

**Tamara L. Linde**  
Vice President – Regulatory

**Law Department**  
80 Park Plaza, T5G, Newark, NJ 07102-4194  
tel: 973.430.8058 fax:973.430.5983  
cell: 973.204.2386  
email: tamara.linde@pseg.com



October 29, 2008

**VIA FEDEX**

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street N.E.  
Washington, D.C. 20426

Re: Public Service Electric and Gas Company  
Docket No. ER08-1233-00\_  
Compliance Filing

Dear Secretary Bose:

Public Service Electric and Gas Company (“PSE&G”) hereby submits for filing revised tariff sheets in Attachment H-10B to PJM Interconnections, L.L.C.’s (“PJM”) open access transmission tariff (“PJM OATT”) in compliance with the order issued by the Commission on September 30, 2008 in *Public Service Electric and Gas Company*, 124 FERC ¶ 61,303 (2008)<sup>1</sup> (“September 30 Order”).

**I. Background**

On July 7, 2008, PSE&G filed with the Commission, pursuant to Section 205 of the Federal Power Act,<sup>2</sup> revised tariff sheets to the PJM OATT to implement a cost of service formula rate for PSE&G’s existing and future transmission investment. The Commission’s September 30 Order, accepted PSE&G’s formula rate, with certain modifications and directed PSE&G to submit a compliance filing. Specifically, the Commission directed PSE&G to:

- expand the definition of the term “Interested Parties” to include all parties having standing to bring a complaint under section 206 of the Federal Power Act;<sup>3</sup>
- eliminate the cut-off date by which parties must file a complaint, or the Commission must initiate a proceeding, under section 206 or lose the right to do so;<sup>4</sup> and

<sup>1</sup> As amended by errata issued by the Commission, 125 FERC ¶ 61,024 (2008).

<sup>2</sup> 16 U.S.C. § 824d (2007).

<sup>3</sup> September 30 Order at P16.

<sup>4</sup> Id at P17.

- clarify that PSE&G continues to bear the ultimate burden of proof, i.e., to demonstrate the justness and reasonableness of the charges resulting from application of the formula rate.<sup>5</sup>

This compliance filing addresses each of these Commission directives.

## **II. Compliance Filing**

### **A. Interested Parties**

In compliance with the Commission's directive, PSE&G proposes to revise the definition of Interested Party and Interested Parties set forth in section 1(e) of Attachment H-10B by deleting "or any otherwise affected party" and replacing it with "or any party having standing under Section 206 of the Federal Power Act ..."

### **B. Section 206 Complaints**

In compliance with the Commission's directives, PSE&G proposes to revise sections 3(e) and 4(a) and delete section 4(e) of Attachment H-10B to allow any Interested Party to file a Section 206 complaint in the event a Preliminary Challenge is not resolved.

Specifically, PSE&G proposes to revise section 3(e) by deleting the provisions that provide that "Failure to make a Preliminary Challenge with respect to a Material Accounting Change reflected in a year's True-up Adjustment shall act as a bar with respect to that year's True-up Adjustment, but shall not bar a subsequent Preliminary Challenge related to a subsequent Annual Update and True-up Adjustment to the extent such Material Accounting Change affects the subsequent True-up Adjustment." PSE&G proposes to revise section 4(a) by deleting the provision that provides that "[A] party's Formal Challenge may not raise any issue that was not the subject of that party's Preliminary Challenge during the applicable Challenge Period." PSE&G has also made corresponding changes to section references.

### **C. Burden of Proof**

In compliance with the Commission's directives, PSE&G proposes to revise section 4(d) of Attachment H-10B to clarify that PSE&G continues to bear the ultimate burden of proof, i.e., to demonstrate the justness and reasonableness of the charges resulting from application of the formula rate. PSE&G proposes to revise section 4(d) by adding "and to demonstrate the justness and reasonableness of the charges resulting from the application of the formula rate" to the end of the section.

---

<sup>5</sup> Id.

