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July 22, 2024

Via Electronic Mail

Sherri L. Golden
Board Secretary
NJ Board of Public Utilities
44 South Clinton Avenue, 1st Floor
P. O. Box 350
Trenton, NJ 08625-0350

Re: In the Matter of the Petition of Public Service Electric and Gas Company Pursuant to N.J.S.A. 40:55D-19 to Appeal a Decision of the Pennsauken Township Committee Reversing a Decision by the Pennsauken Township Zoning Board of Adjustment Authorizing the Construction of an Electric Substation (Pennsauken Substation) BPU Docket No. _____

Dear Secretary Golden,

Enclosed for filing please find the Petition of Public Service Electric and Gas Company (“PSE&G” or the “Company”) to appeal a decision of the Pennsauken Township Committee reversing a decision by the Pennsauken Township Zoning Board of Adjustment authorizing the construction of an electric substation (the “Pennsauken Substation”). As more fully set forth in the Petition and its supporting exhibits, the Company respectfully requests, pursuant to N.J.S.A. 40:55D-19, that the Board determine that the construction of the proposed Pennsauken Substation is needed to relieve overloaded electric facilities in the Pennsauken area and ensure that PSE&G is able to continue providing safe and reliable service to customers in Pennsauken and neighboring municipalities, that the Pennsauken Substation is therefore necessary for the service, convenience, and welfare of the public, and that no alternative site or sites are reasonably available to achieve an equivalent public benefit. PSE&G requests that the Board issue an order authorizing the Company to immediately proceed with construction of the Pennsauken Substation as described in the Petition.

Copies of the Petition and supporting documents are also being served via email upon the Clerk of the Township of Pennsauken, the Department of Law and Public Safety, the Division of Rate Counsel and to all individuals listed on the attached Service List. Kindly acknowledge receipt of this filing by email.

In accordance with the Board's March 19, 2020 and June 10, 2020 Orders issued in BPU Docket No. EO20030254, hard copies are not being submitted at this time, but can be provided at a later time, if needed.

If you have any questions, please feel free to contact me directly.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Joseph F. Accardo Jr.", is written over a faint, circular official stamp.

Joseph F. Accardo Jr., Esq.

Enclosures

cc: Service List (via email)

In the Matter of the Petition of Public
Service Electric and Gas Company
Pursuant to N.J.S.A. 40:55D-19 to
Appeal a Decision of the Pennsauken
Township Committee Reversing a
Decision by the Pennsauken Township
Zoning Board of Adjustment
Authorizing the Construction of an
Electric Substation (Pennsauken
Substation)
BPU Docket No. _____

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**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**In the Matter of the Petition of Public
Service Electric and Gas Company
Pursuant to N.J.S.A. 40:55D-19 to
Appeal a Decision of the Pennsauken
Township Committee Reversing a
Decision by the Pennsauken Township
Zoning Board of Adjustment
Authorizing the Construction of an
Electric Substation
(Pennsauken Substation)**

BPU Docket No. _____

**TO THE HONORABLE COMMISSIONERS OF THE NEW JERSEY BOARD OF PUBLIC
UTILITIES:**

Public Service Electric and Gas Company (“Petitioner,” “PSE&G” or the “Company”) respectfully submits this Appeal Petition to the New Jersey Board of Public Utilities (“BPU” or “Board”) pursuant to N.J.S.A. 40:55D-19 seeking an order permitting the Company to commence construction of (i) a new electric substation to be located at 2323 Route 73 and Haddonfield Road in Pennsauken, New Jersey (the “Property”), and (ii) certain additional improvements consisting of three new transmission monopoles to be located within the Company’s existing transmission rights of way in New Jersey State Highway (“NJSH”) Route 73 and Haddonfield Road adjacent to the proposed substation (collectively the “Pennsauken Substation” or “Substation”). This appeal arises from the June 17, 2024 decision of the Pennsauken Township Committee (“Township Committee”) to reverse the approval of the Pennsauken Substation by the Pennsauken Township Zoning Board of Adjustment (the “Zoning Board”).¹ Petitioner submits that the Pennsauken Substation should be approved and the Township Committee’s decision overturned because the

¹ The Zoning Board voted to approve the Pennsauken Substation at a public hearing held on October 4, 2023 and a resolution memorializing the action of the Zoning Board was approved on November 29, 2023.

construction and operation of the Pennsauken Substation is necessary to the service, convenience and welfare of the public and no alternative site is reasonably available to achieve an equivalent public benefit.

