



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
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Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY AND CLEAN ENERGY

IN THE MATTER OF THE PETITION OF)
ELIZABETHTOWN GAS COMPANY FOR APPROVAL)
OF TRIENNIUM 2 CLEAN ENERGY PROGRAMS)
AND ASSOCIATED COST RECOVERY PURSUANT)
TO THE CLEAN ENERGY ACT)
)
) DOCKET NO. QO23120869

Parties of Record:

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Sheree L. Kelly, JD, MBA, Regulatory Affairs Counsel, Elizabethtown Gas Company
John Kolesnik, Esq., Counsel for the Energy Efficiency Alliance of New Jersey
Steven S. Goldenberg, Esq., Counsel for the New Jersey Large Energy Users Coalition

BY COMMISSIONER MARIAN ABDOU:

BACKGROUND AND PROCEDURAL HISTORY

The New Jersey Clean Energy Act of 2018

On May 23, 2018, Governor Murphy signed the Clean Energy Act into law ("CEA"). The CEA mandates that New Jersey's electric and gas public utilities increase their role in delivering energy efficiency ("EE") and peak demand reduction ("PDR") programs. The CEA further directs the New Jersey Board of Public Utilities ("Board") to require the electric and gas utilities to reduce customer use of electricity and natural gas in their respective service territories.

Specifically, the CEA directs the Board to require:

- (a) each electric public utility to achieve, within its territory by its customers, annual reductions of at least 2% of the average annual electricity usage in the prior three years within five years of implementation of its electric energy efficiency program; and
- (b) each natural gas public utility to achieve, within its territory by its customers, annual reductions in the use of natural gas of at least 0.75% of the average annual natural gas

usage in the prior three years within five years of implementation of its gas energy efficiency program.¹

Triennium 1

By Order dated June 10, 2020, the Board approved, pursuant to the CEA, utility programs that reduce the use of electricity and natural gas within the utilities' territories.² In the June 2020 Order, the Board directed the utilities to file three-year program petitions by September 25, 2020 for approval by the Board by May 1, 2021 and implementation from July 1, 2021 through June 30, 2024 ("Triennium 1").

By Order dated April 7, 2021, the Board approved a stipulation of settlement authorizing Elizabethtown Gas Company ("ETG" or "Company") to implement its portfolio of EE programs.³

Triennium 2

By Order dated May 24, 2023, the Board directed each electric and gas public utility to propose, for Board approval, EE programs for the second three-year EE program period ("Triennium 2") on or before October 2, 2023, and the Board addressed certain aspects of the Triennium 2 framework.⁴ By Order dated July 26, 2023, the Board approved the remaining aspects of the Triennium 2 framework.⁵

By Order dated September 27, 2023, the Board extended the filing deadline for Triennium 2 petitions from October 2, 2023 to December 1, 2023 and directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by December

¹ N.J.S.A. 48:3-87.9(a).

² In re the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket Nos. QO19010040, QO19060748, and QO17091004, Order dated June 10, 2020 ("June 2020 Order").

³ In re the Petition of Elizabethtown Gas Company for Approval of New Energy Efficiency Programs and Associated Cost Recovery Pursuant to the Clean Energy Act and the Establishment of a Conservation Incentive Program, BPU Docket No. GO20090619, Order dated April 7, 2021.

⁴ In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated May 24, 2023.

⁵ In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated July 26, 2023.

8, 2023 and that entities file with the Board any responses to those motions by December 14, 2023.⁶

By the September 2023 Order, the Board retained this matter for hearing and, pursuant to N.J.S.A. 48:2-32, designated President Guhl-Sadovy as Presiding Commissioner in this matter. By Order dated October 25, 2023, the Board delayed the start of Triennium 2 by six (6) months from July 1, 2024 until January 1, 2025.⁷ By Order dated January 10, 2024, the Board redesignated President Guhl-Sadovy as the Presiding Commissioner for the Public Service Electric and Gas Company (“PSE&G”) filing, and designated myself, Commissioner Abdou, as the Presiding Commissioner in this matter, authorized to rule on all motions that arise during the pendency of this proceeding, and modify schedules that may be set as necessary to secure a just and expeditious determination of all issues.⁸

⁶ In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated September 27, 2023 (“September 2023 Order”). The September 2023 Order also directed that any entity wishing to file a motion for admission of counsel, *pro hac vice*, should do so concurrently with any motion to intervene or participate. No entity filed a motion for admission *pro hac vice* in this matter.

⁷ In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket No. QO23030150, Order dated October 25, 2023 (“October 2023 Order”). The October 2023 Order also extended Triennium 1 through December 31, 2024.

