

APPENDIX
Item 4



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

DIVISION OF ENERGY AND
OFFICE OF CLEAN ENERGY

IN THE MATTER OF ENERGY EFFICIENCY)	ORDER ADOPTING
PROGRAMS AND ASSOCIATED COST RECOVERY)	SCHEDULE
MECHANISM PROCEEDINGS)	
)	DOCKET NO. EO09010056
IN THE MATTER NEW JERSEY NATURAL GAS)	
COMPANY FOR APPROVAL OF ENERGY EFFICIENCY)	DOCKET NO. GO09010057
PROGRAMS WITH AN ASSOCIATED COST)	
RECOVERY MECHANISM)	
IN THE MATTER OF THE PETITION OF PUBLIC)	
SERVICE ELECTRIC AND GAS COMPANY)	
OFFERING AN ECONOMIC ENERGY EFFICIENCY)	
STIMULUS PROGRAM IN ITS SERVICE TERRITORY)	DOCKET NO. EO09010058
ON A REGULATED BASIS AND FOR ASSOCIATED)	
COST RECOVERY MECHANISM PURUSUANT TO)	
N.J.S.A. 48:3-98.1)	
IN THE MATTER OF THE PETITION OF SOUTH)	
JERSEY GAS COMPANY FOR APPROVAL OF AN)	
ENERGY EFFICIENCY PROGRAM ("EEP") WITH AN)	
ASSOCIATED ENERGY TRACKER ("EET"))	DOCKET NO. GO09010059
PURSUANT TO N.J.S.A. 48:3-98.1; AND TO MODIFY)	
RATE SCHEDULE EGS-LV)	
IN THE MATTER OF THE PETITION OF PIVOTAL)	
HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS FOR)	
APPROVAL OF ENERGY EFFICIENCY PROGRAMS)	DOCKET NO. GO09010060
AND A REGIONAL GREENHOUSE GAS INITIATIVE)	
COST RECOVERY RIDER)	

(SERVICE LIST ATTACHED)

BY PRESIDENT JEANNE M. FOX:

In response to Governor Corzine's call to electric and gas utilities to assist in promoting a broad economic recovery in the State while reducing energy consumption and greenhouse gas

production, the Board has encouraged the State's utilities to formulate plans for enhanced investments in energy efficiency programs.

Background and Procedural History

On January 19, 2009 New Jersey Natural Gas Company ("NJNG") submitted petitions for approval to implement certain energy efficiency programs and of an associated cost recovery mechanism. Similar filings were made by Public Service Electric and Gas Company ("PSE&G"), South Jersey Gas Company ("SJG"), and Elizabethtown Gas Company ("ETG") on January 21, 2009, January 26, 2009 and February 6, 2009, respectively.

By Order dated February 19, 2009, the Board retained these matters for review and hearing, and as authorized by N.J.S.A. 48:2-32, designated me 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 just and expeditious determination of the issues.

Under the authority, to expedite the review of these matters while providing an opportunity for discovery and public comment, I HEREBY SET the procedural schedule as described on Attachment A. This schedule is subject to modification as necessary and appropriate in the interests of economy and justice and applies only to the filings of NJNG, PSE&G, SJG, and ETG.

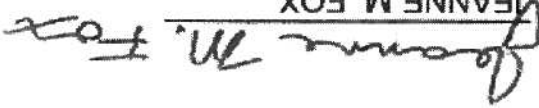
In the interest of the economy, all parties are HEREBY DIRECTED to serve electronically all documents, other than petitions which must be filed with the Board to the service list with two (2) hard copies provided to a designee of each party.

Finally, I HEREBY DIRECT Staff to post this Order 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: 2/25/09

BY:


JEANNE M. FOX
PRESIDENT

Economic Stimulus Energy Efficiency (EE) Proceedings Proposed Schedule

Board designated a Presiding Commissioner for EE Filings	February 11, 2009
Requests for Intervention/Participation due	March 6, 2009
Opposition to Intervention/Participation Motions due	March 13, 2009
Issue first round of discovery*	March 27, 2009
Submit responses to first round of discovery	April 3, 2009
Discovery Conference	Week of April 6, 2009
Issue second round of discovery	April 17, 2009
Submit responses to second round of discovery	April 24, 2009
Discovery/Settlement Conference	Week of April 27, 2009
Evidentiary hearings (if necessary)	Week of May 4, 2009
Parties' position papers (if necessary)	May 22, 2009
Anticipated Board Action	June 9, 2009

* Discovery will proceed on a rolling basis subject to the scheduled end date, with responses due within five (5) business days unless otherwise agreed to by the parties.

APPENDIX
Item 5



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DIVISION OF ENERGY AND
OFFICE OF CLEAN ENERGY

IN THE MATTER OF ENERGY EFFICIENCY)	DECISION AND ORDER
PROGRAMS AND ASSOCIATED COST RECOVERY)	APPROVING STIPULATION
MECHANISMS)	
)	DOCKET NO. EO09010056
IN THE MATTER 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)	
<u>N.J.S.A. 48:3-98.1</u>)	DOCKET NO. EO09010058

(SERVICE LIST ATTACHED)

BY THE BOARD:

Background:

In response to the worldwide economic downturn, in October 2008, Governor Jon Corzine announced a plan to help New Jersey weather the turbulence and lay a foundation for a long-term economic recovery. The plan was intended to directly support employment and economic activity in the short term, and to enhance the State's business climate and economic prospects in the long term.

As part of the plan, the Governor called upon New Jersey's electric and gas utilities to invest \$500 million in utility energy efficiency programs for residential and business customers through 2009. Less than a week later, the New Jersey Energy Master Plan ("EMP") was released.¹ The EMP set a goal of reducing energy consumption by 20 percent by 2020, and determined that one of the methods to achieve that goal is a transition of energy efficiency programs to the utilities. Board Staff ("Staff") then held a series of meetings with representatives of the seven electric and gas utilities, the New Jersey Utilities Association ("NJUA"), and the Department of

¹The Energy Master Plan is available at http://www.nj.gov/emp/docs/pdf/081022_emp.pdf (accessed June 30, 2009).

the Public Advocate, Division of Rate Counsel (“Rate Counsel”) to explore the design of short-term large-scale investments by the utilities to improve energy efficiency. The discussions focused on designing investments that would: use the EMP’s “whole building” approach to identify all cost-effective energy measures in a comprehensive audit of a building, and then implement as many of them as possible; support the future transition of the New Jersey Clean Energy Program (“NJCEP”) to the utilities; avoid overlap between customers targeted by the utilities’ programs and customers targeted by the NJCEP; and foster job creation.

In the course of these meetings, the participants recognized that the amount of money that utilities could invest in energy efficiency in one year depended in part on matters outside the control of the utilities and the New Jersey Board of Public Utilities (“Board”), such as the desire of energy customers to participate in programs to improve the efficiency of their buildings and equipment. The energy efficiency petitions ultimately filed by the seven utilities sought approval for programs with investments totaling approximately \$305 million, with the programs in some cases extending into a second year. These investments are in addition to the \$956 million in accelerated capital improvements and investments that the Board approved for five of New Jersey’s major energy utilities in April 2009. Evidence presented to the Board indicated that the overall accelerated infrastructure programs would create about 1,300 direct jobs in the private sector – without the use of additional government funding. As discussed below, the Board is reviewing the energy efficiency proposals not only to ensure that, if properly executed, they further the EMP’s energy efficiency goals, but that they also create jobs to strengthen the local economy.

PSE&G ENERGY EFFICIENCY ECONOMIC STIMULUS PETITION

On January 21, 2009, Public Service Electric and Gas Company (“PSE&G” or “Company”) filed a petition with the Board. On February 4, 2009, PSE&G supplemented its filing to provide information that was not included in the January 21, 2009 submission. On February 20, 2009, Staff notified PSE&G that the filing was administratively complete, based on Staff’s review of the Company’s petition and the February 4, 2009 supplemental filing.²

In the filing, PSE&G proposed a program (“Program”) comprised of eight (8) energy efficiency sub-programs with a total investment of approximately \$190 million over eighteen (18) months. According to the petition, the sub-programs were structured with consideration for various factors such as potential for job creation, energy savings, and whether a given program would be complementary to the NJCEP.

The petition proposed the following sub-programs:

1. Residential Whole House Efficiency Sub-Program
2. Residential Multi-Family Housing Sub-Program
3. Small Business Direct Installation Sub-Program
4. Municipal/Local/State Government Direct Install Sub-Program
5. Hospital Efficiency Sub-Program

² N.J.S.A. 48:3-98.1 requires the Board to decide cost recovery issues within 180 days. Pursuant to the Board Order issued in response to a further statutory directive within that section, Board Staff must review a petition for completeness within 30 days and, when a petition is determined to be complete, set the beginning of the 180-day. I/M/O Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources, and Offering Class I Renewable Energy Programs in their Respective Service Territories on a Regulated Basis Pursuant to N.J.S.A. 48:3-98.1, Dkt. No. EO08030164 (May 8, 2008). Accordingly, the 180-day period for a Board determination commenced on February 4, 2009.

6. Data Center Efficiency Sub-Program
7. Building Commissioning/O&M Sub-Program
8. Technology Demonstration Sub-Program

PSE&G also proposed recovering all Program costs through a separate component of the electric and gas RGGI Recovery Charge ("RRC"), the Energy Efficiency Economic Stimulus Program ("EEESP") charge. According to the petition, the EEESP component would be applicable to all electric and gas rate schedules. The Company also requested that the carrying charge on its deferred balance for the Program be set based upon PSE&G's monthly weighted average cost of capital, together with income tax effects.

In its petition, the Company estimated that implementation of the Program would create 638 direct jobs. The Company reviewed studies which estimate the number of "green jobs" per million dollars spent, and specifically based its estimate on the work of the Center on Wisconsin Strategy ("COWS"), which specifies discrete job creation factors per million dollars of investment for single family residences, multifamily home and commercial building projects.³ The petition further employed a definition of one full-time equivalent job as 2080 hours of work per year. The Company subsequently revised the definition of a full-time equivalent job to 1820 hours of work annually based upon requests from Staff and Rate Counsel, resulting in a revised estimate of 657 direct full-time jobs.⁴

By Order dated February 19, 2009, the Board retained this matter for review and hearing, and as authorized by N.J.S.A. 48:2-32, designated President Jeanne M. Fox as the presiding officer who was authorized to rule on all motions that arise during the proceeding and modify any schedule(s) that may be set as necessary to secure just and expeditious determinations in this matter. Subsequently, on February 25, 2009, President Fox issued an Order setting the procedural schedule in this matter.

After notice in newspapers in general circulation within the service territory, public hearings were held on March 5, 2009 in Mt. Holly, New Jersey, March 9, 2009 in Hackensack, New Jersey, and on March 11, 2009 in New Brunswick, New Jersey. A total of eleven members of the public appeared at the six public hearings.

INTERVENORS

On January 28, 2009, the New Jersey Large Energy Users Coalition ("NJLEUC") filed a Motion to Intervene in the proceeding. On March, 27, 2009, the Natural Resources Defense Counsel ("NRDC") filed a Motion to Intervene, and on April 28, 2009, the New Jersey Housing and Mortgage Financing Agency ("NJHMFA") filed a Motion to Intervene. By Orders dated March 27, 2009, April 28, 2009, and May 14, 2009, President Fox granted intervention to NJLEUC, NRDC, and NJHMFA, respectively.

³ "Assessing the Job Creation Potential of Energy Conservation Investments," Kilbert and Fobair, August 2007, Center on Wisconsin Strategy. The COWS study estimated the following relevant job creation numbers; single family homes, 4.864 jobs per million dollars; multi-family residences, 2.432 jobs per million dollars; commercial buildings, 4.089 jobs per million dollars.

⁴ The original 2080 work hours per year reflects a 40 hour work week for 52 weeks per year. Through discovery and technical meetings, the 1820 hours was agreed upon by Staff, Rate Counsel, and the Company to account for employee leave time. The 1820 hours reflects a 40 hour work week for 45.5 weeks per year.

