Agenda Date: 2/17/23
Agenda Item: 2F

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

		ENERGY
IN THE MATTER OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY'S REQUEST FOR AN ACCOUNTING ORDER AUTHORIZING THE COMPANY TO MODIFY ITS PENSION ACCOUNTING FOR RATEMAKING PURPOSES	)))))	DECISION AND ORDER APPROVING STIPULATION DOCKET NO. ER22090549

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Matthew M. Weissman, Esq., Public Service Electric and Gas Company

BY THE BOARD:

On September 1, 2022, Public Service Electric and Gas Company ("PSE&G") filed a petition with the New Jersey Board of Public Utilities ("Board" or "BPU") seeking: 1) authorization, for rate-making purposes, to amortize the net gain or loss component of its pension expense utilizing the "calculated" or "smoothed" market-related value of assets ("Proposed Methodology"), effective January 1, 2023; 2) approval to record a regulatory asset or regulatory liability to account for the resulting difference in the "amortization of net gain or loss" component of its pension expense or income between its current methodology and the Proposed Methodology for purposes of income statement reporting; and 3) approval to submit, for recovery or return in rates, the pension expense or income utilizing the Proposed Methodology ("Petition").
By this Order, the Board considers a stipulation of settlement ("Stipulation") executed by PSE&G, Board Staff ("Staff"), and the New Jersey Division of Rate Counsel ("Rate Counsel") (collectively, Parties") which resolves the Company's requests in the Petition.

BACKGROUND

PSE&G's parent company, Public Service Enterprise Group ("PSEG"), sponsors qualified plans covering active employees and retirees for PSEG and its subsidiaries. As of December 31, 2021, PSEG had qualified pension liabilities totaling approximately $7.1 billion with qualified pension assets totaling $6.9 billion. PSE&G accounts for approximately 63% of the pension liabilities.

The Company maintains its pension plan using certain assets to fund pension obligations to its active union employees and retirees, which expose the pension plan to volatility in financial markets. Further, PSE&G invests its pension assets in portfolios with significant equity allocations, due to their higher return expectations over long-term intervals.

Pursuant to accounting rules established by the Financial Accounting Standards Board ("FASB"), PSE&G calculates its net periodic pension cost ("NPPC") annually.[1] The NPPC is comprised of several components calculated based upon various factors, including assumptions about active employees' retirement dates, life expectancy, and other factors subject to uncertainty. Accounting for the "amortization of net gains or losses" component of the NPPC, which is impacted by the assets' annual investment performance, is a significant source of pension expense volatility.

PETITION

In the Petition, PSE&G noted that it currently uses the "fair value of plan assets" to determine the market-related value of assets for all asset classes in its pension trust.[2] The Company adopted this approach in 1987, upon implementation of FASB's Financial Accounting Statement 87, "Employer's Accounting for Pensions," which was ultimately codified as part of the U.S. Generally Accepted Accounting Principles ("GAAP"). The Company asserted that it is currently unable to change its approach under the GAAP.

Pursuant to N.J.S.A. 48:2-16,[3] PSE&G sought approval to modify the amortization of its actuarial gains and losses for ratemaking purposes and apply the rules under FASB's "Accounting Standards Codification 980-10" in its pension accounting.[4]

Specifically, PSE&G further proposed that, for ratemaking purposes, the amortization of the net gain or loss component of pension expense be determined utilizing the Proposed Methodology to allow the Company to mitigate volatility of its significant, volatile pension expenses. In this way, the calculated market-related value "phases-in" excess or under-performance over a period of five (5) years, such that the calculated market-related value is significantly less volatile than the fair value, while gains and losses associated with excess or under-performance prior to the five-year period are fully reflected.

PSE&G proposed to record the resulting difference in the "amortization of the net gain or loss" component of pension expense or pension income between its current methodology and the Proposed Methodology for purposes of income statement reporting as a regulatory asset or regulatory liability. The resulting regulatory asset or liability from this timing difference would be included in net pension expense submitted for cost recovery or return in future rate cases when amortized.

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[1] The NPPC is the annual accounting expense or income a company must recognize in its income statement associated with pensions.

[2] "Fair value of plan assets" is the market value of the trust assets at year-end.

[3] N.J.S.A. 48:2-16(2)(a) grants the Board the authority to, upon notice and by order in writing, require every public utility to adopt a uniform system of accounting that conforms, at the Board's discretion, to any system adopted or approved by any federal regulatory agency having jurisdiction.

