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August 5, 2024

File No. 30132-18

VIA E-MAIL & CERTIFIED MAIL

Board.Secretary@bpu.nj.gov

Sherri L. Golden, Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, First Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: BPU Docket No.: EO24070535
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 ELECTRIC SUBSTATION (PENNSAUKEN
SUBSTATION)

Dear Secretary Golden:

Please be advised that this office currently serves as the solicitor to the Township of Pennsauken. Enclosed herein please find a copy of the Township of Pennsauken's Motion to Intervene in the referenced matter, which is currently pending before the New Jersey Board of Public Utilities. A proposed form of Order and Proof of Service is enclosed herein.

Thank you for your attention to this matter.

Very truly yours,



CHRISTOPHER A. ORLANDO

CAO

Encl.

VIA E-MAIL ONLY (w/Encl.)

cc: Township of Pennsauken
4860-8407-2915, v. 1

COUNSEL WHEN IT MATTERS.SM

Mount Laurel, New Jersey | Hamilton, New Jersey | Atlantic City, New Jersey | Camden, New Jersey

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

BPU Docket No. EO24070535

**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)**

Motion to Intervene

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

The Township of Pennsauken (the "Township") hereby moves for an order of the Board of Public Utilities (the "Board") granting it intervention in the above referenced matter and pursuant to N.J.A.C. 1:1-16.1(a), which provides that any person or entity not initially a party who will be "substantially, specifically and directly affected by the outcome of a contested case, may on motion, seek leave to intervene."

Under N.J.A.C. 1:1-16.3(a), "In ruling upon a motion to intervene, the judge shall take into consideration the nature and extent of the movant's interest in the outcome of the case, whether or not the movant's interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the case, the prospect of confusion or undue delay arising from the movant's inclusion, and other appropriate matters." Alternatively, the Township moves to participate in accordance with N.J.A.C. 1:1-16.6. The Township respectfully requests the Board to (1) grant it full rights as an intervenor in this matter pursuant to N.J.A.C. 1:1-16.1, and (2) order such further relief in connection therewith as the Board deems reasonable and just.

In support of this motion, the Township states:

1. The Township is a Municipal corporate body politic of the State of New Jersey, in Camden County, New Jersey.
2. The Public Service Electric and Gas Company (“PSE&G”) proposes to construct an electric substation for a public utility use at 2323 Route 73 and Haddonfield Road, designated as Block 2603, Lots 1 and 3 (the “Property”) on the tax maps of the Township.
3. On October 4, 2023, the Pennsauken Township Zoning Board of Adjustment (the “Zoning Board”) held a public hearing on the application of PSE&G for minor subdivision approval and preliminary and final major site plan approval with “D1” use variance, “D6” height variance, bulk “c” variance, and design waiver relief (the “Application”). The Zoning Board voted to approve the Application and a resolution memorializing the action of the Board was approved on November 29, 2023.
4. On December 19, 2023, the Pennsauken Township Committee (the “Committee”) received a notice of appeal from the decision of the Zoning Board pursuant to N.J.S.A. 40:55D-17 and Section § 141-14 of the Township Code.
5. The standard of review for an appeal by the governing body of a decision by the Zoning Board of Adjustment is de novo. Evesham Township Zoning Bd. of Adjustment v. Evesham Township Council, 86 N.J. 295 (1981); Cox & Koenig, New Jersey Zoning and Land Use Administration 42-1.6 (GANN, 2022).
6. On June 17, 2024, the Committee held a public hearing and reversed the decision of the Zoning Board, ultimately denying the Application of PSE&G.