Discovery requests in this matter were propounded by Staff and Rate Counsel, and were responded to by the Company.

THE PROPOSED STIPULATION

PSE&G, Rate Counsel, Staff, NJLEUC, and NJHMFA actively participated in settlement negotiations. NRDC did not actively participate in the settlement negotiations. PSE&G, Rate Counsel, Staff, and NJHMFA (collectively, the "Signatory Parties") agreed to certain modifications of the proposed programs and cost recovery mechanism and executed a stipulation ("Stipulation") on June 30, 2009. NJLEUC participated in the negotiations, but did not sign the Stipulation. The comments of NRDC and NJLEUC are discussed later in this Order.

Below are some of the key provisions of the Stipulation:⁵

11. The Company represents that the eight EEE sub-programs identified in Attachment 1 to the Stipulation, and incorporated into the Stipulation by reference, are in the public interest and will create jobs in support of the Governor's Economic Stimulus Plan. The total cost of the EEE Program is \$190 million, and the total estimated jobs to be created are 688 as set forth in Attachment 1 to the Stipulation.⁶

The budgets for each of the sub-programs have been modified as follows:

A.	Residential Segment	Expenditure
	Residential Whole House Efficiency Sub-Program	\$10,000,000
	Residential Multi-family Housing Sub-Program	\$19,000,000
B.	Industrial and Commercial Segment	
	Small Business Direct Install Sub-Program	\$20,000,000
	Municipal/Local/State Government Direct Install Sub-Program	\$25,000,000
	Hospital Efficiency Sub-Program	\$68,000,000
	Data Center Efficiency Sub-Program	\$10,000,000
	Building Commissioning/ O&M Sub-Program	\$ 2,000,000
	Technology Demonstration Programs Sub-Program	\$12,000,000
C.	Admin, Sales, Training, Evaluation, IT	\$24,000,000
	Total Energy Efficiency Expenditures	\$190,000,000

12. Based on these representations, the Signatory Parties agree that the EEE sub-programs appear to be prudent and consistent with the Governor's Economic Stimulus Plan and that Public Service can administer these regulated utility services.

⁵ Although described at some length in this Order, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusions contained in this Order.

⁶ In its petition, the Company estimated that implementation of the Program would create 638 direct jobs. The estimate of 688 jobs set forth in the stipulation is attributable in part to the modifications in sub-program budgets set forth in paragraph 11 of the stipulation, as well as to a revised figure for the number of work hours in a work year.

13. As part of the Stipulation, the incentive payments for the Hospital Efficiency Sub-Program, the Multi-Family Housing Sub-Program, and the Municipal/Local/State Government Direct Install Sub-Program (for facilities with annual peak demand in excess of 200 kW), and the Data Center Efficiency Sub-Program, have been modified from the Original Filing reflecting incentive payments to be provided in three stages. Specifically for the Multi-Family Housing Sub-Program; the full cost of energy efficiency upgrades (including engineering, energy audit and cost of construction) will be covered through a combination of PSE&G's buy-down/grant and zero-percent (0%), on-bill financing. The three stages are as follows (provided that pre-approval for the program was granted prior to any work done or expenditures made):

- Stage One: Execution of Contract: Investment Grade Audit ("IGA") is complete and results and estimated buy-down amount was reviewed with customer. The customer then must commit to install the agreed upon Energy Conservation Measures ("ECMs"), select the contractor(s), and sign a contract with the contractor(s) to install the ECMs. At this point both the customer and the contractor(s) have a quantified financial commitment to the project. One-third of the agreed-upon financial commitment will be paid to the vendor to begin the project.
- Stage Two: Job 50% Complete: One half of the ECMs have been installed, verified in the field by the PSE&G program operations manager through visual inspection. One-third of the agreed-upon financial commitment will be paid to the vendor.
- Stage Three: Balance on Final Inspection: All ECMs have been installed and commissioned (fired up and operating according to manufacturer specifications). Post-commission, a third-party inspector (hired by PSE&G) will inspect the completed project. If the project passes the final inspection, the remaining one-third of project costs will be paid to the vendor. Project is now complete and customer repayments begin.

In the event the customer fails to complete Stage Three or fails the final inspection, the Stage Three progress-payment will not be paid and the customer will have six months to complete the project and/or pass the final inspection. If the customer fails to comply, the repayment of the amounts owed to PSE&G will become immediately due and payable.

14. As part of the Stipulation, PSE&G notes that the Multifamily Efficiency Sub-Program was developed in cooperation with the NJHMFA to address the unique needs of NJHMFA's affordable housing multifamily projects and came out of a discussion facilitated by the Governor's Staff between BPU Staff, Rate Counsel, NJHMFA, and PSE&G. NJHMFA and PSE&G agreed to work together to develop an affordable housing multifamily program. The Carbon Abatement Hospital Efficiency sub-program was the model for the multifamily sub-program, but was customized to address the needs of this sector. During the development of the program, NJHMFA identified 75 affordable housing multifamily projects located in PSE&G electric and/or gas territory as candidates for the sub-program, including 18 that were identified as "projects in need." Subsequently all multifamily housing was made eligible for the sub-program services, however, PSE&G will continue working with NJHMFA to

ensure that the NJHMFA projects will be given priority and will be the initial targets for the sub-program. The details of this sub-program are as follows:

- a. Customers will receive an investment grade audit of their building(s) at no cost. The cost of an up-front investment grade energy audit is seen as an impediment to sector participation.
 - b. There will not be a funding cap imposed per customer in order to encourage a whole building approach.
 - c. All measures that have a simple payback of 15 years or less will be targeted for retrofit or replacement opportunities. For NJHMFA financed projects, the energy efficiency upgrade plan will be reviewed and approved by PSE&G and NJHMFA. In these instances, NJHMFA will provide timely review and comments of plans and documents signed between the contractor and the project.
 - d. PSE&G will buy-down costs by seven years, but not to less than two years. Remaining costs will be provided by PSE&G at 0% and repaid through on-bill financing.
 - e. The customer will have ten years to repay their contribution to the project. This will serve to guarantee immediate energy savings and utility bill relief to these most-in-need projects. NJHMFA-financed affordable housing projects are likely to be in operation for at least ten more years. Should the property be sold, the remaining balance shall be payable upon transfer of the property.
 - f. For NJHMFA's projects, PSE&G's 0% financing will be subordinate to NJHMFA's permanent mortgage(s). The form of documents perfecting PSE&G's lien must be reviewed and approved by NJHMFA. The affordable housing multifamily sector would benefit from this sub-program due to its high energy usage, the selected development's general lack of available capital for infrastructure improvements, and the need to preserve the affordability of these buildings and the housing they provide.
15. Whole House Efficiency Sub-Program incentive levels have been modified to be consistent with the revised NJCEP income guidelines and the customer repayment period has been extended. The Tier 3 incentive will cover 80% of costs for customers between 225-400% of federal poverty guideline and 50% of the costs for customers with income greater than 400% of federal poverty guideline. Customers may repay their share of the cost through their energy bill over a period of up to 60 months. The stipulation will also correct the list of UEZ municipalities in PSE&G territory to also include Gloucester City and New Brunswick, which had not been identified in the original filing. The UEZ municipalities located in PSE&G's service territory include: Gloucester City, New Brunswick, Mount Holly, Pemberton, Camden, East Orange, Irvington, Newark, Orange, Bayonne, Guttenberg, Jersey City, Kearny, North Bergen, Union City, West New York, Trenton, Passaic, Paterson, Carteret, Perth Amboy, Elizabeth, Hillside, Roselle and Plainfield. PSE&G will exercise its best efforts to obtain Building Performance Institute ("BPI") certification and accreditation consistent with Home Performance with Energy Star within six months of the issuance of the Board's Order adopting the Stipulation.
16. The Municipal/Local/State Government Direct Install Sub-Program was designed with the ability to address both small buildings with annual peak demand use at or below 200 kW and, on a case-by-case basis projects for customers with annual peak demand in excess of 200 kW. Customers with annual peak demand in excess of

200 kW would be eligible for an investment grade audit if the complexity of the facility required that level of analysis. Customers who participate in this option will repay 20 percent of the costs over a period of two years through their PSE&G bill. Customers may also choose to cover the cost for the balance of the project without the PSE&G on-bill repayment, in which case the customer contribution will be deducted from the total cost of the project to determine PSE&G's payment to the customer. Municipal, local and State government entities are subject to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. A customer claiming not-for-profit tax exempt status must meet the criteria set forth by Section 501(c)(3) of the Internal Revenue Code.

Green manufacturing minimizes waste and pollution, often by incorporating a three- step life cycle approach to product design that designs products that can be re-used, that can be easily taken apart, and so that component parts can be used in different products. Since reducing energy consumption is the most common and simplest place to start when converting a standard manufacturing plant into a green facility, PSE&G proposes to accept applications of this type on a case-by-case basis. Accordingly, this sub-program would be modified to provide investment grade audits and incentives for green manufacturing projects that increase energy efficiency and reduce costs for manufacturing facilities that provide jobs in New Jersey communities. PSE&G will provide the audit free of charge to the participant and the sub-program will fund the approved energy savings measures at the start of the project.

17. The Building Commissioning/O&M Sub-Program has been modified to operate as a pilot to determine the following: (1) market need for retro-commissioning services, (2) the scope, depth, and scale of the services that should be offered, and (3) the cost to deliver those services. During the pilot, funds from the program will provide funding for the complete service. PSE&G will develop a Measurement and Verification ("M&V") Plan that is consistent with the 2008 Federal Energy Management Program ("FEMP") M&V Guidelines Version 3.0 and the NJCEP measurement and verification procedures.
18. PSE&G proposes that energy savings estimates for economic stimulus programs reference customers' existing equipment as a baseline in addition to the standard efficiencies for new equipment embedded in current NJ Energy Savings Protocols.
19. Based on the Company's representations and the analysis performed on June 18, 2009, and subsequently modified on June 26, 2009 by the Rutgers Center for Energy, Economic and Environmental Policy ("CEEPP"), the proposed EEE sub-programs appear to be cost effective and consistent with the Governor's Economic Stimulus Plan. Future Program evaluation will include evaluation for all subprograms, and the scope of the program evaluation will include:
 - a. cost/benefit analysis, including a Participant Cost Test ("PCT"), program Administration Cost Test ("PAC"), Ratepayer Impact Measure ("RIM"), Total Resource Cost ("TRC"), and Societal Cost Test ("SCT"), to be performed by CEEPP to be retained by the Board; using a methodology consistent with the methodology used by the CEEPP and provided to the NJ Clean Energy Program by CEEPP.
 - b. customer and market acceptance, to be performed by an independent third party vendor hired by PSE&G;
 - c. process evaluation, to be performed by an independent third party vendor hired by PSE&G; and

- d. Impact evaluation, to be performed by CEEEP or a subcontractor to be retained by CEEEP.

CEEEP will follow its internal procurement process in retaining such subcontractor in accordance with the terms of the contract between CEEEP and the Board. PSE&G will present the scope of work for program evaluation to Board Staff and Rate Counsel for review and comment prior to issuing an RFP for parts b. and c. The Parties agree that once the analyses have been reviewed and accepted by the Parties, all reasonable and prudent costs of such program evaluations performed by or contracted for by PSE&G are in the best interest of ratepayers and shall be fully recoverable by PSE&G. PSE&G is obligated to adhere to applicable affiliate standards. If the Board is unable to retain CEEEP to perform the evaluation services identified in parts "a" and/or "d" above, then such evaluations shall be performed by a third party vendor to be retained by the Board pursuant to State procurement laws.

All customers of record in PSE&G's electric or gas service territory who meet the individual sub-program criteria will be eligible for these sub-programs, including both gas and electric measures. Customers including those who are protected by the BPU's Winter Moratorium rules will be eligible to participate in these sub-programs. However, should any customer fail to repay his or her portion of the costs associated with the measures installed, all such costs will be recovered within the rate recovery mechanism set forth herein.

