



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE PETITION OF CUMBERLAND )  
COUNTY IMPROVEMENT AUTHORITY FOR THE )  
APPROVAL OF THE EXTENSION OF ELECTRIC )  
PUBLIC UTILITY FACILITIES OF ATLANTIC CITY )  
ELECTRIC COMPANY PURSUANT TO N.J.S.A. 48:2-27 )

PREHEARING ORDER WITH  
PROCEDURAL SCHEDULE  
DOCKET NO. EO22020043

**Parties of Record:**

**Brian O. Lipman, Esq., Director**, New Jersey Division of Rate Counsel  
**David Weinstein, Esq.**, Archer & Greiner P.C. on behalf of Cumberland County Improvement Authority  
**Cynthia L. M. Holland, Esq., Assistant General Counsel**, on behalf of Atlantic City Electric Company

**BY COMMISSIONER ROBERT M. GORDON:**

I. **BACKGROUND AND PROCEDURAL HISTORY:**

On February 2, 2022, the Cumberland County Improvement Authority (“CCIA” or “Authority”) filed a petition with the New Jersey Board of Public Utilities (“Board”) seeking approval for the extension or expansion of electric public utility facilities of Atlantic City Electric Company (“ACE” or “Company”) (“Petition”). The Authority also requested that ACE fund the proposed extension or expansion, arguing that the Company’s original expenditure will be recovered from the business received.

According to the Petition, CCIA developed an Economic Development Strategic Plan for Cumberland County for 2020-2030 (“Plan”) for “regional growth and innovation,” utilizing a strategy based upon “the ever-changing dynamics of the regional economy, existing assets, and future opportunities to be shaped by innovative thinking, investment, and technology.” See Petition at p. 2.

The CCIA described the Plan as the “competitive development [of] infrastructure” which includes “prioritized development locations along with the right buildings and communication networks and electric public utility facilities that allow businesses to function and grow, improving economic opportunity for residents.” See Petition at p. 2. The CCIA and Cumberland County established areas in need of redevelopment and created “Redevelopment Zones” to encourage investment

into priority areas.<sup>1</sup> Id.

In the Petition, the Authority stated that ACE has a significant number of areas with closed circuits that have zero hosting capacity in Cumberland County. According to the Authority, under ACE's current Board-approved tariff, "once a section of the grid is closed for further solar installations or has limited capacity for development of major projects, the next customer requesting service or a new solar installation in that area is required to pay for the necessary infrastructure upgrades to the local energy grid." See Petition at p. 5. The Authority further stated that many solar developers would develop solar energy facilities in the Redevelopment Zones, but the current infrastructure does not have the capacity.

Additionally, the CCIA claimed that the development of a 100,000 square foot data center was inhibited. According to the Authority, prospective developers expressed enormous interest in the development of the data center, but as the Authority notes, "the lack of adequate electric utility service to run this facility has hindered the process." See Petition at p. 7. According to the CCIA, current infrastructure provides 2 megawatt ("MW") of electricity at this site, and the proposed data center project would require in excess of 60 MW of service.

In its Petition, the CCIA provided that it would not object if ACE filed a motion to intervene in this matter. Furthermore, the Authority believes that ACE is best suited to describe in detail the nature and costs of the needed expansions or extensions, as well as the construction and maintenance of the project(s).

On February 17, 2022, ACE filed a motion to intervene. On March 3, 2022, the New Jersey Division of Rate Counsel ("Rate Counsel") filed a comment letter of no objection to ACE's motion to intervene.

At its March 23, 2022 Meeting, the Board:

1. Ordered that the Petition be retained by the Board for hearing pursuant to N.J.S.A. 48:2-32;
2. Designated myself, Commissioner Bob Gordon, as the Presiding Officer with authority to rule on all motions that arise during the pendency of this proceeding, and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues;
3. Required any entity seeking to intervene or participate file the appropriate application with the Board by April 6, 2022, and any party wishing to file a motion for admission of counsel, pro hac vice, should do so concurrently; and
4. Granted ACE's Motion to Intervene, finding that ACE met the standards for intervention as it has a significant interest in this proceeding and it will add measurably and constructively to the proceeding without causing delay.<sup>2</sup>

---

<sup>1</sup> The Authority provides that the Redevelopment Zones are located in the following municipalities: 1) Bridgeton, 2) Deerfield, 3) Hopewell, 4) Millville, and 5) Upper Deerfield.

