



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**www.nj.gov/bpu**

ENERGY

IN THE MATTER OF THE PETITION OF )  
ATLANTIC CITY ELECTRIC COMPANY )  
FOR APPROVAL OF A CAPITAL )  
ECONOMIC STIMULUS INFRASTRUCTURE )  
INVESTMENT PROGRAM AND AN )  
ASSOCIATED COST RECOVERY )  
MECHANISM PURSUANT TO N.J.S.A. 48:2-21 )  
AND 48:21.1 )

DECISION AND ORDER

BPU DOCKET NO. ER09110924

Philip J. Passanante, Esq., Assistant General Counsel, and Nicholas W. Mattia, Jr., Esq.,  
Dickstein Shapiro LLP for the Atlantic City Electric Company

Paul Flanagan, Ami Morita, Deputy Public Advocates and James Glassen, Assistant Deputy  
Public Advocate, for the Department of the Public Advocate, Division of Rate Counsel (Ronald  
K. Chen, Public Advocate, Stefanie A. Brand, Director)

Caroline Vachier and Jessica L. Campbell, Deputy Attorneys General for the Staff of the New  
Jersey Board of Public Utilities (Anne Milgram, Attorney General of New Jersey)

Steven S. Goldenberg, Esq., Fox Rothschild LLP and Paul F. Forshay, Esq., Sutherland Asbill &  
Brennan LLP for the Intervener, New Jersey Large Energy Users Coalition

(SERVICE LIST ATTACHED)

**BY THE BOARD:**

On November 12, 2009, Atlantic City Electric Company ("ACE," "Company," or "Petitioner")  
made a filing with the New Jersey Board of Public Utilities ("Board") requesting approval for  
increases in its Infrastructure Investment Surcharge ("IIS") to be effective January 1, 2010. By  
this Decision and Order, the Board considers a stipulation ("Stipulation") entered into by ACE,  
the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), and Board  
Staff ("Staff") (collectively, the "Parties"), requesting Board approval of the increase in the IIS on

a provisional basis, subject to refund with interest as applicable to over collections as set forth in the April 28, 2009 infrastructure Order ("April Order").<sup>1</sup>

## BACKGROUND AND PROCEDURAL HISTORY

On October 16, 2008, in response to the worldwide economic downturn and seeking to mitigate its effects on New Jersey, Governor Jon Corzine announced plans to provide immediate assistance for New Jersey residents and long term economic growth options through an "Economic Stimulus Plan." Governor Corzine called on the New Jersey Board of Public Utilities ("BPU" or "Board") and the State's public utilities to aid in that plan by implementing the policy changes to be proposed in the State's Energy Master Plan ("EMP").

ACE filed a petition on January 30, 2009, requesting that the Board approve its Infrastructure Program pursuant to N.J.S.A. 48:2-21.1 et seq. and simultaneously approve the recovery of costs for projects included within its proposed Infrastructure Program through the implementation of its IIS. Subsequent to discovery and public hearings, the Company, Board Staff and Rate Counsel executed and submitted to the Board for consideration a stipulation dated April 16, 2009 ("April 16 Stipulation"), specifying the agreed-upon capital projects, their attendant costs and revenue requirements, applicable rate recovery mechanisms, anticipated job creation, and Company reporting and rate filing requirements. The intervenor, the New Jersey Large Energy Users' Coalition ("NJLEUC"), did not sign the Stipulation.

In the April Order, the Board adopted the April 16 Stipulation setting in motion sixteen specific infrastructure investment projects, totaling \$27.613 million, which are designed to create 92 direct jobs while enhancing the provision of safe, adequate and proper service in the ACE service territory through capital investment in the Company's distribution system. The April Order requires that the Company file an annual petition ("Annual Filing") to adjust its IIS rate on a calendar basis no later than November 1 of each year, which is two months prior to the January 1 proposed implementation date.

