



February 5, 2021

Via Electronic Mail

Aida Camacho-Welch
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
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**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:

Environment New Jersey, Tri-State Transportation Campaign, Isles, New Jersey Work Environment Council, GreenFaith, Natural Resources Defense Council, and the Sierra Club (collectively, “Environmental and Community Groups”) submit these comments expressing concerns with the proposed Stipulation of Settlement advanced by Rate Counsel, Atlantic City Electric (“ACE”) and others in the above-referenced docket. New Jersey has set ambitious goals for vehicle electrification; achieving these goals is necessary to both address the climate crisis and ensure that the people of New Jersey realize the public health and economic benefits of electric vehicles. Similarly, electrifying the vehicle fleet will—if handled correctly to ensure added demand does not contribute to peak system load—lower electric rates for all customers. However, the proposed Stipulation does not go nearly far enough to ensure that New Jersey will actually meet those goals. Instead, the proposed Stipulation under-invests in charging

infrastructure and fails to set timelines—let alone deadlines—for needed action on storage and medium- and heavy-duty vehicle charging infrastructure. Accordingly, and as explained in more detail below, the Environmental and Community Groups urge the Board to, if it adopts the stipulation, move forward with a concrete timeline that effectively addresses these gaps and adequately recognizes the urgency with which action is needed.

Rapid Vehicle Electrification Is Needed in New Jersey

The Plug-In Vehicle (“PIV”) law, the Energy Master Plan (“EMP”),¹ and the BPU’s EV Ecosystem Order²—as well as the New Jersey Global Warming Response Act 80x50 Report³—all note that the threat of catastrophic climate change is imminent, that swift action to address that threat is required, that vehicle electrification is a critical component of that action, and that vehicle electrification is in the public interest.

For example, in passing the PIV law, the legislature found that:

[V]ehicle electrification offers a wide range of benefits, such as improved air quality, reduced greenhouse gas emissions, and savings in motor vehicle operating costs for vehicle owners; that increased use of plug-in electric vehicles can contribute significantly to the attainment of existing State air pollution and energy goals, including the objectives of the “Global Warming Response Act,” P.L.2007, c.112 (C.26:2C-37 et seq.) and the State’s Energy Master Plan . . .⁴

¹ 2019 New Jersey Energy Master Plan Pathway to 2050, *available at* https://nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf.

² *In the Matter of Straw Proposal on Electric Vehicle Infrastructure Build Out*, Docket No. QO20050357, *Order Adopting the Minimum Filing Requirements for Light-Duty, Publicly Accessible Electric Vehicle Charging* (Sept. 23, 2020) (hereinafter “EV Ecosystem Order”), *available at* <https://www.nj.gov/bpu/pdf/boardorders/2020/20200923/8F%20-%20ORDER%20Electric%20Vehicle%20MFRs.pdf>

³ New Jersey’s Global Warming Response Act 80x50 Report (Oct. 15, 2020) (hereinafter “80x50 Report”), *available at* <https://www.nj.gov/dep/climatechange/docs/nj-gwra-80x50-report-2020.pdf>.

⁴ N.J. Stat. § 48:25-1.

The legislature then went further, “determin[ing] that it is in the public interest to establish goals for the increased use of plug-in electric vehicles in the State,” and setting such goals.⁵ Among others, the PIV sets the following electrification goals for the New Jersey vehicle fleet:

“(1) [A]t least 330,000 of the total number of registered light duty vehicles in the State shall be plug-in electric vehicles by December 31, 2025;

(2) [A]t least 2 million of the total number of registered light duty vehicles in the State shall be plug-in electric vehicles by December 31, 2035;

(3) [A]t least 85 percent of all new light duty vehicles sold or leased in the State shall be plug-in electric vehicles by December 31, 2040;

(4) ... By December 31, 2025, at least 400 DC Fast Chargers shall be available for public use at no fewer than 200 charging locations in the State...

