

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

**IN THE MATTER OF THE PETITION :  
OF ATLANTIC CITY ELECTRIC :  
COMPANY FOR APPROVAL OF THE : BPU DOCKET NO. EO20080541  
SMART ENERGY NETWORK :  
PROGRAM AND COST RECOVERY :  
MECHANISM AND OTHER RELATED :  
RELIEF**

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**MOTION TO INTERVENE OF NRG ENERGY INC., DIRECT ENERGY BUSINESS,  
LLC, DIRECT ENERGY BUSINESS MARKETING, LLC, DIRECT ENERGY  
SERVICES, LLC, GATEWAY ENERGY SERVICES CORPORATION,  
CENTRICA BUSINESS SOLUTIONS**

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Pursuant to N.J.A.C. 1:1-16.1 and 16.2, NRG Energy, Inc. (“NRG”), Direct Energy Business, LLC (“Direct Business”), Direct Energy Business Marketing, LLC (“Direct Marketing”), Direct Energy Services, LLC (“Direct Services”), and Gateway Energy Services Corporation (“Gateway”), (collectively, “Direct Energy”), and Centrica Business Solutions (collectively, the “Market Participants”) hereby file this Motion to Intervene (“Motion”) in the above-captioned proceeding initiated by a Petition filed on August 26, 2020 by Atlantic City Electric Company (“ACE” or “Company”) for Approval of the Smart Energy Network Program and Cost Recovery Mechanism and Other Related Relief (“Petition”). In support of the Motion, the Market Participants state as follows:

**I. INTRODUCTION**

1. NRG is a leading integrated power company in the U.S. A Fortune 500 company, NRG operates a reliable and efficient electric generation, a demand-side business focusing on demand response and other customer-sited energy efficiency and distributed energy investments,

and a retail platform serving residential and commercial businesses. Its retail electricity providers serve almost three million customers across more than a dozen states. One million of those customers are in the Northeast markets, which include customers in New Jersey. Its demand-side businesses work with consumers on an “all-of-the-above” approach to controlling their energy costs and content. NRG’s retail companies have more than 25 years combined experience with retail energy competition and customer service. NRG is headquartered in Princeton, New Jersey. The company has several licensed third party suppliers that are actively serving residential, commercial, industrial and institutional customers across New Jersey, including in ACE’s service territory.<sup>1</sup> These NRG retail companies offer customers a range of products including 100% renewable, cash back and travel rewards.

2. Direct Energy is one of the largest competitive retail providers of electricity, natural gas and home services in North America, with over 4 million customer relationships, multiple brands and roughly 5,000 employees. The four intervening Direct Energy companies hold electric power licenses to serve retail customers in New Jersey, including customers in ACE’s service territory.<sup>2</sup> Direct Energy also offers home energy audits, using customer data to perform analytics and offer recommendations on how to reduce their overall energy consumption.

3. Centrica Business Solutions, a subsidiary of Centrica plc and affiliate of Direct Energy, integrates localized energy solutions for businesses around the world that leverages its energy insights, onsite generation and demand management capabilities. The energy solutions integrated by Centrica Business Solutions include solar, combined heat and power, energy

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<sup>1</sup> As third-party energy suppliers in New Jersey, NRG companies hold electric power supplier licenses, as follows: Energy Plus Holdings LLC – ESL-0087, Independence Energy Group LLC – ESL-0100, Reliant Energy Northeast LLC d/b/a NRG Home/NRG Business – ESL-0093, Green Mountain Energy Company – ESL-0098, Stream Energy New Jersey, LLC – ESL-0109 and XOOM Energy New Jersey, LLC – ESL-0115.

<sup>2</sup> As third-party energy suppliers in New Jersey, the Direct Energy companies hold electric power licenses, as follows: Direct Business – ESL-0165; Direct Marketing – ESL-0142; Direct Services – ESL-0078; and Gateway – ESL-0166.

efficiency, energy insight, demand response, power generation and energy storage. Centrica Business Solutions provides end-to-end energy services across design, manufacture, financing, installation and maintenance. Offering innovative distributed energy solutions, Centrica Business Solutions enables organizations to improve operational efficiency, increase resilience and drive their business vision forward.