## THE COMPANY'S ANNUAL FILING

ACE states that its November 12, 2009 Annual Filing contains the information specified in the minimum filing requirements ("MFRs") set forth in Appendix D of the April 16 Stipulation as subsequently adopted by the Board in its April Order.

The rates proposed for the IIS for the period January 1, 2010 through December 31, 2010 and a true-up for 2009 are designed to recover approximately \$2.362 million. Approval of this request would result in an approximate increase of \$2.092 million annually in revenues. Based upon the Company's filing, a typical residential customer using 1000 kWh per month would see an increase in the monthly bill from \$171.39 to \$171.59 or \$0.20 or 0.11%.

As stated in its Annual Filing, ACE has provided public notice of the proposed increases, and will conduct two public hearings in its service territory on Tuesday, December 22, 2009 in Mays Landing, New Jersey at 3:30 p.m. and 5:30 p.m.

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<sup>1</sup> I/M/O the Proceeding for Infrastructure Investment and a Cost Recovery Mechanism for All Gas and Electric Utilities and I/M/O the petition of Atlantic City Electric Company for Approval of a Capital Economic Stimulus Infrastructure Investment Program and an Associated Cost Recovery mechanism pursuant to N.J.S.A. 48:2-21 and 48:21.1. BPU Dkt Nos. EO09010049, EO09010054.

## STIPULATION FOR PROVISIONAL RATES

Because the Company's Annual Filing will not be updated with actual revenues and expenses for 2009 until after the proposed effective date of January 1, 2010, and additional time is needed to complete the review of proposed rates, the Parties<sup>2</sup> entered into a Stipulation for provisional IIS rates to be implemented January 1, 2010, subject to refund with interest as defined in the April Order.

The Stipulation provides the following<sup>3</sup>:

1. The Company's IIS individual customer class tariff rates shall be provisionally set as proposed by the Company in its November 12, 2009 letter filing in connection with the above-identified dockets from the IIS rates previously approved by the Board in the 2009 Order. These individual IIS customer class rate changes are to become effective on a provisional basis, subject to refund with interest as defined in the April 2009 Order for over/under collections. The provisional rates and data on the projects and the associated investment costs included in the Annual Filing, as well as the amounts to be reflected in the deferred balance and included in the Company's next annual filing, will be subject to review by the Parties, with opportunity for discovery, and an evidentiary hearing if necessary prior to the issuance of a final Board Order. The proposed provisional rates will have an approximate 0.11% impact on an average residential customer's monthly bill. For example, a residential customer using approximately 1000 kWh will see a \$0.20 increase in such customer's monthly bill.

In accordance with the April 2009 Order, the Parties recognize that, in the context of the Company's current base rate case, the Qualifying Projects and the IIS rate for the test year will be subject to a full and thorough examination. The Parties agree that, if required, full evidentiary hearings with respect to the Qualifying Projects for the test year and related costs will take place in that base rate case proceeding. Furthermore, during a Phase II proceeding of the Company's current base rate case, the net capitalized amounts of the remaining Qualifying Projects, which are not in the test year, if after a full and thorough examination in the Phase Two proceeding are found, to be incremental, reasonable and prudent, will then be rolled into the Company's rate base and the related IIS charges will be terminated.

2. The Company shall provide an updated tariff sheet, subject to review by Board Staff and Rate Counsel, within five (5) days from the date of issuance of a Board Order adopting the terms of this Provisional Settlement, reflecting the provisional IIS rates agreed to by the Parties.

## DISCUSSION AND FINDING

The Board has carefully reviewed the record to date in this proceeding and the attached Stipulation of the Parties. The Board **FINDS** that, subject to the terms and conditions set forth below, the Stipulation is reasonable, in the public interest, and in accordance with the law. Accordingly, the Board **HEREBY ADOPTS** the Stipulation as its own, as if fully set forth herein.

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<sup>2</sup> NJLEUC was provided with notice of the Stipulation prior to its execution.

