



STATE OF NEW JERSEY
Board of Public Utilities
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www.nj.gov/bpu/

ENERGY AND CLEAN ENERGY

IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR APPROVAL OF A PORTFOLIO OF ENERGY EFFICIENCY, BUILDING DECARBONIZATION AND DEMAND RESPONSE PROGRAMS, A COST RECOVERY MECHANISM, AND OTHER RELATED RELIEF PURSUANT TO THE CLEAN ENERGY ACT FOR THE PERIOD JANUARY 2025 THROUGH JUNE 2027 (TRIENNIUM 2))	ORDER RULING ON MOTIONS TO INTERVENE OR PARTICIPATE
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)	DOCKET NO. QO23120871
)	

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Philip J. Passanante, Esq., Assistant General Counsel, Atlantic City Electric 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 ZENON CHRISTODOULOU:

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 27, 2021, the Board approved a stipulation of settlement authorizing Atlantic City Electric ("ACE" 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 Atlantic City Electric Company for Approval of an Energy Efficiency Program, Cost Recovery Mechanism, and Other Related Relief for Plan Years One Through Three, BPU Docket Nos. QO19010040 and EO20090621, Order dated April 27, 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 ("May 2023 Order").

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 myself, Commissioner Christodoulou, as 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. 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

DECEMBER 2023 PETITION

On December 1, 2023, ACE filed the requisite petition with the Board (“Petition”). In the Petition, the Company proposed to invest approximately \$526.06 million in 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	\$61,950,000
		Income Qualified	\$37,440,000
		EE Products	\$64,900,000
		Behavioral	\$2,680,000
	Commercial	Energy Solutions	\$60,210,000
		Prescriptive and Custom	\$66,240,000
		Direct Install	\$76,010,000
Multifamily	Multifamily	\$78,740,000	
Utility-Led	Commercial	Business Energy Manager	\$3,140,000
	Cross	Next Generation Savings	\$3,830,000
		Building Decarbonization	\$44,000,000
		Demand Response	Direct Load Control
	Portfolio	Time of Use Rate	\$3,600,000
		Flexible Load Management	\$1,100,000
		Statewide Coordinator	\$500,000
		Workforce Development	\$1,730,000
		Community Outreach	\$300,000
			Total

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”).

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.

In addition to proposed investments and expenses, the Company also proposed that it be allowed to recover expenditures in its territory for its fuel source based on the expenditures it makes, as well as the costs billed by overlapping utilities in delivery of coordinated projects. The Company's proposed cost recovery model included an estimated \$131.9 million in reimbursements from overlapping gas utilities related to expenditures modeled by the Company that would benefit partner utilities' customers.

In addition to approval of the plan to implement the EE programs, the Company requested approval of a cost recovery mechanism whereby it would recover the costs of Triennium 2 through its existing Energy Efficiency Program Cost Recovery Mechanism included within the existing "Rider Regional Greenhouse Gas Initiative" ("RGGI") portion of its tariff. The Company requested authority to use deferred accounting to capture the incremental capital investment costs and incremental operations and maintenance ("O&M") costs associated with, or created by, the proposed EE programs. Specifically, ACE's incremental capital investment costs would be capitalized as a regulatory asset and amortized over a 10-year period.

As authorized in the May 2023 Order, ACE proposed to calculate a return on the unamortized balance of the EE programs' capital investment regulatory asset using the Company's authorized rate of return approved in ACE's most recent base rate case. The incremental O&M costs would be expensed and included using the cost recovery mechanism model for recovery on an annual basis. Additionally, ACE proposed that any differences between the forecasted monthly revenue requirement and the actual monthly EE-related sales revenue will be tracked as a deferred balance – either a regulatory asset or regulatory liability. ACE requested that monthly interest be applied to any over- or under-recovery deferral balances based on the Company's short-term debt rate which is associated with the monthly weighted average of commercial paper issued. If no short-term debt is outstanding, ACE would use the rate on equivalent temporary cash investments. The interest would not exceed ACE's overall rate of return authorized by the Board in the Company's most recent base rate case. Additionally, the calculation would be based on the net-of-tax beginning and ending average monthly balance. The Company proposed to continue accruing simple interest with an annual roll-in at the end of each reconciliation period.

ACE estimated that, if the Board approves the Petition, a typical residential Basic Generation Service customer using 643 kWh per month would see a bill increase of \$0.57, or 0.39 percent, for the year of July 2024 to June 2025, including Program Year 4 of the Triennium 2 EE programs and the Triennium 1 programs extension. Accordingly, ACE estimated that the total bill impact for a typical residential customer would be \$1.31, or 0.89 percent, from \$146.49 to \$147.80, for Fiscal Year 2025.

