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January 8, 2010

**VIA EMAIL**

Joseph L. Fiordaliso, Commissioner  
New Jersey Board of Public Utilities  
Two Gateway Center, 8<sup>th</sup> Floor  
Newark, New Jersey 07102

Re: **I/M/O 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**

**Request To Shorten Time**

Dear Commissioner Fiordaliso:

Public Service Electric and Gas Company ("PSE&G") respectfully submits this letter in lieu of a formal motion requesting that the time recently established for parties to comment on whether the Board should take official notice of certain documents relating to the PATH transmission line be shortened to January 12, 2010. As discussed briefly below, PSE&G does not believe that there is a need for this additional process.<sup>1</sup> However, if the process is deemed to be appropriate, there is no reason it cannot be completed within a time frame consistent with a decision in this matter by January 15, 2010.

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<sup>1</sup> Presumably, PSE&G would be the only party potentially seeking to contest the Board taking official notice of the referenced PATH material. PSE&G hereby waives any such objection for purposes of avoiding further delay. Accordingly, the requirements of N.J.A.C. 1:1-15.2(c) are now fully satisfied as this regulation, if it were to be applicable, provides only for (a) notice to the parties and (b) a reasonable opportunity for parties to contest.

On January 7, 2010,<sup>2</sup> the parties were advised of the intention to take official notice of certain documents relating to the recent withdrawal of state siting applications for the PATH transmission project. The notice to the parties explained that if the updated queue information and load forecasts, and the availability of additional demand response resources referenced in these PATH related documents were to affect the need for the Susquehanna Roseland Project that would be relevant to a decision in this matter. Further, it explained that several of the parties including Rate Counsel, the Municipal Intervenors, Stop the Lines, the Environmental Intervenors and the Montville Township Board of Education<sup>3</sup> all included arguments arising out of the PATH withdrawal in their reply briefs and that N.J.A.C. 1:1-15.1 precludes the Board from considering the supporting documents they submitted unless these documents are officially admitted in evidence. A deadline of Friday, January 15, 2010 was established for parties to contest the material in question or otherwise state their views regarding taking of official notice of this material.

The record in this proceeding is already robust and complete and there is no need for further proceedings. After a full year of a very comprehensive proceeding, including a week of evidentiary hearings with sixteen expert witnesses, the Commission is left with a record comprised of thousands of pages of evidence that document the need for the Susquehanna Roseland transmission project to address reliability violations that will occur as early as June 2012 in northern New Jersey and eastern Pennsylvania. The evidence in the record also documents that the need for the project has not only been established once by PJM through its independent and transparent RTEP process, but then confirmed by PJM through two subsequent reviews. Importantly, the record in this proceeding demonstrates that the very nature of the PJM RTEP process is to evaluate the need for transmission projects as load flow and generation data changes and to properly balance the need to ensure reliability while protecting consumers by cancelling or delaying projects that are later determined not to be needed.

The delay of the PATH transmission project, while perhaps interesting to some, is neither new material information to this proceeding nor factually relevant.<sup>4</sup>

Witness Herling, Senior Executive of PJM, already explained in his rebuttal testimony:

The Susquehanna-Roseland project has been evaluated through three years of RTEP analyses, integrating changing conditions since the original approval of the project in the 2007 RTEP. Even with a wide range of

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<sup>2</sup> By letter dated January 6, 2009 delivered to all parties in the proceeding via email from Kerri Kirschbaum on January 7, 2010.

<sup>3</sup> To ensure the accuracy of the record, it should be noted that Montville Board of Education did not reference the PATH proceeding.

<sup>4</sup> As PSE&G explained in both its initial and reply brief, RTEP determinations that projects may be safely delayed or unnecessary only demonstrate the *bona fides* of the RTEP process. PSE&G Initial Brief at 52; PSE&G Reply Brief at 9. The record clearly reflects that the very same reduced load forecast that caused delay and/or cancellation of other RTEP projects like MAPP and PATH continues to demonstrate a need for this Project.

changing system conditions since 2007, the project is still required to be in service by June 1, 2012. Dr. Sovacool points to these very analyses as evidence that changing conditions have resulted in the delayed need for the PATH Project and the elimination from the RTEP of the Indian River – Salem portion of the MAPP project, yet fails to acknowledge that the same analysis has not shown any delay in the need for the Susquehanna-Roseland line. Exhibit P-19 (Rebuttal Testimony of Steven R. Herling) at 4.