[4] See *US GAAP Codification of Accounting Standards Codification Topic 980-10: Regulated Operations – overall.*

STIPULATION

Following review, discovery, and further discussion, the Parties executed a Stipulation of Settlement ("Stipulation"), which provides for the following:[5]

1. The Parties acknowledge that in recent years, including the time period of the COVID-19 outbreak, equity and fixed income investments have displayed unusual impacts compared to most prior years. The resulting significant impact on PSE&G's pension costs makes PSE&G's request reasonable at this time.

2. To partially mitigate the volatility in the pension expense, PSE&G proposes, and the Parties agree, that as of January 1, 2023, PSE&G shall, in calculating its annual NPPC, modify the amortization of its actuarial gains and losses related to the difference between expected returns and actual returns on its pension assets for ratemaking purposes using the Proposed Methodology.

3. Specifically, for ratemaking purposes, amortization of the net gain or loss component of the pension expense shall be determined utilizing the "calculated" or "smoothed" market-related value of assets instead of fair value at year-end. For this purpose, effective January 1, 2023, PSE&G will calculate the market-related value by adjusting the fair value of assets by the following:

    a. 80% of the difference between the actual asset return minus the expected return for the preceding year,
    b. 60% of the difference between the actual asset return minus the expected return for the second preceding year,
    c. 40% of the difference between the actual asset return minus the expected return for the third preceding year, and
    d. 20% of the difference between the actual asset return minus the expected return for the fourth preceding year.

    In implementing this change, only returns incurred after January 1, 2022 will be considered.

4. The Parties further agree that PSE&G will record the resulting difference in the amortization of the net gain or loss component of pension expense or income between its current methodology and the Proposed Methodology for purposes of income statement reporting as a regulatory asset or regulatory liability. The resulting regulatory asset or liability will be amortized pursuant to the Proposed Methodology, with the annual amount included in the net pension expense submitted for cost recovery or return in future rate cases, similar to the current regulatory asset or liability that is amortized into the pension expense each year.

5. The Parties agree that the regulatory asset or regulatory liability resulting from this change will not be included in rate base in any future rate case, and that the regulatory asset or regulatory liability will not accrue carrying charges.

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5 Although summarized in this Order, the detailed terms of the Stipulation are controlling, subject to the findings and conclusions of this Order. Each paragraph is numbered to coincide with the paragraphs in the Stipulation.

6. The Parties agree that PSE&G shall, upon authorization by the Board:

   a. determine, for ratemaking purposes, the amortization of the net gain or loss component of its pension expense utilizing the “calculated” or “smoothed” market-related value of assets, effective January 1, 2023;

   b. record a regulatory asset or liability to account for the resulting difference in the amortization of the net gain or loss component of its pension expense (or income) between its current methodology and the Proposed Methodology for purposes of income statement reporting;

   c. submit, for recovery or return in rates, its pension expense or income utilizing the Proposed Methodology for computing the amortization of the net gains or losses;

   d. exclude the regulatory asset or regulatory liability from rate base in future base rate proceedings; and

   e. clarify that the regulatory asset or regulatory liability will not accrue carrying charges.

7. The Parties agree that nothing in the Stipulation shall be construed to waive any party’s right to information in future rate proceedings on PSE&G’s pension expense. Specifically, in each subsequent base rate case following PSE&G’s 2024 Base Rate Case, the Company will submit a pension expense that will be open to review and full discovery rights on all aspects, including but not limited to the methodology agreed to in the Stipulation, which may include discovery on how pension smoothing continues to be an appropriate methodology, with any projection data related thereto.

DISCUSSION AND FINDINGS

The Board, having carefully reviewed the record in this proceeding, including the Petition and the Stipulation, **HEREBY FINDS** the Stipulation to be reasonable, in the public interest, and in accordance with the law. Accordingly, the Board **HEREBY ADOPTS** the Stipulation and **HEREBY INCORPORATES** its terms and conditions as though fully set forth herein, subject to any terms and conditions set forth in this Order.