<sup>3</sup> Although described in this Order, should there be any conflict between this summary and the Stipulation of the Parties, the terms of the Stipulation shall control, subject to the findings and conclusions contained in this Order.

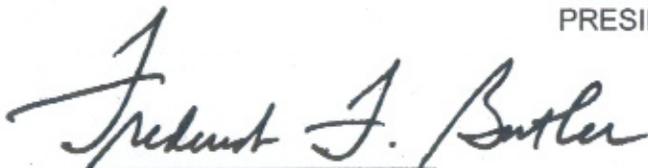
The Board **HEREBY APPROVES**, on a provisional basis and subject to refund with interest as set forth in the April Order, the IIS rates specified in Appendix E of the Annual Filing and referenced in the Stipulation of the Parties. The subject IIS rates shall become effective on January 1, 2010 or the day after the last public hearing, whichever is later.

The Board **HEREBY ORDERS** ACE to file revised tariff sheets conforming to the terms of the Stipulation and this Order within five (5) days of the date of this Board Order.

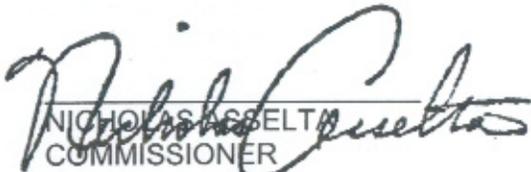
DATED: 12/22/09

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
NICHOLAS ASSELT  
COMMISSIONER

## DISSENT OF COMMISSIONER ELIZABETH RANDALL

At its December 17, 2009 Agenda Meeting, the Board was presented with requests to increase, on a provisional basis, the various capital infrastructure cost recovery charges for four of the electric and gas utilities whose Infrastructure Investment programs were approved in April 2009.<sup>4</sup>

These Orders provisionally approve increases in Public Service Electric and Gas Company's Capital Adjustment Charges ("CAC"); South Jersey Gas Company's Capital Investment Recovery Tracker ("CIRT"); Elizabethtown Gas Company's Utility Infrastructure Enhancement ("UIE") Rider rate; and Atlantic City Electric Company's Infrastructure Investment Surcharge ("IIS"), each for the period January 1, 2010 through December 31, 2010 and each effective as of January 1, 2010.

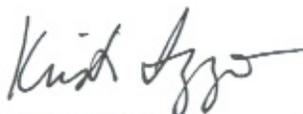
Having been opposed to the accelerated infrastructure programs at their inception, I oppose these requests for increases in rates that result from the Board's April 2009 approval of these programs.

From the outset, I have felt that it is not appropriate during a time of national economic recession to increase customers' gas and electric bills. While the rationale behind these programs is to create jobs, I believe that the usual and customary schedule of capital improvements sufficiently insures the safe and reliable delivery of gas and electricity services.



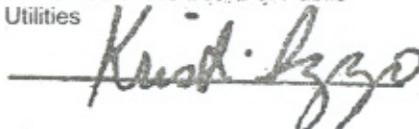
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:



KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



<sup>4</sup> The remaining company whose plan was approved on April 28, 2009, New Jersey Natural Gas Company, did not make a filing at this time as its increases will be considered within the context of its base rate case.

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**IN THE MATTER OF PROCEEDING FOR  
INFRASTRUCTURE INVESTMENT AND A  
COST RECOVERY MECHANISM FOR  
ALL ELECTRIC AND GAS UTILITIES**

**AND**

**IN THE MATTER OF THE PETITION OF  
ATLANTIC CITY ELECTRIC COMPANY  
FOR APPROVAL OF CERTAIN ENERGY  
INFRASTRUCTURE INVESTMENTS AND  
APPROVAL OF COST RECOVERY FOR  
SUCH PROJECTS AND RELATED TARIFF  
MODIFICATIONS ASSOCIATED  
THEREWITH PURSUANT TO N.J.S.A.  
48:2-21 AND 48:2-21.1**

**STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES**

**BPU DOCKET NO.EO09010049**

**BPU DOCKET NO. EO09010054**

**STIPULATION FOR PROVISIONAL  
RATES FOR INFRASTRUCTURE  
COST RECOVERY**

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**APPEARANCES:**

**Philip J. Passanante, Esquire**  
Assistant General Counsel

and

**Nicholas W. Mattia, Jr., Esquire**  
Dickstein Shapiro LLP

for the Petitioner, Atlantic City Electric Company

**Paul Flanagan, Ami Morita, Deputy Public Advocates and James Glassen, Assistant  
Deputy Public Advocate,**

for the Department of the Public Advocate, Division of Rate Counsel (**Ronald K. Chen,**  
Public Advocate, **Stefanie A. Brand, Director**)

**Caroline Vachier and Jessica L. Campbell, Deputy Attorneys General**

for the Staff of the New Jersey Board of Public Utilities (**Anne Milgram, Attorney  
General of New Jersey**)

**TO: THE NEW JERSEY BOARD OF PUBLIC UTILITIES**

On November 12, 2009, Atlantic City Electric Company ( "ACE" or the "Company") made the required Annual Filing pursuant to the Board's Decision and Order Approving Stipulation, dated April 28, 2009 (the "April 2009 Order"), which approved the Company's Infrastructure Investment and Cost Recovery Mechanism (the "IIS") filed as part of the Capital Economic Stimulus Infrastructure Investment Program ordered by the Board. Pursuant to the Annual Filing, the Company has proposed an adjustment to the IIS rates effective on and after January 1, 2010, which will increase the revenue requirement by approximately \$2 million.

The Annual Filing is currently under review by the Staff of the Board of Public Utilities (the "Board Staff") and the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") pursuant to an Order issued by the Board on February 25, 2009, and discovery is ongoing. Public Hearings are scheduled for December 22, 2009 in Mays Landing at 3:30 p.m. and 5:30 p.m.

The Company, Board Staff and Rate Counsel (collectively, the "Parties") have determined that because the Company's annual cost recovery filing will not be updated with actual revenues and expenses for 2009 until after the proposed effective date of January 1, 2010 and because additional time is needed to complete the review of the proposed rates, the Parties have agreed to the implementation of provisional IIS rates, subject to refund with interest, to be effective on January 1, 2010 or the day after the last public hearing is held as required by law, whichever is later. However, the Parties also agree that the adjustment to the Company's proposed IIS rates as requested in its Annual Filing, on a provisional basis, is reasonable at this time and **HEREBY AGREE** to the terms of this Stipulation (the "Provisional Settlement") as follows:

1. The Company's IIS individual customer class tariff rates shall be provisionally set as proposed by the Company in its November 12, 2009 letter filing in connection with the above-identified dockets from the IIS rates previously approved by the Board in the 2009 Order. These individual IIS customer class rate changes are to become effective on a provisional basis, subject to refund with interest as defined in the April 2009 Order for over/under collections. The provisional rates and data on the projects and the associated investment costs included in the Annual Filing, as well as the amounts to be reflected in the deferred balance and included in the Company's next annual filing, will be subject to review by the Parties, with opportunity for discovery, and an evidentiary hearing if necessary prior to the issuance of a final Board Order. The proposed provisional rates will have an approximate 0.11% impact on an average residential customer's monthly bill. For example, a residential customer using approximately 1000 kWh will see a \$0.20 increase in such customer's monthly bill

