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October 2, 2020

VIA ELECTRONIC MAIL
aida.camacho@bpu.nj.gov
board.secretary@bpu.nj.gov

Aida Camacho-Welch
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625

RE: In the Matter of the Petition of Elizabethtown Gas Company for Approval of New Energy Efficiency Programs and Associated Cost Recovery Pursuant to the Clean Energy Act and the Establishment of a Conservation Incentive Program
BPU Docket No. GO20090619

In the Matter of the Implementation of P.L. 218, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs
BPU Docket No. QO19010040

Dear Secretary Camacho-Welch:

On behalf of Atlantic City Electric Company (the “Company”), attached is the Company’s Motion to Participate in the above docketed matter(s).

Pursuant to the Order Designating a Commissioner, Setting Manner of Service and Bar Dates, dated September 23, 2020, this matter has been retained by the Board and has been assigned to the Honorable Upendra J. Chivukula, Commissioner, as the Presiding Officer. We are copying Commissioner Chivukula on this letter and are enclosing a copy of the Motion to Participate.

Consistent with the Order issued by the Board in connection with *In the Matter of the New Jersey Board of Public Utilities’ Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations*, BPU Docket No. EO20030254, Order dated March 19, 2020, this motion is being electronically filed with the Secretary of the Board and the New Jersey Division of Rate Counsel. No paper copies will follow.

Aida Camacho-Welch

October 2, 2020

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Thank you for your consideration and courtesies. Feel free to contact the undersigned with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rasanante", with a large, stylized flourish that loops back up and over the signature.

Philip J. Rasanante
An Attorney at Law of the
State of New Jersey

Enclosure

cc: Honorable Upendra J. Chivukula, Commissioner
Service List

**IN THE MATTER OF THE
IMPLEMENTATION OF P.L. 2018, c. 17
REGARDING THE ESTABLISHMENT OF
ENERGY EFFICIENCY AND PEAK
DEMAND REDUCTION PROGRAMS**

**IN THE MATTER OF THE PETITION
OF ELIZABETHTOWN GAS COMPANY
FOR APPROVAL OF NEW ENERGY
EFFICIENCY PROGRAMS AND
ASSOCIATED COST RECOVERY
PURSUANT TO THE CLEAN ENERGY
ACT AND THE ESTABLISHMENT OF A
CONSERVATION INCENTIVE
PROGRAM**

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

BPU DOCKET NO. QO19010040

BPU DOCKET NO. GO20090619

**NOTICE OF MOTION
TO PARTICIPATE**

TO: Aida Camacho-Welch
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625

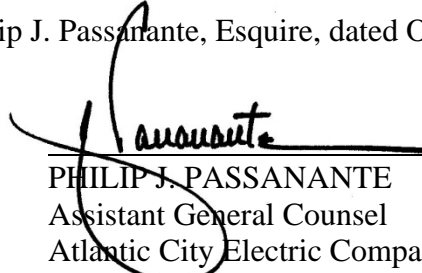
and

All Parties on the Attached Service List

PLEASE TAKE NOTICE that, pursuant to *N.J.A.C. 1:1-16.6*, Atlantic City Electric Company (“ACE”), by its undersigned counsel, hereby moves to participate in the above-titled proceeding, while reserving its right to seek and/or assume full Intervenor status in this proceeding in the event the Presiding Officer or the Board shall determine that the utilities referenced in BPU Docket No. QO19010040 should be accorded full Intervenor status in one another’s proceedings. (See Paragraph 11 of the attached Certification of Philip J. Passanante.)

PLEASE TAKE FURTHER NOTICE that, in support of this Motion to Participate, ACE submits the annexed Certification of Philip J. Passanante, Esquire, dated October 2, 2020.

Dated: October 2, 2020



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BPU DOCKET NO. QO19010040

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MOTION TO PARTICIPATE

I, Philip J. Passanante, of full age, do hereby certify as follows:

1. I am Assistant General Counsel for Atlantic City Electric Company (“ACE” or the “Company”), and an attorney at law of the State of New Jersey. As such, I am familiar with the facts and circumstances concerning this matter, and I make this Certification in support of ACE’s Motion to Participate.

