



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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[www.nj.gov/bpu](http://www.nj.gov/bpu)

ENERGY

IN THE MATTER OF COGEN TECHNOLOGIES ) ORDER  
LINDEN VENTURE, L.P., PUBLIC SERVICE )  
ELECTRIC AND GAS COMPANY, AND )  
ELIZABETHTOWN GAS COMPANY FOR: (1) )  
MOTION FOR PROTECTIVE ORDER AND )  
EXEMPTION FROM PUBLIC DISCLOSURE OF )  
CONFIDENTIAL INFORMATION; AND (2) )  
APPROVAL OF GAS SERVICE AGREEMENT )  
BETWEEN COGEN TECHNOLOGIES LINDEN )  
VENTURE, L.P. AND PUBLIC SERVICE )  
ELECTRIC AND GAS COMPANY AND )  
ELIZABETHTOWN GAS COMPANY ) BPU DOCKET NO. GM12100970

NOTIFICATION LIST ATTACHED

APPEARANCES:

**Matthew Weissman, Esq.**, Attorney for Petitioner, Public Service Electric and Gas Company  
**Mary Patricia Keefe, Esq.**, Attorney for Petitioner, Elizabethtown Gas Company  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:

Background:

By Order dated March 27, 1991, the New Jersey Board of Public Utilities ("Board") approved a Gas Service Agreement ("GSA") between Cogen Technologies, Linden Venture, L.P. ("Linden Cogen" or "Buyer") and Public Service Electric and Gas Company ("PSE&G") and Elizabethtown Gas Company ("ETG") (ETG and PSE&G, collectively, "Sellers"). Under the terms of the GSA, Linden Cogen constructed a 614 MW combined cycle gas fired cogeneration facility at the Conoco Phillips Refinery in Linden, New Jersey. The cogeneration facility commenced operation in or about May 1992, and produces both electricity and steam. Linden Cogen has a power sales contract with Consolidated Edison Company ("Con Ed").

The original GSA, dated July 13, 1990 between PSE&G, ETG, and Linden Cogen, set forth the service arrangements under which natural gas has been supplied to the facility by the Sellers for the past twenty years. Natural gas is supplied by the Sellers under two separate but interrelated services described in the agreement: a Sales Service and a Resale Service. The term of the GSA is 25 years from commencement of commercial operation of the cogeneration facility (i.e. May 2017). All costs and obligations on the part of the Sellers are shared by PSE&G and ETG on an agreed upon 80% /20% basis.

Under the Sales Service, the Sellers sell gas to Linden Cogen from Sellers' systems' supplies. The Sales Service price includes a service charge which is adjusted whenever there is a change to Sellers' base rates. Under the Resale Service, PSE&G and ETG purchase gas from the Buyer at various gas production locations, transport that gas through Sellers' interstate pipeline transportation contracts, and deliver and resell that gas to Linden Cogen. In addition to the service charge described above for Sales Service, the Resale Service also includes a charge equal to Sellers' weighted average interstate pipeline transportation costs. The GSA provides that during peak periods (i.e. on cold winter days, when the forecasted average temperature is less than 22 degrees F), both the Sales and Resale Services may be interrupted, and the gas retained by PSE&G and ETG for system use to meet the requirements of Sellers' firm Basic Gas Supply Service ("BGSS") customers.

Under its power purchase contract with Con Ed, Linden Cogen is required to continue to generate and deliver power on cold winter days, even when Sales and/or Resale Service may be interrupted under the GSA. So that it could continue to satisfy its obligations under the agreement with Con Ed on those days, Linden Cogen agreed in the GSA that it would (1) acquire a butane storage facility in the area; (2) fill that facility prior to the beginning of each winter; and (3) refill that facility twice more during each winter on a schedule dictated by the Sellers prior to November 1 of each year. Under these terms, Linden Cogen has obtained storage for 100,000 barrels of butane at Conoco Phillips' Linden Plant, which is located in proximity to the Linden Cogen facility.

