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October 14, 2020

VIA EMAIL

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

Re: I/M/O 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

Dear Secretary Camacho-Welch:

This law firm represents Utilidata, Inc. (“Utilidata”) in the above-referenced matter. Kindly accept this letter brief, in lieu of a more formal brief on behalf of Utilidata in support of its motion to intervene in the above listed matter as a Party pursuant to N.J.A.C. 1:1-16.1 et seq. before the Board of Public Utilities (“BPU” or the “Board”).

Utilidata is a software company with over a decade of experience operating the electric distribution grid, primarily for the purpose of optimizing voltage to make the grid more efficient and reliable. Utilidata’s platform uses advanced metering infrastructure (AMI) data to improve grid operations and deliver an industry-leading 3-5% energy savings. In recent years, Utilidata has also become the industry leader in building meter-based software, helping drive additional value from AMI deployments. Utilidata developed the first third-party application for Itron’s meter platform, and is building the core operational intelligence software for Landis+Gyr Technology,

Inc.'s ("Landis+Gyr") next generation meter. No company has more experience building software applications for next generation smart meters. (See Certification of Jess Melanson ("Melanson Cert.") at ¶3, attached hereto).

Based on the aforementioned, and for all the reasons set forth below, as well as in the Certification of Jess Melanson, attached hereto in support of the motion, Utilidata's intervention is vital since its interests will be directly affected by the outcome of the proceeding. No other party represents its interests and only by intervening as a party to this proceeding can Utilidata ensure that its interests are represented as the BPU considers this matter.

A. Background Facts and Procedural History.

By Order dated February 19, 2020, the Board ordered three (3) of New Jersey's electric distribution utilities to file or update a previously filed petition for an Advanced Metering Infrastructure ("AMI") program by August 27, 2020. In compliance with the AMI Order, on August 26, 2020, Atlantic City Electric Company ("ACE") filed a petition seeking approval of ACE's plan to deploy an AMI system program throughout its service territory, the Smart Energy Network ("SEN"), including an associated cost recovery mechanism 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 (the "Petition").

In the Petition, ACE proposed to implement the SEN throughout its service territory over a 39-month period, and install approximately 565,000 advanced meters and related infrastructure commencing January 2021 through early 2024. Infrastructure deployment, including communications, information technology ("IT") systems, and customer installations, would take approximately three (3) years to complete, with the initial meter and communications procurement phase taking place over the first 18 months. ACE also proposes not to offer an opt-out option to customers. (See September 23, 2020, Board Order, Agenda Item 2L).

B. Utilidata Should Be Permitted To Intervene As A Party In This Proceeding.

In support of the instant application for intervention in the proceeding described above, Utilidata respectfully submits that all factors for intervention set forth in N.J.A.C. 1:1-16.1, weigh in favor of the granting Utilidata's application to intervene in all proceedings convened by the Board on the above referenced docket. The standard for intervention in an administrative proceeding provides:

- (a) Any person or entity not initially a party, who has a statutory right to intervene or who will be substantially, specifically and directly affected by the outcome of a contested case, may on motion, seek leave to intervene. [N.J.A.C. 1.1-16.1(a)].

When evaluating a motion for intervention, the following factors should be considered: (1) the nature and extent of the movant's interests in the outcome of the case; (2) determination of whether 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; (3) the prospect of confusion or undue delay arising from the movant's inclusion; and, (4) any other appropriate matters. N.J.A.C. 1:1-16.3; see also Atlantic Employers Ins. Co. v. Tots & Toddlers Pre-School Day Care Center, Inc., 239 N.J. Super. 276, 280 (App. Div.), certif. den. 122 N.J. 147 (1990) (noting courts apply a liberal construction to intervention rules); State by Bontempo v. Lanza, 39 N.J. 595, 599 (1963), cert. den. 375 U.S. 45 (1964) (same); R. 4:33-1 (intervention as of right must be granted when "the applicant claims an interest relating to the ... transaction which is the subject of the action and ... the disposition of the action may as a practical matter impair or impede the ability to protect that interest ...).

