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May 8, 2024

VIA ELECTRONIC MAIL
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Sherri L. Golden, RMC
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
P.O. Box 350
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RE: In the Matter of 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 No. EO20090621

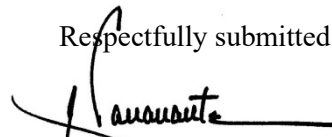
Dear Secretary Golden:

Enclosed herewith for filing is a fully executed Stipulation of Settlement in connection with the above-referenced matter.

Pursuant to the Order issued by the New Jersey Board of Public Utilities (the “Board” or “BPU”) in connection with *In the Matter of 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, this document is being electronically filed with the Secretary of the Board, the Division of Law, the New Jersey Division of Rate Counsel and the Service List. No paper copies will follow.

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

Respectfully submitted,



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

Enclosure

cc: Service List

**IN THE MATTER OF 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**

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

BPU DOCKET NO. EO20090621

STIPULATION OF SETTLEMENT

APPEARANCES:

Philip J. Passanante, Esq., Assistant General Counsel, for the Petitioner, Atlantic City Electric Company

Steven A. Chaplar, Esq., Deputy Attorney General, for the Staff of the New Jersey Board of Public Utilities (**Matthew J. Platkin, Esq.**, Attorney General of the State of New Jersey)

Maura Caroselli, Esq., Managing Attorney – Gas, **Megan Lupo, Esq.**, **Mamie W. Purnell, Esq.**, and **Andrew Gold, Esq.**, Assistant Deputies Rate Counsel, for the New Jersey Division of Rate Counsel (**Brian O. Lipman, Esq.**, Director)

John M. Kolesnik, Esq., Policy Counsel, for the Energy Efficiency Alliance of New Jersey

Kaitlin Morrison, Esq., Staff Attorney, Eastern Environmental Law Center on behalf of the Natural Resources Defense Council

TO: THE NEW JERSEY BOARD OF PUBLIC UTILITIES

This Stipulation of Settlement (“Stipulation”) is made by and among the petitioner, Atlantic City Electric Company (“ACE” or “Company”), Staff of the New Jersey Board of Public Utilities (“Staff”), the New Jersey Division of Rate Counsel (“Rate Counsel”), and the Energy Efficiency Alliance of New Jersey (collectively, “Parties”) to resolve ACE’s November 17, 2023 letter petition in this docket and join in recommending that the New Jersey Board of Public Utilities (“Board” or “BPU”) issue a final Decision and Order approving this Stipulation and modifying the

Company's Triennium 1 energy efficiency program ("Triennium 1 EE Program" or "Plan") as set forth herein.¹

BACKGROUND

1. On September 25, 2020, ACE filed a petition with the Board seeking approval of its Triennium 1 EE Program petition. Following a comprehensive proceeding on the Company's request, the Board authorized ACE to implement a portfolio of energy efficiency ("EE") programs, as well as an associated cost recovery mechanism pursuant to the New Jersey Clean Energy Act of 2018, N.J.S.A. 48:3-87.8 *et seq.* ("CEA").

2. By Order dated April 27, 2021, the Board approved a Stipulation of Settlement authorizing ACE to implement its Triennium 1 EE Program for a three (3)-year term, from July 1, 2021 through June 30, 2024.² Specifically, ACE's Triennium 1 EE Program entailed the implementation, administration, and investment in a slate of eight (8) residential sub-programs, four (4) commercial and industrial sub-programs, and one (1) multifamily sub-program with a total budget of \$96,065,276.³ In addition to the portfolio of EE programs, the Board approved the Company's implementation of a cost recovery mechanism, the EE Surcharge, which is included as a component of ACE's Rider Regional Greenhouse Gas Initiative ("Rider RGGI").

