B.M.G. BEVAN, MOSCA & GIUDITTA, P.C.
ATTORNEYS AT LAW

222 MOUNT AIRY ROAD, SUITE 200
BASKING RIDGE, NJ 07920-2335
(P) 908.753.8300
(F) 908.753.8301
WWW.BMG.LAW

MURRAY E. BEVAN
mbevan@bmg.law

May 17, 2019

VIA FEDERAL EXPRESS AND EMAIL

Aida Camacho-Welch
Secretary, New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
board.secretary@bpu.nj.gov
aida.camacho@bpu.nj.gov

Re: ***Public Service Electric And Gas Company – In the Matter of the Petition of Public Service Electric And Gas Company For Approval of Its Clean Energy Future – Energy Cloud ("CEF-EC") Program on a Regulated Basis***
BPU Docket Nos. EO18101113 and GO18101112
Google, LLC's Initial Brief

Dear Secretary:

This firm represents Google, LLC ("Google") in the above-captioned matter. Enclosed please find an original and two (2) copies of Google's Initial Brief in this matter.

Please do not hesitate to contact me with any questions.

Respectfully submitted,

Murray E. Bevan

cc: Service List

Case Mgmt
A. Hart, Esq
D. Lamptey, Esq

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
BEFORE COMMISSIONER DIANNE SOLOMON

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL OF ITS CLEAN ENERGY FUTURE-ENERGY EFFICIENCY PROGRAM ON A REGULATED BASIS	BPU DOCKET NOS. GO18101112 & EO18101113

INITIAL BRIEF ON BEHALF OF GOOGLE, LLC

Murray E. Bevan, Esq.
Christopher M. Casey, Esq.
Bevan, Mosca & Giuditta P.C.
222 Mount Airy Road, Suite 200
Basking Ridge, NJ 07920
Phone: (908) 753-8300
Fax: (908) 753-8301
Email: mbevan@bmg.law
ccasey@bmg.law

Attorneys for Google, LLC

Dated: May 17, 2019

TABLE OF CONTENTS

I. PRELIMINARY STATEMENT

Google, LLC ("Google") supports the petition by Public Service Electric & Gas Company ("PSE&G" or the "Company") for approval of its Clean Energy Future-Energy Efficiency Program ("CEF-EE Program"). Under the CEF-EE Program, PSE&G would undertake up to $2.5 billion in investment and approximately $284 million in expenses over a six-year period to establish 22 distinct subprograms that are designed to increase energy efficiency in all sectors of the economy and provide savings opportunities across the Company's customer base. PSE&G's CEF-EE Program proposal is a timely effort by the Company to better serve the public interest by aligning its business model with state priorities to address climate change and transition to a clean energy future.

Google is a multi-national technology company and manufacturer of the Google Nest Learning Thermostat and the Google Nest Thermostat E ("Google Nest Thermostats"), two of the leading smart thermostats. Google Nest Thermostats incorporate numerous features that help customers reduce their energy consumption for residential heating and cooling. Smart thermostats, like Google Nest Thermostats, are an important new energy efficiency measure which can save customers money on their energy bills, reduce their energy usage, while simultaneously building a dynamic and adaptable platform for managing system load.

The Board of Public Utilities ("Board") should approve PSE&G's CEF-EE Program because it will cost-effectively lower energy consumption and customer bills, reduce greenhouse gas and harmful particulate emissions, and create "green jobs" all while facilitating associated economic activity within the state. The Program will also help blaze New Jersey's path to a clean energy future and will aid in making the state a national leader in energy efficiency.

If the Board decides not to approve the entire CEF-EE Program at this time, it should, at a minimum, approve either the Company's proposed smart thermostat subprograms or approve significantly increased funding for PSE&G's now dormant smart thermostat subprogram. The Company's proposed smart thermostat subprograms build on the success of its smart thermostat pilot, which created an online marketplace in 2017 where eligible customers could get an instant rebate to purchase a smart thermostat from several different manufacturers. The program was so popular and successful that it exhausted two years' funding in just eight months. Importantly, Board action is necessary to facilitate customer access to the significant energy savings potential of smart thermostats because the Board's Clean Energy Program does not currently offer any incentives or rebates for smart thermostat technologies.

Finally, the Board should approve the Company's proposed Green Enabling Mechanism ("GEM"). Traditional rate structures premise utility profits on selling more energy, which is in stark contrast to state goals to conserve energy, reduce peak demand, and transition to a clean energy future. Decoupling mechanisms, like the GEM, are best practices among leading energy efficiency states because they remove the conflict between the Company's fiduciary duties and the public interest. The GEM will advance the public interest by helping to align the Company's business model with state priorities to address climate change and transition to a clean energy future.

