



State of New Jersey
DIVISION OF RATE COUNSEL
140 EAST FRONT STREET, 4TH FL
P.O. Box 003
TRENTON, NEW JERSEY 08625

PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

BRIAN O. LIPMAN
Director

September 14, 2022

Via Electronic Mail

Hon. Commissioner Robert Gordon
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

**Re: I/M/O 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**

Dear Commissioner Gordon:

We write on behalf of the New Jersey Division of Rate Counsel (“Rate Counsel”), in response to the email to the Commissioner submitted by counsel for the Petitioner on September 9, Cumberland County Improvement Authority (“CCIA”), and the letter submitted by counsel for Atlantic City Electric Company (“ACE”) on September 12, in the above-captioned matter. Consistent with the March 19, 2020 Order of the New Jersey Board of Public Utilities (“Board”) in I/M/O 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, copies of this letter are being filed with the Secretary of the Board and provided electronically to each person on the service list by electronic mail only. No paper copies will follow. **Please acknowledge receipt of this letter.** Thank you.

Tel: (609) 984-1460 • Fax: (609) 292-2923 • Fax: (609) 292-4991
<http://www.nj.gov/rpa> E-Mail: njratepayer@rpa.nj.gov

Rate Counsel objects to the above-referenced email from counsel for CCIA as improper, and asks that it be stricken from the record. Similar to its June 9, 2022 submission, CCIA has again included unsolicited written argument to the Commissioner which is unfairly prejudicial to ratepayers, and adds continued confusion to this proceeding. The arguments advanced by CCIA do not appear to have any merit or are entirely unsupported by credible evidence. Accordingly, due to both its impropriety and its lack of foundation and merit, Rate Counsel respectfully requests that CCIA's September 9 email submitting written argument to Your Honor be stricken from the record.

Response to CCIA September 9 Email

CCIA makes a vague argument that “[t]here is no question that Cumberland County requires BPU approval to direct the investment in electric utility infrastructure for the projects identified in the amended petition in order to provide immediate and long term economic growth in the county. And there is no question that BPU has the Jurisdiction and Authority to approve this Petition.” Given that the parties were only instructed to submit a procedural schedule, both arguments are wholly unnecessary and inappropriate attempts to sway the Commissioner's opinion. Indeed, to date, CCIA has failed to answer any of the discovery questions propounded by Rate Counsel regarding the facts required by N.J.S.A. 48:2-27 – the statute that governs Board review of its Petition and Amended Petition. Likewise, CCIA's Amended Petition has not provided a factual basis for the Board's review. CCIA counsel's bald assertions about the alleged merits of its Amended Petition are completely unsupported and it is inappropriate for counsel to have included them in its submission to the Commissioner about scheduling.

Further, despite CCIA's claim that it acted in good faith and used best efforts to agree with the parties upon a schedule, CCIA requests changes in both ACE's and Rate Counsel's proposed procedural schedules which were never raised with Rate Counsel. Specifically, CCIA asks for a discovery conference. Rate Counsel would not object to a discovery conference date. However, for any discovery conference to be fruitful, Rate Counsel must be in receipt of CCIA's discovery responses well before the conference date.

CCIA also requests that the scope of discovery should be limited to the nine projects listed in the Amended Petition. Rate Counsel strenuously objects to this request as inappropriate and contrary to the basic rules of evidence and the regulations governing contested cases. The Uniform Administrative Procedure rules governing discovery state their purpose clearly:

The purpose of discovery is to facilitate the disposition of cases by streamlining the hearing and enhancing the likelihood of settlement or withdrawal. These rules are designed to achieve this purpose by giving litigants access to facts which tend to support or undermine their position or that of their adversary.

N.J.A.C. 1:1-10.1(a).

CCIA's request to limit the scope of discovery will undermine the purpose of discovery.

The Uniform Administrative Procedure discovery rules are also very clear about the broad scope of allowable discovery:

It is not ground for denial of a request for discovery that the information to be produced may be inadmissible in evidence if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

N.J.A.C. 1:1-10.1(b) (emphasis added).

CCIA's request to limit the scope of discovery is contrary to the discovery rules and may not be granted.