20. PSE&G will recover the net revenue requirements associated with this EEE Program via two new EEE Stimulus Components ("EEESC") of the Company's electric and gas RGGI Recovery Charges ("RRC"). The electric EEESC will be applicable to all electric rate schedules on an equal cents per kilowatt-hour basis for recovery of costs associated with the electric EEE Program. The gas EEESC will be applicable to all gas rate schedules on an equal cents per therm basis for recovery of costs associated with the gas EEE Program. The initial EEESCs will be based on estimated EEE Program revenue requirements from July 1, 2009 or the date of the written BPU Order to December 31, 2010. Thereafter, the electric and gas EEESCs will be changed nominally on an annual basis incorporating a true-up for actuals and an estimate of the revenue requirements for the upcoming year.
21. The Signatory Parties stipulate that initial electric and gas EEESCs will include recovery of IT costs of \$1.0 million in the setting of initial rates. They further stipulate that PSE&G may request recovery of additional IT costs in a subsequent EEESC annual filing if necessary.
22. The Signatory Parties stipulate that the revenue requirements recovered through the electric and gas EEESCs will be calculated to include a return on investment and a return of investment through amortization of the associated regulatory asset over 60 months. Although the five-year amortization does not match the life of the measures installed and the associated benefits, the parties agreed to this shorter recovery period to accelerate recovery of the Company's investment. The revenue requirements include reasonable and prudent associated costs regarding administrative, sales, training, valuation and IT capital. They further stipulate that this initial calculation will use the overall cost of capital utilized to set rates in the Company's most recent gas base rate case, BPU Docket No. GR05100845, which was 7.9591%, (11.3092% on a pre-tax basis) based on a return on equity of 10. The Signatory Parties agree that any change in the WACC authorized by the Board in a subsequent base rate case will be reflected in the subsequent monthly revenue requirement calculation. The Signatory Parties agree

that any change in the revenue requirement resulting from the change in the WACC will not be included in the monthly interest calculation for over and under recoveries until the date of the next scheduled annual true-up but in any event, no later than January 1 of the subsequent year. The Signatory Parties stipulate that after the initial revenue requirements period, the electric and gas EEESCs will be calculated utilizing projected cost data subject to annual adjustments. The calculation of the revenue requirement for the purpose of setting the initial EEESCs for the period ending December 31, 2010 is set forth in Attachment 2 attached to the Stipulation and made a part of the Stipulation.

23. In calculating the monthly interest on net over and under recoveries, the interest rate shall be based upon the Company's interest rate obtained on its commercial paper and/or bank credit lines utilized in the preceding month. If both commercial paper and bank credit lines have been utilized the weighted average of both sources of capital shall be used. In the event that neither commercial paper nor bank credit lines were utilized in the preceding month, the last calculated rate will be used. The interest rate shall not exceed PSE&G's overall rate of return as authorized by the Board in PSE&G's pre-tax WACC as identified in Paragraph 22 above. The interest amount charged to the EEESC balances will be computed using the following methodology set forth in Attachment 3 to the Stipulation and made a part of the Stipulation. The calculation of monthly interest shall be based on the net of tax average monthly balance, consistent with the methodology set forth in Attachment 3 to the Stipulation. Simple interest shall accrue on any under and over recovered balance, and shall be included in the deferred electric and gas EEESC balance at the end of each reconciliation period. The true-up calculation of over- and under-recoveries shall be included in the Company's Annual Filing. The interest calculation in this paragraph is subject to the condition set forth in paragraph number 22.
24. The Signatory Parties request that the Board set the effective date of the initial electric and gas EEESCs as August 1, 2009.
25. The work associated with the EEE Program will commence upon receipt of a written Board Order in this proceeding.
26. The EEESCs will be subject to adjustment and true-up through the deferral process and any required adjustment will be included in the over/under recovered balance to be recovered from or returned to ratepayers over the following year. Any Board ordered cost recovery adjustments resulting from the review of the actual costs will be made to the over/under deferred balance and reflected in the charges established for the following year pursuant to a Final Board Order. The Parties stipulate that the Company will file an annual petition ("Annual Filing") to adjust its electric and gas EEESCs, commencing for the 2011 annual period on a calendar basis, with copies provided to the Parties no later than September 1, 2010 and annually thereafter for the implementation of the proposed revised EEESCs, on January 1 of the subsequent year. Each Annual Filing will contain a reconciliation of its projected EEESC costs and recoveries and actual revenue requirements for the prior period, a forecast of revenue requirements for the upcoming 12-month period which shall be based upon the Company's most current authorized ROE and capital structure. The Annual Filing also will present actual costs incurred since the previous annual review, and such costs will then be reviewed for reasonableness and prudence. The Annual Filing will also provide information required by the Minimum Filing Requirements ("MFRs") in Attachment 4 of the Stipulation. The Annual Filing will be subject to review by the Signatory Parties with opportunity for

discovery and filed comments prior to the issuance of a Board Order establishing the Company's revised EEESCs. The issuance of a written Board Order will be preceded by adequate public notice and public hearings if required by law.

27. The Signatory Parties agree that the proposed rates, as set forth in the tariff sheets in Attachment 5, attached hereto are just and reasonable and PSE&G is authorized to implement the proposed rates on August 1, 2009 as set forth in the written BPU Order approving the Stipulation.
28. As currently projected, the maximum rate impacts for residential customers from the electric and gas EEESCs would occur in 2014. The expected maximum increase from the electric EEESC for a residential customer would be \$0.000563 per kWh (including sales and used tax [SUT]), for a typical annual residential bill impact of \$3.92 (0.309%) or about \$0.33 per month. The maximum rate impact from the gas EEESC for residential customers would be \$0.003628 per therm (including SUT), for a total typical annual residential bill impact of \$4.40 (0.232%) or about \$0.37 per month.
29. Based on market response, spending on the program or any sub-program may be accelerated and completed sooner than the proposed period. To provide flexibility in responding to market conditions and customer demand during the term of the program, the Parties agree that any sub-program under-spending may be carried over from 2009 into 2010. No such under-spending may be carried over beyond December 31, 2010 without the approval of the Board excluding any outstanding customer commitments. In addition, based upon market conditions and the level of market response to each sub-program, after January 1, 2010 the Company may transfer Program funding between sub-programs in order to maximize energy savings and Program resources, subject to the following procedures. No proposed transfers shall be made until at least sixty (60) days after the Company has submitted to the Signatory Parties, a written description of the proposed transfers, the rationale for the proposed transfers, and a narrative and schedules showing the effect of the proposed transfers on the costs and benefits of the affected sub-programs. If any Party objects in writing to one or more proposed transfers within forty-five (45) days after the Company has submitted the required information to the Signatory Parties, then no transfer that is a subject of the objection will take effect until after the Board has approved the transfer. Staff shall advise the Board of all proposed transfers of Program funding between sub-programs. Board approval will be required when proposed transfers in the aggregate (i) increase or decrease any sub-program's budget by more than 20 percent, or (ii) involve more than 10 percent of the Program's budget. For any proposed transfer which does not require Board approval under the parameters described in the preceding sentence, if there has been no objection to the proposed transfer and no notification from Staff indicating that a Commissioner wants the Board to review the proposed transfer, then a Secretary's letter will be issued permitting the Company to make the requested change. The Company will also report on this acceleration in its Annual Filing and in the monthly reporting described below.
30. The Company will provide monthly reports ("Monthly Activity Reports") to the Board Staff's Office of Clean Energy ("OCE") on EEE Program activity and estimated impacts for each calendar month commencing in November 2009 through December 2010, or such later date as the Board approves for the end of the program. The Company will include data in these reports consistent with the data reported from the BPU's Clean Energy Program with respect to energy efficiency. The Company will submit its Monthly

Activity Reports in a format that can be electronically uploaded to the Clean Energy Program's reporting system. The Company will submit each Monthly Activity Report within thirty (30) days after the end of the calendar month covered by the report. The Company will provide BPU Staff and Rate Counsel with a cost estimate of any information technology modifications needed to report the data in the required format. If Board Staff and/or Rate Counsel inform the Company to proceed with the necessary IT modifications then all reasonable and prudent costs to provide such electronic data transfer are in the best interest of ratepayers and shall be fully recoverable by the Company.

31. Based on market response, the Company may propose to modify sub-programs during the term of the EEE Program. No such modifications shall take effect without approval by the Board. To propose a modification, the Company shall submit to the Signatory Parties, in writing, a description of its proposed modifications, the rationale for its proposed modifications, and a narrative and schedules showing the effect of its proposed modifications on the costs and benefits of the affected sub-programs. The Company shall present the proposed modifications to the Board for approval if no objections to the proposed modifications are received within forty-five (45) days after that filing. The Company will also report on these modifications in its Annual Filing and the monthly reporting described above. The Company will work with BPU OCE Staff to develop the appropriate processes to meet OCE reporting requirements.
32. The Company agrees to report, on a Quarterly basis as required in the Minimum Filing Requirements Attachment 4, (i) the number of full-time equivalents that the Company hires to perform work associated with the EEE program, (ii) the number of full-time equivalents that entities under contract with the Company hire to perform such work, and (iii) will contain the number of Green Job Training Partnership Program (GJTP) graduates that have been hired. For the purpose of reporting jobs associated with the Company's EEE programs, "full-time equivalent" means one or more individuals collectively working a total of 1820 hours annually in connection with the Company's EEE program.
33. The New Jersey Department of Labor and Workforce Development (LWD) oversees the GJTP, which will provide graduates of its training program to be considered for employment in occupations needed for implementation of the EEE Program. The Company will conduct the following program activities to support and promote the GJTP:
 - a. Serve on at least one GJTP Employer Council.
 - b. Post information on the Company's website regarding the GJTP and a link to LWD's website. Information on the GJTP can be found at:
<http://lwd.dol.state.nj.us/labor/employer/training/Apprenticeship.html>
 - c. Post all vacancies for New Jersey-based jobs through the local One-Stop Career Center. A listing of the local One-Stop Career Centers is located at:
<http://lwd.dol.state.nj.us/labor/wnpjpin/findjob/onestop/services.html>
34. Within twelve (12) months after the Board issues a written Order approving the stipulation, the Company and/or its contractors will hire a minimum of 100 GJTP graduates in the following occupations:
 - a. Air sealers;
 - b. Assistant building analysts;

- c. Building analysts; and
- d. Insulation installers.

The Company's commitment to hire 100 GJTP graduates is subject, but not limited to, the following conditions: market response to the program; number of actual program participants; mix of installed measures; and, meeting PSE&G's minimum hiring qualifications, passing the background check and drug screening. The Parties agree that the compensation of these GJTP employees will be charged to the EEE Program and will be included in the Company's revenue requirements. The Parties further agree that these GJTP graduates will not initially be BPI certified and the Company and/or its contractors is under no obligation to guarantee that these GJTP graduates attain BPI certification. However, the Company and/or its contractors will provide these GJTP graduates the appropriate experience to become BPI certified. The Parties also agree that GJTP graduates already hired by the Company and/or its contractors prior to execution of the Stipulation will be counted towards fulfilling the 100-graduate requirement. Upon completion of the internship period, the Company and/or its contractors is not obligated to continue employment of any GJTP graduate. GJTP graduates who have been hired by the Company and/or its contractors and subsequently resign from employment with PSE&G and/or its contractors will still be counted toward fulfilling the 100-graduate requirement.

35. On February 17, 2009, the federal American Recovery and Reinvestment Act of 2009 ("ARRA") (Pub. L. No. 111-5) was signed into law by President Barack Obama. Subject to any restrictions set forth in the ARRA and other applicable law, if the Company gets federal funds or credits directly related to any of the EEE sub-programs through the ARRA, the Company agrees to utilize that money to offset the respective EEE sub-programs' costs. If funding or credits from the ARRA or any subsequent state or federal action becomes available to the Company through the State of New Jersey, a County or Municipality for project reimbursement, the Company agrees that any such funds or credits directly applicable to work related to the any of the EEE sub-programs will be used to benefit customers by offsetting the costs for which recovery will be sought to the extent permitted by law.