As such, the Board **HEREBY AUTHORIZES** PSE&G to:

i. implement, for ratemaking purposes, the amortization of net gain or loss component of pension expense utilizing the “calculated” or “smoothed” market-related value of assets (referred to above and hereafter as the “Proposed Methodology”), effective January 1, 2023.
ii. record a regulatory asset or regulatory liability to account for the resulting difference in the amortization of net gain or loss component of pension expense (or income) between its current methodology and the Proposed Methodology for purposes of income statement reporting; and

iii. submit, for recovery or return in rates, the pension expense or income utilizing the Proposed Methodology for computing the amortization of net gains or losses.[6] [7]

The Company's costs, including its pension costs, remain subject to audit. This Order shall not preclude nor prohibit the Board from taking any actions determined to be appropriate as a result of any such audit.

The effective date of this Board Order is February 24, 2023.

DATED: February 17, 2023

BOARD OF PUBLIC UTILITIES
BY:

JOSEPH L. FIORDALISO
PRESIDENT

MARY-ANNA HOLDEN
COMMISSIONER

DIANNE SOLOMON
COMMISSIONER

ROBERT M. GORDON
COMMISSIONER

DR. ZENON CHRISTODOULOU
COMMISSIONER

ATTEST:

CARMEN D. 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

[6] While amortization of the net gain or loss component of pension expense utilizing the "calculated" or "smoothed" market-related value of assets will commence January 1, 2023, said action does not constitute retroactive ratemaking. Retroactive ratemaking occurs where a regulator allows a utility to recover past losses or requires a utility to refund excess profits. In this matter, the Board is not setting or considering rates. Herein the Board is approving a change in the Company's accounting methodology.

[7] "Generally, retroactive rate making occurs when a utility is permitted to recover an additional charge for past losses, or when a utility is required to refund revenues collected, pursuant to then lawfully established rates." In re Elizabethtown Water Co., etc., 107 N.J. 440, 448 (1987)(quoting Chesapeake and Potomac Tel. Co. v. Public Serv. Comm'n of West Virginia, 300 S.E.2d 607, 619 (W.Va.1982)).

IN THE MATTER OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY'S REQUEST FOR AN ACCOUNTING ORDER AUTHORIZING THE COMPANY TO MODIFY ITS PENSION ACCOUNTING FOR RATEMAKING PURPOSES

DOCKET NO. ER22090549

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PSEG Services Corporation

February 7, 2023

IN THE MATTER OF PUBLIC SERVICE ELECTRIC
AND GAS COMPANY'S REQUEST FOR AN ACCOUNTING
ORDER AUTHORIZING THE COMPANY TO MODIFY ITS PENSION
ACCOUNTING FOR RATEMAKING PURPOSES

Docket No. ER22090549

VIA ELECTRONIC MAIL
Carmen Diaz, Acting Board Secretary
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, New Jersey 08625-0350

Dear Secretary Diaz:

Attached is the fully executed Stipulation in the above-reference matter resolving all aspects of this matter. All the parties have signed the Stipulation: Public Service Electric and Gas Company, the Staff of the New Jersey Board of Public Utilities, and the New Jersey Division of Rate Counsel.

Consistent with the Order issued by the New Jersey Board of Public Utilities ("BPU or Board") in connection with In the Matter of the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations, BPU Docket No. EO20030254, Order dated March 19, 2020, this filing is being electronically filed with the Secretary of the Board and the New Jersey Division of Rate Counsel. No paper copies will follow.

If you have any questions, please do not hesitate to contact me. Thank you for your consideration in this matter.

Very truly yours,

Matthew Weissman

Matthew M. Weissman

C Attached Service List (E-Mail)

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY'S REQUEST FOR AN ACCOUNTING ORDER AUTHORIZING THE COMPANY TO MODIFY ITS PENSION ACCOUNTING FOR RATEMAKING PURPOSES	)))))))	BPU Docket No. ER22090549

<u>STIPULATION AND AGREEMENT</u>

APPEARANCES:

Joseph A. Accardo, Jr., Esq., Vice President and Deputy General Counsel, and **Matthew M. Weissman, Esq.**, Managing Counsel - State Regulatory, for the Petitioner, Public Service Electric and Gas Company

Brian O. Lipman, Esq., Director, **Maura Caroselli, Esq.**, Manager of Gas & Clean Energy, and **T. David Wand, Esq.**, Deputy Rate Counsel, **Megan Lupo**, Esq., Assistant Deputy Rate Counsel, and **Brian Weeks**, Deputy Rate Counsel, for the New Jersey Division of Rate Counsel