⁸ In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs et al., BPU Docket Nos. QO23030150, QO23120868, QO23120869, QO23120870, QO23120871, QO23120872, QO23120874, and QO23120875, Order dated January 10, 2024 (“January 2024 Order”). By the January 2024 Order, the Board additionally redesignated Commissioner Abdou as the Presiding Commissioner for the New Jersey Natural Gas Company (“NJNG”) and South Jersey Gas Company (“SJG”) filings, BPU Docket Nos. QO23120868 and QO23120870.

DECEMBER 2023 PETITION

On December 1, 2023, ETG filed the requisite petition with the Board (“Petition”). In the Petition, the Company proposed a total budget of approximately \$277 million for its EE programs over a 30-month period from January 1, 2025 through June 30, 2027. The proposed programs and associated costs are summarized in the table below:

Category	Sector	Program	Total
Core	Residential	Whole Home	\$22,358,485
		Income Qualified	\$31,081,504
		EE Products	\$39,076,473
		Behavioral	\$2,480,127
	Commercial	Energy Solutions	\$32,018,475
		Prescriptive and Custom	\$22,734,951
		Direct Install	\$51,401,612
Multifamily	Multifamily	\$36,008,519	
Utility-Led		Building Decarbonization	\$5,601,952
		Demand Response	\$1,185,649
		Next Generation Savings	\$1,273,240
Other Portfolio Costs		Workforce Development	\$700,000
		Community Outreach	\$300,000
		Outside Services	\$675,000
Net Utility Transfers			\$30,300,000
Total			\$277,195,988

ETG sought authorization to recover all costs associated with the Triennium 2 Programs and to be permitted to earn a return on and of investments associated with these programs through its Energy Efficiency Program Rider (“EEP Rider”) rate, set forth in Rider “E” of the Company’s Tariff. ETG further proposed that lost revenues associated with these programs be recovered through its existing Conservation Incentive Program (“CIP”), set forth in Rider “G” of the Company’s Tariff.

ETG’s proposed Triennium 2 Program budget is approximately \$277.2 million, which is comprised of \$258.1 million of program investment and \$19.1 million of operations and maintenance (“O&M”) costs. The O&M costs primarily consist of utility administration, inspections and quality control, and evaluation costs. ETG estimated that, under its proposal, it would recover a total of approximately \$280.1 million from ratepayers and \$81.7 million from loan participants from 2025 through 2037.

ETG’s proposed Triennium 2 Program revenue requirements can be divided into two (2) general components: 1) On Bill Repayment Program (“OBR Program”) investments; and 2) Direct Program investments. The OBR Program investment category is comprised of the loan incentives that will be provided by the Company through the following programs: Energy Efficiency Products, Whole Home, Multifamily, Prescriptive/Custom, Direct Install, Energy Solutions, and Building Decarbonization. The Direct Program investments category is comprised of grants and energy audits, as well as other capitalizable expenditures required to implement the proposed programs.

ETG states that its determination of the revenue requirements for the OBR Program investments and the Direct Program investments is consistent with previous Board approvals of ETG's EE programs.

If the Triennium 2 Programs are approved as proposed, ETG estimated that the effect of the Year 1 rate increase on the bill of a typical residential heating customer, using an average of 100 therms per month, would be an increase of \$1.26 or 1.1%.

On December 26, 2023, Board Staff ("Staff") issued ETG a letter of administrative deficiency ("Letter") identifying administratively incomplete portions of the Petition and requesting that the Company cure any deficiencies. On January 5, 2024, ETG filed an update to the Petition to cure the deficiencies identified in the Letter ("Update"). N.J.S.A. 48:3-98.1(b) provides the Board with 180 days to approve, modify, or deny the Company's requested recovery of costs for the Program. The 180-day review period commenced on January 5, 2024 for the Petition.

In the January 2024 Order, the Board directed that any entity wishing to file a motion for leave to intervene or participate, or to update a previously-filed motion for leave to intervene or participate, in this proceeding shall have until seven (7) days following Staff's issuance of a letter of administrative completeness to the Company.⁹

On January 12, 2024, Staff issued a letter of administrative completeness, noting that the Update adequately cured the deficiencies identified in the Letter and that Staff therefore determined the Petition to be administratively complete. The Board subsequently received no additional or updated motions seeking leave to intervene or participate.

By Order dated February 26, 2024, after considering all Motions to Intervene or Participate in this matter and responses to the Motions, I granted intervenor status to the New Jersey Large Energy Users' Coalition ("NJLEUC") and the Energy Efficiency Alliance of New Jersey ("EEA-NJ"), and participant status to Uplight, Inc. and the joint utilities: NJNG, Atlantic City Electric Company, Jersey Central Power & Light Company, PSE&G, Rockland Electric Company, and SJG.¹⁰

Based upon the status of current settlement discussions, the parties to this matter have agreed that an extension of the 180-day review period is appropriate. Accordingly, on March 19, 2024, the parties to this matter submitted a stipulation of settlement, extending the 180-day review period to October 15, 2024 ("Stipulation").

