



Agenda Date: 12/20/23

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 COMBINED AND)	DECISION AND ORDER
CONSOLIDATED APPLICATION OF ATLANTIC CITY)	SETTING ADMINISTRATIVE
ELECTRIC COMPANY TO ADJUST THE LEVEL OF ITS)	FEE
“RIDER RGGI” RATE ASSOCIATED WITH ITS LEGACY)	
SOLAR RENEWABLE ENERGY CERTIFICATE (“SREC)	
I”) FINANCING PROGRAM, ITS SUCCESSOR SOLAR)	
RENEWABLE ENERGY CERTIFICATE (“SREC II”))	
FINANCING PROGRAM, ITS SOLAR TRANSITION)	
INCENTIVE PROGRAM (“TREC”), ITS SUCCESSIVE)	
SOLAR INCENTIVE (“SUSI”) PROGRAM, ITS ENERGY)	
EFFICIENCY (“EE”) PROGRAM, AND ITS COMMUNITY)	DOCKET NO. ER23070464
SOLAR ENERGY PILOT (“CSEP”) PROGRAM (2023))	

Parties of Record:

Philip J. Passanante, Esq., for Atlantic City Electric Company
Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On July 26, 2023, Atlantic City Electric Company (“ACE” or “Company”) filed a petition with the New Jersey Board of Public Utilities (“Board” or “BPU”) seeking authority to adjust the level of the Rider Regional Greenhouse Gas Initiative Recovery Charge (“Rider RGGI”) associated with ACE’s legacy Solar Renewable Energy Certificate (“SREC”) Financing Program (“SREC I Program”), the Company’s successor Solar Renewable Energy Certificate Financing Program (“SREC II Program”), its Transition Renewable Energy Certificate (“TREC”) Program (“TREC Program”), its Successor Solar Incentive (“SuSI”) Program (“SuSI Program”), its Energy Efficiency (“EE”) Program (“EE Program”) and its Community Solar Energy Pilot (“CSEP”) Program (“CSEP Program”) (“July 2023 Petition”).

Background and Procedural History

SREC I Program

By Order dated August 7, 2008, the Board directed Jersey Central Power & Light Company (“JCP&L”) and ACE to file, by September 30, 2008, a solar financing program based upon SRECs, utilizing and incorporating certain mandatory design and filing requirements. ACE, JCP&L, Staff, the New Jersey Division of Rate Counsel (“Rate Counsel”), and the Solar Alliance considered the ACE and JCP&L filings, and on March 13, 2009, executed a stipulation incorporating both proposals into a single program that included a cost recovery mechanism and incentives (“March 2009 Stipulation”). By Order dated March 27, 2009, the Board approved the March 2009 Stipulation and decided the contested issues.¹ The March 2009 Order approved, in part, the recovery of costs through an SREC Financing Program rate component of the Rider RGGI equal to a per kilowatt-hour (“kWh”) charge applicable to all customers. As net program costs for the first year of the program were uncertain, the March 2009 Order required ACE’s Rider RGGI rate component for this program to be set at 0.000000 per kWh.

Rate Counsel signed the March 2009 Stipulation, but reserved its right to contest three (3) specific issues. On May 8, 2009, Rate Counsel filed a Notice of Appeal with the Superior Court of New Jersey, Appellate Division, regarding the “additional recoveries” portion of the contested issues. On July 29, 2009, ACE, JCP&L, Staff, and Rate Counsel entered into a stipulation of settlement regarding the contested issues (“Stipulation on Appeal”). By Order dated September 16, 2009, the Board modified its March 2009 Order to reflect the terms of the Stipulation on Appeal. Rate Counsel withdrew its appeal on September 23, 2009.²

¹ In re Atlantic City Electric Company Renewable Energy Portfolio Standard Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy, and Conservation Programs; and for Electric Distribution Company Submittals of Filings in Connection with Solar Financing, and; In re the Verified Petition of Jersey Central Power and Light Company Concerning a Proposal for an SREC-Based Financing Program Under N.J.S.A. 48:3-98.1, BPU Docket Nos. EO08100875 and EO08090840, Order dated March 27, 2009 (“March 2009 Order”).