Matko Ilic, Deputy Attorney General, for the Staff of the New Jersey Board of Public Utilities (**Matthew J. Platkin**, Attorney General of New Jersey)

On September 1, 2022, Public Service Electric and Gas Company ("PSE&G" or the "Company") filed a petition with the New Jersey Board of Public Utilities ("Board" or "BPU") seeking approval to: 1) determine, for rate-making purposes, amortization of the net gain or loss component of its pension expense utilizing the "calculated" or "smoothed" market-related value of assets method ("Proposed Methodology"), effective January 1, 2023; 2) record a regulatory asset or regulatory liability to account for any resulting difference in amortization of the net gain or loss component of its pension expense or income from its current methodology and the Proposed Methodology for purposes of income statement reporting; and 3) submit, for recovery or return in rates, its pension expense or income utilizing the Proposed Methodology for computing the amortization of net gains or losses ("Petition").

BACKGROUND

PSE&G's parent company, Public Service Enterprise Group ("PSEG") sponsors qualified plans covering active employees and retirees for PSEG and its subsidiaries. As of December 31, 2021, PSEG incurred qualified pension liabilities totaling approximately $7.1 billion with qualified pension assets totaling $6.9 billion. PSE&G accounts for approximately 63% of PSEG's pension liabilities.

Pursuant to accounting rules established by the Financial Accounting Standards Board ("FASB"), PSE&G calculates, on an annual basis, its net periodic pension cost ("NPPC").[1] The NPPC is comprised of several components calculated based on various factors including: assumptions about active employees' retirement dates, life expectancy, and other factors subject to uncertainty. The Petition and Stipulation concern accounting for the amortization of net gains or losses associated with asset experience. The assets' annual investment performance affect this component and creates a significant source of pension expense volatility.

PSE&G currently uses the fair value of plan assets to determine the market-related value of assets for all asset classes in its pension trust.[2] The Company adopted this approach in 1987 following implementation of FASB 87 "Employers' Accounting for Pensions" and asserts it is unable to change the approach under the U.S. Generally Accepted Accounting Principles ("GAAP").

[1] The NPPC is the annual pension accounting expense or income a company must recognize in its income statement.
[2] "Fair value of plan assets" means the market value of the trust assets at year-end.

However, if approved by the Board, PSE&G would modify the amortization of PSE&G's actuarial gains and losses for ratemaking purposes and use the Proposed Methodology. This would be consistent with ASC 980-10.[3] This accounting standard notes "[r]egulators sometimes include costs in allowable costs in a period other than the period in which the costs would be charged to expense by an unregulated entity." Through the Petition, the Company proposes to change its pension accounting method to the Proposed Methodology.

In the Petition and its discovery responses, PSE&G asserted that adopting the Proposed Methodology would allow it to partially mitigate the volatility of its pension expense, including when setting rates, which would subsequently support rate stability. PSE&G further asserted that, due to the growth of its pension trust over the past several years and historic volatility of the financial market, it must change its accounting method as soon as possible to reduce the impact of current and potential future market volatility on the Company and its customers.

BPU Staff and the New Jersey Division of Rate Counsel ("Rate Counsel") filed, and PSE&G responded to, discovery regarding PSE&G's proposal. In addition, the parties conducted several meetings to discuss the proposal, wherein PSE&G responded to Staff's and Rate Counsel's questions regarding the proposal.

STIPULATION

Staff, Rate Counsel, and PSE&G (collectively, "Parties"), HEREBY STIPULATE AND AGREE to the following findings, conclusions, and determinations for the purpose of a full, final, and complete resolution of the issues raised in the Petition with respect to modification of PSE&G's pension accounting method:

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[3] See *US GAAP Codification of Accounting Standards Codification Topic 980-10: Regulated Operations – overall*.

1. The Parties acknowledge that in recent years, including the time period of the COVID-19 outbreak, equity and fixed income investments have displayed unusual impacts compared to most prior years. The resulting significant impact on PSE&G's pension costs makes PSE&G's request reasonable at this time.

2. To partially mitigate the volatility in the pension expense, PSE&G proposes, and the Parties agree, that as of January 1, 2023, PSE&G shall, in calculating its annual NPPC, modify the amortization of its actuarial gains and losses related to the difference between expected returns and actual returns on its pension assets for ratemaking purposes using the Proposed Methodology.

