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Director

January 13, 2023

VIA ELECTRONIC MAIL ONLY

Hon. Carmen D. Diaz, Acting Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350
Board.secretary@bpu.nj.gov

Re: **In the Matter of the Petition of Atlantic City Electric Company for Approval
of a Zero Emission Certificate Recovery Charge (10/22)**
BPU Docket No.: EO221000656

Dear Secretary Diaz:

Please accept for filing these comments on behalf of the Division of Rate Counsel ("Rate Counsel") to the following Atlantic City Electric Company ("ACE" or "company") petition referenced above.

As directed by the Board's Order in Docket No. EO20030254, dated March 19, 2020, Rate Counsel hereby submits this filing via email only to the Board Secretary and service list. **Please acknowledge receipt of these comments.** Thank you for your consideration and attention to this matter.

In May 2018 the State of New Jersey established the Zero Emissions Certificate ("ZEC") Program and ordered the Board of Public Utilities ("Board" or "BPU") to create a mechanism for

the issuance of ZECs, which represent “the fuel diversity, air quality and other environmental attributes” of one megawatt-hour of nuclear generation, N.J.S.A. 48:3-87.4, and to create a Zero Emissions Certificate Recovery Charge (“ZEC Charge”). In the enabling legislation New Jersey also directed the State-regulated electric distribution companies (“EDCs”) to return excess monies collected in each EDC’s separate ZECRC interest-bearing account to its retail distribution customers at the end of each energy year. N.J.S.A. 48:3-87.5 3(j) (2).

On October 19, 2022, ACE filed a letter petition seeking to set its ZEC Reconciliation Charge rate (“ZECRC”) to zero as of February 1, 2023 in order to prevent a future potential under-collection.

The response to discovery request RCR-1, which ACE provided by letter dated January 5, 2023, indicates a revised ZECRC over-collected balance of \$37,927, equivalent to a ZECRC credit rate of (\$0.000004) when calculated based on actual data through November 2022. RCR-1, Attachment A, p.1.

The Company is also proposing that the Board allow this and future ZEC Reconciliation Charge Rate filings to be handled similar to BGS reconciliation filings each year through 30-day-notice compliance filings with provisional rates subject to additional examination by the Board. ACE Petition, Page .2.

Two Virtual Public Hearings were held on January 10, 2023 at 4:30 and 5:30 PM. No members of the public appeared to comment.

Rate Counsel has reviewed the petition and discovery responses for this matter and based on the facts and discovery responses specific to this petition does not object to ACE's request to set its ZECRC rate to be effective for Energy Year 2023 at \$0.000000. In addition, Rate Counsel does not disagree with the data in support of the originally calculated ZECRC over-collected balance of \$24,288 (with an associated ZECRC credit rate of \$0.000003) or the updated ZECRC over-collected balance of \$37,927 (with an associated ZECRC credit rate of \$0.000004).

However, in regard to ACE's request to allow future filings to be handled similarly to BGS reconciliation filings each year through a 30-day notice with provisional rates subject to additional examination by the Board, it is unclear to Rate Counsel how the Company's proposed compliance filing with a thirty-day notice would satisfy the Board's statutory public hearing notice requirements if the proposed adjusted rate would lead to an increase in rates. Id. p.2.

Further, Rate Counsel notes that ACE made this same request in its prior October 2021 RECCR filing, but the Board declined to rule on that request on page 3 of its April 6, 2022 Order where it stated: "The Board declines at this time to predetermine that ACE's future RECCR adjustment filings will not require, or will not otherwise justify according to the Board's discretion, the holding of public hearings."¹ Rate Counsel is unaware of any additional information in the record which would justify a change in the Board's prior decision on this issue.

¹ In the Matter of the Implementation of L. 2018, c. 16 Regarding the Establishment of a Zero Emission Certificate Program for Eligible Nuclear Power Plants, Dkt. EO18080899; and In the Matter of the Petition of Atlantic City Electric Company for Approval of a Change to its Zero Emission Certificate Recovery Charge (10/2021), Dkt. EO2110119, Order dated April 6, 2022, p. 3.

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In addition, it is unclear to Rate Counsel how a compliance filing with a thirty-day notice would satisfy the Board's statutory public hearing notice requirements if the proposed adjusted rate would lead to an increase in rates.

Respectfully submitted,

BRIAN O. LIPMAN, DIRECTOR
DIVISION OF RATE COUNSEL

By: /s/ Bethany Rocque-Romaine
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Assistant Deputy Rate Counsel

**I/M/O the Petition of Atlantic
City Electric Company for
Approval of a Change to its
Zero Emission Certificate
Recovery (10/22)**

BPU Docket No. ER22100656

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