



STATE OF NEW JERSEY
Board of Public Utilities
 44 South Clinton Avenue, 9th Floor
 Post Office Box 350
 Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY AND CLEAN ENERGY

IN THE MATTER OF THE PETITION OF)	PREHEARING ORDER WITH
ROCKLAND ELECTRIC COMPANY FOR)	PROCEDURAL SCHEDULE AND
APPROVAL OF AN ELECTRIC VEHICLE)	ORDER ON MOTIONS TO
PROGRAM, ESTABLISHMENT OF AN)	INTERVENE OR PARTICIPATE
ELECTRIC VEHICLE SURCHARGE, AND FOR)	
OTHER RELIEF (RECO EV))	DOCKET NO. EO20110730

Parties of Record:

James C. Meyer, Esq. and John L. Carley, Esq., on behalf of Rockland Electric Company
Stefanie Brand, Esq., Director, NJ Division of Rate Counsel
David Wooley, Esq. and Scott F. Dunbar Esq., on behalf of ChargePoint, Inc.

BY COMMISSIONER ROBERT GORDON:

BACKGROUND

On November 23, 2020, Rockland Electric Company (“RECO” or “Company”) filed a petition with the New Jersey Board of Public Utilities (“Board”) seeking approval to invest approximately \$6.7 million over a five (5) year period for a comprehensive electric vehicle (“EV”) program (“EV Program”), consisting of six (6) EV subprograms applicable to light-duty vehicles (“Petition”).

The six (6) proposed subprograms and associated budgets are:

Subprogram	Budget
Make Ready	\$4,804,041
Voluntary Time-of-Day Rate	\$55,000
Direct Current Fast Charging Incentive	\$377,362
Smart Charge	\$625,625
EVolved REcharge	\$243,760
Outreach and Education Program	\$577,500
Total Budget	\$6,683,288

According to RECO, the proposed EV Program was designed to be responsive to its customers’ needs and to address critical adoption barriers for EV transportation by providing education and

outreach, off-peak charging, and EV infrastructure solutions to reduce range anxiety. The Company stated it has no current plans to deploy, own and/or operate EV chargers. However, RECO indicated that should the Company decide to pursue the deployment, ownership, and/or operation of publicly accessible EV chargers, it would submit a separate filing with the Board setting forth the specifics of its proposed program, as outlined in the Board's September 23, 2020 Order establishing minimum filing requirements for light duty EV charging in Docket No. QO20050357.¹

Additionally, in the Petition, the Company proposed to implement a non-bypassable 0.0047 cents per kilowatt hour ("kWh") Electric Vehicle Surcharge ("EVS") applicable to all RECO distribution customers to recover the costs associated with the EV Program. If the Board approves the Petition as proposed, a typical residential customer using 925 kWh per month will experience a \$0.04 per month increase, or 0.02% during the initial year of the EV Program.

By Order dated January 27, 2021, the Board determined that the petition described above should be retained by the Board for hearing and, pursuant to N.J.S.A. 48:2-32, designated myself 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 as necessary to secure a just and expeditious determination of the issues.² Further, the January 27, 2021 Order directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by March 1, 2021.

THE MOTIONS

ChargePoint, Inc. Motion to Intervene and Motion for Admission Pro Hac Vice

On March 1, 2021, Charge Point, Inc. ("ChargePoint"), a large EV charging network with existing and prospective customers seeking to install EV charging stations in RECO's service territory, filed a motion to intervene. ChargePoint Motion at 1-3. EV stations in ChargePoint's network are almost exclusively owned and operated by charging station site hosts, which provide charging services to EV drivers. ChargePoint seeks intervenor status, asserting that it will be substantially, specifically and directly affected by the outcome of this proceeding in the following ways: 1) RECO's proposed incentives to offset EV charging infrastructure costs will directly impact the cost of installing ChargePoint's products and services; 2) ChargePoint's ability to qualify its products for RECO's incentives will impact its ability to sell its products and services; and 3) RECO's voluntary time-of-day rates will impact the total cost and value of ChargePoint's products and services. *Id.* at 3-4.

ChargePoint maintains that its interests are unique and specific to its business models, operations, customers, and prospective customers in RECO's service territory. *Id.* at 4. ChargePoint also affirms that its participation in this proceeding will not unduly broaden the issues in the proceeding, create confusion, or result in undue delay. *Id.*

¹ In re Minimum Filing Requirements For Light-Duty, Publicly Accessible Electric Vehicle Charging, BPU Docket No. QO20050357, Order dated September 23, 2020.