<sup>2</sup> In re the Petition of Cumberland County Improvement Authority for the Approval of the Extension of Electric Public Utility Facilities of Atlantic City Electric Company Pursuant to N.J.S.A. 48:2-27, BPU Docket No. EO22020043, Order dated March 30, 2022 ("March 30, 2022 Order").

II. **THE MOTIONS**

On February 17, 2022, ACE filed a Motion to Intervene that was granted by Order dated March 30, 2022. As of April 6, 2022, the deadline for filing Motions, no other Motions were filed. See March 30, 2022 Order.

III. **PREHEARING ORDER**

I reviewed the proposed preliminary schedule agreed to by Board Staff (“Staff”), Rate Counsel, ACE, and CCIA (collectively, “Parties”) along with the proposed “Major Policy Issues,” and took into consideration the Parties’ positions as discussed at the Prehearing Conference.

After careful consideration of the Petition, and the positions of the Parties, I **HEREBY ISSUE** the following Prehearing Order with Procedural Schedule attached thereto as “Exhibit A”, and I **HEREBY DIRECT** the Parties to comply with its terms.

## **PREHEARING ORDER**

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

Through this proceeding, CCIA seeks approval for the extension or expansion of ACE's electric public utility facilities in an effort to provide the required electricity for CCIA's "Economic Development Strategic Plan". In its Petition, CCIA claimed that ACE has a significant number of areas with closed circuits that have no solar hosting capacity in Cumberland County and demonstrates a disparity in service between Cumberland County and neighboring counties. CCIA further stated in its Petition that the County does not currently have the electric utility infrastructure required to develop the pending proposed projects or support the significant redevelopment generally identified in the Redevelopment Zones. CCIA maintains that the Redevelopment Zones would provide ACE with new business sufficient to justify the expansion or extension of electric facilities at the Company's expense.

#### **Issues to be Resolved:**

- Whether the statutory elements of N.J.S.A. 48:2-23 (requiring utilities to furnish safe, adequate, and proper service) have been satisfied.
- Whether the statutory elements of N.J.S.A. 48:2-27 (extension of facilities) have been satisfied.
- Whether the CCIA is requesting an "extension" as defined under N.J.A.C.14:3-8.2.
- If CCIA is requesting an "extension," whether CCIA's request complies with the Main Extension Rules, N.J.A.C. 14:3-8.1 et seq.
- Whether CCIA's requested relief complies with ACE's Board-approved tariff.
- Whether the cost to construct and maintain the infrastructure for the requested extensions can be placed into utility rates for all ACE customers.

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

#### **Counsel for Cumberland County Improvement Authority**

David Weinstein, Esq.  
Archer & Greiner P.C.  
1025 Laurel Oak Road  
Voorhees, NJ 08043  
[dweinstein@archerlaw.com](mailto:dweinstein@archerlaw.com)

#### **Counsel for Atlantic City Electric Company**

Philip Passanante, Esq., Assistant General Counsel  
Pepco Holdings LLC/Atlantic City Electric Company  
Mailstop 92Dc42  
500 North Wakefield Drive  
Newark, DE 19702-5504  
[philip.passanante@pepcoholdings.com](mailto:philip.passanante@pepcoholdings.com)

Cynthia L.M. Holland, Esq.  
Assistant General Counsel  
150 West State Street  
Trenton, NJ 08608  
[cynthia.holland@exeloncorp.com](mailto:cynthia.holland@exeloncorp.com)

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

Department of Law & Public Safety  
Division of Law, Public Utilities Section  
R.J. Hughes Justice Complex, 7<sup>th</sup> Floor West  
25 Market Street, P.O. Box 112  
Trenton, NJ 08625

Pamela Owen, ASC, DAG  
[pamela.owen@law.njoag.gov](mailto:pamela.owen@law.njoag.gov)

Steven Chaplar, DAG  
[steven.chaplar@law.njoag.gov](mailto:steven.chaplar@law.njoag.gov)

Daren Eppley, SC, DAG  
[daren.eppley@law.njoag.gov](mailto:daren.eppley@law.njoag.gov)

Counsel for Division of Rate Counsel

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

Brian O. Lipman, Esq., Director  
[blipman@rpa.nj.gov](mailto:blipman@rpa.nj.gov)

David Wand, Esq., Managing Attorney  
[dwand@rpa.nj.gov](mailto:dwand@rpa.nj.gov)

Brian Weeks, Esq.  
[bweeks@rpa.nj.gov](mailto:bweeks@rpa.nj.gov)

Bethany Rocque-Romaine, Esq.  
[bromaine@rpa.nj.gov](mailto:bromaine@rpa.nj.gov)

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

Evidentiary hearings will be conducted virtually and are tentatively scheduled for the week of January 17, 2023 at a time to be determined based upon the availability of the Parties and myself.