However, in no case shall the combination of 1.) Federal ARRA funding, 2.) NJCEP incentive funding, and 3.) incentives provided as part of this approved program (excluding program incentive financing) fund 100% of a project's costs through rebates or other direct incentives. If it is determined that a project would be funded through 100% rebates or incentives the parties agree that, subject to any restrictions set forth in the ARRA and other applicable law, incentive funding approved as part of this program shall be reduced to bring the total rebates and incentives under 100% of the program costs.

36. With respect to cost recovery granted by the Board for energy efficiency and conservation programs pursuant to N.J.S.A. 48:3-98.1, NJLEUC has proposed three alternative provisions for large commercial and industrial ("C&I") customers: an opt-out provision, to allow a large C&I customer to opt out of a utility-sponsored energy efficiency program based on the customer's investments or plans to invest in energy efficiency measures of its own; a surcharge phase-out provision, to establish usage-based tiers with the surcharge amount decreasing as consumption increases; and a hard cap provision, to place an annual cap on charges payable by large C&I customers for the utility-sponsored energy efficiency programs.

Staff and Rate Counsel support the establishment of a separate, generic Board proceeding to address the NJLEUC proposals. Their statement of support for a generic proceeding does not represent the expression of a position by any party to the Stipulation with respect to the merits of any of the NJLEUC proposals. Aside from this statement of support, the parties reserve all of their rights in any subsequent proceeding to take any position they deem appropriate, to make any arguments they deem appropriate, to offer any alternative proposals, or to seek to expand the scope of a proceeding. The Company takes no position regarding this issue.

COMMENTS OF OTHER PARTIES

New Jersey Large Energy Users Coalition

By letter dated June 30, 2009, NJLEUC stated that it does not oppose the Stipulation based on the compromise expressed in the Stipulation by which Staff and Rate Counsel state 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 programs. NJLEUC expresses its anticipation of a commitment from the Board to provide this generic proceeding. NJLEUC also notes its concern that the proposed cost recovery mechanism would recover a portion of the Program's cost from large C&I customers but that these customers cannot, according to NJLEUC, participate in the proposed energy efficiency programs.

NJLEUC requests that the Board indicate its intent, either orally or in its Order upon the Stipulation, to establish the proceeding NJLEUC proposes. In addition, NJLEUC urges the Board to direct Staff to convene all interested parties to determine a procedural framework for this proceeding and, since such a proceeding would relate to a petition filed under RGGI, to conduct it pursuant to the 180-day framework set out in N.J.S.A. 48:3-98.1.

Natural Resource Defense Council

NRDC neither supports nor opposes the Stipulation of Settlement but states its support for efforts to further both Governor Corzine's economic stimulus plan and New Jersey's Energy Master Plan by reducing overall energy usage and creating jobs in its service territory. NRDC further states its belief that creating a sustainable clean energy economy involves upgrading current energy infrastructure to deliver the same services at a lower cost and that the necessary investments in energy efficiency will generate enormous collateral benefits including improved public health and quality of life.

DISCUSSION AND FINDINGS

PSE&G filed its petition under N.J.S.A. 48:3-98.1, which provides that an electric or gas public utility may provide and invest in energy efficiency and conservation programs in its service territory on a regulated basis and that such investment may be eligible for rate treatment approved by the Board.

The Board has previously acknowledged that investments in energy efficiency can help lower energy costs over the long term and produce significant benefits to customers. Customers who install energy efficiency measures reduce their usage of electricity and natural gas, thus lowering their energy costs. As investments in cost-effective energy efficiency measures increase, they lower electricity and natural gas costs for the customers who implement those measures, and also reduce costs overall for electricity customers by reducing usage of

electricity from the grid at times of peak demand when wholesale electricity prices are highest, and by mitigating the need for additional generation, transmission, and distribution infrastructure to serve peak demand. Similarly, wider implementation of energy efficiency can lower natural gas costs for New Jersey customers overall, again because greater efficiency reduces peak demand for natural gas and therefore reduces the infrastructure needed to provide reliable supply for the peak. Increasing energy efficiency improves the competitiveness of New Jersey businesses through reduced energy costs and reduced vulnerability to substantial increases in the prices of fossil fuels and of the electricity generated using those fuels. Finally, energy efficiency is often the most cost-effective means of reducing power plant emissions of air pollutants that cause global warming and endanger the health of our residents.⁷

The Legislature shares this understanding of the benefits of energy efficiency. In enacting the statutory changes which included N.J.S.A. 48:3-98.1, the Legislature found that “energy efficiency and conservation measures and increased use of renewable energy resources must be essential elements of the State’s energy future...” N.J.S.A. 26:2C-45.

The EMP recognizes that New Jersey must dramatically increase energy efficiency and energy conservation measures in the 3.7 million existing buildings in the State. Cost-effective improvements to energy efficiency in all of those existing buildings could save more than 15,000 GWh of electricity by 2020, as well as nearly 75 trillion BTUs of heating fuels. The Board recognizes the scale of this effort. To improve efficiency in those existing buildings by 2020, more than 300,000 buildings each year will need to be upgraded. In contrast, in the six years from 2001 to 2007, the New Jersey Clean Energy Program reached approximately 500,000 buildings.⁸

Improving energy efficiency in almost all of the existing buildings will depend on education and outreach to the owners and lessees of those buildings, a means of identifying the energy efficiency opportunities in each building, and a means of delivering the improvements in a way that is advantageous to the owners and lessees. Moreover, past efforts have targeted specific types of energy efficiency improvements, rather than comprehensively improving energy efficiency throughout the whole building. The Board and the EMP have both recognized the need for more thorough “whole building” solutions that identify and implement all cost-effective efficiency measures, potentially addressing the building envelope (such as windows, walls, and doors), heating and cooling systems, lighting, appliances and electronics; a whole building approach could also identify opportunities to offset power requirements through combined heat and power, photovoltaic systems, fuel cells and other on-site clean energy generation.

In enacting the statutory changes which included N.J.S.A. 48:3-98.1, the Legislature recognized the need to involve utilities in delivering these energy efficiency measures, stating that “utility involvement and competition in the renewable energy, conservation and energy efficiency industries are essential to maximize efficiencies . . .” N.J.S.A. 26:2C-45. The EMP reached the same conclusion, calling for the electric and gas utilities to develop individual master plans, addressing the goals and objectives of the EMP⁹. A purpose of these plans is to identify the structure of the programs that the utilities will propose to successfully and efficiently transition the State’s energy efficiency programs to the utilities and effectively put the State on track to meet its 2020 energy consumption targets. The Board issued an Order in accordance with this

⁷ See, National Action Plan for Energy Efficiency at www.epa.gov/cleanenergy/energy-programs; see also, In the Matter of Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for the 2009-2012 Clean Energy Program, Docket No. EO07030203, Order Establishing 2009-2012 Funding Level, September 30, 2008.

⁸ EMP at 55-56.

⁹ EMP at 76.

directive in January 2009. In re the Development of Individual Utility Master Plans Pursuant to the Requirements of the New Jersey Energy Master Plan, Dkt. No. EO08121065 (January 28, 2009). The Board believes that the principles developed out of the collaboration of Staff, Rate Counsel, and the energy utilities which led to the development of the proposed energy efficiency programs and eventually to the execution of the stipulations can be valuable in furthering the transition of those programs to the utilities.

One such principle is the need to avoid overlap between the customers targeted by the utilities and those targeted by the NJCEP. In their effort to avoid that overlap, the utilities used their understanding of their customers to identify and focus on those who were more likely to participate in whole-building energy efficiency programs. That focus, especially when supported by the utilities' relationships with their customers and with contractors in their service territories, offers the prospect of higher rates of participation than what the NJCEP has been able to achieve thus far. It also enables utility marketing efforts that will be complementary and supplementary to the marketing performed by the market managers for the NJCEP.

The Board has previously acknowledged the extent of the worldwide economic crisis and the need to take action to support employment in New Jersey, as has Governor Corzine since announcing his economic stimulus plan in October 2009. For example, in April 2009, the Board approved efforts by five electric and gas utilities, including the Company, to accelerate \$956 million in planned infrastructure investments. In Re Petition Of Public Service Electric & Gas Company for Approval of a Capital Economic Stimulus Infrastructure Investment Program and an Associated Cost Recovery Mechanism Pursuant to N.J.S.A. 48:2-21 and 48:21.1, Docket No. GO09010050, Decision and Order Approving Stipulation (April 28, 2009). Since then, economic signals have been mixed; however, the nationwide employment situation continues to deteriorate. The national unemployment rate rose from 6.9 percent in the fourth quarter of 2008, to 8.5 percent in March 2009, 8.9 percent in April, and 9.4 percent in May. In May 2009, there were nearly 3,000 mass layoff events¹⁰ involving a total of 312,880 workers – the highest on record.¹¹

The continuing severity of the worldwide economic crisis strongly supports the need for action by the Board now to create jobs and enhance New Jersey's economic competitiveness. At the same time, the Board has taken special care in its review of the costs and benefits of the utilities' energy efficiency programs because the crisis has put such strain on many household budgets. Furthermore, energy efficiency is especially important to household budgets and to economic competitiveness at a time when Congress is currently considering legislation that would limit emissions of carbon dioxide from electric generators, thus increasing the cost of generating fossil-fueled electricity.¹²

In summary, the proposed energy efficiency investments, if properly implemented, will serve the need to create jobs in the short term, the State's environmental needs, and the need to enhance the State's competitiveness, business climate, and economic prospects in the long term. Furthermore, the State has determined that the electric and gas utilities are well positioned to build on their relationships with customers to help those customers improve the energy efficiency of existing buildings.¹³

¹⁰ A "mass layoff event" involves at least 50 persons from a single employer.

¹¹ Bureau of Labor Statistics, "The Employment Situation: May 2009," <http://www.bls.gov/news.release/empsit.nr0.htm>, accessed June 30, 2009; Bureau of Labor Statistics, "Mass Layoffs in May 2009," June 23, 2009, <http://www.bls.gov/news.release/pdf/mmls.pdf> (accessed June 30, 2009).

¹² See, e.g., American Clean Energy and Security Act, H.R. 2454.

¹³ EMP at 56.

The Board therefore **FINDS** that a substantial investment by electric and gas utilities in energy efficiency will assist in creating jobs, will continue to build a foundation for a more energy-efficient economy in New Jersey that will support long-term economic growth, and will take a step toward transition of the administration of energy efficiency programs from the New Jersey Clean Energy Program to the electric and gas utilities.

Turning to the Stipulation under consideration, the Board **FINDS** that the Program, if successfully executed, will not only further the EMP's energy efficiency goals, but will also create jobs to strengthen the local economy.

Specifically, the EE Projects associated with the Program, as modified by the Stipulation, are expected to create a need for 688 direct jobs over the next eighteen months. The Stipulation requires PSE&G to report data quarterly on actual hiring. Accordingly, the Board **FINDS** that the Program will have a significant and real benefit on employment in the State.

The estimate of jobs attributable to the Program includes only the direct impact of the proposed projects on employment – the employees working on the utility projects themselves. It does not include the indirect impacts with respect to jobs created in other sectors of New Jersey's economy for labor, materials, and services needed for the EE Projects. Neither does it include what is known as the "induced" impacts resulting from spending by the added employees for local goods and services. These "ripple" effects are difficult to quantify, but they clearly exist. The Board therefore **FINDS** that the estimate of the jobs to be created is conservative, because indirect and induced job creation will add significantly to the job totals.

