Agenda Date: 7/9/03
Agenda Item: 2A

STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
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ENERGY

I/MO THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL OF CHANGES IN ELECTRIC RATES, FOR CHANGES IN TARIFF FOR ELECTRIC SERVICE, B.P.U.N.J. NO. 14, ELECTRIC PURSUANT TO N.J.S.A. 48:2-21 & 48:2-21.1; FOR CHANGES IN ITS DEPRECIATION RATES PURSUANT TO N.J.S.A. 48:2-18, AND FOR OTHER RELIEF	)	SUMMARY ORDER DOCKET NO. ER02050303
I/M/O THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY'S DEFERRAL FILING INCLUDING PROPOSALS FOR CHANGES IN ITS RATES FOR ITS NON-UTILITY TRANSITION CHARGE ("NTC") AND ITS SOCIETAL BENEFITS CHARGE FOR THE POST-TRANSITION PERIOD PURSUANT TO N.J.S.A. 48:2-21 & 48:2-21.1	)	DOCKET NO. ER02080604
I/M/O THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL OF A SERVICE AGREEMENT WITH PSEG SERVICES CORPORATION AND TRANSFER OF UTILITY ASSETS CONTRACT	)	DOCKET NO. EM00040253
I/M/O THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL OF CHANGES IN ITS TARIFF FOR ELECTRIC BODY POLITIC LIGHTING SERVICE AND PRIVATE STREET AND AREA LIGHTING SERVICE	)	DOCKET NO. ET01120830
I/M/O THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR DECLARATORY RULING CLARIFYING THE COST RESPONSIBILITY FOR NUCLEAR GENERATING ASSET DECOMMISSIONING FUNDS PURSUANT TO N.J.S.A. 48:3-49 ET SEQ. AND N.J.S.A. 52:14B-8.	)	DOCKET NO. EO02080610

I/M/O THE CONSUMER EDUCATION PROGRAM	)	DOCKET NO. EO01120832
I/M/O THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY'S CONSUMER EDUCATION PROGRAM – YEAR THREE, AS EXTENDED THROUGH DECEMBER 31, 2002	)	DOCKET NO. EO02110854
I/M/O THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY TO INCREASE THE LEVEL OF THE GAS DEMAND SIDE ADJUSTMENT FACTOR AND TO MAKE CHANGES IN THE TARIFF RATES BPU NJ NO.12 GAS PURSUANT TO N.J.S.A. 48:2-21, N.J.S.A. 48:2-21.1AND N.J.S.A. 48:5-60(a) 13, AND N.J.A.C. 14:21-1, ET SEQ.	)	DOCKET NO. GR01040280

(SERVICE LIST ATTACHED)

BY THE BOARD:

This Summary Order memorializes, in summary fashion, the action taken by the Board of Public Utilities ("Board" or "BPU") in these matters at its July 9, 2003 public agenda meeting by a vote of five Commissioners. This Summary Order is being issued for the purpose of implementing new rates on August 1, 2003, consistent with the requirements of the Electric Discount and Energy Competition Act, ("EDECA"), N.J.S.A. 48:3-49 et seq. and the Board's Orders implementing EDECA. The Board will issue a more detailed Final Decision and Order in these matters that will provide a fuller discussion of the issues as well as the reasoning for the Board's determinations.