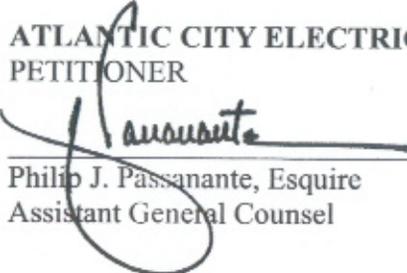
In accordance with the April 2009 Order, the Parties recognize that, in the context of the Company's current base rate case, the Qualifying Projects and the IIS rate for the test year will be subject to a full and thorough examination. The Parties agree that, if required, full evidentiary hearings with respect to the Qualifying Projects for the test year and related costs will take place in that base rate case proceeding. Furthermore, during a Phase II proceeding of the Company's current base rate case, the net capitalized amounts of the remaining Qualifying Projects, which are not in the test year, if after a full and thorough examination in the Phase Two proceeding are found, to be incremental, reasonable and prudent, will then be rolled into the Company's rate base and the related IIS charges will be terminated.

2. The Company shall provide an updated tariff sheet, subject to review by Board Staff and Rate Counsel, within five (5) days from the date of issuance of a Board Order adopting the terms of this Provisional Settlement, reflecting the provisional IIS rates agreed to by the Parties.
3. The Parties agree that this Provisional Settlement contains mutually balanced and interdependent provisions and is intended to be accepted and approved in its entirety. In the event that any particular aspect of this Provisional Settlement is not accepted and approved by the Board, this Provisional Settlement shall be null and void, and the parties shall be placed in the same position that they were in immediately prior to its execution.
4. The Parties further **HEREBY AGREE** that this Provisional Settlement has been made exclusively for the purposes of this proceeding and that this Provisional Settlement, in total or specific item, is in no way binding upon them in any other proceeding, except to enforce the terms of this Provisional Settlement.

**WHEREFORE**, the Parties hereto do respectfully submit this Stipulation and request that the Board issue a Decision and Order approving it in its entirety, in accordance with the terms hereof, as soon as reasonably possible.

**ATLANTIC CITY ELECTRIC COMPANY  
PETITIONER**

By:

  
Philip J. Passanante, Esquire  
Assistant General Counsel

**DEPARTMENT OF THE PUBLIC ADVOCATE  
RONALD K. CHEN, PUBLIC ADVOCATE**

Stefanie A. Brand  
Director, Division of Rate Counsel

By:

\_\_\_\_\_  
Ami Morita  
Deputy Public Advocate

**STAFF OF THE BOARD OF PUBLIC UTILITIES  
ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY**

By:

\_\_\_\_\_  
Jessica L. Campbell  
Deputy Attorney General

Dated: December \_\_\_\_, 2009

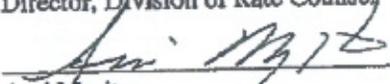
WHEREFORE, the Parties hereto do respectfully submit this Stipulation and request that the Board issue a Decision and Order approving it in its entirety, in accordance with the terms hereof, as soon as reasonably possible.

ATLANTIC CITY ELECTRIC COMPANY  
PETITIONER

By: \_\_\_\_\_  
Philip J. Passanante, Esquire  
Assistant General Counsel

DEPARTMENT OF THE PUBLIC ADVOCATE  
RONALD K. CHEN, PUBLIC ADVOCATE

Stefanie A. Brand  
Director, Division of Rate Counsel

By:   
Ami Morita  
Deputy Public Advocate

STAFF OF THE BOARD OF PUBLIC UTILITIES  
ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY

By: \_\_\_\_\_  
Jessica L. Campbell  
Deputy Attorney General

Dated: December 16, 2009

WHEREFORE, the Parties hereto do respectfully submit this Stipulation and request that the Board issue a Decision and Order approving it in its entirety, in accordance with the terms hereof, as soon as reasonably possible.

