



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF ATLANTIC)
CITY ELECTRIC COMPANY FOR APPROVAL OF AN)
ORDINANCE ADOPTED BY THE CITY OF)
WILDWOOD, IN THE COUNTY OF CAPE MAY, STATE)
OF NEW JERSEY GRANTING THE MUNICIPALITY'S)
CONSENT TO CONSTRUCT, ERECT, MAINTAIN AND)
OPERATE UTILITY FACILITIES FOR THE PURPOSE)
OF PROVIDING ELECTRIC SERVICE)

DECISION AND ORDER

DOCKET NO. EE15091009

Parties of Record:

Philip J. Passanante, Esq., Associate General Counsel, Atlantic City Electric Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

Atlantic City Electric Company ("ACE" or "Company"), a regulated utility subject to the jurisdiction of the Board of Public Utilities ("Board"), is a corporation duly organized under the laws of the State of New Jersey engaged in the purchase, transmission, sale and distribution of electric energy for light, heat and power to approximately 545,000 customers within its service territory. ACE is a direct, wholly owned subsidiary of Conectiv, LLC, a limited liability company organized under the laws of the State of Delaware, and an indirect, wholly owned subsidiary of Pepco Holdings, Inc. ("PHI"), a corporation organized under the laws of the State of Delaware.¹

According to its website, the City of Wildwood ("City") was incorporated in 1912 and is situated on a barrier island comprised of five (5) separate municipalities consisting of Wildwood, North Wildwood, West Wildwood, Wildwood Crest and Diamond Beach which is governed by Lower Township.² ACE currently provides electric service within the City to approximately 5,602 residential and 1,230 commercial or industrial customers. The Company's consent to use the

¹ Subsequent to the filing of the instant petition, PHI was acquired by Exelon Corporation through a merger which closed on March 23, 2016 following approval by all necessary state and federal entities. The Board approved the merger by Order dated March 6, 2015 in BPU Docket No. EM14060581.

² The City's webpage is available for viewing at http://wildwoodnj.org/wp/?page_id=841.

streets within the City for the provision of electric service expired on December 7, 2015,³ pursuant to the fifty (50) year statutory limitation set forth in N.J.S.A. 48:3-15. On June 24, 2015, pursuant to Ordinance No. 1033-15, the City renewed its consent and granted ACE continued permission to erect and maintain poles and to string wires thereon and to lay conduits and place wires therein, with all the necessary fixtures and appliances for its lines, in, upon over and under public highways, streets and alleys within the City for a period of fifty (50) years to furnish electric service in the City. By letter dated August 20, 2015, the Company accepted and agreed to the terms of the consent. Copies of the Ordinance and the letter of acceptance are attached to this Order as Exhibits "A" and "B" respectively.

On September 8, 2015, pursuant to N.J.S.A. 48:2-14 and N.J.A.C. 14:1-5.5, ACE filed a petition requesting that the Board approve the consent adopted by the City.⁴ As required by law and after notice, a hearing in this matter was held on January 5, 2016 before William Agee, Esq., the Board's duly appointed hearing officer. Appearances were made on behalf of the Company, the Division of Rate Counsel ("Rate Counsel") and Board Staff. No other party participated in the hearing or filed any written submission with the Board related to this proceeding.

At the hearing, the Company relied on its petition and exhibits filed with the Board and presented the testimony of Gregory W. Brubaker, its Manager of Engineering. Mr. Brubaker testified that ACE has the capacity to ensure continuation of its electric utility service and does not foresee any concerns regarding its ability to meet the existing and future demands of the City. Mr. Brubaker also testified that ACE anticipates growth in its defined service territory to be approximately one-half (1/2) percent annually. Mr. Brubaker further testified that ACE has the capacity to ensure the continuation of safe, adequate and proper service to its customers in the City, as well as meet the future demands of the City.

