



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE PETITION OF ATLANTIC )	PREHEARING ORDER WITH
CITY ELECTRIC COMPANY FOR APPROVAL OF )	PROCEDURAL SCHEDULE AND
THE SMART ENERGY NETWORK PROGRAM )	ORDER ON MOTIONS TO
AND COST RECOVERY MECHANISM AND )	INTERVENE OR PARTICIPATE
OTHER RELATED RELIEF )	AND FOR ADMISSION PRO HAC
)	VICE
)	
)	DOCKET NO. EO20080541

**Parties of Record:**

**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel  
**Philip J. Passanante, Esq.**, on behalf of Atlantic City Electric Company  
**Christopher E. Torkelson, Esq., Karen O. Moury, Esq., Sarah C. Stoner, Esq.**, Eckert  
 Seamans Cherin & Mellott, LLC on behalf of the Market Participants  
**William Harla, Esq., Alice M. Bergen, Esq.**, DeCotiis, FitzPatrick, Cole & Giblin, LLP on behalf  
 of Utilidata

BY COMMISSIONER UPENDRA J. CHIVUKULA

On February 19, 2020, the New Jersey Board of Public Utilities (“Board”) ordered three (3) of New Jersey’s electric distribution companies (“EDCs”) to file, or update a previously filed, petitions for Advanced Metering Infrastructure (“AMI”) programs by August 27, 2020.<sup>1</sup> In compliance with the AMI Order, on August 26, 2020, Atlantic City Electric Company (“ACE” or “Company”) filed a petition seeking approval of the Company’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.1, et seq. (“Petition”).

In the Petition, the Company proposed to implement the SEN throughout its service territory over a 39-month period, and to 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

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<sup>1</sup>In re the Petition of Rockland Electric Company for Approval of an Advanced Metering Program; and for Other Relief, BPU Docket No. ER16060524, Order dated February 19, 2020 (“AMI Order”).

phase taking place over the first 18 months. In the Petition, the Company proposed to not offer an opt-out option to customers.

The Company estimated that the capital investment component of SEN would be approximately \$177.0 million of which approximately \$159.2 million would be recovered through Rider Infrastructure Investment Program - SEN ("IIP-SEN"). ACE would also defer, as a regulatory asset, \$30.2 million of estimated incremental operations and maintenance ("O&M") costs (net of O&M savings), and \$46 million in estimated net stranded costs. ACE proposed to recover the regulatory asset over a five (5)-year period in a future base rate case, and to record a carrying charge on the unrecovered balance of the regulatory asset equal to ACE's currently authorized rate of return of 7.08%. As proposed, Rider IIP-SEN would recover costs through a separate customer charge applicable to the following customer classes: Residential, Monthly General Service Secondary and Primary, Annual General Secondary and Primary, and Transmission.

The Company proposed to include the following categories of costs it believes are necessary to deliver the SEN to ACE customers in its capital cost recovery mechanism: smart meter and communications network equipment and infrastructure; IT infrastructure and equipment; and capitalized deployment costs. ACE proposed to recover the revenue requirement associated with the SEN capital costs through semi-annual filings with an initial filing estimated to be made May 1, 2022.

In the Petition, the Company also requested the following relief:

1. A waiver of the Board's meter replacement and testing regulations (N.J.A.C. 14:5-4.2, N.J.A.C. 14:5-4.3, and N.J.A.C. 14:5-4.5, among other provisions). The Company proposed to test only a sample of the legacy meters upon removal during deployment, as opposed to testing all of the legacy meters that are removed.
2. A permanent waiver of the "door knock" requirement contained in N.J.A.C. 14:3-3A.2(d)(4) which requires ACE to "personally notify an adult occupant of the premises, or leave a sealed note in the event that no adult is on premises" prior to disconnection for non-payment. The Company proposed to retain all other steps and customer notifications in the disconnect process.

In the Petition, ACE estimated the total three (3) year cumulative impact of Rider-SEN on the monthly bill for a typical residential electric customer using approximately 679 kWh per month will be an increase of \$4.27 or 3.27% above present rates.

