



Agenda Date: 6/07/10

Agenda Item: 2J

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

ENERGY

IN THE MATTER OF ATLANTIC CITY ELECTRIC )  
COMPANY REQUESTING APPROVAL OF CHANGES )  
TO ITS ELECTRIC REGIONAL GREENHOUSE GAS )  
RECOVERY ("RGGI") CHARGE IN CONNECTION TO )  
THE RESIDENTIAL CONTROLLABLE SMART )  
THERMOSTAT PROGRAM )  
DECISION AND ORDER  
DOCKET NO. ER10050351

**Philip J. Passanante, Esq. and Nicolas W. Mattia Jr., Esq.** on behalf of Atlantic City Electric Company

**Paul Flanagan, Esq., Ami Morita, Esq., Diane Schulze, Esq., and Kurt Lewandowski, Esq.** (**Stefanie A. Brand**, Director Department of the Public Advocate,) on behalf of the Division of Rate Counsel

**Jessica Campbell**, Deputy Attorney General, on behalf of the Staff of the New Jersey Board of Public Utilities (**Paula Dow**, Attorney General of New Jersey)

BY THE BOARD:

On March 31, 2010, Atlantic City Electric Company ("ACE " or "Company") filed a petition ("March 31 Petition") with the New Jersey Board of Public Utilities ("Board") requesting approval for increases in that portion of its electric Regional Greenhouse Gas Recovery ("RGGI" ) Charge ("RRC") attributable to the Company's Residential Controllable Smart Thermostat Program ("RCSTP")<sup>1</sup>. The March 31 Petition also updated the Board on RCSTP implementation, as well as the status and rate impact of a Federal Stimulus grant awarded to the RCSTP through the American Recovery and Reinvestment Act of 2009 ("ARRA").

<sup>1</sup> The March 31 Petition was filed under the following dockets: In the Matter of Atlantic City Electric Company's Responsive Petition to the Board of Public Utilities Order Dated July 1, 2008 Regarding the Submission of Demand Response Programs for the Period Beginning June 1, 2009 for Electric Distribution Companies, And for Supplemental Inclusion of Same in Its "Blueprint for the Future" Filing Dated November 17, 2007; Docket No. EO08050326, EO08080543, EO07110881 and In the Matter of Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Company Programs; Docket No. EO08050326. By a Secretary's letter dated June 1, 2010, ACE was informed that the current caption and docket were assigned for ease of administration.

By this Decision and Order, the Board considers a Stipulation ("June Stipulation") entered into by ACE, the New Jersey Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), and Board Staff ("Staff") (collectively, the "Parties") on June 2, 2010, requesting that the Board approve an increase in the RRC component of the Company's RGGI Charge that is related to the RCSTP, subject to refund, after an annual review as to the prudence of the actual costs incurred in the initial implementation of the RCSTP. By this Order, the Board adopts the June Stipulation, subject to certain conditions.

## **BACKGROUND AND PROCEDURAL HISTORY**

By Order dated July 1, 2008 ("July 1 Order"), the Board, pursuant to N.J.S.A. 48:3-98.1(a)(3), directed the State's four electric distribution companies ("EDCs"), including ACE, to submit proposals to the Board by August 1, 2008 for demand response ("DR") programs to be implemented for the period beginning June 1, 2009.<sup>2</sup> In response to the July 1 Order, ACE submitted its DR petition to the Board on August 4, 2008 ("August 4 Filing"), under N.J.S.A. 48:3-98.1 and Board Order in Docket Number EO08030164 ("RGGI Order").<sup>3</sup> The August 4 Filing contained proposals for the RCSTP for residential customers and an Internet-Based Platform Program for commercial and industrial customers to reduce their electricity consumption during periods of peak demand on the delivery system.

By Order dated September 22, 2008<sup>4</sup> ("September 22 Order"), the Board suspended the procedural schedules relating to the EDCs' August 1, 2009 DR filings, including ACE's August 4 Filing, and directed Staff to meet with each of the EDCs and with Rate Counsel to reach agreement on those programs which could be reviewed in time for June 2009 implementation and those programs which would require extended review due to complexity and other factors.