Background and Procedural History

On May 24, 2002, Public Service Electric and Gas Company ("PSE&G" or "Company") filed a petition with the Board requesting approval of an increase in its base rates for electric distribution service, electric and gas field collection charge, and depreciation rates applicable to its electric and common plant. *I/M/O the Petition of Public Service Gas and Electric Co. for Approval of Changes in Electric Rates, for Changes in the Tariff for Electric Service, B.P.U.N.J. No. 14 Electric Pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1 for Changes in its Electric Depreciation Rates Pursuant to N.J.S.A. 48:2-18, and for Other Relief*, BPU Docket No. ER02050303 ("base rate case"). The matter was transmitted to the Office of Administrative Law ("OAL") as a contested case on June 26, 2002, and was assigned to Administrative Law Judge ("ALJ") Richard McGill. During the course of the proceeding, motions to intervene or participate were filed by various entities. On various dates, ALJ McGill granted intervention to Gerdau Ameristeel Perth Amboy, Inc.,[1] ("Gerdau"), Independent Energy Producers of New Jersey ("IEPNJ"), New Jersey Large Energy Users Coalition ("NJLEUC"), New Jersey Transit ("NJ Transit"), New Jersey Commercial Users ("NJCU"), several Municipal Utilities Authorities ("MUA"), the Delaware River Port Authority and the Township of Hamilton. Participant status was granted to Jersey Central Power and Light Company ("JCP&L"), Rockland Electric

[1] During the course of the proceeding, Co-Steel Raritan, Inc., was acquired by Gerdau SA, and changed its name to Gerdau Ameristeel Perth Amboy, Inc.

Company ("RECO") and PPL EnergyPlus, LLC., ("PPL") and Mr. Allen Goldberg. In addition to the Company and the above listed interveners, the remaining parties to this proceeding include the Division of the Ratepayer Advocate ("RPA") and the Staff of the Board of Public Utilities ("Staff").

Duly noticed public hearings for the base rate case were conducted throughout the Company's service territory.

Evidentiary hearings in the base rate case were held before ALJ McGill on January 13, 14, 17, 21, 24, 27, 28, 31, 2003, and on February 24, 2003, and March 19, 2003.

By Order dated July 22, 2002, *Order Directing the Filing of Supplemental Testimony and Instituting Proceedings to Consider Audits of Utility Deferrals*, BPU Docket Nos. ER02050303, EO97070461, EO97070462, and EO97070463 ("July 22 Order"), the Board required, *inter alia*, each of the State's four electric public utilities to file by August 30, 2002, a petition for recovery of deferred expenses pertaining to unrecovered purchased power and other costs deferred pursuant to the Board's prior Orders implementing EDECA. The Board also directed that audits be performed on each of the utility's deferred balances. The audit report prepared for PSE&G was submitted to the OAL to be reviewed as part of the deferral proceeding. The Board further directed PSE&G to file supplemental testimony setting forth a more specific proposal for limiting ratepayer funding of nuclear decommissioning costs. In addition, the July 22 Order directed PSE&G to either resolve or consolidate with the base rate case two previously filed and pending matters, *I/M/O the Petition of Public Service Gas and Electric Company for Approval to Transfer Assets and to Enter into a Contract with PSEG Service Corporation Pursuant to N.J.S.A. 48:3-7, N.J.S.A. 48:3-7.1, and N.J.S.A. 48:3-55, and for Other Relief*, BPU Docket No. EM00040253 ("service agreement case"), and *I/M/O the Petition of Public Service Electric and Gas Company for a Revision of Tariff B.P.U.N.J. No. 13 Electric to Modify the Body Politic Lighting Service and the Private Street and Area Lighting Service*, BPU Docket No. ET01120830 ("street lighting case"). These issues were not resolved and the ALJ subsequently granted Staff's motion to consolidate.

On August 28, 2002, the Company filed a petition with the Board regarding its deferred balances as required by the July 22 Order. *I/M/O the Petition of Public Service Electric and Gas Company's Deferral Filing Including Proposals for Changes in its Non-Utility Transition Charge ("NTC") and its Societal Benefits Charge ("SBC") for the Post-Transition Period Pursuant to N.J.S.A. 48:2-21 & 48:2-21.1*, BPU Docket No. ER02080604 ("deferred balance case"). Upon transmittal of the Company's deferred balance case to the OAL, the matter was consolidated with the pending base rate case filing. The parties to the deferred balance case included the Company, RPA and Staff. In addition, the ALJ granted motions for intervention by NJLEUC, IEPNJ, and Gerdau, as well as motions to participate by RECO and JCP&L. Public hearings on the deferred balance case were conducted in the Company's service territory on various dates. Evidentiary hearings were held before ALJ McGill on March 3, 5, and 6, 2003.

