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APR 17 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

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Handwritten:
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4/17/18

April 16, 2018

**Via Federal Express and
Electronic Mail**

Hon. Aida Camacho-Welch, Secretary
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Trenton, NJ 08625-0350

RECEIVED
CASE MANAGEMENT

APR 17 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Re: In the Matter of the Petition of Atlantic City Electric Company for
Approval of a Voluntary Program for Plug-In Vehicle Charging
BPU Docket No. EO18020190

Dear Secretary Camacho-Welch:

Enclosed please find the original and ten (10) copies of the Answer of Atlantic City Electric Company to Rate Counsel's Motion to Stay dated April 6, 2018, with reference to the above matter. I have enclosed an additional copy, and would request that you kindly return a time-stamped copy of the Answer to me, in the enclosed self-addressed, stamped envelope.

Thank you for your attention to this matter.

Respectfully submitted,

Handwritten signature of Courtney L. Schultz
Courtney L. Schultz

CLS/jlc
Encl.

cc: Hon. Upendra J. Chivukula, Commissioner
Service List (via electronic and regular mail) ✓

Handwritten:
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APR 17 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Re: In the Matter of the Petition of Atlantic City Electric Company for
Approval of a Voluntary Program for Plug-In Vehicle Charging
BPU Docket No. EO18020190

Dear Secretary Camacho-Welch:

Please accept this letter (original and ten copies) as the Answer of Atlantic City Electric Company ("ACE" or the "Company") to the Motion to Stay (the "Motion"), dated April 6, 2018, by the Division of Rate Counsel ("Rate Counsel") in the above-referenced matter. For the reasons set forth below, ACE respectfully requests that the Motion be denied, and that a procedural schedule be set by Presiding Commissioner Chivukula so that the matter may move forward expeditiously. Further, Public Service Electric and Gas Company has reviewed this Answer, and through its counsel, Justin B. Incardone, has advised ACE that it so joins in this Answer and the relief requested herein.

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Summary

At its August 23, 2017 public agenda meeting, the Board of Public Utilities (the “Board”) determined to initiate a generic stakeholder group as a means for interested parties to provide input to the Board regarding the development of electric vehicle (“EV”) policies in New Jersey (the “EV Stakeholder Group”). In the intervening eight months, Board Staff has solicited input through three sets of specific questions and convened a number of EV Stakeholder Group meetings. ACE understands that this extensive process is drawing to a close and a report to the Board is anticipated shortly. Against this backdrop, Rate Counsel argues that ACE’s Petition for Approval of a Voluntary Program for Plug-In Vehicle (“PIV”) Charging (the “PIV Program”) is premature and should await completion of the EV Stakeholder Group process because the electric vehicle industry “is in its infancy, with few EVs on the road today,” and thus “there is no rush to build out supporting infrastructure hastily.”¹ As the Company will demonstrate, Rate Counsel’s arguments mischaracterize ACE’s proposed PIV Program, ignore clear-cut policy priorities articulated by Governor Murphy, and disregard the actual pace and extent of deployment of PIVs in New Jersey and the mid-Atlantic region. For these reasons, the Motion should be denied.

Background

Governor Murphy has identified climate change as a threat to New Jersey, and taken a number of steps to reduce New Jersey’s greenhouse gas emissions, including directing the Board and the Department of Environmental Protection to rejoin the Regional Greenhouse Gas Initiative “in an expeditious manner.”² Governor Murphy has also acknowledged that the

¹ See Rate Counsel Motion to Stay, at 12.

² See Executive Order No. 7.

transportation sector is a significant contributor to New Jersey's greenhouse gas emissions and identified electrification of the transportation sector as a priority for the State.³ Thus, fostering PIVs and the infrastructure needed to facilitate their deployment is a clear policy goal of the new Murphy Administration. Just three days before Rate Counsel filed its Motion, Governor Murphy announced that New Jersey will join in signing the State Zero-Emission Vehicles Programs Memorandum of Understanding, in which the initial Signatory States agree to a collective target of having at least 3.3 million zero-emission vehicles on the road in their states by 2025 and to work together to establish a fueling infrastructure that will adequately support this number of vehicles.⁴ Moreover, New Jersey previously opted-in to the California Zero Emission Vehicle compliance program, as allowed under Section 177 of the Federal Clean Air Act. This action creates a mandate that 15.4% of new car purchases must be either zero emission vehicles or transition zero emission vehicles by 2025. To put this goal into perspective, that would require new compliant PIV sales in New Jersey to be approximately 60,000 vehicles by 2025.⁵ Indeed, sales of PIVs in New Jersey and nationally are increasing significantly today. In 2017, nearly 200,000 PIVs of varying types were sold in the United States, with 2018 sales through March on

³ In a position piece, Candidate Murphy discussed the impact of climate change on New Jersey and noted he intended to help New Jersey prepare for the impacts of climate change by, among other things, "electrifying transportation to cut emissions, which represents 40% of NJ's greenhouse gas emissions." See <https://www.murphy4nj.com/issue/building-a-clean-energy-economy/>.