4. **STIPULATIONS:**

Staff, Rate Counsel, CCIA, and ACE have entered into an Agreement of Non-Disclosure of Information Agreed to Be Confidential.

5. **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.

6. **AMENDMENTS TO PLEADINGS:**

None at this time.

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:**

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

First – CCIA

Second – ACE

Third – Rate Counsel

Fourth – Board Staff

9. **EXHIBITS MARKED FOR IDENTIFICATION:**

None at this time.

10. **EXHIBITS MARKED IN EVIDENCE:**

None at this time.

11. **ESTIMATED NUMBER OF FACT AND EXPERT WITNESSES**

CCIA, ACE, and Rate Counsel's witnesses are yet to be determined. Once determined, additional witnesses may be identified by the Parties for the purposes of rebuttal or sur-rebuttal.

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).

12. **MOTIONS:**

All Motions to Intervene and/or Participate and for Admission *Pro Hac Vice* have been addressed. All Parties may file any Motion other than to Intervene and/or Participate and for Admission *Pro Hac Vice* at any time during these proceedings, subject to the Procedural Schedule.

12. **SPECIAL MATTERS:**

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.

In compliance with the Board's Order in Docket No. EO20030254, I **HEREBY DIRECT** all parties to serve documents electronically.<sup>3</sup> No hard copies shall be filed until the Board lifts the restrictions imposed in that Order.

I **FURTHER 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: June 20, 2022



ROBERT M. GORDON  
COMMISSIONER

---

<sup>3</sup> In re the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations, BPU Docket No. EO20030254, Order dated March 19, 2020.

**In the Matter of the Petition of Cumberland County Improvement Authority for the Approval of the Extension of Electric Public Utility Facilities of Atlantic City Electric Company Pursuant to N.J.S.A. 48:2-27**