BACKGROUND

1. PSE&G is a public utility as defined in N.J.S.A. 48:2-13 and a New Jersey corporation maintaining its corporate offices at 80 Park Plaza, Newark, New Jersey, 07102. The Company is primarily engaged in the transmission and distribution of electric energy and gas service to approximately 2.4 million electric customers and 1.9 million gas customers throughout the State of New Jersey.

2. As an electric public utility, the Company is subject to the regulatory jurisdiction of the BPU, which requires the Company to provide safe, adequate and reliable electric service at reasonable rates. See N.J.S.A. 48:2-21, 48:2-23 et. al.

THE NEED FOR THE SUBSTATION PROJECT

3. To ensure the continued provision of safe, adequate and reliable electric service to customers in the Township of Pennsauken (“Pennsauken” or the “Township”) and surrounding communities, PSE&G must periodically upgrade its distribution and transmission infrastructure. As discussed in the testimony of PSE&G witness Glenn P. Catenacci, there is an urgent need for additional electric utility capacity in Pennsauken. The new Substation will enhance the capability of PSE&G to continue to meet the electrical energy needs of the residents of Pennsauken and Camden County and to support future economic advancement and increases in demand in Pennsauken. The new Substation will relieve the current system overload at PSE&G’s Cuthbert Substation located at 711 Hampton Road in Cherry Hill, New Jersey, as well as potential system overloads at PSE&G’s Maple Shade and Cinnaminson Substations. The overloaded Cuthbert

Substation currently serves over 34,000 customers, including over 13,000 Pennsauken residents and 1,200 Pennsauken businesses. Failure of a station supply line or piece of equipment at the Cuthbert, Maple Shade or Cinnaminson Substations during times of high electrical peak demand could force intentional electrical feeder outages and/or wide area outages. The potential of these outages, during high electrical peak times, could jeopardize the health, welfare, safety and security of thousands of Pennsauken residents and businesses.

4. Of particular concern are the customers in the Township that rely on some form of life support equipment powered by electricity, as well as elderly and other vulnerable customers that are particularly sensitive to heat and would be at risk of adverse health consequences due to the loss of air conditioning. In the event of an outage, affected customers would need to be moved rapidly to locations where electricity is available; an event that would impose a burden on Pennsauken's first responders.

5. The Pennsauken Substation will improve local electric reliability and reduce the likelihood of supply interruptions. The Substation will connect to PSE&G's 230kV transmission system to provide a new electrical source for additional power to the area to alleviate the aforementioned overloads at the Cuthbert, Maple Shade and Cinnaminson Substations. The proposed Pennsauken Substation will address the electrical system concerns and meet the electrical system requirements that have been identified by the Company.

6. While the municipal review process has delayed the construction of the Pennsauken Substation, the need for the project has not been reduced with time. While the Company has been able to maintain the reliability of service to Pennsauken and surrounding communities up until now due to temporary operational measures, only the installation of the Substation will achieve the upgrade to reliability that is required to meet electric demand. The construction of the

Pennsauken Substation is necessary to enable the Company to continue to provide safe, adequate, and reliable service to Pennsauken and its surrounding communities.