As set forth above, Utilidata meets each of the criteria set forth above. Utilidata is substantially, directly and specifically affected by this proceeding. Utilidata's software leverages AMI data and is often deployed in conjunction with AMI rollouts. Utilidata's software platform and meter-based applications have the potential to significantly increase the value of an AMI

deployment by enabling better performance and new use cases, which can streamline and modernize utility operations, provide an enhanced customer experience, benefit the environment, and serve as a means to achieve the goals of the 2019 Energy Master Plan: Pathway to 2050. (Melanson Cert. at ¶5).

In particular, meter-based software can quickly and cost-effectively provide the grid-edge visibility required for utilities to better plan, invest in and operate the grid to integrate grid modernization and capacity improvements. This includes granular visibility into the secondary system which is critical to support demand growth for electrification, demand flexibility, DERs penetration, grid resilience and grid efficiency. (Melanson Cert. at ¶6).

Utilidata's expertise and interests are sufficiently different from any other party and granting intervention will not cause confusion or delay the conclusion of this proceeding but rather, it will clarify certain issues and contribute to the development of a complete record. Utilidata's experience in both using AMI data to improve grid operations and deploying meter-based software provides a unique and important perspective. Utilidata has seen firsthand the risks associated with deploying AMI without robust consideration of future use cases and the role of on-meter software. In short, without consideration of these issues, the Board risks approving an ACE AMI rollout that will be unable to achieve all of ACE's proposed use cases, and will prematurely become a stranded asset. Utilidata has a detailed technical understanding of what it takes to execute many of these use cases and to build impactful software that can be deployed in smart meters. Success of such efforts is heavily dependent on the requirements of the authorizing regulatory order, and the AMI hardware, software, and communications network procurement decisions that the utility makes based on that order. Utilidata can provide the Board insights on how to avoid these pitfalls and the explicit outcomes, capabilities, and performance standards required to maximize success.

Thus, Utilidata's participation as an Intervenor is likely to add measurably and constructively to the scope of the proceeding. (Melanson Cert. at ¶¶ 8, 9, 14).

The Board's decision in this proceeding is expected to have an effect on Utilidata's business operations in ACE's service territory. Utilidata will therefore be substantially, directly and specifically affected by the relief provided herein. (Melanson Cert. at ¶7).

Significant issues have come before the Board recently that are directly impacted by AMI. On September 23, 2020, the Board issued an order implementing provisions of the Electric Vehicle Act of 2020. AMI, approved with the right performance standards and deployed with the right capabilities, is critical to advance the adoption of electric vehicles and the development of EV charging infrastructure. AMI can provide granular EV hosting capacity analysis to better site charging infrastructure, streamline interconnection of charging infrastructure using real-time grid conditions and enable flexible load management by sending price signals to charging infrastructure. As such, Utilidata should be granted full party intervention in all three proceedings (PSEG, JCP&L and ACE) to ensure the development of a complete record. (Melanson Cert. at ¶12).

Utilidata's participation as an intervenor will add measurably and constructively to the scope of the proceeding as meter-based software is an emerging technology, with significant advancements in AMI capabilities in the past two years following PSEG's initial petition. (Melanson Cert. at ¶8). Additionally, Utilidata's participation will add constructively to this case. Utilidata will participate in discussions with the parties in this matter to explain how its technology can assist ACE in reaching its goals. (Melanson Cert. at ¶9).

Utilidata's full participation in this proceeding will contribute to the development of a complete record for consideration by the BPU. With the aforementioned principles in mind, Utilidata should be granted the right to intervene in these proceedings. Furthermore, these interests

will not be completely addressed by any other party in this proceeding. Moreover, Utilidata's full participation in this proceeding will promote judicial economy. Finally, Utilidata's intervention will not create any delay in this matter. Utilidata will abide by all scheduling orders in this proceeding. (Melanson Cert. at ¶¶14, 17).

CONCLUSION

For the foregoing reasons, Utilidata should be granted permission to intervene in this proceeding as a Party to ensure that its specific interests are appropriately represented and protected.

Respectfully submitted,

**DECOTIIS, FITZPATRICK,
COLE & GIBLIN, LLP**

By: Alice M. Bergen
Alice M. Bergen

AMB/md

cc: BPU Service List (*via email only*)