Pursuant to the July 22 Order, on August 28, 2002, the Company also filed a petition for a Declaratory Order regarding the responsibility of the Company's ratepayers for the cost of decommissioning its formerly-owned nuclear units. *I/M/O the Petition of Public Service Electric and Gas Company for a Declaratory Ruling Clarifying the Cost Responsibility for Nuclear Generating Asset Decommissioning Funds*, BPU Docket No. EO02080610 ("nuclear decommissioning case"). In accordance with the Board's August 24, 1999 Final Decision and Order in Docket Nos. EO97070461, EO97070462 and EO97070463, these units were transferred to PSEG

Power LLC, the Company's unregulated generation affiliate. The nuclear decommissioning case was retained by the Board for hearing. A prehearing conference was held in the nuclear decommissioning case, which was attended by the parties to the proceeding, the Company, RPA, and Staff. Evidentiary hearings were conducted at the Board and presided over by Commissioner Carol J. Murphy on May 13 and 14, 2003.

Initial and Reply Briefs were filed in all the above proceedings. Settlement negotiations were conducted with all parties from March 2003 to June 2003. A comprehensive settlement among all the parties was not reached. However, by letter dated June 6, 2003, the Company submitted to the ALJ a proposed settlement executed by several parties to the proceedings, including PSE&G, Gerdau, NJ Transit, and IEPNJ ("proposed Settlement").

On June 6, 2003, ALJ McGill issued an Initial Decision accepting the proposed Settlement as resolving all issues in dispute in the base rate, deferred balance and nuclear decommissioning cases. The Initial Decision also accepted two separate Stipulations, contained within the proposed Settlement, which resolved the street lighting and service agreement cases. These Stipulations were submitted to the ALJ on April 17, 2003, and were executed by the Company, RPA, and Staff, who comprised the parties to those two cases. The Stipulations in these two matters resolved all issues in dispute, except for one issue remaining in the service agreement case regarding whether certain revenues should be excluded from the revenue component of the Company's allocation of indirect service company costs to PSE&G. The proposed Settlement resolved this issue. The proposed Settlement also provided that the following docketed matters pending before the Board would be deemed closed and resolved upon approval of the proposed Settlement by the Board:

1) *I/M/O the Consumer Education Program,* BPU Docket No. EO01120832 ("Year 2 CEP");

2) *I/M/O of Public Service Electric and Gas Company's Consumer Education Consumer Education Program – Year Three, as Extended Through December 31, 2002,* BPU Docket No. EO02110854 ("Year 3 CEP"); and

3) *I/M/O the Motion of Public Service Electric and Gas Company to Increase the Level of the Gas Demand Side Adjustment Factor and to Make Changes in the Tariff Rates, BPUNJ No. 12 Gas Pursuant to N.J.S.A. 48:21, N.J.S.A. 48:2-21.1, N.J.S.A. 48:5-60(a) 13, and N.J.A.C. 14:12-1 et seq*., BPU Docket No. GR01040280.

In his Initial Decision, the ALJ indicated that, in view of time constraints, any objections to the proposed Settlement should be submitted to the Board via Exceptions. Exceptions and Replies to Exceptions were filed by NJLEUC, NJCU, and the MUA Interveners (jointly filing as the "Customer Parties")[2], and PSE&G on June 23, 2003 and June 30, 2003 respectively. Board Staff filed a letter advising that it would continue to rely on the positions recommended in its Initial and Reply Briefs, and Gerdau filed only Reply Exceptions.

