



Agenda Date: 9/18/13  
Agenda Item: 2F

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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ENERGY

IN THE MATTER OF ATLANTIC CITY ELECTRIC )  
COMPANY'S VERIFIED PETITION REQUESTING ) ORDER ADOPTING  
AUTHORIZATION TO IMPLEMENT CHANGES TO ITS ) STIPULATION  
RESIDENTIAL CONTROLLABLE SMART )  
THERMOSTAT PROGRAM ("RCSTP") COMPONENT )  
OF ITS RGGI RECOVERY CHARGE FOR 2012-2013 ) DOCKET NO. ER13070627

**Parties of Record:**

**Nicholas W. Mattia Jr., Esq.**, on behalf of Atlantic City Electric Company  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:

By this decision and Order, the New Jersey Board of Public Utilities ("Board") considers a stipulation ("September 2013 Stipulation") to settle all factual and legal issues pertaining to Atlantic City Electric Company's ("ACE" or "Company") July 5, 2013 Verified Petition and Fourth Residential Controllable Smart Thermostat Program ("RCSTP") Program Update ("Petition"), covering the actual program costs and revenues for the Program year commencing June 1, 2012 through May 31, 2013, and the projected program costs and revenues through May 31, 2014. The Petition requests an increase in annual Regional Greenhouse Gas Initiative ("RGGI") charge revenues of approximately \$2.892 million, to be recovered in customers' bills beginning October 1, 2013 through May 31, 2014.

The September 2013 Stipulation is not intended to replace the 2009 Stipulation or the April 2013 Stipulation, which to the extent not specifically modified by this Stipulation, remain in full force and effect.

**BACKGROUND AND PROCEDURAL HISTORY**

By Order dated July 1, 2008 ("2008 Order"), the Board, pursuant to N.J.S.A. 48:3-98.1(a)(3), directed the State's four electric distribution companies ("EDCs"), including ACE, to submit proposals to the Board by August 1, 2008 for demand response ("DR") programs to be implemented for the period beginning June 1, 2009.<sup>1</sup> In response to the 2008 Order, ACE

<sup>1</sup> In The Matter of Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Company Programs, BPU Docket No. EO08050326.

submitted its DR petition to the Board on August 4, 2008 ("August 4 Filing"), under N.J.S.A. 48:3-98.1 and Board Order in Docket Number EO08030164 ("RGGI Order").<sup>2</sup> The August 4 Filing contained a proposal for the RCSTP for residential customers, along with other DR proposals.

After numerous formal and informal discovery responses, meetings and telephonic discussions related to the RCSTP, ACE, the New Jersey Division of Rate Counsel ("Rate Counsel") and Staff signed a Stipulation on June 30, 2009 ("2009 Stipulation"), to settle issues regarding the implementation of the Company's RCSTP. By Order dated July 31, 2009<sup>3</sup> ("July 31 Order"), the Board adopted the 2009 Stipulation and its Appendices in their entirety, and granted approval to ACE to develop and implement the RCSTP within eight (8) months of the date of the Order. The July 31 Order directed that ACE's reasonable and prudently incurred costs associated with the RCSTP be recovered through a component of the RGGI Charge, the RGGI Recovery Charge ("RRC"), which is consistent with the Board's treatment of other programs filed under N.J.S.A. 48:3-98.1.

The RCSTP, which is marketed to customers as the "EnergyWise Rewards Program," is a DR program that replaced the Company's Peak Savers Club. It was approved as a voluntary air conditioner cycling ("AC Cycling") program for all residential customers with central air conditioners and heat pumps in ACE's territory. After its four-year roll-out by the end of 2014, it is expected that approximately 42,500 participants will be enrolled in the program. DR devices, either thermostats or switches, will be installed at the homes of program participants and remotely controlled by the Company to reduce electric usage during periods of peak electric demand.

On August 6, 2009, ACE, along with other PHI utility subsidiaries, filed with the United States Department of Energy ("DOE") a plan for a Smart Grid Investment Grant ("SGIG") Program, pursuant to the American Recovery and Reinvestment Act of 2009 ("ARRA"), which included funding for a portion of the costs associated with the RCSTP. On October 27, 2009, ACE became aware that it had been selected to receive a grant of up to 50 percent of \$13.4 million associated with the RCSTP, for which the Company was eligible to receive a maximum matching ARRA award of \$6.7 million. On March 5, 2010, the Company officially received notification of the DOE SGIG grant.