3. Specifically, for ratemaking purposes, amortization of the net gain or loss component of the pension expense shall be determined utilizing the "calculated" or "smoothed" market-related value of assets instead of fair value at year-end. For this purpose, effective January 1, 2023, PSE&G will calculate the market-related value by adjusting the fair value of assets by the following:

a. 80% of the difference between the actual asset return minus the expected return for the preceding year,

b. 60% of the difference between the actual asset return minus the expected return for the second preceding year,

c. 40% of the difference between the actual asset return minus the expected return for the third preceding year, and

d. 20% of the difference between the actual asset return minus the expected return for the fourth preceding year.

In implementing this change, only returns incurred after January 1, 2022 will be considered.

4. The Parties further agree that PSE&G will record the resulting difference in the amortization of the net gain or loss component of pension expense or income between its current methodology and the Proposed Methodology for purposes of income statement reporting as a regulatory asset or regulatory liability. The resulting regulatory asset or liability will be amortized pursuant to the Proposed Methodology, with the annual amount included in the net pension expense submitted for cost recovery or return in future rate cases, similar to the current regulatory asset or liability that is amortized into the pension expense each year.

5. The Parties agree that the regulatory asset or regulatory liability resulting from this change will not be included in rate base in any future rate case, and that the regulatory asset or regulatory liability will not accrue carrying charges.

6. The Parties agree that PSE&G shall, upon authorization by the Board:

   a. determine, for ratemaking purposes, the amortization of the net gain or loss component of its pension expense utilizing the "calculated" or "smoothed" market-related value of assets, effective January 1, 2023;

   b. record a regulatory asset or liability to account for the resulting difference in the amortization of the net gain or loss component of its pension expense (or income) between its current methodology and the Proposed Methodology for purposes of income statement reporting;

c. submit, for recovery or return in rates, its pension expense or income utilizing the Proposed Methodology for computing the amortization of the net gains or losses;

d. exclude the regulatory asset or regulatory liability from rate base in future base rate proceedings; and

e. clarify that the regulatory asset or regulatory liability will not accrue carrying charges.

7. The Parties agree that nothing herein shall be construed to waive any party's right to information in future rate proceedings on PSE&G's pension expense. Specifically, in each subsequent base rate case following PSE&G's 2024 Base Rate Case, the Company will submit a pension expense that will be open to review and full discovery rights on all aspects, including but not limited to the methodology agreed to herein, which may include discovery on how pension smoothing continues to be an appropriate methodology, with any projection data related thereto.

8. This Stipulation represents a mutual balancing of interests, contains interdependent provisions and, therefore, is intended to be accepted and approved in its entirety. In the event any particular aspect of this Stipulation is not accepted and approved in its entirety by the Board, any Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right to litigate all issues addressed herein to a conclusion. More particularly, in the event that this Stipulation is not adopted in its entirety by the Board in any applicable Order(s), any Party hereto is free to pursue its then available legal remedies with respect to all issues addressed in this Stipulation as though this Stipulation had not been signed.

9. The Parties agree that they consider the Stipulation to be binding on them for all purposes herein.

10. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of these proceedings. Except as expressly provided herein, the Parties shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein, in total or by specific item. The Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of this Stipulation.

11. The justification and prudency of the Company's pension expense, including those deferred and placed in regulatory assets, as well as the pension investment strategy, have not been agreed to in this proceeding, but will be reserved for review and determination in the Company's subsequent base rate cases, including the Base Rate Case to be filed by January 1, 2024. The Parties reserve all rights to take any positions on subsequent matters that may arise.

12. The Parties further acknowledge that a Board Order approving this Stipulation will become effective upon the service of said Board Order or upon such date after the service thereof as the Board may specify in accordance with N.J.S.A. 48:2-40.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

BY:

Matthew Weissman

Matthew M. Weissman
Managing Counsel – State Regulatory

DATED: February 3, 2023

MATTHEW J. PLATKIN,
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the Board of Public Utilities

BY: Matko Ilic

Matko Ilic
Deputy Attorney General

DATED: February 6, 2023

NEW JERSEY DIVISION OF RATE
COUNSEL,
BRIAN O. LIPMAN, DIRECTOR

BY: T. David Wand
T. David Wand
Deputy Rate Counsel

DATED: February 7, 2023