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REG
CASE MANAGEMENT



February 13, 2015

VIA E-MAIL AND REGULAR MAIL

Kenneth J. Sheehan, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

RECEIVED

FEB 23 2015

BOARD OF PUBLIC UTILITIES
MAIL ROOM

Re: **In the Matter of the Verified Petition of the Retail Energy Supply Association for Board-Approved Mechanism for Third Party Providers to Recover Incremental Costs Incurred as a Result of PJM's Capacity Performance Proposal BPU Docket No. EW15010092**

Dear Secretary Sheehan:

On behalf of Atlantic City Electric Company ("ACE"), Jersey Central Power & Light Company ("JCP&L"), Public Service Electric and Gas Company ("PSE&G") and Rockland Electric Company ("RECO") (collectively "the EDCs"), enclosed are an original and ten copies of a joint motion to intervene in the above proceeding.

By copy of this letter, copies of the motion are being forwarded this date via electronic mail to all persons on the service list as well as regular mail to counsel of record for Petitioner.

Thank you for your anticipated courtesies.

Respectfully submitted,

A handwritten signature in cursive script that reads "Alexander C. Stern".

Alexander C. Stern

ACS/dcb

cc: Service List (Via E-Mail)
Murray E. Bevan (Regular and E-Mail)

*Case Mgmt
all parties copied*

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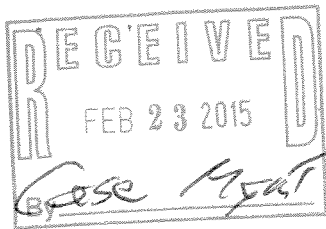
ATLANTIC CITY ELECTRIC CO.

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STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES



BPU Docket No. **EW15010092**

MOTION

TO

INTERVENE

:
:
In the Matter of the Verified Petition of the Retail:
Energy Supply Association for Board-Approved :
Mechanism for Third Party Providers to Recover:
Incremental Costs Incurred as a Result of PJM's :
Capacity Performance Proposal :

Atlantic City Electric Company (“ACE”), Jersey Central Power & Light Company, (“JCP&L”), Public Service Electric and Gas Company (“PSE&G”), and Rockland Electric Company (“RECO”) (collectively, “the EDCs”), hereby jointly move the Board of Public Utilities (“Board”) for leave to intervene in the above-captioned proceeding pursuant to N.J.A.C. 1: 1-16.3. In support of the within Motion, the EDCs respectfully submit:

1. ACE, an electric public utility subject to the regulatory jurisdiction of the Board and maintaining offices at 5100 Harding Highway, Mays Landing, New Jersey 08330, is engaged in the purchase, transmission, distribution and sale of electric energy to residential, commercial and industrial customers. ACE’s service territory comprises eight counties located in southern New Jersey and includes approximately 545,000 customers.

2. JCP&L, an electric public utility subject to the regulatory jurisdiction of the Board, and maintaining offices at 300 Madison Avenue, Morristown, New Jersey 07962-1911, is engaged in the purchase, transmission, distribution and sale of electric energy and related utility services to more than 1,000,000 residential, commercial and industrial customers located within 13 counties and 236 municipalities of the State of New Jersey.

3. PSE&G, an electric and gas public utility subject to the regulatory jurisdiction of the Board, and maintaining offices at 80 Park Plaza, Newark, New Jersey 07102-4194, is engaged in the

purchase, transmission, distribution and sale of electric energy and related utility services to more than 2,000,000 residential, commercial and industrial customers located within 13 counties and 225 municipalities of the State of New Jersey. PSE&G currently serves nearly three quarters of the State's population in a service area consisting of a 2,600-square-mile diagonal corridor across the state from Bergen to Gloucester Counties. PSE&G is the largest provider of electric and gas service in New Jersey, with over 1.7 million gas and 2.1 million electric customers in more than 300 urban, suburban and rural communities, including New Jersey's six largest cities.

