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May 17, 2019

Via Hand-Delivery and Electronic Mail
Aida Camacho-Welch, Secretary
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FORWARD
CASE MANAGEMENT
2019 MAY 23 A 8:05
BOARD OF PUBLIC UTILITIES
TRENTON NJ

Re: 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. GO18101112 & EO18101113

Dear Secretary Camacho-Welch:

Enclosed please find an original and two (2) copies of the Division of Rate Counsel's Initial Brief in connection with the above referenced matter. Copies of the briefs are being provided to the parties by electronic mail and hard copies are being sent by US regular mail to all parties on the attached service list.

We are enclosing on additional copy of the brief. **Please stamp and date the extra copy as "filed" and return it to the courier**.

Respectfully submitted,

Stefanie A. Brand

Stefanie A. Brand, Esq.
Director, Division of Rate Counsel

SAB
Enclosure
c: Dianne Solomon, Commissioner (via hand-delivery)
Service List (via electronic and/or overnight mail)

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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.
GO18101112/EO18101113

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BOARD OF PUBLIC UTILITIES

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. GO18101112 and EO18101113

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Dated: May 17, 2019

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

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I. INTRODUCTION

Public Service Electric and Gas Company's ("PSE&G", the "Company") petition for approval of its proposed energy efficiency ("EE") program named the Clean Energy Future – Energy Efficiency ("CEFEE") program should be rejected for the reasons set forth herein. The wide ranging scope and cost of the CEFEE program merits careful scrutiny. The CEFEE's $2.8 billion budget encompasses twenty-two subprograms and dwarfs the $85 million budget for PSE&G's current EE program and eclipses even the fiscal year 2019 budget of $500 million for the Board of Public Utilities' ("BPU", "Board") statewide Clean Energy Program ("CEP").[1] Further, PSE&G, without any clear policy guidance by the State or the Board, seeks to transfer the responsibility for EE program delivery and administration in its service territory from the Board's Office of Clean Energy ("OCE") exclusively to PSE&G.

PSE&G claims that its CEFEE program is consistent with the goals of the State's Energy Master Plan ("EMP") and Clean Energy Act ("CEA", P.L. 2018, c. 17) whereas, in fact, the 2019 EMP has not yet been released and the Board has yet to make key determinations required by the CEA, such as specific energy savings targets for utilities. In sum, PSE&G designed its CEFEE program without the benefit of policy and program guidance from the EMP and CEA processes. The CEFEE implicitly presupposes key policy and program issues that have yet to be determined as part of the ongoing EMP and CEA processes. With its premature CEFEE filing, PSE&G effectively usurps the authority of the Board and the State in crafting energy efficiency policies.

[1] See I/M/O The Clean Energy Programs And Budgets For Fiscal Year 2019, BPU Dkt.No. QO18040393 (Order, June 22, 2018).

Further, absent the policy guidance of the EMP, and energy savings and other utility requirements set pursuant to the CEA, PSE&G cannot sustain its burden of proof to show that its proposed CEFEE program will result in just and reasonable rates. The Company's cost benefit analyses are besieged with a host of problems that underscore the point that the Company is not able to demonstrate that the costs underlying the CEFEE programs are just and reasonable. Moreover, as shown below, the CEFEE program places disparate burdens on participating versus non-participating ratepayers and, while the cost imposed on ratepayers in the aggregate may be calculated, any claimed beneficial impact on vulnerable low-income ratepayers is uncertain.

In addition, PSE&G seeks approval of a decoupling mechanism, the Green Enabling Mechanism ("GEM"), to recover its lost revenues that it attributes to the CEFEE program, As set forth below, there is ample support in the record to reject PSE&G's proposed GEM on numerous grounds. First, the GEM would amount to single issue ratemaking as the GEM circumvents the traditional balancing process of establishing rates through the base rate case process which is contrary to past practices of the Board. Second, no disincentive to perform energy efficiency exists since the CEA requires it and the Company's public statements demonstrate its intentions toward energy efficiency. Third, the Company's claim of negative financial impact is not reasonable in light of financial mechanisms in the CEA and the RGGI Act and the potential for future base rate cases. Fourth, the Company's argument that without the GEM it will be incented to sell more electricity is not plausible due lack of price elasticity associated with gas and electric supply. Finally, contrary to the Company's argument, the GEM is not similar to the Conservation Improvement Program ("CIP") adopted by the Board in prior utility cases and the Company's argument for a Lost Revenue Adjustment Mechanism ("LRAM") should not be considered for lack of specificity.

If the Board allows PSE&G to implement all or part of its proposed CEFEE program, in addition to rejecting the GEM, the ratemaking treatment should be modified to reflect a rejection of the unsupported Information Technology ("IT") budget proposed by PSE&G; a reduction in the amortization period for certain program elements from 15 Years to 7 Years; and a cap on the administrative costs for the CEFEE program.

In the alternative, if the Board determines that PSE&G should provide EE services on an interim basis pending the completion of the CEA processes, there is ample support in the record and precedent to support directing PSE&G to continue its existing EE programs during the interim period. PSE&G currently provides EE services through five subprograms which were approved by the Board in 2017: Multi-Family Housing, Direct Install, Hospital Efficiency, Smart Thermostat, and Residential Data Analytics. The remainder of the proposed programs should be held in abeyance until further policy guidance and regulations are issued by BPU.

II. PROCEDURAL HISTORY

On October 15, 2018, PSE&G filed a petition ("Petition") with the Secretary of the BPU pursuant to the terms of N.J.S.A. 48:3-98.1(b).[2] By letter dated November 14, 2018, Board Staff notified0 PSE&G that its Petition was not "administratively complete," providing a list of the deficiencies in PSE&G's filing and the information/documentation required to remedy the deficiencies.[3] In response, PSE&G filed a Supplemental Filing ("Supplemental Filing") on

[2] N.J.S.A. 48:3-98.1 ("RGGI Statute") is a statutory provision of an act enacted on January 13, 2008, known as the "RGGI Act" (L. 2007, c. 340). Among other provisions, the RGGI Act requires the Board to approve, modify, or deny utility filings filed under the RGGI Statute within a 180-day review period. N.J.S.A. 48:3-98.1(b).

[3] In an Order dated May 8, 2008, the Board set forth the information and documents - known as the Minimum Filings Requirements ("MFRs") - which must accompany utility filings under N.J.S.A. 48:3-98.1. Among its other provisions, this Order further requires Board Staff to review for completeness a

January 7, 2019 which was subsequently deemed "administratively complete" by Board Staff, as memorialized in a letter dated January 9, 2019. The acceptance of PSE&G's Supplemental Filing set the commencement date of the 180-day RGGI Act review period as January 7, 2019.

By an Order dated October 20, 2018, the Board retained the instant matter for hearing and designated Commissioner Dianne Solomon as the presiding officer. Commissioner Solomon issued a pre-hearing Order ("Pre-hearing Order") on January 22, 2019, setting forth inter alia a procedural schedule.

The Pre-hearing Order also included rulings on motions to intervene or participate by various entities as well as rulings on motions for Pro Hac Vice admissions.[4] Movants New Jersey Large Energy Users Coalition ("NJLEUC") and the Eastern Environmental Law Clinic ("EELC") were granted intervenor status. Motions for intervention filed by NJNG, Tendril, Direct Energy, NRG, Just Energy, Enel X, MaGrann, and Sunrun were denied and, instead, each was granted participant status. PSE&G opposed Direct Energy's and Sunrun's motions for intervenor status before Commissioner Solomon. Electric Distribution Companies ("EDCs")

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petition filed under the RGGI Statute within 30 days. See I/M/O N.J.S.A. 48:3-98.1, BPU Dkt. No. EO08030164 (Order, May 8, 2008) ("RGGI Order").

[4] Intervenors: Eastern Environmental Law Center ("EELC") on behalf of Environment New Jersey ("ENJ"), Sierra Club ("SC"), Environmental Defense Fund ("EDF"), New Jersey League of Conservation Voters ("NJ LCV"), and Natural Resources Defense Council ("NRDC"); Keystone Energy Alliance ("KEEA"); and New Jersey Large Energy Users Coalition ("NJLEUC"). Participants: Enel X North America, Inc. ("Enel X"); Direct Energy, representing five affiliated third party energy supplier companies, to wit, Direct Energy Business, LLC; Direct Energy Business Marketing, LLC; Direct Energy Services, LLC; and Gateway Energy Services Corporation, as well as Centrica Business Solutions, an affiliate (collectively, "Direct Energy"); Google, LLC ("Google"); Lime Energy Co. ("Lime"); Philips Lighting North America Corporation ("Philips"); Tendril Networks, Inc. ("Tendril"); MaGrann Associates ("MaGrann"); and Sunrun, Inc. ("Sunrun"). In addition, the following regulated public utilities were granted Participant status: Atlantic City Electric Company ("ACE"), Jersey Central Power & Light Company ("JCP&L"), Rockland Electric Company ("RECO") (collectively, "EDCs"), and New Jersey Natural Gas Company ("NJNG").

operating in the State (ACE, JCP&L, and RECO) as well as Google, Lime Energy, and Phillips Lighting were also granted participant status.

On January 29, 2019, movant Direct Energy filed a request for interlocutory review by the Board of Commissioner Solomon's denial of intervenor status. On February 5, 2019, movant Sunrun filed a request for interlocutory review by the Board of Commissioner Solomon's denial of intervenor status, withdrawing an earlier request for reconsideration of Commissioner Solomon's intervention ruling. PSE&G opposed the request for interlocutory review by Direct Energy and Sunrun. As memorialized in an Order dated February 27, 2019, the Board affirmed Commissioner Solomon's denial of the motions to intervene by Direct Energy and Sunrun. The Board also granted intervenor status to KEEA, which moved for intervenor status subsequent to the issuance of a Pre-hearing Order and whose motion to intervene before the Board was unopposed.[5]

Public hearings were held in New Brunswick, Mount Holly, and Hackensack on March 13, 18 and 21, 2019, respectively.

With its Petition, PSE&G filed the direct testimonies of Ms. Karen Reif, PSE&G Vice President, Renewables and Energy Solutions; Mr. Steven Swetz, PSE&G Senior Director, Corporate Rates and Revenue Requirements; and Daniel Hansen, PhD, Vice President, Christensen Associates Energy Consulting, LLC.

PSE&G's Supplemental Filing on January 4, 2019 included the supplemental direct testimony of Ms. Reif. Pursuant to the schedule set forth in the Pre-hearing Order, on March 22,

[5] KEEA filed an earlier motion to intervene before Commissioner Solomon, but at the time was not represented by an attorney authorized to practice in New Jersey and, therefore, its motion was not considered by Commissioner Solomon at that time.

2019, Rate Counsel filed the direct testimonies of: Mr. Dante Mugrace, Senior Consultant, PCMG and Associates; David E. Dismukes, PhD, Consulting Economist, Acadian Consulting Group, LLC; and Ezra Hausman, PhD, President, Ezra Hausman Consulting. The EELC filed the direct testimony of Ms. Amanda Levin on March 22, 2019.

On April 15, 2019, PSE&G filed the rebuttal testimony of Ms. Reif, Mr. Swetz, and Dr. Hansen, as well as the rebuttal testimony of a new witness, Mr. Isaac Gabel-Frank. Rate Counsel filed the rebuttal testimony of Dr. Dismukes and EELC filed the rebuttal testimony of Ms. Levin on that date as well.

Evidentiary hearings were held on May 1 and 2, 2019 at the Office of Administrative Law in Mercerville (Hamilton), New Jersey, before Commissioner Solomon. In accordance with the Pre-hearing Order, oral surrebuttal was presented at the evidentiary hearings by EELC witness Levin and Rate Counsel witnesses Hausman, Mugrace, and Dismukes.

III. STATEMENT OF FACTS

PSE&G seeks Board approval to implement and administer twenty-two (22) energy efficiency ("EE") subprograms, including seven (7) Residential subprograms, seven (7) commercial and industrial ("C&I") subprograms, and eight (8) Pilot subprograms (collectively, "CEFEE Programs").[6] PSE&G proposes through implementation of these programs to become the exclusive provider of EE services in its servile territory. The 22 CEFEE Programs proposed by PSE&G are described briefly below, together with the proposed budget amounts:[7]

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[6] *PS-1*, pp. 7-8, 22.

[7] *PS-2*, pp. 6-9. Detailed descriptions of the proposed CEFEE Programs are found in *PS-2*, Schedule KR-CEFEE-2, Appendix B.