**III. List of persons on whom this filing is being served**

In accordance with the Commission's regulations, PSE&G has served all parties included in the official service list in this proceeding. In addition, PSE&G will make copies of this filing available for inspection at PSE&G's corporate headquarters in Newark, New Jersey. Also, PSE&G has provided a copy of this filing to PJM, so that PJM may serve a copy of this filing on all PJM members (which include all affected transmission customers) and upon the state utility regulatory commissions in the PJM Region by posting this filing on its website ([www.PJM.com](http://www.PJM.com)) and providing a link to such posting via email. PSE&G requests waiver of the requirement to serve this filing by mailing paper copies.

**IV. Contents of filing**

The following documents are included in this filing:

1. Clean and redlined version of Attachment H-10B
2. Certificate of Service

Please direct any questions or comments to the undersigned counsel.

Respectfully submitted,

Public Service Electric and Gas Company

By: 

Tamara L. Linde  
Vice President – Regulatory  
PSEG Services Corporation  
80 Park Plaza – T5G  
Newark, New Jersey 07102  
(973) 430-8058  
(973) 430-5983 (facsimile)  
[Tamara.Linde@PSEG.com](mailto:Tamara.Linde@PSEG.com)

# **Revisions to PJM Tariff**

**(Redline Version)**

**K:\pjm\TARREVS\102908 Attachment H10B PSE&G formula rate filing.doc**

## ATTACHMENT H-10B

### FORMULA RATE IMPLEMENTATION PROTOCOLS

#### Section 1 Annual Updates & True-Up Adjustments

- a. The ATRR calculated under Attachment H-10A shall be applicable to services on and after October 1, 2008 through December 31, 2008, and shall be applicable thereafter for services on and after each January 1 of a given calendar year through December 31 of such calendar year (the "Rate Year").
- b. On or before June 15, 2009, and on or before June 15 of each succeeding Rate Year ("Publication Date"), PSE&G shall calculate the true-up pursuant to the Formula Rate (Attachment H-10A, Attachment 6) (the "True-Up Adjustment") and cause it to be posted on the PJM website (www.PJM.com, or successor thereto) and filed with the Federal Energy Regulatory Commission, or successor thereto ("FERC") for informational purposes only. The submission of such informational filing with FERC shall not require any action by the agency.
- c. On or before October 15, 2008, and on or before October 15 of each succeeding Rate Year, PSE&G shall recalculate its ATRR, producing the "Annual Update" for the upcoming Rate Year. As part of the Annual Update, PSE&G shall include its projected net revenue requirement, including information in workpapers regarding projected costs of plant in forecasted rate base, expected construction schedule and in-service dates. All inputs shall be provided in sufficient detail to identify the components of PSE&G's net revenue requirement. PSE&G shall cause such Annual Update to be posted on PJM's website (www.PJM.com, or successor thereto) and submit such Annual Update as an informational filing with the FERC ("Posting Date"). The submission of such informational filing with FERC shall not require any action by the agency.
- d. If the Publication Date or the Posting Date falls on a weekend or a holiday recognized by the FERC, then the Publication Date or Posting Date, as applicable, shall be the next business day.
- e. Upon written request for a particular year's True-Up Adjustment or Annual Update by any NITS customer in the PSE&G Zone, the New Jersey Board of Public Utilities (or successor agency), ~~or any otherwise affected party~~ or any party having standing under Section 206 of the Federal Power Act (each an "Interested Party" and collectively "Interested Parties"), PSE&G will promptly make available to such Interested Party and/or a consultant designated by it, a "workable" Excel file containing that year's True-Up Adjustment and/or Annual Update, as requested by the Interested Party. Upon request, PSE&G will provide to Interested Parties a description of the basis upon which transmission projects were planned either by PJM or PSE&G.

Issued By: Craig Glazer  
Vice President, Federal Governmental Policy

Effective: October 1, 2008

Issued On: October 30, 2008

Filed to comply with order of Federal Energy Regulatory Commission, Docket No. ER08-1233, issued September 30, 2008, 124 FERC ¶ 61,303 (2008), as amended by errata 125 FERC ¶ 61,204 (2008).