On December 28, 2023, Board Staff ("Staff") issued ACE 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, ACE filed an update to the Petition to cure the deficiencies identified in the Letter ("Update").

By Order dated January 10, 2024, 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.⁸ 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.

THE MOTIONS

Motions to Intervene

NJLEUC

On December 7, 2023, the New Jersey Large Energy Users Coalition ("NJLEUC") filed a Motion to Intervene in this proceeding, noting that it is an association whose members include large electric distribution customers served by ACE, whose members purchase electric distribution service from ACE on a usage basis. NJLEUC asserted that it has a significant interest in the outcome of this proceeding because ACE proposed a cost recovery mechanism for the Triennium 2 programs which would impact the existing "Rider RGGI" portion of ACE's tariff. NJLEUC noted that its interests are significantly different from any other party because it has unique insight regarding the potential costs to large usage-based customers and the impact these costs would have on New Jersey's business community, economy, and tax base. NJLEUC further noted that it will endeavor to work cooperatively with other parties in this proceeding to ensure administrative efficiency.

Convergent Energy and Power

On December 8, 2023, Convergent Energy and Power ("Convergent") filed a Motion to Intervene in this proceeding, noting that it currently operates or is developing over 500 megawatts/800 megawatt-hours of energy storage and solar-plus-storage that it operates or is currently developing and at least some of these projects are located in New Jersey. Convergent maintained that, as a provider of battery energy storage devices to commercial and industrial electric utility customers, it has a direct and substantial interest in this proceeding because the Triennium 2 programs involve compensation for battery energy storage devices. Convergent noted that its interest is sufficiently different from that of any other party because of its unique knowledge of and experience with market structures and incentives for adopting battery storage. Convergent asserted that its intervention in this matter will not lead to undue confusion or delay because Convergent's interests in the Triennium 2 programs are relatively narrow, limited only to how

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 President Guhl-Sadovy as the presiding commissioner for the Public Service Electric and Gas Company ("PSE&G") filing, BPU Docket No. QO23120874, and Commissioner Abdou as the presiding commissioner for the Elizabethtown Gas Company ("ETG"), New Jersey Natural Gas Company ("NJNG"), and South Jersey Gas Company ("SJG") filings, BPU Docket Nos. QO23120869, QO23120868, and QO23120870.

those programs will impact battery energy storage systems. Convergent requested that, in the alternative, its Motion to Intervene be treated as a Motion to Participate.

CPower

On December 8, 2023, Enerwise Global Technologies, Inc. d/b/a CPower ("CPower") filed a Motion to Intervene in this proceeding, noting that it is the largest Virtual Power Plant provider in the United States and aggregates end-use customer demand response, distributed generation, and energy storage resources to help meet demand reduction commitments and real-time supply needs. CPower identified that it is active at the wholesale and retail levels and has worked closely with regulators in other states to develop similar EE programs. CPower further noted that it serves the PJM Interconnection, which operates a forward capacity market that helps ensure reliability within PJM. CPower asserted that its interests in the outcome of this matter are sufficiently different from that of any other party due to the breadth and potential scope of CPower's operations in New Jersey, which, through its service to PJM, serves the entire state of New Jersey, in contrast to individual public utilities which only serve portions of the state. Additionally, CPower maintained that it has unique knowledge concerning best practices in similar programs throughout the country and would provide an industry perspective which could reduce or eliminate unforeseen issues with which Staff, the New Jersey Division of Rate Counsel ("Rate Counsel"), and the utilities may not be familiar. CPower certified that it will abide by the schedule for this proceeding and that, consequently, its intervention in this matter will not unduly delay or otherwise disrupt this proceeding. CPower requested that, in the alternative, its Motion to Intervene be treated as a Motion to Participate.

Energy Efficiency Alliance of New Jersey

On December 8, 2023, the Energy Efficiency Alliance of New Jersey ("EEA-NJ") filed a Motion to Intervene in this proceeding, noting that it is a 501(c)(6) trade association that, together with the Keystone Energy Efficiency Alliance, represents over 60 business members. EEA-NJ noted that these members manufacture, design, and implement EE improvements in buildings across Pennsylvania and New Jersey on behalf of regulated utilities, the State of New Jersey, and ratepayers. EEA-NJ asserted that the proposed programs would directly affect the utilization of their services and products. EEA-NJ also represented that its interests in this proceeding are unique and not adequately represented by any other party, and that its members can offer valuable perspectives on the design and implementation of the proposed programs. Finally, EEA-NJ noted that its intervention will not cause confusion or undue delay because it will coordinate its representation with similarly situated parties to the extent that it deems such coordination appropriate.

