STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
BEFORE COMMISSIONER MARY-ANNA HOLDEN

I/M/O OF THE PETITION OF PUBLIC SERVICE ELECTRIC & GAS COMPANY TO CONTINUE ITS EFFICIENY ECONOMIC EXTENSION PROGRAM ON A REGULATED BASIS ("EEE Extension II")	) BPU Docket No. EO14080897)))

REPLY BRIEF ON BEHALF OF THE NEW JERSEY DIVISION OF RATE COUNSEL

STEFANIE A. BRAND, ESQ.
DIRECTOR,
DIVISION OF RATE COUNSEL
140 East Front Street-4th Floor
P. O. Box 003
Trenton, New Jersey 08625
Phone: 609-984-1460
Email: njratepayer@rpa.state.nj.us

On Brief:

Felicia Thomas-Friel, Esq.
Kurt S. Lewandowski, Esq.
Sarah H. Steindel, Esq.
James W. Glassen, Esq.

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PRELIMINARY STATEMENT

PSE&G has failed to prove by credible evidence that the proposed energy efficiency ("EE") programs contained in its petition are both cost effective and that the program cost to be paid by ratepayers is just and reasonable. In arguing for a Return on Equity ("ROE") of 10.3%, the Company fails to address the reduction in its cost of debt; fails to explain its acceptance of a 9.75% in prior stipulations of settlement; and fails to adequately address the overall reduction in interest rates warranting a lower return. The Company also fails to adequately support with credible evidence the need for additional program costs in the form of: 1) a participation fee; 2) additional information technology costs; 3) additional administrative costs; and, 4) an increased amortization period from 5 years to 15 years. Ratepayers have been supporting the costs of the three sub-programs proposed for extension in the Company's petition since 2009. The Company should have had enough experience with these programs to enable it to demonstrate, through credible evidence, that the programs are designed to operate efficiently at the least cost to ratepayers. PSE&G has failed to introduce evidence sufficient to demonstrate that the Company conducted a serious evaluation of the program designs, including the appropriate incentive levels. The Company's request to extend its energy efficiency program should also be denied as it fails to provide a residuum of evidence demonstrating that the programs are cost-effective and reasonable.

STATEMENT OF THE FACTS AND PROCEDURAL HISTORY

The Division of Rate Counsel relies upon the Statement of Facts and Procedural History from our initial brief which was filed on January 7, 2015.

ARGUMENT

I. COST-RECOVERY AND ACCOUNTING ISSUES

A. RATE COUNSEL AND STAFF BOTH RECOMMEND AN ROE OF 9.75 PERCENT.

PSE&G has not seriously refuted the fact that capital costs have declined since its last base rate case where the Company's current base rate return on equity ROE of 10.3 percent was established. Rate Counsel witness Ms. Andrea Crane presented evidence in the record which shows that interest rates have declined in a long-term downward trend. PSE&G's criticism of the trend data presented by Ms. Crane is misplaced. PIB, p. 36.[1] The slight upward ticks in interest rates cited by PSE&G are fluctuations which do not detract from the downward trend. Both Staff and Rate Counsel recommend an ROE of 9.75 percent. SIB, p. 21-26; RCIB, pp. 12-15.[2] Those recommendations should be adopted.

PSE&G also presents some more puzzling arguments. PSE&G makes much of the fact that Ms. Crane did not conduct a DCF analysis. PIB, pp. 37-39. However, the Company fails to note that it did not conduct a DCF analysis either. While neither party presented a DCF analysis, as discussed above there is ample evidence in the record which shows that that interest rates have declined since the Company's last base rate case.

PSE&G also places much emphasis on forecasts which by their very nature are not uniformly precise. PIB, pp. 39-40. The EIA forecast referenced by PSE&G is but one forecast, which has been shown to be overstated at times. *T160:L23 – T163:L2*

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[1] "RCIB" refers to Rate Counsel's initial brief; "PIB" refers to PSE&G's initial brief and "SIB" refers to Board Staff's initial brief.

[2] As discussed elsewhere in this brief, Staff also recommends a 25 basis point reduction in PSE&G's ROE as a penalty for non-performance on data reporting. SIB, p. 19.

(December 4, 2014), *P-6* (RCR-A-30). In sum, these forecasts should be given much less weight than the ROE of 9.75 percent adopted by the Board in recent EE and base rate cases.