- c. If PSE&G and any Interested Party are unable to resolve disputes related to information requests submitted in accordance with these Annual Review Procedures, PSE&G or the Interested Party may petition FERC to appoint an Administrative Law Judge as a discovery master. The discovery master shall have the power to issue binding orders to resolve discovery disputes and compel the production of discovery, as appropriate, in accordance with the Annual Review Procedures and consistent with FERC's discovery rules.
- d. Interested Parties shall have until December 31 (or 21 days after the production of information as a result of the resolution of a discovery dispute under Section 3.c) to notify PSE&G in writing of any specific challenges, including challenges related to the rate treatment of Material Accounting Changes, to the application of the Formula Rate ("Preliminary Challenge"). The time period for Interested Parties to raise Preliminary Challenges is the "Preliminary Challenge Period."
- e. Preliminary or Formal Challenges (as defined under Section 4.a, below) are not intended to serve as a means of pursuing other objections to the Formula Rate. ~~Failure to make a Preliminary Challenge with respect to a Material Accounting Change reflected in a year's True Up Adjustment shall act as a bar with respect to that year's True Up Adjustment, but shall not bar a subsequent Preliminary Challenge related to a subsequent Annual Update and True Up Adjustment to the extent such Material Accounting Change affects the subsequent True Up Adjustment.~~
- f. Preliminary or Formal Challenges related to Material Accounting Changes shall be subject to the resolution procedures and limitations in Section 4, except that Section 4.d shall not apply. In any proceeding initiated to address a Preliminary or Formal Challenge or *sua sponte* by the FERC, a party or parties (other than PSE&G) seeking to modify the Formula Rate in any respect shall bear the burden of proving that the Formula Rate is no longer just and reasonable without such modification and that the proposed modification is just, reasonable and consistent with the original intent of the Formula Rate and the procedures in this Attachment H-10B; provided, however, that in any such proceeding, in determining whether the Formula Rate is no longer just and reasonable without modification to a Material Accounting Change and whether the proposed modification is just and reasonable, no offsets unrelated to the applicable Material Accounting Changes may be considered.

Issued By: Craig Glazer  
Vice President, Federal Governmental Policy

Effective: October 1, 2008

Issued On: October 30, 2008

Filed to comply with order of Federal Energy Regulatory Commission, Docket No. ER08-1233, issued September 30, 2008, 124 FERC ¶ 61,303 (2008), as amended by errata 125 FERC ¶ 61,204 (2008).

#### Section 4 Resolution of Challenges

- a. If PSE&G and any Interested Party(ies) have not resolved any Preliminary Challenge to the True-Up Adjustment or Material Accounting Change within the Preliminary Challenge Period, an Interested Party shall have an additional twenty-one (21) days (unless such period is extended with the written consent of PSE&G to continue efforts to resolve the Preliminary Challenge, which consent shall not be unreasonably withheld) to file a complaint with the FERC, pursuant to 18 C.F.R. § 385.206 (“Formal Challenge”), which shall be served on PSE&G by electronic service on the date of such filing. However, there shall be no need to make a Formal Challenge or to await conclusion of the Preliminary Challenge Period if the FERC already has initiated a proceeding to consider the True-Up Adjustment or Material Accounting Changes. ~~A party’s Formal Challenge may not raise any issue that was not the subject of that party’s Preliminary Challenge during the applicable Preliminary Challenge Period.~~
- b. If PSE&G and an Interested Party agree upon a resolution to a Preliminary Challenge to that year’s True-Up Adjustment or Material Accounting Change by November 30, such resolution shall be reflected in the next Annual Update as provided in Section 1.f. Otherwise, any resolution to a Preliminary Challenge, or a Formal Challenge, if applicable, shall be reflected in the first Annual Update following resolution of the challenge, with interest.
- c. Any response by PSE&G to a Formal Challenge must be submitted to the FERC within thirty (30) days of the date of the filing of the Formal Challenge, unless such time period is extended by the mutual agreement of PSE&G and the Interested Party filing a Formal Challenge or by FERC, and shall be served on the filing party(ies) by electronic service on the date of such filing.
- d. Except as provided in Section 3.4e, in any proceeding initiated in response to a Formal Challenge and in any proceeding initiated by the FERC concerning the current year’s True-Up Adjustment or Material Accounting Change, PSE&G shall bear the burden of proving that it has reasonably applied the terms of the Formula Rate, ~~and~~ the applicable procedures in these Formula Rate Implementation Protocols, in that year’s True-Up Adjustment, and to demonstrate the justness and reasonableness of the charges resulting from the application of the formula rate.