**ATLANTIC CITY ELECTRIC COMPANY  
PETITIONER**

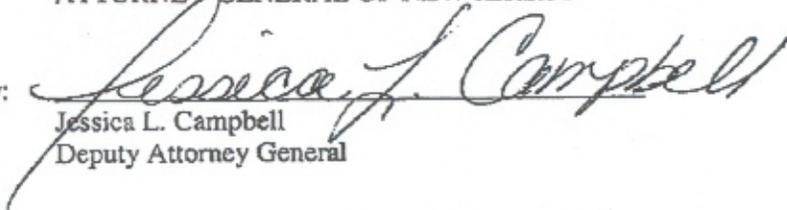
By: \_\_\_\_\_  
Philip J. Passanante, Esquire  
Assistant General Counsel

**DEPARTMENT OF THE PUBLIC ADVOCATE  
RONALD K. CHEN, PUBLIC ADVOCATE**

Stefanie A. Brand  
Director, Division of Rate Counsel

By: \_\_\_\_\_  
Ami Morita  
Deputy Public Advocate

**STAFF OF THE BOARD OF PUBLIC UTILITIES  
ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY**

By:   
Jessica L. Campbell  
Deputy Attorney General

Dated: December 7, 2009

I/M/O Energy Efficiency Programs and Associated Cost  
Recovery Mechanism Proceedings  
BPU Docket No. EO09010056

I/M/O the Petition of Atlantic City Electric Company for Approval  
of an Energy Efficiency Stimulus Program and Approval of an Associated Cost  
Recovery Mechanism and Bill Stabilization Adjustment Pursuant to N.J.S.A. 48:3-98.1  
BPU Docket No. EO09010063

**Service List**

**BPU**

Kristi Izzo  
Secretary to the Board  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-3426 – Telephone  
(973) 638-2409 – Facsimile  
[kristi.izzo@bpu.state.nj.us](mailto:kristi.izzo@bpu.state.nj.us)

Alice Bator  
Bureau Chief  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-2448 – Telephone  
(973) 648-7420 – Facsimile  
[alice.bator@bpu.state.nj.us](mailto:alice.bator@bpu.state.nj.us)

Linda Nowicki  
Board of Public Utilities  
44 S. Clinton Avenue, 7<sup>th</sup> Floor  
P.O. Box 350  
Trenton, NJ 08625  
(973) 777-3314 – Telephone  
(609) 777-3330 – Facsimile  
[linda.nowicki@bpu.state.nj.us](mailto:linda.nowicki@bpu.state.nj.us)

Samuel Wolfe, Esquire  
Chief Counsel  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-2016 – Telephone  
(973) 648-2209 – Facsimile  
[samucl.wolfe@bpu.state.nj.us](mailto:samucl.wolfe@bpu.state.nj.us)

Mark C. Beyer  
Chief Economist  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-2016 – Telephone  
(973) 648-2209 – Facsimile  
[mark.beyer@bpu.state.nj.us](mailto:mark.beyer@bpu.state.nj.us)

Mona Mosser  
Bureau Chief  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-2891 – Telephone  
(973) 648-2409 – Facsimile  
[mona.mosser@bpu.state.nj.us](mailto:mona.mosser@bpu.state.nj.us)

Elcana Lihan  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-2354 – Telephone  
(973) 648-2836 – Facsimile  
[elcana.lihan@bpu.state.nj.us](mailto:elcana.lihan@bpu.state.nj.us)

Sheila Iannaccone  
Bureau Chief  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-3705 – Telephone  
(973) 648-2467 – Facsimile  
[sheila.iannaccone@bpu.state.nj.us](mailto:sheila.iannaccone@bpu.state.nj.us)

Suzanne Patnaude, Esquire  
Deputy Chief Counsel  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-3858 – Telephone  
(973) 648-2209 – Facsimile  
[suzanne.patanude@bpu.state.nj.us](mailto:suzanne.patanude@bpu.state.nj.us)

Rachel Boylan  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 693-5037 – Telephone  
(973) 648-2209 – Facsimile  
[rachel.boylan@bpu.state.nj.us](mailto:rachel.boylan@bpu.state.nj.us)

