

August 6, 2020

**VIA EMAIL**

**Ira G. Megdal**

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Aida Camacho-Welch, Secretary  
Board of Public Utilities  
44 South Clinton Ave., 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

**Re: In the Matter of the Petition of Atlantic City Electric Company for Approval of a  
Voluntary Program for Plug-In Vehicle Charging  
BPU Docket No. EO18020190**

Dear Secretary Camacho-Welch:

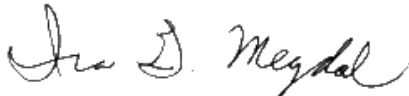
This firm represents Electrify America, LLC ("Electrify America"). On behalf of Electrify America we are transmitting, electronically a Motion for Leave to Intervene on behalf of Electrify America.

Given current circumstances, we are only filing electronically, and serving copies electronically on the attached service list.

Thank you for your attention to this matter.

Cordially yours,

COZEN O'CONNOR, PC



By: Ira G. Megdal

IGM

Enclosure

cc: Attached Service List

(All sent via email with enclosure)

LEGAL\47733649\1

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

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IN THE MATTER OF THE PETITION OF  
ATLANTIC CITY ELECTRIC COMPANY  
FOR APPROVAL OF A VOLUNTARY  
PROGRAM FOR PLUG-IN VEHICLE  
CHARGING

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: **BPU Docket No.:** EO18020190  
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**MOTION FOR LEAVE TO INTERVENE ON BEHALF OF  
ELECTRIFY AMERICA, LLC**

Electrify America, LLC (“Electrify America” or “Movant”) by and through its undersigned counsel, hereby moves for leave to intervene in this proceeding pursuant to N.J.A.C. 1:1-16.1 et seq. Electrify America respectfully submits that all factors for full intervenor status, as set forth in N.J.A.C. 1:1-16.3 support the granting of Electrify America’s motion in the above-captioned proceeding. In support of its motion for intervenor status in this proceeding (“Motion”), Electrify America states as follows:

**I. PROCEDURAL HISTORY**

1. On February 22, 2018, Atlantic City Electric Company (“ACE” or “Company”) filed a petition (“Petition”) with the New Jersey Board of Public Utilities (“Board”) requesting approval of its Voluntary Program for Plug-In Vehicle (“PIV”) Charging (“PIV Program” or “Program”).

2. On December 17, 2019, ACE filed an Amended Petition (“Amended Petition”), and proposed 13 Program Offerings designated to accelerate PIV adoption in New Jersey.

3. The Amended Petition proposes a multi-year, \$42.107 million dollar PIV program to incentivize the use of PIVs and create the necessary infrastructure to promote its usage.

4. ACE asserts that its proposed PIV Program will support the widespread adoption of electric vehicles, including for multifamily and low income customers.

5. The Company proposes that capital related to its PIV Program be added to rate base as it is placed into service, for the Company to earn a return upon in a future base rate proceeding.

6. The Company also seeks to establish a PIV Program Regulatory Asset, which would seek to capture the Company's non-capital costs associated with the 13 Program Offerings. The Company would seek recovery of this PIV Program Regulatory Asset in a future base rate case, and that the regulatory asset would be afforded rate base treatment.

7. The 13 Program Offerings include plans to provide qualified customers with opportunities to save on energy costs by shifting electrical usage to PIV charging, to provide incentives to residential customers for off-peak PIV charging, to provide rebates for the installation of PIV chargers, to expand the availability of public PIV charging infrastructure, to promote the deployment of public PIV charging infrastructure by providing a rate incentive to owners and operators of direct current fast chargers, to provide grants to encourage projects to facilitate the electrification of the transportation sector specifically in low-to-moderate income and environmental justice communities, to provide funding to encourage the deployment of electric school buses, to provide incentives to make charging infrastructure available for New Jersey Transit buses, and to promote electricity from renewable sources when used for PIV charging.

8. ACE projects that the typical residential customer using 679 kWh per month will pay an additional 54 cents per month for the recovery of the PIV Program costs.

9. By Board Order dated March 26, 2018, the Board determined this matter should be retained by the Board for hearing and, pursuant to N.J.S.A. 48:2-32, designated

Commissioner Upendra J. Chivukula as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings and modify any schedules that may be set. Further, the March 26, 2018 Order directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by April 13, 2018.