By Order dated September 23, 2020, the Board determined that the Petition should be retained by the Board for hearing, and pursuant to N.J.S.A. 48:2-32, designated myself, Commissioner Upendra Chivukula, as the Presiding Commissioner with authority to rule on all motions that arise during the pendency of these proceedings, and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues.<sup>2</sup> Further, the Board directed that any entity seeking to intervene or participate file the appropriate application with the Board by October 14, 2020. Any party wishing to file a motion for admission of counsel, pro hac vice, was requested to do so concurrently with any motion to intervene or participate.

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<sup>2</sup> In re the Petition of Atlantic City Electric for Approval of the Smart Energy Network Program and Cost Recovery Mechanism and for Other Related Relief, Order Designating a Commissioner, Setting A Bar Date and Manner of Service, BPU Docket No. EO20080541, Order dated September 23, 2020.

## **MOTIONS TO INTERVENE AND PARTICIPATE**

The following motions were filed in this matter:

1. Motion to Intervene filed on behalf of NRG Energy, Inc. (“NRG”); Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Direct Energy Services, LLC, and Gateway Energy Services Corporation, (collectively, “Direct Energy”), and Centrica Business Solutions (collectively, the “Market Participants”);
2. The Market Participants’ Motion for Admission Pro Hac Vice;
3. Motion to Intervene filed on behalf of Utilidata, Inc. (“Utilidata”);
4. Motion to Participate filed on behalf of Energy Efficiency Alliance of New Jersey (“EEA-NJ”);
5. Motion to Participate filed on behalf of South Jersey Gas Company (“SJG”); and
6. Motion to Participate filed on behalf of Public Service Electric and Gas Company (“PSE&G”).

### **Market Participants Motion to Intervene**

#### Market Participants Motion to Intervene

On October 14, 2020, the Market Participants filed a Motion to Intervene, arguing that party status is necessary to protect their direct and substantial interest in the outcome of this proceeding. The Market Participants explained that if ACE is granted approval to implement the 39-month \$220 million SEN to deploy AMI throughout its service territory, then the interests of the Market Participants will be directly and substantially affected.

As third-party suppliers (“TPSs”) in New Jersey’s retail market, NRG and Direct Energy claimed to have a substantial and direct interest in a number of issues concerning ACE’s proposed SEN. Similarly, as a leader in distributed energy solutions, Centrica claimed to have a substantial and direct interest in the proposal. The Market Participants alleged that they have a unique perspective that is likely to benefit the Board as it reviews ACE’s Petition. The Market Participants represented that no other party will adequately represent their interest in this proceeding, and that its intervention will not result in delay in having the matter timely adjudicated.

The Market Participants argued that being granted party status is critical so they can provide the perspectives of the supplier community on issues related to use of customer data acquired and used through AMI. The Market Participants asserted that ACE’s proposed SEN will impact their products and services. The Market Participants argued that the Company’s focus should remain on its core functions while allowing the deployment of AMI to facilitate the expansion of offerings by TPSs. In supporting this argument, the Market Participants stated that the Company envisions AMI deployment as offering many of the same products and services that are already offered by the Market Participants or are more appropriately developed by entities competing in the market who know what customers need and want from their energy suppliers.

The Market Participants claimed that they can offer knowledge and experience gained from other AMI proceedings such as the PSE&G AMI proceeding where they were granted intervener status.

Additionally, the Market Participants argued that the Board should take steps to complete the process that was started 20 years ago to implement supplier consolidated billing. Specifically, the Market Participants urged the Board to direct supplier consolidated billing and a Data Access Plan to be implemented in concert with the deployment of AMI meters.

Finally, the Market Participants stated that they support ACE's proposal to deploy smart meters and 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 outlined their interest in the proceeding as including the following key issues: ownership of data which they submit should fall to the customer and not to ACE; implementation of a Data Access Plan by ACE while AMI meters are being installed; and the importance of establishing guidelines for ACE's use of data from smart meters for only their pole and wires functions.

#### ACE's Objection to the Market Participants' Motion to Intervene

On November 16, 2020, ACE submitted a letter in opposition to the Market Participants' Motion to Intervene. ACE alleged that the Market Participants do not satisfy that standard for intervention, and that the Market Participants have not demonstrated that they will be substantially and directly affected by the proceeding as required by N.J.A.C. 1:1-16.3.