II. THE BOARD SHOULD APPROVE PSE&G'S ENTIRE CEF-EE PROGRAM BECAUSE IT WILL COST-EFFECTIVELY REDUCE DEMAND, DECREASE EMISSIONS, AND STIMULATE ECONOMIC ACTIVITY WITHIN THE STATE

A. The CEF-EE Program Is A Timely Effort By PSE&G To Align Its Business Model With State Priorities And The Public Interest

The CEF-EE Program is consistent with New Jersey law and policy. New Jersey has formally recognized the critical importance of addressing climate change and has initiated a

transition to a clean energy future. Executive Order No. 28 ("EO 28") states that "to curtail the serious impacts of global climate change caused by greenhouse gas emissions, New Jersey must shift away from its reliance on fossil fuels as a primary energy source and turn to clean energy sources."[1] It further acknowledges that the "strategic vision for the production, distribution, consumption, and conservation of energy in the State" must be overhauled "to shift New Jersey's energy production profile away from reliance on outdated technologies that contribute to global climate change and towards clean energy sources."[2] Accordingly, EO 28 directs the Board, in committee with other state departments, to develop a new Energy Master Plan that "provide[s] a comprehensive blueprint for the total conversion of the State's energy production profile to 100% clean energy sources on or before January 1, 2050, and shall further provide specific proposals to be implemented over the next ten (10) years in order to achieve the January 1, 2050 goal."[3]

In addition to focusing on the transition to clean energy in its fight against climate change, New Jersey in 2018 passed the Clean Energy Act ("CEA" or "Act"), which established aggressive renewable energy mandates and requires utilities to expeditiously pursue all cost-effective energy efficiency. Under the Act, by May 23, 2019, the Board must: (1) require public utilities to reduce electricity and natural gas use; (2) determine annual energy savings targets based on the full, economic, cost-effective potential for usage reductions as well as the potential for peak demand reduction; and (3) adopt quantitative performance indicators for energy usage and peak demand reductions for each public utility.[4] In addition, under the state's RGGI Law, a public utility may

---

[1] RC-2, p. 1

[2] *Id.*, p. 1-2.

[3] *Id.*, p. 3.

[4] N.J.S.A. 48:3-87.9.

provide and invest in energy efficiency and conservation programs in its service territory on a regulated basis, and such investments are eligible for rate treatment approved by the Board, including a return on equity, or other incentives or rate mechanisms.[5] Accordingly, New Jersey law establishes utility energy efficiency programs as a priority in the fight against climate change and the clean energy transition.

To align its business operations with New Jersey's clean energy priorities, PSE&G's CEF-EE filing proposes to establish 22 subprograms that will increase energy efficiency in all sectors of the economy and offer savings opportunities across PSE&G's customer base.[6] The CEF-EE Program is designed to significantly lower energy consumption and customer bills, reduce greenhouse gas and harmful particulate emissions, and to create approximately 30,000 "green jobs" all while facilitating associated economic activity in the state.[7] The Program also has a special emphasis on hard to reach customers, such as low income, multi-family, small business, and local government customers.[8] By 2025, the CEF-EE Program will produce cumulative electric savings of 6.6% and gas savings of 2.0%, which would more than triple New Jersey's current statewide energy efficiency savings.[9] Importantly, every independent expert in this case agrees that the CEF-EE Program is cost-effective.[10]

---

[5] N.J.S.A. 48:3-98.1(a)(1).

[6] PS-2, p. 3.

[7] *Id.*, p. 4.

[8] *Id.*

[9] PS-1, p. 10.

[10] *See* RC-7, p. 24-25; PS-2, p. 11-12.

B. Delay Of Energy Efficiency Program Implementation Will Harm Customers And The State's Efforts To Address Climate Change

Rate Counsel's critiques of the CEF-EE Program are inapt and counter to the public interest. Despite its own finding that the CEF-EE Program is cost-effective, Rate Counsel recommends that the Board reject the Program and delay delivering significant energy efficiency benefits to customers and the state. Specifically, Rate Counsel witnesses Dr. Hausman and Dr. Dismukes both recommend that the Board reject the CEF-EE Program because the Board has not yet completed various energy efficiency-related initiatives under the CEA.[11] Dr. Hausman characterizes the CEF-EE Program as "premature" because the Board has not completed its assessment of the cost-effective potential for usage and peak demand reductions, upon which it will establish annual energy savings targets for each utility, and because the Board has yet to establish quantitative performance indicators ("QPI") and incentives/penalties for compliance with the energy reduction targets.[12] Similarly, Dr. Dismukes describes the filing as PSE&G putting the "cart before the horse."[13] Rate Counsel's critique of the CEF-EE Program, however, is inapt and counter to the public interest.

The Board should disregard Rate Counsel's recommendation to reject the CEF-EE Program for three reasons. First, Rate Counsel's characterization of the CEF-EE Program as "premature" disregards the plain language of the CEA and is out-of-step with New Jersey's energy priorities. Rate Counsel ignores the fact that the CEA expressly directs the Board to require each electric and gas public utility to reduce energy use within its territory "below what would have

---

[11] *See* RC-7, p. 4; RC-1, p. 4-7.

[12] RC-1, p. 27.

[13] RC-7, p. 41.

otherwise been used" by no later than May 23, 2019.[14] Rate Counsel's critique of the CEF-EE Program as "premature" is also inapt because Program approval is not in conflict with the energy savings and peak load reduction targets or the performance incentives that the Board will soon establish. The Board can approve the CEF-EE Program and hold PSE&G accountable to meeting aggressive annual savings targets established pursuant to the CEA—indeed, the Act would require it to do so. Moreover, the Company can and should refine its programs as energy efficiency delivery needs evolve. The performance incentives will motivate the Company to continually reevaluate its program to ensure it is achieving its full energy savings potential. Rate Counsel's critique of the Company's filing as "premature" contradicts the plain language and policy goals of the CEA.