Andrea Reid  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-2448 – Telephone  
(973) 648-7420 – Facsimile  
[andrea.reid@bpu.state.nj.us](mailto:andrea.reid@bpu.state.nj.us)

Michael Winka  
Director, Office of Clean Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-7270 – Telephone  
(973) 777-3330 – Facsimile  
[michael.winka@bpu.state.nj.us](mailto:michael.winka@bpu.state.nj.us)

Najindu Ugoji  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-2219 – Telephone  
(973) 648-7429 – Facsimile  
[naji.ugoji@bpu.state.nj.us](mailto:naji.ugoji@bpu.state.nj.us)

Rene Demuynck  
Board of Public Utilities  
44 S. Clinton Avenue, 7<sup>th</sup> Floor  
P.O. Box 350  
Trenton, NJ 08625  
(609) 777-3337 – Telephone  
(609) 777-3336 – Facsimile  
[rene.demuynck@bpu.state.nj.us](mailto:rene.demuynck@bpu.state.nj.us)

Stacy Peterson  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
(973) 648-2143 – Telephone  
(973) 648-4410 – Facsimile  
[stacy.peterson@bpu.state.nj.us](mailto:stacy.peterson@bpu.state.nj.us)

**DAG**

Caroline Vachier, Esquire  
Deputy Attorney General  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
(973) 648-3709 – Telephone  
(973) 648-3555 – Facsimile  
[caroline.vachier@dol.lps.state.nj.us](mailto:caroline.vachier@dol.lps.state.nj.us)

**Comment:** I think Winka is Trenton based. He might have offices in both locations.

**Comment:** Please add rest of address and contact information.

Jessica L. Campbell, Esquire  
Deputy Attorney General  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
(973) 648-3762 – Telephone  
(973) 648-3555 – Facsimile  
[jessica.campbell@dol.lps.state.nj.us](mailto:jessica.campbell@dol.lps.state.nj.us)

Kerri Kirshbaum, Esquire  
Deputy Attorney General  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
(973) 648-7811 – Telephone  
(973) 648-3555 – Facsimile  
[kerri.kirshbaum@dol.lps.state.nj.us](mailto:kerri.kirshbaum@dol.lps.state.nj.us)

Alex Moreau, Esquire  
Deputy Attorney General  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
(973) 648-3762 – Telephone  
(973) 648-3555 – Facsimile  
[alex.moreau@dol.lps.state.nj.us](mailto:alex.moreau@dol.lps.state.nj.us)

Anne M. Shatto, Esquire  
Deputy Attorney General  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
(973) 648-3762 – Telephone  
(973) 648-3555 – Facsimile  
[anne.shatto@dol.lps.state.nj.us](mailto:anne.shatto@dol.lps.state.nj.us)

Kenneth Sheehan, Esquire  
Deputy Attorney General  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
(973) 648-3762 – Telephone  
(973) 648-3555 – Facsimile  
[kenneth.sheehan@dol.lps.state.nj.us](mailto:kenneth.sheehan@dol.lps.state.nj.us)

Babette Tenzer, Esquire  
Deputy Attorney General  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
(973) 648-3441 – Telephone  
(973) 648-3555 – Facsimile  
[babette.tenzer@dol.lps.state.nj.us](mailto:babette.tenzer@dol.lps.state.nj.us)

Kidar Twine, Paralegal  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, NJ 07101  
(973) 648-3755 – Telephone  
(973) 648-3555 – Facsimile  
[kidar.twine@dol.lps.state.nj.us](mailto:kidar.twine@dol.lps.state.nj.us)

#### **RATE COUNSEL**

Stefanie A. Brand, Esquire  
Director  
Department of the Public Advocate  
Division of Rate Counsel  
31 Clinton Street - 11th Floor  
P.O. Box 46005  
Newark, NJ 07101  
(973) 648-2690 – Telephone  
(973) 624-1047 – Facsimile  
[sbrand@rpa.state.nj.us](mailto:sbrand@rpa.state.nj.us)