ACE claimed that the Market Participants' real interest lies in the issue of supplier consolidated billing which is outside the scope of this proceeding. ACE noted that the Market Participants' reference to their party status in the PSE&G AMI proceeding is misleading and only confirms that the Market Participants should not be granted intervener status here

ACE argued that the Market Participants do not satisfy the standard for intervention, but may instead be granted participant status. As participants, the Market Participants will be able to state their positions on these issues in post-hearing comments.

#### Market Participants Letter in response to ACE's Opposition

On November 23, 2020, the Market Participants filed a letter in response to ACE's Opposition. The Market Participants provided that the most important factor supporting their intervention was access by TPSs and market participants to customer usage data that will be made available through the deployment of AMI. According to the Market Participants, this data will allow them to develop innovative products and services in the competitive market.

The Market Participants explained that the key issues identified in the Motion are: 1) ensuring that data collected from smart meters is owned by customers and not ACE, and that customers can freely and easily authorize the release of that data to third parties of their choosing; 2) implementation of a Data Access Plan by ACE while AMI meters are being deployed; and 3) establishing guidelines for ACE's use of the data from smart meters for only their poles and wires functions and maintaining ACE's focus on its core functions.

The Market Participants stated that their offerings will be specifically, directly and substantially impacted by the use of and access to customer meter data. They further stated that granting them intervener status will permit them to advocate for conditions associated with smart meter deployment that are designed to protect their particular business interests and to ensure that the competitive market is not disturbed.

The Market Participants asserted that issues related to supplier consolidated billing are directly relevant to the deployment of smart meters because access to this data is critical to the ability of third party suppliers to utilize the data in developing innovative product and service offerings. The Market Participants claimed that their intervention status in the PSE&G proceeding was constructive and supports a determination that they be granted the same status in this proceeding. The Market Participants further asserted that their composition, which includes six (6) different companies, will not cause delay or confusion and that the companies will be able to participate in the proceeding on a collective basis.

Lastly, the Market Participants stated that granting participation status would be inadequate. The Market Participants stated that they do not intend to challenge the cost estimates for ACE's proposed AMI Program, the proposed cost recovery mechanism or the proposed accounting treatment.

### **Market Participants' Motion for Admission *Pro Hac Vice***

By Motion dated October 14, 2020, Christopher E. Torkelson Esq., moved for the admission pro hac vice of Karen O. Moury, Esq., and Sarah C. Stoner, Esq. The motion included sworn affidavits by Mr. Torkelson, Ms. Moury, and Ms. Stoner. Mr. Torkelson stated that Ms. Moury and Ms. Stoner are members in good standing admitted to the Bar of the Commonwealth of Pennsylvania. For the purposes of this proceeding, Ms. Moury and Ms. Stoner will be associated with Mr. Torkelson, and Mr. Torkelson will continue to serve as counsel of record for the Market Participants. Mr. Torkelson certified that Ms. Moury and Ms. Stoner have significant experience representing the interests of retail energy providers in regulatory and administrative proceedings, and have a long-standing attorney-client relationship with the Market Participants. Mr. Torkelson represented that no delay would occur by their acting as attorneys for Direct Energy and Centrica. On October 14, 2020 via their sworn affidavits, Ms. Moury and Ms. Stoner provided proof of payment of the fees required by R. 1:20-1(b) and 1:28-2 to Board Staff.

### **Utilidata's Motion to Intervene**

In its October 14, 2020 Motion to Intervene, Utilidata explained that it is a software company with over a decade of experience operating the electric distribution grid, primarily for the purpose of optimizing voltage to maximize efficiency and reliability. Utilidata's platform utilizes AMI data to improve grid operations. Therefore, Utilidata stated that it has a significant interest in this proceeding because: (1) it brings a unique perspective that will add value to the docket and (2) its business operations will be directly impacted by the proceeding. In support of the first point, Utilidata stated that it is the market leader in meter-based software. Citing previous and current achievements, Utilidata claimed that it is the industry leader in building software applications for next generation smart meters, and that its software platform and meter-based applications have the potential to increase the value of AMI deployment. Utilidata indicated that it will be directly impacted by this proceeding because the Board's decision will affect its business operations in the ACE service territory. Utilidata stated that its software leverages AMI data, is often deployed in conjunction with AMI rollouts, and its business will therefore be directly affected by the relief provided in this case.