Second, Rate Counsel's recommendation fails to appreciate the urgency of addressing climate change. Climate change is an existential threat that is already affecting New Jersey communities through more extreme weather and rising sea levels, among other changes. The scientific community warns that mitigating the long-lasting or irreversible impacts of global warming requires "rapid, far-reaching and unprecedented" changes in all aspects of society, including transitions in land, energy, industry, buildings, transport, and cities.[15] Importantly, because carbon remains in the atmosphere for a very long time, carbon reductions today do more to mitigate climate change than an equal amount of carbon reductions in the future. As discussed above, New Jersey formally recognizes that climate change is an existential threat and mandates

[14] N.J.S.A. 48:3-87.9(a).

[15] *See* "IPCC PRESS RELEASE: Summary for Policymakers of IPCC Special Report on Global Warming of 1.5°C Approved by Governments." Intergovernmental Panel on Climate Change, 8 Oct. 2018, https://www.ipcc.ch/site/assets/uploads/2018/11/pr_181008_P48_spm_en.pdf.

an expeditious transition to a clean energy future.[16] Rate Counsel's baseless critique of the CEF-EE Program as "premature" is, therefore, at odds with state law and policy as well as with the urgent need to address climate change, which is already impacting New Jersey communities.

Third, Rate Counsel's recommendation to reject the CEF-EE Program would harm PSE&G customers if adopted. The CEF-EE Program reflects energy efficiency best practices from across the country.[17] Moreover, energy efficiency is a tremendously underutilized resource in New Jersey that would help lower energy bills for individual customers and help all customers avoid costly infrastructure upgrades.[18] Energy efficiency is regularly recognized as the least cost energy resource option.[19] In the 2018 State Energy Efficiency Scorecard, the American Council for an Energy-Efficient Economy ("ACEEE") ranked New Jersey 18th overall for its energy efficiency programs, 29th overall in the level of energy savings that are achieved annually, and last among its peer northeastern states.[20] New Jersey has significant untapped energy savings potential. Rate Counsel is recommending that the Company disregard available, clean, least-cost resources for meeting its customer's energy needs. The Board should reject this request from Rate Counsel.

Indeed, the Board should approve PSE&G's CEF-EE Program because it will cost-effectively lower energy consumption and customer bills, reduce greenhouse gas and harmful particulate emissions, and create "green jobs" all while facilitating associated economic activity within the state. The CEF-EE Program will also help blaze New Jersey's path to a clean energy

---

[16] *See* RC-2.

[17] PS-2, p. 13.

[18] *Id.*

[19] *Id.* (citing The Best Value for America's Energy Dollar: A National Review of the Cost of Utility Energy Efficiency Programs, https://aceee.org/research-report/u1402).

[20] *Id.*

future and will aid in making the state a national leader in energy efficiency. Delay, on the other hand, would harm the State and its residents by forgoing available, least-cost resources for meeting system demand. Delay would also thwart the state's efforts to shift away from reliance on fossil fuels as a primary energy source. The Company's filing is a timely effort to align PSE&G's business model with state priorities, the exigency of climate change, and the public interest. The Board should approve the full CEF-EE Program.

III. BOARD APPROVAL OF FUNDING FOR SMART THERMOSTAT SUBPROGRAMS IS PARTICULARLY CRITICAL TO THE STATE

If the Board decides not to approve the entire CEF-EE Program at this time, it should, at a minimum, approve funding for PSE&G's smart thermostat subprograms. PSE&G's CEF-EE Program includes several subprograms that incorporate smart thermostats:

- **Residential Efficient Products Subprogram** – provides rebates and on-bill repayment for smart thermostats, HVAC, appliances, lighting, and other equipment;
- **Residential Existing Homes Subprogram** – provides rebates and on-bill repayment for energy audit, direct install of efficient equipment, and broader weatherization / appliance replacement services;
- **Residential New Construction Subprogram** – provides rebates to builders and owners for new construction meeting energy efficiency standards;
- **Residential Income Eligible Subprogram** – provides energy audit, direct install of efficient equipment, and broader weatherization / appliance replacement services at no charge; and

- **Smart Homes Pilot Subprogram** – provides automated and personalized savings measures using an ecosystem of energy efficient devices and technologies working in coordination.[21]

In addition to these residential programs, smart thermostats could also be included in several subprograms for commercial and industrial customers. These subprograms will cost-effectively deliver significant energy savings by promoting the installation of smart thermostats through a variety of channels, including an online marketplace, in-store rebates, reduced point of sale costs, and a network of trade allies.[22]

A. Smart Thermostats Are An Important New Energy Efficiency Measure

Smart thermostats are a relatively new technology that offer significant energy savings potential by helping residential and small commercial customers increase their energy efficiency, reduce their peak demand, and participate in demand response programs. The U.S. Environmental Protection Agency ("EPA") defines smart thermostats as "a Wi-Fi enabled device that automatically adjusts heating and cooling temperature settings in your home for optimal performance."[23] While system designs vary across products, smart thermostats typically feature the ability to: control heating and cooling remotely via a smartphone; automatically detect occupancy and reduce heating and cooling usage if no one is home; automatically create a schedule to minimize unnecessary energy consumption; provide equipment use and temperature data that can be tracked and managed; and periodically update software to ensure the smart thermostat is

[21] PS-1, p. 7-8.