(5) By December 31, 2025, at least 1,000 Level Two chargers shall be available for public use across the State, and after initial installation, those EVSE may be upgraded to higher power or DC Fast Chargers as appropriate by the owner or operator of the EVSE...

(6) ...By December 31, 2025, at least 15 percent of all multi-family residential properties in the State shall be equipped with EVSE for the routine charging of plug-in electric vehicles by residents through a combination of Level One EVSE, Level Two EVSE, or charger ready parking spaces...

(7) ...By December 31, 2025, 20 percent of all franchised overnight lodging establishments shall be equipped with EVSE for routine electric vehicle charging by guests of the establishment by providing Level Two EVSE, which collectively shall serve a percentage of the guest parking spaces equal to the percentage of light duty vehicles

⁵ *Id.*

registered in the State that are plug-in electric vehicles at the end of the preceding calendar year”⁶;

(8) Electrification of 25% of State-owned non-emergency light duty vehicles by December 31, 2025, and 100% of such vehicles by December 31, 2035;⁷

(9) A rapid transition to electrify NJ Transit buses with all purchases being full electric in 2032 and a mandate that 10% of bus purchases made by the NJ Transit Corporation are electric by 2024, 50% percent by 2026 and 100% by 2032, with an initial priority for routes in low-income, urban or environmental justice communities;⁸ and

(10) Additional goals for medium- and heavy-duty (“MHD”) vehicle electrification to be set by NJDEP and NJBPU by December 31, 2020.⁹

Likewise, the EMP observes that “[t]here is near unanimous scientific consensus that the global threat of climate change is grave and that it demands swift local action and focused state leadership,”¹⁰ and that “the transportation sector accounts for 42% of the state’s net greenhouse gas (GHG) emissions, making it the largest emissions source in the state.”¹¹ To that end—and as the very first strategy identified—the EMP directs that “[t]he transportation sector should be almost entirely electrified by 2050, with an early focus on light-duty (passenger) vehicles and short-range medium and heavy-duty vehicles, particularly in environmental justice communities.”¹² The EMP observes that, far from being a burdensome transition, “[f]ortunately, these changes will also yield many economy-wide financial and health benefits.”¹³

⁶ N.J. Stat. § 48:25-3.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ EMP at 11.

¹¹ *Id.* at 11-12.

¹² *Id.* at 12.

¹³ *Id.*

Both the BPU Staff and the Board itself have expressed agreement with the importance of rapid vehicle electrification sounded by the PIV law and the EMP. Staff has recommended that the Board “keep in mind the fierce urgency of meeting our climate goals,” and the BPU has ordered that “immediate action is appropriate and necessary to achieve the stated goals.”¹⁴ Moreover, the BPU has noted that “[t]he Legislature and the Governor have made it clear that in order to combat the consequences of climate change, the electrification of the transportation sector is in the public interest. All of New Jersey—its residents, its businesses, its economy, its environment—will benefit from the widespread adoption of EVs.”¹⁵

The New Jersey Global Warming Response Act 80x50 Report underscores the urgency of the effort needed, and the scale of the infrastructure necessary to meet these goals and secure their benefits for New Jersey’s people:

In order to promote and support the increased adoption of electric vehicles, it is urgent that New Jersey pursue a significant and visible buildout of public electric vehicle charging stations. ***Electric vehicle chargers must become as commonplace as gasoline refueling stations*** to enable wide scale acceptance and adoption of electric vehicles.¹⁶

This policy will enable the necessary wholesale conversion of the vehicle fleet to electric:

In quantitative terms, the number of electric vehicles registered must increase from approximately 30,000 vehicles today to 1.8 million by 2030, 5.4 million by 2040 and over 6 million by 2050, even before accounting for any potential growth in the total number of vehicles. This requires significant increases from the current 8,000 annual electric vehicle sales and even greater growth than that set by the EV Law (P.L.2019, c.362) to upwards of half a million sales annually by 2030.¹⁷

As the Report notes, these efforts will ensure enormous benefits: “deeper investment in this effort will also create hundreds of new jobs, resulting in growth in New Jersey’s clean energy

¹⁴ EV Ecosystem Order at 12, 25.