10. By Board Order dated April 9, 2020, Commissioner Chivukula issued a Prehearing Order with Procedural Schedule and Order on Motions to Intervene or Participate and Motion to Stay, in which a procedural schedule was set and motions for intervention and participation status were ruled upon. In the April 9, 2020 Order, Commissioner Chivukula denied Rate Counsel's Motion to Stay; granted the Motions to Intervene on behalf of the Natural Resources Defense Council ("NRDC"), Charge Point, Inc., and Greenlots, Inc.; and granted the Motions to Participate on behalf of Public Service Electric and Gas Company ("PSE&G") and Jersey Central Power & Light Company ("JCP&L").

11. All motions were due to the Board Secretary by April 13, 2020. Rate Counsel filed a Motion to Dismiss on April 13, 2020.

12. By Board Order dated May 13, 2020, Commissioner Chivukula granted Tesla, Inc.'s Motion for Reconsideration and granted Tesla, Inc. intervenor status.

13. By Board Order dated June 1, 2020, Commissioner Chivukula granted NRDC's Supplemental Motion for Intervenor Status, which was filed out of time, to add Environment New Jersey, Sierra Club, Tri-state Transportation Company, Work Environment Council of New Jersey, GreenFaith, Inc., and Isles, Inc. as intervenors in this matter. Commissioner Chivukula also granted EVgo Services, LLC's Motion for Intervenor Status.

14. By Board Order dated June 10, 2020, Commissioner Chivukula amended the procedural schedule set forth in Exhibit A of the Prehearing Order.

15. By Board Order dated June 26, 2020, Commissioner Chivukula denied Rate Counsel's Motion to Dismiss.

16. By Board Order dated July 13, 2020, Commissioner Chivukula granted the Alliance for Transportation Electrification's ("Alliance") Motion to Participate in the above-captioned proceeding.

17. If granted intervention in this proceeding, Electrify America agrees to be bound by the provisions of the Prehearing Order, including the June 10, 2020 modification to the procedural schedule.

## **II. ELECTRIFY AMERICA**

### **A. Electrify America's Interest in This Proceeding**

18. Electrify America, a wholly-owned subsidiary of Volkswagen Group of America, Inc., headquartered in Reston, Virginia, is investing \$2 billion over ten years on zero-emissions vehicle ("ZEV") infrastructure, education and awareness, and efforts to support the increased adoption of ZEV technology in the United States. As a part of its first half of its investment, Electrify America is building a nationwide network of ultra-fast direct current fast charging stations across over 500 locations and with over 2,000 individual DC fast chargers already in operation.

19. Electrify America's relationships with owners and operators of electric vehicles are unique based upon its business model. Electrify America is creating stations to charge the next generation of higher charging power electric vehicles ("EVs"). Electrify America's locations include multiple 150 kW-capable chargers and state-of-the-art 350 kW-capable chargers. These chargers can enable recharging speeds close to gasoline fueling for EVs expected to enter the market in the near future, with the 350 kW stations able to charge capable EVs at 20 miles of range per minute. Through extensive research and stakeholder outreach as outlined in Electrify America's ZEV investment plans<sup>1</sup>, Electrify America holds that this fast-charging customer experience is crucial to enabling mass-market consumers to adopt EVs, especially for

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<sup>1</sup> Available at <https://www.electrifyamerica.com/our-plan>, last accessed on August 8, 2019.

long-distance travel and in metropolitan areas where a large segment of the population may not have access to workplace or home charging. In addition, all Electrify America stations are designed for universal customer access through the inclusion of credit card readers, and both non-proprietary fast charging connector standards: SAE Combo and CHAdeMO. Accordingly, Electrify America's interests are individual and cannot be represented adequately by any other party in this proceeding.

20. As an operator of an electric vehicle charging network, Electrify America has plans to construct infrastructure in the ACE service territory in the foreseeable future, and therefore Electrify America has a direct and substantial interest in this proceeding.

**B. Electrify America Has a Position in the New Jersey Market, Which Is Expected to Grow**

21. In April of 2018, when intervention motions were originally due in this proceeding, Electrify America did not operate any charging stations in New Jersey.

22. Electrify America opened its first New Jersey ultra-fast charging station in Bridgewater, New Jersey in May 2019.

23. Electrify America continues to grow and now has nine charging locations energized in New Jersey to date, outside of ACE's service territory. They are located in Somerdale, Cherry Hill, East Brunswick, Bridgewater, Fairfield, Kearny, Pompton Plains, Elizabeth, and Clifton. The latter two were recently energized. Electrify America has plans to open a charging location energized within the service territory of ACE in the foreseeable future.