⁴ See http://www.nj.gov/governor/news/news/562018/approved/20180403b_emissions_standards.shtm

⁵ See *Electric Vehicles in New Jersey: Costs and Benefits, The Opportunities, Impacts, and Market Barriers to Widespread Vehicle Electrification in New Jersey*, Prepared for ChargeEVC by Gabel Associates, Inc. & Energy Initiatives Group, LLC (dated January 26, 2018)[hereinafter, *Electric Vehicles in New Jersey*], available at <http://www.chargevc.org/documents/electric-vehicles-in-new-jersey-costs-and-benefits/>.

track to exceed that figure by over 10%.⁶ In New Jersey, sources estimate that over 10,000 PIVs (net of retirements) were registered through 2016, with sharply increased sales beginning in 2016.⁷ Indeed, one report indicates New Jersey is a PIV market poised for significant growth, stating that 2016 sales growth “implies EV sales in New Jersey are over twice the national level of EV sales growth of 26%.”⁸ This data indicates that, while not yet a large market, New Jersey is a robust and rapidly growing market for PIVs. This presents New Jersey with a significant economic opportunity with important environmental benefits that is under development now, not at some distant point in the future as Rate Counsel suggests.

Argument

I. ACE’s PIV Program and the EV Stakeholder Group are complementary processes, not mutually exclusive.

At its core, Rate Counsel’s Motion argues that the Board should tackle the many challenges facing it one deliberative process at a time. Thus, because the EV Stakeholder Group has been convened, Rate Counsel argues the Board should not consider complementary proposals for pilot projects that would gather important New Jersey-specific data that could inform the Board’s on-going policy efforts. Instead, Rate Counsel would have the Board make policy decisions in a vacuum based on theories and the experiences of other jurisdictions. The Board’s approach to policy-making is not so circumscribed and is broader than Rate Counsel argues.

⁶ See Insideevs.com, monthly plug-in vehicle sales results, which can be found at <https://insideevs.com/monthly-plug-in-sales-scorecard/>.

⁷ See *Electric Vehicles in New Jersey*, at 19.

⁸ See *id.*

Moreover, the Board should understand ACE's proposed PIV Program for what it is: a modest program focused on better understanding the impacts of PIVs and related charging infrastructure on the electric distribution system. Specifically, ACE is seeking to identify and mitigate reliability impacts, and proactively test methodologies to provide incentives to customers to shift PIV charging to off-peak periods. ACE has included a significant element of customer education and engagement, and framed its proposal to address subsets of PIV charging activity, including residential, apartment, workplace, and highway charging uses. ACE has also included a \$2 million grant program to spur PIV innovation in New Jersey. ACE's proposal is not a large or precedent-setting program that will tie the Board's hands as Rate Counsel seems to fear. Rather, it is limited in duration to five years, modest in size (geared to install only 630 new chargers), and financially responsible (ACE proposes to spend \$14.9 million over five years, with an estimated monthly bill impact for the average customer using 716 kWh of just 18 cents). Consideration and approval of ACE's PIV Program proposal is in the public interest and will complement the Board's on-going policy initiatives.

II. The Board's PIV policy will need to be realistic, flexible, and agile.

Rate Counsel argues that the EV Stakeholder Group will result in the Board deciding various "fundamental policy issues," and that ACE's PIV Program should not be considered until that process is complete.⁹ In effect, Rate Counsel appears to argue that the EV Stakeholder Group will result in the articulation of immutable PIV policies that will be universally applied. ACE has some concerns regarding this proposition. First, PIVs are a rapidly evolving technology that will require the Board to reexamine periodically its policies to ensure the market is developing and evolving in a manner that is consistent with the policies and priorities of the

⁹ See Rate Counsel Motion, at 8.

Board, the Murphy Administration, and New Jersey's commitments under the Clean Air Act. PIV deployment and evolving PIV technology are simply not topics that lend themselves to a one-time consideration and inflexible policy dictates. Instead, the process must be iterative, adapting and changing as the PIV market changes and New Jersey-specific data is generated. ACE's PIV Program will provide the Board with a stream of data to help the Board assess how the market is developing, and to determine if new or additional measures are required to reach the Board's goals. Only by approving actual PIV charging initiatives will the Board have access to this important information. Given the rapidly growing market for PIVs in New Jersey and the importance of gathering New Jersey-specific data regarding the use of this technology, the Board should not acquiesce to Rate Counsel's request for an indefinite delay in addressing PIV issues in New Jersey.¹⁰ Such delay is not in the public interest, because as noted above, there are already thousands of PIVs on the road, with more being added every day. It is important that the Board begin the necessary work now of collecting data about the impact of these vehicles on the electric distribution system.