In reviewing the Program, the Board has considered a series of cost-benefit analyses conducted by the Center for Energy, Economic, and Environmental Policy at the Bloustein School at Rutgers University ("CEEEP"), including the following:

1. The "Participant" test, which provides an indication of the desirability of the Program to a typical customer who participates in it. The test includes the quantifiable benefits and costs to the customer who participates in the Program. Examples of benefits considered in this test include the reduction in the customer's electric and gas bills resulting from energy savings, and the amount of incentives provided by the utility and/or the Clean Energy Program. The costs considered in the test are the customer's out-of-pocket costs;
2. The "Ratepayer Impact Measure" test, which measures the overall effect of the Program on customers who are not participating in it. Examples of benefits considered in this test include savings from avoided supply costs, such as the costs of electric transmission, distribution, generation, and capacity. Costs include the costs that the Company and the Clean Energy Program incur to implement the program, such as incentive costs and administrative costs. The Ratepayer Impact Measure test is informative; however, it is not well suited to serve as a "litmus test" for energy efficiency programs, especially for short-term programs, because such programs will involve costs for non-participants while the benefits for those non-participants will accrue with sustained investments in energy efficiency that continue over a longer term.
3. The "Total Resource Cost" test, which represents the total effect of the Program on customers who participate as well as customers who do not participate. It can be seen as a summation of the benefits and costs in the Participant test and the Ratepayer

Impact Measure test, with the benefit of incentives paid to participants offset by the cost of those incentives borne by all ratepayers, treating incentive costs paid by the ratepayers as transfer payments.

4. The "Societal Impact" test, which is similar to the Total Resource Cost test, but also includes externalities such as reductions in air pollution as a result of the Program.
5. The "Program Administrator Cost" test, which measures the net costs of the program based on the costs incurred by the program administrator (such as incentive costs and administrative costs), excludes the costs borne by the participant, and includes avoided supply costs as in the Ratepayer Impact Measure test.

No single test of cost-effectiveness can be determinative. As discussed above, each of the tests provides a different perspective on cost-effectiveness, which provides a fuller picture of the trade-offs involved in policy decisions made in the design of the Program. For example, increasing an incentive that the Program provides to an individual customer who implements an energy efficiency measure will result in a higher ratio of benefits to costs under the Participant test, since that individual customer will spend less on the energy efficiency measure while receiving the same benefit. Conversely, the same increased incentive will lower the ratio of benefits to cost under the Ratepayer Impact Measure, because the ratepayers collectively will pay more to support the increased incentive, while any aggregate increase in benefits will be difficult to estimate. Accordingly, the Board has carefully considered the results of all of the cost-benefit tests to understand the Programs from a variety of perspectives.

The Board notes that the only benefits considered by these tests are energy-related benefits. None of these tests consider the economic benefits associated with the jobs impacts from the Program which were discussed earlier in this Order. Accordingly, the Board evaluated the cost-effectiveness of the Program without regard to the economic benefits of jobs attributable to the Program creation, a very conservative approach which provides greater assurance that the Program, if properly implemented, should indeed be cost-effective.

Staff and Rate Counsel thoroughly reviewed and analyzed with PSE&G and CEEEP all of the cost-benefit analyses prepared by CEEEP for PSE&G's proposed Program and its component sub-programs. Based on that review and analysis, and on other information provided by PSE&G, Staff and Rate Counsel stated in the Stipulation that the proposed Program appeared to be cost-effective. The Board hereby **FINDS** this conclusion to be reasonable, especially considering the Board's previous findings that investments in energy efficiency can help lower energy costs over the long term and produce significant benefits to customers overall.¹⁴

As discussed above, under the Program the Company will invest an estimated \$190 million over the next eighteen months creating a need for an estimated 688 direct jobs over that period. As part of the mandatory reporting requirements agreed to by the Signatory Parties, the Company will report quarterly on actual hiring.

Beyond the direct employment estimate of 688 jobs, it is expected that the stipulated EE programs will generate an additional multiple of indirect jobs as a result of related orders for goods and services provided by local establishments and by the additional spending power of

¹⁴ In the Matter of Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for the 2009-2012 Clean Energy Program, Order Establishing 2009-2012 Funding Level, Docket No. EO07030203 (September 30, 2008).

the newly hired workers. The Board is persuaded that these are incremental jobs which will be attributable to the Program.

The initial revenue requirement for the Program is set to recover costs incurred for the first eighteen (18) months of the program and is estimated to be \$22,265,381 for electric and \$9,796,695 for gas. The Board has considered the financial impacts of the Program on customers. For a residential electric customer using 722 kWh per summer month and 6,960 kWh annually, the initial impact of the Program would be an estimated increase of \$2.60 annually, or approximately 0.20%. A residential heating gas customer using 200 therms per month during the winter months and 1,210 therms on an annual basis would initially see an estimated increase of \$3.10 annually, or approximately 0.18%. This estimated increase includes only a portion of the \$1 million of IT costs agreed to in paragraph 21 of the Stipulation, based upon the agreed upon five year amortization as shown on Attachment 2 to the Stipulation.

With respect to NJLEUC's concern regarding the allocation of charges on a per kWh or therm basis, the Board notes that the benefits of the Program are not specific to one rate class. Energy efficiency programs, even though there is initial cost, are projected to decrease customers' bills as much as 9% over the next ten years, save all customers the construction costs for new infrastructure which would otherwise be needed to serve avoidable demand, and put downward pressure on market rates by reducing demand.¹⁵ The Board also notes that six of the eight sub-programs are for non-residential customers. The Board is mindful of NJLEUC's call for "the establishment of a separate generic Board proceeding" to consider the various cost recovery proposals suggested for large C&I customers. NJLEUC comments at 6. Although the Board is not directing at this time that such a proceeding be convened, the Board believes that it could be valuable to review the options that NJLEUC has suggested for large C&I customers, and possibly additional options as well. Should NJLEUC file a petition with the Board to initiate such a proceeding, as stated in the Stipulation, both Rate Counsel and Staff support a review of the proposals within that proceeding.

The Board notes that PSE&G proposed that energy savings estimates for the Program reference customers' existing equipment as a baseline in addition to the standard efficiencies for new equipment embedded in current NJ Energy Savings Protocols. All energy savings related to the Program shall be calculated and reported using the most current Board-approved protocols in effect at the time of reporting. As of the date of this Order, the most current protocols are those approved by the Board In the Matter of NJ Clean Energy Program Revisions to Sept. 2004: Protocols to Measure Resource Savings, Docket No. EO07120961 (January 18, 2008). However, PSE&G is not precluded from submitting additional energy savings information as it has proposed, provided that the additional information is reported in a format that clearly distinguishes it from the information required to be reported, and does not cause confusion. The Board also notes that the Stipulation provides that, should any customer fail to repay his or her portion of the costs associated with the energy efficiency measures installed at the customer's building, all such costs will be recovered within the rate recovery mechanism set forth in the stipulation. This recovery, however, does not affect any existing requirements for actions the utility must take to recover unpaid bills.

Therefore, the Board, having carefully reviewed the record in this matter, including the petition and the Stipulation as well as the comments of the parties, **HEREBY FINDS** the Stipulation to be reasonable, in the public interest, and in accordance with law, **HEREBY APPROVES** the

¹⁵ See, National Action Plan for Energy Efficiency at www.epa.gov/cleanenergy/energy-programs.

attached Stipulation in its entirety, and HEREBY INCORPORATES its terms and conditions as though fully stated herein.


The Board HEREBY RATIFIES all provisional rulings by President Fox for the reasons stated in her Orders.

The Board HEREBY SETS the effective date of the initial EEESC as August 1, 2009. The Company is HEREBY DIRECTED to file tariff sheets consistent with the Order within five (5) business days from the date the Order is executed.


The Company's rates will remain subject to audit by the Board. This Decision and Order shall not preclude the Board from taking any actions deemed to be appropriate as a result of any Board audit.

DATED: 7/16/09

BOARD OF PUBLIC UTILITIES
BY:



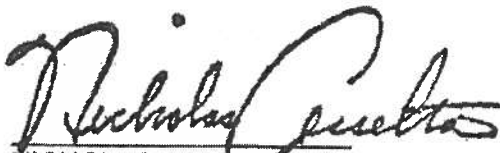
JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER

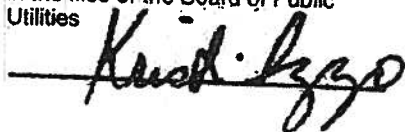


JOSEPH L. FIORDALISO
COMMISSIONER



NICHOLAS ASSELTA
COMMISSIONER

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



DISSENT OF COMMISSIONER ELIZABETH RANDALL

These three petitions establish utility-run "Energy Efficiency Programs" and were filed by the utilities in response to Governor Corzine's October 16, 2008 proposal to help revive the State's economy.¹⁶

Cost to Ratepayers

All costs of creating these Energy Efficiency Programs will be borne by customers of the utilities who will administer the programs. Rate increases take effect August 1, 2009.

Pertinent information about the programs is as follows:

Company =====	Duration of Program =====	Total Ratepayer Cost =====	Average Residential Customer Increase =====	Jobs Projected =====
PSE&G	Through December 31, 2010	\$217.4 million	\$ 3.88/year (gas customers) for 5 years; \$ 2.98/year (electric customers) for 5 years	668
NJNG	12 Months (to be extended to December 31, 2010, if program funding is available)	\$21.1 million	\$8.31/year for 4 years	114
SJG	Two Years	\$19.2 million	\$2.88/year for 4 years	163

Voluntary participation in programs promoting energy efficiency and conservation is an important part of New Jersey's Energy Master Plan (EMP). However, in light of today's current

¹⁶ The Administration made a similar request with regard to capital improvements the utilities wish to make to their infrastructure. On April 27, 2009, the Board approved five (5) utility company requests for accelerated capital spending at a total ratepayer cost of \$955.8 million.

cost of gas and electricity, I question whether consumers should be required to fund these programs during a recession. It has been well-documented that a growing number of New

Jerseyans are falling behind on their electric and gas bills. For example, PSE&G has seen a 10 percent increase in families that have fallen behind on their payments compared to last year. See "Recession Leads to Uptick in Utility Shut-offs in New Jersey," by Kelly Heyboer, *The Star-Ledger*, May 24, 2009.

While some jobs will be created through these filings, part of every customer's bill already includes a charge to support existing energy efficiency programs through the Office of Clean Energy (OCE). As part of their monthly bills, all gas and electric customers provide the funding for the BPU's Office of Clean Energy. \$462 million dollars has been set aside to fund the OCE for the next eighteen (18) months.¹⁷ These proposals will require another \$257.72 million from customers served by PSE&G, SJG and NJNG.

While the details of the programs are laudable, they break very little new ground. In essence, the companies will promote and enrich certain energy efficiency programs now offered by the BPU's Office of Clean Energy.

In general terms, all ratepayers of PSE&G, NJG and SJG will be eligible for the programs offered by their respective utilities. The notable exception is the residential component of PSE&G's program. To receive the benefits of PSE&G's targeted marketing efforts for residential programs, a customer must live in one of the following Urban Enterprise Zone (UEZ) cities: Bayonne, Camden, Carteret, East Orange, Elizabeth, Gloucester City, Guttenberg, Hillside, Irvington, Jersey City, Kearney, Mount Holly, Newark, New Brunswick, North Bergen, Orange, Passaic, Paterson, Pemberton, Perth Amboy, Plainfield, Roselle, Trenton, Union City and West New York.

Orderly Transition

It is clear that the Legislature has given the utility companies the ability to provide and invest in energy efficiency and conservation programs in their service territories on a regulated basis through the RGGI legislation enacted in 2008. See N.J.S.A. 48:3-98.1 (a)(1). Moreover, the EMP has called upon the utility companies to "successfully and efficiently transition the State's energy efficiency programs to the utilities." See, NJEMP at 75-76.

The BPU has expressed its support of this strategy by approving utility-run programs, such as PSE&G's Carbon Abatement Program and Solar Loan Program.