Residential Programs

1. Residential Efficient Products

Rebates and on-bill repayment for HVAC, smart thermostats, appliances, lighting, and other equipment [Investment $267.8 million; Operating expenses $12.2 million; Total cost $280.0 million]

2. Residential Existing Homes

Rebates and on-bill repayment for energy audit, direct install of efficient equipment, and broader weatherization/appliance replacement services [Investment $79.8 million; Operating expensès $11.1 million; Total cost $91.0 million]

3. Residential Behavioral

Data analytics, home energy reports, and online energy audits [Investment $45.1 million; Operating expenses $3.8 million; Total cost $48.8 million]

4. Residential K-12 Education

Curriculum to teach energy efficiency and a take-home kit with efficient products [Investment $4.6 million; Operating expenses $2.1 million; Total cost $6.7 million]

5. Residential New Construction

Rebates to builders and owners for new construction meeting energy efficiency standards [Investment $24.5 million; Operating expenses $4.6 million; Total cost $29.1 million]

6. Residential Multi-Family

Energy audit and direct install of efficient equipment at no charge to tenants [Investment $11.9 million; Operating expenses $6.2 million; Total cost $18.1 million]

7. Residential Income Eligible

Energy audit, direct install of efficient equipment, and broader weatherization/appliance replacement services at no charge [Investment $99.6 million; Operating expenses $11.5 million; Total cost $111.1 million]

C&I Programs

1. C&I Prescriptive

Rebates and on-bill repayment for HVAC, Lighting, Motors & Drives, Refrigeration, Water heaters, Air Compressors, and Food Service Equipment [Investment $611.2 million; Operating expenses $6.3 million; Total cost $617.5 million]

2. C&I Custom

Custom incentives for large energy efficiency projects, including on-bill repayment [Investment $244.4 million; Operating expenses $5.1 million; Total cost $249.6 million]

3. C&I Small Non-Residential Efficiency

Rebates & on-bill repayment for direct installed EE measures to small non-residential customers of lighting, controls, refrigeration, heating and air conditioning upgrades, etc. [Investment $343.5 million; Operating expenses $6.3 million; Total cost $349.9 million]

4. C&I New Construction

Rebates to builders and owners for new construction meeting energy efficiency standards [Investment $23.7 million; Operating expenses $2.9 million; Total cost $26.7 million]

5. C&I Energy Management

Retro-commissioning and Strategic Energy Management: optimizing existing systems with little to no equipment upgrades [Investment $9.7 million; Operating expenses $4.4 million; Total cost $14.1 million]

6. C&I Engineered Solutions

Whole-building engineered energy saving solutions to hospitals, school districts, universities, municipalities, apartment buildings and other non-profit and public entities [Investment $346.6 million; Operating expenses $12.5 million; Total cost $359.1 million]

7. C&I Streetlight

Replacement of HPS with LED luminaires and smart cities pilot [Investment $145.5 million; Operating expenses $6.5 million; Total cost $152.0 million]

<u>Pilot Programs</u>

1. Emerging Technologies & Approaches

Funding and support to identify, demonstrate, and deploy the next generation of energy efficiency technologies [Investment $25.0 million; Operating expenses $1.3 million; Total cost $26.3 million]

2. Energy Efficiency as a Service Pilot

Monthly service contracts, incentives, and extensive guidance on energy efficient building equipment and software [Investment $25.0 million; Operating expenses $1.3 million; Total cost $26.3 million]

3. Smart Homes Pilot

Automated and personalized savings measures using an ecosystem of energy efficient devices and technologies working in coordination [Investment $25.0 million; Operating expenses $1.3 million; Total cost $26.3 million]

4. Non-Wires Alternative Pilot

Defer or replace the need for electric infrastructure upgrades through the extensive deployment of energy efficiency and demand response resources [Investment $25.0 million; Operating expenses $1.3 million; Total cost $26.3]

5. Non-Pipes Solution Pilot

Defer or replace the need for gas infrastructure upgrades through the extensive deployment of energy efficiency and demand response resources [Investment $25.0 million; Operating expenses $1.3 million; Total cost $26.3 million]

6. Volt Var Pilot

Smart-grid technology to automate control of the electric power distribution grid to reduce energy consumption, peak demand, system losses and enable more solar [Investment $15.0 million; Operating expenses $1.3 million; Total cost $16.3 million]

7. Business Energy Reports Pilot

Data analytics, home energy reports & online energy audits for businesses [Investment $10.0 million; Operating expenses $2.1 million; Total cost $12.1 million]

8. Building Operator Certification Pilot

Training program for building operations staff responsible for energy-using equipment [Investment $7.5 million; Operating expenses $2.1 million; Total cost $9.6 million]

The total proposed cost of the CEFEE Programs is approximately $2.8 billion, including $2.498 billion for investment and approximately $283.4 million in operating expenses over the proposed six (6) year term of the program. *PS-2*, p. 9.

PSE&G also seeks approval of a cost recovery mechanism for its proposed CEFEE Program. *PS-1*, p. 22. The Company proposes to recover the costs associated with the CEFEE Programs via a new component ("CEFEEC") of the Company's existing electric and gas Green Programs Recovery Charge ("GPRC"), which would be filed annually after the proposed initial period. *PS-1*, p. 14. PSE&G also proposes to earn a return on its net investment based on its most recent weighted average cost of capital ("WACC"). *PS-1*, p. 15.

In addition, PSE&G seeks approval of a decoupling mechanism to recover its claimed lost revenues, called the Green Enabling Mechanism ("GEM"). *PS-1*, pp. 11-12, 22.

IV. <u>ARGUMENT</u>

A. PSE&G's Proposal Was Filed Prematurely, Before the Release of the 2019 EMP and before the Board has Made Crucial Determinations Regarding the Interpretation and Requirements of the CEA.

Incredibly, PSE&G claims that its proposed CEFEE program is consistent with the goals of the EMP and CEA. In fact, the 2019 EMP has not yet been released and the Board has yet to make key determinations required by the CEA. PSE&G designed its CEFEE program without the benefit of policy and program guidance from the EMP and CEA processes. Moreover, as set forth below, in its design and scope the CEFEE implicitly presupposes key policy and program issues that have yet to be determined as part of the ongoing EMP and CEA processes. With its premature CEFEE filing, PSE&G effectively usurps the authority of the Board and the State in crafting energy efficiency and demand reduction policies.

1. PSE&G's CEF-EE Program Adopts Certain Policy Positions Which Have Yet to be Addressed as Part of the State's 2019 EMP.

PSE&G claims that the benefits of its CEFEE programs are "consistent with the Administration's upcoming Energy Master Plan ('EMP') due in June 2019, two goals of which are 'growing New Jersey's clean energy economy' and 'reducing the state's carbon footprint.'" *PS-4*, p. 6. PSE&G's claim is speculative, at best, since the 2019 EMP has yet to be released. Furthermore, policy and program issues presented by PSE&G's CEFEE are open issues for which the BPU solicited comments as part of the EMP stakeholder process.

In fact, PSE&G witness, Karen Reif concedes that the process to draft the programs began in the Fall of 2017, and that draft program documents were completed before July of 2018. *PS-2*, p. 108. Therefore, it is unlikely that the CEFEE is in response to the CEA.[8]

On May 23, 2018, Governor Phillip Murphy entered Executive Order Number 28, directing the BPU to convene an Energy Master Plan Committee to revise and update the State's Energy Master Plan, which was last updated in 2015.[9] Furthermore, Executive Order Number 28 set a deadline of June 1, 2019 for the completion and delivery of the 2019 EMP. In turn, the BPU convened a stakeholder process to solicit comments from interested parties on issues germane to the State's energy policies. During autumn 2018, the BPU convened stakeholder

[8] This is unlikely given the CEFEE was developed well before the CEA was signed by Gov. Murphy.
[9] *RC-2*. Pursuant to N.J.S.A. 52:27E-14, et seq., the EMP must be updated at least once every three years.

public meetings and solicited comments as part of its EMP duties. The stakeholder groups were organized along subject lines, including a stakeholder forum tasked with addressing the subject of "Reducing Energy Consumption" ("Reducing Energy Consumption Group").

By a notice e-mailed on September 6, 2018 ("EMP Notice"), BPU Staff presented a list of twenty eight discussion points ("EMP Discussion Points")" for which it sought comments from interested stakeholders relevant to the issue of reducing energy consumption. *RC-3*. The BPU specifically recognized the role of stakeholders in the development of the EMP: "[t]he EMP is developed with the collaboration and input of a coalition of state experts working as the EMP Committee, chaired by a senior staff member of the NJBPU, and informed by feedback from a wide variety of stakeholders from across the state." *RC-3*, p. 1. Hence, the BPU invited stakeholders to provide comments on the EMP Discussion Points at a public stakeholder meeting held on September 14, 2018, and in written form by October 12, 2018.

Significantly, as set forth below, the EMP Discussion Points for which the BPU sought comments address issues presented by PSE&G's filing with respect to the role of utilities, program design and focus, and funding, among other issues. *RC-3*, pp. 2-4. In the absence of the anticipated 2019 EMP, New Jersey has yet to resolve the issues presented by the EMP Discussion Points.

Several of the EMP Discussion Points address fundamental policy issues. For example, EMP Discussion Point number 4 focuses on the role of the state and utilities in reducing energy use:

> 4. What should the role of ratepayer funded programs, whether state or utility run, be in achieving reduction strategies? [*RC-3*]

With its CEFEE filing, PSE&G presupposes its role in advancing energy efficiency in the State, with a massive $2.8 billion plan encompassing 22 subprograms. Furthermore, PSE&G seeks to become "the exclusive provider of energy efficiency programs in its service territory" and reduce the OCE to essentially a policy-making role. See *PS-4*, p. 8, ln11-13; p. 9, ln24 - p. 10, ln2. PSE&G goes even further, proposing a plan for transitioning the administration of [energy efficiency] programs in the PSE&G service territory from the Office of Clean Energy ("OCE") to [PSE&G]." *PS-3*, p. 7, ln10-13, Exhibit 1. In doing so , PSE&G seeks to set its own policy with respect to the respective roles of the Board and the State's utilities, without the anticipated guidance from the Board or the 2019 EMP.

Another EMP Discussion Point, number 1, addresses affordability, which is

> 1.What energy efficiency, peak demand reduction, and demand response programs and systems will assist in helping keep energy affordable for all customer classes, especially as technology advances in areas such as electric vehicles or heating and cooling, which will potentially increase electric energy usage? [*RC-3*]

EMP Discussion Point number 3 addresses values that affect the evaluation of the cost effectiveness of energy saving measures, such as the cost benefit analyses presented by PSE&G as part of its CEFEE filing:

> 3. What are the key non-energy benefits (NEB) associated with energy efficiency? How can their value best be considered in cost-benefit analyses? [*RC-3*]

Other EMP Discussion Points are more directly pertinent to specific CEFEE subprograms. For example, EMP Discussion Point number 5 addresses educational outreach:

> 5. What type of educational outreach is needed to advance energy efficiency throughout New Jersey? [*RC-3*]

PSE&G's CEFEE includes a Residential K-12 Education subprogram, which encompasses teaching energy efficiency to K-12 students and distributing take-home EE kits. *PS-2*, p. 7. Again, PSE&G moves ahead with its own educational program proposal, without policy guidance.

PSE&G also proposes a number of "pilot" subprograms which encompass newer forms of EE technology, such as its proposed Smart Homes Pilot and Emerging Technologies & Approaches Pilot. *PS-2*, p. 8. Here again, the EMP Discussion Points address several facets of the adoption of new technologies and their role in EE:

> 6. What advances in technology should be considered as part of a strategy to reduce energy consumption? What technologies could complement and advance existing energy efficiency efforts? [*RC-3*]
>
> 7. What are the intermediate timeframes and pathways to these new or enhanced technologies and energy efficiency and demand response systems? [*RC-3*]

Data analytics is another area addressed by the EMP Discussion Points:

> 1. How do we best utilize data analytics for energy efficiency? [*RC-3*]

Two CEFEE subprograms encompass data analytics: Residential Behavioral subprogram and Business Energy Reports Pilot subprogram. *PS-2*, pp. 6, 9.

Workforce training is another issue addressed in the EMP Discussion Points which also constitutes a CEFEE subprogram. The EMP Discussion Points addressed several aspects of workforce EE training:

> 23. What associated jobs and training will be needed in the new clean energy economy (particularly regarding reducing energy consumption)?
>
> 24. What type of overall workforce training is needed in the energy efficiency industry, whether for maintaining systems, installation and inspection, or in other areas?

> 25. What type of educational outreach is needed to advance energy efficiency in the workplace? [*RC-3*]

PSE&G's CEFEE program includes a workforce training subprogram, the Building Operator Certification Pilot subprogram which is designed to train building operations staff about EE equipment. *PS-2*, p. 9.