CCIA also requests that “any issues with the scope of discovery on the amended petition,” be resolved over a conference call rather than over a series of emails and motions. This too is contrary to the discovery rules. Rate Counsel reserves the right to use each method it deems most efficient to obtain admissible evidence and facilitate disposition of this matter.

Finally, CCIA requests a date for “a settlement conference which should occur after all testimony is submitted.” Rate Counsel does not object to a settlement conference date, to the extent it is necessary, but wishes to clarify that any settlement would be considered by the Board as a whole and not only by the Commissioner serving as the Presiding Officer. Moreover, it must be clear that discovery issues are resolved before there can be any settlement discussions in this matter.

Reply to ACE September 12, 2022 Letter

Regarding ACE’s September 12th letter to the Commissioner, Rate Counsel believes ACE’s arguments are without merit and display a fundamental misunderstanding of its status in this case, the statute governing this matter, and the rules of discovery. As an intervenor, ACE is not requesting any relief in this case. However, ACE appears to believe it is the petitioner or somehow aligned with the petitioner in its request for relief. This is not correct. First, CCIA and not ACE is the petitioner, and the burden of proving entitlement to the relief requested under N.J.S.A. 48:2-27 is upon CCIA, not ACE. Second, Rate Counsel’s discovery questions regarding ACE’s service and finances were directly related to CCIA’s multiple assertions that ACE fails to provide “safe, adequate and proper” service. See, CCIA February 4, 2022 Petition at Paragraph 8 (“the current electric infrastructure in the County is insufficient to power the large-scale manufacturing, educational labs, solar generation projects, and overall stifles

investment and development in the County. . .”); Paragraph 9 (ACE’s map demonstrates “the clear and general need for electric infrastructure investment in the County and the disparity in service between Cumberland County and neighboring surrounding counties.”); Paragraph 11 (“The County, in this petition, has identified examples of specific development projects that are currently incapable of being immediately interconnected due to the current deficiency in electric service capacity on the ACE system.”); Paragraph 12 (“In particular, CCIA sees the need to construct the electric utility infrastructure necessary to provide safe, proper, and adequate electricity in these identified Redevelopment Areas . . . Without the electric utility infrastructure expansion or extension, economic development in the County is stymied until the system can accommodate the necessary load demands for the development.”); Paragraph 15 (“Despite the best efforts and good faith from ACE, the County simply does not currently have the electric utility infrastructure required to develop the pending proposed projects or the significant redevelopment generally identified in the Redevelopment Areas.”); Paragraph 20 (“the following descriptions of specific projects hindered by the currently limited electric capacity”); Paragraph 25 (“the developers and the County are limited, and currently unable to move forward on many of these projects due to inadequate electric utility infrastructure.”) (emphases added).

Rate Counsel needs to understand the factual basis for these allegations, and whether the circumstances have changed despite CCIA’s revising these allegations from its Amended

Petition.¹ In its discovery responses, CCIA repeatedly stated that ACE is the entity “best suited” to provide the requested facts.²

The discovery questions propounded by Rate Counsel on CCIA and ACE inquire into the facts required by N.J.S.A. 48:2-27, the statute governing Board review of this matter:

1. the extension is reasonable and practicable;
2. the extension will furnish sufficient business to justify the construction and maintenance of the same; and
3. the financial condition of the public utility reasonably warrants the original expenditure required in making and operating the extension.

To date, neither CCIA nor ACE has responded to any of Rate Counsel’s discovery questions on these facts. This failure to respond is quite remarkable in light of CCIA’s representation, in the Triad Report and the Amended Petition that they have discussed with ACE extending utility service to these specific projects for the past two years. As explained in our September 9, 2022 letter, ACE’s refusal to answer discovery on the basis that answers will be provided in its pre-filed testimony – which it proposes to file simultaneously with Rate Counsel – necessitates Rate Counsel’s request that ACE’s testimony precede Rate Counsel’s. Rate Counsel cannot prepare testimony on the Amended Petition until ACE (and CCIA) provides its testimony and responds to all of Rate Counsel’s discovery. But for ACE’s refusal to answer discovery, Rate Counsel would not have proposed different dates for intervenor testimony.

The discovery rules make clear that a discovery request not be denied except under certain specific circumstances. See N.J.A.C. 1:1-10.2(a)2; N.J.A.C. 1:1-10.1(c). ACE has not

¹ The Amended Petition states that utility improvements are needed to meet “imminent demand” but that ACE lack’s “backbone infrastructure” and “electric utility infrastructure investments that necessary and are, in fact, prerequisite for current needs.” Amended Petition at ¶¶ 5; 6; 38.