By letter dated September 26, 2008, Staff memorialized the agreement among ACE, Rate Counsel and Staff that targeted the RCSTP for implementation by June 2009 and established an associated procedural schedule for the RCSTP. Afternoon and evening public hearings were held on November 25, 2008 in Mays Landing, New Jersey, after notice in newspapers of general circulation in ACE's service territory. No members of the public appeared at the public hearings or submitted written comments.

After numerous formal and informal discovery responses, meetings and telephonic discussions related to the RCSTP, ACE, Rate Counsel and Staff signed a Stipulation on June 30, 2009 ("Initial Stipulation"), to settle issues regarding the implementation of the Company's RCSTP. By Order dated July 31, 2009<sup>5</sup> ("July 31 Order"), the Board adopted the Initial Stipulation and its

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<sup>2</sup> *In The Matter of Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Company Programs*, BPU Docket No. EO08050326.

<sup>3</sup> *In The Matter of 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. 48:3-91*, BPU Docket No. EO08030164 (May 12, 2008).

<sup>4</sup> *In The Matter of Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Company Programs*, BPU Docket Nos. EO08050326, EO08080541, EO08080542, EO08080543, EO08080544.

<sup>5</sup> *In The Matter of Atlantic City Electric Company's Responsive Petition to the Board of Public Utilities Order Dated July 1, 2008 Regarding the Submission of Demand Response Programs for the Period*

Appendices in their entirety and granted approval to ACE to develop and implement the RCSTP within eight (8) months of the date of the Order. The Order directed that ACE's reasonable and prudently incurred costs associated with the RCSTP be recovered through a component of the RGGI Charge, the RRC, which is consistent with the Board's treatment of other programs filed under N.J.S.A. 48:3-98.1. The Order directed the Company to file a petition ("Initial Filing") no later than 60 days prior to the proposed commencement date for the recovery of costs associated with the implementation of the RCSTP, including the Company's projected RCSTP costs, actual costs incurred prior to that date, and the items listed in the minimum filing requirements ("MFRs") in Appendix 7 of the Initial Stipulation. Cost recovery is dependent on findings that the Company's actual costs are reasonable and prudent.

On August 6, 2009, ACE, along with other PHI utility subsidiaries, filed with the United States Department of Energy ("DOE") a plan for a Smart Grid Investment Grant ("SGIG") program, pursuant to the ARRA, which included funding for a portion of the costs associated with the RCSTP. On October 27, 2009, ACE became aware that it had been selected to receive a grant of up to 50 percent of \$13.4 million associated with the RCSTP, making the Company eligible to receive a maximum matching ARRA award of \$6.7 million. On March 5, 2010, the Company officially received notification that the DOE awarded ACE an SGIG grant, subject to final contract negotiations by and between the Company and DOE with respect to the details of the award. The amount of the award is based on the installation of 25,000 units.

As previously stated, on March 31, 2010, ACE filed the March 31 Petition seeking approval of cost recovery for the Company's initial RCSTP costs through an increase in the RRC component of the RGGI Charge on customers' monthly bills. The March 31 Petition also provided an update on RCSTP implementation, as well as the status and potential rate impact of the SGIG grant awarded to the RCSTP. Negotiations between the DOE and ACE were held in April 2010, resulting in the execution of a contract with DOE.

Afternoon and evening public hearings on the increase in the RRC requested by the March 31 Petition were held on May 5, 2010 in Mays Landing, New Jersey, after notice in newspapers of general circulation in ACE's service territory. No members of the public appeared at the public hearings or submitted written comments.

After numerous discovery requests and telephonic discussions, as well as a May 21, 2010 meeting in which the Parties met for the purpose of further review and discussion with respect to the matters covered in the March 31 Petition, ACE, Rate Counsel and Staff entered into the June Stipulation to approve an increase in the RRC component of the RGGI Charge related to the Company's recovery of projected initial RCSTP costs.

