



STATE OF NEW JERSEY
Board of Public Utilities
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ENERGY

IN THE MATTER OF THE PETITION OF)
ATLANTIC CITY ELECTRIC COMPANY FOR) PREHEARING ORDER WITH
APPROVAL OF AN INFRASTRUCTURE) PROCEDURAL SCHEDULE AND
INVESTMENT PROGRAM, AND RELATED COST) MOTIONS TO PARTICIPATE
RECOVERY MECHANISM, PURSUANT TO)
N.J.A.C. 14:3-2A.1, *et seq.*) DOCKET NO. EO18020196

Parties of Record:

Philip Passanante, Esq. on behalf of Atlantic City Electric Company
Stefanie Brand, Esq. Director, Division of Rate Counsel

BY COMMISSIONER DIANNE SOLOMON:

BACKGROUND

On March 1, 2018, Atlantic City Electric Company ("ACE" or "Company") filed a petition ("IIP Petition") with the New Jersey Board of Public Utilities ("Board") requesting approval of an Infrastructure Investment Program ("IIP") pursuant to N.J.A.C. 14:3-2A.1 *et seq.* ("IIP Regulations") and a related accelerated cost recovery mechanism. Effective January 16, 2018, the Board implemented the IIP regulations to facilitate infrastructure investment by permitting a utility to "obtain accelerated recovery of qualifying investments." N.J.A.C 14:3-2A.1(a) and (b). Eligible projects under the IIP must be related to safety, reliability or resiliency, may not be revenue producing and may only be requested for infrastructure expenditures over the annual baseline spend.

ACE is seeking a four (4) year, \$338.2 million program to be implemented in the 2019-2022 time period. According to ACE, the rate impact will average, an increase of less than one percent (1%) for the typical residential customer over the four year investment period. The proposal asserts that the recovery of projects will begin three to nine (3-9) months after they are placed in service and providing benefits to customers.

ACE contends all of the Company's capital investments under the proposed program are exclusively intended to support and enhance ACE's distribution system's reliability, resiliency and safety, as required by the IIP regulations. The proposed program projects fall into five categories:

1. Targeted reliability improvements at specific substations, feeders, or portions of feeders based on historic outage data;
2. Distribution automation/telecommunications to automate operation of the system to isolate, restore or control other system parameters such as voltage;
3. Infrastructure renewal to address equipment needing replacement or updated due to condition or obsolescence where it would be prudent to do so; m
4. Emergency to restore customers safely and efficiently due to unplanned, emergency issues; and
5. Facilities to provide physical and logistical support facilities utilized by personnel to build, operate and maintain the distribution infrastructure

By Order dated March 26, 2018, the Board retained the IIP Petition for hearing and, pursuant to N.J.S.A. 48:2-32, designated the undersigned as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings, and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. Further, the Board Order directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by April 13, 2018.

1. **NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED**

Through this proceeding, ACE seeks approval to implement and administer its \$338.2 million IIP proposal. The Company provides an estimated increase of three and a half percent (3.5%) over the four (4) year program for the typical residential customer. ACE asserts that the recovery of projects will begin three to nine (3-9) months after they are placed in service. The Company requests approval of five IIP programs including: Targeted reliability improvements, Distribution automation/Telecommunications; Infrastructure renewal; Emergency upgrades; and Facilities to provide physical and logistical support facilities utilized by personnel to build, operate and maintain the distribution infrastructure.

A. **Issues to be Resolved**

- 1) Is the IIP program prudent, cost effective and cost efficient?
- 2) Is the IIP program non-revenue producing, accelerated capital spending pursuant to the requirements of N.J.A.C. 14:3-2A.1 *et. seq.*?
- 3) Is the IIP program necessary accelerated capital spend?
- 4) What is the appropriate base line capital spending level?
- 5) Is the eligible IIP program spending above the baseline spending level and incremental in nature?
- 6) What is the appropriate cost of capital?
- 7) Is the proposed cost recovery mechanism reasonable and lawful?

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**

Pursuant to N.J.S.A. 48:2-32.6, public hearings will be held in the Company's service territory after publication of notice in newspapers of general circulation in ACE's service territory on July 12, 2018.

4. **SCHEDULE OF HEARING DATES, TIME AND PLACE:**

Evidentiary hearings, with live Surrebutttal, will be held on December 4, 5, and 6, 2018 starting at 10:00 a.m. on each day at the New Jersey Office of Administrative Law, 9 Quakerbridge Plaza, Trenton, NJ 08619, Room 1.

5. **STIPULATIONS:**

The Staff of the Board of Public Utilities, the Division of Rate Counsel and ACE have entered into an Agreement of Non-Disclosure of Information Agreed to Be Confidential.

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:**

None at this time.

8. **DISCOVERY AND DATE FOR COMPLETION:**

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

9. **ORDER OF PROOFS:**

ACE has the burden of proof. The hearings will be conducted by topic (see point 12, below); within each topic, the hearings will be conducted in the following order:

First – ACE

Second – Rate Counsel

Third – Board Staff

10. **EXHIBITS MARKED FOR IDENTIFICATION:**

None at this time.