² In re Atlantic City Electric Company Renewable Energy Portfolio Standard Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy, and Conservation Programs; and for Electric Distribution Company Submittals of Filings in Connection with Solar Financing, and;

In re the Verified Petition of Jersey Central Power and Light Company Concerning a Proposal for an SREC-Based Financing Program Under N.J.S.A. 48:3-98.1, BPU Docket Nos. EO08100875 and EO08090840, Order dated September 16, 2009.

SREC II Program

On November 8, 2011, the Board directed the Office of Clean Energy to initiate an assessment of New Jersey's renewable energy programs, as well as address issues raised by the Solar Energy Advancement and Fair Competition Act (L. 2009, c. 289), and the 2011 Energy Master Plan ("EMP").³ On May 23, 2012, the Board issued an Order directing ACE to file within five (5) business days of service of the Order, "a notice of their intention to participate or not to participate in the Extended [Electric Distribution Company] SREC Programs consistent with Staff's recommendations adopted by the Board herein."⁴ On September 5, 2012, ACE submitted a petition requesting Board approval of the Company's SREC II Program. By Order dated December 18, 2013, the Board authorized ACE to offer an SREC II Program with a total program size of up to 23 megawatts ("MW").⁵ The December 2013 Order set the Administrative Fee for SREC II Program participants at \$17.07 per SREC, and further ordered that, after five (5) years, there would be a true-up of administrative costs and program participant fees. The program participant fees would be adjusted on a prospective basis, beginning January 1, 2019. Additionally, the December 2013 Order directed ACE to "assess Application Fees, Assignment Fees, and Administrative Fees (collectively, "Program Participant Fees") to Program Participants."

Through a series of Board Orders dated December 18, 2018, October 25, 2019, December 20, 2019, May 20, 2020, December 16, 2020, June 24, 2021, December 15, 2021, February 23, 2022, December 21, 2022, and April 12, 2023, the Board approved the maintenance of the Company's SREC II Administrative Fee at the Board's previously approved rate of \$17.07, and maintenance of the Rider RGGI Surcharge applicable to the SREC II Program's Direct Charges at its current rate of \$0.000000 per kWh.⁶

TREC Program

By Order dated December 6, 2019, the Board established the TREC Program to bridge the gap between legacy SREC programs and a to-be-determined successor program.⁷ The BPU directed New Jersey's electric distribution companies ("EDCs") to work with Staff to jointly procure a TREC Administrator that would acquire all of the TRECs produced each year by eligible solar generation projects. The TREC Administrator would then allocate the TRECs to load serving entities based upon their market share of retail sales for retirement within the generation attribute tracking system as part of the annual renewable portfolio standard compliance process.

³ The Office of Clean Energy was subsequently renamed the Division of Clean Energy.

⁴ In re the Review of Utility Supported Solar Programs, BPU Docket No. EO11050311V, Order dated May 23, 2012.

⁵ In re the Petition of Atlantic City Electric Company Concerning a Proposal for an Extended Solar Renewable Energy Certificate (SREC)-Based Financing Program Pursuant to N.J.S.A. 48:3-98.1, BPU Docket No. EO12090799, Order dated December 18, 2013 ("December 2013 Order").

⁶ In re the Combined and Consolidated Application of Atlantic City Electric Company to Adjust the Level of its "Rider RGGI" Rate Associated with its Legacy Solar Renewable Energy Certificate ("SREC I") Financing Program, its Successor Solar Renewable Energy Certificate ("SREC II") Financing Program, and its Solar Transition Incentive Program (2022), BPU Docket No. ER22070415, Order dated April 12, 2023; See also BPU Docket Nos. ER18101192, ER19101429, ER20100688, and ER21070980.

⁷ In re a New Jersey Solar Transition Pursuant to P.L. 2018, C.17, BPU Docket No. QO19010068, Order dated December 6, 2019 ("TREC Order").

The TREC Order further authorized the EDCs to recover reasonable and prudent costs for TREC procurement and TREC Administrator Fees, where the recovery would be based upon each EDC's proportionate share of retail electric sales. As a result, each EDC was directed to annually file for its costs and the recovery method, subject to approval by the Board.