7. The Committee found that PSE&G failed to demonstrate that the proposal meets the positive and negative criteria necessary to grant a D(1) Use Variance.
8. Specifically, PSE&G failed to demonstrate that the use could 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.
9. The Application also proposed to add five (5) additional monopoles, four at a height of one hundred and thirty (130) feet and one at a height of one hundred and fifty (150) feet and three (3) A frame structures at the height of 81.25 feet, all of which offend the height regulations imposed in the applicable zones. While they do not have the same mass as buildings, they still have a negative impact on the character of the area. The Zoning Board was unable to reduce the detrimental effect of five (5) additional monopoles and three (3) A frames by imposing reasonable conditions.
10. The Township will be substantially, specifically and directly affected by the outcome of this Petition as follows.
11. PSE&G proposes to construct the electric substation at the Property located squarely within the boundaries of the Township.
12. The Property is primarily located within the C-2 commercial zoning district, with portions of the right of way to the north in the C-1 zoning district and portions of the right of way to the west in the LI limited industrial zoning district. The proposed substation would primarily be constructed within the C-2 Zoning District.
13. The Property is part of a designated redevelopment area and is subject to the Redevelopment Plan for the Crossroads Redevelopment Study Area (the

“Redevelopment Plan”), which is the foundation for the Crossroads Overlay District.
Township of Pennsauken Ordinance §141-85.2.

14. The proposed electric substation is not a permitted use in the C-1, C-2, or LI zones, nor is it permitted in the Crossroads Overlay district.
15. The proposed use is not harmonious with the other established uses in the area. It is incongruent with the intent and purpose of the zoning ordinance.
16. The proposed use substantially impairs the intent and purpose of the Redevelopment Plan that applies to the Property.
17. The proposed use substantially impairs the intent and purpose of the Township master plan.
18. The decision of the Board in determining whether the proposed Pennsauken Substation is necessary to maintain reliable electric or natural gas supply service for the general public and that no alternative site or sites are reasonably available to achieve an equivalent public benefit will substantially, specifically and directly affect the important interests and obligations of the Township of Pennsauken as detailed above.
19. Allowing the Township to intervene and/or participate in this matter will add judicial economy and bring efficiency to this and future proceedings inasmuch as the Township will be bound by the ultimate outcomes.
20. The Township will work with the parties to establish a procedural schedule in this case.
21. Granting the Township intervention at this stage of the proceeding will not cause undue delay or confusion, nor impose an undue burden on any party to this proceeding.
22. The Verification of Mayor Marco Batista is attached hereto stating that the facts stated in this motion are true and accurate to the best of his knowledge and belief.

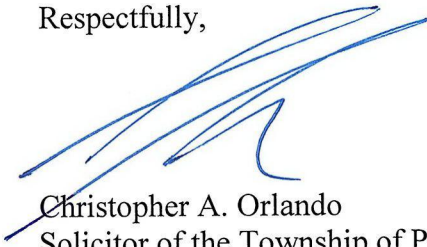
23. Correspondence concerning this Motion and this proceeding should be sent to:

Christopher A. Orlando, Esquire
Parker McCay P.A.
PO Box 2096
Camden, NJ 08101

24. A Certificate of Service and proposed form of Order granting intervention are attached hereto.

WHEREFORE, the Township of Pennsauken respectfully requests the Board to (1) grant it full rights as an intervenor in this matter pursuant to N.J.A.C. 1:1-16.1, and (2) order such further relief in connection therewith as the Board deems reasonable and just.

Respectfully,

A handwritten signature in blue ink, consisting of several fluid, overlapping strokes that form the name Christopher A. Orlando.

Christopher A. Orlando
Solicitor of the Township of Pennsauken

VERIFICATION

STATE OF NEW JERSEY

COUNTY OF CAMDEN

I, Mayor Marco DiBattista, hereby state that I am the Mayor of the Township of Pennsauken, the Petitioner in the foregoing Petition; that I am authorized to make this Verification on behalf of the Township of Pennsauken, that the foregoing Petition was prepared under my direction and supervision; and that the statements in the foregoing Petition are true and correct to the best of my knowledge, information, and belief.

8/2/24
Date



Mayor Marco DiBattista

BOARD OF PUBLIC UTILITIES

BPU Docket No. EO24070535

**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
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Motion to Intervene

ORDER

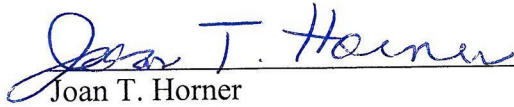
On _____ 2024, the Township of Pennsauken filed a Motion to Intervene in this matter. I find that the Township of Pennsauken is a Municipal Corporation of the state of New Jersey that will be directly and substantially affected by the outcome of this proceeding. Granting intervention to the Township of Pennsauken will not cause undue confusion or delay, nor impose an undue burden on any party to this proceeding. I therefore GRANT the Township of Pennsauken's intervention in this proceeding pursuant to N.J.A.C. 1:1-16.1 and 1:1-16.3.

