

investments using an after-tax weighted average cost of capital of 6.32% based on a return on equity of 9.75% and a cost of debt of 4.60%.

By Order dated April 15, 2015 ("April Order"), the Board retained this matter for hearing, and designated me as the presiding officer with the authority to establish and modify schedules, decide all motions and otherwise control the conduct of this case, subject to Board ratification. Additionally, the April Order set June 5, 2015 as the deadline for the filing of motions to intervene or participate in this matter.

By this Order, I address four motions to intervene or participate.

THE MOTIONS:

NJLEUC

On April 7, 2015, the New Jersey Large Energy Users Coalition ("NJLEUC") filed a motion to intervene. NJLEUC maintains that its members are large end use customers of electricity and gas that will be directly and immediately affected by the rate relief sought in this proceeding, and that the interests of its members are substantially different from those of any other party seeking intervention. NJLEUC asserts that its participation in the proceeding will measurably and constructively advance the case, and that it will work cooperatively with the other parties in this proceeding where possible and practical.

Mr. Goldenberg also moved for the admission pro hac vice of Paul F. Forshay, Esq., a member of the bar of the District of Columbia. Mr. Goldenberg represented that Mr. Forshay has had significant experience representing the interests of large end-use customers, and that he has an attorney-client relationship with NJLEUC. By his affidavit, Mr. Forshay represented that he is associated with Mr. Goldenberg as New Jersey counsel of record, NJLEUC has requested his representation in this matter, that he has paid the fees required by R. 1:20-1(b) and 1:28-2, and that he agrees to abide by the other requirements for admission pro hac vice.

The Unions

On April 22, 2015, Local Union 94 of the International Brotherhood of Electrical Workers and Local 855 of the United Association of Journeymen and Apprentices of Plumbing and Pipefitting Industry (collectively, the "Unions") filed a motion to participate in this proceeding. In the motion, the Unions state that they represent more than 3,600 non-management employees who are involved in all aspects of operations at PSE&G. According to the motion, the Unions' employees will be the workers who will implement the various GSMP initiatives; therefore, the issues of this matter substantially, significantly and directly affect the Unions, their members and their families. According to the motion, this makes it appropriate for the Unions to participate in the GSMP proceeding.

Ferreira

On May 7, 2015, Ferreira Construction Company, Inc. ("Ferreira") filed a motion to intervene or participate in this proceeding. According to its motion, Ferreira is a private construction company specializing in transportation infrastructures, utilities, marine work, buildings, interior renovations, solar installation and construction management which has been hired by PSE&G for past projects. Ferreira argues that it has a substantial interest in the outcome of the GSMP because it specializes in large-scale heavy infrastructure projects and has completed a number

of gas main installation and replacement projects, including those in connection with the ESP that are the type of work contemplated by the GSMP.

Ferreira states that there is no other party to the proceeding with a concrete and specific interest in the heavy infrastructure projects and attendant jobs that will be created by the GSMP. Finally, Ferreira states that its intervention is not likely to cause any confusion or delay as it will coordinate with similarly situated parties as appropriate, and will abide by the proceeding schedule. Ferreira requests that if its motion to intervene is not granted, the Board grant it participant status pursuant to N.J.A.C. 1:1-16.6.

AARP

On May 12, 2015, AARP, Inc. ("AARP") filed a motion to participate in this matter; however, the motion was accompanied by correspondence indicating that AARP was moving to intervene. AARP then filed a "Letter of Correction" and "Motion to Intervene as a Participant" on May 18, 2015. According to its motion, AARP is a non-governmental, non-profit and non-partisan organization whose interest is to protect the affordability, reliability, efficiency and safety of utility services for its New Jersey members. AARP argues that it has hundreds of thousands members aged 50 and over residing in PSE&G's territory who purchase gas service from PSE&G and therefore will be directly affected by the Company's gas service rates. AARP asserts that its members are particularly vulnerable to the effects of utility rate increases and changes of service as many of their members spend a far greater proportion of their income on home energy costs than younger households and are living on fixed incomes. Therefore, AARP maintains that its members are unique from and not adequately represented by any other party, and the issues to be decided in the GSMP proceeding will directly affect the quality of the lives of its members.