### **The Proposed STIPULATION**

The June Stipulation contains the following key provisions:

1. Nothing contained in the Stipulation shall be construed in any manner to alter the agreements, terms and conditions of the June 2009 Stipulation which shall remain in full

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*Beginning June 1, 2009 for Electric Distribution Companies, and for Supplemental Inclusion of Same in its "Blueprint for the Future" Filing Dated November 19, 2007, Docket Nos. EO08050326, EO08080543, EO07110881; and In The Matter of the Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Programs, Docket No. EO08050326.*

force and effect, except as further modified hereby, which modifications shall be deemed to be controlling on a prospective basis following Board approval hereof.

2. The Company's current estimate of total RCSTP costs of \$16.9 million is appropriate based upon the information available to the Signatory Parties and is consistent with the estimate of total program costs upon which the Initial Stipulation was agreed upon by the Signatory Parties for the installation of 42,000 units. The projected amount of \$16.9 million is a revised estimate of the projected costs and represents an increase in the original projected cost of the RCSTP program, which amounted to \$16.6 million.
3. The estimate for the first year's RCSTP costs of \$4.8 million, which includes a first year credit to program costs of \$1.8 million dollars associated with anticipated ARRA funding, is appropriate for purposes of setting the first year RCSTP program cost recovery pursuant to the Company's Rider RGGI tariff. Based on this estimate of the projected costs and ARRA funding, approximately \$3.0 million for projected first-year costs will be recovered from ratepayers through the RGGI charge. This estimate is subject to true-up, as well as prudence review by the Signatory Parties, as part of the Company's next annual filing ("Annual Filing") in this matter, which filing is to be submitted no later than March 31, 2011. The actual costs for the prior period will be reviewed for reasonableness and prudence in each Annual Filing proceeding, pursuant to provisions herein and the terms of the Order and June 2009 Stipulation and the Order. For the purpose of implementing this Stipulation, the Signatory Parties agree that the Company's Rider RGGI tariff shall reflect a recovery charge associated with the first year Program costs of \$0.000190 per kWh. A copy of the applicable Rider RGGI tariff sheet is attached hereto as Appendix A.
4. The Signatory Parties recognize that the maximum amount of the ARRA stimulus funding, i.e. up to \$6.7 million, that can be made available to the Company associated with the RCSTP is a function of numerous factors, including the total number of program participants enrolled (and devices installed) during the ARRA funding period, which is currently understood to be approximately 36 months commencing on and after April 15, 2010.<sup>6</sup> The Company shall use its best efforts to effectuate maximum customer participation in the RCSTP during the ARRA funding period in order to achieve the maximum level of ARRA funding possible. In order to achieve this objective, the Signatory Parties recognize that the Company may deem it necessary to seek Board approval in the future for modification(s) to the RCSTP in order to promote additional customer participation. Any such proposed modification(s) shall be filed with the Board, with copies to the Signatory Parties for their review and participation, and shall be subject to further Board authorization.
5. The Company agrees that future requests for annual RCSTP cost recovery shall include anticipated ARRA funding amounts expected to be received during the applicable period, if any.
6. Consistent with the intent and provision of the Initial Stipulation, the Company shall utilize its best efforts to maximize the participation, and related revenues, of the RCSTP

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<sup>6</sup> The Company is currently attempting to extend the ARRA funding period to the end of calendar year 2013 in order to allow a greater number of Program participants to be eligible for federal stimulus funding. This request is subject to approval by the USDOE.

in all appropriate energy and demand-related PJM programs for which the RCSTP is eligible. The Company agrees that future requests for annual RCSTP cost recovery shall include anticipated PJM program revenues expected to be received during the applicable period, if any.

