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January 26, 2010

VIA E-MAIL

Kristi Izzo, Secretary of the Board
New Jersey Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07102

Kerri Kirschbaum, DAG
Division of Law
Dept. of Law and Public Safety
124 Halsey Street
Newark, New Jersey 07102

Tamara L. Linde, Esq., V.P. Regulatory.
Law Department
PSEG Services Corporation
80 Park Plaza, T5G
Newark, New Jersey 07102

**Re: I/M/O THE PETITION OF PUBLIC SERVICE ELECTRIC
AND GAS COMPANY FOR A DETERMINATION PURSUANT
TO THE PROVISIONS OF N.J.S.A. 40:55D-19
(SUSQUEHANNA-ROSELAND)
BPU DOCKET NO. EM 09010035**

Dear Ms. Izzo, Ms. Kirschbaum and Ms. Linde:

On behalf of the Municipal Intervenors, Andover Township, Byram Township, East Hanover Township, Fredon Township, Hardwick Township, Montville Township and Parsippany Township (the "Intervenors"), we submit this Letter Brief in support of the Intervenors' motion requesting the deposition of Steven R. Herling, and that he produce certain documents prior to his deposition.

On January 21, 2010, Steven R. Herling, Vice President of Planning at PJM, and witness for PSE&G in the matter, submitted a response to BPU's inquiry to PJM concerning the continued viability of the Susquehanna-Roseland Transmission Line in light of the motions by the PATH and MAPP project advocates to withdraw or delay those projects due, in part, to decreased demand for electricity. In his response, Mr. Herling advised the Board, essentially, that Susquehanna-Roseland is not PATH or MAPP, and PJM stands by its position that Susquehanna-Roseland is needed. Mr.

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Herling made no attempt to support his conclusory statements with evidence or illustrations. Other than his comment that demand response resources cannot be relied upon to relieve double-circuit line violations, Mr. Herling offered nothing tangible as the basis for his assertions. He failed to address electricity demand (increased or decreased), the 2010 load forecasts, the availability or lack of availability of alternate energy resources, to name but a few factors that might have influenced PJM's current position on Susquehanna-Roseland. Instead, it seems PJM believes the Board should be satisfied with its mere assertion that Susquehanna-Roseland is needed because PJM says it is needed.

PJM's insufficient response to the Board's inquiry is offensive and even embarrassing to the Intervenor, and should be to the Board as well. Given the Board's apparent interest in recent, significant changes that caused PATH and MAPP to delay or withdraw, and the Board's January 15 adjournment of its decision on PSE&G's Petition pending receipt of further information from PJM, PJM's terse response is insulting. It cannot possibly be what the Board expected.

Indeed, because PJM has failed entirely to make a meaningful submission to the Board, position, it would be little more than a charade for PSE&G and the Board to offer Mr. Herling to the Intervenor for cross-examination. The only way for the Intervenor to understand the substance underlying Mr. Herling's January 21, 2010 response is for them to depose him prior to the time he will be presented for cross-examination in the context of the Hearings in this matter.

The Board has the authority to grant a motion requesting a deposition for good cause. N.J.A.C. 1:1-10.2(c). In this instance, the need for a complete record, responsiveness to the Board's inquiry, and fundamental fairness to the parties all argue in favor of the Intervenor's deposing Mr. Herling. Without an understanding of the bases for PJM's position, it will be extremely difficult for the Intervenor to conduct meaningful cross-examination. In addition, a pre-hearing deposition will undoubtedly shorten the time during which Mr. Herling will be required for cross-examination.

For all of these reasons, the Intervenor respectfully request that this Board grant their motion to depose Steven R. Herling, and, order him to produce, in advance of his deposition, the documents requested in Schedule A attached to the Draft Notice of Deposition enclosed.

Respectfully submitted,

DeCotiis, FitzPatrick & Cole, LLP

By: 
Catherine E. Tamasik

cc: All Parties on the Service List

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Attorneys for the Municipal Intervenors

IN THE MATTER OF THE PETITION OF)
PUBLIC SERVICE ELECTRIC AND GAS)
COMPANY FOR A DETERMINATION)
PURSUANT TO THE PROVISIONS OF)
N.J.S.A. 40:55D-19)
(SUSQUEHANNA-ROSELAND))

BPU DOCKET NO. EM 09010035

NOTICE OF MOTION
TO TAKE DEPOSITIONS
AND REQUIRE PRODUCTION
OF DOCUMENTS

TO: Kristi Izzo, Secretary of the Board
New Jersey Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07102

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P.O. Box 45029
Newark, New Jersey 07102

Tamara L. Linde, Esq., VP Regulatory
Law Department.
PSEG Services Corporation
80 Park Plaza, T5G
Newark, New Jersey 07102

and

ALL OTHER PARTIES DESIGNATED ON THE SERVICE LIST

PLEASE TAKE NOTICE that, pursuant to N.J.A.C. 1:1-10.2, *et seq.*, DeCotiis, FitzPatrick & Cole, LLP, attorneys for the Municipal Intervenors, in this matter, Andover Township, Byram Township, East Hanover Township, Fredon Township, Hardwick Township, Montville Township and Parsippany Township (the "Municipal Intervenors"), hereby move to request the depositions of non-party witnesses Steven R. Herling, Vice President of Planning, PJM;

and

PLEASE TAKE FURTHER NOTICE that the Intervenors also request the Witness to produce the documents and things listed in Schedule A hereto; and

PLEASE TAKE FURTHER NOTICE that in support of their Motion, the Municipal Intervenors shall rely upon the letter brief filed herewith; and

PLEASE TAKE FURTHER NOTICE that the Municipal Intervenors have attached hereto a proposed form of Order.