This migration of programs from the State of New Jersey Office of Clean Energy to the utilities ought to be achieved in a cost-effective and well-orchestrated manner so as to not erode the substantial accomplishments of the OCE and so as to avoid duplication of effort by the utilities and the OCE.

¹⁷ Funding for the Office of Clean Energy is part of the "Societal Benefits Charge" (SBC) which appears on every customer's monthly bill. The largest components of the SBC are funding for the OCE (averaging \$33/year) and The Lifeline and Universal Service Fund (averaging \$54/year) which provide subsidies to low-income electric and gas customers who qualify for the benefits. Overall, the average customer pays over \$100 a year through the SBC through their electric and gas bills.

The transfer of energy efficiency and conservation programs to the companies should be done systematically, much like we achieved the original shift of programs away from the utilities and to the OCE in 2003 (renewable energy programs) and 2007 (energy efficiency programs).

By order of the BPU dated January 28, 2009, all utilities were ordered to file individual utility master plans with the Board by December 31, 2009 (Docket No. EO0812165). Among other things, these plans will provide a blueprint for the successful and efficient transition of the OCE programs to the utilities. The Order calls for migration to be completed by 2010. The plans should include milestones, a clear end date and transition reports to the Board. The BPU should ensure that our strategic plan for transition of the programs reduces that portion of the Societal Benefits Charge which funds the OCE.¹⁸

While we must be guided by the Legislature's desire to see the utilities play a direct role in energy efficiency programs, I believe we should have a strategic plan in place first. It is difficult to imagine a systematic transition without having resolved these issues of lost revenue recovery (See Footnote 3) and the impact on large energy users.

Waxman-Markey Legislation & Federal Stimulus

Finally, the policy and cost implications of the legislation which passed the House of Representatives on June 26, 2009, are enormous. The bill requires the United States to reduce carbon dioxide and other greenhouse gas emissions by 17 percent from 2005 levels by 2020 and by 83 percent by mid-century.

While no one knows what the final legislation will look like, all parties agree that it will cost customers more money. Electricity, gasoline, natural gas and home heating oil prices will rise. By all accounts, the largest increase will be in the price of electricity.


Utilities will come to us for rate increases as they are required to pay for these investments in cleaner, more expensive technologies called for in the legislation.

The rate increase asked for in these stipulations should be deferred until early 2010 when we can assess the impact of both the federal legislation, as well as review the utility master energy plans called for in the Board's Order of January 28, 2009.

Job creation and energy efficiency efforts are already benefiting from federal stimulus funds earmarked for New Jersey, pursuant to the Federal American Recovery and Reinvestment Act of 2009 (ARRA) signed into law by President Obama on February 17, 2009. New Jersey's State Energy Program will receive \$73,643,000 for clean energy efforts in the State. New Jersey will also receive \$ 75,468,200 from the Energy Efficiency and Community Development Block Grants.

¹⁸ In the orderly transition of clean energy programs to the utilities, an important policy decision exists with regard to utility recovery of "lost distribution margin revenues." If the companies are successful in promoting efficiency and conservation measures, they will sell less energy. The question has been raised as to whether companies should be compensated for this loss of revenue. The stipulations being recommended to the Board defer this question for another day. It is difficult to imagine an orderly transition of responsibilities to the utilities without resolving this issue.

The Board should consider the positive effect of these federal grants on New Jersey's economy before approving rate hikes such as those before us today.


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

APPENDIX
Item 6



Agenda Date: 4/16/09
Agenda Item: 2A

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

ENERGY

IN THE MATTER OF THE PROCEEDING)	DECISION AND ORDER
FOR INFRASTRUCTURE INVESTMENT)	APPROVING STIPULATION
AND A COST RECOVERY MECHANISM)	
FOR ALL GAS AND ELECTRIC UTILITIES)	DOCKET NO. EO09010049
IN THE MATTER OF THE PETITION)	
OF PUBLIC SERVICE ELECTRIC & GAS)	
COMPANY FOR APPROVAL OF A CAPITAL)	
ECONOMIC STIMULUS INFRASTRUCTURE)	DOCKET NO. GO09010050
INVESTMENT PROGRAM AND AN)	
ASSOCIATED COST RECOVERY)	
MECHANISM PURSUANT TO <u>N.J.S.A. 48:2-21</u>)	
AND 48:21.1)	

(SERVICE LIST ATTACHED)

BY THE BOARD:

Background:

On October 16, 2008 in response to the worldwide economic downturn and seeking to mitigate its effects on New Jersey, Governor Jon Corzine announced plans to provide immediate assistance for New Jersey residents and long term economic growth options through an "Economic Stimulus Plan." Governor Corzine called on the New Jersey Board of Public Utilities ("BPU" or "Board") and the State's public utilities to aid in that plan by implementing the policy changes to be proposed in the State's Energy Master Plan ("EMP").

The EMP, issued on October 22, 2008, is the roadmap to guide the State toward a responsible energy future with adequate, reliable energy supplies that are both environmentally responsible and competitively priced¹. Under the EMP, major goals for New Jersey include maximizing energy conservation and energy efficiency, and reducing energy consumption by at least 20% by 2020. The EMP also calls for upgrading energy infrastructure to ensure the continued reliability of energy supply, support increased energy efficiency, renewable energy, and reductions in peak demand.² Public utility involvement, along with competition in the renewable energy, conservation and energy efficiency industries are essential to meeting the goals of the EMP. The Governor, together with Board President Jeanne M. Fox, encouraged New Jersey's electric and gas utilities to formulate plans for enhanced investments in infrastructure improvements during 2009. Implementation of such plans would accelerate the current schedule of the electric and gas utilities for planned capital improvements and investments, thereby creating jobs and stimulating the State's economy.

New Jersey's gas and electric utilities responded by filing petitions outlining each utility's proposed projects, and seeking the Board's approval of accelerated investments in utility infrastructure. In reviewing the utilities' petitions, the Board seeks to ensure not only that the proposals further the EMP, but also create jobs to strengthen the local economy.

By Order dated January 29, 2009, the Board determined that these petitions should be retained by the Board for review and hearing, and, as authorized by N.J.S.A. 48:2-32, designated President Fox as the presiding officer.³

Procedural History:

Public Service Electric and Gas Company ("Public Service" or the "Company") filed a petition ("Petition") on January 21, 2009, requesting that the Board approve a Capital Infrastructure Investment Program ("Infrastructure Program") pursuant to N.J.S.A. 48:2-21.1 et seq. and simultaneously approve the recovery of costs for projects included within its proposed Infrastructure Program through the implementation of electric and gas Capital Adjustment Mechanisms ("CAMs") and Associated Capital Adjustment Charges ("CACs"). The Company supplemented its Petition with a supplemental filing on February 4, 2009.

In its Petition, the Company states that as part of its ordinary capital spending planning cycle, Public Service continuously plans for the replacement, reinforcement and expansion of its infrastructure, including its property, plant, facilities and equipment, to maintain the reliability of its electric and gas distribution system and to ensure the continuation of safe, adequate, proper service and the conservation and preservation of the environment. Public Service has recently determined, however, to increase its planned electric and gas infrastructure capital spending at this time to enhance the reliability of its system and to support economic development and job growth in New Jersey.

¹ For the full text of the EMP, see www.nj.gov/emp.

² EMP at 75.

³ In anticipation of the filings by the utilities, the Board assigned a generic docket number to facilitate the individual utility proceedings, i.e. BPU Docket No. EO09010049, as noted above.

In its Petition, Public Service proposed 44 projects for inclusion in the Infrastructure Program, seeking to recover the costs of its proposed projects through the CACs.

On February 11, 2009, the New Jersey Large Energy Users Coalition ("NJLEUC") filed a Motion to Intervene in this proceeding. The Motion was unopposed, and on February 25, 2009, was granted.⁴

Public notice was provided by publication in newspapers in general circulation in the Company's service territory, and six public hearings on the Infrastructure Program filing were held on the following dates at three locations in Public Service's service territory: two hearings on March 5, 2009, in Mt. Holly, New Jersey; two hearings on March 9, 2009, in Hackensack, New Jersey; and two hearings on March 11, 2009, in New Brunswick, New Jersey. A total of eleven members of the public appeared at the public hearings.

Discovery questions in this matter were propounded by Board Staff and Rate Counsel, and the Company responded to them.

Subsequent to the completion and review of discovery and the six public hearings, representatives of Public Service, Board Staff, Rate Counsel, and NJLEUC met to discuss the issues in this case. The Company, Rate Counsel and Board Staff (the "Parties") agreed that the Infrastructure Program proposal and associated cost recovery mechanism as modified are reasonable and in the public interest. The attached stipulation with appendices (collectively, the "Stipulation") describes the terms and conditions of the Company's Infrastructure Program, and resolves all issues in this proceeding.⁵

In this Order, the Board considers the proposed Stipulation, with key provisions described below.

The Proposed Stipulation⁶

Qualifying Projects

The Company represents that the 38 projects identified in Appendix A ("Qualifying Projects" or "QP") will assist the Company in providing safe, adequate and proper service to its customers; are incremental in nature, and will create jobs in support of the Governor's Economic Stimulus Plan. Based on these representations, the Parties agreed that the projects appear to be prudent and consistent with the Governor's Economic Stimulus Plan and that the costs associated with the Qualifying Projects may be recovered through the implementation of electric and gas CACs subject to review, as set forth below. Appendix A of the Stipulation contains a detailed description of each Qualifying Project, the projected annual and aggregate cost for each Qualifying Project, the estimated number of jobs created as a result of each Qualifying Project, and the projected timeline and completion date for each Qualifying Project.

⁴ By order dated March 6, 2009, Bluewater Wind LLC was granted intervenor status, but did not actively participate in the proceedings.

⁵ NJLEUC did not sign the Stipulation but submitted a letter (attached to the Stipulation) indicating that it does not formally support or oppose the settlement.

⁶ Although described at some length in this Order, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusions in this Order.

The Company anticipates that the design and construction work associated with the Qualifying Projects will generate approximately 933 incremental jobs in its service territory. The Company agreed that it will endeavor to employ contractors and engineering firms located in New Jersey. The Company maintains that its estimate of the workforce necessary for the Qualifying Projects does not include any ancillary job impacts that will increase the overall benefits generated from the Qualifying Projects.

It has been agreed by the Parties that work associated with the Qualifying Projects will commence concurrent with the effective date of the CACs upon receipt of a written Board Order in this proceeding, and will reflect the estimated construction start and completion dates in Appendix A attached to the Stipulation.

The Parties stipulated that the Board should approve on an interim basis, subject to refund, cost recovery through the implementation of electric and gas CACs for the 38 Qualifying Projects listed in Appendix A, totaling \$694 million, subject to a prudence review in the Company's next base rate case.

According to the Stipulation, if it is necessary for the Company to eliminate or substitute another project for any of the Qualifying Projects during the term of its Infrastructure Program, notice of any such changes and an opportunity for review and comment shall be provided to the Parties, and any substitutions shall only be made with Board approval. Before seeking such approval, the Company will consult with the Parties to the Stipulation, and seek their consent to the modifications.

Cost Recovery Mechanism

The Parties have stipulated that the revenue requirements recovered through the electric and gas CACs will be calculated to include a return on investment and a return of investment through depreciation, which investment will include capitalized costs related to the Qualifying Projects. The parties agreed that the calculation will use the depreciation rates and methodologies in effect for both electric and gas as approved in the Company's most recent electric and gas distribution base rate cases. The Parties further stipulated that this calculation will use the overall cost of capital utilized to set rates in the Company's most recent gas base rate case (BPU Docket No. GR05100845), which was 7.9591%, (11.3092% on a pre-tax basis) based on a return on equity of 10.0%. The Parties stipulated that the initial revenue requirements and resulting electric and gas CACs will be calculated utilizing projected cost data subject to annual adjustments. The calculation of the revenue requirement for the purpose of setting the initial CACs is set forth in Appendix B of the Stipulation. The Parties request that the Board set the effective date of the initial CACs as the date of the Board's written Order approving the Stipulation.