### **The October 22, 2012 Filing**

On October 22, 2012, PSE&G filed a letter petition on behalf of itself, Linden Cogen, and ETG (collectively, "Petitioners"). According to the petition, the butane arrangement, as described above has become difficult for Linden Cogen because, butane, including the associated shipping costs, is expensive, and switching fuel-burning equipment from natural gas to butane during peak periods can be difficult. For ETG and PSE&G, the need to specify butane delivery dates (which require that the inventory be emptied prior to each date) prior to the winter reduces flexibility versus that afforded under a service interruption arrangement that does not include such a restriction.

Under the original GSA, the Petitioners agreed that a modification or amendment of any material term or condition of the GSA would be submitted to the Board for its review and approval. Recently, the Petitioners have mutually agreed to modification of Linden Cogen's obligation to provide butane service under the GSA ("Interim Operating Agreement" or "IOA"). A fully executed copy of the IOA was attached to the letter petition.

Pursuant to the IOA, the Buyer's obligation to obtain, store, and burn butane during Resale Service interruptions will be modified. Instead, during such interruptions, in lieu of burning butane, Linden Cogen may be directed by PSE&G and ETG to burn natural gas that Buyer acquires and causes to be delivered by interstate pipeline to PSE&G's city gate. Sellers will provide Transportation Service to deliver that gas to Buyer's cogeneration facility. The price per Dekatherm payable by Buyer for the Transportation Service provided by Sellers in any month shall be equal to the rate for Transportation Gas Service Non-Firm ("TSG-NF") service set forth in PSE&G's tariff for gas distribution service. As with the other services provided under the GSA, ETG and PSE&G will share revenues from this service with 80% of the revenues to PSE&G and 20% of the revenues to ETG. Buyer will continue to have the responsibility for the initial butane filling pursuant to the GSA, and Sellers will maintain the ability to interrupt Resale Service and direct Buyer either to burn butane (until such time as the initial butane fill volume has been exhausted) or to deliver gas supplies to Sellers as described above.

Petitioners represent that several benefits will flow from implementation of the IOA. In particular:

- There are environmental (emissions) advantages to burning natural gas instead of butane.
- By paying TSG-NF equivalent rates, Linden Cogen will contribute incremental revenues to be credited to Sellers' BGSS customers while butane use provides no such benefit.
- Sellers will be able to implement more flexible interruption criteria that are not constrained by predetermined butane delivery schedules.
- Linden Cogen will benefit from not having to switch fuels during peak period service interruptions, and as a New Jersey-based business, may also experience cost savings due to the switch from butane to natural gas.

Lastly, the Petitioners believe that they, and the public interest may mutually benefit if, in the future, Linden Cogen could supplement and/or replace butane supplies provided under the GSA with off-gas (commonly referred to as "refinery gas") produced from the Conoco Phillips Linden Plant. The IOA therefore provides that Linden Cogen will undertake and provide to Sellers by March 1, 2013 a comprehensive engineering feasibility study to evaluate whether and how the quality of refinery gas might be economically improved to meet the specifications for use in Buyer's Facility or interstate pipeline specifications, in order to supplement supplies provided under the GSA with off-gas produced from the Conoco Phillips Linden Plant and any other sources of refinery gas produced in New Jersey.

The Interim Operating Agreement specifies that it will be effective through March 31, 2013, and requires Board approval in a signed Order issued by December 1, 2012. Should the Petitioners mutually determine to continue the terms of the IOA through the end of the GSA or any part thereof, with the Board's approval of the IOA pursuant hereto, the Petitioners will send correspondence to that effect to the Secretary of the Board.

By letter dated November 15, 2012, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted its comments in this matter. Rate Counsel stated that it does not object to the proposed modification to the GSA. Although it was provided with only a short

review period, Rate Counsel stated that it appears that the proposed revisions are unlikely to harm, and may benefit, Sellers' ratepayers. Rate Counsel requests that the Board's approval of the modification to the GSA be subject to the condition that the parties provide, no later than June 1, 2013, a detailed report that documents the expected and actual impacts of the IOA on the Petitioners, and on Sellers' ratepayers.

