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Director

December 14, 2023

Via Electronic Mail

Sherri L. Golden, Board Secretary
NJ Board of Public Utilities
44 South Clinton Avenue, 1st Floor
P.O. Box 350
Trenton, NJ 08625

Re: Rate Counsel's Response to Motions

**In the Matter of the Petition of Rockland Electric Company for
Approval of its Energy Efficiency and Peak Demand Reduction
Programs
BPU Docket No.QO23120875**

Dear Secretary Golden:

Please accept for filing this response on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") to the following motions filed in the above-referenced matter: (1) Joint Motion to Participate dated December 7, 2023 filed on behalf of Atlantic City Electric Company, Jersey Central Power and Light Company, New Jersey Natural Gas Company, Rockland Electric Company, South Jersey Gas Company, and Elizabethtown Gas Company ("Joint Utilities"); (2) Motion to Intervene dated December 8, 2023 filed on behalf of the Energy Efficiency Alliance of New Jersey ("EEA-NJ"); (3) Motion to Intervene dated December 8, 2023 filed on behalf of Enerwise Global Technologies, Inc. d/b/a CPower ("CPower").

DISCUSSION

On December 1, 2023, Rockland Electric Company (“RECO” or “Company”) filed the above-referenced petition with the Board of Public Utilities (“BPU” or “Board”) concerning the Company’s Energy Efficiency and Peak Demand Reduction Programs which includes energy efficiency, demand response, and building decarbonization programs for its residential and commercial customers. The Company is seeking approval to invest \$54.9 million over a 2.5-year period commencing January 1, 2025 in order to implement its energy efficiency programs. Rate Counsel’s responses to these motions are as follows.

Joint Utilities Motion to Participate

The Joint Utilities state that each member of the Joint Utilities is a New Jersey public utility as defined by N.J.S.A. 48:2-13.¹ The Joint Utilities are engaged in the purchase, distribution, and sale of electric energy and/or natural gas utilities services for the majority of residents located within the State of New Jersey.² The Joint Utilities state that they have a substantial interest as the issues addressed in this energy efficiency proceeding may directly and specifically impact the Joint Utilities by establishing precedent.³ The Joint Utilities also state that their customers, territories, and operations are distinct from parties in this proceeding and therefore no other party or participant will represent the interests of the Joint Utilities.⁴ Rate Counsel has no objection to the Joint Utilities’ participation.

EEA-NJ Motion to Intervene

EEA-NJ states that it is a 501(c)(6) trade association that, together with its sister organization the Keystone Energy Efficiency Alliance (“KEEA”), represents over 60 business

¹ Joint Utilities Motion p.4, para. 1.

² Id. at para. 2.

³ Joint Utilities, Motion p. 5 para. 4.

⁴ Joint Utilities, Motion p. 6 para. 5.

members that manufacture, design, and implement energy efficiency improvements in buildings across Pennsylvania and New Jersey on behalf of regulated utilities, the state, and ratepayers.⁵ EEA-NJ also states that its business members have a direct and substantial financial interest in this proceeding as the continuation and growth of their business is closely tied to the successful implementation of the Company's Energy Efficiency Plan, therefore, the Board's approval of the program will have a direct and substantial impact on EEA-NJ.⁶ EEA-NJ further states that its perspective and expertise in energy efficiency will add measurably to the proceeding and not cause any confusion or undue delay.⁷

Under the Uniform Administrative Procedure Rules, N.J.A.C 1:1-1 et seq., a party may move to intervene only if it has a statutory right to intervene, or "will be substantially, specifically and directly affected by the outcome of a contested case."⁸ Furthermore, the Board must consider the nature and extent of the moving party's interest in the outcome of the case, whether or not the moving party's interest is sufficiently different from that of any other party so as to add measurably and constructively to the case; and to avoid confusion or undue delay stemming from the movant's inclusion.⁹

EEA-NJ fails to demonstrate that it is entitled to intervenor status in this proceeding. EEA-NJ does not claim a statutory right to intervene. While EEA-NJ has a potential economic interest in the successful implementation of the Company's Energy Efficiency Plan, it does not assert a legally protected right under N.J.S.A. Title 48 to receive work from RECO. Indeed, RECO could receive approval of its program and chose not to utilize the services of any EEA-NJ member. The potential for a possible economic benefit does not provide a specific legally

⁵ EEA-NJ Motion para. 1.

⁶ Id. at para. 12.

⁷ Id. at para. 13.

⁸ N.J.A.C. 1:1-16.1(a).

⁹ N.J.A.C. 1:1-16.3(a).

protected right allowing for intervention. However, Rate Counsel does not object to the granting of participant status to EEA-NJ, should the Board consider participant status instead of EEA-NJ's requested intervention.

CPower's Motion to Intervene

CPower states it is the largest Virtual Power Plant provider in the United States.¹⁰

CPower also states that within New Jersey, it serves the PJM Interconnection by selling their available capacity to help PJM meet its forecasted load needed to ensure reliability in delivery each year.¹¹ CPower sets forth that it is active in the wholesale markets by participating in the ISO/RTO capacity, energy and ancillary service markets and is also active in the retail markets by participating in the utility demand side flexibility programs.

CPower fails to demonstrate that it is entitled to intervenor status. CPower does not claim a statutory right to intervene. While Rate Counsel acknowledges the value of a coordinated and consistent wholesale market, CPower does not assert a legally protected right under N.J.S.A. Title 48 since its interests are primarily to gain business in the state. However, Rate Counsel does not object to the granting of participant status to CPower, should the Board consider participant status instead of CPower's requested intervention.

¹⁰ CPower Motion para. 1.

¹¹ Id. at para . 5.

CONCLUSION

For the foregoing reasons, Rate Counsel recommends that (1) the Joint Utilities should be permitted to participate, (2) EEA-NJ should not be permitted to intervene but should be permitted to participate, (3) CPower should not be permitted to intervene but should be permitted to participate.

Thank you for your consideration and attention to this matter.

Respectfully Submitted,

Brian O. Lipman, Esq.
Director, Division of Rate Counsel

By: */s/ Maura Caroselli*
Maura Caroselli, Esq.
Deputy Rate Counsel

MC

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