2. On January 13, 2008, L. 2007, c. 340 (the “RGGI Act”) was signed into law based on the New Jersey Legislature’s findings that energy efficiency (“EE”) and conservation measures must be essential elements of the State’s energy future and that greater reliance on EE and conservation will provide significant benefits to the citizens of New Jersey. The Legislature also found that public utility involvement and competition in the conservation and EE industries are essential to maximize efficiencies. Pursuant to Section 13 of the RGGI Act, codified as *N.J.S.A. 48:3-98.1(a)(1)*, an electric or gas public utility may provide and invest in EE and conservation programs in its service territory on a regulated basis. Upon petition, such investment in EE and conservation programs may be eligible for rate treatment approval by the New Jersey Board of

Public Utilities (the “Board” or “BPU”), including a return on equity or other incentives or rate mechanisms that decouple utility revenue from sales of electricity and gas. Ratemaking treatment may include placing appropriate technology and program cost(s) investments in the utility’s rate base or recovering the utility’s technology and program costs through another ratemaking methodology approved by the Board.

3. By Order dated June 10, 2020 (the “June 2020 Order”), the Board approved an EE transition framework for EE programs implemented pursuant to the Clean Energy Act, L. 2018, c. 17, including requirements for the utilities to establish programs that reduce the use of electricity and natural gas within their territories. Pursuant to the June 2020 Order, the Board directed New Jersey electric and gas utilities to file three-year program petitions by September 25, 2020 for approval by the Board by May 1, 2021, with implementation beginning July 1, 2021.¹

4. On or about September 25, 2020, Elizabethtown Gas Company (the “Petitioner”) filed a petition (the “Petition”) with the BPU for approval of the Petitioner’s Energy Efficiency Programs and Associated Cost Recovery Pursuant to the Clean Energy Act and the Establishment of a Conservation Incentive Program (the “Program”).

5. ACE is a New Jersey public utility incorporated in the State of New Jersey and maintains a regional office at 5100 Harding Highway, Mays Landing, New Jersey 08330. It is engaged in the transmission, distribution, and sale of electric energy for residential, commercial, and industrial purposes within New Jersey. The Company’s service territory comprises eight counties located in southern New Jersey and includes approximately 560,000

¹ At the time of the issuance of the June 2020 Order, Public Service Electric and Gas Company (“PSE&G”) already had an EE filing pending before the Board. The Board addressed PSE&G’s EE filing in *I/M/O the Petition of Public Service Electric and Gas Company for Approval of Its Clean Energy Future - Energy Efficiency Program on a Regulated Basis*, BPU Docket Nos. GO18101112 and EO10121113 (Order dated September 23, 2020).

customers.

6. *N.J.A.C. 1:1-16.6 (a)* sets forth the criteria for participation:

Any person or entity with a significant interest in the outcome of a case may move for permission to participate.

7. *N.J.A.C. 1:1-16.6 (b)* sets forth the standard that must be weighed when considering a Motion to Participate:

In deciding whether to permit participation, the judge shall consider whether the participant's interest is likely to add constructively to the case without causing undue delay or confusion.

8. ACE is entitled to participate because it has a significant interest in the relationship and synergies of the electric utilities' EE proposals, coupled with those filed by the State's gas distribution companies, *N.J.A.C. 1:1-16.1 (a)*. Moreover, ACE's interests, and the EE-related experience of its affiliates in other Pepco Holdings service territories, will add constructively to this proceeding without causing any delay or confusion, *N.J.A.C. 1:1-16.3 (a)*. ACE's significant interest in the outcome of the Petition is further rooted in the fact that substantive policy and/or procedural requirements established in this proceeding can significantly influence and have a precedential effect on the positions taken by ACE in its own EE proceeding, BPU Docket Nos. EO20090621 and QO19010040. Therefore, it is important that the Company be accorded Participant status in this proceeding so that it may monitor developments and be apprised of potential policy and Program developments, both substantive and procedural, on these important issues in a timely manner.

9. As an investor-owned electric utility serving retail customers, the Company's interests in this proceeding are materially different from Petitioner, who represents its own interests, and from the other parties (*i.e.*, Board Staff and the Division of Rate Counsel), who

represent primarily consumer interests.