Another item which the Company offers in support of its ROE recommendation is the application of reductions in interest rates on 30-year Treasuries, Aaa corporate bonds, and Baa corporate bonds to generate an ROE range. PIB, pp. 36-36. Here, the Company applies the recent reduction in interest rates for these bonds to the ROE of 11.25 percent requested by PSE&G in its last base rate case, which they claim was the "appropriate ROE that fairly compensated the Company...." PIB, pp. 34-36. This resulted in an ROE range of 9.93 percent to 10.45 percent. PIB, p. 36`. However, if the reductions (ranging from 80 to 132 basis points) are applied instead to the Company's <u>authorized</u> base rate ROE of 10.3 percent, then the new range is 9.5 percent to 8.98 percent, well below the 9.75 percent recommended by Rate Counsel.

With respect to the 9.75 percent ROE stipulated to by the parties and adopted by the Board in PSE&G's recent Energy Strong infrastructure case, Rate Counsel respectfully submits that if the Company felt that the ROE agreed to in that case was inadequate, it could have refused to sign the stipulation.[3] By entering into the stipulation adopted by the Board, PSE&G ostensibly acceded to the reasonableness of the 9.75 percent ROE.

Aside from the ROE, another component of the cost of capital is the cost of debt. Notably, PSE&G presented nothing in its brief to refute the 4.6 percent cost of debt recommended by Rate Counsel. RCIB, p. 12.

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[3] <u>I/M/O PSE&G</u>, BPU Dkt. Nos. EO13020155 and GO13020156 (May 21, 2014)(Order).

B. RATE COUNSEL AND STAFF BOTH RECOMMENDED A 5-YEAR AMORTIZATION PERIOD FOR PROGRAM INVESTMENT.

PSE&G has presented nothing to refute the fact that its ratepayers would be better off with a 5-year amortization period rather than a 15-year amortization period. Comparing the revenue requirements associated with the 5-year and 15-year periods, Ms. Crane concluded that the use of a 15-year amortization period would result in ratepayers contributing $40 million more in rates than if a 5-year period was used.[4] RCIB, p. 18; *RC-2*, p. 16. PSE&G does not refute this calculation of savings attributable to the shorter amortization period.

PSE&G makes much of the fact that rates would increase in the short term if a 5-year period were used. PIB, pp. 42-43. However, the use of a 5-year amortization period would only slightly increase the maximum rate for the program. The maximum annual impact using the 5-year period as opposed to the 15-year period would be $0.84 higher for electric customers and $0.86 higher for gas customers. RCIB, p. 17. Rate Counsel respectfully submits that the ratepayer benefits from the substantial reduction in the total revenue requirement using the 5-year period outweighs this slight rate increase. The substantial savings in the total revenue requirement over time also overshadows the concerns expressed by PSE&G about tracking the life expectancy of EE measures and intergenerational equity. PIB, pp. 42-43.

Finally, PSE&G does not refute the fact that the use of a longer 15-year period would expose ratepayers to rate "pancaking" if new EE programs were adopted in the future. RCIB, pp. 16-17; SIB, p. 31. In sum, PSE&G has not provided a convincing argument to extend the amortization period to 15 years. Staff also supports the use of a

[4] This translates into a $17.75 million benefit to PSE&G's shareholders, after taxes. *RC-2*, p. 16.

5-year amortization period. SIB, pp. 31-32. The recommendation of a 5-year amortization period should be adopted.

C. RATE COUNSEL AND STAFF BOTH RECOMMENDED REJECTION OF PSE&G's PROPOSED PARTCIPATION FEE.

While PSE&G notes correctly that the Regional Greenhouse Gas Initiative ("RGGI") statute (N.J.S.A. 48:3-98.1) provides that a utility may petition for recovery of lost margin revenues, PSE&G's proposal to recover its claimed lost margin revenue through the imposition of 1.5 percent Participation Fee is unreasonable on its face for several reasons. PIB, p. 30, SIB, pp. 42-47; RCIB, pp. 18-19. First, as noted by Staff and Rate Counsel, PSE&G's projection of its lost revenues is unsubstantiated, relying on PSE&G's own estimates and projections of lost revenue. RCIB, p. 19; SIB, p. 43. As noted by Staff, PSE&G does not measure and verify the actual energy savings and reductions in sales attributable to its proposed EE programs. SIB, p. 43. Instead, PSE&G relies on a one-time static projection of lost sales to calculate its Participation Fee. Hence, its proposed Participation Fee is fixed in time and would not track lost margin revenues, rendering the Participation Fee useless for recovering actual lost margins.

