



Agenda Date: 3/23/22
Agenda Item: 2B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF)	ORDER DESIGNATING
CUMBERLAND COUNTY IMPROVEMENT)	COMMISSIONER, SETTING
AUTHORITY FOR THE APPROVAL OF THE)	MANNER OF SERVICE AND
EXTENSION OF ELECTRIC PUBLIC UTILITY)	BAR DATE, AND RULING ON
FACILITIES OF ATLANTIC CITY ELECTRIC COMPANY)	ATLANTIC CITY ELECTRIC
PURSUANT TO N.J.S.A. 48:2-27)	COMPANY'S MOTION TO
)	INTERVENE
)	
)	DOCKET NO. EO22020043

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
David Weinstein, Esq., Archer & Greiner P.C. on behalf of Cumberland County Improvement Authority
Cynthia L.M. Holland, Esq., Assistant General Counsel, on behalf of Atlantic City Electric Company

BY THE BOARD:¹

BACKGROUND

On February 2, 2022, the Cumberland County Improvement Authority (“CCIA” or “Authority”) filed a petition with the New Jersey Board of Public Utilities (“Board”) seeking approval for the extension or expansion of electric public utility facilities of Atlantic City Electric Company (“ACE”) (“Petition”). The Authority also requested that ACE fund the proposed extension or expansion, arguing that the Company’s original expenditure will be recovered from the business received.

According to the Petition, CCIA developed an Economic Development Strategic Plan for Cumberland County for 2020-2030 (“Plan”) for “regional growth and innovation,” utilizing a strategy based upon “the ever-changing dynamics of the regional economy, existing assets, and future opportunities to be shaped by innovative thinking, investment, and technology.” See Petition at p.2.

¹ Commissioner Robert M. Gordon did not participate.

The CCIA described the Plan as the “competitive development [of] infrastructure” which includes “prioritized development locations along with the right buildings and communication networks and electric public utility facilities that allow businesses to function and grow, improving economic opportunity for residents.” See Petition at p.2. The CCIA and Cumberland County established areas in need of redevelopment and created “Redevelopment Zones” to encourage investment into priority areas.² Id.

In the Petition, the Authority stated that ACE has a significant number of areas with closed circuits that have zero hosting capacity in Cumberland County. According to the Authority, under ACE’s current Board-approved tariff, “once a section of the grid is closed for further solar installations, or has limited capacity for development of major projects, the next customer requesting service or a new solar installation in that area is required to pay for the necessary infrastructure upgrades.” See Petition at p.5. The Authority further stated that many solar developers will develop solar energy facilities in the Redevelopment Zones, but the current infrastructure does not have the capacity.

Additionally, the CCIA claimed that the development of a 100,000 square foot data center has been inhibited. Prospective developers expressed enormous interest in the development of the data center, but as the Authority noted, “the lack of adequate electric utility service to run this facility has hindered the process.” See Petition at p.7. According to the CCIA, current infrastructure provides 2 MW of electricity at this site, and the proposed data center project would require in excess of 60 MW of service.

In its Petition, the CCIA provided that it would not object if ACE filed a motion to intervene in this matter. Furthermore, the Authority believes that ACE is best suited to describe in detail the nature and costs of the needed expansions or extensions, as well as the construction and maintenance of the project(s).

On February 17, 2022, ACE filed a motion to intervene in this matter. ACE argued that they have substantial, specific, and direct interest in this proceeding and its outcome. ACE serves Cumberland County and, as acknowledged by the Authority, the infrastructure in question is owned by ACE and would be constructed and maintained by the Company. ACE also asserted that the Board’s decision in this matter could have precedential effect that may substantially and specifically impact the Company now and into the future. ACE indicated that, where possible and practical, ACE will work cooperatively with the other parties to this proceeding.

On March 3, 2022, Rate Counsel filed a comment letter of no objection to ACE’s motion to intervene.

DISCUSSION AND FINDINGS

The Board determined that the Petition should be retained by the Board for hearing and, pursuant to N.J.S.A. 48:2-32, **HEREBY DESIGNATES** Commissioner Robert M. Gordon as the Presiding Officer with authority to rule on all motions that arise during the pendency of this proceeding, and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. The Board **HEREBY ORDERS** that any entity seeking to intervene or participate in this matter file the appropriate application with the Board by April 6, 2022. Any

² The Authority provides that the Redevelopment Zones are located in the following municipalities: 1) Bridgeton, 2) Deerfield, 3) Hopewell, 4) Millville, and 5) Upper Deerfield.

party wishing to file a motion for admission of counsel, pro hac vice, should do so concurrently with any motion to intervene or participate.

With regard to ACE's Motion to Intervene, N.J.A.C. 1:1-16.3(a) requires that the decision-maker consider the following factors:

1. The nature and extent of the moving party's interest in the outcome of the case;
2. Whether that interest is sufficiently different from that of any other party so as to add measurably and constructively to the scope of the case;
3. The prospect for confusion and delay arising from inclusion of the party; and
4. Other appropriate matters.

If the standard for intervention is not met, N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant," if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, file a statement or brief, file exceptions, or all of these as determined by the trier of fact.

As the Board stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervenor's interest be specific, direct and different from that of the other parties so as to add measurably and constructively to the scope of the case. See In the Matter of the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, BPU Docket No. EM05020106, Order dated June 8, 2005.

After consideration of ACE's Motion to Intervene, and given the lack of any objections, the Board **HEREBY FINDS** that ACE has a substantial, specific, and direct interest in this matter. ACE serves Cumberland County. Additionally, ACE owns and maintains the electric infrastructure in Cumberland County. As indicated by ACE, the Authority agreed that ACE will add constructively to this matter.³ As such, the Board **FURTHER FINDS** that, pursuant to N.J.A.C. 1:1-16.3, ACE has met the standards for intervention as it has a significant interest in this proceeding and it will add measurably and constructively to the proceeding without causing delay. Therefore, the Board **HEREBY GRANTS** ACE's Motion to Intervene.

In addition, in compliance with the Board's Order in Docket No. EO20030254, the Board **HEREBY DIRECTS** all parties to serve all documents electronically.⁴ No hard copies shall be filed until the Board lifts the restrictions imposed in that Order. The Board **FURTHER DIRECTS** Staff to post this Order to the Board's website and that a copy of the Order be served by electronic circulation to the service list.

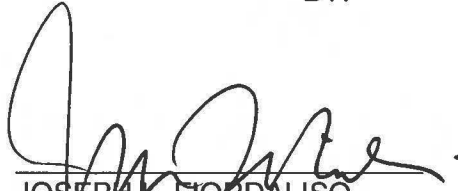
³ See February 17, 2022 ACE Motion to Intervene, BPU Docket No. EO22020043, at p.2.

⁴ In re the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations, BPU Docket No. EO20030254, Order dated March 19, 2020.

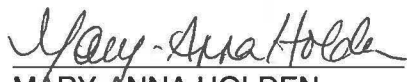
The effective date of this Order is March 30, 2022.

DATED: March 23, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

In the Matter of the Petition of Cumberland County Improvement Authority for the Approval of the Extension of Electric Public Utility Facilities of Atlantic City Electric Company Pursuant to N.J.S.A. 48:2-27

BPU DOCKET NO. EO22020043

SERVICE LIST

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