PROJECT DESCRIPTION

7. As discussed more fully in the testimony of PSE&G witness Christopher Light, PSE&G is proposing to construct the Pennsauken Substation on a 3.375 acre portion of property in Pennsauken that is currently partially developed with a parking lot that serves the Living Faith Ministries of Camden County church that is located on an adjacent lot. PSE&G's Burlington-Camden electric transmission line right-of-way ("ROW") traverses the northwestern side of the Property, making it an ideal location for the Substation. The site is generally located by Haddonfield Road and the PSE&G ROW to the north, the NJSH Route 73 exit ramp to the east, the Living Faith Ministries' parking lot and church to the south, and the Haddonfield Road connector exit ramp to the west. PSE&G proposes to subdivide an existing lot to create a 3.375 acre lot on which to construct the new Substation. The facility would include a switchgear enclosure, a control building, a power transformer, a status light and power transformers, three A-frame structures, two transmission monopoles, 230,000/13,000 volt (230/13 kV) bus supports and circuit breakers. PSE&G also proposes associated construction in its transmission ROW adjacent to the Substation within the Route 73 and Haddonfield Road rights-of-way. This additional construction consists of the installation of three new transmission monopoles to replace two existing lattice structures.

8. The proposed Substation has been designed to be complementary to the surrounding area. The site is well buffered by virtue of the ground elevation of the proposed Substation relative to its surroundings. The Property sits in a depression which is significantly lower than Haddonfield Road. The Company has sought to mitigate perceived visual impacts

through careful site design, appropriate setbacks and buffering, which includes screen walls and extensive landscaping. The planted berm on the nearby Haddon Point Apartments property aids in screening the ground equipment. Mature vegetation will be retained on the site and new plantings will augment the existing natural buffer.

SITE SELECTION AND ALTERNATIVE SITES

9. As indicated above, the location for the Pennsauken Substation was chosen by PSE&G because it is ideally located along the existing Burlington-Camden electric transmission line ROW enabling the Company to derive power from the existing transmission lines without the need for additional transmission facilities. As discussed more fully in Mr. Light's testimony, in determining the site, the Company considered a number of other sites along the transmission ROW, including those identified by the Township, but none proved suitable. Stated simply, there is no alternative site for the Pennsauken Substation that is reasonably available to achieve an equivalent public benefit. *See N.J.S.A. 40:55D-19.*

PSE&G'S APPLICATION AND THE DECISIONS BELOW

10. On August 28, 2023, PSE&G filed an application with the Zoning Board for the approvals needed to construct the Pennsauken Substation. Following a public hearing held on October 4, 2023,² the Zoning Board issued a resolution dated November 29, 2023 that granted the application subject to certain conditions, all of which were acceptable to PSE&G.³ In granting the application, the Zoning Board reviewed the evidence provided by the Company, noted that no members of the public testified at the public hearing, and recognized that the Zoning Board's Board Professionals issued a report dated September 27, 2023 that recommended certain revisions,

² The transcript of the October 4, 2023 hearing is attached to this petition as Exhibit P-1.

³ *See* Resolution No. 7-2023-26. A copy of the resolution is attached to this petition as Exhibit P-2.

clarifications and/or modifications to the Company's plans, which PSE&G agreed to as a condition of approval. The Zoning Board found; *inter alia*, that:

- (i) PSE&G had established that the Property was "particularly suitable" for the proposed use and that it would allow PSE&G to address an existing shortage and benefit PSE&G's customers living in Pennsauken;⁴
- (ii) PSE&G had presented and reviewed numerous alternative sites within the Township and beyond and explained why its Property was better suited for the public utility use than any of the alternative sites elsewhere in the Township and the region;⁵
- (iii) PSE&G had established multiple additional "special reasons" to satisfy the criteria for a use variance;⁶
- (iv) the variance could be granted "without substantial detriment to the public good because the Subject Property is not within a major residential area and is relatively isolated and bounded by a major highway and a creek;"⁷
- (v) the heights of the proposed monopole and A-frame structures are "necessary to transition the electric power from the Applicant's transmission lines to the proposed Substation" and are therefore "necessary to effectuate the purpose and benefits of the Application;"⁸
- (vi) "the requested height variances can be granted without substantial detriment to the public good, because the proposed heights will be consistent with the