² See CCIA responses to RCR-1 through RCR-14 attached hereto as Exhibit A.

shown an inability to respond to Rate Counsel's discovery questions due to undue burden, cost or inaccessibility. Instead, ACE refused to answer Rate Counsel's discovery questions³ merely because it prefers to respond at a later, more convenient date. This conduct is clearly contrary to the rules of discovery, as ACE has shown no valid basis for refusing to respond. ACE's finances and its ability to afford the investments requested by CCIA are essential statutory elements of the Amended Petition. ACE's refusal to respond is especially egregious in light of CCIA's representations in the Triad Report and the Amended Petition that ACE prepared the plans requested by Rate Counsel and that CCIA and ACE have discussed these same service extension requests for two years and exchanged memoranda on them. Triad Report, pp. 2-3. Accordingly, Rate Counsel proposed a procedural schedule that affords Rate Counsel the opportunity to understand the facts in this matter before Rate Counsel files its testimony.

As far as opportunity for rebuttal, ACE is placed in the same position as Rate Counsel and any other intervenor in any other case with the opportunity for oral surrebuttal at the evidentiary hearings.

³ See ACE's responses to RCR-A-7, RCR-A-8, RCR-ACE-26 and RCR-ACE-28, attached hereto as Exhibit B, and Rate Counsel's September 2 letter objecting to same, attached hereto as Exhibit C. CCIA's decision to file an Amended Petition rendered moot the need for a motion to compel ACE's responses to Rate Counsel's discovery questions.

Honorable Commissioner Robert Gordon
New Jersey Board of Public Utilities
September 14, 2022
Page 8

Conclusion

Rate Counsel respectfully requests that CCIA's email to Your Honor be stricken from the record, that ACE's arguments be dismissed as without merit, and that the procedural schedule proposed by Rate Counsel be approved, or in the alternative, we request that the Commissioner order a procedural schedule that addresses the concerns expressed above.

Respectfully submitted,

BRIAN O. LIPMAN
DIRECTOR, DIVISION OF RATE COUNSEL

By: /s/ *David Wand*
T. David Wand, Esq.
Deputy Rate Counsel

cc: Service List

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

RCR-1. Please indicate if the Improvement Authority has identified all the feeders that would be subject to the requested extensions. If so, please identify the feeders. If not, please explain why not.

Response:

The Improvement Authority is not privy to all of the information on Atlantic City Electric's utility infrastructure in the County necessary to fully respond to this question. It believes that the entity best suited to identify all the feeders that would be subject to the requested extensions would be Atlantic City Electric, which is now party to this petition. The Improvement Authority has had numerous informal communications with Atlantic City Electric regarding the utility infrastructure throughout the County and specifically in the Redevelopment Areas identified in the Petition, which would impact certain feeders in the service area of Atlantic City Electric.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

RCR-2. Please indicate if the Improvement Authority has quantified the feeder capacity for each of the identified feeders. If so, please provide a copy of the analysis. If not, please explain why not

Response:

The Improvement Authority is not privy to all of the information on Atlantic City Electric's utility infrastructure in the County necessary to fully respond to this question. It believes that the entity best suited to identify all the feeders that would be subject to the requested extensions would be Atlantic City Electric, which is now party to this petition. The Improvement Authority has had numerous informal communications with Atlantic City Electric regarding the utility infrastructure throughout the County and specifically in the Redevelopment Areas identified in the Petition which would impact certain feeders in the service area of Atlantic City Electric.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

RCR-3. Please provide a list of each project identified by the Improvement Authority that would benefit from the requested extensions.

Response

The Improvement Authority has entered into numerous discussions with the municipalities in the County as well as private developers that have expressed interest in new projects in the County contingent upon the existence of sufficient utility infrastructure. These projects were previously described in Exhibit D to the Petition. However, this list is not meant to be exhaustive of all of the opportunities that could be generated by the improvements requested in the Petition. The County and the Improvement Authority expect numerous additional projects, as well as additional private development, once the requested infrastructure was put in place. The Improvement Authority presented the petition with specific areas of development in mind based upon discussions with municipalities and developers and through the use of the redevelopment laws of the State. However, it is unlikely that any of these projects are able to move forward absent the requested improvements.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

RCR-4. For each listed project, please provide the associated project cost.

