

— LAW OFFICES —
DECOTIIS
DeCotiis, FitzPatrick, Cole & Giblin, LLP

61 SOUTH PARAMUS ROAD, SUITE 250
PARAMUS, NEW JERSEY 07652

NEW JERSEY
NEW YORK

TELEPHONE: (201) 928-1100
TELEFAX: (201) 928-0588
WWW.DECOTIISLAW.COM

ALICE M. BERGEN, ESQ.
ABERGEN@DECOTIISLAW.COM
201.347.2161

November 23, 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 reply brief, in lieu of a more formal brief on behalf of Utilidata in further 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”) and in reply to the opposition brief submitted by Atlantic City Electric Company (“ACE”).

Despite ACE’s assertions to the contrary, Utilidata has satisfied each of the factors required for intervention set forth at N.J.A.C. 1:1-16.1. The standard for intervention in an administrative proceeding provides that “[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. N.J.A.C. 1.1-16.1(a) (emphasis added). In this regard, the BPU is instructed to evaluate: (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. As set forth in Utilidata's moving papers and herein, these factors are met.

ACE opposes both Utilidata participation and being granted party status in this matter, wrongly asserting that Utilidata should not be permitted to "leverage a formal administrative proceeding to either market its product to the Company by regulatory fiat or gain a leg up on its competitors." This statement is unsupported and patently false.

Rather, Utilidata's goal in intervening in these proceeding is simply to provide the Board additional information currently not included in the record in order to close the gap between commercial conversations about advanced meter software potential and the regulatory discussion of advanced meter use cases. Indeed, information regarding the latest capabilities of AMI and the outcomes they enable will be critical to informing a Board decision and is a reasonable basis for intervention. Additionally, given the scale and duration of ACE's proposed investment, it is in the public interest that the Board build a substantial and diverse record to ensure any AMI approval provides the maximum value for ratepayers. This is especially critical in lieu of the COVID-19 pandemic. Utilidata's intervention will help to ensure this occurs.

Moreover, Utilidata's perspective is unique to those provided by current participants in the proceeding as on-meter software is a relatively new and emerging technology and no company has more experience building software applications for next generation smart meters. It is in the best interests of the Board to have as much evidence on the record as possible regarding the latest capabilities of AMI including the potential need for on-meter software to deliver full value of AMI.

Decisions regarding on-meter software require robust evidence regarding on-meter computation and communication network capabilities to support each use case.

Finally, ACE's assertion that Utilidata's intervention in this matter would result in delay and confusion is meritless. As set forth in its moving papers, Utilidata will abide by all scheduling deadlines. (Melanson Cert. at ¶¶14, 17). Additionally, Utilidata, has demonstrated its substantial and direct interest in this case as the industry leader in building meter-based software with unapparelled experience building software applications for next generation smart meters that will assist the Board by contributing to the development of a complete record for consideration by the BPU. Indeed, it simply cannot be credibly disputed that evidence from a diverse set of parties with relevant expertise only serves the public interest. A robust regulatory proceeding with discovery, motions and testimony ensures the development of a strong record to inform any Board decision. Furthermore, Utilidata's technical expertise will only positively impact any settlement discussions by providing relevant evidence to submit a robust proposal to the Board.

For all of the foregoing reasons, as well as those set forth in Utilidata's moving papers, 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*)