⁴ *Id.* at 12.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 13.

heights of several other towers in the vicinity of the Subject Property, which have existed historically in the area and will continue to do so, without substantial detriment to the public good.”⁹

11. In response to a notice of appeal of the Zoning Board’s decision filed December 19, 2023 on behalf of the Haddon Point Homeowners Association, the Township Committee conducted a public hearing¹⁰ and issued a resolution dated June 17, 2024 that reversed the Zoning Board approval.¹¹ Notwithstanding the fact that the Township Committee reviewed the same evidentiary record as the Zoning Board, the Township Committee concluded that:

- (i) PSE&G did not meet its burden of proof and failed to demonstrate that the use can be approved without a substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the zoning ordinance;¹² and
- (ii) “It appears that there are alternative scenarios where Living Faith Ministries could still sell some of its land to PSE&G for a substation, PSE&G would still meet its siting criteria and the location would be less impactful on the neighbors and would better meet the goals and objectives of the redevelopment plan and the Township’s vision for the Crossroads area.”¹³

⁹ *Id.*

¹⁰ A copy of the transcript of the June 17, 2024 public hearing is attached to this petition as Exhibit P-3.

¹¹ *See*, Resolution 2024:222 PSE&G Appeal. A copy of the resolution is attached to this petition as Exhibit P-4.

¹² *Id.* at 6.

¹³ *Id.* at 9. While the Township made this finding, it cited to no record evidence that supported it and it is PSE&G’s conclusion (as discussed more fully in the testimony of Mr. Light) that none of the sites identified by the Township are reasonable alternatives to the selected site.

JURISDICTION AND REGULATORY STANDARD FOR APPROVAL

12. The land use ordinances, site plan review ordinances and other regulations of the Township were enacted pursuant to the Municipal Land Use Law (“MLUL”), N.J.S.A. 40:55D-1 et. seq. The MLUL provides for an appeal to the BPU when a public utility has been aggrieved by a decision of a municipal agency, as occurred here. N.J.S.A. 40:55D-19.

13. The appeal provision in N.J.S.A. 40:55D-19 provides that, upon the BPU’s

“find[ing] that the present or proposed use by the public utility...of the land described in the petition is necessary for the service, convenience or welfare of the public,...and that no alternative site or sites are reasonably available to achieve an equivalent public benefit, the public utility...may proceed in accordance with such decision of the Board of Public Utilities, any ordinance or regulation made under the authority of this act [the MLUL] notwithstanding....”

14. The New Jersey Superior Court, Appellate Division, has recognized that “a utility should not have to depend on securing a local variance in cases where the importance of the installation to the general good overshadows the municipal policy,” (*In re Application of Hackensack Water Co.*, 41 N.J. Super. 408, 424 (App. Div. 1956) (“Hackensack Water”)),

15. Following the Hackensack Water decision, the New Jersey Supreme Court’ decision in In re Public Service Electric & Gas Co., 35 N.J. 358 (1961) (“In re PSE&G”) included guiding principles for application of the N.J.S.A. 40:55D-19 standard.¹⁴ First, the Supreme Court held that “[t]he statutory phrase, ‘for the service, convenience and welfare of the public’ refers *to the whole ‘public’ served by the utility* and not the limited local group benefited by the zoning ordinance.” In re PSE&G, 35 N.J. at 376-77 (emphasis added). Second, the Court held that “[t]he utility must show that the proposed use is **reasonably, not absolutely or indispensably, necessary**

¹⁴ The Appellate Division has determined that while Hackensack Water and PSE&G analyzed a predecessor statute, the holdings and principles announced in those cases are applicable to N.J.S.A. 40:55D-19, which contains the same standards. In re Public Serv. Elec., 2013 N.J. Super. Unpub. LEXIS 304 at *25-26. (Decided February 11, 2013).