Second, the Participation Fee is based on a percentage of the EE project's cost, rather than energy savings. SIB, p. 44. Therefore, while purporting to compensate for lost revenues, the Participation Fee itself actually bears no relation to actual energy savings or lost revenues attributable to the EE projects. In fact, there is no process for even verifying the level of the energy savings before charging the fee. Instead, PSE&G would generate more revenue as it spends more for EE projects, regardless of the effectiveness of its proposed EE programs.

Finally, PSE&G's lost revenue proposal would circumvent the typical base rate case review of such claims. Both Staff and Rate Counsel take the position that the proper forum for assessing the Company's lost margin claims is a base rate case, where all aspects of the Company's revenues and costs may be examined. SIB, pp. 43-45; RCIB, pp. 18-19. PSE&G has not provided any reason to deviate from this practice. Furthermore, as Staff noted, PSE&G's proposal to recover lost margins through a Participation Fee would constitute "single issue ratemaking." SIB, pp. 43-44. PSE&G claims that its ROE would be adversely impacted if the Participation Fee was not adopted. PIB, pp. 20-21, 28 and 31. However, PSE&G fails to point out that if its EE programs are negatively affecting its earnings, then the Company always has the option of filing a base rate case.

Meanwhile, while the instant matter progressed through the administrative process PSE&G's earnings for the first 9 months of 2014 exceeded its 2013 9-month revenues by $97 million. *RC-2*, p. 20; SIB, pp. 44-45. PSEG's recent financial results show that many other factors affect earnings and its earnings have increased substantially, notwithstanding the operation of several pre-existing EE programs, to wit, its Carbon Abatement, EEE and EEE Extension programs. Notably, PSEG's earnings report cited weather-normalized sales increases of 1.1 percent for its electric operations and 4 percent for its gas operations. *RC-5*; SIB, p. 45. PSEG's recent earnings performance provides a strong empirical argument against the imposition of a Participation Fee to recover its claim of lost margin revenue.

In sum, PSE&G has not provided any credible argument to refute these fundamental flaws. Rate Counsel respectfully submits that these afflictions render

PSE&G's Participation Fee proposal fatally flawed and any award of lost margin revenue recovery based on such projections would be arbitrary and capricious.

Furthermore, PSE&G's argument that its Participation Fee is comparable to the Conservation Incentive Programs ("CIP") run by two New Jersey gas utilities should be rejected. The CIP mechanisms approved by the Board for New Jersey Natural Gas Company ("NJNG") and South Jersey Gas Company ("SJG") are substantially different from what PSE&G is seeking in this proceeding. In contrast to PSE&G's proposal, which is to simply collect and retain its proposed 1.5 percent participation fee, the CIP mechanisms in effect for NJNG and SJG include several features that benefit ratepayers. The CIP programs include commitments by NJNG's and SJG's shareholders to contribute funding for these companies' conservation programs. Under the current programs, NJNG has committed to contributing $700,000 annually, and SJG has committed $500,000 annually.[5] Second, any CIP recoveries are subject to a multi-part eligibility test. Any CIP recoveries must be offset by demonstrated savings in the gas supply costs passed through to the companies' Basic Gas Supply Service customers, and are further subject to a cap of 6.5 percent of variable margins, and a provision disallowing any recoveries that would result in earnings exceeding each company's allowed ROE.[6] The existence of the CIP programs is not a justification for approval of the very different mechanism now being proposed by PSE&G.

[5] I/M/O the Petition of New Jersey Natural Gas Company and South Jersey Gas Company for Authority to Continue the Conservation Incentive Program, BPU Docket No. GR13030185, Order at 1-2 (May 21, 2014).

[6] Id. at 3-6 & attached approved tariff sheets, NJNG First Revised Sheet No. 181 and SJG Fourth Revised Sheet No. 103.