On March 31, 2010, ACE filed an initial petition ("2010 Petition") seeking approval of cost recovery for the Company's initial RCSTP costs through an increase in the RRC component of the RGGI Charge on customers' monthly bills<sup>4</sup>. The 2010 Petition, an annual update report required by the terms of the 2009 Stipulation, also advised the Board as to the status of the

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<sup>2</sup> In The Matter of 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. 48:3-91, BPU Docket No. EO08030164 (May 12, 2008).

<sup>3</sup> In The Matter of Atlantic City Electric Company's Responsive Petition to the Board of Public Utilities Order Dated July 1, 2008 Regarding the Submission of Demand Response Programs for the Period Beginning June 1, 2009 for Electric Distribution Companies, and for Supplemental Inclusion of Same in its "Blueprint for the Future" Filing Dated November 19, 2007, Docket Nos. EO08050326, EO08080543, EO07110881; and In The Matter of the Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Programs, Docket No. EO08050326.

<sup>4</sup> In the Matter of Atlantic City Electric Company Requesting Approval of Changes to Its Electric Regional Greenhouse Gas Recovery ("RGGI") Charge in Connection to the Residential Controllable Smart Thermostat Program, Docket No. ER10050351.

RCSTP implementation, as well as the status and impact on rates of the Federal Stimulus SGIG grant awarded to the RCSTP.

After numerous discovery requests and discussions, ACE, Rate Counsel and Staff entered into a Stipulation on June 2, 2010 ("2010 Stipulation") to approve an increase in the RRC component of the RGGI Charge related to the Company's recovery of projected initial RCSTP costs. On June 16, 2010, the Board issued an Order adopting the 2010 Stipulation in its entirety.<sup>5</sup>

On April 12, 2011, the Company filed its second required annual update to the RCSTP ("2011 Petition"). The 2011 Petition provided a status report on RCSTP implementation and did not propose any modification to the RGGI Charge.

On April 11, 2012 the Company filed its third annual update ("2012 Petition") on the RCSTP<sup>6</sup>. The 2012 Petition included a status report on RCSTP implementation; an update regarding the Federal Stimulus grant money received by the Company associated with the RCSTP, and a proposal for an increase in the RGGI Charge currently in effect for the RCSTP for implementation on and after July 1, 2012.

During the proceeding, Rate Counsel and Staff questioned why the Company had not submitted DR bids in certain PJM capacity auctions for which the RCSTP was eligible and which was required by the terms of the 2009 Stipulation. The Company acknowledged that it should have submitted bids in several PJM auctions and that it had failed to do so. This omission resulted in ACE's customers not receiving the full value of certain PJM auction revenues that they otherwise would have been entitled to receive, pursuant to the terms of the 2009 Stipulation and the July 31 Order.

Accordingly, by Stipulation dated April 11, 2013 ("April Stipulation"), which was approved by Board Order dated May 29, 2013 ("the May 2013 Order"), the Company agreed to make certain PJM revenue credit adjustments associated with the RCSTP, in order to provide customers with the full amount of PJM auction revenues to which they are entitled, and an additional revenue credit of \$300,000. The Company's customers will be credited for those auctions where the Company failed to submit a bid, as if ACE had submitted the appropriate bids. In addition, customers will be credited for revenues derived from future PJM auctions in a greater percentage amount (i.e., 80%) than otherwise was required by the 2009 Stipulation (i.e., 75%).

In compliance with the July 31 Order, and consistent with the requirements of the April 2013 Stipulation and related May 2013 Order, the Company filed the Petition covering the program costs and revenues for the program year, June 1, 2012 through May 31, 2013, and the projected program costs and revenues through May 31, 2014. As previously stated, the Petition requested an increase in the applicable RGGI Charge to address a shortfall of approximately

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<sup>5</sup> In the Matter of Atlantic City Electric Company Requesting Approval of Changes to Its Electric Regional Greenhouse Gas Recovery ("RGGI") Charge in Connection to the Residential Controllable Smart Thermostat Program, Docket No. ER10050351.

