



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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CLEAN ENERGY AND ENERGY

IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR APPROVAL OF A PORTFOLIO OF ENERGY EFFICIENCY, BUILDING DECARBONIZATION AND DEMAND RESPONSE PROGRAMS, A COST RECOVERY MECHANISM, AND OTHER RELATED RELIEF PURSUANT TO THE CLEAN ENERGY ACT FOR THE PERIOD JANUARY 2025 THROUGH JUNE 2027 (TRIENNIUM 2)	)	ORDER MODIFYING AND SUSPENDING PROCEDURAL SCHEDULE
	)	
	)	
	)	
	)	DOCKET NO. QO23120871
	)	

**Parties of Record:**

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**Philip J. Passanante, Esq.**, Assistant General Counsel, Atlantic City Electric Company  
**John Kolesnik, Esq.**, Counsel for the Energy Efficiency Alliance of New Jersey  
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BY COMMISSIONER ZENON CHRISTODOULOU:

**BACKGROUND AND PROCEDURAL HISTORY**

By Order dated May 24, 2023, the New Jersey Board of Public Utilities (“Board”) directed each electric and gas public utility to propose, for Board approval, energy efficiency (“EE”) programs for the second three (3)-year EE program period (“Triennium 2”) pursuant to the Clean Energy Act of 2018, L. 2018, c. 17, on or before October 2, 2023, and addressed certain aspects of the Triennium 2 framework.<sup>1</sup>

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<sup>1</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated May 24, 2023 (“May 2023 Order”).

By Order dated July 26, 2023, the Board approved the remaining aspects of the Triennium 2 framework.<sup>2</sup>

By Order dated September 27, 2023, the Board extended the filing deadline for Triennium 2 petitions from October 2, 2023 to December 1, 2023, and directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by December 8, 2023 and that entities file with the Board any responses to those motions by December 14, 2023.<sup>3</sup> By the September 2023 Order, the Board retained this matter for hearing and, pursuant to N.J.S.A. 48:2-32, designated myself, Commissioner Christodoulou, as Presiding Commissioner in this matter, authorized to rule on all motions that arise during the pendency of this proceeding, and modify schedules that may be set as necessary to secure a just and expeditious determination of all issues. By Order dated October 25, 2023, the Board delayed the start of Triennium 2 by six (6) months from July 1, 2024 until January 1, 2025.<sup>4</sup>

On December 1, 2023, Atlantic City Electric Company (“ACE” or “Company”) filed a petition with the Board proposing to invest approximately \$526.06 million in its EE programs over a 30-month period from January 1, 2025 through June 30, 2027 (“Petition”). By the Petition, the Company also proposed that it be allowed to recover expenditures in its territory for its fuel source based on the expenditures it makes, as well as the costs billed by overlapping utilities in delivery of coordinated projects. The Company further requested authority to use deferred accounting to capture the incremental capital investment costs and incremental operations and maintenance costs associated with, or created by, the proposed EE programs.

On December 28, 2023, Board Staff (“Staff”) issued ACE a letter of administrative deficiency (“Letter”) identifying administratively incomplete portions of the Petition and requesting that the Company cure any deficiencies. On January 5, 2024, ACE filed an update to the Petition to cure the deficiencies identified in the Letter (“Update”).

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<sup>2</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated July 26, 2023.

<sup>3</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs; In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs; In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis, Pursuant to N.J.S.A. 48:3-98.1 and N.J.S.A. 48:3-87.9 - Minimum Filing Requirements, BPU Docket Nos. QO19010040, QO23030150, and QO17091004, Order dated September 27, 2023 (“September 2023 Order”).

<sup>4</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket No. QO23030150, Order dated October 25, 2023 (“October 2023 Order”). The October 2023 Order also extended Triennium 1 through December 31, 2024.

By Order dated January 10, 2024, the Board directed that any entity wishing to file a motion for leave to intervene or participate, or to update a previously-filed motion for leave to intervene or participate, in this proceeding shall have until seven (7) days following Staff's issuance of a letter of administrative completeness to the Company.<sup>5</sup> On January 12, 2024, Staff issued a letter of administrative completeness, noting that the Update adequately cured the deficiencies identified in the Letter and that Staff therefore determined the Petition to be administratively complete. Accordingly, pursuant to N.J.S.A. 48:3-98.1(b), the 180-day period for the Board to review the proposal in this matter commenced on January 5, 2024. The Board subsequently received no additional or updated motions seeking leave to intervene or participate.