11. **EXHIBITS MARKED IN EVIDENCE:**

None at this time.

12. **ESTIMATED NUMBER OF FACTS AND EXPERT WITNESSES:**

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:**

JCP&L Motion to Participate

JCP&L is a New Jersey electric public utility, primarily engaged in the purchase, transmission, distribution and sale of electric energy for approximately 1.1 million residential customers in the state.

JCP&L is seeking participation status and contends that the Board's decision in the case will have a precedential effect and impact on other New Jersey electric utilities, not just ACE, therefore, JCP&L will be directly and specifically affected by the proceeding. JCP&L Motion at 1. Further, the JCP&L believes that no other party will represent its interests in the case since its service territories are distinct from the other participants in the case. Id. Due to JCP&L's experience in the electric industry, it asserts that its participation is likely to add constructively to the proceeding.

JCP&L attests that it will coordinate its activities in this docket with other similar entities where appropriate, that it will abide by any schedule set for this proceeding and that its participation would not cause any undue delay or confusion. Id.

PSE&G Motion to Participate

PSE&G is engaged as a New Jersey public utility in the purchase, transmission, distribution, and sale of electric energy with more than 2.2 million residential, commercial and industrial customers in the state.

PSE&G is seeking participation status and asserts that issues that will be addressed in the case may have an impact of establishing precedent, and therefore, the company will be directly and specifically affected by this docket. PSE&G claims that no other party or participant will represent its interests as the operations of the company are distinct from those of other parties and participants. PSE&G Motion at 3. PSE&G also asserts that its experience in the electric industry will add constructively to the proceeding.

The company affirms that it will abide by the schedule set for the proceeding and will coordinate with other similarly-situated parties to coordinate its representation. Lastly, PSE&G insists that its participation will not cause undue delay or confusion.

DISCUSSIONS AND FINDINGS

Motions to Participate

N.J.A.C. 1:1-16.6(a) provides that "[a]ny person or entity with a significant interest in the outcome of a case may move for permission to participate." In ruling on a motion to participate the trier of fact shall consider "whether the participant's interest is likely to add constructively to the case without causing undue delay or confusion." N.J.A.C. 1:1-16.6 (b). Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, or file a statement or brief, or file exceptions, or all of these as determined by the trier of fact.

As the Board has stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervener's interest be specific, direct and different from that of the other parties so as to add measurably and constructively to the scope of the case. See, Order, In re the Joint Petition of Public Service Electric and Gas

Company and Exelon Corporation for Approval of a Change in Control, Docket No. EM05020106 (June 8, 2005).

After consideration of the papers and given the lack of any objections, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that the participation of JCP&L and PSE&G in this matter is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** the motions to participate filed on behalf of JCP&L and PSE&G, limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

In addition, I have reviewed the proposal for a preliminary schedule, after giving due consideration to the positions of Staff, Rate Counsel and the Company, I **HEREBY ISSUE** the following as the Prehearing Order, along with the procedural schedule identified as Exhibit A, and **HEREBY DIRECT** the parties to comply with its terms.

14. **SPECIAL MATTERS:**

None at this time.

This Order shall be effective on June 6, 2018.

DATED: 6/6/2018

BOARD OF PUBLIC UTILITIES
BY:


DIANNE SOLOMON
COMMISSIONER

Exhibit A

**IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR
APPROVAL OF AN INFRASTRUCTURE INVESTMENT PROGRAM, AND RELATED COST
RECOVERY MECHANISM, PURSUANT TO N.J.A.C. 14:3-2a.1 et seq.**

Docket No. EO18020196

Procedural Schedule

Deadline for all Motions to Intervene	April 13, 2018
All first round discovery requests due	May 15, 2018
All first round discovery responses provided by ACE	June 4, 2018
All second round discovery due	June 19, 2018
Two public comment hearings in the service territory	July 12, 2018, 3:30 PM and 5:30 PM at Mays Landing
All second round discovery responses provided by ACE	July 10, 2018
Discovery conference/settlement discussions	July 16-19, 2018 Or August 6-10, 2018
Rate Counsel/Intervener Direct Testimony due	September 4, 2018
Discovery propounded on Rate Counsel/Intervenor Direct Testimony	September 18, 2018
Rate Counsel/Intervenor responses to discovery requests due	October 2, 2018
Rebuttal Testimony filed by parties as appropriate	October 17, 2018
Discovery requests propounded on Rebuttal Testimony	October 31, 2018
Responses to discovery requests on Rebuttal Testimony due	November 14, 2018
Three days of Evidentiary Hearings, with live Surrebuttal	December 4, 5, and 6, 2018 at the New Jersey Office of Administrative Law, 9 Quakerbridge Plaza, Trenton, NJ 08619, Room 1.
Initial Briefs due	TBD by Commissioner Solomon at the evidentiary hearings
Reply Briefs due	

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