The monthly over and under recovery calculation will be based on the actual net revenues recorded under the CACs and the actual revenue requirement for Qualified Projects in each month. The Company's calculation that will be utilized for purposes of the settlement is set forth in Appendix C attached to the Stipulation. The monthly revenue requirement calculation will follow the methodology set forth in Appendix B to the Stipulation, with a generic example of the methodology for the calculation of the monthly over and under recovery shown in Appendix C-1.

The Parties have stipulated that the Company will file an annual petition ("Annual Filing") to adjust its electric and gas CACs on a calendar year basis, with copies provided to the Parties, no later than November 1st of each year which is two months prior to the January 1st proposed date for implementation of the revised CACs. Each Annual Filing will contain a reconciliation of its projected CAC costs and recoveries and actual revenue requirements for the prior period, a forecast of revenue requirements for the upcoming 12-month period, and the items set forth in the minimum filing requirements of Appendix D to the Stipulation. The Company agrees that it will not seek to recover, through the electric and gas CAMs, operation and maintenance ("O&M") expenses from the Qualifying Projects in its future Annual Filings other than the O&M expenses identified in Appendix B.

According to the Stipulation, the monthly interest rate on net over and under recoveries shall be based upon the Company's interest rate obtained on its commercial paper and/or bank credit lines utilized in the preceding month. If both commercial paper and bank credit lines have been utilized the weighted average of both sources of capital shall be used. In the event that neither commercial paper nor bank credit lines were utilized in the preceding month, the last calculated rate will be used. The interest rate shall not exceed PSE&G's overall rate of return as authorized by the Board in PSE&G's most recent base rate case as identified in Paragraph 15 of the Stipulation. The interest amount charged to the CAC balances will be computed using the following methodology set forth in Appendix C of the Stipulation. The calculation of monthly interest shall be based on the net of tax average monthly balance, consistent with the methodology set forth in Appendix C. Simple interest shall accrue on any under and over recovered balance and shall be included in the deferred electric and gas CAC balance at the end of each reconciliation period. The true-up calculation of over- and under- recoveries shall be included in the Company's Annual Filing. The data on Qualifying Projects and the associated investment costs included in the Annual Filing, as well as the level of the proposed CACs for the ensuing annual period, will be subject to review by the Parties, with opportunity for discovery and filed comments after public notice and public hearings, if required, prior to the issuance of a Board Order establishing the Company's revised CACs.

Base Rate Case Requirement

The Parties stipulated that the Company shall file a base rate petition between April 3, 2009 and April 1, 2011. The Parties further stipulated that, in the context of that base rate case, all of the Qualifying Projects will be subject to a full and thorough examination. The Parties further stipulated that, if required, full evidentiary hearings concerning Qualifying Projects will take place in that base rate case proceeding. In any such prudency review, the record of this proceeding, including the Stipulation and all discovery, shall be fully incorporated and considered.

The Parties have further stipulated that, during the Company's base rate case referenced in Paragraph 21 of the Stipulation, the net amounts capitalized for the Qualifying Projects, deemed to be reasonable and prudent, will be rolled into the Company's rate base and the associated revenue requirements will be recovered through base rates. CAC charges will be recalculated as described in paragraph 18 of the Stipulation. Any Qualifying Project expenditures and CAC charges not included in base rates at the conclusion of the required base rate case will be included in the recalculated CAC. Six months prior to the anticipated completion of all of the Qualifying Projects, the base rates established under paragraph 21 will be reopened for the sole purpose of considering base rate increases for electric and gas related to the inclusion in rate base of the net amounts capitalized for the remaining Qualifying

Projects. After all of the actual net amounts capitalized for all of the remaining qualifying projects are moved into rate base and base rate revenues are increased, the electric and gas CAC rates and tariffs will be recalculated to bring the balance to zero.

Minimum Filing Requirements ("MFRs")

According to the terms of the Stipulation, the Company will provide the information set forth in the MFR attached as Appendix D and made a part of the Stipulation, in its Annual Filing and as part of its required base rate case filing. The Company will also provide in each filing a detailed description, along with corresponding plant accounts, of the expenditures that are reflected in each blanket project in Appendix A, together with measurable parameters, such as line-feet installed or number of installations completed, associated with each blanket project.

Rate Design

The Parties have stipulated that as an interim measure, PSE&G will recover the revenue requirements associated with the Infrastructure Program through the CAM. The Company's monthly revenue requirements associated with the Program would be subject to deferred accounting and would be recovered through two new CAMs, one for electric and one for gas. For the electric CAM, each electric rate schedule base rate distribution charge, including the Service Charge, Distribution Kilowatt Charge, Distribution Kilowatt-hour Charge (excluding TEFA tax) and Base Rate Distribution Kilowatt-hour Adjustment Charge has an associated unique CAC. Each electric CAC is an equal percentage of the corresponding base rate charge. This equal percentage is called the Capital Adjustment Factor ("CAF"). The CAF used to develop the CACs is determined so that the resultant sum of each CAC multiplied by its corresponding annual forecasted units results in the revenue requirements of the Infrastructure Program for each annual period.

The gas CAM is calculated in a similar manner to the electric CAM. The application of the CAM to gas is somewhat more complex due to the re-distribution of certain revenue consistent with the methodology approved for rate design in the last gas base rate case, resulting in a unique gas CAC for each gas rate schedule base rate charge. There are also unique gas CACs associated with the MAC as well as BGSS-RSG and BGSS-Firm charges. Appendix B of the attached Stipulation shows the calculation of the initial electric and gas CAC charges. Appendix G contains the tariff sheets with initial CACs.

Rate Impact

The first year's annual impacts to the typical residential electric customer using 6,960 kilowatt-hours per year and the residential gas heating customer using 1,210 therms per year are 0.15% and 0.38%, respectively. The maximum impact to overall annual electric and gas rates is projected to occur in the third annual period of the Infrastructure Program, with 0.82% for both electric and gas. Additional rate impact information, including dollar impacts, is provided in more detail in Appendix E.

Quarterly Reporting

Under the terms of the Stipulation, the Company will provide the Parties with a quarterly report ("Quarterly Report"), detailing the capital expenditures individually for each of the Qualifying Projects identified in Appendix A, and the job growth resulting from the implementation of each Qualifying Project on a quarterly basis, in the format attached as Appendix F. The Quarterly Report should also include a Gantt chart showing the status of the projects, tasks completed, percentage of projects completed, and the actual money spent to date, as well as planned/budgeted capital expenditures for non-Qualifying Projects for comparison to the actual costs incurred for non-Qualifying Projects. This reporting will begin thirty days after the end of the first calendar quarter following the issuance of a written Board Order approving the Stipulation in this proceeding. For example, assuming a written Final Board Order is issued in April 2009, reporting will begin on August 1, 2009.

The Company has agreed to report the number of incremental contractor or other positions associated with the Qualifying Projects, consistent with the definition of a Full-Time Equivalent in Paragraph 28 of the Stipulation. The Company will include that information with each Quarterly Report and Annual Filing submitted to the Board Staff and Rate Counsel, in the format set forth in Appendix F of the Stipulation.

Calculation of Jobs Created

The Parties have agreed that job creation is an integral part of the Economic Stimulus Plan underlying the Qualified Projects. For purposes of reporting jobs associated with the Qualifying Projects, the Company will define a Full-Time Equivalent ("FTE") job as 1,820 hours per year.

Government Funding

On February 17, 2009, the Federal American Recovery and Reinvestment Act of 2009 ("ARRA") (Pub. L. No. 111-5) was signed into law by President Barack Obama. Subject to any restrictions set forth in the ARRA and other applicable law, if the Company gets federal funds or credits through the ARRA, the Company has agreed to utilize that money to offset the Qualifying Projects. If funding or credits from the ARRA or any subsequent state or federal action becomes available to the Company through the State of New Jersey, a County or Municipality project reimbursement, the Company has agreed that any such funds or credits directly applicable to work related to the Qualifying Projects will be used to benefit customers by offsetting the costs for which recovery will be sought to the extent permitted by law.

Discussion and Findings

The Board recognizes that the acceleration of utility infrastructure projects and the treatment of capital expenses on an expedited schedule outside the purview of a rate case is not part of the normal course of utility regulation. However, these are not ordinary times.

In his address to the Legislature on October 16, 2008, the Governor called upon the Board to help facilitate job growth and assist in New Jersey's economic stimulus program. The Board, in turn, called upon the State's public utilities to formulate plans for enhanced investments in infrastructure that would both increase reliability and promote employment.

The Board takes notice of the fact that the financial markets remain volatile, affecting the utilities' ability to fund incremental infrastructure projects within the usual framework which requires that capital expenditures be recovered through a rate case only after projects are completed. N.J.S.A. 48:2-21. It is within a rate case that the property that is used and useful in the utility's provision of service is evaluated, and the expenses that can become components of just and reasonable rates are determined. In re Investigation of Tele. Cos., 66 N.J. 476 (1975). These difficult economic times require creative responses that respect the law but adapt to extraordinary circumstances. In the past, the Board has found that it has the power to act to meet such challenges. N.J.S.A. 48:2-13; In re Implementation of the Two Bridges/Ramapo Water Diversion Project, BPU Docket No. 8011-870 (March 17, 1981). The Board continues to have that power.

Looking generally at all of the infrastructure settlements before the Board, and at Public Service's in particular, the Board FINDS that the infrastructure programs reviewed today, if successfully executed, will both increase employment in the State and reliability of the utilities' distribution systems. Only capital projects which enhance the reliability, safety and security of each utility's distribution system are eligible under these programs as Qualifying Projects. These are projects originally scheduled for future years which can be brought forward into the 2009-2010 time period because they have already been researched and planned by the companies. In the absence of this program, most of the projects would be completed, but only in future years.

In identifying projects to be included in their infrastructure programs, projects using New Jersey-based employees were strongly favored; in contrast, projects not expected to affect employment in New Jersey, such as replacement of vehicles or computers, were eliminated from utility proposals. Projects without an obvious benefit to justify their costs were excluded as well.

Staff engineers reviewed the projects proposed by the utilities to establish that the projects would make the distribution systems more reliable, safer, or more secure, or would provide a combination of these benefits. Rate Counsel also conducted its own review, with substantial input from contracted professional consultants. Based on its review of the information provided, the Board is satisfied that the projects will positively contribute to the reliability, safety and security of utility service.

In addition to providing positive benefits to the provision of safe, adequate, and proper service, the proposed Qualifying Projects are designed to create direct jobs. Evidence presented to the Board during the overall proceedings indicate that the full impact of the overall accelerated infrastructure programs will create approximately 1,302 direct jobs in the private sector – without the use of additional government funding. The Qualifying Projects associated with this particular Order are expected to generate 933 direct jobs over the next two years, primarily in the construction industry. These are actual incremental private sector jobs which would not be created in the absence of these programs. The companies have provided an initial estimate of the incremental jobs to be created by these projects, and as part of the mandatory reporting requirements, will report the actual jobs created on a quarterly basis. Furthermore, the companies will provide reports on capital spending other than for the Qualifying Projects in order to identify any possible shifting of spending and assure that these are actually new jobs which would not have been created without these programs. Without question, the Board FINDS that the accelerated infrastructure programs will have a significant and real benefit on employment in the State.

The estimate of jobs to be created includes only the direct impact of the proposed projects on employment – the employees working on the utility projects themselves. It does not include the indirect impacts with respect to jobs created in other sectors of the state economy for labor, materials, and services needed for the utility projects. Neither does it include what is known as the “induced” impacts resulting from spending by the added employees for local goods and services. These “ripple” effects are difficult to quantify, but they clearly exist. Rate Counsel’s consultants estimated that an additional 14,100 direct, indirect and induced jobs will be created by the accelerated infrastructure program. The multiplier calculation is based on the RIMS II Regional Input-Output Model, produced by the Bureau of Economic Affairs, US Department of Commerce, and has not been contradicted by any of the evidence provided during these proceedings. The Board therefore FINDS that the overall estimate of 1,302 direct jobs created is a relatively small fraction of the total jobs to be created as a result of the programs that the Board is approving today.