¹⁵ *Id.* at 3.

¹⁶ 80x50 Report at x (emphasis added).

¹⁷ *Id.* at 20.

economy, and the reduction of co-pollutants that can disproportionately impact public health in low-income and minority environmental justice communities.”¹⁸ The other side of that coin is that failure to swiftly electrify will incur continual and mounting costs: “failing to electrify the vehicle fleet increases the cost of decarbonization from 2035 to 2050 by an average of \$1.6 billion per year.”¹⁹ Electrifying the vehicle fleet—indeed, doing so rapidly—is thus critical to the environmental and economic health of New Jersey.

Further, vehicle electrification—if handled correctly to optimize the grid and ensure that vehicle charging does not add to peak load—not only provides environmental benefits, but also places downward pressure on electric rates for all customers. Electric vehicle drivers increase electricity consumption and, if increased consumption is met without increasing fixed costs, those additional kWh dilute systemwide fixed costs, meaning rates can be lower. This benefit is not merely theoretical: a study by Synapse Energy Economics “analyzed real world data from the two utility service territories with the highest number of EVs in the country . . . and found that EVs are already putting downward pressure on rates.”²⁰ Vehicle electrification will accordingly provide benefits to program participants and non-participants alike throughout New Jersey.

The Proposed Stipulation

In the face of this enormous opportunity, the proposed stipulation takes a significantly smaller step towards vehicle electrification than the Company’s original proposal, both in terms of the size of the programs and their scope. The proposed stipulation countenances total investments in EV charging infrastructure of \$20.673 million, or roughly half of the \$42.1

¹⁸ *Id.* at x.

¹⁹ *Id.* at 20.

²⁰ Harris Test. at 10:17-20; *see also* https://www.synapse-energy.com/sites/default/files/EV_Impacts_June_2020_18-122.pdf.

million proposal in the Amended EV Petition.²¹ While the original program proposal included incentives for school bus electrification and transit, the proposed stipulation lacks any medium- and heavy-duty vehicle investment.²² Finally, while the original program contemplated utility ownership of chargers, the proposed stipulation is limited to just make-ready infrastructure support in the hope that third-party chargers will rush in to fill the gaps that they have, thus far, avoided filling.²³

While the proposed stipulation does include some improvements on the original program proposal such as rate design that better supports vehicle charging, the investment levels and types of investment it contemplates are wholly inadequate to address the vehicle electrification goals of New Jersey and the infrastructure challenges that the Board itself noted in its EV Ecosystem Order. As such the Environmental and Community Groups raise the following concerns.

Additional Investment in Light Duty EVSE Beyond the Stipulation is Needed

While it is critical that utility investments in EV charging infrastructure move forward as rapidly as possible, the level of investment in the proposed Stipulation is poised to accomplish, at most, a small fraction of what is needed. As Kathleen Harris testified, modeling of charging requirements shows that “New Jersey will need over 48,000 Level 2 charging stations in public and at workplaces as well as 1,364 Direct Current Fast Charging (“DCFC”) stations on the road by 2025 to achieve and support the state’s EV goals.”²⁴ However, the investment levels in the proposed stipulation contemplate the installation of far, far fewer charging stations: for public

²¹ Compare Proposed Stipulation, “EV Charging Program,” ¶ 2 and Attachment A *with id.*, “Procedural History” ¶ 4.

²² Compare Proposed Stipulation, “EV Charging Program,” ¶¶ 14-15 *with id.*, “EV Charging Program,” ¶ 17 and Attachment A.

²³ *Id.*

²⁴ Harris Rbtl. Test. at 3:7-9.

DCFC, the stipulation has “a target of 100 charging ports”²⁵ or just 7% of what is needed in the next few years.