² In re the Petition of Rockland Electric Company for Approval of an Electric Vehicle Program, Establishment of an Electric Vehicle Surcharge, and for Other Relief (RECO EV), BPU Docket No. EO20110730, Order dated January 27, 2021, ("January 27, 2021 Order").

David Wooley, an attorney of the State of New Jersey, moved under N.J.A.C. 1:1-5.2 to permit the appearance *pro hac vice* of Scott Dunbar, an attorney of the state of Colorado, in this proceeding. According to the motion, Mr. Dunbar indicates that he satisfies each of the conditions for admission, including good cause, set forth in R. 1:21-2(a) and that he has paid the required fee to the New Jersey Lawyers' Fund for Client Protection and Ethics Financial Committee. Mr. Dunbar further agrees to abide by the Board and all applicable New Jersey court rules.

PSE&G Motion to Participate

On March 1, 2021, Public Service Electric and Gas Company ("PSE&G"), a New Jersey public utility involved in the purchase, transmission, distribution, and sale of electric energy with more than two (2) million residential, commercial and industrial electric customers in the state, filed a motion to participate in this proceeding. PSE&G Motion at 1.

PSE&G seeks participant status and asserts that issues to be addressed in the case may have an impact of establishing precedent, and therefore, PSE&G will be directly and specifically affected by this docket. *Id.* at 3. PSE&G claims that no other party or participant will represent its interests as the operations of the company are distinct from those of other parties and participants. *Id.* PSE&G also asserts that its experience in the electric industry will add constructively to the proceeding. *Id.* at 4.

PSE&G affirms that it will abide by the schedule set for the proceeding and will coordinate with other similarly-situated parties to coordinate its representation. Lastly, PSE&G insists that its participation will not cause undue delay or confusion. *Id.*

RESPONSES

On March 5, 2021, RECO filed a letter in response to the motion to participate filed by PSE&G and the motion to intervene filed by ChargePoint. RECO does not object to either motion.

DISCUSSIONS AND FINDINGS

Motions to Intervene and 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.

In consideration of ChargePoint's Motion to Intervene, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.3, ChargePoint will be directly affected by the outcome of this proceeding and its interests are not currently served by another party. I **HEREBY FIND** that ChargePoint will add measurably and constructively to the scope of the case, while abiding by the current procedural schedule. I **HEREBY FIND** that ChargePoint has met the standards for intervention as it has a sufficient interest in this proceeding. Accordingly, having received no objection, I **HEREBY GRANT** the motion for intervention of ChargePoint.

Additionally, having reviewed Mr. Wooley's motion to permit the appearance *pro hac vice* of Mr. Dunbar, and having received no objections, I **FIND** that Mr. Dunbar has satisfied the conditions for admission *pro hac vice*. Therefore, Mr. Dunbar is **HEREBY ADMITTED** to practice before the Board *pro hac vice* in this matter, provided that he 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.

In consideration of the PSE&G's Motion to Participate, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.6(b), that the participation of PSE&G in this matter is likely to add constructively to the case without causing undue delay or confusion. No objection having been filed, 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).

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:

In the Petition, RECO proposed to invest approximately \$6.7 million over a five (5) year period for the EV Program, consisting of six (6) EV subprograms applicable to light-duty vehicles. Additionally, the Company proposed to implement a non-bypassable 0.0047 cents per kWh EVS applicable to all RECO distribution customers to recover the costs associated with the EV Program. If the Board approves the Petition as proposed, a typical residential customer using 925 kWh per month will experience a \$0.04 per month increase, or 0.02% during the initial year of the EV Program.

Issues to be Resolved

- A. The cost effectiveness and cost efficiency of the proposed activities and programs.
- B. The lawfulness of the proposed program offerings.
- C. The reasonableness and lawfulness of the proposed cost recovery mechanism.