Paul Flanagan, Esquire  
Litigation Manager  
Department of the Public Advocate  
Division of Rate Counsel  
31 Clinton Street - 11th Floor  
P.O. Box 46005  
Newark, NJ 07101  
(973) 648-2690 – Telephone  
(973) 624-1047 – Facsimile  
[pflanagan@rpa.state.nj.us](mailto:pflanagan@rpa.state.nj.us)

Felicia Thomas-Friel, Esquire  
Department of the Public Advocate  
Division of Rate Counsel  
31 Clinton Street - 11th Floor  
P.O. Box 46005  
Newark, NJ 07101  
(973) 648-2690 – Telephone  
(973) 624-1047 – Facsimile  
[flthomas@rpa.state.nj.us](mailto:flthomas@rpa.state.nj.us)

Ami Morita, Esquire  
Deputy Public Advocate  
Department of the Public Advocate  
Division of Rate Counsel  
31 Clinton Street - 11th Floor  
P.O. Box 46005  
Newark, NJ 07101  
(973) 648-2690 – Telephone  
(973) 624-1047 – Facsimile  
[amorita@rpa.state.nj.us](mailto:amorita@rpa.state.nj.us)

James Glassen, Esquire  
Deputy Public Advocate  
Department of the Public Advocate  
Division of Rate Counsel  
31 Clinton Street - 11th Floor  
P.O. Box 46005  
Newark, NJ 07101  
(973) 648-2690 – Telephone  
(973) 624-1047 – Facsimile  
[jglassen@rpa.state.nj.us](mailto:jglassen@rpa.state.nj.us)

Lisa Gurkas  
Department of the Public Advocate  
Division of Rate Counsel  
31 Clinton Street - 11th Floor  
P.O. Box 46005  
Newark, NJ 07101  
(973) 648-2690 – Telephone  
(973) 624-1047 – Facsimile  
[lgurkas@rpa.state.nj.us](mailto:lgurkas@rpa.state.nj.us)

#### **ACE**

Philip J. Passanante, Esquire  
89KS42  
Atlantic City Electric Company  
800 King Street 5th Floor  
P.O. Box 231  
Wilmington, DE 19899  
(302) 429-3105 – Telephone  
(302) 429-3801 – Facsimile  
[philip.passanante@pepcoholdings.com](mailto:philip.passanante@pepcoholdings.com)

Wayne W. Barndt  
Manager - 79NC59  
Regulatory Strategy and Policy  
401 Eagle Run Road  
PO Box 9239  
Newark DE 19714-9239  
(302) 454-4597 – Telephone  
(302) 454-4440 – Facsimile  
[wayne.barndt@pepcoholdings.com](mailto:wayne.barndt@pepcoholdings.com)

Roger E. Pedersen  
Manager, Regulatory Affairs, NJ -  
63ML38  
Atlantic City Electric Company  
5100 Harding Highway  
Mays Landing, NJ 08330  
(609) 625-5820 – Telephone  
(609) 625-5838 – Facsimile  
[roger.pedersen@pepcoholdings.com](mailto:roger.pedersen@pepcoholdings.com)

Joseph F. Janocha  
Manager, Regulatory Affairs  
Regulatory Affairs, NJ - 63ML38  
Atlantic City Electric Company  
5100 Harding Highway  
Mays Landing, NJ 08330  
(609) 625-5868 – Telephone  
(609) 625-5838 – Facsimile  
[joseph.janocha@pepcoholdings.com](mailto:joseph.janocha@pepcoholdings.com)

Amir F. Mohseni  
Regulatory Affairs -79NC59  
401 Eagle Run Road  
PO Box 9239  
Newark DE 19714-9239  
(302) 454-4896 – Telephone  
(302) 454-4440 – Facsimile  
[amir.mohseni@pepcoholdings.com](mailto:amir.mohseni@pepcoholdings.com)