[22] PS-2, Attachment: Clean Energy Future-Energy Efficiency Program Plan, p. 8.

[23] "ENERGY STAR Smart Thermostats." Wi-Fi Enabled, Digital & Programmable | ENERGY STAR, 2019, www.energystar.gov/products/heating_cooling/smart_thermostats.

using the latest algorithms and energy-saving features available.[24] Smart thermostats are dynamic technologies that can coordinate with other efficiency measures to amplify energy savings benefits and that are capable of adapting their applications, even after installation, to meet evolving customer and utility system needs.

The EPA has certified over 30 smart thermostat models as ENERGY STAR products, which is the government-backed symbol for energy efficiency that provides simple, credible, and unbiased information that consumers and businesses rely on to make well-informed decisions.[25] ENERGY STAR certified smart thermostats are required to: work as a basic thermostat in absence of connectivity to the service provider; give residents some form of feedback about the energy consequences of their settings; provide information about HVAC energy use, such as monthly run time; provide the ability to set a schedule; and provide the ability to work with utility demand response programs to prevent brownouts and blackouts, while preserving consumers' ability to override those grid requests.[26] ENERGY STAR certified smart thermostats also meet strict temperature accuracy and standby criteria as well as rigorous energy savings criteria for reduction in cooling and heating system runtime—they must produce average annual reductions of at least 10% for cooling and 8% for heating.[27] They must also be able to report electric resistance heat use for heat pumps.[28] Accordingly, ENERGY STAR smart thermostats are certified to deliver energy

---

[24] "Smart Thermostat Fact Sheet." ENERGY STAR, 2019, www.energystar.gov/sites/default/files/asset/document/SmartThermostat_FactSheet.pdf.

[25] "ENERGY STAR Overview." About ENERGY STAR | ENERGY STAR, 2019, www.energystar.gov/about.

[26] "Smart Thermostats Key Product Criteria." Products | ENERGY STAR, 2019, www.energystar.gov/products/heating_cooling/smart_thermostats/key_product_criteria.

[27] *Id.*

[28] *Id.*

savings, reliable performance, and environmental benefits, all while providing customers with enhanced convenience, insight, and control over their energy use.[29]

B. PSE&G's Smart Thermostat Subprograms Build On The Success Of Its Pilot

PSE&G was previously allowed to provide rebates for smart thermostat technologies, but its pilot program ended after overwhelming popularity caused it to exhaust program funding in just eight months. In 2017, the Board approved a stipulation to extend PSE&G's Energy Efficiency Economic Extension Program ("EE 17 Program") and to create a smart thermostat subprogram pilot.[30] As part of that pilot, PSE&G created an online marketplace where eligible customers could buy a smart thermostat from several different manufacturers and get a $150 instant rebate. The budget for the program was capped at $6.5 million, which included a pilot program of up to $1 million for multi-family residences and lower income customers to evaluate the customer experience, Wi-Fi connectivity, and market potential.[31] The subprogram was so popular that the Company provide rebates for the sale of 35,000 smart thermostats in just eight months and had to close the program 16 months early, right before Christmas 2018. Today, PSE&G's marketplace remains closed due to lack of funding.[32]

PSE&G's CEF-EE smart thermostat subprograms build on the success of its pilot. In particular, the Efficient Products Subprogram would expand the self-branded online marketplace that was deployed for the EE 2017 Smart Thermostat Pilot to incorporate other products and

---

[29] *Id.*

[30] *In The Matter Of The Petition Of Public Service Electric And Gas Company For Approval Of Its Energy Efficiency 2017 Program And Recovery Of Associated Costs ("EE 17 Program")*, Docket No. E017030196, Order Adopting Stipulation, (Aug. 23, 2017).

[31] *Id.*

[32] *See* "Get Instant Rebates and Save on Energy Costs." PSE&G Marketplace, 2019, https://psegmarketplace.com/.

services in this direct-to-customer platform. This online marketplace is a branded, easy to use source for the online purchase of efficient products and services that will enable customers to browse energy efficient equipment and appliances and purchase through the marketplace, which will offer instant rebates and the option for on-bill repayments on purchases above a certain threshold.[33] The smart thermostat rebates that are available through the Efficient Products Subprogram would also complement other subprograms, like the Residential Existing Homes and Smart Homes Pilot Subprograms, which facilitate additional efficiency services and customer-specific energy savings advice. As the Board has previously recognized, "a public utility is well-positioned to facilitate access to energy efficiency products and services due to the unique relationship it has with its residential customers" which enables it to overcome challenging barriers to market participation such as those that exist in the low-income sector.[34] Board approval of the Company's smart thermostat subprograms will build on the success of its pilot to deliver cost-effective energy use and peak demand reductions.

C. Smart Thermostat Technologies Offer New Jersey Significant Untapped Energy Savings Potential

Smart Thermostats are currently underutilized in New Jersey. While the Board recognizes that smart thermostats are an important new energy efficiency measure and has included the technology in its current assessment of energy efficiency potential in the state, the Board's Clean Energy Program does not offer any incentives or rebates for smart thermostat technologies at this

[33] PS-2, Attachment: Clean Energy Future-Energy Efficiency Program Plan, p. 9.

