



deferred accounting and interest on any balances would be calculated monthly based on the Company's current short-term debt rate. According to the petition, the BSA is intended to provide the Company with the same level of revenue it would have without the potential decrease caused by the implementation of the EESP.

By Order dated February 19, 2009, the Board determined that this matter should be retained by the Board for review and hearing, and, as authorized by N.J.S.A. 48:2-32, designated me as the presiding officer who is authorized to rule on all motions that arise during the proceeding and modify any schedule that may be set as necessary to secure just and expeditious determination of the issues

By letter dated February 24, 2009, Steven S. Goldenberg, Esq. filed a motion to intervene in this proceeding on behalf of the New Jersey Large Energy Users Coalition ("NJLEUC"). According to the motion, NJLEUC is an association of large volume customers which, among other things, monitors regulatory proceedings on behalf of its members, including those who purchase electricity from ACE. According to the motion, NJLEUC's members, as large end-use customers on the ACE system, will be directly and immediately affected by the energy efficiency investments and associated rate relief requested by the petition. NJLEUC maintains that it has a unique perspective not otherwise represented, and its participation in this matter will constructively and measurably advance this proceeding as required by N.J.A.C. 1:1-16.3(a). NJLEUC also commits to working cooperatively with the other parties to this proceeding, to the extent possible.

Mr. Goldenberg has also moved pursuant to N.J.A.C. 1:1-5.2 and 1:21-2 for the admission *pro hac vice* of Paul F. Forshay, Esq. a member in good standing of the bar of the District of Columbia. Mr. Forshay filed an affidavit with the motion asserting that there is good cause for his admission since he has considerable experience representing marketers and large end users in proceedings before the Board and the Federal Energy Regulatory Commission, he has been requested by NJLEUC to appear in these proceedings, and that he is associated in this matter with Mr. Goldenberg who is New Jersey counsel of record. The affidavit also indicates that Mr. Forshay has satisfied all of the conditions for admission as set forth in R. 1:21-2(a), and that the fees required by R. 1:20-1(b) and 1:28-2 have been paid to the Disciplinary Oversight Committee and the New Jersey Lawyers' Fund for Client Protection.

On March 6, 2009, the Company filed a response to the motion to intervene stating that it did not object to the Motion. The Company further stated that its lack of objection was based upon counsel's representation that one or more of NJLEUC's current member companies is a customer of ACE. The Company requested that any grant of intervener status be made conditional upon a written demonstration that NJLEUC has a real interest in this matter by virtue of having at least one current member as a customer of ACE.

#### FINDINGS and DISCUSSION

Pursuant to N.J.A.C. 1:1-16.3(a), to determine if a motion to intervene should be granted, the Board considers the nature and extent of the party's interest in the outcome of the investigation, and whether the party's interest is sufficiently different from that of other parties, whether inclusion will add constructively to the case; and whether intervention will confuse or delay the matter. Based on my review of the NJLEUC's motion to intervene and upon the response of the Company, I HEREBY GRANT the motion, provided that:

1. NJLEUC provides a written demonstration that at least one of its members is a customer of the Company; and
2. NJLEUC complies with the schedule previously adopted for this proceeding on February 25, 2009.

Based on review of the motion for admission *pro hac vice* of Mr. Forshay and the supporting affidavit, and no objections having been received, I FIND that Mr. Forshay has satisfied the conditions for admission, and therefore, HEREBY GRANT the motion for admission to practice before the Board for this proceeding only, provided that Mr. Forshay shall:


- 1) abide by the Board's rules and all applicable New Jersey court rules, including all disciplinary rules;
- 2) submit proof of payment of the fees required by R.1:20-1(b) and 1:28-2;
- 3) consent to the appointment of the Clerk of the Supreme Court as agent upon whom service of process may be made for all actions against him that may arise out of his participation in this matter;
- 4) notify the Board immediately of any matter affecting his standing at the bar of any other jurisdiction; and
- 5) have all pleadings, briefs and other papers filed with the Board signed by the attorney of record authorized to practice in this State, who shall be held responsible for them and for the conduct of this cause and the attorney admitted by this Order.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceeding in this matter.

DATED:

3/27/09

BY:

  
JEANNE M. FOX  
PRESIDENT

I/M/O ENERGY EFFICIENCY PROGRAMS AND ASSOCIATED COST  
RECOVERY MECHANISM PROCEEDINGS  
BPU DOCKET NO. EO09010056

and

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

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