¹⁰ ACE finds curious Rate Counsel's argument that the generic EV Stakeholder Group process will yield Board policies that will be unilaterally applied to all utilities. This argument is striking because it is the precise opposite of the argument Rate Counsel made, successfully, in the context of the Board's efforts to change its consolidated income tax adjustment policy. In that instance, Rate Counsel appealed a policy statement by the Board (with which Rate Counsel disagreed) that was the result of a protracted and detailed generic proceeding, arguing that a rulemaking was required before the Board could alter its policy. Ultimately, the Appellate Division made a narrow finding that a rulemaking was required, which process was commenced earlier this year. Given this context, ACE wonders how Rate Counsel can now assert that the generic EV Stakeholder Group process will result in Board "policy," and wonders if, once the Board issues its anticipated response to the EV Stakeholder Group process, Rate Counsel will request a formal, months-long rulemaking prior to effectuating any PIV policies? Such further delay in addressing PIV issues in New Jersey is counter-productive and should not be permitted.

Finally, although styled as a Motion to Stay, Rate Counsel's Motion places before the Board the substance of certain of its positions advanced in the EV Stakeholder Group. ACE must respond to two of those points. In one instance, Rate Counsel has raised its concern about whether utility customers "should be asked to bear the cost of reducing the Green House Gas ("GHG") emissions from the transportation sector of the economy through the electrification of motor vehicles."¹¹ Such comments illustrate Rate Counsel's exclusive focus on customer bills and ignore the very real impacts of climate change that are already being felt by utility customers, particularly low-income customers who are disproportionately impacted by pollution and climate change. Candidate Murphy acknowledged this when he noted: "Too often the conversations about climate change ignore the disproportionate impact on lower-income and politically vulnerable communities. Meanwhile, the environmental concerns in these communities are staggering - in Newark, for instance, as many as one in four children have asthma."¹² Rate Counsel's attempt to reduce this issue to one of bill impacts alone misses compelling questions of environmental justice and equity.

In a second instance, Rate Counsel asserts that the Company's PIV Program will "entangle" ACE with the "EV automobile 'business,'" and potentially run afoul of statutes which purportedly "discourage" the provision of competitive services by public utilities.¹³ As an initial matter, ACE would note that the cited statute, *N.J.S.A. 48:3-55*, does not preclude utility provision of competitive services, but instead requires prior Board approval. More importantly, with respect to the substance of Rate Counsel's concern, ACE firmly believes there is a role for utilities to play in the deployment and development of PIV charging infrastructure. Utilities are

¹¹ See Rate Counsel Motion, at 12 (emphasis in original).

¹² See <https://www.murphy4nj.com/issue/building-a-clean-energy-economy/>.

¹³ See Rate Counsel Motion, at 10.

solely responsible for the integrity of the electric distribution system, and so have a significant interest in ensuring that PIV impacts on the distribution system are mitigated and addressed to the extent possible. Unregulated providers of PIV charging facilities do not shoulder this responsibility, and may be less interested in serving remotely located, marginally profitable, or unprofitable customers and groups. Such behavior could make PIV charging infrastructure and the benefits and potential cost savings attendant to PIVs less available to lower-income and disadvantaged communities. From the standpoint of serving the public interest, such an outcome would be a significant missed opportunity to benefit some of New Jersey's most vulnerable citizens. Thus, ACE would encourage the Board to consider these factors, among others, as it determines what role utilities should play in the development of New Jersey's PIV charging infrastructure.

Conclusion

For the reasons noted above, Atlantic City Electric Company respectfully requests that the Board deny Rate Counsel's Motion to Stay, and direct Presiding Commissioner Chivukula to immediately set a procedural schedule.¹⁴

Respectfully submitted,
on behalf of Atlantic City Electric Company



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cc: Hon. Upendra J. Chivukula, Commissioner
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¹⁴ The Company provided a proposed procedural schedule as *Exhibit E* to the PIV Program Petition. While some of the dates will require modification, ACE offers this proposed schedule as a preliminary starting point for consideration.

In the Matter of the Petition of Atlantic City Electric Company
for Approval of a Voluntary Program for Plug-In Vehicle Charging
BPU Docket No. EO18020190

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