Utilidata stated that its participation as an intervener will add constructively to the scope of the proceeding, and that its experience using AMI to improve grid operations and deploying meter-based software provides a unique and important perspective. Utilidata asserted that it has a detailed technical understanding of what is needed to build impactful software that can be

deployed in smart meters. Additionally, Utilidata sought intervention in all three (3) AMI proceedings, thereby ensuring the development of a complete record, citing the consolidated nature of the Board's Order, and need for comprehensive AMI standards across the State.

Utilidata asserted that significant issues have come before the Board that are directly impacted by AMI, such as electric vehicles ("EV"). Utilidata stated that AMI, approved with the right performance standards and deployed with the right capabilities, is critical to the adoption of EV and the development of EV infrastructure.

Lastly, Utilidata stated that its expertise and interests are sufficiently different from any other party in this proceeding, and granting intervention will not cause confusion or delay the conclusion of this proceeding.

#### ACE's Opposition to Utilidata's Motion to Intervene

On November 16, 2020, ACE submitted a letter in opposition to Utilidata's Motion to Intervene arguing that Utilidata does not satisfy the standards for intervention. ACE stated that Utilidata has not demonstrated that it will be substantially and directly affected by the proceeding. See N.J.A.C. 1:1-16.3(a). ACE argued that the potential business opportunity described in Utilidata's Motion is not a basis for intervention, and that Utilidata should instead attempt to market its product to ACE through normal business channels. ACE claimed that granting full intervener status to Utilidata will invite confusion, cause delay, and introduce other issues in contravention of N.J.A.C. 1:1-16.3(a), including adding other parties with no substantial direct interests which will burden the case and impede the ability to reach settlement.

ACE submitted that Utilidata's Motion may be considered one for Participation, but requested that the company be granted neither intervener nor participant status. ACE stated that Utilidata's inclusion, even as a participant, will frustrate the administrative process. ACE further alleged that the Board should guard against use of its proceedings as a platform for the pursuit of competitive business interests.

#### Utilidata's Response to ACE's Opposition to Utilidata's Motion to Intervene

On November 23, 2020, Utilidata filed a letter reply brief in support of its Motion to Intervene. Utilidata stated that it satisfied each of the factors under N.J.A.C. 1:1-16.1. Additionally, its goal in intervening is to provide the Board additional information not currently included in the record to the gap the commercial conversations about advanced meter software and the regulatory discussion of advanced meter use cases.

Utilidata reiterated that its perspective is unique because on-meter software is a relatively new, the technology is emerging, and no company has more experience building software applications for next generation smart meters. Utilidata stated that ACE's assertion that its intervention would result in delay and confusion is meritless, and that a robust regulatory proceeding ensures the development of a strong record to inform Board.

#### EEA-NJ's Motion To Participate

EEA-NJ, a trade association representing 75 business members that manufacture, design, and implement energy efficiency improvements in buildings throughout Pennsylvania and New Jersey on behalf of regulated utilities, ratepayers, and the State, filed a Motion to Participate on October 14, 2020. EEA-NJ stated that AMI programs provide an opportunity to improve and advance

energy efficiency and demand response programs across New Jersey. EEA-NJ further stated that it is a well-established organization and offers a unique perspective of the energy efficiency business experience, and that it has been a constructive and unique presence in numerous Board stakeholder meetings. EEA-NJ adds that its participation in this matter will not cause confusion or delay, but rather, that it will add a constructive role to the proceeding by coordinating with other parties and abiding by the schedule set forth by the Board.

ACE did not object to EEA-NJ being granted participant status.

### **SJG's Motion to Participate**

SJG, a public utility engaged in the purchase, distribution, and sale of natural gas for approximately 400,000 customers located within the State of New Jersey, filed a Motion to Participate on September 22, 2020. In its Motion, SJG explained that the issues addressed in this proceeding and the relief provided in the Petition will directly affect SJG, and that the Board's decision will have precedential effect and impact not only on ACE and its customers, but also New Jersey's other utilities, including SJG.