3. By Order dated May 24, 2023, the Board directed each electric and gas public utility ("Utilities") to propose EE programs for the second triennium period ("Triennium 2") on or before

¹ The Natural Resources Defense Council ("NRDC") was a party in, and a signatory to, the original Stipulation of Settlement referenced in Paragraphs 1 and 2 of this Stipulation. By letter dated May 6, 2024, counsel for the Eastern Environmental Law Center, on behalf of NRDC, advised that NRDC would not be taking a position on this Stipulation.

² In re the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs and In the Matter of 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 ("April 2021 Order").

³ Id. at 6.

October 2, 2023 and addressed certain aspects of the EE Triennium 2 framework.⁴ By Order dated July 26, 2023, the Board approved the remaining aspects of the Triennium 2 framework necessary for the Utilities to submit their Triennium 2 filings.⁵

4. By Order dated September 27, 2023, the Board established a December 1, 2023 deadline for EE program filings to be submitted by the Utilities for Triennium 2 implemented pursuant to the CEA.⁶

5. By Order dated October 25, 2023, the Board found that it was reasonable, prudent, and in the public interest to provide additional time for Board Staff and Rate Counsel to conduct a thorough and diligent concurrent review of the Triennium 2 filings, as well as to provide parties and interested stakeholders with additional time to review, analyze, and discuss the filings.⁷ By

⁴ 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”).

⁵ 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.

⁶ 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 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.

⁷ 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, the Board ordered that Triennium 2 shall commence on January 1, 2025 and conclude on June 30, 2027, for a total term of 2.5 years. The Board further directed the Utilities to submit filings in accordance with the new Triennium 2 term.

6. Also, by the October 2023 Order, the Board directed the Utilities to file petitions to extend their respective Triennium 1 programs, without changes, by six (6) months for the Board's approval.⁸ The Board ordered that each Utility's Triennium 1 extension budget should not exceed 50% of its third program year ("Program Year 3" or "PY3") budget to align with the progress and ramping of the EE programs. Further, the Board ordered that, as part of the Triennium 1 extension, each Utility shall meet energy savings targets equivalent to 50% of its PY3 energy savings targets to align with the progress and ramping of the EE programs. The Board further authorized the Utilities to shift program budgets within the same sector or among sectors during the Triennium 1 extension according to the parameters applicable to Triennium 2.⁹

7. On November 17, 2023, ACE filed a letter petition with the Board seeking approval to extend the Company's Board-approved Triennium 1 EE Program by six (6) months to December 31, 2024 ("Extension Period") and proposed a budget of \$29,500,000 for the Extension Period. Because ACE will recover the costs of its Triennium 1 EE Program in separate cost recovery proceedings, the instant proceeding will have no impact on customers' bills.

8. Two (2) virtual public hearings in this matter were held on March 18, 2024. Matt Von der Hayden, Stafford Township Administrator, attended the hearing to raise customer billing concerns unrelated to the Company's Triennium 1 extension request.

⁸ *Ibid.*

⁹ *See* the October 2023 Order and the May 2023 Order at 18-19.

9. Upon review of the Extension Petition and responses to discovery, the Parties to this proceeding hereby stipulate and agree as follows:

STIPULATED ISSUES

10. The Parties agree that ACE's Triennium 1 EE Program, as modified herein, shall be extended for a term of six (6) months beyond the current termination date of June 30, 2024 and that the Company is fully authorized to implement and administer the Triennium 1 EE Programs on a regulated basis for an additional six (6)-month term through December 31, 2024 under the terms and conditions set forth in the April 2021 Order, except as otherwise set forth herein.

11. The Parties agree that the budget of \$29,500,000 for the Extension Period is in the public interest. The Parties agree that ACE is authorized to utilize deferred accounting for all prudently incurred costs associated with the Triennium 1 EE Program and to recover all prudently incurred costs associated with the EE Program, including the costs of the Extension Period, through future EE Surcharge annual filings.

