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September 13, 2019

VIA ELECTRONIC & OVERNIGHT MAIL

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

**Re: In the Matter of the Petition of Public Service Electric and Gas
Company for Approval of its Clean Energy Future-Energy Efficiency
Program on a Regulated Basis
BPU Docket Nos. GO18101112 & EO18101113**

Secretary Camacho-Welch:

Sunrun Inc. submits this letter regarding the joint Stipulation of Settlement (“Stipulation Agreement”) filed on September 9, 2019 by and between Public Service Electric and Gas Company (“PSE&G”), Staff of the New Jersey Board of Public Utilities, the New Jersey Division of Rate Counsel, New Jersey Large Energy Users Coalition, Eastern Environmental Law Center, and Keystone Energy Efficiency Alliance.¹ The Board of Public Utilities (“Board”) approved the Stipulation Agreement on September 11, 2019.² By this letter, Sunrun requests that the Board allow Sunrun to participate in any future discussions and potential final resolutions or additional, interim agreements regarding the PSE&G’s Clean Energy Future – Energy Efficiency Petition (“CEF-EE Petition”), as discussed in the Stipulation Agreement.

As approved, the Stipulation Agreement continues and extends the current PSE&G Energy Efficiency 2017 Program offerings with certain modifications and extends the 180-day period for Board action on the CEF-EE Petition to March 16, 2020.³ The Stipulation Agreement

¹ Docket Nos. GO18101112 & EO18101113, *Stipulation of Settlement* (Sept. 9, 2019) (“Stipulation Agreement”).

² Docket Nos. GO18101112 & EO18101113, *Order Approving Stipulation* (Sept. 11, 2019) (“Order Approving Stipulation”).

³ Stipulation Agreement at pp. 2, 4; Order Approving Stipulation at p. 10 (approving “extension of the 180-day period for Board action on the Company’s CEF-EE Program from
(continued...)”)

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is the third extension granted to the statutory 180-day period for Board action⁴ and provides a cumulative extension of approximately 250 days.

The Stipulation Agreement further provides that if, “prior to March 16, 2020, the BPU directs the State’s gas and electric utilities to file for approval of energy efficiency programs pursuant to the Clean Energy Act, the Company will make the appropriate filing”;⁵ but that in the interim, “the Parties will continue to discuss resolution of the CEF-EE Program, and may enter into either a final resolution of the CEF-EE Program or additional, interim agreements.”⁶

Pursuant to the January 22, 2019 *Prehearing Order Setting Procedural Schedule and Ruling on Motions to Participate and Intervene* (“Prehearing Order”), Sunrun was denied intervenor status but granted participant status.⁷ The Prehearing Order found that “Sunrun’s experience and expertise in offering residential solar, storage, and energy services gives it a significant interest in the outcome of this proceeding that is different from that of other parties” and that Sunrun’s specific perspective “could add to the development of the record in this matter.”⁸ However, the Prehearing Order noted the “need to meet [the Board’s] statutory obligations in a timely manner” and denied Sunrun intervenor status “given the need for prompt and expeditious administrative proceedings.”⁹ Sunrun’s participant status was limited to the right to oral argument at hearing and the filing of post-hearing briefs.¹⁰ It is Sunrun’s understanding that this limited participant status currently precludes Sunrun from participating in settlement discussions that to date have resulted in the prior two stipulations to extend the 180-day period¹¹ and the instant Stipulation Agreement.

Sunrun submits that extending the 180-day period for Board action by 250 days to allow the parties further opportunity for settlement discussions and the potential to enter a final

(...continued)

September 18, 2019 until no later than March 16, 2020” and stating “[t]his extension of the 180-day period allows the parties to continue discussions while also recognizing that the Board and Staff are currently engaged in an energy efficiency stakeholder process to implement the Clean Energy Act”).

⁴ Docket Nos. GO18101112 & EO18101113, *Order Extending 180 Day Review Period* (June 27, 2019); *Order Extending 180 Day Review Period* (Aug. 12, 2019).

⁵ Stipulation Agreement at p. 4.

⁶ *Id.*

⁷ Docket Nos. GO18101112 & EO18101113 *Prehearing Order Setting Procedural Schedule and Ruling on Motions to Participate and Intervene* at p. 17 (Jan. 22, 2019) (“Prehearing Order”).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at pp. 17, 18.

¹¹ *See supra* note 4.

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resolution or additional interim agreements, demonstrate that Sunrun's participation in future settlement discussions (1) will not impede the Board's ability to meet its statutory obligations in a timely manner and (2) allowing Sunrun to participate in such discussions is warranted in the interest of fairness and justice.

While Chapter 1, subchapter 16 of the Uniform Administrative Procedure Rules limits the scope of a participant's participation in an individual case,¹² subchapter 1 of the Uniform Administrative Procedure Rules provides, in part, that "procedural rules may be relaxed or disregarded if the judge determines that adherence would result in unfairness or injustice."¹³ Given the 250-day extension to the statutory 180-day period for Board action and the Prehearing Order's findings of Sunrun's "significant interest in the outcome of this proceeding,"¹⁴ the interests of fairness and justice warrant relaxation or disregard of the procedural rules governing participation to allow Sunrun to participate in future settlement discussions, and potential final resolution and additional interim agreements regarding the CEF-EE Petition.

Sunrun requests the Board exercise its discretion to relax or disregard the procedural rules regarding the scope of participation and allow Sunrun to participate in any future settlement discussions, and potential final resolutions and additional interim agreements regarding the CEF-EE Petition. Allowing Sunrun's participation in these matters will not impede the Board's ability to meet its statutory obligations in a timely manner, as evidenced by the Board's approval of three stipulations to extend the 180-day timeline, and is warranted in the interests of fairness and justice.

Respectfully submitted,



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¹² N.J.A.C. § 1:1-16.6(c) (providing that participation shall be limited to: (1) the right to argue orally; or (2) the right to file a statement or brief; or (3) the right to file exceptions to the initial decision with the agency head; or (4) all of the above).

¹³ N.J.A.C. § 1:1-1.3(b).

¹⁴ Prehearing Order at p. 17.

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

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DOCKET NO.
EO18101113

CERTIFICATE OF SERVICE

I, Blake Elder, hereby certify that I have this day caused a copy of the foregoing document to be served upon the official service list for **EO18101113**, attached hereto, by electronic mail to all persons with a valid email address. I further certify that on this date eleven copies of this document have been sent for filing to the Board of Public Utilities.

Dated: September 13, 2019.

/s/ Blake Elder

Blake Elder

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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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