Motions to Participate

ETG, JCP&L, NJNG, RECO, SJG, and PSE&G

On December 8, 2023, ETG, Jersey Central Power & Light Company ("JCP&L"), NJNG, Rockland Electric Company ("RECO"), SJG, and PSE&G (collectively "Joint Movants") submitted a joint motion to participate in this matter. The Joint Movants stated that they are public utility corporations incorporated in New Jersey and engaged in the transmission, distribution, and sale of electricity or gas for residential, commercial, and industrial purposes in the New Jersey. The Joint Movants claimed a significant interest in the outcome of this proceeding because the substantive policy and procedural requirements established in this proceeding are likely to have a precedential effect on proceedings involving the other utilities. The Joint Movants further noted

that their interest as investor-owned electric or gas utilities serving retail customers are materially different from that of ACE and the other parties. Finally, the Joint Movants also stated that their participation would not cause delay or confusion because they would each abide by any schedule set for the proceeding.

Google LLC

On December 8, 2023, Google LLC ("Google") filed a Motion to Participate in this proceeding, noting that it makes "Nest" devices which incorporate various features that help residential customers reduce their energy consumption for heating and cooling. Google noted that its Nest devices allow residential customers to participate in demand response programs, known as "Rush Hour Reward events," run by utilities or third-party aggregators. Google further noted that it is the largest supplier of smart thermostats in New Jersey and it therefore has a significant interest in the outcome of this proceeding, specifically with regard to whether the Triennium 2 demand response programs will continue offering an efficient products rebate for smart thermostats as proposed by ACE.

Additionally, Google claimed its interests are implicated by ACE's proposal of a Direct Load Control ("DLC") Demand Response program and a Flexible Load Management ("FLM") pilot program. Customers choosing to opt-in to the DLC Demand Response program would have the option of purchasing an eligible smart thermostat using the rebate on the ACE marketplace. Likewise, the FLM pilot program would recruit customers who already have an existing smart thermostat. Google maintained that its participation in this matter will provide valuable insight due to its substantial experience with smart thermostat demand response programs in other states. Google argued that its participation in this matter will not cause undue confusion or undue delay because Google has participated in similar Board proceedings in the past, including the PSE&G, JCP&L, NJNG, and SJG Triennium 1 proceedings, and therefore understands the procedural requirements of these proceedings.

Uplight, Inc.

On December 8, 2023, Uplight, Inc. ("Uplight") filed a Motion to Participate in this proceeding, noting that it is a technology provider to over 80 electric and gas utilities across North America, including within New Jersey. Uplight's software provides customer engagement and demand management solutions to assist in achieving energy and carbon reduction goals. Uplight asserted that its experience maintaining similar EE programs nationwide would provide a tangible benefit to this proceeding. Additionally, Uplight stated that it already participates in EE programs within New Jersey and, therefore, has an interest in the outcome of this proceeding. Uplight further stated that its participation would not cause undue delay or confusion because it would coordinate its representation with similarly situated parties to the extent that it finds such coordination feasible.

RESPONSES

ACE

On December 14, 2023, ACE submitted a letter responding to the filed Motions to Intervene or Participate. By its letter response, ACE indicated that it did not oppose the Motions to Participate filed by Uplight, the Joint Movants, and Google. Additionally, ACE indicated it did not oppose EEA-NJ's Motion to Intervene and did not oppose NJLEUC's Motion to Intervene on the condition that NJLEUC provides a list of impacted member organizations within ACE's service territory.

ACE opposed Convergent's Motion to Intervene, arguing it should be denied or, in the alternative, be treated as a Motion to Participate because Convergent would not be substantially, specifically, or directly affected by the outcome of the proceeding. Additionally, ACE argued that granting Convergent full intervenor status would allow Convergent to issue discovery and potentially gain sensitive competitive business information. ACE further opposed CPower's Motion to Intervene, arguing it should be denied or, in the alternative, be treated as a Motion to Participate because CPower would not be substantially impacted by the outcome of this proceeding, CPower did not adequately explain how it would be affected by the outcome of this proceeding, and CPower did not adequately clarify its role within PJM. As a result, ACE argued that CPower's inclusion would cause undue confusion or delay in this proceeding.