Date:

PROOF OF SERVICE

I, the undersigned, am employed by the law firm of Parker McCay P.A. I hereby certify that on August 5, 2024, a true and correct copy of the enclosed Motion to Intervene has been filed, via email, with the New Jersey Board of Public Utilities (board.secretary@bpu.nj.gov), 44 South Clinton Avenue, 1st Floor, P.O. Box 350, Trenton, NJ 08625-0350.

I further certify that on August 5, 2024, a copy of the documents identified herein, were also served via email on the individuals listed on the attached Service List.


Joan T. Horner

SERVICE LIST

<p>Sherri Golden, Board Secretary NJ Board of Public Utilities 44 South Clinton Avenue, 9th Floor P.O. Box 350 Trenton, NJ 08625</p>	<p>Carol Artale NJ Board of Public Utilities 44 South Clinton Avenue, 9th Floor P.O. Box 350 Trenton, NJ 08625</p>	<p>Dean Taklif NJ Board of Public Utilities 44 South Clinton Avenue, 9th Floor P.O. Box 350 Trenton, NJ 08625</p>
<p>Stacy Peterson NJ Board of Public Utilities 44 South Clinton Avenue, 9th Floor P.O. Box 350 Trenton, NJ 08625</p>	<p>Bob Brabston NJ Board of Public Utilities 44 South Clinton Avenue, 9th Floor P.O. Box 350 Trenton, NJ 08625</p>	<p>Brian O. Lipman, Director Division of Rate Counsel 140 East Front Street, 4th Floor P.O. Box 003 Trenton, NJ 08625</p>
<p>T. David Wand Division of Rate Counsel 140 East Front Street, 4th Floor P.O. Box 003 Trenton, NJ 08625</p>	<p>Debora Layugan Division of Rate Counsel 140 East Front Street, 4th Floor P.O. Box 003 Trenton, NJ 08625</p>	<p>Pamela Owen NJ Dept of Law & Public Safety Division of Law, Public Utilities Section R.J. Hughes Justice Complex 25 Market Street, P.O. Box 112 Trenton, NJ 08625</p>
<p>Matko Ilic NJ Dept of Law & Public Safety Division of Law, Public Utilities Section R.J. Hughes Justice Complex 25 Market Street, P.O. Box 112 Trenton, NJ 08625</p>	<p>Ken Maloney Cullen and Dykman LLP 1101 14th Street N.W., Suite 750 Washington, DC 20005</p>	<p>Terrance Regan Cullen and Dykman LLP 1101 14th Street N.W., Suite 750 Washington, DC 20005</p>
<p>Joseph F. Accardo, Jr. PSE&G Services Corporation 80 Park Plaza, T10 P.O. Box 570 Newark, NJ 07102</p>	<p>Noreen Giblin PSE&G Services Corporation 80 Park Plaza, T10 P.O. Box 350 Newark, NJ 07102</p>	<p>Jacob Skaist PSE&G Services Corporation 80 Park Plaza, T10 P.O. Box 570 Newark, NJ 07102</p>
<p>Caitlyn White PSE&G Services Corporation 80 Park Plaza, T10 P.O. Box 570 Newark, NJ 07102</p>	<p>Bernard Smalls PSE&G Services Corporation 80 Park Plaza, T10 P.O. Box 570 Newark, NJ 07102</p>	<p>Maria Barling PSE&G Services Corporation 80 Park Plaza, T10 P.O. Box 570 Newark, NJ 07102</p>

Pamela Scott-Forman Pennsauken Township Clerk 5605 N. Crescent Boulevard Pennsauken, NJ 08102	Christopher A. Orlando Attorney to Township Committee Parker McCay P.A. P.O. Box 2096 Camden, NJ 08102	
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