4. By this Motion to Intervene, the Market Participants seek party status in the above-captioned proceeding for the purpose of protecting their direct and substantial interest in the outcome of this proceeding. If ACE is granted approval by the Board to implement the 39-month \$220 million Smart Energy Network (“SEN”) to deploy Advanced Metering Infrastructure (“AMI”) throughout its service territory, the interests of the Market Participants will be directly and substantially affected.

5. Specifically, as third-party suppliers that are very active in New Jersey’s retail market, NRG and Direct Energy have a substantial and direct interest in a number of issues concerning ACE’s proposed SEN. Likewise, as a market leader in distributed energy solutions, Centrica Business Solutions has a substantial and direct interest in several issues regarding ACE’s proposal.

6. The Market Participants support ACE’s proposal to deploy smart meters. The Market Participants take no position on ACE’s cost estimates for its proposed SEN, its proposed cost recovery mechanism or its proposed accounting treatment. The Market Participants’ interest in this proceeding involve key issues, including:

- The need to ensure that the data collected from smart meters are owned by the customer, not ACE, and that the customer can freely and easily authorize the release of the data to third parties of their choosing;

- The implementation of a Data Access Plan by ACE while AMI meters are being deployed so that entities offering energy services in the competitive market have real-time and meaningful access to their customers' interval use data (with their consent) as soon as it becomes available, which will facilitate the provision of innovative solutions; and
- The importance of establishing guidelines for ACE's use of the data from the smart meters for only their poles and wires functions (i.e. outage management, reliability and system planning) and ensuring that ACE focuses on its core functions rather than expanding its offerings to include new products and services that are within the domain of third party suppliers and other market participants.

7. The Market Participants submit that these issues, among others, should be thoroughly examined in this proceeding.

## **II. BACKGROUND**

8. By Order dated February 19, 2020, the Board ordered three of New Jersey's electric distribution utilities, including ACE, to file or update a previously filed for Advanced Metering Infrastructure program by August 27, 2020. On August 26, 2020, ACE filed with the Board its Petition for approval of its SEN, pursuant to N.J.S.A. 48:2-21, N.J.S.A. 48:2-21.1 and N.J.A.C. 14:3-2A.1 et seq.

9. ACE describes its proposed SEN as an integrated system of smart electronic meters, communications facilities, and data management systems that enable two-way communication between ACE and its customers. The Company anticipates that it will take 39 months to fully deploy the proposed SEN, which will also include changes to ACE's operations, information and billing systems. Petition at ¶ 3.

10. ACE estimates that the capital investment component of the SEN will be approximately \$177.0 million and seeks to recover \$159.2 million through a Rider IIP-SEN. Petition at ¶ 7. It also requests Board approval to defer as regulatory assets \$30.2 million of estimated net operations and maintenance (“O&M”) costs and \$46 million in estimated net stranded costs created by the early retirement of meters. Petition at ¶ 8.

11. By the Petition, ACE avers that its proposed SEN will enhance the safety, reliability and resiliency of the electric grid, while also positioning the Company to provide advanced energy efficiency and peak demand reduction programs. Petition at ¶ 14.

12. Along with its Petition, ACE filed the following Direct Testimonies in support thereof: David S. Schatz, Gregory W. Brubaker, Kristin M. McEvoy, Andrew Voshell, and Gregg Edeson. Petition at ¶ 39.

13. The Direct Testimony of Mr. Schatz describes the proposed SEN as creating a smarter energy grid that will allow ACE to better manage energy infrastructure. Schatz Direct Testimony at 7-8. He also testifies that the SEN would present “wide-ranging opportunities to collaborate with the community, municipal and industry partners to upgrade services and provide new and innovative grid solutions, harnessing digital communication, remote sensing, distributed energy resources, and the platform of smart infrastructure.” Schatz Direct Testimony at 8. Mr. Schatz further suggests that “ACE will be able to pursue novel street lighting programs, and gain enhanced data from electric vehicle infrastructure, residential based photovoltaics and micro grids and other technologies.” Schatz Direct Testimony at 8.

14. In Schedule (DSS)-1, Mr. Schatz provides ACE’s SEN Business Case, which describes the SEN as serving as a “foundation for more advanced technologies and connectivity capabilities, such as connected communities and smart homes that would leverage SEN data and

network services to enable a range of connected devices and sensors for the benefit of communities and customers.” Schedule (DSS)-1 at 11. The Business Case also states that the SEN will further enhance customer choice, but only recognizes utility programs and envisions the utility as having future capabilities that provide opportunities for more informed energy consumption choices. It further describes the SEN as positing ACE “to become a key player in the new energy future.” Schedule (DSS)-1 at 11. In addition, the Business Case identifies the utility of the future as developing new products and offerings that are tailored to customers’ individual needs. Schedule (DSS)-1 at 22-24. Among the future products and services that the Business Case expects ACE to be in a position to offer are innovative rates, customer prepay and energy storage. Schedule (DSS)-1 at 26.