Discussion and Findings

Based on the Board's review of the extensive record in these proceedings, including the Exceptions and Replies to Exceptions, the Board is not fully satisfied that the proposed Settlement represents an appropriate resolution to these proceedings. The Board believes, however, that with the modifications and clarifications as set forth below, and for reasons that

[2] The MUA interveners also filed separate Exceptions.

will be more fully amplified in the Final Decision and Order that will be issued in these matters, the proposed Settlement provides a framework for a reasonable resolution of these matters based on the record before it.

Accordingly, except as specifically noted below, and as will be further explained in a future detailed Final Decision and Order, the Board HEREBY incorporates by reference as if completely set forth, herein, as a fair resolution of the issues in these proceedings, the elements of the proposed Settlement filed by PSE&G and others, and to the extent the Initial Decision is inconsistent herewith, it is modified as follows:

> Paragraph 4: The depreciation rate for electric distribution plant for financial and ratemaking purposes shall be 2.49% and not the 2.75% contained in the proposed Settlement.
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> The Board believes that 2.49% is the distribution plant depreciation rate that should have been used by the Company beginning August 1, 1999. As was argued by several parties in the base rate case, including Staff and the RPA, as of December 1998, the Company had an excess distribution plant depreciation reserve of $568.7 million. This excess depreciation reserve was based upon a 2.49% distribution plant depreciation rate, and was calculated based upon the Company's request in the restructuring proceeding to extend the average plant service life used to establish the depreciation rate for the Company's distribution plant investment from 28 years to 45 years. In the absence of a formal depreciation study, the Board believes that the Company should use the 2.49% rate supporting the 45-year average distribution plant service life, rather than the 2.75% rate contained in the proposed Settlement.
>
> Paragraph 8: The Board[3] disagrees with the provision in the proposed Settlement that, upon the expiration of the proposed bill credit associated with the amortization of the $155 million excess depreciation reserve, the Company will receive an automatic increase to its electric rates effective January 1, 2006, without the need for any further action by the Company or review by the Board. Instead, the Company will be required to make a filing, and the Board will review the financial condition of PSE&G prior to January 1, 2006, to consider the $64.2 million of proposed additional rate increase associated with the expiration of the amortization of the $155 million excess depreciation reserve. The review shall be conducted by Board Staff, with full participation of the parties to this proceeding, and shall include, but not be limited, to the examination of the Company's earnings, credit quality, and other indicators of overall financial integrity and shall be subject to final determination by the Board.
>
> The Board HEREBY DIRECTS the Staff to establish a timetable for the filing of the financial review as well as the specific parameters to be used in measuring the need for additional rate relief, allowing sufficient time for the Company and other parties to review and comment on the Staff proposal.

As a result of the above modifications, the Board HEREBY APPROVES a base rate increase of $159.5 million, including the revenue increase associated with increases in the field collection and reconnection charges, rather than the $170.0 million base rate increase contained in the proposed Settlement. The $159.5 million reflects a rate of return on equity of 9.75% and an overall rate of return of 8.18%, consistent with the proposed Settlement.

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[3] Commissioner Connie O. Hughes dissented on the limited issue of the length of the amortization period. The positions of the Commissioners on this issue will be discussed in more detail in the Board's Final Decision and Order in this matter.

Additionally, pursuant to EDECA, and subject to a true-up of the Company's deferred Basic Generation Service ("BGS") balance as of July 31, 2003, to reflect the results of the Board's Phase II Audit, the inclusion of actual data through that date and a recalculation of the interest necessitated by these adjustments, the Board HEREBY AUTHORIZES recovery of a deferred BGS balance of $241.5 million as projected in the proposed Settlement. As provided in the proposed Settlement, the Board HEREBY APPROVES interim recovery of this balance at the rate of $28.1 million per year, pending the Board's decision on the Company's recently filed securitization petition. After reflecting a reduction in the non-utility generation ("NUG") component of the Company's Non-Utility Transition Charge ("NTC") of $64.3 million, the net effect of the interim BGS deferral recovery and the reduction in the NUG component is a reduction in the NTC of $36.2 million.