Further, investment in more than just make-ready infrastructure will be needed. As Kathleen Harris noted in her testimony, “[f]or New Jersey to achieve its climate and zero-emission vehicle goals in the required timeframe, the state will need investments from both the private and the public [utility]sector.”²⁶ This is because “utilities have an important role to play to fill the gaps in infrastructure deployment in the state, especially at multi-unit dwellings, where we see there is a market failure.”²⁷

Indeed, the Board has recognized that utilities must play a critical role in developing EVSE because,

[t]o date, the private sector has not made a business case to install EV chargers without a critical mass of EVs on the road . . . [a]s a result, the adoption of EVs has lagged. The circular problem continues as the EVSE Infrastructure Companies are disinclined to develop publicly available charging sites where there is an uncertain amount of demand for their services.²⁸

Staff also recommends that the Board “keep in mind the fierce urgency of meeting our climate goals.”²⁹ The BPU has also found that “immediate action is appropriate and necessary to achieve the stated goals.”³⁰

California’s experience with a utility role in charging infrastructure is instructive here. There, while the Public Utilities Commission initially ruled that the benefits of utility ownership do not outweigh the competitive limitation that may result from utility EVSE ownership, *just a few years later* the slow pace of electrification forced the Commission to conclude that the lack

²⁵ Proposed Stipulation at Attachment A page 8.

²⁶ Harris Test. at 7:7-8.

²⁷ Harris Rbtl. Test. at 11:14-16.

²⁸ EV Ecosystem Order at 3.

²⁹ *Id.* at 12.

³⁰ *Id.* at 25.

of flexibility for utility ownership was stifling the EV market. The Commission accordingly reversed course in a new order.³¹ It “endorse[d] an expanded role for utility activity in developing and supporting PEV charging infrastructure” while simultaneously “declin[ing] to prescriptively determine the appropriate level of utility activity.”³² Instead, the Commission ordered that it would “evaluate utility proposals on a case-specific basis” and that the Commission would “eliminate the necessity of showing that, but for the utility program, a market failure or underserved market would result, or if already in existence, would continue.”³³ This flexibility of ownership has been particularly useful for helping to get charging infrastructure at multi-unit dwellings and in disadvantaged communities.

This is a critical role for utilities to play that is unlikely to be filled by third-party companies. Accordingly, the Environmental and Community Groups want to underscore that the programs contemplated by the proposed Stipulation should be viewed as a starting place and not as programs that preclude further investments in light-duty charging infrastructure.

Investment in Medium- and Heavy-Duty Vehicle Electrification Is Needed

While the programs originally proposed by ACE in its Amended Petition included some investment in the medium- and heavy-duty vehicle sector in the form of funding for school bus electrification and transit,³⁴ the proposed Stipulation simply withdraws those proposals to be dealt with in some “future proceeding.”³⁵ Because action commensurate with the urgent problem posed by transportation emissions is necessary to avoid the very real jeopardy of missing New

³¹ Order, *Application of San Diego Gas & Electric Company (U902E) for Approval of its Electric Vehicle-Grid Integration Pilot Program*, Cal. Pub. Util. Comm. Rulemaking 13-11-007 (April 11, 2014), available at <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M143/K682/143682372.PDF>.

³² *Id.*

³³ *Id.*

³⁴ See Proposed Stipulation, “Procedural History,” ¶ 4.

³⁵ Proposed Stipulation, “EV Charging Program,” ¶ 17.

Jersey's critical vehicle electrification goals, the Environmental and Community Groups urge the Board to order a rapid as feasible timeline for this future proceeding.

Electrification of medium- and heavy-duty vehicles presents some of the greatest benefits to communities that are overburdened by the particulate matter and NOx pollution such vehicles emit when they run on diesel fuel. The need to address this pollution--not least against the backdrop of the ongoing respiratory health crisis--is urgent.