By Order dated February 26, 2024, after considering all Motions to Intervene or Participate in this matter and responses to the Motions, I granted intervenor status to the New Jersey Large Energy Users' Coalition ("NJLEUC") and the Energy Efficiency Alliance of New Jersey ("EEA-NJ") (collectively, "Intervenors"), and participant status to Convergent Energy and Power; Enerwise Global Technologies, Inc. d/b/a CPower; Uplight, Inc.; Google, LLC; and the joint utilities: ETG, Jersey Central Power & Light Company, NJNG, PSE&G, Rockland Electric Company, and SJG.<sup>6</sup>

On March 19, 2024, the parties to this matter submitted a stipulation of settlement agreeing to extend the 180-day review period to October 15, 2024 ("Stipulation"). By Prehearing Order dated April 12, 2024, I approved the Stipulation, thereby extending the 180-day review period to October 15, 2024, and established the procedural schedule in this matter ("April 12 Procedural Schedule"), annexed thereto as Exhibit A.<sup>7</sup>

On May 8, 2024, I received correspondence from ACE requesting, with the consent of all parties to this matter, to amend the April 12 Procedural Schedule. Specifically, the Company requested to extend the deadline for the New Jersey Division of Rate Counsel ("Rate Counsel") and Intervenors to file testimony by two (2) weeks, from May 9, 2024 to May 23, 2024, to allow for further settlement discussions. The Company did not request further modification to the April 12 Procedural Schedule. The correspondence indicated that Rate Counsel, Board Staff, and the Intervenors supported the request.

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<sup>5</sup> In re the Implementation of P.L. 2018, c. 17, the New Jersey Clean Energy Act of 2018, Regarding the Second Triennium of Energy Efficiency and Peak Demand Reduction Programs et al., BPU Docket Nos. QO23030150, QO23120868, QO23120869, QO23120870, QO23120871, QO23120872, QO23120874, and QO23120875, Order dated January 10, 2024 ("January 2024 Order"). By the January 2024 Order, the Board additionally redesignated President Guhl-Sadovy as the presiding commissioner for the Public Service Electric and Gas Company ("PSE&G") filing, BPU Docket No. QO23120874, and Commissioner Abdou as the presiding commissioner for the Elizabethtown Gas Company ("ETG"), New Jersey Natural Gas Company ("NJNG"), and South Jersey Gas Company ("SJG") filings, BPU Docket Nos. QO23120869, QO23120868, and QO23120870.

<sup>6</sup> In re the Petition of Atlantic City Electric Company for Approval of a Portfolio of Energy Efficiency, Building Decarbonization and Demand Response Programs, a Cost Recovery Mechanism, and Other Related Relief Pursuant to the Clean Energy Act for the Period January 2025 Through June 2027 (Triennium 2), BPU Docket No. QO23120871, Order dated February 26, 2024.

<sup>7</sup> In re the Petition of Atlantic City Electric Company for Approval of a Portfolio of Energy Efficiency, Building Decarbonization and Demand Response Programs, a Cost Recovery Mechanism, and Other Related Relief Pursuant to the Clean Energy Act for the Period January 2025 Through June 2027 (Triennium 2), BPU Docket No. QO23120871, Order dated April 12, 2024.

On May 23, 2024, I received correspondence from ACE requesting, with the consent of all parties to this matter, to further amend the April 12 Procedural Schedule. Specifically, the Company requested to extend the deadline for Rate Counsel and Intervenor testimony by two (2) weeks, from May 23, 2024 to June 6, 2024, to allow for further settlement discussions. According to the Company, the extension request included the suspension of the deadlines for discovery on Intervenor testimony, rebuttal testimony, discovery on rebuttal testimony, and answers to discovery on rebuttal discovery. The Company did not request further modification to the April 12 Procedural Schedule. The correspondence indicated that Rate Counsel, Board Staff, and the Intervenor supported the request.

### **DISCUSSION AND FINDINGS**

I reviewed, in detail, ACE's May 8, 2024 and May 23, 2024 correspondences. As such, to allow further settlement negotiations and to ensure an equitable determination of the issues, I **HEREBY EXTEND** the deadline for filing of Respondent/Intervenor testimony in this matter to June 6, 2024, and **HEREBY SUSPEND** the April 12 Procedural Schedule until June 6, 2024.<sup>8</sup>

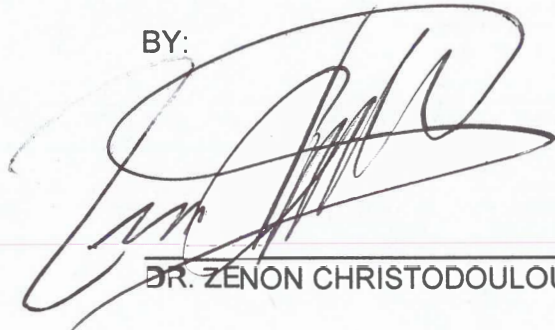
I **HEREBY DIRECT** the parties to this proceeding to provide an update and, to the extent necessary, a proposed modified procedural schedule for my consideration no later than June 6, 2024.

I **FURTHER DIRECT** that this Order be posted on the Board's website.

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

DATED: June 3, 2024

BY:



DR. ZENON CHRISTODOULOU

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<sup>8</sup> The public hearings presently scheduled for June 4, 2024 shall not be impacted by the issuance of this Order.

IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR APPROVAL OF A PORTFOLIO OF ENERGY EFFICIENCY, BUILDING DECARBONIZATION AND DEMAND RESPONSE PROGRAMS, A COST RECOVERY MECHANISM, AND OTHER RELATED RELIEF PURSUANT TO THE CLEAN ENERGY ACT FOR THE PERIOD JANUARY 2025 THROUGH JUNE 2027 (TRIENNium 2)

DOCKET NO. QO23120871

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