Rate Counsel

On December 14, 2023, Rate Counsel submitted a letter responding to the filed Motions to Intervene or Participate. By its letter response, Rate Counsel indicated that it did not oppose the Motions to Participate filed by the Joint Movants, Uplight, and Google. Additionally, Rate Counsel indicated that it does not oppose NJLEUC's Motion to Intervene.

Rate Counsel opposed EEA-NJ's Motion to Intervene, arguing that, while EEA-NJ has potential economic interest in successful implementation of ACE's programs, it failed to assert a legally protected right under N.J.S.A. Title 48 to receive work from ACE. Rate Counsel further stated that it does not oppose participant status for EEA-NJ instead.

Rate Counsel opposed Convergent's Motion to Intervene, arguing that Convergent's interests in this proceeding are purely economic in nature and do not implicate a legally protected right under N.J.S.A. Title 48. Rate Counsel noted that it does not oppose Convergent's request in the alternative for status as a participant in this proceeding.

Rate Counsel also opposed CPower's Motion to Intervene, arguing that CPower's interests in this proceeding are primarily to gain business in New Jersey and such interests do not constitute a legally protected right under N.J.S.A. Title 48. Rate Counsel noted that it does not oppose CPower's request in the alternative for status as a participant in this proceeding.

EEA-NJ

On December 20, 2023, EEA-NJ submitted a letter reply to Rate Counsel's opposition, noting that it will be substantially, specifically, and directly affected by the outcome of this case, despite having no legally protected right to intervene under N.J.S.A. Title 48. EEA-NJ further argued that Rate Counsel did not adequately explain why EEA-NJ would not be substantially, specifically, and directly affected by the outcome of this case and that EEA-NJ was granted intervenor status in numerous Triennium 1 proceedings because the Board found it would be directly affected by their outcomes.

EEA-NJ further argued that its interests differ from those of any other party because, as an EE trade organization, it can add directly and measurably to this proceeding through its member organizations' direct, extensive knowledge of the establishment and execution of State- and utility-run EE programs. EEA-NJ further noted that it has continually been a "constructive and unique presence in the Board's numerous stakeholder meetings often offering comments" and due to its historical involvement in EE proceedings in the State should be granted intervenor status.

NJLEUC

By correspondence dated December 21, 2023, NJLEUC responded to ACE's request for identification of NJLEUC members within ACE's service territory, noting that its members include PBF Energy and Robert Wood Johnson Barnabas Health.

Convergent

On December 20, 2023, Convergent submitted a letter reply to ACE and Rate Counsel's responses, indicating that it does not oppose the request to convert its Motion to Intervene to a Motion to Participate consistent with its original request that, in the alternative, it be granted participant status in this matter.

DISCUSSION AND FINDINGS

In ruling on a motion to intervene, N.J.A.C. 1:1-16.3(a) requires that the decision-maker consider the following factors:

1. The nature and extent of the moving party's interest in the outcome of the case;
2. Whether that interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case;
3. The prospect for confusion and delay arising from inclusion of the party; and
4. Other appropriate matters.

If the standard for intervention is not met, N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant," if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. 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 noted in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record that involves consideration of a diversity of interests must be weighed against the requirement of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervenor'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.⁹

Motions to Intervene

After consideration of the papers, and given the lack of any objections, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.3, that NJLEUC will be directly affected by the outcome of this proceeding and will add measurably and constructively to the case without causing undue delay or confusion. I **HEREBY FIND** that NJLEUC has met the standards for intervention in this proceeding. Accordingly, I **HEREBY GRANT** NJLEUC's Motion to Intervene.

⁹ See In re the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, BPU Docket No. EM05020106, Order dated June 8, 2005.

Regarding EEA-NJ's Motion to Intervene, Rate Counsel indicated that it opposed granting intervenor status because EEA-NJ failed to demonstrate either a statutory right to intervene or a legally protected right to intervene under N.J.S.A. Title 48 to receive work from ACE. However, EEA-NJ represents more than 60 business members directly involved in the planning and implementation of EE programs in New Jersey. Additionally, EEA-NJ constructively participated in numerous Triennium 1 proceedings and has a direct interest in the outcome of this matter because its constituent members specifically design and implement EE programs throughout New Jersey. EEA-NJ is expected to add constructively to this proceeding via input gleaned from its extensive experience with EE programs specific to New Jersey. As such, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.3, that EEA-NJ will be substantially, specifically, and directly affected by the outcome of this proceeding and will add measurably and constructively to the case without causing undue delay or confusion. I **FURTHER FIND** that EEA-NJ has met the standards for intervention in this proceeding. Accordingly, I **HEREBY GRANT** EEA-NJ's Motion to Intervene.