<sup>6</sup> In the Matter of Atlantic City Electric Company's Responsive Petition to the Board of Public Utilities Order Dated July 1, 2008 Regarding the Submission of Demand Response Programs for the Period Beginning June 1, 2009 for Electric Distribution Companies, and for Supplemental Inclusion of Same in Its "Blueprint for the Future" Filing Dated November 17, 2007, BPU Docket Nos. EO08050326, EO08080543, EO07110881; and in the Matter of Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Company Programs, Docket No. EO08050326.

\$2.892 million, to be recovered in customers' bills during the period of October 1, 2013 through May 31, 2014.

During discovery in this matter, the Company submitted an update to the Petition for actual program costs and revenue data through June 30, 2013. The updated data did not require a change in the proposed RGGI Charge, as originally proposed in the Petition. Following appropriate notice in newspapers in general circulation in the Company's service territory, two public hearings were held in the afternoon and evening of August 28, 2013 in Hammonton, New Jersey. No members of the public appeared in opposition to the Petition.

On September 5, 2013, a Stipulation of Settlement was executed among ACE, Rate Counsel and Board Staff, ("the Parties") in settlement of all factual and legal issues pertaining to the Company's Petition and Fourth RCSTP Update.

### **THE SEPTEMBER 2013 STIPULATION**

The September 2013 Stipulation represents a full resolution of the issues raised in the Petition. The September 2013 Stipulation, attached in its entirety, includes, but is not limited to, the following key provisions:

- The Parties agree in settlement of this matter that the Petition, which revises the RCSTP RGGI Recovery Charge component of the Company's current tariff of \$.000190 to \$.000493 per kWh, resulting in an annual revenue increase of \$2.892 million (including Sales and Use Tax ("SUT")) and a bill impact on a typical residential customer using 1000 kWh per month of \$0.30 or a 0.18 percent increase, including the estimated costs and revenues, is consistent with the terms and conditions of the 2009 Order, as well as the May 2013 Order. In addition, the Company has submitted a new "Table 6" to Exhibit A of the Petition, included herewith as Attachment 1, in which "Table 6" details the PJM credits (and interest thereon) as provided for in the Board's May 2013 Order. Further, the Parties agree that the Company shall submit an updated "Table 6" to all future filings submitted to the Board with respect to the costs and revenues associated with the RCSTP.
- The parties further agree that the RCSTP shall continue in operation beyond the initial four year roll out of the program, which roll out is anticipated to be completed by May 31, 2014. Continuation of the RCSTP beyond the initial four year term will allow the Company to continue participating in PJM capacity auctions. Nothing contained herein shall be deemed to relieve the Company from its credit obligations to customers as provided for in the prior Board Orders issued with respect to the RCSTP, specifically the 2009 Order and May 2013 Order. The Parties agree that, by no later than October 1, 2013, the Company shall file for the Parties' and the Board's consideration ACE's proposed parameters for the continuation of the RCSTP beyond May 31, 2014. The Parties agree to immediately thereafter commence discovery on, and consideration of, ACE's proposal, including any proposed modifications thereto that any Party may suggest.
- The Company shall file its Fifth RCSTP Update filing on or about the same time as it files the referenced results of the May 2014 Base Residual Auction ("BRA") within the timeframe detailed in the May 2013 Order. The Company shall include as part of the Fifth RCSTP Update: all actual costs incurred as a result of the Program roll out; the final amount of award monies granted to and received by the Company pursuant to the

American Recovery and Reinvestment Act of 2009 for the implementation of the RCSTP; the level of PJM revenues to be credited to customers associated with the roll out period; the level of any uncollected Operation and Maintenance expenses associated with the RCSTP; and establish the level of capital costs remaining to be recovered via the amortization provision provided for in the 2009 Stipulation.

- The change in the RGGI Charge applicable to the RCSTP, as proposed in the Petition, be made effective for customer bills rendered on and after October 1, 2013.

