



Agenda Date: 1/20/10
Agenda Item: 2J

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF NEW	)	ORDER DESIGNATING
JERSEY LARGE ENERGY USERS COALITION FOR A	)	PRESIDING COMMISSIONER
GENERIC PROCEEDING TO CONSIDER MITIGATING	)	
THE IMPACT OF UTILITY SURCHARGES ON LARGE	)	
COMMERCIAL AND INDUSTRIAL CONSUMERS FOR	)	
PROGRAMS AUTHORIZED PURSUANT TO SECTION 13)	)	
OF THE REGIONAL GREENHOUSE GAS INITIATIVE	)	
LAW N.J.S.A.48:3-98.1 ET. SEQ.	)	DOCKET NO. EO09100883

(SERVICE LIST ATTACHED)

BY THE BOARD:

On October 30, 2009, the New Jersey Large Energy Users Coalition ("NJLEUC") petitioned the Board of Public Utilities ("Board") to initiate a generic proceeding to establish one or more alternative cost recovery mechanisms to mitigate the financial impact on large commercial and industrial ("C&I") energy consumers of surcharges imposed to fund utility programs authorized pursuant to Section 13 of the Regional Greenhouse Gas Law, N.J.S.A. 48:3-98.1 et seq. (the "RGGI Law"). NJLEUC further requested that the Board direct the Board's Staff to convene all interested parties to determine an appropriate procedural framework for the generic proceeding.

NJLEUC is comprised of many of the State's largest business enterprises, which are the largest users of electricity and natural gas on the distribution systems of New Jersey's electric and natural gas utilities. In its petition, NJLEUC claims that, in a competitive environment, its members are burdened with a disproportionate share of the costs of RGGI Law programs. NJLEUC cites numerous plant closings and job losses because of the high price of energy in the state.

NJLEUC has proposed three alternative cost recovery mechanisms for the Board's consideration that may serve as a starting point for analysis in the generic proceeding: (i) an opt-out provision, which would allow a large C&I consumers to opt-out of a utility-sponsored RGGI Law program if the consumer meets certain criteria; (ii) a surcharge "phase-out" provision, which would establish usage based-tiers with the surcharge amount decreasing as consumption

increases; and (iii) a “hard cap” provision, which would place an annual cap on charges payable by large C&I consumers for RGGI Law programs. NJLEUC also welcomes any possible additional options for consideration.

This proceeding stems from Stipulations in the Atlantic City Electric Company (“ACE”) Demand Response Petition (“ACE DR”) ¹ and in the Energy Efficiency Economic Stimulus Petitions (“EEE Stimulus Proceedings”) for Public Service Electric and Gas Company (“PSE&G”), Elizabethtown Gas Company (“ETG”) and South Jersey Gas Company (“SJG”),² in which the parties expressed their support for a separate, generic Board proceeding to address NJLEUC’s proposals regarding costs to large C&I customers for utility sponsored energy efficiency and demand response programs.³ Staff also expressed support for a separate generic Board proceeding to address NJLEUC’s proposals in PSE&G’s Solar 4 All Proceeding.⁴

In each Stipulation, NJLEUC agreed not to oppose the programs, and Staff and Rate Counsel committed to support a generic filing by NJLEUC that would seek alternative cost recovery mechanisms designed to lessen the financial burden of proposed surcharges on its members.

By orders dated July 16, 2009, July 24, 2009, August 3, 2009 and July 31, 2009, pursuant to N.J.S.A. 48:3-98.1, the Board approved the Stipulations. While the Board did not order a generic proceeding, it did note that it was mindful of NJLEUC’s call for a separate generic Board proceeding and that it could be valuable to review the options that NJLEUC has suggested for large C&I consumers and possibly additional options as well.

