

June 13, 2005

VIA HAND DELIVERY

Honorable Kristi Izzo, Secretary
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Re: In the Matter of the Deferred Balances Audit of Public
Service Electric & Gas Company
Phase II: August 2002 -July 2003
Docket Nos. EX02060363 and EA02060366

Dear Secretary Izzo :

Enclosed please find the original and eleven copies of the comments of the Division of the Ratepayer Advocate (Ratepayer Advocate) on the above-referenced matter. Kindly stamp the extra copy as “filed” and return it in the enclosed, self-addressed stamped envelope. Thank you for your assistance.

The Ratepayer Advocate provides the within comments pursuant to the May 13, 2005 letter from the office of the Secretary of the Board of Public Utilities (Board or BPU) inviting interested parties to submit comments on the Phase II audit report of the Board’s consultants, Mitchell & Titus, LLP and the Barrington-Wellesley Group, Incorporated (Auditors), concerning the deferred balances of Public Service Electric and Gas Company (PSE&G). The May 13, 2005 letter invited comments on all issues including the issue mentioned on page I-6 of the Phase II audit report concerning the Market Transition Charge (MTC). More specifically, the Board requested the parties to respond to six questions concerning PSE&G’s determination of the MTC overrecovery. At page I-6, the Phase II audit report noted that:

BPU Staff has raised questions with respect to the reconciliation method PSE&G employed in calculating the over-recovery of \$540 million of unsecuritized stranded costs by its MTC and other charges during the Transition Period, which in accordance with paragraph 14 of the EMP Order is to be refunded to ratepayers through the SBC. It is PSE&G's position that all MTC issues were fully litigated and resolved in the EMP Proceeding of 1998-1999 and the Deferral Proceeding of 2002, that the methodology for calculating the MTC reconciliation has not changed since the Board made its restructuring Final Decision in 1999. Discussions between Staff and PSE&G to resolve these questions are continuing, and if a resolution cannot be achieved, a Board proceeding may be instituted to consider the issues raised by Staff.

The Auditors do not state specifically what the issue is in the above paragraph. However, the six questions contained in the May 13, 2005 letter provide additional guidance on this issue. Despite this guidance, the Ratepayer Advocate finds it difficult to provide any initial comments on these issues without further additional information other than what is contained in the audit report. The Ratepayer Advocate believes that the preferable procedure should be for PSE&G to file its initial comments on the various issues and to provide responses to discovery requests in order for other interested parties to be able to file meaningful reply comments by the June 28, 2005 deadline.

One of the difficulties in providing any meaningful initial comments is that the audit report contains mainly brief recitations of the Auditors' conclusions and findings without much detail on the background information that led them to these findings and conclusions. There are citations to interviews with utility employees and discovery responses presumably provided by PSE&G to the Auditors concerning their report. However, the background documents containing the specific information are not attached, in all probability because they are voluminous. As noted in the audit overview (page I-1), the Auditors were engaged on October 2, 2002 to perform the audit of PSE&G's deferred balances. The Phase II audit report itself is

dated March 11, 2005. Thus, the entire audit took over twenty-nine months to complete. The Phase I audit report was completed on or about December 16, 2002. Although it is uncertain how long the Auditors needed to complete the Phase II audit, it probably took a large part of the balance of time from the December 16, 2002 Phase I audit report to the March 11, 2005 Phase II audit report (approximately twenty-six months), whereas other interested parties have had only a few weeks to absorb the Phase II audit report and provide initial comments.

The executive summary of the Phase II audit report (page I-3) states that as of July 31, 2003, the PSE&G deferred balances for the Non-utility Transition Charge (NTC), the Societal Benefits Charge (SBC), and the MTC were overcollected by approximately \$373.5 million. There was also an underrecovery of approximately \$234.7 million for the Basic Generation Service (BGS).¹ Clearly these are significant amounts which need to be carefully reviewed by the other interested parties including the Ratepayer Advocate, as well as the BPU. In addition, the questions concerning the MTC overrecovery determination indicate possible additional overrecoveries that have not been identified by PSE&G and which should be returned to ratepayers if they in fact have not been previously reported by the utility. PSE&G should in its initial comments provide the other interested parties with a specific discussion of the issues between the BPU Staff and the utility concerning the MTC overrecovery and any undercounting of the overrecovery that should be returned to ratepayers.

There are other issues also brought out in the Phase II audit report that should be addressed by PSE&G in its initial comments and which the other interested parties including our office should have the opportunity to include in our reply comments, once we have

¹ PSE&G has requested to securitize the remaining BGS underrecovery for Year Four of the transition period in a separate open docket. *I/M/O the Petition of Public Service Electric & Gas Company for a Bondable Stranded Cost Rate Order in Accordance with N.J.S.A. 48:3-49 et seq. to Recover Its Basic Generation Service*, Docket No. EF03070532.

received the additional needed information. These issues include, but are not limited to, the following: the St. Lawrence adjustment which covers additional revenues from the sale of the St. Lawrence contract energy that was somehow not included in the NTC from August 1999 to May 2003²; whether or not PSE&G is successfully maximizing the value it receives for the electric power from the NUG contracts; and the utility's efforts to renegotiate and restructure its remaining NUG contracts.

The Ratepayer Advocate believes that once PSE&G has provided the necessary additional information to complete a comprehensive review of the audit report's issues, then all other interested parties will be in a better position to provide our reply comments by the June 28, 2005 deadline. The Ratepayer Advocate respectfully thanks the Board for this opportunity to provide our initial comments.

Respectfully submitted,

SEEMA M. SINGH
RATEPAYER ADVOCATE

By: _____
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Deputy Ratepayer Advocate

c: President Jeanne M. Fox
Commissioner Frederick F. Butler
Commissioner Connie O. Hughes
Commissioner Jack Alter
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² According to the audit report (page V-3), PSE&G did include the costs of the saint Lawrence contract in the NTC for this period.