DeCotiis, FitzPatrick & Cole, LLP
Attorneys for Municipal Intervenors

A handwritten signature in cursive script, appearing to read "C. Tamasik", written over a horizontal line.

Catherine E. Tamasik

Dated: January 26, 2010

SCHEDULE A

Steven R. Herling, Vice President, Planning shall produce to the Municipal Intervenors, three (3) days prior to his scheduled deposition, any and all documents in his possession regarding this matter, including but not limited to the following:

1. All documents relating to any analyses, studies, tests, reviews, calculations, reports, conclusions, information, data that support your statement that the factors impacting the need for the PATH and MAPP projects will not impact the need for the Susquehanna-Roseland project.

2. All documents relating to analyses, studies, tests, reviews, calculations, reports, conclusions, information, data that support your statement that a significant number of the criteria violations driving the need for the Susquehanna-Roseland line are related to the potential loss of double-circuit tower lines.

3. All documents relating to analyses, studies, tests, reviews, calculations, report, conclusions, information, data that support your statement that double-circuit tower line violations cannot be relieved by additional Demand Response resources.

4. All documents relating to analyses, studies, tests, reviews, calculations, reports, conclusions, information, data that support your conclusion in or about August or September 2009, that double-circuit tower line violations were anticipated

5.. All documents relating to analyses, studies, tests, reviews, calculations, reports, conclusions, information, data that support your conclusion that double-circuit tower line violations on the Susquehanna-Roseland line are anticipated

6. All documents relating to analyses, studies, tests, reviews, calculations, report, conclusions, information, data, that support your statement that PJM will need to make changes in its testimony in the Maryland proceeding on the PATH project.

7. All documents relating to analyses, studies, tests, reviews, calculations, report, conclusions, information, data that support your statement that PATH and MAPP should be evaluated in the 2010 RTEP process.

8. All documents relating to analyses, studies, tests, reviews, calculations, report, conclusions, information, data that support your agreement to analyze the PATH and MAPP projects.

9. All documents relating to analyses, studies, tests, reviews, calculations, report, conclusions, information, data, that support your conclusion that PATH and MAPP are untimely and their implementation should be delayed.

10. Produce the sensitivity analyses that PJM performed in 2009-2010 regarding the PATH project, and all results of such analyses.

11. Produce the sensitivity analyses that PJM performed in 2009-2010 regarding the MAPP project, and all results of such analyses.

12. Produce all documents supporting your conclusion that new scenarios for the Susquehanna-Roseland line based on the most recent data, including, but not limited to, 2010 Load Forecasts and RTEP, will continue to show that the Susquehanna-Roseland line is needed.

13. Produce all documents that are or relate to communications between PJM and PSE&G concerning the Susquehanna-Roseland project.

**** For purposes of this Motion and the pending Notice of Deposition, the term "Document" means all writings of any kind, including the originals and non-identical copies, whether different from the originals by reason of any notation made on such copies or otherwise, including without limitation correspondence, memoranda, notes, diaries, statistics, letters, telegrams, electronic mail, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, prospectuses, certificates, drawings, plans, records, tables, interoffice and intraoffice communications, or offers, notations in any form made of conversations, telephone calls, meetings or other communications, bulletins, printed matter (including newspapers, magazines and other publications, and articles and clippings therefrom), press releases, computer printouts, teletypes, telescopes, invoices, ledgers, worksheets (and all drafts, alterations, modifications, changes and amendments of any of the foregoing), graphic records or representations of any kind (including without limitation photographs, charts, graphs, and microfilm, videotape or film recording) and electronic, mechanical or electrical records or representations of any kind (including without limitation tapes, cassettes, discs, recordings), or transcriptions thereof. The term "all documents" means every document, as defined above, which can be located, discovered or obtained by reasonably diligent efforts, including without limitation all documents possessed by you or your counsel, or any other person or entity from whom you can obtain such documents by request or which you have a legal right to bring within your possession by demand.

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BPU DOCKET NO. EM09010035

CERTIFICATION OF SERVICE

I, Catherine E. Tamasik, an Attorney at Law of the State of New Jersey, hereby certifies as follows:

On January 26, 2010, I caused to be served by electronic mail a copy of the within Notice of Motion on behalf of the Municipal Intervenors, a letter brief in support of the motion, and a proposed form of Order, upon

Kristi Izzo, Secretary of the Board
New Jersey Board of Public Utilities
2 Gateway Center
Newark, New Jersey 07102

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P.O. Box 45029
Newark, New Jersey 07102

Tamara L. Linde, Esq., VP Regulatory
Law Department.
PSEG Services Corporation
80 Park Plaza, T5G
Newark, New Jersey 07102

I certify further that I sent copies of the same Notice of Motion, letter brief in support of the motion, and a proposed form of Order to all parties designated on the attached Service List either by e-mail or regular, first-class mail, as necessary.

A handwritten signature in cursive script, appearing to read "Catherine E. Tamasik", written over a horizontal line.

Catherine E. Tamasik

Dated: January 26, 2010

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ORDER

This matter having been presented to the Commissioners of the New Jersey Board of Public Utilities by DeCotiis, FitzPatrick & Cole, LLP, attorneys for the Municipal Intervenors, and to the parties and persons set forth on the attached Service List, and the Board, having read and considered the motion and other documents filed in this matter, including the brief submitted in support of the motion, and other good cause appearing

IT IS on this ____ day of _____, 2010

ORDERED that the motion of the Municipal Intervenors to depose Steven R. Herling be granted, and

IT IS FURTHER ORDERED that Steven R. Herling be required to produce to the Municipal Intervenors the documents and things listed in Schedule A of their motion no less than three (3) business days prior to the date(s) scheduled for their depositions.

By: _____