, 2018.

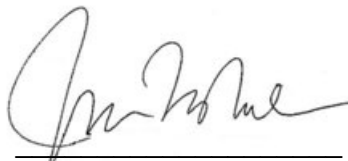
PSE&G stated that its interest in the outcome of this matter arises from the precedential effect of any order issued by the Board in this matter that addresses net metering practices, since PSE&G has in its own service territory and similarly-situated customers, with both renewable and non-renewable generation located behind the meter. I recognize that PSE&G's business as an electric utility gives it an interest in the treatment of such mixed behind the meter generation. In addition, I believe that PSE&G's experience with net metering means that it is likely to add measurably and constructively to the development of the record in this matter. However, PSE&G has asserted an interest only in the potential precedent, if any, created by the outcome of this matter. PSE&G does not contend that it has an interest in the specific dispute between DSM and JCP&L. Therefore, I am not persuaded that PSE&G's interest is so substantial that it merits making PSE&G a party to this proceeding.

Accordingly, I **HEREBY DENY** PSE&G's motion to intervene. Pursuant to N.J.A.C. 1:1-16.5, I will treat PSE&G'S motion, in the alternative, as a motion to participate. Considered under this standard, I **FIND** that PSE&G has experience relevant to this matter and is likely to add constructively to the case as a participant without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** PSE&G participant status, limited to the right to argue orally and to file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

In addition, in compliance with the Board's Order in Docket No. EO20030254, all parties are **HEREBY DIRECTED** to serve all documents electronically. No hard copies shall be filed until the Board lifts the restrictions imposed in that Order. I **HEREBY DIRECTS** Staff to post this Order to the Board's website.

DATED: January 28, 2022

BY:



JOSEPH L. FIORDALISO  
PRESIDENT

IN THE MATTER OF THE PETITION OF DSM NUTRITIONAL PRODUCTS TO DIRECT  
JCP&L TO PROVIDE NET METERING CREDIT FOR EXISTING ON-SITE SOLAR  
GENERATION FACILITY

DOCKET NO. QO21071021

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