2. PARTIES AND THEIR DESIGNATED ATTORNEYS OR REPRESENTATIVES:

Counsel for RECO

James C. Meyer, Esq.
Riker, Danzig, Scherer, Hyland and Perretti LLP
Headquarters Plaza
One Speedwell Avenue
P.O. Box 1981
Morristown, NJ 07962-1981
(973) 538-8464
jmeyer@riker.com

John L. Carley, Esq.
Associate General Counsel
Consolidated Edison Company Of New York, Inc.
Law Department, 18th Floor
4 Irving Place
New York, NY 10003
(212) 460-2097
carleyj@coned.com

Counsel for the Staff of the New Jersey Board of Public Utilities

Department of Law and Public Safety
Division of Law, Public Utilities Section
R.J. Hughes Justice Complex
7th Floor West
25 Market Street, P.O. Box 112
Trenton, N.J. 08625

Pamela Owen, DAG
Pamela.owen@law.njoag.gov

Meliha Arnautovic DAG
Meliha.Arnautovic@law.njoag.gov

Counsel for Division of Rate Counsel

Stefanie Brand, Esq., Director
140 East Front Street, 4th Floor
P.O. Box 003
Trenton, N.J. 08625
sbrand@rpa.nj.gov

Counsel for ChargePoint

David Wooley
Keyes & Fox LLP
580 California St., 12th Floor
San Francisco, CA 94104
(415) 271-1135
dwooley@keyesfox.com

Scott F. Dunbar
Keyes & Fox LLP
1580 Lincoln Street, Suite 1105
Denver, CO 80203
(949) 525-6016
sdunbar@keyesfox.com

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 RECO'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 scheduled for the week of August 23, 2021, subject to Presiding Commissioner's availability.

5. **STIPULATIONS:**

None at this time.

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. **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.

8. **ORDER OF PROOFS:**

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

First – RECO

Second – Rate Counsel

Third – ChargePoint

Fourth – Board Staff

9. **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:**

Witnesses will be determined at a later 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: April 8, 2021

BY:

A handwritten signature in black ink, appearing to read "Robert M. Gordon", written over a horizontal line.

ROBERT M. GORDON
COMMISSIONER

IN THE MATTER OF THE PETITION OF ROCKLAND ELECTRIC COMPANY FOR APPROVAL
OF AN ELECTRIC VEHICLE PROGRAM, ESTABLISHMENT OF AN ELECTRIC VEHICLE
SURCHARGE, AND FOR OTHER RELIEF (RECO EV)

BPU DOCKET NO. EO20110730

SERVICE LIST

RECO

James C. Meyer, Esq.
Riker, Danzig, Scherer, Hyland and
Perretti LLP
One Speedwell Avenue
P.O. Box 1981
Morristown, NJ 07962-1981
jmeyer@riker.com

4 Irving Place
New York, NY 10003

John L. Carley, Esq., Associate General
Counsel
carleyj@coned.com

Ann Cedrone
cedonean@oru.com

Cheryl M. Ruggiero
RuggieroC@coned.com

JoAnne D. Seibel
seibeljo@oru.com

Kristen M. Barone
BaroneKr@oru.com

Brian Picariello
Section Manager, Utility of the Future
Orange and Rockland Utilities, Inc.
390 W. Route 59
Spring Valley, New York 10977
picariello@oru.com

Rate Counsel

140 East Front Street, 4th Floor
P.O. Box 003
Trenton NJ 08625

Stefanie A. Brand, Esq., Director
sbrand@rpa.nj.gov

Brian O. Lipman, Esq, Litigation Manager
blipman@rpa.nj.gov

Felicia Thomas-Friel, Esq., Managing Attorney
ftthomas@rpa.nj.gov

Kurt Lewandowski, Esq.
klewando@rpa.nj.gov

Brian Weeks, Esq.
bweeks@rpa.nj.gov

Maura Caroselli, Esq.
mcaroselli@rpa.nj.gov

Shelly Massey, Paralegal
smassey@rpa.nj.gov

Karen Forbes, Secretary
kforbes@rpa.nj.gov

Rate Counsel Consultants

77 Kaposia Street
Newton, MA 02466
Ezra D. Hausman, Ph.D.
ezra@ezrahausman.com

Jacob Alder
jacob@ezrahausman.com

David Peterson
Chesapeake Regulatory
Consultants, Inc.
1815 Fenwicke Ct.
Huntingtown, MD 20639
davep@chesapeake.net