7. For the duration of the Program, the Company shall, no less than quarterly (both for the applicable quarter, as well as for the program to date), provide the Signatory Parties with progress reports, identifying, by month, quarter, and to-date: (a) the number of participant enrollments, as well as the related devices associated with such participants; (b) the amount of ARRA funding received; (c) the number and types of devices installed (i.e., thermostats or switches); (d) the program costs incurred; and (e) the revenues derived from available PJM programs. Such progress reports shall be provided to the Signatory Parties no later than 60 days following the close of each calendar quarter.
8. A typical 1000 kWh/month residential customer will see a monthly bill impact of approximately \$0.19 as a result of the Board's approval of this Stipulation.
9. The Signatory Parties hereby request that the proposed RCSTP cost recovery, as more fully described and amended hereinabove, and as set forth on the Company's Rider RGGI tariff attached to the Stipulation, be considered by the Board at its first available agenda meeting in June 2010 to be effective for bills rendered on and after July 1, 2010.
10. If additional funding from ARRA or funding or credits from any subsequent state, local or federal action or other non-utility source are received by the Company for RCSTP reimbursement, the Company agrees that any such funds or credits directly applicable to work related to the RCSTP will be used to benefit ratepayers by offsetting the costs for which recovery will be sought to the extent permitted by law.

#### **DISCUSSION AND FINDING**

The Board has carefully reviewed the record to date in this proceeding and the attached June Stipulation. The Board **FINDS** that, subject to the terms and conditions set forth below, the June Stipulation is reasonable, in the public interest, and in accordance with the law. In particular, the Board **NOTES** that the recent DOE award to ACE of an SGIG grant, and the Company's commitment to use its best efforts to maximize customer participation in the RCSTP during the ARRA funding period to provide customers with the benefit of as much ARRA funding as possible, should increase the cost effectiveness of the RCSTP by reducing the costs from the level originally approved in July 2009 by up to approximately \$6.7 million. Additionally, ACE has reconfirmed its commitment to use its best efforts to have the RCSTP participate in all appropriate energy and demand-related PJM programs for which the RCSTP is eligible, further supporting the Board's findings that the Stipulation is in the public interest of providing cost effective Demand Response.

Pursuant to the July 31 Order, the Company is entitled to recover all reasonable and prudently incurred incremental RCSTP program costs through the RRC, equal to a per kWh charge applicable to all customers in all customer classes. Such cost recovery is subject to an annual true-up of actual program costs.

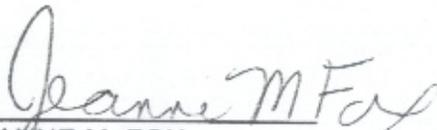
Accordingly, the Board **HEREBY ADOPTS** the Stipulation in its entirety, as if fully set forth herein. The Board **HEREBY APPROVES**, subject to refund with interest on any net over-recovered balance, and calculated as required by the July 31 Order, an increase in the RCSTP component of the Company's electric RRC to \$0.000190 per kWh, including taxes. A typical residential customer using 1,000 kWh would see an increase in the monthly bill of \$0.19, or \$2.28 on an annual basis. This change shall become effective as of July 1, 2010 or the date of this Order, whichever is later.

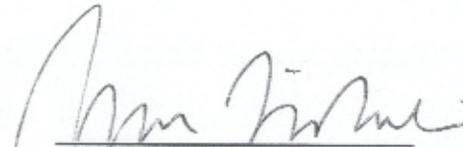
The Board **HEREBY ORDERS** ACE to file revised tariff sheets conforming to the terms of the Stipulation within five (5) days of this Board Order.

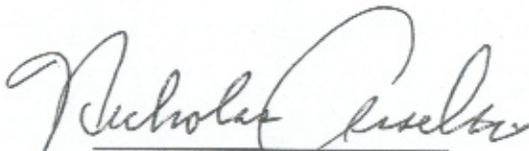
DATED: 6/16/10

BOARD OF PUBLIC UTILITIES  
BY:

  
LEE A. SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

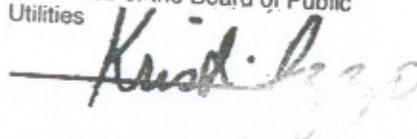
  
NICHOLAS ASSELTA  
COMMISSIONER

  
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
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 Requesting Approval of  
Changes to Its Electric Regional Greenhouse Gas Recovery (RGGI) Charge in Connection to  
the Residential Controllable Smart Thermostat Program  
BPU Docket No. ER10050351

SERVICE LIST

**BOARD OF PUBLIC UTILITIES**

Jerome May  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[jerome.may@bpu.state.nj.us](mailto:jerome.may@bpu.state.nj.us)