24. According to the Amended Petition, ACE's proposed \$42.107 million PIV Program and 13 Program Offerings seek to expand and incentivize the use of electric vehicles throughout New Jersey in targeted ways, including through providing a rate incentive to owners and operators of direct current fast chargers, expanding PIV charging infrastructure, providing rebates for the installation of PIV chargers, and promoting the expansion of PIV usage in the State, among other proposals that would directly affect Electrify America's New Jersey-based

business plans and operations. Electrify America's existing and planned charging infrastructure could be materially impacted by the utility's proposed programs.

25. In addition electricity increases emanating from this proceeding may impact Electrify America by increasing its cost of doing business.

26. Thus the Program will directly affect Electrify America's existing New Jersey business, and its future investment decisions in this State.

### **III. STANDARD FOR INTERVENTION**

27. The criteria for intervention are set forth in N.J.A.C. 1:1-16.1:

[A]ny 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.

28. N.J.A.C. 1:1-16.3(a) sets forth further guidance to be used to evaluate a motion to intervene:

In ruling upon a motion to intervene, the judge 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.

### **IV. ELECTRIFY AMERICA MEETS THE STANDARD FOR INTERVENTION**

29. As we have demonstrated, Electrify America has a direct pecuniary interest in this proceeding.

30. Electrify America has a unique business model.

31. Electrify America's participation in this proceeding is necessary in order for it to present evidence of its unique position in the market and the impact that ACE's Petition will have on its business model.

32. When Motions to Intervene were originally due, Electrify America did not operate charging stations in New Jersey. It does now.

33. Electrify America could be materially impacted by the PIV Program.

34. A properly constructed PIV Program could be beneficial to competitors in the EV sector in New Jersey, including Electrify America.

35. Electrify America therefore seeks to intervene in this matter because its rights may be substantially, specifically and directly affected by the outcome of this proceeding.

36. The interests of Electrify America and the other intervenors are not necessarily aligned.

37. Nevertheless, the Movant's intervention will not add confusion to, or otherwise delay, these proceedings in any way. Electrify America will abide by the existing Procedural Schedule.

## **V. NOTICES**

38. All communications with respect to this Motion and in these proceedings should be served on the following persons:

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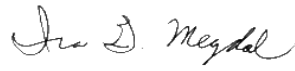


## VI. CONCLUSION

39. For the reasons set forth above, Electrify America respectfully requests that it be granted leave to intervene in this matter pursuant to N.J.A.C. 1:1-16.1 et seq.

40. Electrify America's participation in this proceeding will not prejudice any party and will not delay the schedule or broaden the scope of the issues in the proceeding. For the reasons stated above, Electrify America respectfully requests that the Commissioner Chivukula grant this Motion for Leave to Intervene.

Respectfully submitted,

By:   
Ira G. Megdal

Dated: August 6, 2020

**VERIFICATION**

COMMONWEALTH OF VIRGINIA    )

COUNTY OF FAIRFAX                    )

Robert Barrosa, of full age, being duly sworn, upon his oath deposes and says:

I.           I am the Director, Utility Strategy and Operations and I am authorized to make this Verification on behalf of Electrify America, LLC in this matter.

II.          I have reviewed the within Motion for Leave to Intervene and the same is true and correct to the best of my knowledge, information and belief.

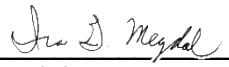
III.         I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

By:   
Robert Barrosa

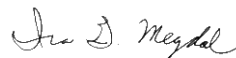
Sworn to and subscribed

before me this 6th day of

August, 2020


  
Ira G. Megdal,  
Attorney-at-Law  
State of New Jersey

The undersigned attorney, Ira G. Megdal, certifies that the affiant electronically acknowledged the genuineness of the signature.

  
Ira G. Megdal, Esquire

### **CERTIFICATION OF SERVICE**

Ira G. Megdal, certifies that I am a member of the firm of Cozen O'Connor and on this date I caused copies of the attached Motion for Leave to Intervene of Electrify America, LLC to be served via email upon each of the parties named on the service list attached to this filing. The above statements made by me are true. I am aware that if any statements made by me is willfully false, I am subject to punishment.



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Ira G. Megdal

Dated: August 6, 2020

IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR  
APPROVAL OF A VOLUNTARY PROGRAM FOR PLUG-IN VEHICLE  
CHARGING BPU DOCKET NO. EO18020190

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