As an alternative to PSE&G's proposal, Staff suggests that if a Participation Fee were implemented, revenues from the Participation Fee should be used to offset program costs. SIB, p. 47. Rate Counsel does not object to Staff's alternative proposal.

D. RATE COUNSEL AND STAFF BOTH RECOMMENDED DISALLOWANCE OF PSE&G'S CLAIMED IT COSTS.

While PSE&G sets forth in general terms the functional information technology ("IT") improvements it claims are needed, the Company failed to adequately address several key points. PIB, p. 56. In the absence of convincing evidence in the record supporting its proposed IT cost figure, PSE&G's IT claim should be denied. Staff also recommends disallowance of PSE&G's claim for IT work. SIB, p. 36.

First, although PSE&G claims that its proposed IT work will eliminate some labor-intensive manual processes, PSE&G has not accounted for the associated labor cost savings which could be used to offset its IT costs. PIB, p. 56; RCIB, p. 21. PSE&G claims that its proposed IT work would "enable automated processing of the on-bill repayment feature and eliminate what is currently a manually intensive repayment process" and "allow for such features as automated tracking of defaults and past due accounts." PIB, p. 56. Undoubtedly, labor cost savings would result from automation of these processes, as Ms. Crane testified.[7]

Second, the record is bereft of any detailed explanations of the scope of the IT work. Although PSE&G has stated in general terms the scope of its proposed IT work, the Company has yet to provide Requests for Proposals ("RFP") or other detailed planning documents to support the IT work. *T28:L23-T29:L14* (December 5, 2014), SIB, p. 34; RCIB, p. 20.

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[7] *T29:L17-24* (December 5, 2014).

Third, PSE&G has not provided a convincing explanation as to why the IT work could not be performed by PSE&G's in-house IT personnel, whose salaries are already being recovered through the Company's base rates. *RC-2*, pp. 22-23; RCIB, p. 20; SIB, pp. 34-36. If the work could be done in-house by existing personnel yet is outsourced, ratepayers would be paying twice for the IT work, through base rates and through the Green Programs Recovery Charge ("GPRC") charge. *RC-2*, pp. 22-23.

Fourth, as Staff noted, PSE&G has only spent approximately $1.2 million of the $2 million already authorized for IT work by the Board in two previous PSE&G EE cases, yet the Company is requesting recovery of an amount for additional IT work in the instant proceeding. SIB, pp. 35-36. The magnitude of the total IT costs for EE programs is a concern, especially considering the lack of documentation for the proposed work. Furthermore, the Company proposes to allocate the cost of the IT work entirely to the EEE Extension II program, although the IT work will likely also benefit the Company's other EE programs which already include amounts for IT work. Therefore, PSE&G's request for an additional $1.17 million for IT work should be denied.

E. RATE COUNSEL AND STAFF BOTH RECOMMEND THAT PSE&G's ADMINISTRATIVE COSTS SHOULD BE CAPPED AT 8 PERCENT.

Although in percentage terms PSE&G's proposed administrative costs are far in excess of that permitted in its prior EE cases, the Company did not provide convincing evidence to support its cost claim. Staff found that PSE&G's proposed administrative costs in the instant case amount to an increase of 71 percent over the administrative costs in the Company's EEE Extension case. SIB, pp. 36-37. Staff concluded that "there is no reasonable basis in the record to increase administrative costs by 71 %." SIB, p. 37.

Staff recommends a cap on administrative costs, set at 8 percent. SIB, p. 42. Rate Counsel agrees with this recommendation.

PSE&G's attempt to bolster its administrative cost claim at hearing and in its brief by introducing administrative cost percentages from other states was clearly refuted by Ms. Crane at the hearing. PIB, p. 46. Notably, Ms. Crane found that the report relied upon by Mr. Melanson for the state figures did not provide any supporting background data. *T25:15-22* (December 5, 2014). Staff also noted the lack of supporting data and concluded that PSE&G's state cost table is not an "apples-to-apples" comparison. SIB, pp. 40-41. Hence, Mr. Melanson's proffered state administrative cost figures should be accorded no weight.

In the absence of credible support for PSE&G's administrative cost claims, Rate Counsel respectfully recommends that the Board adopt Ms. Crane's recommendation that administrative cost should be limited to no more than 8 percent, in line with the administrative cost experience of PSE&G's other EE programs, which average approximately 7-9 percent. RCIB, pp. 22-23.