PSE&G's CEFEE also includes a low-income EE subprogram, designed without the benefit of any guidance from the 2019 EMP. *PS-2*, p.7. This is an area also covered by EMP Discussion Points:

> 26. How can the state be responsive in helping keep clean energy affordable in communities that are disproportionately impacted by the effects of environmental degradation and climate change? How can the state play an active role in improving the condition of older building stock and encouraging energy conservation measures in communities that are disproportionately impacted by the effects of environmental degradation and climate change?
>
> 27. What efforts are most successful towards making clean energy and energy efficiency measures affordable and accessible to all?
>
> 28. How can the state play a role in ensuring that disproportionately impacted communities receive opportunities and benefits connected to the clean energy economy? [*RC-3*]

It is not unreasonable to conclude that these significant issues raised as EMP Discussion Points will be addressed in the anticipated 2019 EMP. Having presented both written and oral comments in response to the BPU's EMP Notice, PSE&G was aware of the issues addressed in the EMP Discussion Points, but nonetheless chose to file its CEFEE filing on October 11, 2018 without the policy guidance of the yet to be released EMP which presumably will address these issues.[10] Furthermore, PSE&G not only filed its Petition without policy guidance from the

[10] See BPU EMP websites for EMP transcript and comment postings: https://nj.gov/emp/docs/ and https://nj.gov/emp/comments/ [accessed 5/17/19].

anticipated 2019 EMP, but referenced and cited a passage from the 2011 EMP in support of its CEFEE program, and ignored the later 2015 EMP Update. *PS-1*, p. 10.

As discussed below, several of PSE&G's proposed CEFEE programs overlap, in part with the Company's existing EE programs. However, the proposed CEFEE program represents a major expansion in the scope and cost of PSE&G's EE programs. As Dr. Hausman testified, the $2.8 billion CEFEE program would amount to an average cost expenditure of $463.8 million per year. *RC-1*, p. 20. In contrast, PSE&G's current EE program has a two-year budget of $85.1 million, or an average of $42.55 million per year. *RC-1*, p. 20. Thus, with its proposed CEFEE program, PSE&G seeks to increase its annual EE expenditures by a factor of almost 11, without any policy guidance from the Board or the anticipated 2019 EMP. *RC-1*, p. 20.

2. PSE&G's CEF-EE Program was Developed in the Absence of Certain Findings Required by the CEA Which Have Yet to be Determined

PSE&G claims that its CEFEE program is necessary to meet the requirements of the CEA. *PS-1*, p. 14. Here, again, PSE&G ignores pending processes convened to set state energy policy and implicitly makes its own energy policy determinations. PSE&G presupposes what its specific energy savings and demand reduction targets will be under the CEA, without any deference to the Board's anticipated determinations regarding individual utility targets, incentives, and penalties under the CEA. The CEA sets 5-year energy savings for electric and gas utilities of 2% and 0.75%, respectively, in addition to requiring reductions in electric and gas peak demands.[11]

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

While the CEA sets overall 5-year energy savings and demand reduction goals for electric and gas utilities, the CEA leaves much of the detail work to the Board for implementing the CEA. The CEA requires the Board to set energy savings and demand reduction targets for each of the state's EDCs and GDCs.[12] In addition, the CEA requires the Board to set incentives and penalties for utilities based on their performance towards meeting their respective energy savings and demand reduction targets.[13] To this end, the Board convened a stakeholder process and retained the services of a consultant, Optimal Energy, to develop energy savings and demand reduction targets for the state's electric and gas utilities, as well as an incentive and penalty structure.[14] The CEA stakeholder process encompassed five meetings, with the first held on February 1, 2019 and the most recent on May 3, 2019.[15] The CEA stakeholder process is ongoing. On May 9, 2019, Board Staff submitted a draft of the Optimal Report for stakeholder comments, with comments due May 16, 2019. The Board will presumably continue this process to develop the specific performance standards and incentives and penalties and the regulations necessary to implement this aspect of the CEA.

Meanwhile, PSE&G bases its energy savings and demand reduction goals for its CEFEE program on the overall 5-year savings targets set by the CEA, without waiting for energy savings and demand reduction targets set by the Board. *PS-2*, p. 4. Furthermore, PSE&G's CEFEE does not even address the possibility of target adjustments in the future, since the CEA also requires

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[12] N.J.S.A. 48:3-87.9(b).
[13] N.J.S.A. 48:3-87.9(e)(2), (3) and (4).
[14] See Board Notices at http://www.njcleanenergy.com/main/njcep-policy-updates-request-comments/policy-updates-and-request-comments and http://www.njcleanenergy.com/files/file/program_updates/Energy%20Efficiency%20public%20notice%201-22-19.pdf
[15] *Id.*

Board Staff to review the savings targets for each utility every three years.[16] In sum, PSE&G's CEFE filing is premature since it does not consider the savings targets, incentives and penalties established by the CEA, which have yet to be determined by the Board. Absent a review of PSE&G's CEFEE filing in the context of the findings mandated by the CEA, the Board has no basis upon which to consider the reasonableness of PSE&G's CEFEE's subprograms, costs and ratemaking treatment.

3. If the Board Determines that PSE&G Should Provide EE Services on an Interim Basis Pending the Completion of the CEA Processes, PSE&G Should Be Directed to Extend the Term of its Existing EE Programs.

As set forth above, PSE&G's CEFFEE filing is premature. However, PSE&G currently provides EE services through five subprograms which were approved by the Board in 2017: Multi-Family Housing, Direct Install, Hospital Efficiency, Smart Thermostat, and Residential Data Analytics.[17] Dr. Hausman recommends continuation of these programs in the interim until the Board completes the CEA process for establishing energy savings targets and other measures for EDCs and GDCs. See *RC-1*, pp. 8, 12, 16 and 28. In contrast to the proposed CEFEE programs, PSE&G's existing EE subprograms augment existing CEP programs, are limited in scope and cost, and their continuation will avoid an unnecessary interruption in providing these services to the market segments they serve. There is ample precedent for extensions of existing EE programs pending further Board policy guidance.[18]

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[16] N.J.S.A. 48:3-87.9(b).
[17] I/M/O PSE&G, BPU Dkt. No. EO17030198 (Order, August 23, 2017).
[18] See *RC-1*, p. 28. See also I/M/O South Jersey Gas Company, BPU Dkt. No. GO18030350 (Order, October 29, 2018); I/M/O New Jersey Natural Gas Company, BPU Dkt. No. GO18030355 (Order, September 17, 2018); and I/M/O Elizabethtown Gas Company, BPU Dkt. No. GO18070682 (Order, February 27, 2019).

Several of PSE&G's proposed CEFEE subprograms overlap its existing EE programs. The proposed Residential Efficient Products subprogram promotes the installation of smart thermostats for residences. PSE&G currently offers a smart thermostat program with a budget of $6.5 million over two years. However, Dr. Hausman found the proposed Residential Efficient Products subprogram has a budget of $280 million and goes far beyond smart thermostats to include high energy efficiency lighting, appliances, electronic, and heating and cooling equipment. *RC-1*, p.10. In addition, the proposed Residential Efficient Products would overlap and displace current CEP programs, such as the CEP's Energy Efficient Products, WARMAdvantage and COOLAdvantage programs. *RC-1*, pp. 10-11.

Similarly, Dr. Hausman found that the proposed Residential Behavioral subprogram is a significant expansion of PSE&G's existing Data Analytics Pilot. PSE&G currently operates data analytics pilot with a two-year budget of $2.5 million. *RC-1*, p.10. While this program would not displace CEP programs, Dr. Hausman found the proposed Residential Behavioral subprogram has a much larger six-year budget of $48.8 million and expanded scope to provide home energy reports and on-line energy information for residential customers. *RC-1*, p. 10

Dr. Hausman found that another proposed CEFEE subprogram, Residential Income Eligible, would cover many of the same elements as PSE&G's existing Multifamiliy Housing program and the CEP's Comfort Partners program. *RC-1*, p. 11. Much like the CEFEE subprograms cited above, PSE&G's proposed Residential Income Eligible subprogram has a budget of $111.1 million, in contrast to the two-year budget of $20 million for PSE&G's existing Multifamiliy Housing program. *RC-1*, pp. 10-11.

Further, in addition to the displacement of CEP programs set forth above, Dr. Hausman found that other CEFEE residential EE subprograms would displace current CEP programs. The proposed Residential Existing Homes would overlap the CEP's Home Performance with the Energy Star program and the Residential Multifamily subprogram would overlap the Comfort Partners Low–income program. *RC-1*, pp 10-11.

With respect to the proposed residential subprograms, Dr., Hausman found that the CEP's corresponding EE programs are "well established and cost-effective" and the Company's fed material does not support a reorganization which shifts these services to PSE&G. *RC-1*, p. 12.

Dr. Hausman also found that many of the proposed CEFEE C&I subprograms overlap with PSE&G's existing EE programs and CEP programs. *RC-1*, pp. 12- 16. The proposed C&I Prescriptive subprogram would displace aspects of the NJCEP New Construction and Retrofit (SmartStart) Program. *RC-1*, pp. 13-14. The proposed C&I Custom subprogram appears to overlap PSE&G's Hospital Efficiency Subprogram and would displace elements of the NJCEP custom efficiency rebate program under SmartStart, as well as the NJCEP Pay for Performance incentive program. *RC-1*, p. 14. PSE&G's proposed C&I Small Non-Residential Efficiency Program would be an expansion of PSE&G's current Direct Install program which has a stipulated two-year budget of $15 million and would also displace the NJCEP Direct Install program. *RC-1*, p. 14. Likewise, the proposed C&I New Construction Program would displace elements of the NJCEP SmartStart and Pay for Performance programs. *RC-1*, p. 14. Elements of the CEP's SmartStart program would be displaced by PSE&G's proposed C&I Energy Management subprogram. *RC-1*, p. 14. The proposed C&I Engineered Solutions subprogram would expand upon elements of PSE&G's current Hospital Efficiency and Multifamily Residential subprograms. *RC-1*, p. 14.

In addition, Dr, Hausman found the proposed C&I Streetlight subprogram to be not a typical EE program, but the type of undertaking typically part of a base rate case infrastructure program. *RC-1*, p. 16:

Finally, Dr. Hausman examined the proposed CEFEE Pilot subprograms and concluded that PSE&G's pilot programs proposal is premature and should not be approved in the absence of clear direction from the Board, including EE targets and QPIs. *RC-1*, p. 20.

In sum, if the Board determines that PSE&G should provide EE programs on an interim basis pending the resolution of the preliminary analyses and processes set forth by the CEA, there is ample support in the record and precedent for directing PSE&G to extend its current EE programs for this interim period, but defer the implementation of any new programs until BPU policy has been further established.

B. PSE&G Has Not Met Its Burden of Demonstrating That the Costs of its Proposed Program are Reasonable

1. The Board Must Implement the CEA in Accordance with its Fundamental Authority and Duty to Assure that Utility Rates are Just and Reasonable.

It is fundamental that New Jersey public utilities must provide safe, adequate and proper service to their customers at rates that are just and reasonable. N.J.S.A. 48:2-21, N.J.S.A. 48:2-23, N.J.S.A. 48:3-1. The requirement to provide service at "just and reasonable" rates presupposes diligent management. A utility is entitled only to those rates which will allow it to conduct its business "under efficient and economical operation ...." Public Service Coordinated Transport v. State, 5 N.J. 197, 225 (1950). "Good company management is required; honest stewardship is demanded; diligence is expected; careful, even hard, bargaining in the marketplace and at the negotiation table is prerequisite." In re Board's Investigation of Telephone Companies, 66 N.J. 476, 495 (1975).

Further, the Board's obligation to assure that rates are just and reasonable has a constitutional dimension. As the New Jersey Supreme Court has held:

> The system of rate regulation and the fixing of rates thereunder are related to constitutional principles which no legislative or judicial body may overlook. For if the rate for the service supplied be unreasonably low it is confiscatory of the utility's right of property, and if unjustly and unreasonably high (bottomed as it is on the exercise of the police power of the state), it cannot be permitted to inflict extortionate and arbitrary charges upon the public. And this is so even where the rate or limitation on the rate is established by the Legislature itself.

In re Proposed Increased Intrastate Industrial Sand Rates, 66 N.J. 12, 23-24 (1974). *See also*, State v. Trenton, 97 N.J.L. 241, 247 (Court of Errors and Appeals, 1922) ("rates fixed by legislation must be reasonable, and to that end must be subject to judicial review.")