Kristi Izzo  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[kristi.izzo@bpu.state.nj.us](mailto:kristi.izzo@bpu.state.nj.us)

Alice Bator  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[alice.bator@bpu.state.nj.us](mailto:alice.bator@bpu.state.nj.us)

Sheila Iannaccone  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102  
[sheila.iannaccone@bpu.state.nj.us](mailto:sheila.iannaccone@bpu.state.nj.us)

Linda Nowicki  
Board of Public Utilities  
P.O. Box 350  
Trenton, NJ 08625  
[linda.nowicki@bpu.state.nj.us](mailto:linda.nowicki@bpu.state.nj.us)

**DIVISION OF RATE COUNSEL**

Paul Flanagan, Esq.  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07101  
[pflanagan@rpa.state.nj.us](mailto:pflanagan@rpa.state.nj.us)

Stefanie A. Brand, Esq.  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07101  
[sbrand@rpa.state.nj.us](mailto:sbrand@rpa.state.nj.us)

Brian Weeks, Esq.  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07101  
[brian.weeks@rpa.state.nj.us](mailto:brian.weeks@rpa.state.nj.us)

**DEPARTMENT OF LAW & PUBLIC SAFETY**

Caroline Vachier, DAG  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07101  
[caroline.vacier@dol.lps.state.nj.us](mailto:caroline.vacier@dol.lps.state.nj.us)

Jessica Campbell, DAG  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07101  
[jessica.campbell@dol.lps.state.nj.us](mailto:jessica.campbell@dol.lps.state.nj.us)

Babette Tenzer, DAG  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, NJ 07101  
[babette.tenzer@dol.lps.state.nj.us](mailto:babette.tenzer@dol.lps.state.nj.us)

**ATLANTIC CITY COMPANY**

Wayne W. Barndt  
Pepco Holdings, Inc. 79NC59  
New Castle Regional Office  
401 Eagle Run Road  
P.O. Box 9239  
Newark, DE 19714  
[wayne.barndt@pepecoholdings.com](mailto:wayne.barndt@pepecoholdings.com)

Robert E. Pedersen  
Atlantic City Electric Company  
63ML38  
5100 Harding Highway  
Mays Landing, NJ 08330  
[roger.pedersen@pepecoholdings.com](mailto:roger.pedersen@pepecoholdings.com)

Philip J. Passanante, Esq.  
Atlantic City Electric Company  
800 King Street, 5<sup>th</sup> Floor  
P.O. Box 231  
Wilmington, DE 19801  
[philip.passanante@pepcoholdings.com](mailto:philip.passanante@pepcoholdings.com)

Nicholas W. Mattia, Jr. Esq.  
Dickstein Shapiro, LLP  
1825 Eye Street NW  
Washington, DC 20006  
[mattian@dicksteinshapiro.com](mailto:mattian@dicksteinshapiro.com)

Joseph F. Janocha  
Atlantic City Electric Company  
63ML38  
5100 Harding Highway  
Mays Landing, NJ 08330  
[Joseph.janocha@pepcoholdings.com](mailto:Joseph.janocha@pepcoholdings.com)

#### **DIVISION OF RATE COUNSEL**

Ami Morita, Esq.  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07101  
[amorita@rpa.state.nj.us](mailto:amorita@rpa.state.nj.us)

Kurt Lewandowski, Esq.  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07101  
[klewando@rpa.state.nj.us](mailto:klewando@rpa.state.nj.us)

Lisa Gurkas  
Division of Rate Counsel  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07101  
[lgurkas@rpa.state.nj.us](mailto:lgurkas@rpa.state.nj.us)

#### **CONSULTANTS FOR RATE COUNSEL**

Rick Hornby  
Synapse Energy Economics  
22 Pearl Street  
Cambridge, MA 02139  
[rhornby@synapse-energy.com](mailto:rhornby@synapse-energy.com)

Bruce Biewald  
Synapse Energy Economics  
22 Pearl Street  
Cambridge, MA 02139  
[bbiewald@synapse-energy.com](mailto:bbiewald@synapse-energy.com)