Rate Counsel, in its written comments to the petition dated January 19, 2016, indicated that it does not object to the Company's petition, and noted that the term of the municipal consent related to the use of streets is limited to the statutory maximum of fifty (50) years. However, Rate Counsel requests that approval of the petition include certain restrictions which are incorporated in this Order.

After a full review of the entire record, the Board **HEREBY FINDS** that the municipal consent for use of the streets, which is the subject of this matter, is necessary and proper for the public convenience and properly serves the public interest, and that ACE has the ability to continue to provide safe, adequate and proper service. The Board **FURTHER FINDS** that the Company has the necessary experience, financial capability, capacity and facilities in the City to continue to provide adequate and appropriate service to its existing customers, as well as expected future customers, and that the fifty (50) year duration of the municipal consent to use the streets is

³ The Board notes that municipal consents often expire some time prior to their renewal even when the Company initiates the renewal process prior to the expiration of the previous term. This is primarily the result of the time necessary for a municipality to fulfill the legal requirements that attend to all formal actions it must take along with the additional time for hearing and Board approval as required by law. The Board has been assured that pending review of its petition; ACE has continued to provide service to its customers within the City in an uninterrupted manner.

⁴ Pursuant to N.J.S.A. 48:7-1, electric companies have perpetual statewide franchises requiring only that they obtain consent for the designation of the street for the placement of poles from property owners and from incorporated cities. Thus, the Company filed the instant petition with the Board after obtaining renewed consent from the City for use of the streets for the provision of electric service.

consistent with N.J.S.A. 48:3-15. Accordingly, the Board, pursuant to N.J.S.A. 48:2-14, **HEREBY APPROVES** the consent granted to ACE by the City to continue to provide electric utility service, and for the continued use of its public highways, streets and alleys for that purpose for a period of fifty (50) years.

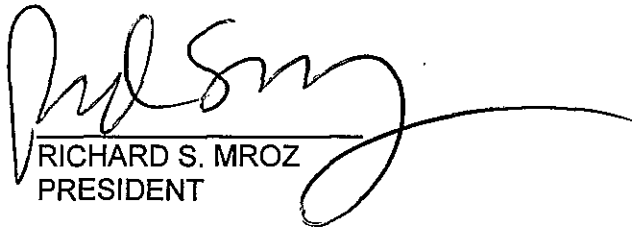
The approval granted hereinabove shall be subject to the following provisions:

1. This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by ACE.
2. This Order shall not effect nor in any way limit the exercise of the authority of this Board of the State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting ACE.

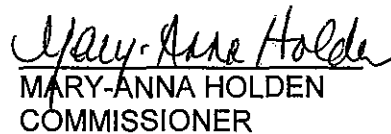
This Order shall be effective as of August 8, 2016.

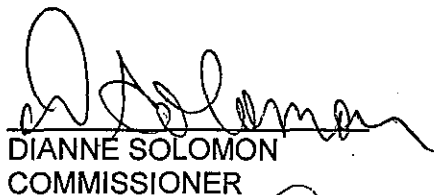
DATED: 7/29/16

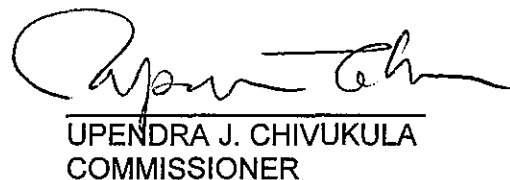
BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT

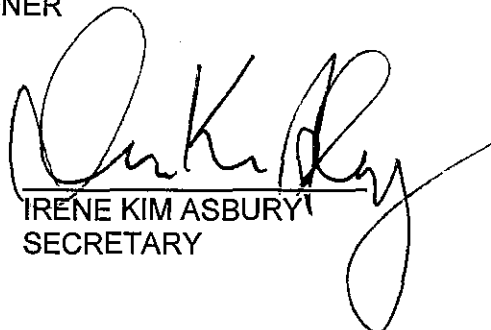

JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER

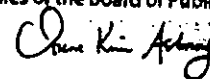

DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:


IRENE KIM ASBURY
SECRETARY

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



IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR APPROVAL OF AN ORDINANCE ADOPTED BY THE CITY OF WILDWOOD, IN THE COUNTY OF CAPE MAY, STATE OF NEW JERSEY GRANTING THE MUNICIPALITY'S CONSENT TO CONSTRUCT, ERECT, MAINTAIN AND OPERATE UTILITY FACILITIES FOR THE PURPOSE OF PROVIDING ELECTRIC SERVICE - DOCKET NO. EE15091009

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City of Wildwood:

Mayor Ernie Troiano, Jr.
City of Wildwood
4400 New Jersey Avenue
Wildwood, NJ 08260

Commissioner Anthony Leonetti
City of Wildwood
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Wildwood, NJ 08260

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City of Wildwood
4400 New Jersey Avenue
Wildwood, NJ 08260

Christopher Fox, Municipal Administrator
City of Wildwood
4400 New Jersey Avenue
Wildwood, NJ 08260

Elizabeth Bozzelli, Clerk
Cape May County Board of Chosen
Freeholders
4 Moore Road
Cape May Court House, NJ 08210

Exhibit A

ORDINANCE NO. 1033-15

AN ORDINANCE OF THE CITY OF WILDWOOD GRANTING CONSENT TO AND AUTHORIZING ATLANTIC CITY ELECTRIC COMPANY, A CORPORATION OF THE STATE OF NEW JERSEY, ITS SUCCESSORS AND ASSIGNS, TO ERECT AND MAINTAIN POLES AND TO STRING WIRES THEREON AND TO LAY CONDUITS AND PLACE WIRES THEREIN, WITH ALL THE NECESSARY FIXTURES AND APPLIANCES FOR ITS LINES, IN, UPON, OVER, AND UNDER CERTAIN PUBLIC HIGHWAYS, STREETS, AND ALLEYS IN THE CITY OF WILDWOOD, FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING ELECTRICITY THROUGH AND OVER SAID WIRES, TO FURNISH LIGHT, HEAT, AND POWER TO INDIVIDUALS, CORPORATIONS, COMMERCIAL ENTITIES, AND MUNICIPALITIES.

WHEREAS, on December 7, 1965, the City of Wildwood enacted Ordinance No. 625, providing for the right, *inter alia*, of Atlantic City Electric Company to lay its lines along, over, and under the streets and highways in the City of Wildwood; and

WHEREAS, said Ordinance, by its term, expires on or about December 7, 2015.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Wildwood as follows:

SECTION 1.

Permission is hereby given to Atlantic City Electric Company, its successors and assigns, to erect and maintain poles and string wires thereon and to lay conduits and place wires therein, with all the necessary fixtures and appliances for its lines, in, upon, over, and under the public highways, streets, and alleys in the City of Wildwood owned by the City of Wildwood for the purpose of transmitting and distributing electricity through and over said wires, to furnish light, heat, and power to individuals, corporations, commercial entities, and municipalities, and to that end to enter upon, open, and excavate any all streets, avenues, highways, lanes, alleys, and public grounds in the City of Wildwood, and to construct, lay, and maintain underground conduits, manholes and pipes, terminal poles, and other fixtures and appliances in, upon, along, under, over, and through any and all the streets, avenues, highways, lanes, alleys, and public grounds in the City of Wildwood, and, to also further such end, to construct, lay, and maintain communications equipment used by Atlantic City Electric Company to operate its electric transmission and distribution system, to read meters, and for similar purposes, subject to the conditions hereinafter stated.

SECTION 2.

The use of said public highways, streets, and alleys shall be subject to such regulations and ordinances as the City of Wildwood now has or may hereafter by ordinance prescribe relative to opening public highways, streets, and alleys and also subject to the rights of the private individuals in and to said alleys.

SECTION 3.