The RGGI Act, and, more recently, the CEA, have expanded the scope of activities traditionally performed by electric and gas public utilities. However, neither enactment changes the utilities' fundamental character as regulated entities with obligations that include the provision of service at just and reasonable rates. Both statutes explicitly recognize the utilities' continuing status as such. Section 13 of the RGGI Act provides that energy efficiency and renewable energy related activities are to be conducted in the utilities' capacities as "electric public utility[ies] or gas public utility[ies]." N.J.S.A. 48:3-98.1 (a) (1) & (2). Similarly, the CEA makes it clear that the utilities' energy efficiency activities are subject to detailed oversight by the Board N.J.S.A. 48:3-87.9.

The CEA re-affirms the Board's authority and obligation to assure that the rates charged to customers for the utilities' energy efficiency initiatives are just and reasonable. First, as discussed above, the Board has the authority to set goals for the utilities that take account of non-utility energy efficiency measures including building code changes, appliance efficiency standards, and the Board's own energy efficiency programs. N.J.S.A. 48:3-87.9(c). This authority necessarily includes the authority to determine the areas in which the utilities' energy efficiency effort will be cost-effective. Second, the CEA requires utility proposals to be supported by cost-benefit analyses, and establishes minimum cost-effectiveness levels for utility-run programs. N.J.S.A. 48:3-87.9(d)(2). Finally, the Board is required to "determine the appropriate level of reasonable and prudent costs" for the utilities' programs. N.J.S.A. 48:3-87-9(d)(3).

In proceedings involving utility rates, the burden is on the utility to demonstrate that the proposed rates are just and reasonable. N.J.S.A. 48:2-21(d); In re Public Service Electric and Gas Co., 304 N. J. Super.247, 265 (App. Div. 1997), certif. denied, 152 N.J. 12 (1997); In re Jersey Cent. Power & Light Co. Petition, 85 N.J. 520, 529 (1981); Public Service Coordinated Transport, 5 N.J. at 219. In this proceeding, PSE&G has failed to demonstrate that its proposed CEFEE program will result in just and reasonable rates.

As a preliminary matter, Rate Counsel notes that, given PSE&G's premature filing, any determination of whether the proposed CEFEE will result in just and reasonable rates is problematic. A detailed in Section II.A above, PSE&G's premature filing makes it impossible for the Board to determine whether it is consistent with yet-to-be determined policies and goals. Among other issues, is not possible to determine whether PSE&G's proposed $2.8 million in expenditures will be spent in furtherance of the energy savings and other targets that will be established for the utilities, or in accordance with the Board's determination of what types of initiatives will best meet the State's goals at a reasonable cost. The absence of such crucial determinations makes the record inadequate to support a finding that the proposed programs will be necessary and prudent, and will result in just and reasonable rates. Additional inadequacies in the record are discussed below.

2. The Company's CBA Is Not Credible Proof that its Programs are Cost Beneficial

The Company's cost benefit analysis is besieged with a host of problems that underscore the point that the Company is not able to demonstrate that costs to ratepayer under the CEFEE would be just and reasonable. Rate Counsel's expert witnesses Dr. Hausman and Dr. David Dismukes found many flaws with the company's initial and rehabilitated cost benefit analyses (CBAs) presented in this matter. *RC-1*, pp. 28-34, *RC-7*, pp. 7-23, *T106:L21-T119:L3* (May 2, 2019) The Company provided CBAs under five tests: the Societal Cost Test (SCT), the Participant Cost Test (PCT), the Total Resource Cost Test (TRC), the Ratepayer Impact Measure and the Program Administrator Cost Test (PAC). *PS-2,* Schedule KR-CEFEE-2.

Although Rate Counsel does not object to the use of the SCT, Rate Counsel does take issue with the Company's primary reliance on the SCT. This is because the subjectivity associated with the choice and valuation of various inputs can contradict normal ratemaking practices and can more easily produce unreliable results. *RC-7,* p.8. The Company states that the SCT is the most appropriate test to use when evaluating the cost-effectiveness of its program and states that in contrast the TRC is "more narrowly focused." *PS-2*, pp. 12-13. The SCT is also arguably the test that is most susceptible to manipulation by the choice of inputs. Notably, other than the general requirement to consider both economic and environmental factors, there is nothing in the Clean Energy Act that requires the Company to rely so heavily or primarily on this test. See N.J.S.A. 48:3-87.9 and *RC-1*, p. 31. The Societal Cost Test is designed to represent costs and benefits which are difficult to monetize such as the health and environmental benefits of avoided pollutant emissions. *RC-1*, p. 30. The test is also heavily influenced by 1) the selected discount rate and 2) the guidance the Company relies on to value the cost of emissions.

Dr. Dismukes testified that the Company's primary reliance on the SCT is outside the norm and testified that "it is not real common, in my experience, that utilities will recommend using societal cost tests to screen their efficiency programs. Many of the utilities that I see in the Midwest and the South and other places tend to use...the TRC" *T132:L10-15* (May 2, 2019). Additionally, he stated "[t]he societal cost test is..a more generous test that allows [the Company] more efficiency [measures] from a broader perspective" *T132:L16-18.*[19] For example, Dr. Hausman stated that discrepancy in the time value of money is problematic since the lower discount rate recommended by the Company "produces much higher calculated benefit-to-cost ratios because most of the costs of the Company's programs occur at the beginning, while the benefits occur over a projected measure life of 10 to 20 years." *RC-1* p. 31, ln 7-11.[20]

As the Board is aware, the Clean Energy Act states that energy efficiency programs "shall have a benefit-to-cost ratio greater than or equal to 1.0," N.J.S.A. 48:3-87.9(d)(2) thereby leaving it to the Board's discretion whether to grant programs with a CBA of 1.0 or greater. Rate Counsel's CBA finds that most of the Company's energy efficiency programs either fail or pass a cost benefit analysis only marginally with CBA ratios ranging from .9 to 1.97 at the most.[21] This is compared with the Company's CBA which shows ratios ranging from 1.0 to 6.3 in its original filing[22] and from .9 up to 6.7 under its ostensibly rehabilitated CBA. *PS-7*, p. 5.

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[19] See Rate Counsel's Errata Letter dated May 16, 2019.
[20] A discussion about the appropriate discount rate can be found *infra.* at pp. 28 -29.
[21] *RC-7*, pp. 24-25.
[22] *PS-2*, Schedule KR-CEFEE-2, p. 111

As discussed earlier, even if the CBA results are greater than 1.0 the Board must place emphasis on whether the Company's program selections are appropriately guided by the EMP, the CEA, and other energy policy objectives in the state.

Rate Counsel urges the Board to evaluate cost benefit analyses with a degree of skepticism in this matter, and all energy efficiency matters, since variations in selected CBA inputs can cause major fluctuations in any CBA ratio. The Company has actually proved this point since it changed or rehabilitated its CBA on the eve of hearings without a clear explanation. Rate Counsel maintains that a CBA greater than 1.0 does not necessarily translate into a program which is cost beneficial to ratepayers. Insofar as the Board gives credence to the CBA ratios presented by the Company, it should consider the overall CBAs as only a fraction of the myriad of issues to consider when deciding whether to grant the Company's programs. The Board should also keep in mind that CBA ratios, although presented as calculated values with a veneer of analytical objectivity, reflect numerous subjective judgements, and are readily susceptible to manipulation in the interest of showing net societal benefits.

Rate Counsel maintains that the Company's CBA lacks credibility. First, the inputs into the Company's SCT do not comport with inputs used by the Board in the past. Second, the Company skewed some CBA results and on the eve of hearings, the Company changed its CBA in an attempt to rehabilitate its flaws, thus highlighting the fluid nature of its CBA results.

3. The Company's Initial and Changed Avoided Emissions Inputs in the SCT Do Not Reflect the Board's Past Position on This Issue

Regardless of whether the Company relies on its initial or rehabilitated inputs for avoided emissions in order to calculate the SCT, the Company's position does not comport with the

Board's view on this issue. In 2013, the Board noted that "environmental benefits should be tied directly to market prices." In the Matter of the Petition of Fisherman's Atlantic City Wind Farm, LLC for the Approval for the State Waters Project and Authorizing Offshore Wind Renewable Energy Certificates, BPU Docket No. EO11050314V (March 19, 2014) p. 24. Dr. Dismukes agrees and finds that market-based valuations of avoided emissions inputs into the SCT are more reliable since they are "truly known and measureable" either "through compliance with EPA clean air markets, regulations, or compliance with the RGGI [Regional Greenhouse Gas Initiative]." *Id.* and *RC-7,* p. 13. Since they are more measurable, the Board should continue to rely on measureable market prices with regard to measuring avoided emissions.

4. The Company's CBA is a Moving Target and Therefore Unreliable

The Company's attempted rehabilitation of its CBA demonstrates the fluidity of the company's inputs and suggests that the CBA does not credibly prove cost effectiveness. The Company first presented a CBA as an attachment to Ms. Karen Reif's testimony[23] even though it was originally compiled by Isaac Gabel-Frank, an outside consultant for the company. *PS-2*, p. 11. The Company then presented testimony by Mr. Gabel-Frank on rebuttal which made significant and substantive changes to the original CBA attested to by Ms. Reif. *PS-7,* p. 5

First, Mr. Gabel-Frank significantly changed inputs related to quantifying avoided emissions in the SCT by over fifty percent. *T110:L5-8* (May 2, 2019). This change was not in rebuttal of Dr. Dismukes' opinion on the subject since he recommends that the Board use a

[23] *PS-2,* Schedule KR-CEFEE-2, p. 111

market-based approach such as cap-and-trade, as it had in the past.[24] *RC-7*, p. 12. Although Mr. Gabel-Frank claimed that his change was "based upon [his] current opinion on the market," the document he relied upon to make the change is an EPA (U.S. Environmental Protection Agency) Technical Document dated January 2013. *PS-7*, p. 29 and *T7:L8-T8:L7* (May 2, 2019). Mr. Gabel-Frank offers no explanation of why a technical document from 2013 would shift a "current opinion on the market" in 2019.

Dr. Dismukes noted in his surrebuttal that the inconsistency in societal benefit valuations "should give the Board some pause..." *T:*110,:L9-10 (May 2, 2019). Dr. Dismukes also found troubling the fact that the input changes were purportedly based on recent market observations but arose from documents that are several years old. *T:*110,:L12-15 (May 2, 2019). This change in the Company's position on measuring emissions during the course of this case, although unexpected, does prove Dr. Dismukes' point in his initial testimony that there have been wide variations among researchers regarding how to quantify the societal benefits of avoided air emissions and that consequently, a market-based approach is more reliable. *RC-7*, pp.11- 12.

The Company also incorrectly relied originally on a discount rate of 2.77 percent in the SCT and then changed it to 3% in Mr. Gabel-Frank's rebuttal testimony purportedly to "conform with sources provided by Dr. Dismukes." *PS-7,* p. 30 ln16-17. The three percent is still lower than the rate recommended by Dr. Dismukes. *RC-7,* pp. 8-9. Dr. Dismukes recommends a 6.8% discount rate since it is equal to the Company's weighted average cost of capital. Id. Interestingly, 6.8% was the rate employed by the Company for all CBA tests except the SCT.

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[24] See In the Matter of the Petition of Fisherman's Atlantic City Wind Farm, LLC for the Approval for the State Waters Project and Authorizing Offshore Wind Renewable Energy Certificates, Docket NO. EO11050314V (March 19, 2014) p. 24.

Id. The Company should employ a 6.8% discount rate for the SCT since it comports with the return the Company ultimately earns in reality on its investments.

Additionally, the Company's SCT includes an inappropriate rate impact since it focuses on program expenditures as opposed to the revenue requirement. *T:111:L13-21* (May, 2, 2019). This results from the Company mixing the multipliers utilized in the rate impact and fluctuating between using both value-added and output multipliers. *T:111:L15-17* (May, 2, 2019). Dr. Dismukes concludes, "you can use one or you can use the other, but you can't mix-match both" with regard to the rate impact inputs. Id.