Issued By: Craig Glazer  
Vice President, Federal Governmental Policy

Effective: October 1, 2008

Issued On: October 30, 2008

Filed to comply with order of Federal Energy Regulatory Commission, Docket No. ER08-1233, issued September 30, 2008, 124 FERC ¶ 61,303 (2008), as amended by errata 125 FERC ¶ 61,204 (2008).

~~e. Subject to judicial review of FERC orders, each True-Up Adjustment or Material Accounting Change shall become final and no longer subject to challenge pursuant to these Annual Review Procedures or by any other means by the FERC or any other entity on the later to occur of (i) passage of the twenty one (21) days following the Preliminary Challenge Period for making a Formal Challenge if no such challenge has been made and the FERC has not initiated a proceeding to consider the True-Up Adjustment or Material Accounting Change, or (ii) a final FERC order issued in response to a Formal Challenge or a proceeding initiated by the FERC to consider the True-Up Adjustment or Material Accounting Change.~~

~~f.e.~~ Except as specifically provided herein, nothing herein shall be deemed to limit in any way the right of PSE&G to file unilaterally, pursuant to FPA Section 205 and the regulations thereunder, to change the Formula Rate or any of its inputs (including, but not limited to, rate of return and transmission incentive rate treatment), or to replace the Formula Rate with a stated rate, or the right of any other party to request such changes pursuant to Section 206 of the Federal Power Act and the regulations thereunder.

~~g.f.~~ Subject to Section 3.~~f.e.~~ above, it is recognized that resolution of Formal Challenges concerning Material Accounting Changes may necessitate adjustments to the Formula Rate input data for the applicable True-Up Adjustment or changes to the rate formula to achieve a just and reasonable end result consistent with the intent of the Formula Rate. Such adjustments shall be reflected in the next Annual Update after resolution of the Formal Challenge to a Material Accounting Change.

## **Section 5      Changes to Annual Informational Filings**

Any changes to the data inputs, including but not limited to revisions to PSE&G's FERC Form 1, or as the result of any FERC proceeding to consider the True-Up Adjustment or Material Accounting Change, or as a result of the procedures set forth herein, shall be incorporated into the Formula Rate and the charges produced by the Formula Rate (with interest determined in accordance with 18 C.F.R. § 38.19a) in the Annual Update for the next effective Rate Period. This reconciliation mechanism shall apply in lieu of mid-Rate Year adjustments and any refunds or surcharges. However, actual refunds or surcharges (with interest determined in accordance with 18 C.F.R. §38.19a) for the then current Rate Year shall be made in the event that the Formula Rate is replaced by a stated rate by PSE&G.

Issued By:      Craig Glazer  
                    Vice President, Federal Governmental Policy

Effective: October 1, 2008

Issued On:      October 30, 2008

Filed to comply with order of Federal Energy Regulatory Commission, Docket No. ER08-1233, issued September 30, 2008, 124 FERC ¶ 61,303 (2008), as amended by errata 125 FERC ¶ 61,204 (2008).