Response

Many of the projects described in the Petition and herein are in early phases of development. The size and scope of the projects are largely dependent upon the availability of the necessary infrastructure to operate properly. The further development and design of these projects is contingent upon the outcome of this petition. Absent confirmation of a commitment to the improvements sought by the Petition, it is possible that a number of these projects will not move forward at all. That said, the Improvement Authority anticipates that generally costs for construction are approximately \$200 per square foot, though that number will change dependent upon the type of construction.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

RCR-5. For each listed project, please provide a summary of the status of required permits for construction.

Response

Many of the projects described in the Petition and herein are in early phases of development. The size and scope of the projects are largely dependent upon the availability of the necessary infrastructure to operate properly. The further development and design of these projects is contingent upon the outcome of this petition. Absent confirmation of a commitment to the improvements sought by the Petition, it is possible that a number of these projects will not move forward at all. As such, permits for these projects are currently in an early stage. While certain permits have been filed to date, many will require significant modifications depending upon when the projects are able to move forward based upon available infrastructure resources.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

- RCR-6. Please indicate if the Improvement Authority has conducted an analysis of ACE's capital cost associated with the requested extensions. If so, please provide ACE's required capital costs by project. If not, please explain why not.

Response

The Improvement Authority is not privy to all of the information on Atlantic City Electric's utility infrastructure in the County necessary to fully respond to this question. It believes that the entity best suited to conduct an analysis of the capital costs associated with the requested extensions would be Atlantic City Electric, which is now party to this petition. The Improvement Authority has had numerous informal communications with Atlantic City Electric regarding the utility infrastructure throughout the County and specifically in the Redevelopment Areas identified in the Petition and, to the best of the Improvement Authority's knowledge, such analysis has not been conducted at this point and thus the Improvement Authority has not had a chance to review or discuss the findings. Ultimately the authority rests with the Board of Public Utilities to direct investment related to the required improvements.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

- RCR-7. Please indicate if the Improvement Authority has conducted a rate and bill impact analysis of the cost of the requested extensions, if granted. If so, please provide the rate and bill impact analysis. If not, please explain why not.

Response

The Improvement Authority is not privy to all of the information on Atlantic City Electric's utility infrastructure in the County necessary to fully respond to this question. It believes that the entity best suited to conduct an analysis of the rate and bill impact on ratepayers would be Atlantic City Electric, which is now party to this petition. The Improvement Authority has had numerous informal communications with Atlantic City Electric regarding the utility infrastructure throughout the County and specifically in the Redevelopment Areas identified in the Petition and, to the best of the Improvement Authority's knowledge, such analysis has not been conducted at this point and thus the Improvement Authority has not had a chance to review or discuss the findings. Ultimately the authority rests with the Board of Public Utilities to direct investment related to the required improvements.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

RCR-8. With reference to CCIA Petition- Exhibit D at page 5, please identify if any of the projects listed in the table required an extension ordered by the Board. If so, please provide the associated Board Order.

Response

The Improvement Authority is not aware of any Board Order requiring an extension for any of the project listed on Exhibit D, at page 5.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

RCR-9. With reference to CCIA Petition- Exhibit D at page 5, please indicate if any of the listed projects required modification due to ACE's inability to provide adequate service. If so, please identify the project and describe the issues encountered with ACE.

Response

Many of the projects described in the Petition and herein are in early phases of development. The size and scope of the projects are largely dependent upon the availability of the necessary infrastructure to operate properly. The further development and design of these projects is contingent upon the outcome of this petition. Modifications to the originally anticipated scope of most if not all of these projects may be necessary to the extent either no improvements are made or improvements are made but are insufficient to meet project needs. As discussed in responses above, many of these projects are entirely dependent on these improvements being made in order to proceed.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

RCR-10. With reference to the CCIA Petition at page 8, ¶ 27, please provide the interconnection status of the 90 MW of solar approved for the Deerfield Redevelopment Area.