II. THE COMPANY HAS NOT MET ITS BURDEN OF PROOF DEMONSTRATING THROUGH CREDIBLE EVIDENCE THAT THE PROGRAM COSTS ARE JUST AND REASONABLE.

The Company, as the petitioner seeking Board approval of its proposed programs, has the burden of proof to demonstrate that the programs are designed efficiently so the cost of the programs to ratepayers is just and reasonable. As set forth more fully in Board Staff's brief, the Company has the burden of introducing credible evidence that both its programs and the request for their costs as proposed are just and reasonable. SIB, at pp. 8-10. The Board, in its Order allowing electric and gas public utilities to invest in and

offer energy efficiency programs requires utilities to file a petition and obtain Board approval for each program requesting cost recovery.[8] A requirement of Board approval is that the petitioner establish by credible evidence the nature of the program and cost recovery mechanism meeting the Minimum Filing Requirements ("MFRs") included in that Order. Accordingly, Rate Counsel relies upon the arguments made in its initial brief that the Company has failed to prove by credible evidence that it has met the MFR requirements established by the Board.

III. RATE COUNSEL SUPPORTS STAFF'S RECOMMENDED ALTERNATIVES TO PSE&G'S DIRECT INSTALL SUB-PROGRAM.

With regard to program design, the key issue before the Board remains the fundamental lack of sufficient competent evidence to support the proposed extension of PSE&G's proposed EEE Extension II sub-programs. As noted in Rate Counsel's initial brief, the three sub-programs have been in effect since 2009. RCIB, p.4. By now, PSE&G should have had enough experience with its programs to have conducted a serious evaluation of the program designs, including the appropriate incentive levels. Such an analysis has not been done. As discussed at length in Rate Counsel's initial brief, the hearsay documents placed in the record by PSE&G do not fill the gaps in PSE&G's proofs, either legally or factually. RCIB, pp. 24-41. Accordingly, Rate Counsel continues to maintain that the record does not support a finding that any of the three proposed EEE Extension II sub-programs is cost-beneficial. RCIB, pp. 28, 35, 41.

[8] 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, BPU Docket No. EO08030164, May 12, 2008. (May 2008 Order)

The Board's Staff is in agreement with Rate Counsel that one of the three sub-programs, the Direct Install sub-program, should not be approved as filed. As explained in Staff's brief, the Direct Install program targets the same customers, and promotes essentially the same energy efficiency measures, as the New Jersey Clean Energy Program ("NJCEP") Direct Install program. SIB, pp. 10-13. For customers with peak loads under 200 kW, PSE&G's program is in direct competition with the NJCEP's. *Id.* For larger customers, who are not eligible for the NJCEP Direct Install program, Staff expresses concern that PSE&G's proposed extension of its program to larger customers could undermine efforts to attract these customers to other NJCEP programs that promote deeper energy savings. *SIB,* p. 13-16. Therefore, Staff recommends that the Board consider allowing the proposed $25 million budget for the Direct Install sub-program to be re-directed to a more innovative program that leverages PSE&G's abilities and resources as a public utility. SIB, p. 16-17. Rate Counsel is in agreement with Staff's analysis and supports its recommendation. There is no reason to allow a utility to earn a profit on a program that only undermines the NJCEP's programs.

PSE&G's response to Rate Counsel's discovery request RCR-EE-0003, which is cited at page 49 of PSE&G's initial brief, reinforces the validity of Staff's concern. There has been a change in the portion of the Direct Install program's budget that is expended on low-cost measures such as lighting and controls. Under the Original EEE Program, approximately 59 percent of the Company's Direct Install sub-program expenditures were for low-cost measures. *RCR-EE-0003,* attached spreadsheet entitled RCR_EE_3_Measure Data.xlsx. As specifically noted in PSE&G's brief, under the EEE Extension, approximately 96 percent of the Company's Direct Install sub-program

expenditures were for low-cost measures. *Id.*; PIB, p. 49. These are the types of measures that were referred to in Mr. Melanson's prefiled rebuttal testimony as "low hanging fruit." *P-4,* p. 7. These types of measures do not require a utility's special capabilities to identify and install.