In its rehabilitated CBA, the Company also employed entirely different inflation factors to calculate the SCT. The Company switched the index it relied upon to account for inflation. *T115:L4-11* (May 2, 2019). In its original CBA, the Company used the consumer price index ("CPI") and then switched its inflation factor to the gross domestic product price ("GDP") deflator Id. The Company offered no explanation for this change other than presenting it as an "update." *PS-7*, p. 29 ln 11-17. This input change and the other changes to the SCT influenced the total ratio of the SCT from 3.7 to 4.3 without any plausible explanation.[25]

Two additional ways that the Company's CBA is incorrect is in the calculation of merit order benefits and double counting some measures in the PCT. First, the Company's calculation of merit order benefits is incorrect. Dr. Dismukes found that the Company's merit order benefits which were derived from the AURORA model "cannot be substantiated or validated." *RC-7* p. 17, ln 7-8. The Company incorrectly claims between $130.6 million to $197.3 million in

[25] In another change, Mr. Gabel Frank stated that he "amended the economic benefits formula in the SCT to capture the cost of program expenditures." *PS-7* p. 28, ln 14-16.

volatility hedge benefits from studies that are not based on New Jersey power and gas markets and many of the studies relied upon were outdated. *RC-7,* pp. 19-20. Second, the Company continues to double-count the cost of energy efficiency measures in addition to the value of associated savings as a benefit in the PCT test and it continues to undercount the loss of revenue from the avoided sales of gas and electricity to distribution customers in the RIM test. *RC-1*, pp. 32 & 34.

Therefore, aside from counting the value of loans as benefits in the PCT, PAC and RIM tests as per Dr. Hausman's recommendation in the Company's rehabilitated CBA,[26] the Company's CBA remains skewed and overstated in most areas. Additionally, the Company made substantial changes to its CBA six months after it filed it petition without meaningful explanation. The lack of explanation and inaccuracies underscore the problems and wide variations in the Company's CBA ratios. Requiring ratepayers to fund such a multi-billion program without solid support of its costs versus benefits is not a prudent and reasonable use of ratepayer funds.

5. PSE&G Has Not Demonstrated that the Costs of the Program are Allocated Fairly Between Participating and Non-Participating Customers

PSE&G also has not met its burden of demonstrating that the rates it seeks to impose on its electric and gas ratepayers are just and reasonable. As explained by Rate Counsel witness Dr. Hausman, all of PSE&G's ratepayers will have to pay increased rates to fund the proposed

[26] The Company changed its CBA to agree with Dr. Hausman with regard to the value of loans in the PCT, PAC and RIM tests. In its original CBA, the Company did not count the value of loans as a benefit to participants in the PCT, PAC and RIM tests. *RC-1*, pp. 32-34. On rebuttal, Mr. Gabel-Frank changed his position to agree with Dr. Hausman to count the value of the loans as a benefit. *PS-7* p. 28, ln 11-12. This change increased the total CBA ratio under the PCT test from 6.3 to 6.7 and then it lowered the CBAs on the PAC and the RIM respectively from 1.6 to 1.4 and from 1.1 to .9. *PS-2,* Schedule KR-CEFEE-2, p. 111 and *RC-7,* pp. 24-25.

program, but the benefits will be distributed unevenly. A significant portion of the projected benefits of PSE&G's proposal is in the form of an estimated $5.7 billion in bill savings for participating customers. *RC-1,* pp. 34-35. However, the allocation of costs does not reflect the disproportionate benefits to participating customers.

The disparate burdens placed on participating versus non-participating ratepayers can be seen in the revenue requirements estimates submitted with the prefiled direct testimony of PSE&G witness Stephen Swetz. For most of the subprograms, the participants pay for the energy efficiency measures at subsidized prices. For example, in the Residential Existing Homes program, customers can receive rebates for a portion of the costs of home energy improvements recommended after a home energy audit. The Company's ratepayers as a whole pay for the costs of the rebates, along with the costs of administering the program, while the participants pay for the cost of the improvements that are not covered by the rebates. See, e.g. PS-2, Exhibit KR-CEFEE-2, p. 13 of 224. Mr. Swetz's schedules include information on the costs that would be borne directly by program participants and those that would be recovered from all ratepayers through the proposed CEFEE surcharge.

Mr. Swetz estimates total revenue requirements at approximately $2.798 billion for its electric ratepayers and approximately $694 million for its gas ratepayers, for a total of approximately $3.492 billion. *PS-5,* Schedule SS-CEFEE-2E, p. 2, column 23 & Schedule SS-CEFEE-2G, p. 2, column 23. "Program Investment Repayments," which includes most of the costs borne directly by program participants, total approximately $725 million for electric ratepayers and $120 million for gas ratepayers, for a total of approximately $845 million. *T273:L7 to T274:L7* (May 1, 2019); *RC-5,* Schedule SS-CEFEE-2E, p. 2, column 17 & Schedule SS-CEFEE-2G, p. 2, column 17. This amount is substantially less that the amount proposed to be collected from all ratepayers, and it is dwarfed by the estimated $5.7 billion in bill savings that PSE&G estimates will be received by participating customers.

The extreme disparities in the allocation of costs and benefits can also be seen from the results of the CBAs submitted by PSE&G. Even these flawed studies show striking disparities in the cost-benefit profiles for participating and non-participating customers. The original CBAs submitted by Ms. Reif show a Participant Cost Test ("PCT") ratio of 6.4 for the proposed program as a whole, meaning that, on average, program participants receive approximately $6.40 for every dollar they spend. By contrast, the results of the Ratepayer Impact Measure ("RIM") test shows that non-participants barely come out even, with an overall ratio of 1.0. *PS-2,* Schedule KR-CEFEE-2, p. 222 of 224. Mr. Gabel-Frank reported similar results, concluding that, overall, program participants would receive $6.70 for every dollar spent, while non-participants would receive only 90 cents on the dollar. *PS-7*, p. 5, Table 1.

As Dr. Hausman recognized in his testimony, it is inevitable that some customers will benefit more than others in any socialized energy efficiency program. *RC-1,* p. 35-36. PSE&G's proposal, however would allow participating ratepayers to pay only a small fraction of their anticipated bill savings, requiring the ratepayers to pay the remaining costs. PSE&G has not justified this disproportionate allocation of costs and benefits.

It is important to note that PSE&G has not provided the Board with estimates that would allow the Board to determine what percentage of PSE&G's customers would be able to participate in its proposed program, or the level of bill savings typical customers would receive. The "Clean Energy Future Energy Efficiency Program Plan" ("Program Plan") submitted with Ms. Reif's prefiled direct testimony purports to include information about "participants" in each of the proposed sub-programs. *PS-2,* Schedule KR-CEFEE-2, odd-numbered tables 3 through 29. However, in response to a Rate Counsel discovery request, the Company acknowledged that "the manner in which participation is expressed varies by subprogram," and that, for some programs, including, as examples, the "Residential Efficient Products" and "Residential Existing Homes" subprograms, the "participation" estimates represent "measure-level units." *RCR-EE-0008(a).* According to the Program Plan, eight of the Company's proposed sub-programs fall into this category.[27] In response to Rate Counsel's specific request for estimates of the number of customers expected to be served by these sub-programs, PSE&G declined to do so for the following reason:

> Such an estimate would require broad assumptions about how many measures each customer would install. Given the vast spectrum of PSE&G customer demographics and behaviors, PSE&G determined that an arbitrary participation metric of this nature would not provide helpful insight beyond the measure-level participation metric that was used. *RCR-EE-0008(b).*

[27] The Program Plan states that the "participation" estimates for the following sub-programs are based on "measure-level units":

Residential Efficient Products (p. 9-10)
Residential Existing Homes (p. 14-15)
Residential Behavioral (p. 18)
Residential K-12 Education (p. 21)
Residential Multi-Family (p. 27)
Residential Income Eligible (p. 31)
C&I Prescriptive (p. 36)
C&I Streetlight (p. 61)

Participation estimate for the following programs are based on other units, as indicated below:

Residential New Construction (housing units, p. 24)
C&I Custom (number of customers, p. 39)
C&I Small Non-Residential (number of small businesses, p. 43-44)
C&I New Construction (number of facilities, p. 48)
C&I Energy Management (number of entities, p. 53)
C&I Engineered Solutions (number of customers, p. 57)

For this reason, the record does not contain any estimate of how many of the Company's electric and gas customers would be able to mitigate the requested rate increase by participating in one or more sub-programs.

As the Board is aware, substantial rate increases are of particular concern for the State's low-income residents who may struggle to pay for electric and gas service, either directly as customers or indirectly through rental payments. The record does not contain any estimates of how much of this vulnerable population would be reached by the Company's proposed program. As Rate Counsel witness Dr. Hausman noted in his oral surrebuttal, lower-income customers are "a very hard-to-reach population," and the Company has declined to estimate how many would actually be able to participate in is proposed program:

> The Company was asked twice, I believe, in discovery to identify how many low-income customers it would be able to reach with its programs, and the Company responded that -- well, that half of its customer base would be eligible for the residential income-eligible program, but that it had no estimate of how many of those customers would actually be served.
>
> And I believe it was something like 667,000 customers that would be eligible for the residential multi-family program. But, again, it had no estimate of how many of those customers would actually be served.

T200:L25 to T201:L14 (May 1, 2019); *RCR-E-0008; RCR-EE-0052.* As Dr. Hausman explained, "those are significant and important questions" for which PSE&G "should know the answers," and which raise an "important policy issue." *T201:L15-18* (May 1, 2019). An assessment of the equity of the program for the State's lower-income residents is not possible without an estimate of how many of this population would be disadvantaged by the Company's proposal. *See, T202:L3-9* (May 1, 2019).

In sum in the absence of adopted energy savings targets and incentives/penalties under the CEA and absent robust cost benefit analyses, PSE&G's proposed $2.8 billion CEFEE program is not a prudent and reasonable use of funds collected from ratepayers. Requiring ratepayers to fund such a "pig in a poke" multi-billion program without such support cannot be said to be prudent and reasonable in any sense of this fundamental ratemaking principle.

PSE&G has not demonstrated that the resultant rates emanating from its CEFFE programs are reasonable. The resulting rates are designed to recover the costs of a multi-billion dollar program premised on yet-to-be-determined savings targets and incentives/penalties. Furthermore, PSE&G's proposed CEFEE subprograms, both individually and in total, are not supported by robust cost benefit analyses. Rates premised on an imprudent and unreasonable multi-billion dollar program which leave ratepayers open to unknown rate increases are unreasonable on their face.

As stated in the direct testimony of Rate Counsel witness Dr. Hausman, PSE&G should continue its existing EE programs until the Board adopts the energy saving targets and incentives/penalties required by the CEA. *RC-1*, p. 3. A new program should be approved, and only after a Board ruling following a careful review of any subsequent PSE&G filing in accord with the Board's required CEA findings.

C. The GEM Should be Rejected Because it is Contrary to State Policy and It is Not Needed to Cure Any Purported Disincentives to Perform Energy Efficiency.

To accompany its energy efficiency programs, the Company also seeks a full decoupling mechanism which it has dubbed the Green Enabling Mechanism ("GEM"). The GEM would decouple or separate the cost of gas and electric supply from the amount of usage. Company witness Dr. Hansen states that "when PSE&G experiences a reduction in revenue that is not matched by a reduction in distribution costs....the GEM will establish the monthly amount of total allowed revenue" with an equation taking into account the number of customers served each month as opposed to tying the customer's monthly charge to actual energy use. *PS-8,* p. 2. The Company contends that it needs the GEM as a result of the expected lost revenues which it argues will be associated with its energy efficiency program. *PS-8,* pp.2-3. The Company states that the GEM is necessary to make up for lost revenues it projects it will lose as a result of the reduction targets of 2% for electricity and .75% for gas established by the Clean Energy Act. *PS-9,* p. 6. The Company maintains that the GEM will eliminate the financial disincentive inherent in energy efficiency efforts since its proposed decoupling mechanism will allow the Company to be made whole for any revenue losses between rate cases. *PS-8,* p. 2.

Rate Counsel disputes the need for the GEM. First, the GEM would amount to single issue ratemaking which is contrary to past practices of the Board since the GEM circumvents the traditional balancing process of establishing rates through the base rate case process. Second, no disincentive to perform energy efficiency exists since the CEA requires it and the Company's public statements demonstrate its intentions to pursue energy efficiency. Third, the Company's claim of negative financial impact is not reasonable in light of financial mechanisms in the CEA and the RGGI Act and the potential for future base rate cases. Fourth, the Company's argument that without the GEM it will be incented to sell more electricity is not plausible due lack of price elasticity associated with gas and electric supply. Finally, contrary to the Company's argument, the GEM is not similar to the Conservation Incentive Program ("CIP").