**BPU DOCKET NO. EO22020043**

**SERVICE LIST**

<p><b><u>Cumberland County</u></b>  Gerard Velazquez, III, President/CEO  The Authority  745 Lebanon Rd  Millville, NJ 08332  <a href="mailto:jvelazquez@theauthoritynj.com">jvelazquez@theauthoritynj.com</a></p> <p>David Weinstein, Esq.  Archer &amp; Greiner P.C.  1025 Laurel Oak Road  Voorhees, NJ 08043  <a href="mailto:dweinstein@archerlaw.com">dweinstein@archerlaw.com</a></p> <p><b><u>Division of Rate Counsel</u></b>  Division of Rate Counsel  140 East Front Street, 4<sup>th</sup> Floor  Trenton, NJ 08625-0003</p> <p>Brian O. Lipman, Esq., Director  <a href="mailto:blipman@rpa.nj.gov">blipman@rpa.nj.gov</a></p> <p>T. David Wand, Esq., Managing Attorney  <a href="mailto:dwand@rpa.nj.gov">dwand@rpa.nj.gov</a></p> <p>Brian Weeks, Esq.  <a href="mailto:bweeks@rpa.nj.gov">bweeks@rpa.nj.gov</a></p> <p><b><u>Division of Law</u></b>  NJ Department of Law and Public Safety  Richard J. Hughes Justice Complex  Public Utilities Section  25 Market Street, P.O. Box 112  Trenton, NJ 08625</p> <p>Pamela Owen, ASC, DAG  <a href="mailto:pamela.owen@law.njoag.gov">pamela.owen@law.njoag.gov</a></p> <p>Matko Ilic, DAG  <a href="mailto:matko.ilic@law.njoag.gov">matko.ilic@law.njoag.gov</a></p> <p>Steven Chaplar, DAG  <a href="mailto:steven.chaplar@law.njoag.gov">steven.chaplar@law.njoag.gov</a></p> <p>Daren Eppley, DAG  <a href="mailto:daren.eppley@law.njoag.gov">daren.eppley@law.njoag.gov</a></p>	<p><b><u>Atlantic City Electric</u></b>  Philip J. Passanante, Esq.  Assistant General Counsel  500 North Wakefield Drive  Newark, DE 19702-5540  <a href="mailto:philip.passanante@pepcoholdings.com">philip.passanante@pepcoholdings.com</a></p> <p>Cynthia L.M. Holland, Esq.  Assistant General Counsel  150 West State Street  Trenton, NJ 08608  <a href="mailto:cynthia.holland@exeloncorp.com">cynthia.holland@exeloncorp.com</a></p> <p><b><u>Board of Public Utilities</u></b>  44 South Clinton Avenue, 1<sup>st</sup> Floor  Post Office Box 350  Trenton, NJ 08625-0350</p> <p>Carmen Diaz, Acting Secretary  <a href="mailto:board.secretary@bpu.nj.gov">board.secretary@bpu.nj.gov</a></p> <p>Stacy Peterson, Deputy Executive Director  <a href="mailto:stacy.peterson@bpu.nj.gov">stacy.peterson@bpu.nj.gov</a></p> <p>Carol Artale, Esq., Deputy General Counsel  <a href="mailto:carol.artale@bpu.nj.gov">carol.artale@bpu.nj.gov</a></p> <p>Heather Weisband, Esq., Senior Counsel  <a href="mailto:heather.weisband@bpu.nj.gov">heather.weisband@bpu.nj.gov</a></p> <p>Mike Kammer, Director, Division of Water and Energy  <a href="mailto:Mike.kammer@bpu.nj.gov">Mike.kammer@bpu.nj.gov</a></p> <p>Paul Lupo, Bureau Chief, Division of Water and Energy  <a href="mailto:paul.lupo@bpu.nj.gov">paul.lupo@bpu.nj.gov</a></p> <p>Dean Taklif, Division of Water and Energy  <a href="mailto:dean.taklif@bpu.nj.gov">dean.taklif@bpu.nj.gov</a></p> <p>Christopher Oprysk, Division of Water and Energy  <a href="mailto:christopher.oprysk@bpu.nj.gov">christopher.oprysk@bpu.nj.gov</a></p> <p>Sri Medicherla, Division of Water and Energy  <a href="mailto:sri.medicherla@bpu.nj.gov">sri.medicherla@bpu.nj.gov</a></p>
--	---



**EXHIBIT A**

**In the Matter of the Petition of Cumberland County Improvement Authority for the Approval  
of the Extension of Electric Public Utility Facilities of Atlantic City Electric Company  
Pursuant to N.J.S.A. 48:2-27**

**Procedural Schedule**

**BPU Docket No. EO22020043**

Motions to Intervene/Participate	April 6, 2022
First Round Discovery Responses Submitted by ACE/CCIA	April 25, 27 and May 6, 2022
CCIA files Testimony	July 22, 2022
Second Round Discovery Requests	August 8, 2022
Second Round Discovery Answers	August 22, 2022
Discovery Conference	August 25, 2022
Motions	September 2, 2022
Replies to Motions	September 12, 2022
Settlement Conference	Week of September 12, 2022
Rate Counsel/Intervenor Testimony	September 21, 2022
Discovery on Rate Counsel/Intervenor Testimony (if necessary)	September 30, 2022
Disposition of Motions	October 3, 2022
Third Round of Discovery (if necessary)	TBD
Third Round Discovery Answers (if necessary)	TBD
Responses to Discovery on Rate Counsel/Intervenor Testimony	October 14, 2022
Rebuttal Testimony	October 26, 2022
Discovery on Rebuttal Testimony	November 4, 2022
Responses to Discovery on Rebuttal Testimony	November 15, 2022
Evidentiary Hearings++ with oral surrebuttal	Week of January 17, 2023**
Initial and Reply Briefs	TBD by Commissioner Gordon after evidentiary hearings
Public Hearing (Should be conducted when appropriate)	TBD

+ Petitioner agrees that discovery is ongoing and will endeavor to answer all discovery within 15 days of service or earlier if possible.<sup>4</sup>

++Subject to Commissioner Gordon's availability.

\*\* Subject to confirmation of witness availability.

<sup>4</sup> Petitioner prefers that there is an affirmative date to end discovery on the petition which should be closed before the date of the settlement conference in September. Petitioner agrees that further discovery may be necessary on testimony following the settlement conference.