## **DISCUSSION AND FINDING**

The Board has carefully reviewed the record to date in this proceeding and the attached September 2013 Stipulation and Appendices. As stipulated in the 2009 Order, the Board granted approval to ACE to develop and implement the RCSTP and directed that ACE's reasonable and prudently incurred costs associated with the RCSTP be recovered through a component of the RGGI Charge, which is consistent with the Board's treatment of other programs filed under N.J.S.A. 48:3-98.1.

Consistent with the May 2013 Order, the Company filed a Petition and Program Update on July 5, 2013 which covered the program costs and revenues for the program year of June 1, 2012 through May 31, 2013, and the projected program costs and revenues through May 31, 2014.

As of May 31, 2013, 44,782 customers submitted enrollment applications in the RCSTP, of which 34,466 have become actual program participants. The Company estimates that by May 31, 2014, ACE will have completed the roll-out of the RCSTP with 42,200 active program participants with an estimated 51,784 devices being installed. As indicated in the annual and quarterly update filings submitted by ACE since the inception of the RCSTP, the number of participant households requiring multiple devices has been greater than originally anticipated. The installation of multiple devices in a number of participant households, along with experience indicating that an estimated 3,600 previously enrolled customers will be lost through attrition by May 31, 2014, has resulted in the need for approximately 9,400 additional devices, above the 42,400 originally projected. The cost impact of these additional devices will significantly increase the estimated total program costs. However, the benefits expected from future PJM revenues and the Federal Stimulus Grant money will help defray these costs enough to justify the cost increase in the RCSTP.

Based upon new projections for RCSTP program costs and implementation, the Company has estimated that the current RGGI Charge will not fully recover the actual 2012- 2013 RCSTP costs and the projected program costs through May 2014, and, as such an increase in the RCSTP is required. The total annual amount to be recovered from October 1, 2013 through May 31, 2014 from all ACE customers is \$2.892 million. A typical residential customer using 1000 kilowatt-hours per month would experience an increase of \$0.30 in the customer's monthly bill or 0.18%.

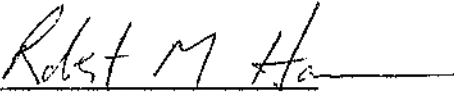
The Board acknowledges that the current RGGI Charge is predicated on estimates of costs and PJM revenues, and as such, a periodic true-up calculating the actual program costs is required, with an adjustment of the RGGI Charge, if necessary. After carefully reviewing the Company's Petition and Fourth RCSTP Update, particularly the revised Table 6, the Board concludes that such a RGGI Charge adjustment is warranted at this time and remains sufficiently cost effective to allow ACE to recover its costs even as increased by the need for additional devices as described above.

Accordingly, the Board **FINDS** that, subject to the terms and conditions set forth below, the September 2013 Stipulation is reasonable, in the public interest, and in accordance with the law. The Board **HEREBY ADOPTS** the September 2013 Stipulation and Appendices in its entirety, as if fully set forth herein. The July 31 Order and the May 2013 Order, to the extent not specifically modified hereby, remain in full force and effect.

The Company is **DIRECTED** to submit its Fifth RCSTP Update Filing by May 31, 2014. Consistent with September 2013 Stipulation, the Company shall include as part of the Fifth RCSTP Update all actual costs incurred as a result of the Program roll out; the final amount of award monies granted to and received by the Company pursuant to the American Recovery and Reinvestment Act of 2009 for the implementation of the RCSTP; the level of PJM revenues to be credited to customers associated with the roll out period; the level of any uncollected operation and Maintenance expenses associated with the RCSTP; and the level of capital costs remaining to be recovered via the amortization provision in the 2009 Stipulation.

DATED: 9/18/13

BOARD OF PUBLIC UTILITIES  
BY:

  
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PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

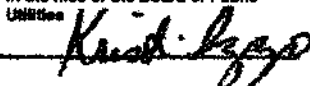
  
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ATTEST:  
  
KRISTI IZZO  
SECRETARY

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 Atlantic City Electric Company's Verified Petition Requesting  
Authorization to Implement Changes to Its Residential Controllable Smart Thermostat  
Program ("RCSTP") Component of Its RGGI Recovery Charge for 2012-2013  
Docket Nos. ER13070627**

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