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**IN THE MATTER OF THE PETITION OF  
ATLANTIC CITY ELECTRIC COMPANY  
REQUESTING APPROVAL OF CHANGES  
TO ITS ELECTRIC REGIONAL  
GREENHOUSE GAS RECOVERY (RGGI)  
CHARGE IN CONNECTION TO THE  
RESIDENTIAL CONTROLLABLE SMART  
THERMOSTAT PROGRAM**

**STATE OF NEW JERSEY**

**BOARD OF PUBLIC UTILITIES**

**BPU DOCKET NO. ER10050351**

**STIPULATION OF SETTLEMENT**

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**TO THE HONORABLE BOARD OF PUBLIC UTILITIES:**

This Stipulation of Settlement (the "Stipulation") is hereby made and executed as of this 2nd day of June, 2010, by and among Atlantic City Electric Company ("ACE" or the "Company"), the Staff of the New Jersey Board of Public Utilities ("Staff"), and the New Jersey Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") (individually the "Signatory Party" and collectively, the "Signatory Parties"), in settlement of all factual and legal issues pertaining to the elements of the above-captioned proceeding insofar as they relate to ACE's Residential Controllable Smart Thermostat Program ("RCSTP" or the "Program").

Following appropriate notice in newspapers of general circulation in the Company's service territory, public hearings in this matter<sup>1</sup> were conducted at 3:30 p.m. and 5:30 p.m. on May 5, 2010, at the Mays Landing Branch of the Atlantic County Library. No members of the public appeared at the public hearings or submitted any comments.

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<sup>1</sup> The public hearings referenced herein were noticed and conducted pursuant to BPU Docket Nos. EO08050326, EO08080543 and EO07110881, which matters are the predecessors to this proceeding.

The Signatory Parties do hereby join in recommending that the Board of Public Utilities (the "Board") issue an Order approving this Stipulation, based upon the following facts and stipulations:

### **BACKGROUND**

By Order dated July 31, 2009 (the "Order"), the Board adopted a Stipulation (the "June 2009 Stipulation") in BPU Docket Nos. EO08050326, EO08080543, and EO07110881. The June 2009 Stipulation was entered into by the Signatory Parties on June 30, 2009 and recommended approval of ACE's RCSTP. The Order further directed ACE to file a Petition (the "Petition") approximately eight months following the date of the Order, which Petition would identify and seek recovery of the estimated costs associated with the first year's implementation of the RCSTP. On March 31, 2010, the Company submitted the requisite Petition in the above referenced dockets to the Board.<sup>2</sup> The Petition requested that first year cost recovery associated with the RCSTP commence with customer bills to be issued on and after June 1, 2010. The Petition identified the estimated overall four year costs for the RCSTP to be approximately \$16.9 million and proposed an increase to the Company's Rider RGGI tariff of \$0.000216 per kWh for the first year's program costs. The Company is to make similar filings for recovery of the balance of the RCSTP costs in each of the remaining three years of the Program. Subsequent to the filing of the Petition, the Company received and responded to formal and informal discovery requests from Staff and Rate Counsel. Further, on May 21, 2010 the Signatory Parties met for the purpose of further review and discussion with respect to the matters covered by the Petition. In particular, the Signatory Parties noted that, following the issuance of the Order, ACE, through

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<sup>2</sup> By letter dated June 1, 2010, the Secretary of the Board advised the Company that the caption and docket number originally associated with this filing was changed as noted in the caption of this Stipulation.

its parent, Pepco Holdings, Inc. ("PHI"), submitted an application for federal stimulus funding for a portion of the costs of the RCSTP pursuant to the American Recovery and Reinvestment Act of 2009 ("ARRA"), which application was granted in November 2009. The portion of the RCSTP costs approved pursuant to ARRA is \$13.4 million, of which the Company is eligible to receive a maximum matching ARRA award of \$6.7 million. The ARRA award, administered by the United States Department of Energy ("USDOE"), is based on the installation of 25,000 units within three years.

As a result of the aforementioned discussions and meeting, the Signatory Parties are in agreement that this Stipulation resolves all issues arising under this matter as more fully detailed below.