Rate Counsel also supports Staff's alternative recommendation to allow PSE&G to provide on-bill financing for the NJCEP Direct Install program participants for the 30 percent share of project costs that is not paid for by the NJCEP. SIB, p. 13. Rate Counsel has recommended that, if the Direct Install sub-program is allowed to proceed, the grants offered to participants be reduced from 70 percent to 50 percent of project costs. RCIB, p. 45. However, Staff's alternative recommendation is also reasonable. Staff's alternative recommendation would limit PSE&G's program to an element that can not be provided by the NJCEP. With this change, PSE&G's program would enhance the NJCEP's program rather than compete with it for participants.

Staff's recommended alternative also would bring PSE&G into alignment with the programs offered by New Jersey Natural Gas Company and South Jersey Gas Company. While PSE&G has attempted to suggest at page 50 of its initial brief that its Direct Install program is the same as NJNG's and SJG's, this it not the case. PSE&G ignores a very important difference between its program and the NJNG and SJG programs. Both NJNG and SJG provide only a financing component for the 30 percent of project costs not covered by NJCEP's Direct Install grant. I/M/O the Petition of New Jersey Natural Gas Company for Approval of the Extension of Energy Efficiency Programs and the Associated Cost Recovery Mechanism Pursuant to N.J.S.A. 48:3-98.1, BPU Dkt. No. GO12070640, Order at 5 (June 21, 2013) & Order Adopting Supplemental

Stipulation at 2 (Aug. 21, 2013); I/M/O the Petition of South Jersey Gas Company for Approval of an Energy Efficiency Program ("EEP") With and Associated Energy Efficiency Tracker ("EET") Pursuant to N.J.S.A. 48:3-98.1, BPU Dkt. No. GO12050363, Order at 4 (June 21, 2013) & Order Adopting Supplemental Stipulation at 2 (Aug. 21, 2013). Thus, NJNG's and SJG's ratepayers, unlike PSE&G's, do not have to pay for shareholder profits on the funds provided for the 70 percent grants.

IV. IF THE BOARD DECIDES TO ALLOW THE HOSPITAL AND MULTI-FAMILY SUB-PROGRAMS TO BE IMPLEMENTED AT THIS TIME, INCENTIVES SHOULD BE SET AT RATE COUNSEL'S RECOMMENDED LEVELS.

Rate Counsel's initial brief explains in detail why, if the Board allows PSE&G to implement the proposed Hospital and Multi-Family sub-programs, it should reduce the level of incentives offered to participants. RCIB, p. 45. PSE&G has acknowledged that incentive levels for the Multi-Family and Hospital sub-programs could be reduced, but argues that the Board should set the incentives for these programs at approximately 58 percent of project costs, rather than Rate Counsel's recommended 45 percent. PIB, pp. 51-52.

Rate Counsel's recommended incentive levels are based on the testimony of Mr. Kenji Takahashi, an expert in energy efficiency program design and implementation. *RC-3*, pp. 2-4. As explained at length in Rate Counsel's initial brief, Mr. Takahashi found that PSE&G's proposed incentive levels were overly generous based on an analysis of several factors: the long waiting lists for PSE&G's current programs, the lopsided allocation of costs and benefits for program participants compared to ratepayers, and comparisons with programs in other states. Id. pp. 14-19. His recommended incentive

levels are more consistent with programs in other states, and reflect fairer allocations of costs and benefits between participants and other ratepayers. *Id.* pp. 19-21.

PSE&G did not present testimony by a program design expert, and its brief does not cite any analysis in the record that would show that its proposed incentive levels are more reasonable than those proposed by Rate Counsel. Instead, PSE&G's initial brief focuses on criticizing Mr. Takahashi's analysis of hospital and multi-family programs in other states. PIB, pp. 50-52. PSE&G's criticisms are unfounded. They are based on mischaracterizations and distortions of the record.