4. RECO, an electric public utility subject to the regulatory jurisdiction of the Board, and maintaining offices at One Lethbridge Plaza, Suite 32, Route 17 North, Mahwah, New Jersey 07430, is engaged in the purchase, transmission, distribution and sale of electric energy and related utility services to approximately 72,000 residential, commercial and industrial customers located within the northern parts of Bergen and Passaic Counties and small areas in the northeastern and northwestern parts of Sussex County, New Jersey.

5. Copies of all correspondence and other communications relating to this proceeding and the within Motion should be addressed to:

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6. In determining whether to grant a motion for intervention, N.J.A.C. 1:1-16.3(a) requires that the decision-maker take into consideration the following: (1) the nature and extent of the movant's interest in the outcome of the case, (2) whether the 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 the movant's inclusion, and (4) other appropriate matters.

7. The EDCs respectfully submit that the above criteria and standard support the granting of this Motion.

8. On or about January 20, 2015, the Retail Energy Supply Association (“RESA”) filed a petition seeking a hearing and order from the Board approving a mechanism for Third-Party Suppliers (TPSs) to recover from all ratepayers, including TPS customers and Basic Generation Service (“BGS”) customers, TPS incremental capacity costs incurred should PJM’s Updated Capacity Performance Proposal be approved by the Federal Energy Regulatory Commission (“FERC”). RESA alleges that to effectuate its request, the Board should direct the EDCs to collect a nonbypassable “wires” charge from all ratepayers and, presumably, individually pass those revenues back to the various TPSs.

9. In the alternative, if the Board does not order the EDCs to include these incremental capacity costs as nonbypassable, reconcilable charge, then RESA requests that the Board should explicitly provide that the PJM Capacity Performance Proposal constitutes a “change required by the operation of law.”¹ Although it is FERC and not the Board that is the approving authority for PJM’s Capacity Performance Proposal, RESA alleges that the Board should explicitly recognize a presumably FERC-approved PJM action as a “change in law” to ensure that TPSs would recover costs associated with the Capacity Performance Proposal pursuant to the material change provision in their contracts.

10. Any decision by the Board with respect to the RESA’s Petition could potentially have precedential effect and other impacts on the EDCs and their customers. In particular, whatever is

¹ N.J.A.C. 14:4-7.6(l) states that a TPS contract: “[M]ay not include provisions (sometimes referred to as “material change notices”) that permit the TPS to change material terms of the contract without the customer’s affirmative authorization unless the change is required by operation of law. ‘Material terms of a contract’ include, but are not limited to, terms regarding the price, deliverability, time period of the contract, or ownership of the gas or electricity. ‘Non-material’ terms include those regarding the address where payments should be sent or the phone number to be used for customer inquiries. Changing the price to reflect a change in the Sales and Use Tax or other State-mandated charge would be permitted as a change required by operation of law.”

decided in this proceeding could potentially impact New Jersey's BGS auction process by which the EDCs procure electric supply for customers who are not served by a TPS or a competitive retailer, including affecting potential costs to the EDCs' customers. Depending on the Board's decision in this proceeding and its potential application, there are several other potential impacts on the operations and customers of the EDCs, including an impact on EDC revenues and collection of associated non-bypassable charges.

11. As demonstrated by the foregoing paragraphs, to the extent the Board's decision may impose obligations and/or responsibilities on the EDCs and/or their customers, the EDCs have a vested interest in the outcome of RESA's Petition. This motion on behalf of all of the State's EDCs assures that the sufficiently different interests of the EDCs from any other possible party is represented in this proceeding. The EDCs' intervention in this proceeding is also likely to add constructively to the proceeding.

12. Further, the granting of this Motion will not cause undue delay or confusion.

13. Accordingly, the EDCs respectfully request that the Board grant each of the EDCs intervener status in this proceeding pursuant to N.J.A.C. 1:1-16.3.

Dated: February 13, 2015

Respectfully submitted,
Atlantic City Electric Company

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Associate General Counsel

Jersey Central Power & Light Company

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