

Karen O. Moury
717.237.6036
kmoury@eckertseamans.com

June 21, 2021

Via Electronic Filing

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:

As a signatory to the Stipulation of Settlement (“Stipulation”) filed by Atlantic City Electric Company (“ACE”) on June 15, 2021, the Market Participants (consisting of third party electric suppliers) file this letter to note their support for Paragraphs 30 and 31, which address the development of a Data Access Plan. Since ACE’s Petition was silent regarding data access, and the procedural schedule was suspended for settlement discussions prior to the submission of testimony by the intervenors, we write to offer the Board of Public Utilities (“BPU” or “Board”) the rationale of the Market Participants in raising these issues during this proceeding.

Had this matter proceeded further into litigation, the Market Participants would have filed testimony of Leah Gibbons, Director of Regulatory Affairs for NRG Energy, Inc. As Ms. Gibbons had completed her testimony for this proceeding at the time the schedule was suspended, the Market Participants offer to file it, upon request, for the Board’s review in considering the Stipulation. This testimony is very similar to the submission the Market Participants filed in the *I/M/O the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future-Energy Cloud (“CEF-EC”) Program on a Regulated Basis*, Docket No. EO18101115, on August 31, 2020.

Through this letter, the Market Participants are providing the Board with a summary of the key points that Ms. Gibbons’ testimony covers relating to a Data Access Plan:

- The deployment by ACE of smart meters throughout its electric service territory presents a critical need for the development of a comprehensive and robust Data Access Plan;
- Smart meters, which record customer energy consumption data at a very granular level, will provide extensive data about customer usage patterns that can be used not only to engage customers and offer customized solutions to meet their individual needs, but also to enable better customer segmentation, load profiling and forecasting;
- As third party suppliers excel at developing innovative products tailored to meet their customers' unique needs, access to the smart meter data is imperative;
- The ability of suppliers to deliver product innovation enabled by access to interval usage ("IU") data collected by smart meters hinges on timely and efficient access to this data every single day, all at one time, with watt level precision, and on having their load settled at PJM based on that data;
- The IU data generated by smart meters belongs to the customer, who should control access to this data and be free to grant access to their chosen supplier;
- The Data Access Plan should be developed and implemented at the same time ACE is working to deploy its smart meters and programs in its systems so that suppliers in the competitive market have access to their customers' data (with their consent) as soon as it becomes available;
- Waiting to address data access issues until after the meters have been installed will unnecessarily delay New Jersey consumers' access to customized solutions that the competitive market can offer;
- A Data Access Plan must lay out a process for TPSs to access their customers' Billable Quality Interval Usage data within 48 hours (or less) at one time on a daily basis;
- At a minimum, the Data Access Plan should enable suppliers to access their customers' interval usage data through Electronic Data Interchange, as well as through ACE's existing secure supplier portal via flat files; and
- ACE should be required to provide periodic updates to suppliers as it deploys the smart meters and implements its Data Access Plan.

It is noteworthy that ACE affiliates in Delaware, the District of Columbia, Maryland and Pennsylvania all provide such data to suppliers and have done so for many years.

The Market Participants recognize that the Board is addressing data access issues through a statewide proceeding at Docket No. EO20110716. Under the PSE&G Stipulation approved by the Board on January 7, 2021, the parties (including the Market Participants) agreed to defer the development of a Data Access Plan unless that proceeding did not produce a Board-approved Data Access Plan within 180 days, or by July 9, 2021. If a Board-approved Data Access Plan is not yet in place at that time, PSE&G is obligated to convene a meeting with the parties within 60 days to discuss data access issues, and the parties agreed to use best efforts to reach an agreement within 120 days thereafter. To the extent that no agreement is reached, the proceeding will be reopened for the limited purpose of adjudicating data access issues.

The language in Paragraph 31 of the ACE Stipulation sets forth the same process, except that it does not provide for a 180-day period following the Board's approval of the Stipulation. Rather, it establishes July 9, 2021 as the date on which ACE's obligation is triggered to convene the parties within 60 days. In this way, the development of Data Access Plans by PSE&G and ACE will be on the same timetable if a Board-approved plan is not yet available.

Finally, in approving PSE&G's Stipulation, the Board noted that it would have been reluctant to do so without "providing a venue to resolve these critical data access issues which are essential to fulfilling the objectives of AMI, including improving the way customers engage with their energy usage." Jan. 7, 2021 Order at 13. For all of these reasons, the Market Participants respectfully request the Board to approve Paragraphs 30 and 31 of the Stipulation, without modification.

Sincerely,

/s/ Karen O. Moury

Karen O. Moury

KOM/lww

cc: BPU Service List (*via email only*)