PSE&G first attempts to suggest there are no other programs that are comparable to PSE&G's. Specifically, PSE&G asserts that it is "undisputed" that PSE&G's Hospital and Multi-Family sub-programs are "innovative and unique." PIB, pp. 50-52. In fact, while Mr. Takahashi recognized that PSE&G's programs have some innovative features, he clearly and specifically disputed that PSE&G's programs are "unique." Responding to Mr. Melanson's rebuttal testimony that the programs in other states targeted "low hanging fruit" rather than deep savings, Mr. Takahashi testified as follows:

> Q: ... Mr. Melanson's testimony is that some of the hospital and multi-family programs you cite in your testimony are targeted to low hanging fruit rather than deep savings, such as are targeted by PSE&G programs.
>
> With regard to that testimony, I want to break it down and discuss multi-family first.
>
> Did some of the programs that you used for comparison, multi-family programs, in other jurisdictions target deep savings?
>
> A. Yes, they do.
>
> * * *

Q: Okay. Now, moving to Mr. Melanson's criticism with regard to hospital programs, do any of the hospital programs you cited in your testimony for comparison target deep savings rather than low hanging fruit?

A. Yes.

T188:L10-19 & T1189:L21 to T190:L1 (December 4, 2014). Further, Mr. Takahashi listed for the record, and pointed out on his Schedule KT-2, the multi-family and hospital programs that he considered, and that, like PSE&G's programs, targeted deep savings. *T188:L10-19 to T190:L19* (December 4, 2014). Contrary to PSE&G's representations in its initial brief, the purported uniqueness of PSE&G's Hospital and Multi-Family, and the claimed lack of other comparable programs, were challenged, directly and in detail, by Rate Counsel's witness.

PSE&G then attempts to question the thoroughness of Mr. Takahashi's analysis, asserting that he admitted to having "no idea" what energy savings had been achieved by the programs he used for comparison. PIB, p. 51. Mr. Takahashi's actual, unexcerpted, testimony was as follows:

Q: You referenced a number of other programs that targeted deep savings, did you look at the success rates of those programs?

A: What do you mean by success rates – success rates?

Q. Did they actually get energy efficiency savings? Did they actually -- I know they were targeting savings, but did they actually achieve them, do you know?

A. I do not know how much -- how much they saved relative to what they promised to save. I did not review the impact evaluations.

Q. So you don't know whether they were successful or not?

A. What I know is that, for example, multi-family programs I cited or I reviewed [an] ACEEE study on multi-family programs which was one of the first kind to review this type of program. And they -- they

> chose successful programs. They indicated a number of successful -- successful elements of their programs.

T212:L19 to T213:L13 (December 4, 2014). This testimony shows that Mr. Takahashi acknowledged that he did not review detailed data on the actual savings realized by the programs he used for comparison. However he did not agree with counsel's suggestion that he had no knowledge on this issue, and cited a specific, reliable source that these programs in fact have been successful. Contrary to PSE&G's argument, he did not testify that he had "no idea" whether the programs he used for comparison are achieving the anticipated energy savings.

Further, the lack of detailed data on the programs reviewed in Mr. Takahashi's survey should be considered in the context of PSE&G's own deficient evidentiary presentation. PSE&G is criticizing Mr. Takahashi for the absence of evaluation data on programs in other states, when it did not provide such data for its own programs until the eve of hearings. In the absence of proper data and analysis from PSE&G on its own programs, Mr. Takahashi was compelled to develop his recommendations based on a survey of other programs.

If PSE&G had provided better data and analysis, Mr. Takahashi could have undertaken a thorough review of the basis for PSE&G's proposed incentive levels. However, the Company did not do so, and Mr. Takahashi therefore developed his recommendation based on the information that was available. In light of PSE&G's own failure to provide proper evidentiary support for its proposals, the Company's criticisms of Mr. Takahashi are without merit.

V. RATE COUNSEL AND STAFF BOTH RECOMMEND TIMELY REPORTING OF DATA AND TIMELY MEASUREMENT AND VERIFICATION.

Staff's initial brief makes two recommendations to ensure that proper data is available to facilitate ongoing review and evaluation of PSE&G's programs. Rate Counsel supports both recommendations.

One of Staff's recommendations is to require PSE&G to fulfill the commitment it made at the time the Board approved the EEE Extension program to report, on a monthly basis, data consistent with the data reported on the NJCEP energy efficiency programs, including applicant-level and measure-level data for each program. The Company was supposed to have begun reporting the data by December of 2011, but had not done so as of July of 2014. SIB, pp. 18-19. In order to encourage future compliance with the Company's commitment, Staff recommends that the Board impose a twenty-five basis point penalty in the event PSE&G does not comply with its data reporting commitment. SIB, p. 19.