1. **The GEM is Contrary to New Jersey Utility Ratemaking**

Past precedent for New Jersey utility ratemaking states that: "[t]he base rate figure of fair value is determined by viewing the plant as an integral and unitary whole, considering all the elements properly entering into the ascertainment of a reasonable return for supplying the public need." IMO Industrial Sands, 66 N.J. 12, 22-23 (1974) quoting Atlantic City Sewerage Co. v. PUC, 128 N.J.L. 359, 365-366 (Sup. Ct. 1942), aff'd 129 N.J.L. 401 (E. & A. 1943). In New Jersey the Board has followed the general principles that: "[t]he justness and reasonableness of a particular rate of fare can only be determined after an examination of a company's property valuation which constitutes its rate base; its expenses, including income taxes and an allowance for depreciation; and the rate of return developed by relating its income to the rate base. Petition of Public Service Coordinated Transport, 5 N.J. 196, 216 (N.J. 1950).

In general, single issue ratemaking has been disfavored in New Jersey. The validity of New Jersey utility rates set outside of "the establishment of rate base and fair rate of return, rests upon the legal umbilical cord which ties them to the anticipated eventual determination of these fundamentals; IMO Industrial Sands, *supra.* at 25. If the past is prologue, it informs us that ratemaking within the base rate case approach is a transparent process and well tested to produce a fair outcome. When executed correctly, it allows for the matching and balancing of costs and revenues, to determine an overall reasonable rate. In the case of decoupling, that balanced approach of viewing the utility as a total sum of its parts is eroded and the legal umbilical cord to rate base is severed.

In a 2015 base rate case ("2015 base rate case"), the Administrative Law Judge ("ALJ") noted in the initial decision that "[u]nder traditional ratemaking, the Board uses historical costs adjusted for known and measurable changes. The Board has adopted various adjustment clauses as exceptions to the traditional approach but only for specific reasons under clearly defined circumstances." IMO JCP&L for Review and Approval of Increases In and Other Adjustments to its Rate and Charges for Electric Service, And for Approval of Other Proposed Tariff Revisions in Connection Therewith; and For Approval of an Accelerated Reliability Enhancement Program, PUC 16310-12 and BPU Docket No. ER12111052, Initial Decision, (Jan. 8, 2015), p. 88. In that case, JCP&L sought recovery under an accelerated cost recovery mechanism for infrastructure improvement but it had not specified how much it would seek to spend on the program and it did not specify what projects it would undertake. Id. at 89. The Board agreed with the ALJ in that an "ill-defined" program was not appropriate for accelerated recovery outside of the base rate context since the requested program was not sufficiently detailed. IMO JCP&L for Review and Approval of Increases In and Other Adjustments to its Rate and Charges for Electric Service, And for Approval of Other Proposed Tariff Revisions in Connection Therewith; and For Approval of an Accelerated Reliability Enhancement Program, BPU Docket No. ER12111052, Board Order Adopting the Initial Decision with Modifications and Clarifications (March 18, 2015) at p. 79. Like the utility's broad request in the 2015 base rate case, the GEM is an overly-broad program that would permit the Company to earn revenues using a blunt instrument. *RC-7,* p. 33, ln 16. The Board, in the 2015 base rate case, and in others, has demonstrated that it will not permit an open avenue for utilities to recover revenue outside of a base rate case where the Board does not have a sufficient description or understanding of the program or where the circumstances and the program are not focused very narrowly on a substantial and adequately-projected loss of revenue. *See also* IMO The Petition of Public Service Electric and Gas Company for Approval of Deferred Accounting Authority for

Costs and Lost Revenue Related to N.J.S.A. 48:2-21.41, and Associated Tariff Changes, BPU Docket No. GR19010063 (Feb. 27, 2019).

Since the GEM is designed to capture lost revenues that may result from a multitude of factors, granting it would in essence permit the Company to by-pass the regulatory process. In a base rate case scenario, test year retail sales and revenues are based on a typical year, known as the test year, to establish rates. Some factors that can influence a utility's sales revenue performance in a test year are changes in weather, economy, commodity price changes and exogenous conditions. These factors are largely outside of the utility's control, but the GEM would ultimately insulate the Company against any lost revenues which could be attributed to these or other factors that fall outside of energy efficiency. This greatly reduces the Board's role in the base rate case process and circumvents legal precedent requiring a tether between rates and utility rate base in New Jersey. IMO Industrial Sands, *supra*, at 25. Amanda Levin of the EELC, a supporter of the GEM, also admitted at the hearing that the Company's revenues would remain the same despite many of these outside changes that could reduce the Company's revenues if the GEM were not in place. *T169:L18-T170:L21* (May 2, 2019). Rate Counsel urges the Board to maintain the integrity of the relationship between rates and rate base in New Jersey and therefore reject the GEM.

2. The Company's Claim that it Has a Financial Disincentives to Introduce Energy Efficiency Programs Conflicts with the State's Clean Energy Act and Should Therefore Be Rejected

The Clean Energy Act, which took effect on May 18, 2018, five months prior to the Company's CEFEE petition, eliminates the Company's stated need for the GEM. The CEA establishes that:

> Each electric public utility shall be required to achieve annual reduction in the use of electricity of two percent of the average annual usage in the prior three years within five years of implementation of its electricity energy efficiency program. Each natural gas public utility shall be required to achieve annual reduction in the use of natural gas of 0.75 percent of the average annual usage in the prior three years within five years of implementation of its gas energy efficiency programs. N.J.S.A. 48:3-87.9(a).

Therefore, all public utilities in the state are required to reduce energy usage under the mandate of the CEA and do not require a further incentive to do so. The Company's position that it has a financial disincentive to initiate energy efficiency programs is now irrelevant since state law requires energy reduction without regard for whether the Company performs it willingly or not.

The Company's own statements intended for the public and shareholders hold the Company out as a leader in energy efficiency and therefore contradict any claim that the Company has a disincentive to promote energy efficiency. For example, in the Company's 2018 Annual Report, it claims it has a "civic responsibility to ensure all customers have access to a safe, reliable and sustainable energy supply, and to provide it as a efficiently and affordable as possible [and that its] concern for clean air and a healthy climate is the driving force behind PSEG's ongoing transformation from a traditional electric and gas utility to a national clean energy leader."[28] The Company claims that it not only wants to promote energy efficiency, but that it sets its sights on being a leader in the area. Additionally, in its 2018 Sustainability Report, the Company claims it is "shifting from the 20th-century model in which utilities sought to sell as much electricity as possible, to a new approach in which our mandate is to help customers use

[28] PSE&G's 2018 Annual Report, p. 3 at https://www.ezodproxy.com/pseg/2019/ar/images/PSEG-AR2018.pdf, last visited 5/16/19.

less energy and by doing so, help them to save money on their monthly bills."[29] On surrebuttal, Dr. Dismukes noted that PSE&G is "a very active company that has been doing quite a bit [of energy efficiency initiatives, even] more than the average. I work in about 27, 28 different states on a regular basis around the country, and I would say that PSE&G is probably one of the more aggressive in pursuing a lot of these initiatives." *T123:L4-11* (May 2, 2019). Therefore, the Company's claims that it has a disincentive to promote energy efficiency absent the GEM are incongruous with its other public statements and actions.

3. The Company's Claim that it Requires the GEM to Avoid a Negative Financial Impact Should be Rejected Since the CEA and N.J.S.A. 48:3-98.1 Provide Financial Opportunities and the Company Can Seek Recovery of Losses in a Base Rate Case

On rebuttal testimony the Company argued that the CEFEE program will impose a negative financial impact on the Company and therefore the Company needs the GEM to prevent against losses. *PS-9* pp. 4-5. Additionally, at the hearings the Company's cross examination of Dr. Dismukes inferred that projected revenue losses could impact its ability to earn its ROE. *T153:L1-5* (May 2, 2019). These arguments are not persuasive since existing law N.J.S.A. 48:3-98.1, and the CEA already provide opportunities for the Company to earn incentives and a return on investments in energy efficiency. If those mechanisms are insufficient, the Company has the opportunity to adjust its revenues in a base rate case. As noted above, the GEM on the other hand would allow recovery for other conditions that are completely unrelated to energy efficiency. *RC-7,* p. 30. Since the Company will already be

[29]PSE&G's Sustainability Report 2018, p. 20 at https://corporate.pseg.com/-/media/pseg/corporate/corporate-citizenship/environmentalpolicyandinitiatives/sustainability/pseg_sustainability_report_2018.ashx, last visited 5/16/19.

able to recover financial incentives and a return on investments that are directly associated with energy efficiency via existing mechanisms, the GEM is not necessary.

Section 13 of the New Jersey RGGI law provides utilities an opportunity to earn a return on energy efficiency measures. It encourages utilities to "provide and invest in energy efficiency and conservation programs" and in turn it permits public utilities to seek recovery with the Board and states that "conservation programs or Class I renewable energy programs may be eligible for rate treatment approved by the board, including a return on equity." N.J.S.A. 48:3-98.1(b). The RGGI law has provided this opportunity to utilities to contemporaneously recover on energy efficiency investments at their full weighted cost of capital since 2008. Opportunities to for financial incentives and earnings under the RGGI law are in addition to those afforded to public utilities under the CEA.

The CEA also establishes the opportunity for the Company to file an annual petition for recovery on and of reasonable and prudent costs associated with capital investments. N.J.S.A. 48:3-87.9(e)(1). It is important to note that New Jersey is one of only four states in the Country where utilities earn a full return on energy efficiency investments.[30] New Jersey permits utilities to earn a full return on energy efficiency investments whereas if the investment was located in one of the other 46 states, the utility would not earn a return. This approach is in line with how utilities have more recently sought to increase profits in the last fifty years which is by maximizing profits through increasing capital investments and not so much through volumetric-based revenue maximization. *T124:L15-18* and *T125:L1-14* (May 2, 2019). The Company's increasingly larger and larger capital projects, in the multi-billion dollar range, is evidence of the

[30] Snapshot of Energy Efficiency Performance Incentives for Electric Utilities, ACEEE Topic Brief, Dec. 2018 at https://aceee.org/sites/default/files/pims-121118.pdf, last visited 5/16/19 and *T126:L23-25* and *T146:L15-25* (May 2, 2019).

Company's strategy to increase profits through capital investments and not necessarily through increasing volumetric use. *T124:L24-T125:L24* (May 2, 2019). Therefore, these provisions permitting full and contemporaneous recovery on capital investments will prove to benefit the Company and negate the Company's stated need for the GEM.

On top of this full recovery of and on energy efficiency investments, pursuant to the CEA the Company also has the opportunity to earn incentives if it meets and exceeds the reduction targets of the CEA. N.J.S.A. 48:3-87.9(e)(2) The exact incentives have yet to be determined by the Board, but the CEA states that the incentives will be determined "through an accounting mechanism…for [the Company's] energy efficiency measures and peak demand reduction measures for the following year. The incentive shall scale in a linear fashion to a maximum established by the board that reflects the extra value of achieving greater savings." N.J.S.A. 48:3-87.9(e)(2). Once the Board establishes the calculations and the process, the Company has the ability to follow the appropriate process to earn additional CEA incentives.

Additionally, the Company has not demonstrated that past energy efficiency programs have negatively impacted its return on equity ("ROE"). *RC-7,* pp. 37-38. In the past five years, the Company has earned on average an ROE of 10.4, which is was higher than the ROE authorized by the Board. *RC-7,* p. 38. Although the Company has estimated that revenue losses have been between $6.6 million and $8 million over the past four years, this is not large compared to the Company's total base distribution revenues of $2.0 billion and it has estimated that efficiency efforts have had less than one-tenth of one percent impact on its overall ROE. Id. Although the Company stated that it will lose revenues directly attributable to its CEFEE program as proposed,[31] Dr. Dismukes pointed out that these projected losses must be viewed within the larger context of the Company's earnings and in comparison with other revenues. *T153;L6-13* (May 2, 2019). Since there are so many factors that contribute to whether the Company will earn its ROE, the Company itself has not been able to predict how the projected revenue losses will impact its ability to earn its ROE. Regardless of whether the Company's energy efficiency programs are having an impact on its ability to earn its ROE, that is an issue to be evaluated in its base rate case. The Company always has the opportunity to file a base rate case if its revenues fall short. In that context, the revenue losses would be evaluated against a larger backdrop of other revenues earned to insure a fair rate and a fair return.

Consequently, the Company's claim that it needs the GEM in order to compensate for predicted revenue losses is negated by the incentive and recovery provisions available under N.J.S.A. 48:3-98.1 and the CEA and it can elect to adjust its revenues if necessary through the base rate case process. Those provisions negate any need for the GEM. Moreover, under its GEM proposal, the Company would be able to recover lost revenues attributable to a myriad of outside influences and circumstances such as weather or an economic downturn. This is inequitable and unnecessary.