for public service, convenience and welfare at some location.” Id. at 377 (emphasis added). Third, “[i]t is the ‘situation’ *i.e.*, the particular site or location . . . which must be found ‘reasonably necessary,’ so the Board must consider the community zone plan and zoning ordinance, as well as the physical characteristics of the plot involved and the surrounding neighborhood, and the effect of the proposed use thereon.” Id. Fourth, “[a]lternative sites or methods and their comparative advantages and disadvantages to all interests involved, including cost, must be considered in determining such reasonable necessity.” Id. Fifth, “[t]he Board’s obligation is to weigh all interests and factors in the light of the entire factual picture and adjudicate the existence or non-existence of reasonable necessity therefrom,” and, “[i]f the balance is equal, the utility is entitled to the preference, because the legislative intent is clear that the broad public interest to be served is greater than local considerations.” Id.

16. In Petition of Monmouth Consol. Water Co., 47 N.J. 251 at 258 (1966), the New Jersey Supreme Court summarized the policies underlying the standard set forth in N.J.S.A. 40:55D-19 (in the context of the predecessor statute) as follows:

In enacting this section the Legislature recognized that local municipal authorities are ill-equipped to comprehend adequately the needs of the actual and potential users of the utility’s services beyond as well as within their territorial limits. The lawmakers knew that if the zoning power of municipality were paramount, it would probably be exercised with an eye toward the local situation and without consideration for the best interests of the consumers at large in other communities whose convenience and necessity require service. The exemption [from local zoning regulation] also signifies an awareness that if the local authorities were supreme the Board of Public Utility Commissioners could not compel a utility to provide adequate service if the zoning ordinance conflicted with the need for expansion or extension of its facilities within the municipality.

17. The Company submits that the Pennsauken Substation is reasonably necessary for the service, convenience or welfare of the public and no alternative site or sites are reasonably available to achieve an equivalent public benefit. The Company has submitted substantial

evidence satisfying both of these requirements to the Zoning Board and is submitting such evidence in this proceeding as set forth in attached testimony of Glenn P. Catenacci, Christopher Light and David Karlebach. Therefore, the BPU is within its jurisdiction to approve the construction of the Pennsauken Substation notwithstanding any Township ordinance or regulation to the contrary.

**THE PROPOSED SUBSTATION IS NECESSARY AND THERE ARE NO BETTER
ALTERNATIVES**

18. As demonstrated above and in the accompanying testimonies (particularly that of Mr. Catenacci) the Pennsauken Substation is necessary to ensure safe and reliable service to Pennsauken and its surrounding communities. Specifically, the Company has found that the transformers at the Cuthbert Station in Cherry Hill are overloaded and additional capacity is needed to ensure safe and reliable service to approximately 34,000 customers, including 6,000 customers in Pennsauken. The proposed Substation will relieve the substantial overload on the Cuthbert Substation and bring the system back into compliance with the Company's design standards. Because the location of the proposed Substation is adjacent to the Burlington-Camden transmission ROW, it will also avoid unnecessary extensions of the existing 230kV transmission lines off the ROW. This is beneficial as it reduces construction costs and avoids reliability risks associated with additional line extensions. Given those circumstances, it is clear that the Pennsauken Substation is necessary for the service, convenience or welfare of the entire public served by PSE&G.

19. In addition, PSE&G has presented uncontroverted evidence that there are no reasonably available alternative sites that could achieve an equivalent public benefit. As discussed above and in the testimony submitted with this filing (particularly that of Christopher Light and Glenn Catenacci), PSE&G considered both several different alternatives to address the overload

of the Cuthbert Substation as well as several different locations, including those proposed by the Township, to site the proposed Substation. For various reasons, none of these proposed alternatives ultimately proved to be a viable option.

20. The testimony submitted with this Petition demonstrates the proposed site is the best location for the Pennsauken Substation because (i) it is adjacent to PSE&G's Burlington-Camden transmission line right-of-way, (ii) there is sufficient space for the project, (iii) it is proximate to the location that will be served, (iv) it is available for purchase by PSE&G, and (v) it is upland from any flood hazard area. Moreover, in attempting to gain municipal approval, PSE&G has agreed to a number of conditions designed to minimize any perceived detrimental impact of the proposed construction of the Substation. Thus, the record of this proceeding will clearly support findings that no alternative is "reasonably available to achieve an equivalent public benefit" to the proposed Pennsauken Substation.