Division of Law

25 Market Street
P.O. Box 112
Trenton, NJ 08625

Meliha Arnautovic DAG
Meliha.Arnautovic@law.njoag.gov

Daren Eppley, DAG
Daren.eppley@law.njoag.gov

BPU

44 South Clinton Avenue, 9th Floor
Trenton NJ 08625-0350

Aida Camacho-Welch, Board Secretary
aida.camacho@bpu.nj.gov

Paul Flanagan, Esq., Executive Director
paul.flanagan@bpu.nj.gov

Robert Brabston, Esq., Deputy Executive
Director
robert.brabston@bpu.nj.gov

Christine Sadovy, Chief of Staff
Christine.sadovy@bpu.nj.gov

Office of the Economist

Benjamin Witherell, Chief Economist
Benjamin.witherell@bpu.nj.gov

Jacqueline O'Grady
jackie.ogrady@bpu.nj.gov

Counsel's Office

Abe Silverman, Esq., General Counsel
abe.silverman@bpu.nj.gov

Carol Artale, Esq., Deputy General Counsel
carol.artale@bpu.nj.gov

Andrea Hart, Esq.
andrea.hart@bpu.nj.gov

Michael Beck, DAG
michael.beck@law.njoag.gov

Pamela Owen, DAG
pamela.owen@law.njoag.gov

Division of Clean Energy

Kelly Mooij, Director
kelly.mooij@bpu.nj.gov

Sherri Jones
sherri.jones@bpu.nj.gov

Cathleen Lewis
Cathleen.lewis@bpu.nj.gov

AshleyLynn Chrzaszcz
AshleyLynn.Chrzaszcz@bpu.nj.gov

Division of Energy

Stacy Peterson, Director
stacy.peterson@bpu.nj.gov

Jamie Saunders, Deputy Director
jamie.saunders@bpu.nj.gov

Paul Lupo, Bureau Chief
paul.lupo@bpu.nj.gov

John Zarzycki
john.zarzycki@bpu.nj.gov

PSE&G

PSEG Services Corporation
80 Park Plaza, T5G
P.O. Box 570
Newark, New Jersey 07102

Matthew M. Weissman, Esq.
Matthew.weissman@pseg.com

Katherine E. Smith, Esq.
katherine.smith@pseg.com

ChargePoint, Inc.

Scott Dunbar
Keyes & Fox LLP
1580 Lincoln Street, Suite 880
Denver, CO 80203
(949) 525-6016
sdunbar@keyesfox.com

David Wooley
Keyes & Fox LLP
580 California St., 12th Floor
San Francisco, CA 94104
(510) 314-8207
dwooley@keyesfox.com

Michele Falcao
Regulatory Case Supervisor
Michele.Falcao@pseg.com

Caitlyn White
Regulatory Case Coordinator
Caitlyn.White@pseg.com

Bernard Smalls, Paralegal
Bernard.Smalls@pseg.com

Matthew Deal
Manager, Utility Policy
ChargePoint, Inc.
254 Hacienda Ave.
Campbell, CA 95008
(202) 528-5008
Matthew.deal@chargepoint.com

Kevin Miller
Director, Public Policy
ChargePoint, Inc.
254 E Hacienda Ave.
Campbell, CA 95008
(917) 836-4954
kevin.miller@chargepoint.com

EXHIBIT A
Procedural Schedule

IN THE MATTER OF THE PETITION OF ROCKLAND ELECTRIC COMPANY FOR
APPROVAL OF AN ELECTRIC VEHICLE PROGRAM, ESTABLISHMENT OF AN ELECTRIC
VEHICLE SURCHARGE, AND FOR OTHER RELIEF (RECO EV)
BPU DOCKET NO. EO20110730

Motions Filed by any Parties	March 1, 2021
Discovery requests served +	March 8, 2021
Company responses to discovery due	March 22, 2021
Second Round of Discovery Requests	April 5, 2021
Responses due on Second Round of Discovery Requests	April 19, 2021
Discovery conference	Week of April 19, 2021
Third Round Discovery Requests	April 28, 2021
Third Round Discovery Answers	May 12, 2021
Discovery/Settlement Conference	Week of May 17, 2021
Intervenor/respondent testimony due	June 11, 2021
Discovery requests on intervenor/respondent testimony	June 18, 2021
Responses to discovery on intervenor/respondent testimony	July 2, 2021
Rebuttal testimony	July 23, 2021
Discovery requests on rebuttal testimony	July 30, 2021
Company responses to discovery on rebuttal testimony	August 6, 2021
Public Hearings	TBD
Settlement conferences	Week of August 2, 2021
Evidentiary hearings (with Oral Surrebuttal)*	Week of August 23, 2021
Initial and Reply briefs	TBD by Presiding Commissioner after hearings

+ Petitioner agrees that discovery is ongoing and will endeavor to answer all discovery within 15 days of service.

* Evidentiary hearing dates subject to Presiding Commissioner's availability. Petitioner requests evidentiary hearings with oral surrebuttal and rejoinder. The Presiding Commissioner will consider this request prior to the evidentiary hearings.