The Board also notes that current economic conditions have reduced commodity and other input costs, making this a propitious time to pursue capital investment on cost-effective terms. For example, the federal Bureau of Labor Statistics stated that the producer price index (“PPI”) for the primary products of iron and steel mills dropped nearly 20% from March 2008 to March 2009; the PPI of iron and steel pipe and tube made from purchased iron and steel dropped nearly 7% over the same period; and the PPI for communication and energy wire and cable manufacturing dropped more than 19%.⁷ The price of iron and steel scrap dropped by nearly half over the same period.⁸ In addition, the prudence of the projects and reasonableness of the amounts actually spent on the projects will be subject to a base rate review – either within a current reopened or to be filed rate case. This review assures that the projects included in this program will receive the same level of scrutiny as any project undertaken by a New Jersey utility where the resulting costs become part of the rate base used to calculate rates.

Likewise, the Stipulations require that each company use the Weighted Average Cost of Capital (“WACC”) determined in its last rate case, which provides significant financial advantages to ratepayers because the cost of debt and common equity have risen substantially in recent months. The companies originally proposed two much less attractive approaches for determining the WACC for use with the stimulus program: (1) the embedded cost of debt currently on the utility’s books plus the cost of equity which the Board awarded to New Jersey Natural Gas Company in its recently completed rate case, i.e., 10.30 percent; or (2) the expected future cost of debt to finance the projects and the expected cost of equity if the Board were making that decision today, possibly as high as 10.50 percent. In rejecting that, and instead negotiating a WACC from each utility’s last base rate proceedings, the Board has ensured a significant saving that further solidifies the foundation of approving these accelerated infrastructure programs.

On a net present value basis, the Board FINDS that the cost of these accelerated infrastructure programs to ratepayers is essentially the same as it would be through conventional ratemaking. In the short term, the cost may be less than under conventional ratemaking because the cost of capital used in the clauses, as discussed above, is somewhat below the current market rate. Therefore, the Board FINDS that these additions

⁷ Bureau of Labor Statistics, “Table 5 - Producer price indexes for the net output of selected industries and their products,” <http://www.bls.gov/ppi/ppitable05.pdf>.

⁸ Bureau of Labor Statistics, “Table 2 - Producer price indexes and percent changes for selected commodity groupings by stage of processing,” <http://www.bls.gov/news.release/ppi.t02.htm>.

to rate base are being financed between program inception and the next base rate case at a more attractive cost from a ratepayer perspective.

The federal stimulus package, enacted as the American Recovery and Reinvestment Act of 2009 ("ARRA 2009"), included funding to enhance energy independence and modernize infrastructure. It does not currently appear that the ARRA 2009 includes funding for the types of projects included in the accelerated infrastructure development programs. Should such funds become available under the ARRA 2009, the Stipulations provide that ARRA 2009 funding would be used to reduce the cost of the accelerated infrastructure development programs to ratepayers. The Board notes that the accelerated infrastructure programs eliminate the lag associated with waiting for ARRA 2009 funding to be available for implementing these projects while still preserving for ratepayers any benefits from ARRA 2009 should benefits become available later.

In summary, the Boards FINDS that the overall infrastructure improvement programs, and the projects proposed by the utilities under them, are reasonable and in the public interest because of the positive impact they are expected to have on the reliability, safety and security of utility service. These infrastructure investment programs are timely given the drop in commodity prices, the attractive cost of capital, and the impact on both direct employment and the positive ripple effect on the New Jersey economy. All of these factors make this an appropriate time to proceed with these programs, which enhance and support Governor Corzine's Economic Stimulus Program.

Turning to the Public Service Stipulation that is under review, the Board FINDS that it meets the tests articulated above. The Company will invest an estimated \$694 million over the next two years creating an estimated 933 direct jobs over that period. The projects, totaling 38 in all, include the replacement of approximately 180 miles of aging cast iron and bare steel mains on the gas side, and replacement of 166 capacitor banks, 40 circuit switchers and 1476 wood poles on the electric side. The accelerated replacement of cast iron main infrastructure is consistent with both state and federal DOT initiatives to improve reliability and enhance the safe operation of the natural gas delivery system in the state. The maximum impact to overall annual electric and gas rates, projected to occur in the third annual period of the Infrastructure Program, is 0.82% for both electric and gas customers.

Accordingly, the Board will, in this case, allow the Company to begin recovery of capital expenses for these Qualifying Projects on an interim basis subject to refund pending the filing of the Company's base rate case as contemplated by Paragraph 21 of the Stipulation. This authorization in no way sets a new framework for future actions; instead, it reflects the realities of today's economic situation.

Therefore, the Board, having reviewed the complete record in this proceeding including the attached Stipulation, HEREBY FINDS the Stipulation to be reasonable, in the public interest, and in accordance with law and HEREBY APPROVES the attached Stipulation in its entirety and HEREBY INCORPORATES its terms and conditions as though fully set forth herein.

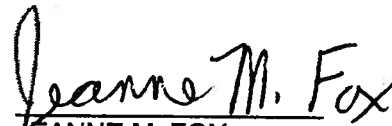
Furthermore, the Board HEREBY DIRECTS the Company to commence the design and construction of the Qualifying Projects identified in Appendix A of the attached Stipulation; and FURTHER DIRECTS the Company to file its first annual cost recovery filing no later than November 1, 2009, all as more fully set forth in the Stipulation.


The Board HEREBY SETS the effective date of the initial CACs as the date of this Order written below. Finally, the Board HEREBY RATIFIES all provisional ruling by President Fox for the reasons stated in her Orders.

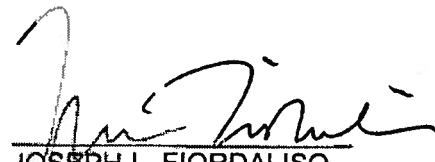
The Company's base rates will remain subject to audit by the Board. This Decision and Order shall not preclude the Board from taking any actions deemed to be appropriate as a result of any Board audit.


DATED: 4/28/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER

DISSENT OF COMMISSIONER ELIZABETH RANDALL

These five (5) requests were filed by the utilities in response to Governor Corzine's October 16, 2008 proposal to help revive the State's economy through the acceleration of capital spending projects. In his speech to the New Jersey Legislature on October 16, 2008, the Governor said:

"First and most practically, I have instructed all Commissioners, most particularly the Commissioners and Directors of the Department of Transportation, New Jersey Transit, the Toll Authorities, the Schools Development Authority, the Board of Public Utilities and the Department of Environmental Protection, to accelerate where feasible all currently funded spending projects."

Although not "currently funded," the utilities are asking the Board to fund these improvements with rate increases which will take effect no later than May 1, 2009. It is my opinion that the projected economic stimulus from these petitions is not sufficient to justify the cost to New Jersey customers.

As discussed below, my decision is based upon two factors: (1) the unprecedented infusion to the State of New Jersey of an anticipated \$17.5 billion in federal stimulus monies pursuant to the American Reinvestment Recovery Act (ARRA), and (2) the comparatively small number of new jobs which would be created under these proposals relative to the total cost to New Jersey utility customers.⁹

On February 17, 2009, President Obama signed the ARRA which will inject \$787 billion into the U.S. economy. New Jersey is expected to receive \$17.5 billion.¹⁰ An additional \$240 billion will be available in tax benefits and competitive grants, of which New Jersey hopes to receive \$7.2 billion, bringing New Jersey's total of anticipated federal stimulus dollars to \$24.7 billion.

Based on estimates from the White House, these dollars will create or save 100,000 New Jersey jobs over the next two years.¹¹

⁹ The five (5) stipulations indicate the following costs and projected new jobs:

<u>Utility</u>	<u>Projected Cost</u>	<u>Projected Jobs</u>	<u>Customers</u>
NJNG Co.	\$70.8 Million	75 – 100	485,000
PSE&G Co.	\$694.0 Million	933	2.1M Elec./1.7M Gas
SJG Co.	\$103.0 Million	127	335,000
Elizabethtown Gas Co.	\$60.4 Million	65	274,000
Atlantic City Electric Co.	\$27.6 Million	92	544,000
TOTALS	\$955.8 Million	1292-1317	5,438,000

¹⁰ See <http://www.recovery.nj.gov>

¹¹ See <http://www.recovery.nj.gov>

Some four months before President Obama signed the federal stimulus bill, Governor Corzine addressed the New Jersey Legislature and proposed a New Jersey Economic Assistance and Recovery Plan.

The five matters before the Board are a direct result of the call to identify job-creation proposals. Specifically, the Executive branch sought company-specific program proposals with associated cost recovery and rate mechanisms, broken down into the following categories:

1. Infrastructure programs that will effectively spur an increase in construction employment, while increasing the reliability of the electric and gas distribution system.
2. Infrastructure programs that will improve energy efficiency of the electric or gas distribution system.
3. Statewide energy efficiency programs scaled down from the menu of programs submitted by the energy utilities.

Collectively, these five utilities seek permission to spend \$955.8 Million (See Footnote 9), all of which will be recovered from customers through increases in utility rates.¹² The language used to describe the method of cost-recovery varies from utility to utility, with one company proposing an "Economic Stimulus Surcharge," and another calling it an "Infrastructure Investment Surcharge."

Terminology aside, while it is true that customers will benefit from these infrastructure investments, it is equally true that these improvements do not need to be completed within the next 24 months. None of the filings indicates that the delivery of safe and adequate service will be at risk if these requests are denied. Indeed, the petitions are replete with references to ongoing capital projects which are already planned and which will be funded by ratepayers.¹³

The number of new jobs to be created through approval of the accelerated projects is estimated at 1292-1317. Given the cost which customers will bear, I am persuaded that the cost of this job creation is too high. While it is true that the average bill will not go up by more than 1%, this amount will remain as part of the customer's bill for as long as it takes to repay the funds being borrowed by the utilities, which is approximately forty years.

Moreover, while some New Jerseyans would be put to work, there is no guarantee that the construction and engineering jobs created by these projects would go to companies based in

¹² Also recoverable from customers is a profit for each company. In these cases, the utilities will make a profit of approximately 10%.

¹³ Illustrative of this point is paragraph 14 of the Stipulation with New Jersey Natural Gas Company (NJNG) which refers to ongoing infrastructure costs unrelated to this matter and states: "14. NJNG's current capital budgets contemplate the following levels of capital expenditures for non-qualifying projects: \$64,563,000 in fiscal year 2009, \$51,985,000 in fiscal year 2010 and \$51,951,000 in fiscal year 2011. NJNG represents that the expenditures related to the qualifying projects will be incremental to such planned levels of expenditures for 2009, 2010 and 2011."

New Jersey.¹⁴ Regardless, the jobs created will be temporary in nature, and do not reflect permanent job creation with the utility companies.


Contrast the efficiency of the BPU's job-creation effort with one recently announced by the Governor and the New Jersey Department of Transportation.

For a cost of \$67 million and a promise of 500 jobs, a bridge upgrade will be done on Route 46 in Bergen County. Moreover, federal funds from the American Recovery and Reinvestment Act will pay for \$47.6 million of this project, leaving New Jersey taxpayers paying only \$19.4 million for 500 jobs.

In sum, the promise and benefits of the federal stimulus program are extraordinary. Were it not for the federal money, we would need to rely on New Jersey taxpayers and ratepayers to shoulder the burden of job creation through increased taxes and rates. Fortunately, this burden need not be increased at this time.


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


CARMEN D. DIAZ
ACTING SECRETARY

¹⁴ Each of the stipulations simply states that the utilities will "endeavor to employ contractors and engineering firms located in New Jersey."