[34] In The Matter Of The Petition Of Public Service Electric And Gas Company For Approval Of Its Energy Efficiency 2017 Program And Recovery Of Associated Costs ("EE 17 Program"), Order Adopting Stipulation, Docket No. E017030196, p. 12 (Aug. 23, 2017).

time. Energy efficiency incentives or rebates for smart thermostat technologies are currently limited in state to only New Jersey Natural Gas' Save Green Project at its online marketplace.[35]

The Board should not delay facilitating customer access to the significant energy savings potential of smart thermostats. Smart thermostats save customers money on their energy bills while simultaneously building a dynamic and adaptable platform for managing a portion of system load. Moreover, the Company's previous program was wildly popular and successful—it went through two years' worth of funding in just eight months. If the Board ultimately decides not to approve the entire CEF-EE Program at this time, it should, at a minimum, either approve the Company's proposed smart thermostat subprograms or approve significantly increased funding for PSE&G's now dormant smart thermostat subprogram. Failure to do so would unduly delay harnessing the significant energy savings potential that smart thermostat technologies offer, and in turn deny customers access to available, least-cost resources while impairing the state's efforts to address climate change and transition to a clean energy future.

IV. THE GREEN ENABLING MECHANISM ("GEM") WILL FACILITATE PSE&G'S TRANSITION TO A CLEAN ENERGY FUTURE

The Board should also approve PSE&G's proposed GEM to align the Company's business model with state priorities to address climate change and transition to a clean energy future. PSE&G currently operates under a traditional "cost-of-service" rate design that premises utility profits on selling more energy because the Company recovers much of its authorized costs through the energy (kWh) charge.[36] Consequently, if sales decrease, the Company's profit and actual return

[35] *See* "The Save Green Project." NJNG Marketplace, 2019, https://www.poweredbyefi.org/njng/.

[36] EELC-1, p. 8.

on equity ("ROE") decreases; and conversely, if sales increase, profit and ROE increases.[37] This regulatory framework provides a "throughput incentive" to PSE&G to increase sales and resist efforts that would decrease sales.[38] This throughput incentive directly conflicts with state goals to conserve energy, reduce peak demand, and transition to a clean energy future.

The GEM is a revenue decoupling mechanism designed to sever the link between the Company's sales and revenue.[39] It would remove the disincentive to promote conservation, energy efficiency, and "behind-the-meter" distributed generation that PSE&G faces because of its current rate design.[40] Under the GEM, the Company would recover its costs through rates designed on a revenue per-customer basis, rather than on the basis of revenue per-kWh sold. The GEM balances the interests of the Company and its customers because it compares the Company's allowed revenue to its actual revenue during a billing month, places the difference in a deferral account, and recovers or refunds the balance through a periodic rate adjustment.[41] By removing PSE&G's disincentive to promote conservation and energy efficiency, the GEM helps align the interests of the Company, its customers, and the state.[42]

Decoupling mechanisms, like the GEM, are best practices among leading energy efficiency states. Most states that have an energy efficiency resource standard also have

---

[37] *Id.*

[38] *Id.*; PS-8, p. 2.

[39] EELC-1, p. 6.

[40] PS-8, p. 1; EELC-1, p. 10 ("Like energy efficiency investments, a utility also has a disincentive, or otherwise perverse incentive, under a traditional 'cost-of-service' approach to promote or help customers invest in . . . 'behind-the-meter' clean technologies such as distributed generation (DG). Much like energy efficiency investments, DG - most notably rooftop solar - can also significantly reduce a utility's sales.").

[41] PS-9, p. 11.

[42] *See* PS-8, p. 3.

decoupling, and the states with the highest energy efficiency savings almost always have approved revenue decoupling.[43] Of note, the top nine states (and 17 of the top 20 states) by electric energy efficiency savings have approved revenue decoupling; similarly, eight of the top 10 states by gas energy efficiency savings have approved revenue decoupling.[44] Moreover, all of the states with a comparable savings percentage to the 2% statutory minimum electric savings target in the CEA have approved revenue decoupling.[45] By helping to align utility business models with the public interest, decoupling mechanisms, like the GEM, establish utilities as partners, rather than as adversaries, in achieving state goals to conserve energy, reduce peak demand, and transition to a clean energy future.[46]

Decoupling mechanisms are, nevertheless, not a panacea. In particular, "[d]ecoupling does not provide the utility with an incentive to pursue additional or all cost-effective efficiency, it merely eliminates the disincentive a utility has to pursue cost-effective measures."[47] ACEEE has found that "states achieving the highest energy savings are those with a comprehensive strategy based on the right business model and long-term energy efficiency targets aligned with that model. . . . Complementary performance incentives and decoupling policies play a critical role in elevating utilities' interest in achieving [energy savings] targets . . . [and] are likely essential for sustaining utility interest in capturing energy efficiency resources over time."[48] The CEA establishes this

---

[43] PS-9, p. 12.

[44] *Id.*, p. 13-14.

[45] *Id.*

[46] *See* PS-8, p. 27.

[47] EELC-1, p. 9.