All poles erected or maintained by Atlantic City Electric Company, or its successors or assigns, shall be neat and symmetrical and of adequate height above the surface of the used or improved public highways, streets, and alleys when the same shall be completed, and shall be so located as in no way to interfere with the safety or convenience of persons traveling on or over said public highways, streets, and alleys than shall be necessary to perform the work authorized hereunder with proper economy and efficiency and as shall comply with said regulations and ordinances.

SECTION 4.


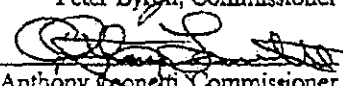

Atlantic City Electric Company, or its successors and assigns, as may be involved, shall, if required by the City of Wildwood, at its own proper costs and expense, remove or relocate any of the said poles or conduits, when it shall be necessary to do so by reason of a change of grade or crossing of any public highways, streets or alleys or the construction and repair thereof.

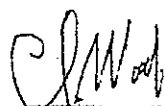
SECTION 5.

Atlantic City Electric Company, or its successors and assigns, as may be involved, shall maintain all posts, poles, wires, cables, transformers, conduits, ducts, manholes, and pipes erected, constructed or maintained under the provisions of this ordinance in good and safe order and condition.

SECTION 6.

This Ordinance shall take effect immediately upon its final passage and its due publication as required by law, and all other ordinances or provisions of other ordinances inconsistent herewith are hereby repealed. This Ordinance shall remain in effect for a period of 50 years from the date of its final adoption.


Peter Byron, Commissioner

Anthony Leonetti, Commissioner

Ernest Troiano, Jr., Mayor


Attest: _____
Christopher H. Wood, City Clerk
or
Karen M. Gallagher, Deputy City Clerk

The above ordinance was introduced and passed first reading on June 10, 2015.
Second Reading/Public Hearing on the above ordinance was held on June 24, 2015.
The above ordinance was adopted on June 24, 2015.

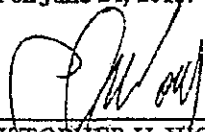

CHRISTOPHER H. WOOD, CITY CLERK

Exhibit B



A PHI Company

August 20, 2015

Christopher Wood
City Clerk
City of Wildwood
4400 New Jersey Avenue
Wildwood, New Jersey 08260

Philip J. Passanante
Associate General Counsel

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500 N. Wakefield Drive
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P.O. Box 6066
Newark, DE 19714-6066

302.429.3105 – Telephone
302.429.3801 – Facsimile
philip.passanante@pepcoholdings.com

RE: Ordinance No. 1033-15 Authorizing Renewal of Atlantic City Electric Company's Municipal Consent to Construct, Own, Operate, Extend, and Maintain Facilities for the Purpose of Providing Electric Service

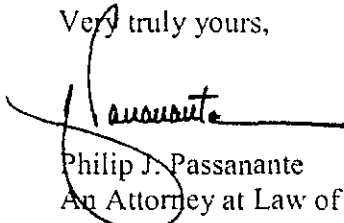
Dear Mr. Wood:

Atlantic City Electric Company ("ACE") is in receipt of Ordinance No. 1033-15, renewing ACE's municipal consent to construct, own, operate, extend, and maintain facilities in the City of Wildwood (the "City") for the purpose of providing electric service. Ordinance No. 1033-15 was adopted by the Board of Commissioners of the City on June 24, 2015. ACE hereby accepts and agrees to be bound by the terms and provisions of this Ordinance.

Please be further advised that ACE will present Ordinance No. 1033-15 to the New Jersey Board of Public Utilities (the "Board") for its review and approval. We will provide you with a copy of the final Order once it is issued by the Board.

Thank you for your cooperation and courtesies throughout. Feel free to contact the undersigned with any questions or if I can be of further assistance.

Very truly yours,


Philip J. Passanante /jpr
An Attorney at Law of the
State of New Jersey

cc: Hon. Ernest Troiano, Jr., Mayor
Mary D'Arcy Bittner, Esquire, City Solicitor
Vincent Maione, President, Atlantic City Electric Region
Veronica Town, Senior Public Affairs Manager
Roger E. Pedersen, Manager, New Jersey Regulatory Affairs