Consistent with the Board’s July 16, 2009, July 24, 2009, August 3, 2009 and July 31, 2009 Orders in this matter, the Board **HEREBY DIRECTS** Staff to convene all interested parties to determine a procedural framework for the generic proceeding to evaluate potential alternative recovery mechanisms for large C&I electric and gas utility consumers subject to the RGGI Law surcharges. Further, having determined that NJLEUC’s petition should be retained by the Board for hearing, as authorized by N.J.S.A. 48:2-32, the Board will **HEREBY DESIGNATE** a

¹ I/M/O Atlantic City Electric Company’s responsive petition to the Board of Public Utilities order dated July 1, 2008 regarding the submission of demand response programs for the period beginning June 1, 2009 for electric distribution companies, and for supplemental inclusion of same in its “blueprint for the future” filing dated November 19, 2007 Docket Nos. EO08050326, EO08080543, and EO07110881; and I/M/O the demand response programs for the period beginning June 1, 2009 – electric distribution programs. Docket No. EO08050326 Order dated July 31, 2009.

² I/M/O of the Energy Efficiency Programs and an Associated Cost Recovery Mechanism BPU Docket No. EO09010056; and I/M/O of the Petition of Public Service electric and Gas Company Offering an Energy Efficiency Economic Stimulus Program in its Service Territory on a Regulated Basis and Associated Cost Recovery Mechanism Pursuant to N.J.S.A. 48:3-98.1 Docket No. EO09010058, Order dated July 16, 2009.; In the Matter of the Petition of Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas for Approval of Energy Efficiency Programs and a Regional Greenhouse Gas Initiative Cost Recovery Rider, BPU Docket No. GO09010060, Order dated August 3, 2009.; and I/M/O of the Petition of South Jersey Gas Company for Approval of an Energy Efficiency Program (“EEP”) with an Associated Energy Efficiency Tracker (“EET”), Pursuant to N.J.S.A. 48:3-98.1 and to Modify Rate Schedule EGS-LV. BPU Docket No.; GO09010059, Order dated July 24, 2009.

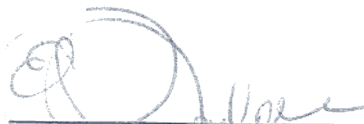
³ PSE&G and Elizabethtown Gas Company took no position with respect to NJLEUC’s position to commence a separate generic proceeding to address the allocation of costs to large C&I customers.

⁴ In the Matter of the Petition of Public Service Electric and Gas Company for Approval of a Solar Generation Investment Program and an Associated Cost Recovery Mechanism BPU Docket No. EO09020125 and Order dated August 3, 2009. The Company and the Department of the Public Advocate, Division of Rate Counsel (“Rate Counsel”) took no position with respect to this issue.

Commissioner at a later date as the presiding officer who is authorized to rule on all motions that arise during the proceedings and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues.

DATED: 1/27/10

BOARD OF PUBLIC UTILITIES
BY:


ELIZABETH RANDALL
ACTING PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JEANNE M. FOX
COMMISSIONER

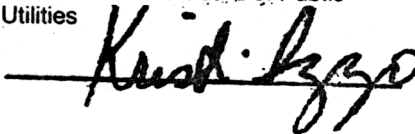

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

ATTEST:


CARMEN DIAZ
ACTING SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



I/M/O Petition of the New Jersey Large Energy Users Coalition for a Generic Proceeding
to Consider Mitigating the Impact of Utility Surcharges on Large Commercial and
Industrial Consumers for Programs Authorized Pursuant to Section 13 of the Regional
Greenhouse Gas Initiative Law, N.J.S.A 48:3-98.1 et seq.
BPU Docket No. ~~13P~~ E 0 09100 883

BPU

Kristi Izzo, Secretary
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
PHONE: (973) 648-3426
FAX: (973) 683-2409
kristi.izzo@bpu.state.nj.us

Victor A. Fortkiewicz, Exe. Dir.
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102
PHONE: 973-648-4852
FAX: 973-648-2409

Samuel Wolfe, Esquire
Chief Counsel
Board of Public Utilities
Office of the Economist
Two Gateway Center
Newark, NJ 07102
PHONE: (973) 648-2016
FAX: (973) 648-2209
samuel.wolfe@bpu.state.nj.us