The Environmental and Community Groups share this sense of urgency, as does the New Jersey legislature. The PIV law directed state agencies including the Board to have *already* set the medium- and heavy-duty vehicle goals by the end of 2020:

By December 31, 2020, the department, in consultation with the board, shall establish other goals for vehicle electrification and infrastructure development that address medium-duty and heavy-duty on-road diesel vehicles and associated charging infrastructure, similar to the State goals for light duty vehicles and consistent with the technology and plug-in electric vehicle markets for those vehicle types.³⁶

Regrettably, this statutory deadline was not met last year and, as of the date of this filing, these goals have still not been established. The proposed Stipulation's vague conditions for achieving further progress in this area double down on the lack of commitment that the Board has displayed so far. If the Board approves this proposed Stipulation, the Environmental and Community Groups accordingly urge the Board to additionally order a rapid timeline and a deadline for the commencement and conclusion of the medium- and heavy-duty EVs stakeholder proceedings to be held during the Board's Fiscal Year 2021 that the proposed Stipulation contemplates being a condition precedent to evaluation of future ACE medium- and heavy-duty EV proposals.³⁷

³⁶ N.J. Stat. § 48:25-3(a)(10).

³⁷ See Proposed Stipulation, "EV Charging Program," ¶ 17.

Future Public Funding Should Be Additive to Program Funding under the Proposed Stipulation

Finally, the Environmental and Community Groups have significant concerns about the Public Funding provision in the proposed Stipulation.³⁸ While it is helpful that the provision includes language making it clear that “[n]othing in this paragraph shall reduce the Company’s ability to invest up to \$20.673 million pursuant to the program, as described” in the proposed Stipulation, the somewhat confusing language of the paragraph as a whole might lead to future misinterpretations. The Board should, if it approves the proposed Stipulation, make it clear in its order that the intent of the Public Funding paragraph is to ensure that the Company does not double-recover (i.e. recover from ratepayers’ funds invested under the stipulation’s programs that were in fact paid for using funds from public sources) and that it is *not* intended to either reduce the size of the programs authorized by the Stipulation on the one hand, or hobble the use of future public funding to achieve additional vehicle electrification on the other. Particularly given New Jersey’s aggressive electrification goals and the speed by which the state must achieve them, it is vital that the various funding mechanisms for that electrification be additive.³⁹

³⁸ See Proposed Stipulation, “Applicable Public Funding,” ¶ 24.

³⁹ The Environmental and Community Groups also have a concern with the lack of definition of public funding in the Applicable Public Funding provision. While the Board has approved a somewhat similar provision to the Applicable Public Funding paragraph in the proposed Stipulation in the past, it is important to note that that prior provision was more limited in scope. In the Board’s Decision and Order Approving Stipulation in *In the Matter of Energy Efficiency Programs and Associated Cost Recovery Mechanisms and In the Matter of the Petition of Public Service Electric and Gas Company Offering an Energy Efficiency Economic Stimulus Program in its Service Territory on a Regulated Basis and Associated Cost Recovery Mechanism Pursuant to N.J.S.A. 48:3-98:1*, Dockets Nos. EO09010056 and EO09010058 (July 1, 2009), a paragraph was included addressing spending on energy efficiency from federal funding. However, that paragraph only referred to such funding flowing from the federal American Recovery and Reinvestment Act of 2009 that had been passed into law earlier that year. The Applicable Public Funding provision of the proposed Stipulation is far broader, embracing “funding or credits,” from any “state or federal action or program,” “subsequent” to the Stipulation. The Environmental and Community Groups thus worry that this nominally extremely open-ended language could cast uncertainty on the effect of the Applicable Public Funding provision and urge the Board to make clear that the provision is not intended to result in reductions of funding available for vehicle electrification either under the approved programs or from public sources.

Conclusion

For the foregoing reasons, the Environmental and Community Groups urge the Board to, if it adopts the proposed stipulation, not foreclose additional programs and to set timetables for future proceedings and studies necessary to achieve New Jersey's vehicle electrification goals.

Respectfully submitted,

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Cc: Service list