There is nothing exceptional or factually relevant regarding the documents supporting the PATH project postponement.<sup>5</sup> In fact, an earlier delay of the same project was already included in the record. Further, as PSE&G has already committed, in the unlikely event that another analysis demonstrates that the Susquehanna Roseland Project can be safely delayed or is no longer needed, PSE&G will abide by that determination.<sup>6</sup>

Even assuming these documents were deemed to add any value to the record, the time for contesting introduction of this material (which as previously stated would presumably only come from PSE&G) should be limited so that this additional and unusual procedural step does not unnecessarily delay this time-sensitive proceeding.<sup>7</sup> By shortening the time to respond by three days, the Board will respect even the most conservative reading of the New Jersey Administrative Code and allow the Board to act on this Petition on January 15, 2010 as previously announced by Commissioner Fiordaliso. See Hearing transcript from November 23, 2009 at 1285-6 to 1285-9.

Further, as the Commission is already aware, all of the active parties that have opposed the Susquehanna Roseland project are not only aware of the status of the PATH project, but the vast majority of active parties in this proceeding have already filed their specific comments regarding PATH project status with the Board and certainly could not now object to their inclusion. N.J.A.C. 1:1-15.2 does not provide for a time for comment, and shortening the response time by three days to January 12, 2010 will not deprive any party of any legal rights.

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<sup>5</sup> These documents relate to a transmission project needed to address reliability violations on the transmission system in Virginia and do not address the separate reliability violations that the Susquehanna Roseland project address. In fact, the only relevance of these documents is they further distinguish the factual differences between the PATH project and this Project. Most significantly, the PATH project was scheduled to be needed and in service by 2014 and therefore there remains time for the project to be refiled in early 2010 as contemplated by PATH (PATH Motion to Withdraw at 1) whereas the Susquehanna-Roseland Project remains needed by June 1, 2012 and therefore the timing remains much more critical with respect to the need for, and construction of this Project.

<sup>6</sup> See for example, Petition at 14, ¶29; Exhibit P-11 (Direct Testimony of Steven R. Herling) at 27; Exhibit P-15 (Rebuttal Testimony of Esam A.F. Khadr) at 7; Exhibit p-19 (Rebuttal Testimony of Steven R. Herling) at 4; PSE&G Initial Brief at 52; PSE&G Reply Brief at 5.

<sup>7</sup> Although the letter to parties indicates that “[t]aking official notice of [this] evidence . . . will enable the Board to consider the evidence with only the slightest delay in the proceeding,” the meaning of this is unknown and there is no indication with respect to how long the delay would be as a new decision date has not been indicated.

PSE&G remains committed to reliability and providing safe, adequate and proper electric service. PSE&G takes this commitment seriously and unless and until PJM notifies PSE&G that the Susquehanna Roseland project is no longer needed or can be safely postponed, PSE&G will continue to take the necessary steps to meet this reliability commitment. As the record demonstrates, the construction of this project is a major undertaking and in order to attempt to achieve the in service date for this needed reliability project, PSE&G believes that BPU action is required by January 15, 2010.

Accordingly, PSE&G respectfully requests that the Board shorten the time to comment from January 15 to January 12 and further requests that the Commission act on the evidence before it and approve the Petition on January 15 without further delay.

Respectfully submitted,

*Jodi L. Moskowitz*

Jodi L. Moskowitz

Attorney for Public Service Electric and Gas  
Company

cc: All Parties Designed on the Service List  
(by e-mail or regular mail as necessary)  
The Honorable Jeanne M. Fox, President  
The Honorable Frederick F. Butler  
The Honorable Nicholas Asselta  
The Honorable Elizabeth Randall  
Ralph A. LaRossa  
J. A. Bouknight, Jr.