4. The Company's Claim that it Will be Incented to Sell More Gas and Electricity In the Absence of Decoupling is Against Economic Theory and Not Plausible

Dr. Hansen inferred that without the GEM the Company will be encouraged to sell as much retail electric as possible. *PS-9* pp. 3-4. Yet, price elasticity related to the demand for

[31] *PS-9*, pp. 4-5

retail electricity and gas is relatively low.[32] In other words, since energy is a necessary commodity, consumers tend not to purchase more or less regardless of changes in price, which may be more the case in other industries. Dr. Dismukes pointed out this unique facet of the energy industry on surrebuttal and opined that utilities "don't have big sales promotion opportunities like you do in other industries....[Customers] don't get phone calls from utilities saying,[:] hey, use some more electricity this month...these kinds of things don't happen." *T121:L1-5* (May 2, 2019). In general, utilities have very little influence over other factors that could influence customers' individual retail electricity and natural gas demand. Therefore, the Company's argument that it will have an incentive to increase energy use without the GEM is simply not plausible.

5. The GEM Has Major Differences From the Conservation Incentive Program ("CIP")

Rate Counsel disagrees with the Company's claim that the Conservation Incentive Program ("CIP") mechanism in New Jersey is synonymous with decoupling. *PS-8,* p. 22. Dr. Dismukes has clearly stated why the CIP is different than the GEM since the CIP is more performance-based and symmetric than other full decoupling mechanisms and the GEM. *RC-7,* p. 33, ln 3-5. First, the CIP directly links revenue recovery to natural gas energy efficiency programs whereas recovery under the GEM would permit the Company to recover all revenue losses regardless of the reason. *RC-7*, p. 33 ln 17-20. In terms of performance, the CIP would only allow recovery of revenue where a verifiable loss of capacity occurred so that if a utility does not create true efficiencies through reduction in contracted capacity for gas, it cannot

[32] Regional Differences in the Price-Elasticity of Demand for Energy, Bernstein and Griffin, 2005, p. xiii at https://www.rand.org/content/dam/rand/pubs/technical_reports/2005/RAND_TR292.pdf, last visited 5/16/19.

recover lost base revenues. *RC-7,* p. 34 ln 16-17 and 20-21. Some other requirements under the CIP that are not included in the Company's proposal of the GEM include:

- The use of shareholder, as opposed to ratepayer money to finance and administer the program.

- A strict earning cap for each utility that restricts revenue recoveries in the event a utility is already earning its allowed ROE

- Limitations of BGSS savings eligible to offset lost revenues to those realized beginning on October 1, 2007, thus giving ratepayers the benefit of an additional year of BGSS gas cost savings

- A limitation of CIP eligible cost savings to those agreed to by Rate Counsel and Board's Staff, and for SJG [South Jersey Gas], specifically excluding savings resulting from portfolio restructuring that was required under an earlier stipulation and in accordance with an audit recommendation. *RC-7, p.35-36.*

As a result of these differences, the GEM shifts all risk involved with regulatory and efficiency performance onto ratepayers with little risk to the Company. Additionally, it does not offer guaranteed efficiency benefits to ratepayers, it does not match revenue recovery with capacity savings, and, unlike the CIP, under its GEM proposal, the Company has not committed to make a financial contribution to cover any program costs. *RC-7,* 37. Therefore, the Company cannot rely on any arguments that the CIP and GEM are so similar that the GEM must be approved. *PS-8*, pp. 22-23. PSE&G has presented an inaccurate depiction of these two very different programs.[33]

[33] Although Dr. Hansen stated in his direct testimony that the Company is open to considering another form of decoupling, most notably a Lost Revenue Adjustment Mechanism, ("LRAM"), it has not laid out the details of how the LRAM would operate either in Dr. Hansen's direct testimony or rebuttal testimony and therefore it should not be considered a program proposal within the CEFEE case. The Company has only offered the LRAM in contrast with the GEM, listing six reasons why an LRAM is inferior to the GEM. *PS-8*, p. 26 Additionally, Dr. Hansen laid out which states have an LRAM on rebuttal *PS-9,* DGH-1. With no further details provided about how an LRAM would function in the Company's territory Rate Counsel can not evaluate the impact on ratepayers or any need for it. Rate Counsel requests that the Board deny this request for lack of specificity.

In sum, the GEM cannot supersede robust past precedent for traditional ratemaking in New Jersey. Current New Jersey laws provide for financial mechanisms for utilities which are specifically intended to address investments and reduction targets associated with energy efficiency. The GEM would leave ratepayers open to a spiral of rate increases based on a flawed decoupling model and therefore should be rejected.

D. If the Board Allows All or Part of the Proposed Program, the Ratemaking Treatment Should be Modified as Recommended by Rate Counsel.

1. The Company's proposed IT budget is not properly supported and should be rejected.

The Company's proposal includes estimated Information Technology ("IT") capital investments totaling approximately $86.2 million. *RC-4,* p. 9.[34] Most of the investments, approximately $81.2 million, are projected to occur during the first eighteen months of the proposed program, with the remaining investment projected to be incurred in the sixth and twelfth years. *Id.* The Company has not met its burden of demonstrating that these costs are reasonable. As Rate Counsel witness Dante Mugrace explained, PSE&G is proposing a very large investment, akin to the replacement of the Company's entire Customer Information System in 2009 at a cost of approximately $100 million *T294:L11-20* (May 1, 2019); *RC-6.*

Despite repeated discovery requests from both Rate Counsel and BPU Staff, the Company has provided only the most perfunctory documentation of how the money would be spent. The Petition presented the Company's IT "budget" in a summary table showing total "IT Build" and "IT Run" costs for each calendar year from 2019 through 2025, accompanied by

[34] As clarified during cross-examination of Mr. Swetz by Staff, this amount includes AFUDC. *T285:L1 to T286:L4* (May 1, 2019).

three short paragraphs of text. *PS-2,* Schedule KR-CEFEE-2, pp. 99-100. The table is reproduced in its entirety below:

Table 40: Estimated IT Budget

IT Cost Category	2019	2020	2021	2022	2023	2024	2025	Total
IT Build	$30,297,753	$47,046,092	$1,941,741	$1,750,000	$1,125,000	$250,000	$0	**$82,410,586**
IT Run	$16,875	$2,900,850	$5,650,100	$6,246,700	$6,246,700	$6,246,700	$1,561,675	**$28,869,600**
Total	**$30,314,628**	**$49,946,942**	**$7,591,841**	**$7,996,700**	**$7,371,700**	**$6,496,700**	**$1,561,675**	**$111,280,186**

In response to Staff's request for a breakdown of these costs, the Company referred to the above referenced pages of the Program Plan and the "IT Budget" tab of Ms. Reif's workpapers. The information contained in this tab consists of a single "Confidential" Excel spreadsheet breaking down the above costs into twelve broad categories by year. *S-PSEG-EE-ENE-0010; Workpaper WR-KR-CEFEE-1.xlsx,* "IT Budget" tab. The only other documentation provided during discovery was contained in the Company's responses to two other discovery requests. The response to S-PSEG-EE-ENE-0019 consisted of two pages containing general descriptions of the enhancements to the Company's current system that were expected to result from the IT expenditures. The response to S-PSEG-ENE-0020 provided a table containing general descriptions of the scope of work corresponding to the twelve broad categories, and lists generally describing the tasks included in each.

Ms. Reif's rebuttal testimony included, as Exhibit 1, a breakdown of the proposed total 6-year budget into the twelve broad categories, as well as a copy of the table previously provided in response to S-PSEG-ENE-0020. *PS-4,* pp. 28-31, Exhibit 1. Finally, in response to a Rate Counsel discovery request for "all workpapers, calculations, analyses source materials and other supporting documentation" for Mr. Reif's rebuttal Exhibit I, the Company confirmed that the only source materials for the proposed budget had been provided previously in Ms. Reif's workpapers. *RCR-A-32.*

Based on this record, the Company has not met its burden of showing that its proposed IT budget is reasonable. As Mr. Mugrace noted in his prefiled direct testimony, the Company has provided only "estimated costs with no breakdown or description of costs." *RC-4,* p. 10. In his oral surrebuttal Mr. Mugrace explained further that the Company has not provided any breakdown of the costs contained in each of the twelve broad categories, nor has it provided any underlying workpapers or other backup documentation, such as, for example the hourly rate used to estimate labor costs, or price quotes of responses to RFPs from outside vendors. *T291:L6-12 & T292:L25 to T293:L5* (May 1, 2019).

As one example of the absence of evidentiary support for the proposed budget, Mr. Mugrace referred to Exhibit 1 to Ms. Reif's rebuttal testimony. Line 1 of the table entitled "IT Cost Amounts" indicates an "IT Build Cost" of $28,322,580. *T291:L23 to T292:L11* (May 1, 2019). The corresponding line in the table entitled "IT Cost Narratives from Discovery Response S-PSEG-EE-ENE-0020" includes a bullet-point list of several components of this cost amount, such as licensing costs, procurement, installation of hardware and company labor, but "no related costs associated with these bullet points." *T292:L11-17* (May 1, 2019). The same pattern is repeated for the other cost categories: "Going all the way down the line, there's one, two and a half pages of narratives. There's no corresponding costs." *T292:L20-22* (May 1, 2019).

The Company also has not provided documentation of any efforts to minimize its IT budget by leveraging its past IT investments. As noted above, in 2009 the Company made a very substantial investment to replace is customer information system. In addition, in a response to a Staff discovery request the Company stated that it had made approximately $2.3 million in IT investments and incurred approximately $1.8 million in IT Operation and Maintenance expense from 2013 through 2018. *S-PSEG-EE-ENE-0012.* While acknowledging that IT investments depreciate rapidly, Mr. Mugrace observed in his oral surrebuttal testimony that "there has to be some kind of value in those costs that could be leveraged" to support the proposed new programs. *T294:L23 to T295:L1* (May 1, 2019). PSE&G stated in a discovery response that "[t]o the extent PSE&G can leverage prior technology costs, knowledge capital, and lessons learned, it will do so." *T293:L19-25* (May 1, 2019); *S-PSEG-EE-ENE-0011.* However PSE&G has provided no documentation that is has performed any analysis of how its existing IT investments could be used. *T295:L2-6* (May 1, 2019).

In Ms. Reif's rebuttal testimony the Company has attempted to justify the large scale of its proposed IT budget as a response to customers' expectations of a "effortless customer experience" like that provided by companies "such as Amazon and Netflix ...." *PS-4,* p.23. However, as Mr. Mugrace observed in his surrebuttal testimony, a public utility is required to provide "safe, adequate and proper service at reasonable rates," and should not expend large amounts of money to provide service that exceeds this level. *T295:L19 to T296:L11* (May 1, 2019). Providing service at the level contemplated by Ms. Reif "may be gold plating, rather than just bronze plating." *T295:L17-19* (May 1, 2019). The scant documentation provided by the Company is not sufficient for an independent determination of whether the Company has properly balanced the expected benefits of the proposed IT investments against their high costs for ratepayers.

Finally, the Company has not properly documented that the proposed IT budget would be used solely to support the proposed program As Mr. Mugrace testified, the Company claims this is the case, but "I don't have any further documentation to support that." *T296:L12-20* (May 1, 2019). Based on the current record, there is no evidence to support a conclusion that the very large IT expenditures that are being proposed are appropriate for inclusion in a recovery mechanism that is supposed to be limited to energy-efficiency related costs.

For all of the above reasons, the record is insufficient to support the Board's approval of PSE&G's proposed IT investments. If all or part of the proposed CEFEE program is approved, the Board should disapprove the proposed IT investments based on the current record. In the alternative, if any IT investments are approved, such approval should be based on further documentation of the investments that are necessary to implement the program as approved by the Board.

2. The Amortization Period for Certain Programs Should be Shortened from 15 Years to 7 Years.

PSE&G is proposing the following amortization periods for investments under the proposed CEFEE program:

Residential/C&I Investments	15 Years
C&I Streetlight Program Investments	
HPS Regulatory Assets	5 Years
LED Installation	22 Years
Smart Controller	10 Years
Smart Cities	7 Years
IT Software	5 years

RC-4, p. 11. Rate Counsel does not object to the Company's proposed 5-year amortization period for any IT investments that may be approved by the Board. Id., p. 14. Also, for the reasons explained in Section IV, A., 3 of this brief, Rate Counsel opposed the Company's proposed C&I

Streetlight program even if a portion of the larger program is approved. Accordingly, Rate Counsel makes no recommendation as to the proposed amortization periods for the various components of this sub-program. *RC-4,* p 14.