By Order dated March 9, 2020, the Board directed Staff to work with the selected TREC Administrator to acquire all TRECs produced by eligible solar generation projects at a base compensation rate of \$152 per megawatt hour.⁸ The TREC Administrator would then calculate the actual value of a TREC to be acquired by multiplying the base compensation rate by a factor applicable to the solar project type.

In July 2020, the EDCs executed a contract with InClime, Inc. to serve as the TREC Administrator. By Order dated August 12, 2022, the Board approved and established a new component of the Company's Rider RGGI to recover costs associated with TREC. The initial TREC component of the Rider RGGI was set at a rate of \$0.000559 per kWh.⁹

SuSI Program

In accordance with the Clean Energy Act of 2018, L. 2018, c. 17 ("CEA"), and the Solar Act of 2021, L. 2021, c. 169, the Board issued an Order on June 28, 2021 establishing a new solar incentive program to incent up to 3,750 MW of new solar generation by calendar year 2026.^{10,11}

The SuSI Program contained two (2) sub-programs:

- 1) The Administratively Determined Incentive ("ADI") Program: a fixed incentive payment for net-metered solar projects of five (5) MW or less – including all residential customers and most commercial and industrial buildings -- and all Community Solar installations. The incentive value varies based upon project type and size, and is guaranteed for a term of 15 years; and
- 2) The Competitive Solar Incentive ("CSI") Program, which is a competitive solicitation designed to incentivize the lowest financial contribution from ratepayers for grid supply projects and net-metered commercial and industrial projects larger than five (5) MW.

The SuSI Order also directed the New Jersey EDCs to jointly procure an SREC-II Administrator or to expand the scope of duties for the existing TREC Administrator. On November 1, 2021, the EDCs and the TREC Administrator entered into an agreement amending the terms of the administrator's existing contract to reflect the inclusion of the ADI Program portion of the SuSI Program within the Administrator's scope of work. By Order dated June 29, 2022, the Board approved and established a new component of the Company's Rider RGGI to recover costs

⁸ In re a New Jersey Solar Transition Pursuant to P.L. 2018, C.17 – TREC Base Compensation Schedule, BPU Docket No. QO19010068, Order dated March 9, 2020.

⁹ In re the Petition of Atlantic City Electric Company Concerning the Initial Setting of the Regional Greenhouse Gas Initiative Recovery Charge ("Rider RGGI") Associated with the New Jersey Solar Transition Incentive Program, BPU Docket No. ER20050344, Order dated August 12, 2020.

¹⁰ N.J.S.A. 48:3-87(d); N.J.S.A. 48:3-115.

¹¹ In re a Solar Successor Incentive Program Pursuant to P.L. 2018, C.17, BPU Docket No. QO20020184, Order dated June 28, 2021 ("SuSI Order").

associated with SuSI. The initial SuSI component of the Rider RGGI was set at a rate of \$0.000379 per kWh.¹²

EE Program

On January 13, 2008, the RGGI Act, established by L. 2007, c. 340, was signed into law. The legislation reflects the New Jersey Legislature's recognition that EE and conservation measures are crucial components of the state's energy future, offering substantial benefits to its citizens. The Legislature further emphasized the importance of public utility engagement and competition in the conservation and EE sectors, aiming to maximize efficiency in these critical areas.¹³

Under Section 13 of the RGGI Act, electric and gas public utilities can invest in and provide EE and conservation programs in their service areas on a regulated basis. These investments may be eligible for rate treatment approval by the Board, allowing for incentives and mechanisms that separate utility revenue from electricity and gas sales. Utilities seeking cost recovery for such programs must file a petition with the Board, which may include incorporating technology and program costs into the rate base or using alternative approved ratemaking methodologies.¹⁴

In May 2018, Governor Murphy mandated the Board and executive branch agencies to create EMP guiding New Jersey's transition to 100% clean energy by January 1, 2050. The draft EMP was issued in June 2019, and the final version was released in January 2020. Concurrently, Governor Murphy signed the CEA into law in May 2018, setting ambitious EE goals for the State.