12. The Parties agree that ACE is authorized to recover the revenue impact of sales losses resulting from the Triennium 1 EE Program through Conservation Incentive Program ("CIP") filings. Consistent with the filing schedule set forth in the April 2021 Order, the Company's next CIP filing shall be for the recovery of lost revenues from July 1, 2023 through June 30, 2024 (*i.e.*, the first 12 months of extended Program Year 3), and the Company's subsequent CIP filing shall be for the recovery of lost revenues from July 1, 2024 through June 30, 2025 (*i.e.*, the final six [6] months of extended Program Year 3 and the abbreviated fourth program year). The Company shall make its CIP filings as soon as practicable after the data for the pertinent period becomes available.

13. The Parties agree that ACE is permitted to undertake projects that the Company has committed to undertake, as well as projects that have commenced, prior to December 31, 2024, and may continue those projects for any completion and close-out activities.

14. The Parties agree that the energy savings target for ACE's six (6)-month Extension Period shall be an estimated 43,645 megawatt-hours ("MWh") in annual savings and 525,226 MWh in lifetime savings in accordance with the Board's Order dated June 10, 2020, as outlined in the October 2023 Order.¹⁰

15. The Parties agree that, for purposes of evaluation and reporting, the extended Program Year 3, which is the 18-month period from July 1, 2023 through December 31, 2024, will be used.

16. This Stipulation represents a mutual balancing of interests, contains interdependent provisions, and, therefore, is intended to be accepted and approved in its entirety. In the event any aspect of this Stipulation is not accepted and approved in its entirety by the Board, any Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right to litigate all issues addressed herein to a conclusion. More particularly, if this Stipulation is not adopted in its entirety by the Board in any applicable Order, then any Party hereto is free to pursue its then available legal remedies with respect to all issues addressed in this Stipulation as though this Stipulation had not been signed.

17. The Parties agree that they consider the Stipulation to be binding on them for all purposes herein.

¹⁰ In re the Implementation of P.L. 2018, c. 17 Regarding the Establishment of Energy Efficiency and Peak Demand Reduction Programs, BPU Docket Nos. QO19010040, QO19060748, and QO17091004, Order dated June 10, 2020.

18. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of these proceedings. Except as expressly provided herein, the Parties shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein, in total or by specific item. The Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of this Stipulation.

19. The Parties acknowledge that a written Board Order approving this Stipulation will become effective upon the service of said Board Order, or upon such date after the service thereof as the Board may specify, in accordance with N.J.S.A. 48:2-40.

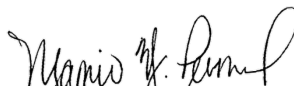
WHEREFORE, the Parties hereto respectfully request that the Board issue a Decision and Order approving this Stipulation in its entirety, in accordance with the terms hereof, as soon as reasonably possible.

ATLANTIC CITY ELECTRIC COMPANY

By:  _____
PHILIP J. PASSANANTE, ESQ.
ASSISTANT GENERAL COUNSEL

Dated: May 7, 2024

**BRIAN O. LIPMAN, DIRECTOR
NEW JERSEY DIVISION OF RATE COUNSEL**

By:  _____
MAMIE W. PURNELL, ESQ.
ASSISTANT DEPUTY RATE COUNSEL

Dated: May 7, 2024

**MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the Board of Public Utilities**

By:  _____
STEVEN A. CHAPLAR, ESQ.
DEPUTY ATTORNEY GENERAL

Dated: May 7, 2024

ENERGY EFFICIENCY ALLIANCE OF NEW JERSEY

By:  _____
JOHN M. KOLESNIK, ESQ.
POLICY COUNSEL

Dated: May 8, 2024



May 6, 2024

Via Email

**IN THE MATTER OF 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 NO.
EO20090621**

To Whom it May Concern:

Having reviewed the May 2024 Stipulation of Settlement, the Natural Resources Defense Council takes no position on the instant settlement agreement.

Kaitlin Morrison, Esq.
Eastern Environmental Law Center
On behalf of Intervenor
Natural Resources Defense Council

In the Matter of 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 No. EO20090621

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