10. Moreover, ACE's interests will contribute to the development of a complete record for consideration by the Board without causing any delay or confusion, as the proceeding has just commenced. *N.J.A.C. 1:1-16.3 (a)*. In this matter, the Company intends to participate in order to receive copies of non-confidential discovery, testimony, briefs, and other materials; to monitor the proceedings; and possibly to file briefs and/or exceptions. ACE will abide by the procedural schedule(s) set in this matter.

11. ACE seeks only Participant status at this time and does not anticipate expanding that role. However, the Company must reserve the right to seek full party intervenor status if the relevant circumstances underlying this proceeding change, and if ACE can establish that it satisfies regulatory requirements for such status. Moreover, the Company reserves the right to seek and/or assume full Intervenor status in this proceeding in the event the Board, in its discretion, shall determine that the utilities referenced in BPU Docket No. QO19010040 should be full Intervenors in one another's proceedings. In this regard, ACE is aware that certain utilities intend to seek full Intervenor status in the Company's pending EE filing, BPU Docket No. EO20090621. Any Board order approving intervention for a utility in ACE's case would have to find that, based on the common/overlapping concerns in the June 2020 Order, the utility satisfies the standard of being "substantially, specifically, and directly affected by the outcome" of the case. *N.J.A.C. 1:1-16.1(a)*. Of course, if the Board determines that the utility has sufficient interest to be a full Intervenor in ACE's case, then the Company would have the identical sufficient interest to be a full Intervenor in its case. *Accordingly, this Motion for Participant status is provisional and should be treated as a Motion to Intervene should the utility that is the subject of the above captioned proceeding be granted Intervenor status in ACE's case.*

12. The Company requests that all communications, correspondence, orders, and other documentation relating to this proceeding be directed to the following:

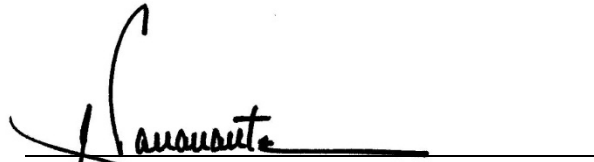
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ACE also requests that the above attorney be placed on the official service list compiled for purposes of this proceeding.

13. For the foregoing reasons, ACE respectfully requests that the Board or Presiding Officer issue an Order: (1) granting the Company rights as a Participant in this matter pursuant to *N.J.A.C. 1:1-16.6*; (2) to the extent that the Presiding Officer or the Board grants Intervenor status to the Petitioner in ACE's proceeding, BPU Docket No. EO20090621, granting the Company Intervenor status in the above-captioned case involving that utility; and (3) providing such further or further relief as is deemed reasonable, just, and consistent with the foregoing.

I hereby certify that the foregoing statements made by me are true. I am aware that, if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: October 2, 2020



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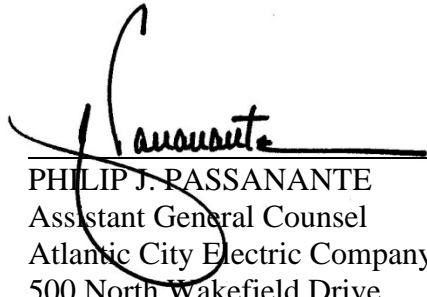
CERTIFICATION OF SERVICE

I, Philip J. Passanante, of full age, hereby certify as follows:

1. I am an attorney at law in the State of New Jersey and am Assistant General Counsel to Atlantic City Electric Company (“ACE”) in the above referenced matter, with which I am familiar.
2. On this day, I caused ACE’s Motion to Participate and Certification of Philip J. Passanante, Esquire to be filed by electronic mail with the New Jersey Board of Public Utilities at board.secretary@bpu.nj.gov.
3. On this day, I further caused copies of ACE's Motion to Participate and Certification of Philip J. Passanante to be served by electronic mail to the Honorable Upendra J. Chivukula, Commissioner of the New Jersey Board of Public Utilities, 44 South Clinton Avenue, 9th Floor, Trenton, New Jersey 08625.
4. On this day, I further caused copies of ACE’s Motion to Participate and Certification of Philip J. Passanante to be served by electronic mail to the entities on the Service List.

5. I further and finally certify that the foregoing statements made by me are true. I am aware that, if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: October 2, 2020



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Service List

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