PSE&G is proposing a 15-year amortization period for the bulk of its proposed Residential and C&I investments. This proposed amortization period would be too costly for ratepayers and should be reduced to 7 years for any sub-programs that are approved by the Board. As explained by Rate Counsel witness Mr. Mugrace, a 15-year amortization period, compared to a 7-year period, "would result in ratepayers paying more in debt service costs, equity returns and taxes over the long run and over the entire Program period." *RC-4,* p. 11. As explained by Mr. Mugrace, this is the same reasoning that applies to mortgage payments. Mortgages with longer terms typically involve smaller monthly payments, but higher total interest costs over the life of the loan. *Id.* As applied in the context of this program, a longer amortization period would allow the Company to earn a return on its investments over a longer term, resulting in higher costs for ratepayers. *Id.*, pp. 11-12.

In his oral surrebuttal testimony Mr. Mugrace presented calculations showing how much more ratepayers would pay and how much more the Company would earn using the longer amortization period. Assuming approval of the program as proposed, a 15-year amortization period would cost ratepayers approximately $782 million more than a 7-year amortization. Out of the total difference, approximately $417 million represents higher total after-tax returns on equity that the Company would receive using the proposed 15-year amortization period. *RC-5.*

The Company asserts that the 15-year amortization period is being proposed because it better aligns rate recoveries with program benefits. *PS-2,* p. 17; *PS-6,* pp. 3-5. This argument disregards important policy considerations that are present in the context of the Company's filing. First, this proposal should not be viewed in isolation. The CEFEE program is being proposed as part of a long-term statewide effort to achieve a transition to 100 percent clean energy by 2050. Executive Order 28 (May 23, 2018). It is likely that the Company's expenditures on energy efficiency programs will continue many years into the future. Thus, rate recoveries will become "pancaked," with ratepayers paying for investments made over multiple years simultaneously. *RC-4,* p. 12. While some overlap is unavoidable, a 15-year period would intensify the effect—the longer investments remain on the Company's books, the more recoveries for multiple years of investments will be subject to recovery at a time. *Id.*

The matching of cost recovery and benefits may be required under Generally Accepted Accounting Principles ("GAAP"), and is applied as a general principle in the context of ratemaking. *T300:L15-17* (May 1, 2019); *PS-RC-DM-2.* Nevertheless, as Mr. Mugrace explained, the Board has the discretion to adopt a different amortization period for ratemaking purposes based on impacts to ratepayers and other policy reasons. *T300:L18-25* (May 1, 2019). A 7-year amortization period would reduce the overall impacts on ratepayers as energy efficiency initiatives, as well as other initiatives for which costs are recovered in utility rates, are continued over the long term. If all or a portion of the CEFEE program is approved, the Board can and should exercise its discretion adopt a 7-year rather than a 15-year amortization period to mitigate the overall burden of this and other programs on PSE&G's ratepayers.

Furthermore, as explained in Point IV.B.3. above, the expected benefits of the propose CEFEE program do not fall equally on all ratepayers. While all ratepayers will share in some of the benefits of the program, only the program participants will benefit from the estimated $5.7 billion in bill savings that are projected to result from the proposed energy efficiency measures.

Since ratepayers as a whole may not share in a substantial component of the expected benefits of the program, there is less reason to strictly apply cost-matching principles here than in cases involving typical utility investments.

PSE&G has attempted to minimize the impact of the proposed 15-year amortization period with two calculations presented through Company witness Mr. Swetz. First, in Mr. Swetz's rebuttal testimony he presented the results of an analysis that purported to compare the effects of "pancaking" using a 15-year versus a 7-year amortization period. This calculation assumed that the expenditures under the current proposal would be continued at 2024 levels through September 2030. According to Mr. Swetz, the "maximum average monthly bill impact under the 15-year amortization period would be only $0.62 higher that under the 7-year amortization and occurs four years later (in 2034 vs 2031)." *PS-6,* p. 8.

These results are skewed for two reasons. First, Mr. Swetz's analysis assumed only 11 years' worth of investments. *T278:L15 to T279:L3* (May 1, 2019). Under a 7-year amortization period, the Company would earn returns on and returns of investments made at a given time for the succeeding 7 years. Under a 15-year amortization period, the Company would continue to recover on a given investment for 15 years. *T281:L18 to T282:L21* (May 1, 2019); *T93:L21 to T95:L14* (May 2, 2019). Thus, a maximum of 7 years' worth of investments that could be "pancaked" under a 7-year amortization, while up to 15 years' worth of investments could be "pancaked" using a 15-year amortization. Since Mr. Swetz's assumed only eleven years of investments, his calculation underestimates the maximum bill impacts that could occur if energy efficiency investments are continued over a longer term. Second, the maximum "pancaking" effect is underestimated because the Company's proposed investments do not reach the levels at which they are assumed to continue (with an annual escalation factor of 2 percent) until 2024, five years after the proposed program commencement. *T279:L4-19* (May 2, 2019).

At the evidentiary hearings, Mr. Swetz submitted a calculation in response to Mr. Mugrace's calculation of the additional costs to ratepayers resulting from a 15-year amortization. This calculation purported to show that, when the time value of money is taken into account, the difference in bill impacts between using a 7-year versus a 15-year amortization is "negligible." *PS-19; T89L:7 to T90:L2* (May 2, 2019). This analysis should be rejected because it discounts ratepayer bill impacts based on the Company's weighted average cost of capital ("WACC"), approximately 6.4 percent. *T91:L21 to T92:L7* (May 2, 2019). On cross-examination, Mr. Swetz acknowledged that the WACC is the Company's cost of money, not that of its customers. *T92:L8-11* (May 2, 2019). As Mr. Swetz further acknowledged: "You know, every customer is different and they have all different discount rates. So the cost of our capital could be taken as a proxy." *T92:L13-16* (May 2, 2019). Rate Counsel submits that 6.4% is not a good proxy for the cost of money for many customers. Indeed, the current rate set by the Board for PSE&G and other utilities to pay on customer deposits is 1.87 percent. Notice of Applicable Interest Rate on Customer Deposits Effective for Calendar Year 2019 (Oct. 3, 2018).[35] Using this rate, which represents a measure of the cost of money for PSE&G's customers based on Board policy, would result in less deeply discounted values for future bill impacts and would substantially alter Mr. Swetz's results. If 1.87 percent is substituted for the 6.4 percent discount factor in the Excel workbook containing Mr. Swetz's underlying calculations (*PS-19*) the result indicates that

[35] Available at https://www.state.nj.us/bpu/pdf/publicnotice/Interest_Rate_Notice_2019.pdf. Mr. Swetz's revenue requirements calculations use a rate of 0.87 percent, the rate effective in Calendar Year 2018. Notice of Applicable Interest Rates on Customer Deposit Effective for Calendar Year 2018 (NJBPU Oct. 4, 2017), available at: https://nj.gov/bpu/newsroom/announcements/pdf/Interest-Rate-Notice-2017.pdf.

ratepayers would pay over $450 million more on a present value basis using a 15-year year versus the 7-year amortization period.

During PS&G counsel's cross-examination of Mr. Mugrace, the Company attempted to suggest that the Board has previously adopted a policy of amortization over 10 years in its November 19, 2008 Order approving the Company's Carbon Abatement program in the Board's Docket No. EO08060426 (the "Carbon Abatement Order"), which has been included in the record as the Company's exhibit PS-18. The Carbon Abatement Order does not establish Board policy with regard to the proper amortization periods for the utilities' energy efficiency program. In this regard, it is important to consider the context of the Carbon Abatement Order. The Carbon Abatement program, which was PSE&G's very first filing under the N.J.S.A. 48:3-98:1, was described by the Company as a "small scale program" with "targeted" objectives. *RC-18,* Decision and Order. p.2. It had relatively small rate impacts. Id., p. 13.

Furthermore, the Board made it clear that it was not establishing any precedents with regard to ratemaking for the utilities' energy efficiency programs. The program as approved by the Board was based on a Joint Position that was signed by the PSE&G and Staff but not by Rate Counsel. *RC-18,* Decision and Order, p. 4. In a letter filed with the Board in response to the Joint Position, Rate Counsel stated that it generally concurred with the proposed program, but could not agree to the financial terms including, specifically, the rate of return on program investments. *Id.*, p. 12. Rate Counsel also strongly urged the Board to assure that the financial structure allowed by the Board for that program not be used as precedent for the additional investments expected to be made in accordance with Governor Corzine's Energy Efficiency Initiative. *Id.* The Board's Order explicitly addressed Rate Counsel's concerns, noting that the Joint Position "clearly states that the terms agreed to are in no way binding in any other proceeding." _Id._ , p. 13. The Board further "reiterate[d] that the decision in this matter does not set a precedent for any future filings made by the utilities," and stated that decisions on future filings would be "based on the merit of the individual petition. _Id._ p.14.

Since the issuance of the Carbon Abatement Order, many developments have occurred. The State's electric and gas utility rates now include surcharges to pay for multiple clean energy programs offered by both the utilities and the Office of Clean Energy. Further, these charges are in addition to other utility surcharges including those implemented under the utilities' infrastructure programs and, recently, Zero Emissions Certificates for nuclear generating units. The Board should consider the cumulative effects of these programs in establishing a reasonable amortization period for any program that may be approved in this proceeding.

In summary, a 7-year amortization period would result in substantial savings for ratepayers, and would mitigate the cumulative overall impacts of this and other ratepayer-funded programs. If the Board approves all or a part of PSE&G's proposed CEFEE program, it should exercise its discretion to consider these factors in determining the appropriate amortization periods. Any residential and C&I program investments that are allowed by the Board. should be amortized over a 7-year period instead of the 15-year period proposed by PSE&G.

3. Administrative Costs Should be Capped.

The Company's proposal includes an estimated $233,027,253 in Administrative and Subprogram Development Costs, amounting to a cumulative average of approximately 8.30 percent of the proposed total cost of the CEFEE program. *RC-4,* pp.13-14. However, the Company is not proposing to establish a cap for these costs—it is seeking unlimited authority to expend funds on administration and program development. *PS-4,* p. 26. This proposal should be rejected. If the Board approves all or part of the proposed CEFEE program, it should establish a cap on this category of costs. As Mr. Mugrace explained in his oral surrebuttal testimony: "I don't think the Company should have unlimited access to ratepayer money. I think a cap would ensure that the costs are reasonable and prudent, necessary, known and measurable." *T298:L19-23* (May 1, 2019).

Rate Counsel respectfully submits that PSE&G's proposal that it be allowed an unlimited budget for administrative cost is without any reasonable justification. Limited budgets are an essential discipline and planning tool for any organization, from households and small businesses to charitable organizations, governments, and large corporations. The programs proposed in the current petition would be subject to recovery on a "pass-through" basis through a clause mechanism, without the discipline provided by the traditional ratemaking process. This makes an unlimited budget for any element of the program, including administrative costs, particularly inappropriate. If any portion of the proposed CEFEE program is approved, administrative costs should be capped.

As Mr. Mugrace noted, establishing a specific cap is problematic at the present time, because the "CEA parameters and guidelines" that will govern the utilities' EE initiatives are not yet known. *T297:L12-16* (May 1, 2019). Further, the record shows a need for the Board to carefully review the basis for the Company's estimates in determining a reasonable cap. The Company's estimated cumulative total Administrative and Subprogram expenses are approximately $233 million, or about 8.3 percent of the total proposed program costs of $2.781 billion. *RC-4,* p. 14. However, the estimated expenses are not a constant percentage of total program costs—they increase over the course of the program, starting at approximately 6.40 percent of program costs in 2019, and reaching 10.68 percent in 2025. Id. As Mr. Mugrace explained, the percentages should be going down, for two reasons. First, costs should be declining as the Company gains experience with the program. *RC-4,* p. 14. Second, as more participants are added, the Company should be able to realize economies of scale, as there should be some fixed costs that do not increase with additional participants. *T297:L18 to T298:L8* (May 1, 2019).

Also, the Board should consider the absolute dollar amount of the proposed administrative costs, in addition to the amounts as a percentage of total program cost. Application of a percentage that results in a reasonable administrative cost budget in a smaller program may result in a too-generous allowance when applied to a program of the scale proposed by PSE&G. The Company has estimated administrative costs approaching one-quarter of a billion dollars. By any measure, this is a large budget. Administrative costs should be capped at a level based on a "bottom up" analysis of the necessary costs of administering the program.

For the above reasons, if the Board approves all or part of PSE&G's proposed program, it should reject the Company's proposal for an unlimited budget for Administrative and Subprogram Development costs. These costs should be subject to a cap that will provide the Company with the proper incentive to operate the program as efficiently as possible.

CONCLUSION

For all the foregoing reasons, PSE&G's CEFEE proposal should be denied.

Respectfully submitted,

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