#### **STIPULATION**

The Signatory Parties to this Stipulation **DO HEREBY STIPULATE AND AGREE** as to the following findings, conclusions and determinations for purposes of a full, final and complete resolution of the issues raised in this proceeding:

1. Nothing contained in this Stipulation shall be construed in any manner to alter the agreements, terms and conditions reflected in the June 2009 Stipulation, which shall remain in full force and effect, except as further modified hereby, which modifications shall be deemed to be controlling on a prospective basis following Board approval hereof.

2. The Company's current estimate of total RCSTP costs of \$16.9 million is appropriate based upon the information available to the Signatory Parties and is consistent with the estimate of total program costs upon which the Initial Stipulation was agreed upon by the Signatory Parties for the installation of 42,400 units. The projected amount of \$16.9 million is a revised

estimate of the projected costs and represents an increase in the original projected cost of the RCSTP program, which amounted to \$16.6 million.

3. The estimate for the first year's RCSTP costs of \$4.8 million, which includes a first year credit to program costs of \$1.8 million dollars associated with anticipated ARRA funding, is appropriate for purposes of setting the first year RCSTP program cost recovery pursuant to the Company's Rider RGGI tariff. Based on this estimate of the projected costs and ARRA funding, approximately \$3.0 million for projected first-year costs will be recovered from ratepayers through the RGGI charge. This estimate is subject to true-up, as well as prudence review by the Signatory Parties, as part of the Company's next annual filing ("Annual Filing") in this matter, which filing is to be submitted no later than March 31, 2011. The actual costs for the prior period will be reviewed for reasonableness and prudence in each Annual Filing proceeding, pursuant to provisions herein and the terms of the Order and June 2009 Stipulation and the Order. For the purpose of implementing this Stipulation, the Signatory Parties agree that the Company's Rider RGGI tariff shall reflect a recovery charge associated with the first year Program costs of \$0.000190 per kWh. A copy of the applicable Rider RGGI tariff sheet is attached hereto as **Appendix A**.

4. The Signatory Parties recognize that the maximum amount of the ARRA stimulus funding, i.e. up to \$6.7 million, that can be made available to the Company associated with the RCSTP is a function of numerous factors, including the total number of program participants enrolled (and devices installed) during the ARRA funding period, which is currently understood to be approximately 36 months commencing on and after April 15, 2010.<sup>3</sup> The Company shall

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<sup>3</sup> The Company is currently attempting to extend the ARRA funding period to the end of calendar year 2013 in order to allow a greater number of Program participants to be eligible for federal stimulus funding. This request is subject to approval by the USDOE.

use its best efforts to effectuate maximum customer participation in the RCSTP during the ARRA funding period in order to achieve the maximum level of ARRA funding possible. In order to achieve this objective, the Signatory Parties recognize that the Company may deem it necessary to seek Board approval in the future for modification(s) to the RCSTP in order to promote additional customer participation. Any such proposed modification(s) shall be filed with the Board, with copies to the Signatory Parties for their review and participation, and shall be subject to further Board authorization.

5. The Company agrees that future requests for annual RCSTP cost recovery shall include anticipated ARRA funding amounts expected to be received during the applicable period, if any.

6. Consistent with the intent and provision of the June 2009 Stipulation, the Company shall utilize its best efforts to maximize the participation, and related revenues, of the RCSTP in all appropriate energy and demand-related PJM programs for which the RCSTP is eligible. The Company agrees that future requests for annual RCSTP cost recovery shall include anticipated PJM program revenues expected to be received during the applicable period, if any.

7. For the duration of the Program, the Company shall, no less than quarterly (both for the applicable quarter, as well as for the Program to date), provide the Signatory Parties with progress reports, identifying, by month, quarter, and to-date: (a) the number of participant enrollments, as well as the related devices associated with such participants; (b) the amount of ARRA funding received; (c) the number and types of devices installed (i.e., thermostats or switches); (d) the program costs incurred; and (e) the revenues derived from available PJM programs. Such progress reports shall be provided to the Signatory Parties no later than 60 days following the close of each calendar quarter.