SUPPORTING TESTIMONY AND EXHIBITS

21. Attached hereto and made a part hereof are the following Exhibits which Petitioner suggests should be marked as indicated:

- (i) Exhibit P-1 is a transcript of the October 4, 2023 public hearing before the Zoning Board;
- (ii) Exhibit P-2 is Resolution No. Z-2023-26 that was approved by the Zoning Board on October 4, 2023 and memorialized on November 29, 2023;
- (iii) Exhibit P-3 is a transcript of the public hearing concerning the proposed Substation by the Township Committee on June 17, 2024;
- (iv) Exhibit P-4 is Resolution No. 2024-222, PSE&G Appeal adopted by the Township Committee as of June 17, 2024;

- (v) Exhibit P-5 is the direct testimony and schedules of Glenn P. Catenacci;
- (vi) Exhibit P-6 is the direct testimony and schedules of Christopher Light; and
- (vii) Exhibit P-7 is the direct testimony and schedules of David Karlebach.

PSE&G reserves the right to submit additional testimony and schedules to address issues that arise in this proceeding.

REQUEST FOR EXPEDITED CONSIDERATION

22. As discussed *supra*, there is a pressing need for additional electric utility capacity in Pennsauken as well as in surrounding communities, including Camden, Cherry Hill, Collingswood and Haddon Township. Accordingly, PSE&G respectfully requests the Board to consider retaining this Petition and establishing a schedule for its expedited consideration and resolution.

NOTICE AND COMMUNICATION

23. Notice of this filing and copies of the Petition and supporting testimony and exhibits will be served upon the Clerk of the Township of Pennsauken, the Department of Law and Public Safety, and the Division of Rate Counsel.

24. Communications and correspondence related to the Petition should be sent as follows:

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Caitlyn White,
Maria Barling
Bernard Smalls
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CONCLUSION AND REQUESTS FOR APPROVAL

WHEREFORE, the Company respectfully requests that the BPU retain jurisdiction of this matter so that it may review and expeditiously issue a final decision and order that:

- A. The Pennsauken Substation is necessary for the service, convenience or welfare of the public;
- B. No alternative site or sites are reasonably available to achieve an equivalent public benefit adequately or reliably; and
- C. The Company may immediately proceed with construction of the Pennsauken Substation notwithstanding the decision of the Township Committee, the ordinances of the Township of Pennsauken, or any other ordinance or regulation authorized by the MLUL.

Respectfully submitted,

**PUBLIC SERVICE ELECTRIC AND
GAS COMPANY**

A handwritten signature in blue ink, appearing to read "Joseph F. Accardo, Jr.", is positioned above a horizontal line.

By: _____
Joseph F. Accardo, Jr.
Vice President – Regulatory &
Deputy General Counsel

DATED: July 22, 2024

VERIFICATION

STATE OF NEW JERSEY)
 :
COUNTY OF ESSEX)

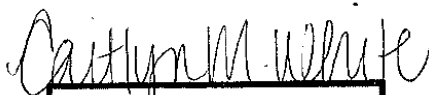
Lauren A. Thomas, of full age, being duly sworn according to law, on his oath deposes and says:

1. I am a Managing Director, Transmission and Substation Construction and Maintenance, of Public Service Electric and Gas Company, the Petitioner in the foregoing Petition.
2. I have read the annexed Petition, and the matters and things contained therein are true to the best of my knowledge and belief.

Lauren Thomas

Lauren A. Thomas
Managing Director, Transmission and Substation
Construction and Maintenance

Sworn and subscribed to)
before me this 22nd day)
of July 2024)


CAITLYN M. WHITE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 9/19/2024