15. The Direct Testimony of Mr. Brubaker discusses how implementation of the SEN will improve ACE’s operations, provide significant operational and customer benefits and afford new opportunities for the development of distributed energy resources. Brubaker Direct Testimony at 2. He also explains the need for changes to the billing system to accommodate the SEN deployment. Brubaker Direct Testimony at 7.

16. The Direct Testimony of Ms. McEvoy describes the cost recovery mechanisms proposed by ACE. McEvoy Direct Testimony at 2.

17. The Direct Testimony of Mr. Voshell offers support for the Company’s accounting and proposed regulatory treatment for the incurred costs to implement the SEN. Voshell Direct Testimony at 1.

18. The Direct Testimony of Mr. Edeson discusses the cost benefit analysis and describes a number of Use Cases that can be implemented following AMI deployment, including innovative rate development, energy storage and customer prepaid power. Edeson Direct

Testimony at 2-7. He states that the SEN will allow ACE to offer innovative rates such as time-of-use programs to residential customers. Edeson Direct Testimony at 19.

19. By Order dated September 23, 2020, the Board determined that the Petition should be retained by the Board for hearing and designated Commissioner Chivukula as the presiding officer. The Board further established October 14, 2020 as the date by which entities seeking to intervene or participate must file the appropriate application. The Order went into effect on September 30, 2020.

20. Pursuant to the Board's Order, NRG, Direct Energy and Centrica Business Solutions file this Motion to Intervene, seeking to be granted full party status in this proceeding.

### **III. APPLICABLE LEGAL STANDARDS**

21. Under N.J.A.C. 1:1-16.1, any person or entity who will be substantially and directly affected by the outcome of a contested case, may on motion, seek leave to intervene.

22. In ruling on a motion to intervene, the presiding officer "shall take into consideration the nature and extent of the movant's interest in the outcome of the case, whether or not the movant's interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the case, the prospect of confusion or undue delay arising from the movant's inclusion, and other appropriate matters." N.J.A.C. 1:1-16.3.<sup>3</sup>

### **IV. ARGUMENT**

23. It is critical that the Market Participants be granted party status in this proceeding so that they can provide the perspectives of the supplier community and other market participants on important issues surrounding access to and the use of customer data acquired through AMI.

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<sup>3</sup> See e.g. *In the Matter of the Petition of Public Service Electric and Gas Company Offering an Energy Stimulus Program*, Docket No. EO09010058 (Order Granting Intervention and Admission Pro Hac Vice dated March 27, 2009).

24. ACE's proposed SEN will impact deployment of renewable energy, distributed energy resources, demand response, energy efficiency initiatives and electric vehicles. Many of these products and services are offered by the Market Participants. The deployment of AMI also facilitates time varying rates and a variety of other products and services that may be offered by third party suppliers.

25. As the Petition and Direct Testimonies filed by ACE demonstrate, the Company envisions AMI deployment as positioning itself to offer many products and services that are already being offered by the Market Participants or are more appropriately developed by entities competing in the market and know what customers want and need from their energy supplier. Moreover, while the Company describes itself as the utility of the future expanding into unchartered territory, its focus should remain on its core functions while allowing the deployment of AMI to facilitate the expansion of offerings by third party suppliers.

26. The potential impact of this proceeding on those products and resources directly and substantially impact the Market Participants. The Market Participants support the deployment of AMI and seek the opportunity to share their knowledge and experience gained from their involvement in other AMI proceedings (including a pending AMI proceeding initiated by Public Service Electric and Gas Company in which the Market Participants were granted party status)<sup>4</sup>.

27. Further, it is critical that the Board ensure that smart meter data that is made available through AMI deployment is designated as belonging to the customer, not ACE. It is also imperative that customers be permitted to authorize the sharing of their data with their chosen party suppliers or other entities.