N.J.S.A. 48:2-21.3 allows any public utility to file with the Board a written stipulation waiving the effective date of any tariff or rate, subject to the Board's approval. In this case, the parties to this proceeding have agreed to an extension until October 15, 2024. No party has opposed the Stipulation or the extension of the review period. As such, after review of the Stipulation, I **HEREBY FIND** the Stipulation to be reasonable, in the public interest, and in accordance with the law. Accordingly, I **HEREBY APPROVE** the attached Stipulation in its entirety, **HEREBY**

⁹ In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs *et al.*, BPU Docket Nos. QO23030150, QO23120868, QO23120869, QO23120870, QO23120871, QO23120872, QO23120874, and QO23120875, Order dated January 10, 2024.

¹⁰ In re the Petition of Elizabethtown Gas Company for Approval of Triennium 2 Clean Energy Programs and Associated Cost Recovery Pursuant to the Clean Energy Act, BPU Docket No. QO23120869, Order dated February 26, 2024.

INCORPORATE its terms and conditions as though fully set forth herein, and **HEREBY EXTEND** the review period until October 15, 2024.

I have reviewed the proposal for a procedural schedule, which has been agreed to by the parties to this matter. I **HEREBY ISSUE** the following Prehearing Order, along with the procedural schedule, attached as Exhibit A, and **HEREBY DIRECT** the parties to comply with its terms.

PREHEARING ORDER

1. NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED

A. Nature of Proceedings

On December 1, 2023, ETG filed the Petition with the Board. In the Petition, the Company proposed a total budget of approximately \$277 million for its EE programs over a 30-month period from January 1, 2025 through June 30, 2027.

ETG sought authorization to recover all costs associated with the Triennium 2 Programs and to be permitted to earn a return on and of investments associated with these programs through its EEP Rider rate, set forth in Rider "E" of the Company's Tariff. ETG further proposed that lost revenues associated with these programs be recovered through its existing CIP, set forth in Rider "G" of the Company's Tariff.

ETG's proposed Triennium 2 Program budget is approximately \$277.2 million, which is comprised of \$258.1 million of program investment and \$19.1 million of O&M costs. The O&M costs primarily consist of utility administration, inspections and quality control, and evaluation costs. ETG estimated that, under its proposal, it would recover a total of approximately \$280.1 million from ratepayers and \$81.7 million from loan participants from 2025 through 2037.

ETG's proposed Triennium 2 Program revenue requirements can be divided into two (2) general components: 1) OBR Program investments; and 2) Direct Program investments. The OBR Program investment category is comprised of the loan incentives that will be provided by the Company through the following programs: Energy Efficiency Products, Whole Home, Multifamily, Prescriptive/Custom, Direct Install, Energy Solutions, and Building Decarbonization. The Direct Program investments category is comprised of grants and energy audits, as well as other capitalizable expenditures required to implement the proposed programs. ETG states that its determination of the revenue requirements for the OBR Program investments and the Direct Program investments is consistent with previous Board approvals of ETG's EE programs.

If the Triennium 2 Programs are approved as proposed, ETG estimated that the effect of the Year 1 rate increase on the bill of a typical residential heating customer, using an average of 100 therms per month, would be an increase of \$1.26 or 1.1%.

B. Issues to be Resolved

1. The cost effectiveness and cost efficiency of the proposed programs, including but not limited to:
 - a. Whether the utility pursued additional state and federal funding for its EE and building decarbonization programs to defray burdens on ratepayers; and
 - b. Whether the total budget dollar amount in the building decarbonization programs proposed by all utilities combined exceeds the Board's recommended total budget;
2. The compliance of the proposed program offerings with the Board's requirements, including but not limited to:
 - a. Whether the utility's filing proposes similar EE programs that can be consistently implemented across all utility territories; and

- b. Whether the utility's proposed building decarbonization programs are in compliance with the Board's guidelines; and
3. The reasonableness and lawfulness of the proposed cost recovery mechanism, including but not limited to:
 - a. Whether the utility's proposed program properly accounts for jointly planned and coordinated budgets with other partner utilities.

2. PARTIES AND THEIR DESIGNATED ATTORNEYS OR REPRESENTATIVES

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No change in designated trial counsel shall be made without leave if such change will interfere with the dates for hearings. If no specific counsel is set forth in this Order, any partner or associate may be expected to proceed with evidentiary hearings on the agreed dates.

3. SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING

As authorized by N.J.S.A. 10:4-9.3 , public hearings will be held virtually after publication of notice in newspapers of general circulation in ETG’s service territory. The dates, times, and locations of the public hearings are to be determined.