# **Revisions to PJM Tariff**

**(Clean Version)**

**K:\pjm\TARREVS\102908 Attachment H10B PSE&G formula rate filing.doc**

## **ATTACHMENT H-10B**

### **FORMULA RATE IMPLEMENTATION PROTOCOLS**

#### **Section 1 Annual Updates & True-Up Adjustments**

- a. The ATRR calculated under Attachment H-10A shall be applicable to services on and after October 1, 2008 through December 31, 2008, and shall be applicable thereafter for services on and after each January 1 of a given calendar year through December 31 of such calendar year (the “Rate Year”).
- b. On or before June 15, 2009, and on or before June 15 of each succeeding Rate Year (“Publication Date”), PSE&G shall calculate the true-up pursuant to the Formula Rate (Attachment H-10A, Attachment 6) (the “True-Up Adjustment”) and cause it to be posted on the PJM website (www.PJM.com, or successor thereto) and filed with the Federal Energy Regulatory Commission, or successor thereto (“FERC”) for informational purposes only. The submission of such informational filing with FERC shall not require any action by the agency.
- c. On or before October 15, 2008, and on or before October 15 of each succeeding Rate Year, PSE&G shall recalculate its ATRR, producing the “Annual Update” for the upcoming Rate Year. As part of the Annual Update, PSE&G shall include its projected net revenue requirement, including information in workpapers regarding projected costs of plant in forecasted rate base, expected construction schedule and in-service dates. All inputs shall be provided in sufficient detail to identify the components of PSE&G’s net revenue requirement. PSE&G shall cause such Annual Update to be posted on PJM’s website (www.PJM.com, or successor thereto) and submit such Annual Update as an informational filing with the FERC (“Posting Date”). The submission of such informational filing with FERC shall not require any action by the agency.
- d. If the Publication Date or the Posting Date falls on a weekend or a holiday recognized by the FERC, then the Publication Date or Posting Date, as applicable, shall be the next business day.
- e. Upon written request for a particular year’s True-Up Adjustment or Annual Update by any NITS customer in the PSE&G Zone, the New Jersey Board of Public Utilities (or successor agency), or any party having standing under Section 206 of the Federal Power Act (each an “Interested Party” and collectively “Interested Parties”), PSE&G will promptly make available to such Interested Party and/or a consultant designated by it, a “workable” Excel file containing that year’s True-Up Adjustment and/or Annual Update, as requested by the Interested Party. Upon request, PSE&G will provide to Interested Parties a description of the basis upon which transmission projects were planned either by PJM or PSE&G.

Issued By: Craig Glazer  
Vice President, Federal Governmental Policy

Effective: October 1, 2008

Issued On: October 30, 2008

Filed to comply with order of Federal Energy Regulatory Commission, Docket No. ER08-1233, issued September 30, 2008, 124 FERC ¶ 61,303 (2008), as amended by errata 125 FERC ¶ 61,204 (2008).

- c. If PSE&G and any Interested Party are unable to resolve disputes related to information requests submitted in accordance with these Annual Review Procedures, PSE&G or the Interested Party may petition FERC to appoint an Administrative Law Judge as a discovery master. The discovery master shall have the power to issue binding orders to resolve discovery disputes and compel the production of discovery, as appropriate, in accordance with the Annual Review Procedures and consistent with FERC's discovery rules.
- d. Interested Parties shall have until December 31 (or 21 days after the production of information as a result of the resolution of a discovery dispute under Section 3.c) to notify PSE&G in writing of any specific challenges, including challenges related to the rate treatment of Material Accounting Changes, to the application of the Formula Rate ("Preliminary Challenge"). The time period for Interested Parties to raise Preliminary Challenges is the "Preliminary Challenge Period."
- e. Preliminary or Formal Challenges (as defined under Section 4.a, below) are not intended to serve as a means of pursuing other objections to the Formula Rate.
- f. Preliminary or Formal Challenges related to Material Accounting Changes shall be subject to the resolution procedures and limitations in Section 4, except that Section 4.d shall not apply. In any proceeding initiated to address a Preliminary or Formal Challenge or *sua sponte* by the FERC, a party or parties (other than PSE&G) seeking to modify the Formula Rate in any respect shall bear the burden of proving that the Formula Rate is no longer just and reasonable without such modification and that the proposed modification is just, reasonable and consistent with the original intent of the Formula Rate and the procedures in this Attachment H-10B; provided, however, that in any such proceeding, in determining whether the Formula Rate is no longer just and reasonable without modification to a Material Accounting Change and whether the proposed modification is just and reasonable, no offsets unrelated to the applicable Material Accounting Changes may be considered.

Issued By: Craig Glazer  
Vice President, Federal Governmental Policy

Effective: October 1, 2008

Issued On: October 30, 2008

Filed to comply with order of Federal Energy Regulatory Commission, Docket No. ER08-1233, issued September 30, 2008, 124 FERC ¶ 61,303 (2008), as amended by errata 125 FERC ¶ 61,204 (2008).