[48] PS-8, p. 3 (Quoting Molina, M. and Kushler, M. (2015). Policies Matter: Creating a Foundation for an Energy-Efficient Utility of the Future, American Council for an Energy Efficient Economy.); EELC-1, p. 9.

comprehensive strategy by directing the Board to establish QPIs and performance incentives to motivate utilities to pursue all cost-effective energy savings and by allowing for progressive rate treatment for energy efficiency investments, including decoupling mechanisms.[49]

Importantly, the GEM is consistent with New Jersey law. Rate Counsel witness Dr. Dismukes claims that the CEA precludes approval of the GEM.[50] Dr. Dismukes, who is not an attorney and whose legal opinions should be afforded little weight by the Board, misunderstands the plain language of the CEA. The CEA expressly provides that utilities can recover "all reasonable and prudent [energy efficiency] costs" including "recovery of and on capital investment, and the revenue impact of sales losses resulting from implementation of the energy efficiency and peak demand reduction [programs]" as determined by the Board pursuant to the RGGI Act.[51] Indeed, the GEM is fully consistent with, not precluded by, the CEA because it provides a means of recovering the revenue impact of sales losses resulting from implementation of the CEF-EE Program. Moreover, the CEA expressly incorporates the RGGI law, N.J.S.A. 48:3-98.1(a)(1), which establishes that a public utility may provide and invest in energy efficiency and conservation programs in its service territory on a regulated basis, and such investments are eligible for rate treatment, including a return on equity, or other incentives or rate mechanisms. While decoupling mechanisms, like the GEM, are not the only means of providing for recovery of the revenue impact of sales losses resulting from energy efficiency and peak demand reduction, they are the best.[52] Ultimately, the GEM will advance the public interest by helping to align the

[49] *See* N.J.S.A. 48:3-87.9(e)(1), which incorporates N.J.S.A 48:3-98.1.

[50] RC-7, p. 29-30.

[51] N.J.S.A. 48:3-87.9(e)(1).

[52] PS-8, p. 26-27.

Company's business model with state priorities to address climate change and transition to a clean energy future.

V. CONCLUSION

The Board should approve PSE&G's CEF-EE Program because it will cost-effectively lower energy consumption and customer bills, reduce greenhouse gas and harmful particulate emissions, and create "green jobs" all while facilitating associated economic activity within the state. The Program will also help blaze New Jersey's path to a clean energy future and will aid in making the state a national leader in energy efficiency.

If the Board decides not to approve the entire CEF-EE Program at this time, it should, at a minimum, approve either the Company's proposed smart thermostat subprograms or approve significantly increased funding for PSE&G's now dormant smart thermostat subprogram. The Company's proposed smart thermostat subprograms build on the success of its smart thermostat pilot, which created an online marketplace in 2017 where eligible customers could get an instant rebate to purchase a smart thermostat from several different manufacturers. The program was so popular and successful that it exhausted two years' funding in just eight months.

Finally, the Board should approve the Company's proposed Green Enabling Mechanism ("GEM"). Traditional rate structures premise utility profits on selling more energy, which is in stark contrast to state goals to conserve energy, reduce peak demand, and transition to a clean energy future. Decoupling mechanisms, like the GEM, are best practices among leading energy efficiency states because they remove the conflict between the Company's fiduciary duties and the public interest. The GEM will advance the public interest by helping to align the Company's business model with state priorities to address climate change and transition to a clean energy future.

Respectfully submitted,

Murray E. Bevan, Esq.
Christopher M. Casey, Esq.
Bevan, Mosca & Giuditta P.C.
222 Mount Airy Road, Suite 200
Basking Ridge, NJ 07920
Phone: (908) 753-8300
Fax: (908) 753-8301
Email: mbevan@bmg.law
ccasey@bmg.law

Attorneys for Google, LLC.

May 17, 2019

BEVAN, MOSCA & GIUDITTA, PC
A Professional Corporation
222 Mount Airy Road, Suite 200
Basking Ridge, New Jersey 07920
(908) 753-8300
Murray E. Bevan
Attorney ID: 03452-1983
Attorney for Google, LLC

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY FOR APPROVAL OF ITS CLEAN ENERGY FUTURE – ENERGY EFFICIENCY ("CEF-EE") PROGRAM ON A REGULATED BASIS	:	BPU Docket Nos. EO18101113 GO18101112 **CERTIFICATION OF KATHERINE M. DAILEY**

I certify that on May 17, 2019, I caused an original and two (2) copies of Google, LLC's Initial Brief to be served by Federal Express to Secretary Camacho-Welch at the following addresses:

Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue
3rd Floor, Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

I further certify that I caused a copy of Google, LLC's Brief to be served via either electronic or regular mail upon all parties on the annexed service list.

By: _____
Katherine M. Dailey

Dated: May 17, 2019

I/M/O the Petition of PSE&G for Approval of its Clean Energy Future – Energy Cloud ("CEF-EC") Program on a Regulated Basis
BPU Docket Nos. EO18101113 and GO18101112

SERVICE LIST

Dianne Solomon
Commissioner
Board of Public Utilities
44 S. Clinton Ave.
3rd Fl. Ste. 314
P.O. Box 350
Trenton, NJ 08625-0350
Dianne.Solomon@bpu.nj.gov

Aida Camacho-Welch
Secretary
Board of Public Utilities
44 South Clinton Avenue, 3rd Fl.
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350
Board.Secretary@bpu.nj.gov
Aida.camacho@bpu.nj.gov

Paul Flanagan, Executive Director
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Paul.Flanagan@bpu.nj.gov

Noreen M. Giblin
Division of Clean Energy
Board of Public Utilities
44 South Clinton Avenue,
P.O. Box 350
Trenton, NJ 08625-0350
Noreen.giblin@bpu.nj.gov