Following the filing of the motions, PSE&G indicated via electronic mail dated May 7, 2015 and May 18, 2015 that it would not be filing any opposition to the motions; nor did Board staff file a response to the motions. Rate Counsel filed a response to the motions dated May 22, 2015. In its response, Rate Counsel states that it does not object to the granting of participant status to the Unions or AARP. Rate Counsel also indicated that it has no objection to NJLEUC's motion to intervene or to the admission of Paul F. Forshay, Esq. pro hac vice. Rate Counsel noted, however, that NJLEUC was permitted to intervene in the ESP matters after providing a list of the NJLEUC members that were being represented in that proceeding.

With regard to the motion to intervene or participate filed by Ferreira, Rate Counsel argues that, while Ferreira has an economic interest in participating in PSE&G construction projects, it does not assert a legally protected right under N.J.S.A. Title 48 to receive work from the Company. Accordingly, Rate Counsel asserts that Ferreira does not have a concrete and current interest that will be "specifically and directly" affected by the outcome of this matter and therefore should not be granted intervenor. Nonetheless, Rate Counsel does not object to the granting of participant status to Ferreira.

DISCUSSION AND FINDINGS:

In ruling on a motion to intervene, N.J.A.C. 1:1-16.3(a) requires that the decision-maker consider the following factors:

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.

If the standard for intervention is not met, N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant," if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, or file a statement or brief, or file exceptions, or all of these as determined by the trier of fact.

As the Board has stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervener'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, Order, In re the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, Docket No. EM05020106 (June 8, 2005).

After consideration of the papers and given the lack of any objections, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that as large energy users whose rates may reflect determinations on cost recovery in a way different from the interests represented by Rate Counsel, the members of NJLEUC will be directly affected by the outcome of the GSMP proceeding. Therefore, I **HEREBY FIND** that NJLEUC has met the standards for intervention in the GSMP proceeding as it has an interest in this proceeding that is not represented by another party. Accordingly, I **HEREBY GRANT** the motion for intervention of NJLEUC in the GSMP proceeding pursuant to the authority granted to me by the Board under the April Order. Counsel for NJLEUC shall provide a list which accurately identifies NJLEUC's members that are being represented in this proceeding to Board staff and all parties of record within 14 days of the date of this Order.

In light of this grant of intervention to NJLEUC, I have reviewed NJLEUC's motion and the supporting affidavit of Steven S. Goldenberg, Esq., for admission pro hac vice of Paul F. Forshay, Esq., and no objections to it having been received after due notice to the parties, I **FIND** that Mr. Forshay has satisfied the conditions for admission, has provided proof that he has paid to the New Jersey Lawyers' Fund for Client Protection of the fees required by R. 1:20-1(b) and 1:28-2, and therefore, **IS HEREBY** admitted to practice before the Board pro hac vice in the above-captioned matter provided that he shall:

- (1) abide by the Board's rules and all applicable New Jersey court rules, including all disciplinary rules;
- (2) consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against each of them that may arise out of his participation in this matter;

- (3) notify the Board immediately of any matter affecting his standing at the bar of any other jurisdiction; and
- (4) have all pleadings, briefs and other papers filed with the Board signed by an attorney of record authorized to practice in this State, who shall be held responsible for them and for the conduct of this cause and the admitted attorney therein.

As to the motions to participate filed by the Unions and AARP, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that the participation of the Unions and AARP in this matter is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** the motions to participate submitted on behalf of the Unions and AARP, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

The arguments advanced by Ferreira focus on its economic interest in construction jobs which will be potentially created by the GSMP. I am persuaded that Ferreira has years of experience in utility construction, including direct expertise in projects similar to those under consideration in this matter. However, I am not persuaded that the primarily pecuniary interests of Ferreira will add measurably to this proceeding. After consideration of the papers, I **HEREBY FIND** that the participation of a New Jersey-based and long established construction company, such as Ferreira, is likely to add an additional perspective to the case without causing undue delay or confusion. Accordingly, to allow Ferreira to share its expertise where appropriate, I **HEREBY GRANT** participant status to Ferreira, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

The parties are directed to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding.

I **HEREBY DIRECT** that this Order be posted on the Board's website.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED: May 27, 2015

BY:



Joseph L. Fiordaliso
COMMISSIONER

IN THE MATTER OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL
OF A GAS SYSTEM MODERNIZATION PROGRAM AND ASSOCIATED COST RECOVERY
MECHANISM

DOCKET NO. GR15030272

SERVICE LIST

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