Alice Bator, Bureau Chief
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
PHONE: (973) 648-2448
FAX: (973) 648-7420
alice.bator@bpu.state.nj.us

Mark Beyer, Chief Economist
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
PHONE: (973) 693-3414
FAX: (973) 648-4410
mark.beyer@bpu.state.nj.us

Rene Demuynck
Board of Public Utilities
44 S. Clinton Avenue, 7th fl.
Post Office Box 350
Trenton, NJ 08625
PHONE: (609) 777-3337
FAX: (609) 777-3336
rene.demuynck@bpu.state.nj.us

Sheila Iannacone
Bureau Chief
Board of Public Utilities
Division of Energy
Two Gateway Center
Newark, NJ 07102
PHONE: (973) 648-3705
FAX: (973) 648-2467
sheila.iannacone@bpu.state.nj.us

Jerome May
Board of Public Utilities
Office of the Economist
Two Gateway Center
Newark, NJ 07102
PHONE: (973) 648-4950
FAX: (973) 648-4410
jerome.may@bpu.state.nj.us

Linda Nowicki
Division of Energy
Board of Public Utilities
44 S. Clinton Avenue
Trenton, NJ 08625
linda.nowicki@bpu.state.nj.us

Jacqueline O'Grady
Board of Public Utilities
Office of the Economist
Two Gateway Center
Newark, NJ 07102
PHONE: (973) 648-3451
FAX: (973) 648-4410
jackie.ogrady@bpu.state.nj.us

Suzanne Patnaude
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
PHONE: (973) 648-3858
FAX: (973) 648-2209
suzanne.patanude@bpu.state.nj.us

Frank Perrotti
Division of Energy
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
frank.perrotti@bpu.state.nj.us

Stacy Petersen
Division of Energy
Board of Public Utilities Two Gateway
Center
Newark, NJ 07102
stacy.petersen@bpu.state.nj.us

Mona Mosser, Bureau Chief
Board of Public Utilities
Office of the Economist
Two Gateway Center
Newark, NJ 07102
PHONE: (973) 648-2891
FAX: (973) 648-2409
mona.mosser@bpu.state.nj.us

Michael Winka, Manager
Office of Clean Energy
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
PHONE: (973) 648-7270
FAX: (973) 777-3330
Michael.winka@bpu.state.nj.us

DAG

Kenneth Sheehan, DAG
Dept. of Law & Public Safety
Division of Law
124 Halsey Street, 5th fl.
PO Box 45029
Newark, NJ 07101
PHONE: (973) 648-3709
FAX: (973) 648-3555
kenneth.sheehan@dol.lps.state.nj.us

Caroline Vachier, DAG
Asst. Section Chief
Dept. of Law & Public Safety
Division of Law
124 Halsey Street, 5th fl.
PO Box 45029
Newark, NJ 07101
PHONE: (973) 648-3709
FAX: (973) 648-3555
caroline.vachier@dol.lps.state.nj.us

Jessica L. Campbell, DAG
Dept. of Law & Public Safety
Division of Law
124 Halsey Street, 5th fl.
PO Box 45029
Newark, NJ 07101
PHONE: (973) 648-4726
FAX: (973) 648-3555
jessica.campbell@dol.lps.state.nj.us

Elise Goldblat, DAG
Dept. of Law & Public Safety
Division of Law
124 Halsey Street, 5th fl.
PO Box 45029
Newark, NJ 07101
PHONE: (973) 648-3709
FAX: (973) 648-3555
elise.goldblat@dol.lps.state.nj.us

Jenique Jones
Dept. of Law & Public Safety
Division of Law
124 Halsey Street, 5th fl.
PO Box 45029
Newark, NJ 07101
PHONE: (973) 648-7159
FAX: (973) 648-3555
jenique.jones@dol.lps.state.nj.us