Response

The referenced projects have received local approvals and are prepared to proceed but further progress is dependent upon confirmation that sufficient infrastructure is in place to provide the necessary power, as shall be determined by the outcome of this petition.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

- RCR-11. With reference to CCIA Petition at page 8, ¶ 27, please indicate if the Improvement Authority has identified all the feeders that would be subject to the requested extension for the 90 MW of solar. If so, please identify the feeders. If not, please explain why it has not identified these feeders.

Response

The Improvement Authority is not privy to all of the information on Atlantic City Electric's utility infrastructure in the County necessary to fully respond to this question. It believes that the entity best suited to identify all the feeders that would be subject to the requested extension for the 90MW of solar would be Atlantic City Electric, which is now party to this petition. The Improvement Authority has had numerous informal communications with Atlantic City Electric regarding this project, but at present has not been provided with the information requested here.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

- RCR-12. With reference to CCIA Petition at page 8, ¶ 27, please indicate if the Improvement Authority has identified ACE's capital costs that would be subject to the requested extension for the 90 MW of solar. If so, please identify the amount. If not, please explain why not.

Response

The Improvement Authority is not privy to all of the information on Atlantic City Electric's utility infrastructure in the County necessary to fully respond to this question. It believes that the entity best suited to conduct an analysis on the capital costs associated with the requested extension for the 90MW of solar would be Atlantic City Electric, which is now party to this petition. The Improvement Authority has had numerous informal communications with Atlantic City Electric regarding this project, but at present has not been provided with the information requested here. Ultimately the authority rests with the Board of Public Utilities to direct investment related to the required improvements.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

- RCR-13. With reference to CCIA Petition at page 8, ¶ 27, please indicate if the Improvement Authority has conducted a rate and bill impact analysis of the cost of the requested extensions for the 90 MW of solar approved for the Deerfield Redevelopment Area. If so, please provide the rate and bill impact analysis. If not, please explain why not.

Response

The Improvement Authority is not privy to all of the information on Atlantic City Electric's utility infrastructure in the County necessary to fully respond to this question. It believes that the entity best suited to conduct an analysis on the rate and bill impact associated with the requested extension for the 90MW of solar would be Atlantic City Electric, which is now party to this petition. The Improvement Authority has had numerous informal communications with Atlantic City Electric regarding this project, all of which have included discussions on payment of costs associated with interconnection and infrastructure by applicable developers. However, at present, the Improvement Authority has not been provided with the information requested here. Ultimately the authority rests with the Board of Public Utilities to direct investment related to the required improvements.

**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

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

4/25/2022

- RCR-14. With reference to CCIA Petition at page 9, ¶ 34, please explain the Improvement Authority's statement that ACE's proposed infrastructure investments "will be recouped from the business received" from those investments. Please provide any calculations, including assumptions, projections and worksheets. If these calculations have not been performed, please explain why not.

Response

The Improvement Authority is committed to the development of Cumberland County and believes that infrastructure improvements would allow for new residential and economic growth. The costs of these improvements would be recouped from developer participation and sharing of infrastructure costs for their respective projects as well as from the economic growth of the County as a whole. As discussed and described above, many current and future projects are still in the preliminary design and planning phases and, as such, exact calculations on cost and payments are premature. However, absent these improvements, many of the projects would not be able to move forward at all and economic growth in Cumberland County would stagnate. As such, the Improvement Authority believes that it is in the best interest of the economic development of Cumberland County to submit the Petition with these proposed projects to demonstrate the need for modernized infrastructure. Once such improvements are approved, the Improvement Authority, working together with Atlantic City Electric, will be in a position to make the calculations regarding the expenses and costs associated therewith.

224067999v2

EXHIBIT B

**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
08/22/22

Question No.: RCR-ACE-A-7

Please describe ACE's ability to finance the electric expansion projects outlined in the Triad Report without jeopardizing the Company's public service obligation to provide safe, adequate, and reliable service to all customers.

RESPONSE:

ACE objects to the question as inappropriate for discovery. The parties have agreed to a procedural schedule wherein ACE has been afforded the opportunity to submit testimony describing such. ACE has indicated that it would put forward approximately four witnesses to address the statutory elements, including its ability to finance such expansions.

Witness: N/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**

BPU Docket No. EO22020043
08/22/22

Question No.: RCR-ACE-A-8

Please state whether ACE's financing, constructing, and operating the electric expansion projects outlined in the Triad Report will have a negative impact on the Company's rates for any of its customer classes.