8. A typical 1,000 kWh/month residential customer will see a monthly bill impact of approximately \$0.19 as a result of the Board's approval of this Stipulation.

9. The Signatory Parties hereby request that the proposed RCSTP cost recovery, as more fully described and amended hereinabove and as set forth on the Company's Rider RGGI tariff attached hereto, be considered by the Board at its first available agenda meeting in June 2010 to be effective for bills rendered on and after July 1, 2010.

10. If additional funding from ARRA or funding or credits from any subsequent state, local or federal action or other non-utility source are received by the Company for RCSTP reimbursement, the Company agrees that any such funds or credits directly applicable to work related to the RCSTP will be used to benefit ratepayers by offsetting the costs for which recovery will be sought to the extent permitted by law.

### CONCLUSION

1. The Signatory Parties agree that this Stipulation contains mutual balancing and interdependent clauses and is intended to be accepted and approved in its entirety. In the event any particular provision is not accepted and approved in its entirety by the Board, or is modified by a court of competent jurisdiction, then any Signatory Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right, upon written notice, to be provided to all other Signatory Parties within ten (10) days after receipt of any such adverse decision, to litigate all issues addressed herein to a conclusion. More particularly, in the event this Stipulation is not adopted in its entirety by the Board in an appropriate Order, or is modified by a court of competent jurisdiction, then any Signatory Party hereto is free, upon the timely

provision of such written notice, to pursue its then available legal remedies with respect to all issues addressed in this Stipulation, as though this Stipulation had not been signed.

2. The Signatory Parties agree that this Stipulation shall be binding on them for all purposes herein.

3. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and, except as otherwise expressly provided for herein:

- a. by executing this Stipulation, no Signatory Party waives any rights it possesses under any prior Stipulation, including the June 2009 Stipulation, except where the terms of this Stipulation supersede such prior Stipulation; and
- b. the contents of this Stipulation shall not in any way be considered, cited or used by any of the Signatory Parties as an indication of any Signatory Party's position on any related or other issue litigated in any other proceeding or forum, except to enforce the terms of this Stipulation.

4. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, the Signatory 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 Signatory 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.

5. This Stipulation may be executed in any number of counterparts, each of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Signatory Parties.

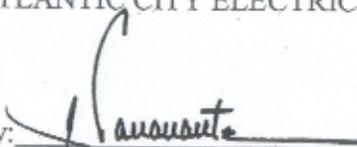
**WHEREFORE**, the Signatory Parties hereto have duly executed and do respectfully submit this Stipulation to the Board and recommend that the Board issue a Final Decision and Order adopting and approving this Stipulation in its entirety in accordance with the terms hereof.

Respectfully submitted,

ATLANTIC CITY ELECTRIC COMPANY

Dated: June 2, 2010

By:

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

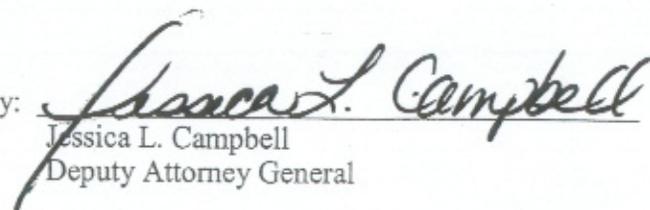
Assistant General Counsel  
800 King Street, 5th Floor  
P.O. Box 231  
Wilmington, DE 19801-0231  
(302) 429-3105 - Telephone  
(302) 429-3801 - Facsimile  
philip.passanante@pepcoholdings.com

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the  
New Jersey Board of Public Utilities

Dated:

*6/2/2010*

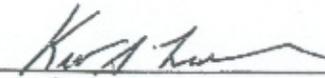
By:

  
Jessica L. Campbell  
Deputy Attorney General

STEFANIE A. BRAND  
PUBLIC ADVOCATE OF NEW JERSEY (Acting)

Stefanie A. Brand  
Director, Division of Rate Counsel

Dated: 6/2/10

By:   
Assistant Deputy Public Advocate  
KURT J. LEWANDOWSKI, Esq.