Additionally, as provided in the proposed Settlement, the Board HEREBY APPROVES a reduction in the Company's Societal Benefits Charge ("SBC") of $202.1 million. This includes a reduction of $43.7 million in the nuclear decommissioning component, which, in turn, reflects the discontinuance of such funding on the part of PSE&G's ratepayers as of August 1, 2002. In addition, the $202.1 million refund includes a refund of the Company's overrecoverred Market Transition Charge ("MTC") deferred balance of $105.4 million; a reduction of $61.5 million in charges for Demand Side Management and Clean Energy Program costs; a reduction in social program costs of $10.9 million; an increase in the Remediation Adjustment Clause ("RAC") of $11.2 million; and an increase of $8.2 million in Consumer Education and Universal Service Fund ("USF") costs. With all of the above changes, including the reduction in the NTC, this results in an annual reduction in the NTC and SBC of $238.3 million[4]. The Company is further directed to reflect in rates the USF/Lifeline changes approved by the Board in Docket No. EX00020091, *I/M/O the Establishment of a Universal Service Fund Pursuant to Section 12 of the Electric Discount and Energy Competition Act of 1999*, by Order dated July 16, 2003.

Moreover, pursuant to EDECA, two further adjustments to PSE&G's rates must be reflected herein effective August 1, 2003, to: 1) recognize the charges for BGS commencing August 1, 2003, which resulted from the auction results previously approved by Board Order dated February 6, 2003*, I/M/O the Provision of Basic Generation Service Pursuant to the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. – Basic Generation Service ("BGS") Auction Results*, BPU Docket No. EX01110754, and 2) reflect the expiration of rate discounts during the transition period, which were implemented pursuant to the Board's August 24, 1999 Final Decision and Order implementing EDECA.

Assuming an increase in BGS charges of approximately $360 million annually[5], and a net increase of approximately $194 million resulting from the expiration of the year four EDECA rate discount and MTC, the net result of all adjustments is an overall increase in the Company's retail revenues in the approximate amount of $481 million annually. The average increase to the residential class would be approximately 15%. The Board HEREBY APPROVES this overall increase to be effective for service rendered on and after August 1, 2003. The Board HEREBY MODIFIES the rate design set forth in the proposed Settlement in order to assure that a majority of residential customers receive no more than a 15% increase on an overall annual basis, including the impact of reflecting actual BGS rates, as of August 1, 2003.

[4] $232.1 million when based on the test year level of sales.

[5] I.e., the CIEP classes experience the same average increase in BGS charges as the FP classes.

Within five (5) days of the date of this Order, the Company is HEREBY DIRECTED to submit to the Board final tariff pages conforming to the terms and conditions of this Summary Order. The Company shall consult with Staff to assure the adequacy of the required submissions.

Finally, consistent with the recommendation of Staff in its Initial Brief, the Board HEREBY DIRECTS the Company to file monthly reports with the Board that show, for each NUG project, the energy and capacity purchased (Mwh and Mw), the amount paid for the energy and capacity, the disposition of the energy and capacity (i.e., whether it was sold in the wholesale market or otherwise), the amount received from the sale of the energy and capacity, as well as the value of the energy if it were priced at the average monthly PJM LMP and capacity deficiency rate, and the value if it were priced at the rate payable for BGS supply obtained pursuant to the statewide auction. The first such report providing data for the month of July 2003, will be due within 30 days of the date of this Order.

DATED: July 31,2003

BOARD OF PUBLIC UTILITIES
BY:

SIGNED

JEANNE M. FOX
PRESIDENT

SIGNED

FREDERICK F. BUTLER
COMMISSIONER

SIGNED

CAROL J. MURPHY
COMMISSIONER

SIGNED

CONNIE O. HUGHES
COMMISSIONER

SIGNED

JACK ALTER
COMMISSIONER

ATTEST:

SIGNED

KRISTI IZZO
SECRETARY