RESPONSE:

See Response to RCR-ACE-A-7.

Witness: N/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**

BPU Docket No. EO22020043
08/22/22

Question No.: RCR-ACE-26

Please refer to page 5 of 10 of the Triad Report. Please provide a copy of the conceptual plan to build out transmission and distribution infrastructure in the Millville Redevelopment Area. Please indicate if ACE has conducted other studies to build out electric infrastructure in the Millville Redevelopment Area. If so, please provide a copy of the other studies. If not, please explain why not.

RESPONSE:

The transmission and distribution infrastructures and associated costs and timelines are considered conceptual as feasibility and engineering reviews have not been performed. The parties have agreed to a procedural schedule wherein ACE will be providing testimony regarding our electric infrastructure in the Millville Redevelopment Area.

Witness: N/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**

BPU Docket No. EO22020043
08/22/22

Question No.: RCR-ACE-28

Please refer to pages 5-6 of 10 of the Triad Report. Please provide a copy of the conceptual plan to build out transmission and distribution infrastructure in the Upper Deerfield/ Deerfield Redevelopment Area. Please indicate if ACE has conducted other studies to build out electric infrastructure in the Millville Redevelopment Area. If so, please provide a copy of other studies. If not, please explain why not.

RESPONSE:

The transmission and distribution infrastructures and associated costs and timelines are considered conceptual as feasibility and engineering reviews have not been performed. The parties have agreed to a procedural schedule wherein ACE will be providing future testimony regarding our electric infrastructure in the Upper Deerfield/Deerfield Redevelopment Area.

Witness: N/A



State of New Jersey
 DIVISION OF RATE COUNSEL
 140 EAST FRONT STREET, 4TH FL.
 P.O. Box 003
 TRENTON, NEW JERSEY 08625

PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

BRIAN O. LIPMAN
Director

September 2, 2022

Via Electronic Mail

Cynthia L. M. Holland, Esq.
 Assistant General Counsel
 Atlantic City Electric Company
 150 West State Street
 Trenton, NJ 08608
cynthia.holland@exeloncorp.com

**Re: 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**

Dear Ms. Holland:

We write in regards to Atlantic City Electric Company's responses to the Division of Rate Counsel's discovery requests **RCR-A-7, RCR-A-8, RCR-ACE-26 and RCR-ACE-28** in the above-referenced matter.

The Company's objections asserted to these questions are inappropriate. The subject matter of the questions, including ACE's finances and electric infrastructure in Cumberland County, is clearly material, indeed central to this matter. Please reference the statute governing this petition, N.J.S.A. 48:2-27, as well as ACE's representations to the Board in support of its motion to intervene in this matter. The timing of the discovery questions also provides no grounds for objection, as it is entirely consistent with the procedural schedule in this matter at the time they were served and answered.

Nevertheless, Rate Counsel will refrain from pursuing the matter further at this time, pending resolution of the future amended procedural schedule. That said, Rate Counsel retains its rights to pursue any and all available remedies, in law or equity, at the appropriate time.

Cynthia L. M. Holland, Esq.

September 2, 2022

Page 2

Should you have any questions regarding the above, or if the Company prefers to address this discovery issue differently, please communicate same to me promptly at bweeks@rpa.nj.gov.

Very truly yours,

BRIAN O. LIPMAN, DIRECTOR
DIVISION OF RATE COUNSEL

By: /s/ *Brian Weeks*

Brian Weeks, Esq.

Deputy Rate Counsel

cc: Service List (via electronic mail)

**I/M/O the Petition of Cumberland
County Improvement Authority
for the Approval of Extension of
Electric Public Utility Facilities of
Atlantic City Electric Company
BPU Docket No. EO22020043**

SERVICE LIST

Carmen Diaz, Acting Secretary
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
board.secretary@bpu.nj.gov

Robert Brabston, Esq.
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
robert.brabston@bpu.nj.gov

Carol Artale, Esq.
Board of Public Utilities
44 South. Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
Carol.Artale@bpu.nj.gov

Stacy Peterson
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
stacy.peterson@bpu.nj.gov

Heather Weisband, Esq.
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
heather.weisband@bpu.nj.gov

Michael Kammer
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
mike.kammer@bpu.nj.gov