In a June 10, 2020 order, the Board endorsed an EE transition framework for programs under the CEA. This framework included mandates for utilities to create initiatives reducing electricity and natural gas consumption in their respective areas. The Board instructed electric and gas companies in New Jersey to submit petitions for three (3) year EE programs by September 25, 2020, seeking approval by May 1, 2021, with implementation slated to commence on July 1, 2021.¹⁵ By Order dated April 27, 2021, the Board approved and established a new program and component of the Company's Rider RGGI to recover costs associated with EE. The initial EE component of the Rider RGGI was set at a rate of \$0.000000 per kWh.¹⁶

CSEP Program

In accordance with the CEA, on August 29, 2018, the Board approved a CSEP Program, which offers utility customers the opportunity to access local clean energy, especially for those unable to install solar generation on their properties. By Order dated August 17, 2022, the Board

¹² In re the Petition of Atlantic City Electric Company Regarding the Initial Setting of the Regional Greenhouse Gas Initiative Recovery Charge Associated with the New Jersey Successor Solar Incentive ("SUSI") Program, BPU Docket No. ER21121236, Order dated June 29, 2022.

¹³ N.J.S.A. 48:3-98.1(b).

¹⁴ Ibid.

¹⁵ In re the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket No. QO19010040, Order dated June 10, 2020.

¹⁶ In re the Implementation of L. 2018, C. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs and In re the Petition of Atlantic City Electric Company for Approval of an Energy Efficiency Program, Cost Recovery Mechanism, and Other Related Relief for Plan Years One Through Three, BPU Docket Nos. QO19010040 and EO20090621, Order dated April 27, 2021.

approved and established a new component of the Company's Rider RGGI to recover costs associated with CSEP. The initial CSEP component of the Rider RGGI was set at a rate of \$0.000000 per kWh.¹⁷

July 2023 Petition

The Company requested the following in the July 2023 Petition:

SREC I Program

Based upon actual SREC I Program costs through May 2023, and forecasted costs from June 2023 through October 2023, the Company proposed to return approximately \$1,078,947 in costs associated with SREC I Program. The proposed decrease reduces the Rider RGGI charge from the current per kWh charge of (\$0.000121) to (\$0.000134).

SREC II Program

From the inception of the SREC II Program until the end of 2023, based upon actual data through May 2023, and estimated data through December 2023, the Company claimed to have incurred recoverable administrative costs of \$195,659. In addition, in determining the Administrative Fee for 2024, ACE projected its administrative costs over the next period (calendar year 2024), to be approximately \$40,431 with \$8,321 in interest (calendar year 2023) resulting in a total projection of administrative costs of \$244,411 to be collected from program participants in calendar year 2024. Therefore, the projected Administrative Fee for 2024 would be \$27.42 per SREC. However, ACE asserted that an increase of this magnitude from the current Administrative Fee of \$17.07 would cause SREC II Program to fail, as project participants will likely seek to terminate their participation. In order to avoid the premature termination of SREC II Program participants, ACE requested that the Board allow the Company to maintain the Administrative Fee at its current level of \$17.07 for calendar year 2024. ACE further requested that the Company be authorized to carry forward any unrecovered SREC II Program Participant Fees, including Administrative Fees, for recovery from SREC II Program participants in future annual period(s).

Regarding the SREC II Program costs, which were based upon actual costs through May 2024, and projected costs through October 2024, there is a projected over-recovered balance, including interest, for Direct Costs of \$2,645,317. However, ACE proposed to continue its SREC II costs at the current rate of \$0.000000 per kWh, resulting in no change in both the Administrative Fee and SREC II Program costs rate.

¹⁷ In re the Petition of Atlantic City Electric Company Establishing a Cost Recovery Mechanism Through the Greenhouse Gas Initiative Recovery Charge ("Rider RGGI") for the Community Solar Energy Pilot ("CSEP") Program and Other Associated Tariff Revisions, BPU Docket No. ER21060871, Order dated August 17, 2022.

TREC Program

ACE performed a calculation of its annual total revenue requirement necessary to recover its portion of the costs for TREC, including the estimated TREC Administrator Fee, for the November 2023 through October 2024 program year. Based upon actual costs from October 2022 through May 2023, and forecasts from July 2023 through October 2023, the projected revenue requirement for the program year was \$21,673,937. Based upon this total projected annual revenue requirement for the program year, ACE proposed to update its RGGI TREC charge from \$0.002423 to \$0.002701 per kWh.