SJG stated that its customers and operations are distinct from those of other parties and participants in this case, and claimed that no other party will represent its interests. However, SJG indicated that it will coordinate its representation with other similarly situated parties to the extent appropriate. SJG further stated that its experience in the gas industry will allow it to add constructively to the proceeding and that it will abide by the schedule set by the Board. Finally, SJG states that granting its Motion will not cause undue delay or confusion.

ACE did not object to SJG being granted participant status.

### **PSE&G's Motion to Participate**

PSE&G is a public utility engaged in the purchase, transmission, distribution, and sale of electric energy and related utility services to more than 2,300,000 residential, commercial, and industrial customers located within New Jersey. PSE&G is also engaged in the purchase, distribution, and sale of natural gas for more than 1,900,000 customers located within New Jersey.

Like SJG, PSE&G stated that the Board's decision in this case is likely to have precedential effect on customers and utilities in addition to ACE. PSE&G indicated that the AMI and cost recovery issues will impact PSE&G by establishing precedent on issues that will directly and specifically affect PSE&G. PSE&G further stated that its service territories, customers, and operations are distinct from those of other parties and participants, and that no other party will represent its interests.

PSE&G claimed it has a history of coordinating activities in dockets at the Board with other similar entities, where appropriate. PSE&G represented it will coordinate its representation with other similarly situated entities in this matter to the extent it finds such action appropriate. PSE&G also stated that due to its experience in the electric industry, its participation is likely to add constructively to the proceeding, and PSE&G represented it will abide by any schedule set for this proceeding, and the granting of its Motion will not cause undue delay or confusion.

ACE did not object to PSE&G being granted participant status.

## **DISCUSSION AND FINDINGS**

### **Motions to Intervene or Participate**

In ruling on a motion to intervene, N.J.A.C. 1:1-16.3(a) requires that the decision-maker consider the following factors:

1. The nature and extent of the moving party's interest in the outcome of the case;
2. Whether that interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case;
3. The prospect for confusion and delay arising from inclusion of the party; and
4. Other appropriate matters.

If the standard for intervention is not met, N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant," if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, file a statement or brief, file exceptions, or all of these as determined by the trier of fact.

As the Board stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an interveners' interest be specific, direct and different from that of the other parties so as to add measurably and constructively to the scope of the case. See In the Matter of the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, BPU Docket No. EM05020106, Order dated June 8, 2005.

After consideration of the papers of the Market Participants, including the initial Motion for Intervention, the opposition filed by ACE, and the response of Market Participants thereto, I am persuaded that the Market Participants satisfy the legal requirements to warrant intervention. As such, I **HEREBY FIND** that the Market Participants will be directly affected by the outcome of this proceeding, and I **FURTHER FIND**, pursuant to N.J.A.C. 1:1-16.3, that the Market Participants have met the standards for intervention. Therefore, I **HEREBY GRANT** the Motion for Intervention of the Market Participants pursuant to the authority granted to me by the Board under the September 23, 2020 Order.

After consideration of the Utilidata's papers, including Utilidata's Motion to Intervene, ACE's opposition, Utilidata's reply to ACE's opposition, and ACE's reply to Utilidata's reply, I **HEREBY FIND** that Utilidata has a significant interest in this matter as it pertains to AMI due to Utilidata's experience in using AMI to improve grid operations and deploying meter-based software. Utilidata's expertise and interest is distinct from other parties in this case. Thus, no other party will represent the interests or insights of Utilidata. Therefore, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.3, that Utilidata has met the standards for intervention, and I **HEREBY GRANT** the Motion for Intervention on behalf of Utilidata.