In addition, Rate Counsel stated that any additional requests to modify the GSA should be filed with the Board sufficiently in advance of the proposed effective date to allow for a more complete review. Rate Counsel recommended that the Board direct the parties to file any requested modifications for the 2013-14 winter season, or subsequent winter seasons, no later than the June 1 immediately preceding the relevant winter season.

Finally, Rate Counsel noted that the petition does not seek determination by the Board of any ratemaking issues that may arise as a result of the implementation of the IOA. Rate Counsel accordingly reserves its rights to address such issues, if any, in appropriate future proceedings.

### **DISCUSSION AND FINDINGS**

Other than modification of Linden Cogen's Butane Service obligations as set forth in the IOA and summarized herein, all other provisions of the Board approved GSA remain unchanged. In this regard, it is duly noted that Linden Cogen has been in existence for two decades, and the relationship established by the GSA and approved by the Board that has contributed to the operation of Linden Cogen has existed throughout that time without regulatory incident or concern. Additionally, the Board recognizes the benefits as detailed by Petitioners, and agrees that, if accurate, approval of this modification to the GSA can produce benefits, not only to Petitioners, but to the public by potentially reducing pollutants and increasing contribution to PSE&G's and ETG's systems for the benefit of their BGSS customers.

Therefore, the Board, having reviewed Petitioners' filing **HEREBY FINDS** that the IOA is in accordance with law and is not contrary to the public interest, and **HEREBY FINDS** the terms and conditions contained therein to be reasonable. Accordingly, the Board **HEREBY APPROVES** the Interim Operating Agreement for Butane Service between Linden Cogen, PSE&G and ETG effective as of the date of service of this Order for a term ending on March 31, 2013. Should the Parties determine that they wish to extend the IOA beyond that date, the Parties are **HEREBY DIRECTED** to file notice with the Secretary of the Board by March 1, 2013.

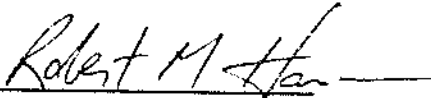
With respect to Rate Counsel's request that any future modification requests be filed no later than June 1 immediately preceding the relevant winter season, the Board agrees that this request is reasonable and would allow time for a more thorough review of any proposed modification, and **HEREBY ORDERS** that any future modification requests be filed no later than June 1 immediately preceding the relevant winter season for which the modification is requested.

Turning to Rate Counsel's request for a detailed report, the Board notes that some of the requested information relates to impacts on PSE&G's and ETG's BGSS customers. The Board **FINDS** that it would be more appropriate to request this information within the context of the respective BGSS proceedings filed by PSE&G and ETG. Further, the Board

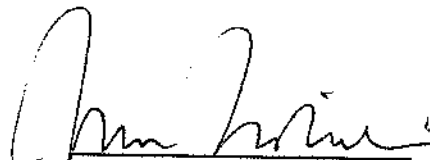
**FINDS** that the other requested information, specifically butane vs. natural gas cost analyses, environmental benefits, benefits to Linden Cogen and engineering feasibility studies, would be more appropriately handled within the context of any future request for modification which may be made by the Petitioners.

DATED: 11/20/12

BOARD OF PUBLIC UTILITIES  
BY:

  
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PRESIDENT

  
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COMMISSIONER

  
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NICHOLAS ASSELTA  
COMMISSIONER

  
MARY-ANNA HOLDEN  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



In The Matter Of Cogen Technologies Linden Venture, L.P., Public Service Electric And Gas Company, And Elizabethtown Gas Company For: (1) Motion For Protective Order And Exemption From Public Disclosure Of Confidential Information, and (2) Approval Of Gas Service Agreement Between Cogen Technologies Linden Venture, L.P. and Public Service Electric And Gas Company And Elizabethtown Gas Company

DOCKET NO. GM12100970

NOTIFICATION LIST

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