Kerri Kirschbaum, DAG
Dept. of Law & Public Safety
Division of Law
124 Halsey Street, 5th fl.
PO Box 45029
Newark, NJ 07101
PHONE: (973) 648-7811
FAX: (973) 648-3555
kerri.kirschbaum@dol.lps.state.nj.us

Alex Moreau, DAG
Dept. of Law & Public Safety
Division of Law
124 Halsey Street, 5th fl.
PO Box 45029
Newark, NJ 07101
PHONE: (973) 648-3762
FAX: (973) 648-3555
alex.moreau@dol.lps.state.nj.us

Anne Marie Shatto, DAG
Dept. of Law & Public Safety
Division of Law
124 Halsey Street, 5th fl.
PO Box 45029
Newark, NJ 07101
PHONE: (973) 648-3762
FAX: (973) 648-3555
anne.shatto@dol.lps.state.nj.us

Babette Tenzer, DAG
Dept. of Law & Public Safety
Division of Law
124 Halsey Street, 5th fl.
PO Box 45029
Newark, NJ 07101
PHONE: (973) 648-7811
FAX: (973) 648-3555
babette.tenzer@dol.lps.state.nj.us

ADVOCATE

Stephanie A. Brand, Director
Dept. of the Public Advocate
Division of Rate Counsel
31 Clinton Street, 11th fl.
PO Box 46005
Newark, NJ 07101
PHONE: (973) 648-2690
FAX: (973) 624-1047
sbrand@rpa.state.nj.us

Paul Flanagan, Litigation Manager
Dept. of the Public Advocate
Division of Rate Counsel
31 Clinton Street, 11th fl.
PO Box 46005
Newark, NJ 07101
PHONE: (973) 648-2690
FAX: (973) 624-1047
pflanagan@rpa.state.nj.us

James Glassen, Esq.
Division of Ratepayer Advocate
31 Clinton Street, 11th fl.
PO Box 46005
Newark, NJ 07101
jglassen@rpa.state.nj.us

Lisa Gurkas
Dept. of the Public Advocate
Division of Rate Counsel
31 Clinton Street, 11th fl.
PO Box 46005
Newark, NJ 07101
PHONE: (973) 648-2690
FAX: (973) 624-1047
lgurkas@rpa.state.nj.us

Kurt Lewandowski, ADAG
Dept. of the Public Advocate
Division of Rate Counsel
31 Clinton Street, 11th fl.
PO Box 46005
Newark, NJ 07101
PHONE: (973) 648-2690
FAX: (973) 624-1047
klewando@rpa.state.nj.us

Ami Morita
Dept. of the Public Advocate
Division of Rate Counsel
31 Clinton Street, 11th fl.
PO Box 46005
Newark, NJ 07101
PHONE: (973) 648-2690
FAX: (973) 624-1047
sbrand@rpa.state.nj.us

Henry M. Ogden, Esq.
Dept. of the Public Advocate
Division of Rate Counsel
31 Clinton Street, 11th fl.
PO Box 46005
Newark, NJ 07101
PHONE: (973) 648-6930
FAX: (973) 624-1047
hogden@rpa.state.nj.us

Felicia Thomas-Friel, Managing
Attorney – Gas
Dept. of the Public Advocate
31 Clinton Street, 11th fl.
PO Box 46005
Newark, NJ 07101
PHONE: (973) 648-2690
FAX: (973) 624-1047
ftthomas@rpa.state.nj.us

Diane Schulze, ADAG
Dept. of the Public Advocate
31 Clinton Street, 11th fl.
PO Box 46005
Newark, NJ 07101
PHONE: (973) 648-2690
FAX: (973) 624-1047
dschulze@rpa.state.nj.us

AGL/ELIZABETHTOWN

Deborah Franco
Cullen & Dykman, LLP
100 Quentin Roosevelt Blvd.
Garden City, NY 11530-4850

Mary Patricia Keefe
Elizabethtown Gas
300 Connell Drive, Suite 3000
Berkeley Heights, NJ 07922
PHONE: (908) 771-9220
FAX: (908) 771-8217
mkeefe@aglresources.com

