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CASE MANAGEMENT

APR 23 2018

BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

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Governor

SHEILA OLIVER  
Lt. Governor



State of New Jersey

DIVISION OF RATE COUNSEL  
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BOARD OF PUBLIC UTILITIES

APR 23 2018

MAIL RECEIVED

STEFANIE A. BRAND  
Director

April 20, 2018

**Via E-mail and U.S. Regular Mail**

Commissioner Dianne Solomon  
NJ Board of Public Utilities  
44 South Clinton Avenue  
3<sup>rd</sup> Floor, Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350

**Re: 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.  
BPU Dkt. No. EO18020196**

Dear Commissioner Solomon:

Pursuant to Legal Specialist Andrea Hart's April 9, 2018 request, attached please find Division of Rate Counsel's ("Rate Counsel") proposed procedural schedule in connection with the above referenced matter (See Attachment A). Rate Counsel respectfully requests that Your Honor set Rate Counsel and intervenor testimony due date on or about October 23, 2018 with hearings set for January, 2019.

While we assume ACE will seek a schedule that allows for an earlier resolution of this matter, we believe this is the earliest feasible schedule given the number of cases that have recently been filed at the Board, many of which must be resolved pursuant to statutory deadlines. As Your Honor is aware, in the last few weeks the utilities have filed an unprecedented number of cases that both Rate Counsel and the Board Staff must process. For example, Rate Counsel and Staff are parties to I/M/O the New Jersey Board of Public Utilities' Consideration of the Tax Cuts and Jobs Act of 2017, Docket No. AX18010001, et al in which every public utility operating in the state of New Jersey with revenues over \$3.5 million was ordered to file a petition to address the over-collection of federal income taxes resulting from the changes to the Tax Code recently passed by Congress. In addition to the 12 separate tax cases, we have several base rate cases that must be processed within nine months, and several energy efficiency and renewable energy filings pursuant to N.J.S.A. 48:3-98.1 that must be resolved in six months. (See Attachment B) In addition, the legislature has recently passed several pieces of legislation, A3724/S2313 (Establishes zero emission certificate program); A3723/S2314 (Establishes and

CMS v. Beke, DAG  
Energy A. Moreau, DAG  
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modifies clean energy and energy efficiency programs; modifies State's solar renewable energy portfolio standards) and S1217 (Requires BPU consideration and approval of amended application for qualified wind energy project offshore in certain NJ territorial waters), which, if/when signed by the Governor, will require Rate Counsel and Staff's participation under short and strict statutory deadlines.

In contrast, the Atlantic IIP case has no statutory deadline. It is also the first case filed under the new infrastructure regulation making it an important case that will undoubtedly set precedent. While Rate Counsel does not seek in any way to delay this important matter, Rate Counsel respectfully requests that Your Honor set a schedule that can realistically be met, and will allow both Staff and Rate Counsel to fully review Atlantic's case in order to assist the Board in making a record that can support a sound and reasoned decision. In light of the already-scheduled hearings and other cases that Staff and Rate Counsel face in coming months, and with the limited resources available to the state, we believe the schedule we have proposed is reasonable and necessary to ensure due process.

In addition, Rate Counsel respectfully requests that Your Honor schedule a prehearing conference to discuss the respective schedules proposed by the parties and the issues to be resolved. It is Rate Counsel's understanding that in other proceedings before the Board, the setting of issues to be resolved has been contentious with the parties having, at times, very divergent views. In this matter, Rate Counsel believes that the following issues should be resolved in this proceeding:

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?
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?

In order to settle the issues list in an expeditious manner, a prehearing conference would be beneficial.

Finally, Ms. Hart's e-mail requested that the parties provide a list of people we wish to have on the service list in the matter. Please add the following people to the service list on behalf of Rate Counsel:

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The e-mail addresses are as follows:

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By copy of this letter I am requesting that the other parties to this matter also amend their service lists as indicated above.

Thank you for your attention to this matter.

Respectfully submitted,

Stefanie A. Brand, Esq.  
Director, Division of Rate Counsel

By: 

Ami Morita, Esq.  
Deputy Rate Counsel

AM

c: Service list

## ATTACHMENT A

### Rate Counsel Draft (4/20/18)

I/M/O 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

February 28, 2018	Petition filed with the Board
April 2018	Pre-Hearing Conference with Commissioner Solomon (subject to Commissioner's availability).
May 20, 2018	Motion to Intervene.
June 7, 2018	First round discovery requests are due.
July 2, 2018	All first round data responses provided by Atlantic.
July 27, 2018	Second round requests to Atlantic are due.
August 15, 2018	Atlantic provides all outstanding data responses.
TBD	Public hearings in the service territory (dependent upon Commissioner's availability).
Week of August 27, 2018	Discovery conference/Settlement discussions, if necessary.
September 12,13,14, 2018	Discovery conference/Settlement discussions, if necessary. (one day)
<b>October 23, 2018</b>	<b>Rate Counsel/Intervenor Direct Testimony filed.</b>
November 7, 2018	Discovery requests propounded on Direct Testimony.
November 28, 2018	Responses to discovery requests on Direct Testimony due.
Week of December 12, 2018	Settlement discussions, if necessary.
December 17, 2018	Rebuttal Testimony filed by all parties.
January 4, 2019	Discovery requests on Rebuttal Testimony propounded.
January 17, 2019	Responses to Rebuttal Testimony discovery requests are due.
<b>January 2019</b>	<b>Evidentiary Hearings, with live Surrebuttal, (dependent upon Commissioner's availability).</b>
	Initial Briefs TBD
	Reply Briefs TBD

## **ATTACHMENT B**

### **Base Rate Cases (9 month deadline):**

1. PSE&G, Docket Nos. ER18010029 & GR18010030
2. New Jersey American Water, Docket No. WR17090985
3. Atlantic City Sewer Company, Docket No. WR
4. Gordon's Corner Water Company, Docket No. WR18030268
5. Suez Water (pending)

### **RGGI Filings (180 day statutory deadline):**

1. New Jersey Natural Gas SAVEGREEN (RE/EE) Petition; filed on March 27, 2018 and must be resolved within 6 months as a RGGI Act filing; final procedural schedule not yet approved;
2. South Jersey Gas Energy Efficiency Program Petition; filed on March 27, 2018 and must be resolved within 6 months as a RGGI Act filing; final procedural schedule not yet approved;
3. PSE&G Energy Efficiency Petition; to be filed by June 1, 2018; will be a RGGI Act filing and must be completed within 6 months.

### **Acquisition/Merger Cases:**

1. E'Town Gas/South Jersey Industries Acquisition Petition; evidentiary hearings on 8/13, 8/15, 8/17, 8/20, 8/22 and 24, 2018;
2. Suez Water

### **Tax Matters (to resolved by June 22, 2018):**

ACE, Docket No. ER18030241  
JCP&L, Docket No. ER18030226  
RECO, Docket No. ER18030236  
Elizabethtown, Docket No. GR18030232  
N.J. Natural Gas, Docket No. GR18030224  
S.J. Gas, Docket No. GR18030230  
American Water, Docket No. WR18030233  
Aqua, Docket No. WR18030237  
Atlantic City Sewer, Docket No. WR18030234  
EDC, Docket No. WR18030235  
Gordon's Corner, Docket No. WR18030242  
Suez, Docket No. WR18030238-40

I/M/O ATLANTIC ELECTRIC 2018  
INFRASTRUCTURE FILING  
BPU Dkt. No. EO18020196  
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