The other recommendation is that the Board requires PSE&G to develop a plan, in consultation with Staff and subject to Staff's approval, for measurement and verification for all three sub-programs, and that the plan include at least annual impact studies. Staff also recommends a twenty-five basis point penalty for failure to comply with the approved plan. SIB, pp. 19-21. Rate Counsel's initial brief discussed in detail the importance of proper evaluation. RCIB, *p*p. 35-41. Rate Counsel supports Staff's recommendations, which will assure that future evaluations are done on a timely basis.

VI. CONTRARY TO PSE&G'S ARGUMENT, THERE WAS NO OPPORTUNITY FOR PROPER CONSIDERATION OF THE IMPACT AND PROCESS EVALUATIONS PLACED INTO THE RECORD BY PSE&G.

In Point VII of its initial brief, PSE&G's states that it agrees with recommendations of Rate Counsel's expert witness, Mr. Takahashi, that the Board should "consider the impact evaluation report" that was prepared by the Cadmus Group ("the Cadmus Impact Evaluation") as part of this proceeding. PIB, p 53. However, PSE&G actually is recommending that the Board essentially read Cadmus's report as an unconditional endorsement of PSE&G's programs, and a basis for approving those programs without further review. PIB, p. 53-55.

The type of consideration suggested by PSE&G is not what Mr. Takahashi recommended. As he explained at length in his prefiled direct testimony, an impact evaluation provides information on a variety of issues, and is used as a tool for policymakers to assess "how program performance compares to alternative resources …." *RC-3,* pp. 25-26. This includes not only whether energy savings targets have been achieved, but also whether savings have been achieved in a cost-effective manner, and, more broadly, how program activities have affected the market. *RC-3,* pp. 26-27. PSE&G's suggestion that there has been an opportunity for the Board to "consider" Cadmus' findings as recommended by Mr. Takahashi reflects a fundamental misunderstanding of the purpose of evaluation. While an important evaluation has been provided, it has been provided too late for the results to be studied and incorporated in PSE&G's program design. PSE&G also says nothing about Cadmus' process evaluation (the "Cadmus Process Evaluation"), which also was provided too late to allow a proper

review. RCIB, p. 38. Indeed, as explained in more detail in Rate Counsel's initial brief, even under the relaxed evidentiary rules that apply in administrative proceedings, without an expert witness to present and interpret the results of these reports they can not be the basis for any finding by the Board. RCIB, p. 27; N.J.A.C. 1:2-25.5(b). Since there has not been an adequate opportunity to review the two evaluation reports and incorporate the results in PSE&G's program design, Rate Counsel stands by its recommendation that such an opportunity should be provided, either in this proceeding or a separate proceeding. RCIB, pp. 41, 49-50.

CONCLUSION

For all the foregoing reasons outlined above, the Board should not approve the PSE&G EE Extension II program as filed for failing to provide a residuum of credible evidence to support their request for cost recovery and implementation of the three sub-programs. Regarding the program accounting treatment and revenue requirements, both Board Staff and Rate Counsel pointed out in their initial briefs that the Company's proposed ROE of 10.3% coupled with a 15-year amortization period is excessive and ignores current market conditions. Further, PSE&G did not sufficiently meet its burden of proof for the amount of requested administrative costs and IT expenses. The Company's brief, similar to its case-in-chief, did not present any evidence that the proposed participation fee was justified. Additionally, the longer amortization period of 15 years was not shown by the Company as necessary or reasonable to be passed on to ratepayers and, in fact, would be a windfall to PSE&G's shareholders. A more appropriate ROE should be no higher than 9.75%, with an amortization period of no longer than 5 years. Administrative costs should be capped at 8% and the participation fee should be rejected.

Concerning program design and evaluation, the Company also has failed to meet its burden of proof to demonstrate that the three programs are cost-beneficial and effective under the RGGI Act. The process evaluation and cost-benefit analyses provided by the Company contained errors and were provided to Rate Counsel and Board Staff on the eve of the evidentiary hearings with no meaningful opportunity to properly review. The authors of the cost-benefit report and evaluation analyses were not produced at hearings by the Company. In fact, the only expert in energy efficiency program design was produced by Rate Counsel, who revealed that PSE&G's programs required significant modifications to incentive levels and payback period of participants. Rate Counsel respectfully submits that the Board should deny PSE&G's EE Extension II petition.