By its motion, Convergent indicated that it owns and operates large energy storage and solar-plus-storage facilities throughout North America, with some projects located in New Jersey. Convergent maintained that, due to its status as a provider of battery energy storage devices, it has a direct interest in this proceeding because it has a significant interest in programs that compensate battery energy storage devices. Convergent further argued that its interest is sufficiently different from that of any other party to this proceeding because it is a leading company in providing battery energy storage solutions and can therefore provide valuable insight into adoption of such resources for powering the grid. I am not persuaded, however, that Convergent's interests are sufficiently distinct from those of the other parties to merit intervenor status. Convergent did not offer any explanation as to how its interest, as a company not particularized to the EE market within New Jersey, is substantially different from that of other parties to this proceeding or how the outcome of this case will significantly impact Convergent other than to provide greater business opportunities in New Jersey. As such, I **HEREBY FIND** that Convergent has not made a showing that its interests in this matter warrant granting its Motion to Intervene, given the need for prompt and expeditious administrative proceedings. Accordingly, I **HEREBY DENY** Convergent's Motion to Intervene. Pursuant to N.J.A.C. 1:1-16.5, I will treat this Motion, in the alternative, as a Motion to Participate. Considered under this standard, I **FURTHER FIND** that Convergent has a significant interest in this proceeding and that, as a participant, Convergent is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** Convergent participant status, limited to the right to argue orally and file a statement or brief as set forth in N.J.A.C. 1:1-16.6(c)(1) and (2).

According to its motion, CPower is the largest Virtual Power Plant provider in the United States, aggregating end-use customer demand response, distributed generation, and energy storage resources to manage demand-side flexibility and demand reduction throughout the United States. Specific to New Jersey, CPower serves the PJM Interconnection, using its demand response to provide transmission and distribution benefits to PJM, which CPower indicated it would like to bring to New Jersey. I am not persuaded that CPower's interests are sufficiently distinct from that of the other parties to merit intervenor status. CPower did not offer any explanation as to how its interest, as a company operating within the PJM Interconnection, is substantially different from that of other parties to this proceeding or how the outcome of this case will significantly impact CPower other than to provide business opportunities within New Jersey akin to those it already has in New York. As such, I **HEREBY FIND** that CPower has not made a showing that its interests in this matter warrant granting its Motion to Intervene, given the need for prompt and expeditious administrative proceedings. Accordingly, I **HEREBY DENY** CPower's Motion to Intervene. Pursuant to N.J.A.C. 1:1-16.5, I will treat this Motion, in the alternative, as a Motion to Participate.

Considered under this standard, I **FURTHER FIND** that CPower has a significant interest in this proceeding and that, as a participant, CPower is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** CPower participant status, limited to the right to argue orally and file a statement or brief as set forth in N.J.A.C. 1:1-16.6(c)(1) and (2).

Motions to Participate

Regarding the Joint Motion to Participate filed by the Joint Movants, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that the Joint Movants' participation in this matter is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** the Joint Motion to participate filed on behalf of ETG, JCP&L, NJNG, PSE&G, RECO, and SJG, limited to the right to argue orally and file a statement or brief as set forth in N.J.A.C. 1:1-16.6(c)(1) and (2).

Concerning the Motions to Participate filed by Google and Uplight, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that Google and Uplight's participation in this matter is likely to add constructively to the case without causing undue delay or confusion. Accordingly, I **HEREBY GRANT** Google's and Uplight's Motions to Participate in this proceeding, limited to the right to argue orally and file statements or briefs as set forth in N.J.A.C. 1:1-16.6(c)(1) and (2).

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: 2/26/2024

BY:



DR. ZENON CHRISTODOULOU
COMMISSIONER

IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR APPROVAL OF A PORTFOLIO OF ENERGY EFFICIENCY, BUILDING DECARBONIZATION AND DEMAND RESPONSE PROGRAMS, A COST RECOVERY MECHANISM, AND OTHER RELATED RELIEF PURSUANT TO THE CLEAN ENERGY ACT FOR THE PERIOD JANUARY 2025 THROUGH JUNE 2027 (TRIENNIUM 2)

DOCKET NO. QO23120871

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