SuSI Program

ACE performed a calculation of its total annual revenue requirement necessary to recover its percentage of costs of the SuSI Program, including the estimated SuSI Administrator Fee, for the November 2023 through October 2024 program year. Based upon actual costs from October 2022 through May 2023, and forecasts from June 2023 through October 2023, the projected revenue requirement for the program year was \$1,731,368. Based upon this annual revenue requirement for the program year, ACE proposed to update its RGGI SuSI charge from \$0.000059 to \$0.000216 per kWh.

EE Program

ACE performed calculations of its total annual revenue requirement necessary to recover its costs associated with the EE Program, for the July 1, 2023 through June 30, 2024. Based upon actual costs from May 2023, and forecasts from June 2023 through June 2024, the projected revenue requirement was \$13,475,803. Based upon this annual revenue requirement, ACE proposed to update its RGGI EE charge from \$0.000840 to \$0.001679 per kWh.

CSEP Program

ACE performed calculations of its total annual revenue requirement necessary to recover its capital and internal operations and maintenance costs of the CSEP Program for the period September 1, 2022 to May 31, 2023. Based upon actual costs through May 2023, the revenue requirement was \$176,198. Based upon this revenue requirement, ACE proposed to update its RGGI CSEP charge from \$0.000000 to \$0.000022 per kWh.

After notice in newspapers of general circulation within the Company's service territory, virtual public hearings were held on November 15, 2023 at 4:30 p.m. and 5:30 p.m.¹⁸ No members of the public attended the hearing. Additionally, no written comments were received by the Board.

¹⁸ Due to the COVID-19 Pandemic, the public hearings were held telephonically/virtually.

DISCUSSION AND FINDINGS

The parties are in the process of reviewing the July 2023 Petition, which will not be complete prior to the impending change in the SREC II Program Administrative Fee required by the December 2013 Order. Accordingly, after reviewing the record to date, including the July 2023 Petition, the Board **HEREBY FINDS** it appropriate to maintain the SREC II Administrative Fee for calendar year 2024 at its current level. Accordingly, the Board **HEREBY ORDERS** the continuation of the SREC II Program Administrative Fee at the Board's previously approved rate of \$17.07 for calendar year 2024.

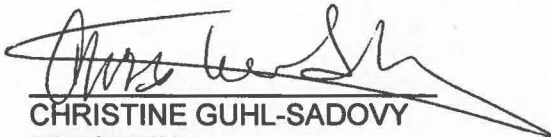
The Board notes that the parties will continue to review all matters concerning the July 2023 Petition.

The Company's costs, including those related to the programs described above, remain subject to audit by the Board. As such, this Decision and Order shall not preclude or prohibit the Board from taking any actions determined to be appropriate as a result of any such audit.


The effective date of this Order is December 27, 2023.

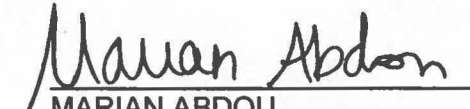
DATED: December 20, 2023

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MARYANNA HOLDEN
COMMISSIONER


DR. ZENON CHRISTODOULOU
COMMISSIONER


MARIAN ABDOU
COMMISSIONER

ATTEST: 
SHERRI L. GOLDEN
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 COMBINED AND CONSOLIDATED APPLICATION OF ATLANTIC CITY ELECTRIC COMPANY TO ADJUST THE LEVEL OF ITS "RIDER RGGI" RATE ASSOCIATED WITH ITS LEGACY SOLAR RENEWABLE ENERGY CERTIFICATE ("SREC I") FINANCING PROGRAM, ITS SUCCESSOR SOLAR RENEWABLE ENERGY CERTIFICATE ("SREC II") FINANCING PROGRAM, ITS SOLAR TRANSITION INCENTIVE PROGRAM ("TREC"), ITS SUCCESSIVE SOLAR INCENTIVE ("SUSI") PROGRAM, ITS ENERGY EFFICIENCY ("EE") PROGRAM, AND ITS COMMUNITY SOLAR ENERGY PILOT ("CSEP") PROGRAM (2023)

DOCKET NO. ER23070464

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