With regard to the Motion to Participate filed by EEA-NJ, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that EEA-NJ has met the standards for participation, and note that ACE does not object to EEA-NJ being granted participant status. Accordingly, I **HEREBY GRANT** the Motion to Participate of EEA-NJ on the basis of their representation that they will adhere to the scope of the issues to be addressed in this proceeding, and limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

With regard to the Motion to Participate filed by SJG, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that SJG has met the standards for participation, and note that ACE does not object to SJG being granted participant status. Accordingly, I **HEREBY GRANT** the Motion to Participate of SJG on the basis of their representation that they will adhere to the scope of the issues to be addressed in this proceeding, and limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

With regard to the Motion to Participate filed by PSE&G, I **HEREBY FIND** that pursuant to N.J.A.C. 1:1-16.6(b), PSE&G is likely to add constructively to the case without causing undue delay or confusion, and note that ACE does not object to granting participant status to PSE&G. Accordingly, I **HEREBY GRANT** the Motion to Participate filed on behalf of PSE&G limited to the right to argue orally and file a statement or brief as set out in N.J.A.C. 1:1-16.6(c)(1) and (2).

#### **Motions for Admission *Pro Hac Vice***

I reviewed the Market Participants Motion filed by Mr. Torkelson, Esq., and the supporting affidavits of Ms. Moury, Esq. and Ms. Stoner, Esq. I agree that this proceeding involves a complex field of law. I am persuaded that Mr. Torkelson, Esq. specializes in this area and has an attorney-client relationship with the Market Participants, and Ms. Moury, Esq. and Ms. Stoner, Esq. specialize in this area and have an attorney-client relationship with the Market Participants. Having received no objections to the motion after due notice to the parties, I **HEREBY FIND** that Ms. Moury, Esq. and Ms. Stoner, Esq. satisfied the conditions for admission *pro hac vice*, submitted to the Board proof of payment to the New Jersey Lawyers' Fund for Client Protection of the fees required by R. 1:20-1(b) and 1:28-2, and therefore, are **HEREBY ADMITTED** to practice before the Board *pro hac vice* in this matter provided that they shall:

- (1) Abide by the Board's rules and all applicable New Jersey court rules, including all disciplinary rules;
- (2) Consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against each of them that may arise out of his participation in this matter;
- (3) Notify the Board immediately of any matter affecting his/her standing at the bar of any other jurisdiction; and
- (4) Have all pleadings, briefs and other papers filed with the Board signed by an attorney of record authorized to practice in this State, who shall be held responsible for them and for the conduct of this cause and the admitted attorney therein.

Therefore, I hereby grant the following Motions:

1. The Market Participants' Motion to Intervene;
2. The Market Participants' Motion for admission *pro hac vice*;
3. Utilidata's Motion to Intervene;
4. EEA-NJ's Motion to Participate;
5. SJG's Motion to Participate; and
6. PSE&G's Motion to Participate.

In addition, I reviewed the proposal for a preliminary schedule, which has been agreed to by Board Staff, Rate Counsel and the Company. I **HEREBY ISSUE** the following as the Prehearing Order, along with the procedural schedule identified as Exhibit A, and **HEREBY DIRECT** the parties to comply with its terms.

### **PREHEARING ORDER**

1. **NATURE OF PROCEEDINGS AND ISSUES TO BE RESOLVED:**

On August 26, 2020, ACE filed a petition seeking approval of a plan to replace all of its existing meters throughout its service territory by deploying an AMI system, known as the SEN. The SEN is an integrated system of smart meters, communications facilities, and data management systems that enable two-way communication between ACE and its customers. ACE proposes to deploy the SEN over approximately 39 months, beginning in January 2021 and concluding in early 2024. The Company plans to recover costs through a newly implemented Rider IIP-SEN, as per N.J.A.C. 14:3-2A.1 et seq. The Company estimated that the capital investment component of SEN will be approximately \$177.0 million, whereby roughly \$159.2 million will be recovered through Rider IIP-SEN as well as defer, as a regulatory asset, \$30.2 million of estimated incremental operations and maintenance costs (net of operation and maintenance savings) and \$46 million in estimated net stranded costs. ACE estimates the total three (3) year cumulative impact of Rider-SEN on the monthly bill for a typical residential electric customer using approximately 679 kWh per month will be an increase of \$4.27 or 3.27% above present rates.