Sherri Jones, Assistant Director
Division of Economic Development
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Sherri.Jones@bpu.nj.gov

Stacy Peterson, Director
Division of Energy
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Stacy.Peterson@bpu.nj.gov

Sara Bluhm Gibson, Director
Division of Clean Energy
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Sara.Bluhm@bpu.nj.gov

Benjamin Goldstein
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Benjamin.Goldstein@bpu.nj.gov

Andrea Reid
NJ Board of Public Utilities
44 South Clinton A venue
3rd Floor, Suite 314
P.O. Box 350
Trenton, NJ 08625-0350
Andrea.Reid@bpu.nj.gov

Scott Hunter
NJ Board of Public Utilities
44 South Clinton A venue
3rd Floor, Suite 314
P.O. Box 350
Trenton, NJ 08625-0350
B.Hunter@bpu.nj.gov

Mahagony Hall
NJ Board of Public Utilities
44 South Clinton A venue
3rd Floor, Suite 314
P.O. Box 350
Trenton, NJ 08625-0350
Mahogany.Hall@bpu.nj.gov

Paul Lupo, Chief
Bureau of Rates and Tariffs
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Paul.lupo@bpu.nj.gov

Rachel Boylan
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Rachel.Boylan@bpu.nj.gov

Bart Kilar
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Bart.Kilar@bpu.nj.gov

Stacy Ho Richardson, Esq.
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Stacy.Richardson@bpu.nj.gov

Ben Witherell
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625
Benjamin.Witherell@bpu.nj.gov

Emma Yao Xiao, DAG
Dept. Of Law & Public Safety
Division of Law
124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, NJ 07101
Emma.Xiao@law.njoag.gov

Geoffrey Gersten, DAG
Dept. Of Law & Public Safety
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, NJ 07101
Geoffrey.Gersten@law.njoag.gov

Caroline Vachier, DAG
Section Chief
Dept. Of Law & Public Safety
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, NJ 07101
Caroline.Vachier@law.njoag.gov

Andrew Kuntz, Esq., DAG
Dept. Of Law & Public Safety
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, NJ 07101
Andrew.Kuntz@law.njoag.gov

Jenique Jones, Paralegal
Dept. Of Law & Public Safety
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, NJ 07101
Jenique.jones@dol.lps.state.nj.us

Stefanie A. Brand, Esq., Director
Division of the Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625
sbrand@rpa.nj.gov

Brian O. Lipman, Esq.
Division of the Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625
blipman@rpa.nj.gov

Felicia Thomas-Friel, Esq.
Division of the Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625
fthomas@rpa.nj.gov

Kurt S. Lewandowski, Esq.
Division of the Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625
klewandowski@rpa.nj.gov

Sarah Steindel, Esq.
Division of the Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625
ssteinde@rpa.nj.gov

Maura Caroselli, Esq.
Division of the Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625
mcaroselli@rpa.nj.gov

Shelly Massey, Paralegal
Division of the Rate Counsel
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625
smassey@rpa.nj.gov

Matthew M. Weissman, Esq.
PSEG Services Corporation
80 Park Plaza-T5
Newark NJ 07102-4194
Matthew.weissman@pseg.com

Caitlyn White
PSEG Services Corporation
80 Park Plaza-T5
Newark NJ 07102-4194
Caitlyn.white@pseg.com

Justin Incardone, Esq.
PSEG Services Corporation
80 Park Plaza-T5
Newark NJ 07102-4194
justin.incardone@pseg.com

Kenneth Maloney, Esq.
Cullen and Dykman LLP on behalf of Public Service Electric and Gas Company
One Riverfront Plaza
Newark, NJ 07102
kmaloney@cullenanddykman.com

Danielle Lopez, Esq.
PSEG Services Corporation
80 Park Plaza-T5
Newark NJ 07102-4194
danielle.lopez@pseg.com

Michele Falcao
PSEG Services Corporation
80 Park Plaza-T5
Newark NJ 07102-4194
michele.falcao@pseg.com

Joseph F. Accardo, Jr., Esq.
PSEG Services Corporation
80 Park Plaza-T5
Newark NJ 07102-4194
Joseph.accardojr@pseg.com

Joseph A. Shea, Esq.
PSEG Services Corporation
80 Park Plaza-T5
Newark NJ 07102-4194
joseph.shea@pseg.com

Andrew K. Dembia, Esq.
Regulatory Affairs Counsel
New Jersey Natural Gas Company
1415 Wyckoff Road
P.O. Box 1464
Wall, NJ 07719
adembia@NJNG.com

Ezra D. Hausman, Ph.D.
Ezra Hausman Consulting
77 Kaposia Street
Newton, MA 024466
ezra@ezrahausman.com

James C. Meyer
Riker Danzig Scherer Hyland & Perretti LLP
Headquarters Plaza
One Speedwell Avenue
Morristown, NJ 07962
jmeyer@riker.com

Philip J. Passanante, Esq.
Atlantic City Electric Company
Assistant General Counsel
Mailstop 92DC42
500 N. Wakefield Drive
Newark, DE 19702
philip.passanante@pepcoholdings.com

Aaron Kleinbaum, Esq.
Eastern Environmental Law Center
50 Park Place, Suite 1025
Newark, NJ 07102
akleinbaum@easternenvironmental.org