#### **Section 4      Resolution of Challenges**

- a.      If PSE&G and any Interested Party(ies) have not resolved any Preliminary Challenge to the True-Up Adjustment or Material Accounting Change within the Preliminary Challenge Period, an Interested Party shall have an additional twenty-one (21) days (unless such period is extended with the written consent of PSE&G to continue efforts to resolve the Preliminary Challenge, which consent shall not be unreasonably withheld) to file a complaint with the FERC, pursuant to 18 C.F.R. § 385.206 (“Formal Challenge”), which shall be served on PSE&G by electronic service on the date of such filing. However, there shall be no need to make a Formal Challenge or to await conclusion of the Preliminary Challenge Period if the FERC already has initiated a proceeding to consider the True-Up Adjustment or Material Accounting Changes.
- b.      If PSE&G and an Interested Party agree upon a resolution to a Preliminary Challenge to that year’s True-Up Adjustment or Material Accounting Change by November 30, such resolution shall be reflected in the next Annual Update as provided in Section 1.f. Otherwise, any resolution to a Preliminary Challenge, or a Formal Challenge, if applicable, shall be reflected in the first Annual Update following resolution of the challenge, with interest.
- c.      Any response by PSE&G to a Formal Challenge must be submitted to the FERC within thirty (30) days of the date of the filing of the Formal Challenge, unless such time period is extended by the mutual agreement of PSE&G and the Interested Party filing a Formal Challenge or by FERC, and shall be served on the filing party(ies) by electronic service on the date of such filing.
- d.      Except as provided in Section 3.e, in any proceeding initiated in response to a Formal Challenge and in any proceeding initiated by the FERC concerning the current year’s True-Up Adjustment or Material Accounting Change, PSE&G shall bear the burden of proving that it has reasonably applied the terms of the Formula Rate, the applicable procedures in these Formula Rate Implementation Protocols, in that year’s True-Up Adjustment, and to demonstrate the justness and reasonableness of the charges resulting from the application of the formula rate.

Issued By:      Craig Glazer  
                         Vice President, Federal Governmental Policy

Effective: October 1, 2008

Issued On:      October 30, 2008

Filed to comply with order of Federal Energy Regulatory Commission, Docket No. ER08-1233, issued September 30, 2008, 124 FERC ¶ 61,303 (2008), as amended by errata 125 FERC ¶ 61,204 (2008).

- e. Except as specifically provided herein, nothing herein shall be deemed to limit in any way the right of PSE&G to file unilaterally, pursuant to FPA Section 205 and the regulations thereunder, to change the Formula Rate or any of its inputs (including, but not limited to, rate of return and transmission incentive rate treatment), or to replace the Formula Rate with a stated rate, or the right of any other party to request such changes pursuant to Section 206 of the Federal Power Act and the regulations thereunder.
- f. Subject to Section 3.e above, it is recognized that resolution of Formal Challenges concerning Material Accounting Changes may necessitate adjustments to the Formula Rate input data for the applicable True-Up Adjustment or changes to the rate formula to achieve a just and reasonable end result consistent with the intent of the Formula Rate. Such adjustments shall be reflected in the next Annual Update after resolution of the Formal Challenge to a Material Accounting Change.

## **Section 5      Changes to Annual Informational Filings**

Any changes to the data inputs, including but not limited to revisions to PSE&G's FERC Form 1, or as the result of any FERC proceeding to consider the True-Up Adjustment or Material Accounting Change, or as a result of the procedures set forth herein, shall be incorporated into the Formula Rate and the charges produced by the Formula Rate (with interest determined in accordance with 18 C.F.R. § 38.19a) in the Annual Update for the next effective Rate Period. This reconciliation mechanism shall apply in lieu of mid-Rate Year adjustments and any refunds or surcharges. However, actual refunds or surcharges (with interest determined in accordance with 18 C.F.R. §38.19a) for the then current Rate Year shall be made in the event that the Formula Rate is replaced by a stated rate by PSE&G.

Issued By:      Craig Glazer  
                    Vice President, Federal Governmental Policy

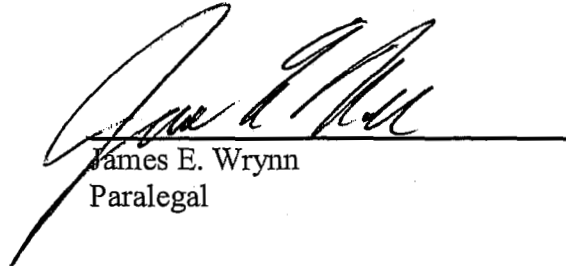
Issued On:      October 30, 2008

Effective: October 1, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Newark, New Jersey, this 29<sup>th</sup> day of October, 2008.



James E. Wrynn  
Paralegal