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<sup>4</sup> *In the Matter of the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future-Energy Cloud ("CEF-EC") on a Regulated Basis*, Docket No. EO18101115 (Order dated June 4, 2020) (granting the Market Participants party status).

28. The Board must also ensure that ACE develops a comprehensive Data Access Plan in this proceeding and then implements this plan at the same time that it is working to deploy its smart meters and program its systems. Such a Data Access Plan must detail the process and methods for the Market Participants to have timely and efficient access, at no charge, to their customers' Interval Usage data (with their consent) as soon as it becomes available. Waiting to address data access issues until after the meters have been installed will unnecessarily delay New Jersey consumers' access to the innovative solutions that the competitive market can offer. This is the data of the future, and the only way that customers will realize the full benefits of their investment is to make the data widely available to entities of the customers' choice. Timely and efficient access to this smart meter data will enable third party suppliers to effectively present innovative product offerings to customers.

29. Along with affording equal access to the smart meter data by third party suppliers, the Board should take steps to complete the process that was started twenty years ago to implement supplier consolidated billing ("SCB") so that third party suppliers can use that data to develop innovative products and services demanded by consumers, including customized energy solutions tailored to meet their own unique needs.<sup>5</sup> Without the ability to issue consolidated bills, which include both the electricity supply charges of the third party supplier and utility distribution charges, third party suppliers' efforts to leverage this investment in smart meters would be hampered. In order for third party suppliers to effectively present offers to customers, they must have the ability to handle their own billing services so that they can demonstrate through the

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<sup>5</sup> *I/M/O The Electric Discount and Energy Competition Act of 1999 Customer Account Services, Docket No. EX99090676* (Board directed the New Jersey Billing Implementation/EDI work group to create process flows, business rules and EDI transactions, or other Board approved electronic data exchange protocols necessary to facilitate the implementation of a SCB). However, no EDI transactions exist and it has been nearly twenty years since the Board last considered this issue.

presentation of the charges on the bill exactly what benefits are accruing to the customer through the selection of an innovative product offering. A Board decision in this matter directing SCB to be implemented in concert with the deployment of AMI meters, along with a Data Access Plan, is an appropriate resolution to the barrier that utility consolidated billing presents to the availability of innovative products from third party suppliers.

30. NRG's and Direct Energy's status as competitive suppliers and Centrica Business Solutions' status as a provider of distributed energy solutions in the private market give them a unique perspective that is likely to benefit the Board as it reviews ACE's Petition. To the best of NRG's, Direct Energy's, and Centrica Business Solutions' knowledge, no other parties to this case will adequately represent its interest in this proceeding. NRG, Direct Energy and Centrica Business Solutions have unique business models and their interests and perspective are unique, such that their appearance as parties would "measurably and constructively" advance this proceeding. See N.J.A.C. 1:1-16.3(a).

31. Moreover, intervention by NRG, Direct Energy and Centrica Business Solutions in this proceeding will not result in a delay in having the matter timely adjudicated.

32. Fundamental fairness and due process considerations require that NRG, Direct Energy and Centrica Business Solutions be afforded an opportunity to fully participate as an intervenor in this proceeding, due to its substantial and direct interests in the outcome of this proceeding.

33. NRG, Direct Energy and Centrica Business Solutions are continuing to review ACE's filing and testimony and reserves the right to raise other issues that, in their judgment, may affect their interests.

**V. CONCLUSION**

On the basis of the foregoing, NRG Energy, Inc., Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Direct Energy Services, LLC, Gateway Energy Services Corporation, and Centrica Business Solutions respectfully request that the Board grant this Motion to Intervene so that the Market Participants may have full party status as an intervenor in this proceeding. The Market Participants have interests in this proceeding that will be substantially and directed affected by the outcome of this proceeding, their interests are sufficiently different from that of any party so as to add measurably and constructively to the scope of the case, and this Motion is timely and will not delay or otherwise disrupt the adjudication of this proceeding.

Respectfully Submitted,



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Dated: October 14, 2020

**CERTIFICATION OF SERVICE**

I hereby certify that on this date an electronic copy of the foregoing Motion to Intervene were served on all parties set forth on the attached service list.



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Christopher E. Torkelson

Dated: October 14, 2020

**IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR  
APPROVAL OF THE SMART ENERGY NETWORK PROGRAM AND COST RECOVERY  
MECHANISM AND OTHER RELATED RELIEF  
BPU DOCKET NO. EO20080541**

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