Kenneth T. Maloney, Esq.
Cullen and Dykman
1101 Fourteenth Street, NW
Washington, DC 20005
PHONE: (202) 223-8890
FAX: (202) 457-1405
kmaloney@collenanddykman.com

Elizabeth Wade, Esq.
AGL Resources
Ten Peachtree Place
Atlanta, GA 30309
PHONE:
FAX:
ewade@algresources.com

JCP&L

Michael J. Filippone
Jersey Central Power & Light
300 Madison Avenue
PO Box 1911
Morristown, NJ 07962-1911
PHONE: (973) 401-8991
FAX: (973) 401-8224
mfilippone@firstenergycorp.com

Marc B. Lasky, Esq.
Morgan, Lewis & Bockius LLP
89 Headquarters Plaza North,
Ste. 1435
Morristown, NJ 07960
PHONE: (973) 993-3133
FAX: (877) 432-9652
mlasky@morganlewis.com

NATURAL GAS CO.

Tracey Thayer, Esq.
Regulatory Affairs Counsel
New Jersey Natural Gas Co.
1415 Wyckoff Road
PO Box 1464
Wall, NJ 07719
PHONE: (732) 919-8025
FAX: (732) 938-2620
TThayer@NJNG.com

PSE&G

Andrew K. Dembia, Esquire
Assistant Corporate Rate Counsel
Public Service Electric & Gas
80 Park Plaza-T8C
Newark, NJ 07101
PHONE: (973) 430-6145
FAX: (973) 648-0838
Andrew.dembia@pseg.com

Gregory Eisenstark, Esq.
Assistant General Corporate Rate
PSEG Services Corporation
80 Park Plaza, T-05
Newark, NJ 07101
PHONE: (973) 430-6281
FAX: (973) 430-5983
gregory.eisenstark@PSEG.com

Tamara L. Linde, Esquire
Public Service Electric & Gas 80 Park
Plaza
PO Box 570
Newark, NJ 07101
PHONE: (973) 430-8058
FAX: (973) 623-3261
tamara.linde@pseg.com

Frances I. Sundheim, Esq.
VP & Corporate Rate Counsel
Public Service Electric & Gas Co.
80 Park Plaza, T-08C
Newark, NJ 07101
PHONE: (973) 430-6928
FAX: (973) 648-0838
frances.sundheim@pseg.com

SOUTH JERSEY GAS CO.

Samuel A. Pignatelli, Vice President
Rates & Regulatory Affairs
South Jersey Gas Company
1 South Jersey Plaza, Route 54
Folsom, NJ 08037
spignatelli@sjindustries.com

Ira G. Megdal, Esquire
Cozen O'Connor
457 Haddonfield Road, Suite 300
Cherry Hill, NJ 08002
PHONE: (856) 910-5019
FAX: (877) 259-7984
imegdal@cozen.com

ATLANTIC CITY ELECTRIC

Philip J. Passanante, Esq.
Assistant General Counsel
Atlantic City Electric Co. – 89KS42
800 King Street, 5th fl., PO Box 231
Wilmington, DE 19899-0231
Philip.passanante@pepcoholdings.com

Nicholas W. Mattia, Jr., Esq.
Dickstein Shapiro LLP
1825 Eye Street, NW
Washington, DC 20006-5304
mattian@dicksteinshapiro.com

ROCKLAND ELECTRIC

John L. Carley, Esq.
Consolidated Edison Co. of NY
4 Irving Place
New York, NJ 10003
carleyj@coned.com

James C. Meyer, Esq.
Riker, Danzig, Scherer, Hyland &
Perritti LLP
Headquarters Plaza
One Speedwell Avenue
PO Box 1981
Morristown, NJ 07962-1981
PHONE: (973) 451-8464
FAX: (973) 538-1984

HMFA

Mary Sheehy
Green Homes Administrator
NJHMFA
637 South Clinton Avenue
PO Box 18550
Trenton, NJ 08650
PHONE: (609) 278-7400