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TRENTON, NJ



State of New Jersey

DIVISION OF RATE COUNSEL

140 EAST FRONT STREET, 4TH FL

P.O. Box 003

TRENTON, NEW JERSEY 08625

May 11, 2018

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MAY 17 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

STEFANIA A. BRAND
Director

Via Hand Delivery and E-mail

Commissioner Dianne Solomon
NJ Board of Public Utilities
44 South Clinton Avenue
3rd 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:

This letter is in response to Atlantic City Electric Company's ("Atlantic") letter dated May 10, 2018, proposing an unnecessarily expedited schedule in connection with the above referenced matter. In its May 10th letter, Atlantic claimed that proposing a schedule with Rate Counsel and intervenor Direct Testimony due August 13 with evidentiary hearings starting in October of 2018 is in the "public interest." However, as fully explained in Rate Counsel's April 20th and May 8th letters, nothing could be further from the truth. Truncating the schedule as proposed by Atlantic will only serve to limit Rate Counsel's and Staff's ability to fully vet the first case filed under the new infrastructure regulation and deny ratepayers due process. It is important to remember that the primary relief sought by Atlantic in this petition is to move a large portion of its normal capital spending from being paid through rates to being paid through a clause. Thus, there is no harm or prejudice to Atlantic that will result if a more reasonable schedule is permitted. Atlantic remains free and, indeed, obligated to undertake whatever infrastructure projects it needs to in order to provide reliable service.

Rate Counsel's most recent proposal was based on the schedule proposed in Legal Specialist Andrea Hart's e-mail dated May 7th with minor changes that moved the hearing by two weeks from the end of November to the second week of December 2018. The schedule represents a compromise by Rate Counsel from its original proposed schedule that proposed hearings scheduled in January 2019. It was made to accommodate the interests of Atlantic and take into account the availability of the witnesses due to other cases that will be processed by the

AMS
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Tel: (609) 984-1460 • Fax: (609) 292-2923 • Fax: (609) 292-2954
<http://www.nj.gov/rpa> E-Mail: njratepayer@rpa.state.nj.us

Board in the next few months. Rate Counsel maintains that setting a schedule that cannot be met will only serve to delay this matter, as the Board will only have to adjust deadlines later to ensure that it has an adequate record before it. Moving out the date a mere two weeks will ensure a more reasonable and orderly process in this case that will allow all parties to meet their obligations.

Furthermore, Atlantic's suggestion to keep the deadline for motions to intervene to a date that has already passed, April 13th, violates fair notice and the due process rights of potential intervenors. Atlantic shockingly argues that since some intervention motions have already been filed, "it is clear that notice has been widely disseminated and additional time is not required." There is no reading of the law that would make setting a deadline for intervention motions for a time that has already passed consistent with the requirements of fair notice and due process.

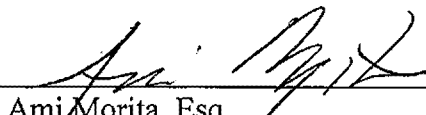
Finally, Atlantic's May 10 proposed schedule can only be viewed as mean spirited in that it sets deadlines that interfere with important holidays where Rate Counsel's staff as well as consultants may not be available. As proposed by the Company, Rate Counsel and Intervenor responses to discovery will be due on Rosh Hashanah (September 10) and Initial Post-Hearing Briefs will be due the Friday after Thanksgiving (November 23). Traditionally, the parties to matters before the Board have demonstrated collegiality in establishing litigation schedules. Rate Counsel certainly hopes Atlantic's proposal does not signal an end to that tradition.

As stated in Rate Counsel's prior two letters to Your Honor, in light of the heavy case load that both Staff and Rate Counsel face in coming months, a two week extension from Staff's proposed schedule is reasonable. There is no prejudice whatsoever to the Company and no statutory deadline that must be met. Rather than establish a schedule that is not realistic and will likely have to be adjusted at a later date, Rate Counsel respectfully requests that its compromise schedule be permitted.

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

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

Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Ave., 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Paul Flanagan, Executive Director
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Noreen Giblin, Chief Counsel
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Stefanie A. Brand, Esq., Director
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Bethany Rocque-Romaine, Esq.
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Veronica Beke, Esq.
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Caroline Vachier, DAG
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Geoffrey Gersten, DAG
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Alex Moreau, DAG
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Kurt Lewandowski, Esq.
Division of the Rate Counsel
140 East Front Street, 4th Fl.
P.O. Box 003
Trenton, NJ 08625

Brian O. Lipman, Esq.
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Ami Morita, Esq.
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

James Glassen, Esq.
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Diane Schulze, Esq.
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Lisa Gurkas
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Jackie O'Grady
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

William Foley
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Darren Erbe
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Andrea Hart, Esq.
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Phillip Passanante, Esq.
Atlantic City Electric
92DC42
500 N. Wakefield Drive
P.O. Box 6066
Newark, DE 19714-6066

David Peterson
Chesapeake Regulatory Consultants Inc.
10351 Southern Maryland Blvd.
Suite 202
Dunkirk, MD 20754-9500

Colleen Foley, Esq.
Saul Ewing Arnstein & Lehr
One Riverfront Plaza, Suite 1520
Newark, NJ 07102

David Brown
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Grace Strom Power, Esq.
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Celeste Clark
Division of Rate Counsel
140 East Front Street, 4th Fl.
Trenton, NJ 08625

Thomas Walker
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Stacy Peterson
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

Veronica Beke, DAG
Division of Law & Public Safety
124 Halsey Street- 5th Floor
P.O. Box 45029
Newark, NJ 07101

Roger Pedersen
Pepco Holdings LLC
500 N. Wakefield Drive
P.O. Box 6066
Newark, DE 19714-6066

Megan Lupo, Esq.
Counsel's Office
NJ Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
Suite 314
P.O. Box 350
Trenton, NJ 08625-0350

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

Max Chang
Synapse Energy Economics, Inc.
485 Massachusetts Ave., Suite 2
Cambridge, MA 02139

Erick Ford
NJ Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625-0350

Anissa Torres
NJ Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625-0350