Margaret Comes, Esq.
Associate Counsel
Rockland Electric Company
4 Irving Place, Suite 1815-S
New York, NY 10003
COMESM@coned.com

Dante Mugrace
c/o Karl Richard Pavlovic
PCMG and Associates, LLC
22 Brookes A venue
Gaithersburg, MD 20877
dmugrace@pcmgregcon.com

Brian Kauffman, Esq.
Regulatory Affairs
Enel X North America, Inc.
One Marina Park Drive
Boston, MA 02210
brian.kauffman@enel.com

Murray E. Bevan, Esq.
Bevan, Mosca, Jr., Esq.
222 Mount Airy Road, Suite 200
Basking Ridge, NJ 07920
MBevan@bmg.law

Eric Miller
Keystone Energy Efficiency Alliance
14 S. 3rd Street, 2nd Floor
Philadelphia, PA 19106
emiller@keealliance.org

Lloyd Kass
Lime Energy Company
Senior Vice President
4 Gateway Center, 4th Floor
100 Mulberry Street
Newark, NJ 07102
lkass@lime-energy.com

Steven S. Goldenberg, Esq.
Giordano, Halleran & Ciesla, P.C.
125 Half Mile Road, Suite 300
Red Bank, NJ 07701-6777
sgoldenberg@ghclaw.com

Barbara Koonz, Esq.
Wilentz, Goldman & Spitzer, P.A.
90 Woodbridge Center Drive
Suite 900
Woodbridge, NJ 07095
bkoonz@wilentz.com

Christopher Torkelson, Esq.
Eckert Seamans Cherin & Mellot, LLC
P.O. Box 5404
Princeton, NJ 08543
CTorkelson@eckertseamans.com

Daniel Greenhouse, Esq.
Eastern Environmental Law Center
50 Park Place, Suite 1025
Newark, NJ 07102
dgreenhouse@easternenvironmental.org

William Harla, Esq.
Decotiis, Fitzpatrick, Cole & Giblin, LLP
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, NJ 07666
wharla@decotiislaw.com

William K. Mosca, Jr., Esq.
Bevan, Mosca, Jr., Esq.
222 Mount Airy Road, Suite 200
Basking Ridge, NJ 07920
WMosca@bmg.law

Matt Elliott, Executive Director
Keystone Energy Efficiency Alliance
14 S. 3rd Street, 2nd Floor
Philadelphia, PA 19106
melliott@keealliance.org

Paul F. Forshay, Esq.
Eversheds Sutherland (US) LLP
700 Sixth Street, N.W., Suite 700
Washington, DC 20001-3980
pforshay@sablaw.com

Lauren M. Lepkowski, Esq.
Jersey Central Power & Light Company
FirstEnergy Service Company
2800 Pottsville Pike
Reading, PA 19712-6001
llepkoski@firstenergycorp.com

John Carley, Esq.
Assistant General Counsel
Consolidated Edison Company Of New York, Inc.
4 Irving Place, Suite 1815-S
New York, NY 10003
CarleyJ@coned.com

Karen O. Moury, Esq.
Eckert Seamans Cherin & Mellot, LLC
213 Market Street, 8th Street
Harrisburg, PA 17101
kmoury@eckertseamans.com

Katie Guerry, Vice President
Enel X North America, Inc.
Regulatory Affairs - North America
One Marina Park Drive
Boston, MA 02210
katie.guerry@enel.com

Alice M. Bergen, Esq.
Decotiis, Fitzpatrick, Cole & Giblin, LLP
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, NJ 07666
abergen@decotiislaw.com

Kristine Marsilio, Esq.
Eckert Seamans Cherin & Mellot, LLC
213 Market Street, 8th Street
Harrisburg, PA 17101
kmarsilio@eckertseamans.com

Kerry Cahill, Esq.
Florio Perrucci Steinhardt & Capelli, LLC
235 Broubalow Way
Phillipsburg, NJ 08865
kcahill@floriolaw.com

Beren Argetsinger, Esq.
Keyes & Fox LLP
3774 Carpet Road
P.O. Box 166
Burdell, NY 14818
bargetsinger@keyesfox.com

T. David Wand, Esq.
Wilentz, Goldman & Spitzer, P.A.
90 Woodbridge Center Drive
Suite 900
Woodbridge, NJ 07095
dwand@wilentz.com

Glenn T. Graham
Kelley Drye & Warren LLP
One Jefferson Road, 2nd Floor
Parsippany, NJ 07054
ggraham@kelleydrye.com

Ryan J. Scerbo, Esq.
Decotiis, Fitzpatrick, Cole & Giblin, LLP
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, NJ 07666
rscerbo@decotiislaw.com

Ben Adams
MaGrann Associates
701 East Gate Drive, Suite 100
Mount Laurel, NJ 08054
policy@magrann.com

Ben Brinkert, Esq.
Phillips Lightings North America Corp
3 Burlington Woods Drive
Burlington, MA 01803
ben.brinkert@signify.com

Lauri A. Mazzuchetti
Kelley Drye & Warren LLP
One Jefferson Road, 2nd Floor
Parsippany, NJ 07054
lmazzuchetti@kelleydrye.com

David E. Dismukes, Ph.D.
Acadian Consulting Group
5 800 One Perkins Place Drive
Suite 5-F
Baton Rouge, LA 70808
daviddismukes@acadianconsulting.com