4. SCHEDULE OF HEARING DATES, TIME, AND PLACE

Evidentiary hearings are tentatively scheduled for August 28 and 29, 2024, at a time and location to be determined based upon the availability of the parties and myself.

5. STIPULATIONS

As of the date of this Order, the Company, Staff, and the New Jersey Division of Rate Counsel (“Rate Counsel”) have entered into an Agreement of Non-Disclosure of Information Agreed to Be Confidential (“NDA”).

The parties to this matter have also agreed that extension of the 180-day review period is appropriate and have entered into a stipulation to extend the review period to October 15, 2024 to allow more time for review of ETG’s Petition by the Board.

6. SETTLEMENT

Parties are encouraged to engage in settlement discussion. Notice should be provided to all parties of any settlement discussions for the preparation of an agreement to resolve the issues in the case.

7. AMENDMENTS TO PLEADINGS

On January 5, 2024, ETG filed a supplement to its Petition to cure certain administrative deficiencies.

8. DISCOVERY AND DATE FOR COMPLETION

The time limits for discovery shall be as provided in Exhibit A or in accordance with N.J.A.C. 1:1-10.4.

9. ORDER OF PROOFS

ETG has the burden of proof. The hearings will be conducted by topic in the following order:

First – ETG

Second – Rate Counsel

Third – EEA-NJ

Fourth – NJLEUC

Fifth – Staff

10. EXHIBITS MARKED FOR IDENTIFICATION

None at this time.

11. EXHIBITS MARKED IN EVIDENCE

None at this time.

12. ESTIMATED NUMBER OF FACT AND EXPERT WITNESSES

ETG will present the following witnesses: Frank J. Vetri and Thomas Kaufmann; Isaac Gabel-Frank, Gabel Associates

Rate Counsel will present the following witnesses: Robert J. Henkes, Henkes Consulting; David Dismukes, Acadian Consulting Group; Elizabeth A. Stanton, Applied Economics Clinic

Rate Counsel or other parties may identify additional witnesses as necessary for purposes of testimony.

Any party substituting witnesses shall identify such witnesses within five (5) days of determining to replace a witness and in no event later than five (5) days before filing of testimony of a substitute witness. All direct testimony will be pre-filed, and all witnesses submitting pre-filed direct testimony will be subject to cross examination at evidentiary hearings, which will be conducted by topic (e.g., program elements, revenue requirements, and so forth).

13. MOTIONS

All pending motions to intervene and/or participate have been addressed.

14. SPECIAL MATTERS

None at this time.

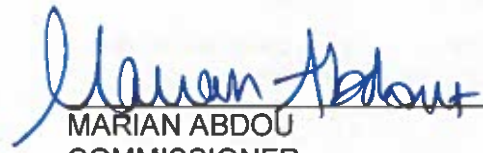
The parties are **HEREBY DIRECTED** to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding.

I **HEREBY DIRECT** that this Order be posted on the Board's website.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED: 4/23/2024

BY:


MARIAN ABDOU
COMMISSIONER

IN THE MATTER OF THE PETITION OF ELIZABETHTOWN GAS COMPANY FOR APPROVAL OF TRIENNium 2
CLEAN ENERGY PROGRAMS AND ASSOCIATED COST RECOVERY PURSUANT TO THE CLEAN ENERGY ACT

DOCKET NO. QO23120869

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EXHIBIT A: PROCEDURAL SCHEDULE

DOCKET NO. QO23120869

Motions to Intervene/Participate	January 19, 2024
Responses to Intervention/Participation	January 25, 2024
Discovery Requests on Initial Testimony+	February 9, 2024
Responses to Discovery on Initial Testimony	February 23, 2024
Additional Discovery Requests	March 8, 2024
Additional Round Discovery Answers	March 2, 2024
Settlement Conference	March 28, 2024
Public Hearing++	TBD in April–May
Intervenor/Respondent Testimony	May 3, 2024
Discovery on Intervenor/Respondent Testimony	May 17, 2024
Responses to Discovery on Intervenor/Respondent Testimony	June 3, 2024
Rebuttal Testimony	June 19, 2024
Discovery on Rebuttal Testimony	July 1, 2024
Answers to Rebuttal Discovery	July 10, 2024
Settlement Conference (if necessary)	July 16, 2024
Evidentiary Hearings with oral surrebuttal+++	August 28–29, 2024
Initial Briefs	September 16, 2024
Reply Briefs	September 30, 2024
Final Board Action	TBD

+ Discovery will be conducted on a rolling basis, with responses due in accordance with N.J.A.C. 1:1-10.4. The aforementioned dates are subject to modification by the Presiding Commissioner. The parties on the service list will be notified accordingly.

++ Subject to the Presiding Commissioner's availability.

+++ The Parties may request oral rejoinder. The Presiding Commissioner will confirm this request prior to evidentiary hearings.