Paul Lupo
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
paul.lupo@bpu.nj.gov

Christopher Oprysk
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
Christopher.Oprysk@bpu.nj.gov

Sri Medicherla
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
sri.medicherla@bpu.nj.gov

Dean Taklif
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
Christopher.Oprysk@bpu.nj.gov

Frank Gaffney
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625
Francis.Gaffney@bpu.nj.gov

Pamela Owen, DAG
Department of Law & Public Safety
Division of Law
R.J. Hughes Justice Complex
25 Market Street P.O. Box 112
Trenton, N.J. 08625
pamela.owen@law.njoag.gov

Brandon Simmons, DAG
Department of Law & Public Safety
Division of Law
R.J. Hughes Justice Complex
25 Market Street P.O. Box 112
Trenton, N.J. 08625
Brandon.Simmons@law.njoag.gov

Steven Chaplar, DAG
Department of Law & Public Safety
Division of Law
R.J. Hughes Justice Complex
25 Market Street P.O. Box 112
Trenton, N.J. 08625
Steven.Chaplar@law.njoag.gov

Matko Ilic, DAG
Department of Law & Public Safety
Division of Law
R.J. Hughes Justice Complex
25 Market Street P.O. Box 112
Trenton, N.J. 08625
matko.ilic@law.njoag.gov

Daren Eppley, DAG
Department of Law & Public Safety
Division of Law
R.J. Hughes Justice Complex
25 Market Street P.O. Box 112
Trenton, N.J. 08625
Daren.Eppley@law.njoag.gov

Brian O. Lipman, Director
Division of Rate Counsel
140 E. Front Street 4th Floor
P.O. Box 003
Trenton, NJ 08625
blipman@rpa.nj.gov

T. David Wand, Esq.
Division of Rate Counsel
140 E. Front Street 4th Floor
P.O. Box 003
Trenton, NJ 08625
dwand@rpa.nj.gov

Bethany Rocque-Romaine, Esq.
Division of Rate Counsel
140 E. Front Street 4th Floor
P.O. Box 003
Trenton, NJ 08625
bromaine@rpa.nj.gov

Brian Weeks, Esq.
Division of Rate Counsel
140 E. Front Street 4th Floor
P.O. Box 003
Trenton, NJ 08625
bweeks@rpa.nj.gov

Debora Layugan
Division of Rate Counsel
140 E. Front Street 4th Floor
P.O. Box 003
Trenton, NJ 08625
dlayugan@rpa.nj.gov

Max Chang
Synapse Energy Economics, Inc.
485 Massachusetts Ave., Suite 2
Cambridge, MA 02139
mchang@synapse-energy.com

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

Gerard Velazquez, III
Cumberland County Improvement
Authority
745 Lebanon Road
Millville, NJ 08332
jvelazquez@theauthoritynj.com

Christopher Gibson
Archer & Greiner, P.C.
1025 Laurel Oak Road
Voorhees, NJ 08043
cgibson@archerlaw.com

James A. Boyd, Esq.
Archer & Greiner, P.C.
1025 Laurel Oak Road
Voorhees, NJ 08043
jaboyn@archerlaw.com

David Weinstein, Esq.
Archer & Greiner, P.C.
1025 Laurel Oak Road
Voorhees, NJ 08043
dweinstein@archerlaw.com

Cynthia L.M. Holland, Esq.
Atlantic City Electric Co.
150 West State Street
Trenton, NJ 08608
Cynthia.Holland@exeloncorp.com

Heather Hall, Manager
Atlantic City Electric Co.
92DC56
500 N. Wakefield Drive
P.O. Box 6066
Newark, DE 19714
heather.hall@pepcoholdings.com

Marisa Slaten, Esq.
Atlantic City Electric Co.
92DC56
500 N. Wakefield Drive
P.O. Box 6066
Newark, DE 19714
marisa.slaten@exeloncorp.com

Philip Passanante, Esq.
Atlantic City Electric Co.
92DC56
500 N. Wakefield Drive
P.O. Box 6066
Newark, DE 19714
philip.passanante@pepcoholdings.com

Diana C. DeAngelis
Atlantic City Electric Co.
92DC42
500 N. Wakefield drive
P.O. Box 6066
Newark, DE 19714
diana.deangelis@pepcoholdings.com