Issues to be Resolved

- A. The cost effectiveness and cost efficiency of the activities and programs of the proposed AMI program;
- B. Is the AMI program necessary accelerated capital spend; and
- C. The reasonableness and lawfulness of the proposed cost recovery mechanism.

2. **PARTIES AND THEIR DESIGNATED ATTORNEYS OR REPRESENTATIVES:**

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No change in designated trial counsel shall be made without leave if such change will interfere with the dates for hearings. If no specific counsel is set forth in this Order, any partner or associate may be expected to proceed with evidentiary hearings on the agreed dates.

3. **SPECIAL LEGAL REQUIREMENTS AS TO NOTICE OF HEARING:**

Pursuant to N.J.S.A. 48:2-32.6, public hearings will be held in the Company's service territory after publication of notice in newspapers of general circulation in ACE's service territory. The dates, times, and locations of the public hearings are to be determined.

4. **SCHEDULE OF HEARING DATES, TIME AND PLACE:**

Evidentiary hearings are tentatively scheduled for the week of April 26, 2021 at a time and location to be determined based upon the availability of the parties and myself.

5. **STIPULATIONS:**

The Staff of the Board of Public Utilities, the Division of Rate Counsel and ACE have entered into an Agreement of Non-Disclosure of Information Agreed to Be Confidential.

6. **SETTLEMENT:**

Parties are encouraged to engage in settlement discussion. Notice should be provided to all parties of any settlement discussions for the preparation of an agreement to resolve the issues in the case.

7. **AMENDMENTS TO PLEADINGS:**

None at this time.

8. **DISCOVERY AND DATE FOR COMPLETION:**

The time limits for discovery shall be in accordance with N.J.A.C. 1:1-10.4 or as provided in Exhibit A.

9. **ORDER OF PROOFS:**

ACE has the burden of proof. The hearings will be conducted by topic in the following order:

First – ACE

Second – Rate Counsel

Third – The Market Participants

Fourth – Utilidata

Fifth – Board Staff

10. **EXHIBITS MARKED FOR IDENTIFICATION:**

None at this time.

11. **EXHIBITS MARKED IN EVIDENCE:**

None at this time.

12. **ESTIMATED NUMBER OF FACT AND EXPERT WITNESSES:**

Unknown at this time. Any party substituting witnesses shall identify such witnesses within five (5) days of determining to replace a witness, and in no event later than five (5) days before filing of testimony of a substitute witness. All direct testimony will be pre-filed, and all witnesses submitting pre-filed direct testimony will be subject to cross examination at evidentiary hearings, which will be conducted by topic (e.g., program elements, revenue requirements, and so forth).

13. **MOTIONS:**

All pending motions to intervene and/or participate have been addressed.

14. **SPECIAL MATTERS:**

None at this time.

The parties are directed to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding.

I **HEREBY DIRECT** that this Order be posted on the Board's website.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED: January 13, 2021

BY:

A handwritten signature in cursive script, appearing to read "Upendra Chivukula", written in black ink.

UPENDRA J. CHIVUKULA  
COMMISSIONER

**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**

**SERVICE LIST**

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**EXHIBIT A**

**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**

Procedural Schedule

First Round Discovery Requests+	October 6, 2020
Motions to Intervene/Participate	October 14, 2020
First Round Discovery Answers	October 27, 2020
Second Round Discovery Requests	November 9, 2020
Second Round Discovery Answers	December 7, 2020
Discovery Conference	Week of January 11, 2021
Third Round Discovery Requests	January 22, 2021
Third Round Discovery Answers	February 3, 2021
Discovery/Settlement Meeting	February 5, 2021
Public Hearings	TBD
Rate Counsel/Intervener Testimony	February 17, 2021
Discovery on Testimony	February 24, 2021
Responses to Discovery	March 17, 2021
Rebuttal Testimony	March 31, 2021
Discovery on Rebuttal	April 7, 2021
Answers to Rebuttal Discovery	April 16, 2021
Evidentiary Hearings with oral surrebuttal*	Week of April 26, 2021
Initial Briefs	May 28, 2021
Reply Briefs	June 11, 2021

+ Petitioner agrees that discovery is ongoing.

\* Subject to Presiding Commissioner Availability