



STATE OF NEW JERSEY
Board of Public Utilities
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www.nj.gov/bpu/

ENERGY AND CLEAN ENERGY

IN THE MATTER OF THE PETITION OF ATLANTIC)
CITY ELECTRIC COMPANY FOR APPROVAL OF A)
VOLUNTARY PROGRAM FOR PLUG-IN VEHICLE)
CHARGING)
)
)
) DOCKET NO. EO18020190

Parties of Record:

Philip J. Passanante, Esq., Atlantic City Electric Company
Stefanie Brand, Esq., Director, NJ Division of Rate Counsel
Murray E. Bevan, Esq., Bevan, Mosca & Giuditta P.C. on behalf of ChargePoint, Inc.
William Bittinger, Esq., Eastern Environmental Law Center on behalf of Environmental Movants
Kevin Auerbacher, Esq., Tesla, Inc.
Martin C. Rothfelder, Esq., EVGO Services LLC
Nathan C. Howe, Esq., McCarter & English LLP on behalf of Greenlots
Ira G. Megdal, Esq., Counsel for Electrify America, LLC

BY COMMISSIONER UPENDRA J. CHIVUKULA:

By this Order, I grant the Motion filed by Electrify America, LLC (“Electrify America”) on August 6, 2020, to intervene in the above docketed matter; and I modify the procedural schedule issued on June 10, 2020.

I. BACKGROUND

On February 23, 2018, Atlantic City Electric Company (“ACE” or “Company”) filed a petition (“PIV Petition”) with the New Jersey Board of Public Utilities (“Board” or “BPU”) for approval of a Voluntary Program for Plug-In Vehicle (“PIV”) Charging (“PIV Program”).

By Board Order dated March 26, 2018 (“March 2018 Order”), the Board determined that the PIV Petition should be retained by the Board for hearing and, pursuant to N.J.S.A. 48:2-32, designated myself as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings and modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. Further, the March 2018 Order directed that any entities

seeking to intervene or participate in this matter file the appropriate application with the Board by April 13, 2018.¹

On April 6, 2018, the New Jersey Division of Rate Counsel (“Rate Counsel”) filed a motion with the Board to stay ACE’s PIV Petition.

On December 17, 2019, ACE filed an amended petition (“Amended Petition”), proposing 13 “offerings” designed to accelerate PIV adoption in New Jersey. The Amended Petition proposes a multi-year, \$42.107 million-dollar PIV program that aims to incentivize off-peak charging of PIVs, develop PIV infrastructure, provide grants to foster innovation in electrifying the transportation sector, and support for electrifying school buses.

On April 9, 2020, I issued a Prehearing Order (“April 2020 Prehearing Order”), wherein a procedural schedule was set where motions for intervention and participation were due March 13, 2020. The following motions to intervene were granted: the Natural Resources Defense Council (“NRDC”), Charge Point, Inc. (“ChargePoint”) and Greenlots, Inc. (“Greenlots”). The following motions to participate were granted: Public Service Electric and Gas Company (“PSE&G”) and Jersey Central Power & Light Company (“JCP&L”). The April 2020 Prehearing Order also provided that Rate Counsel’s stay motion had been deemed denied by the operation of N.J.A.C. 14:1-8.7(c), and I also denied the stay motion. On May 13, 2020, I subsequently granted Tesla, Inc. (“Tesla”) Motion for Reconsideration of Intervenor status.

On or about April 13, 2020, Rate Counsel filed a motion to dismiss a portion of ACE’s Amended Petition. On or about May 4, 2020 ACE filed an opposition to Rate Counsel’s motion which was joined by interveners, Greenlots and NRDC. On or about May 18, 2020 Rate Counsel filed a reply to ACE’s opposition.

On May 4, 2020, The Eastern Environmental Law Center (“EELC”), representing NRDC filed a supplemental Motion to Intervene to add Environment New Jersey (“ENJ”), Sierra Club, Tri-State Transportation Company (“TSTC”), Work Environment Council of New Jersey (“WEC”), GreenFaith, Inc. (“GreenFaith”), and Isles, Inc. (“Isles”) (hereinafter referred to as “Movants”) as interveners in this matter. On June 2, 2020, I granted the motions for intervention of Movants and EvGo.

On June 10, 2020, I issued an order (“June 2020 Amended Procedural Schedule Order”), modifying the procedural schedule originally set forth in the April 2020 Prehearing Order. The June 2020 Amended Procedural Schedule Order provided the bar date for motions to intervene and participate as March 13, 2020, the first round of discovery requests to be propounded by June 24, 2020, and a second discovery round due on July 27, 2020. Evidentiary hearings are scheduled for the week of November 9, 2020.

On June 26, 2020, I denied Rate Counsel’s motion to dismiss, and ordered the parties to continue moving through the procedural schedule as set forth in the June 2020 Amended Procedural Schedule Order.

On July 13, 2020, I granted the Alliance for Transportation Electrification’s (“Alliance”) Motion to Participate.

¹ In re Petition of Atlantic City Electric Company for Approval of a Voluntary Program for Plug-In Vehicle Charging, BPU Docket No. EO18020190, Order dated March 26, 2018 (“March 2018 Order”).

II. ELECTRIFY AMERICA, LLC MOTION TO INTERVENE

Electrify America, LLC (“Electrify America”) filed a Motion to Intervene on August 6, 2020. Electrify America is a wholly-owned subsidiary of Volkswagen Group of America headquartered in Reston, Virginia. In its Motion, Electrify America asserted it is investing \$2 billion over 10 years on zero-emissions vehicle (“ZEV”) infrastructure, education and awareness, and efforts to support the increased adoption of ZEV technology in the United States. As a part of the first half of its investment, Electrify America states it is building a nationwide network of ultra-fast direct current fast charging stations across over 500 locations and with over 2,000 individual direct current fast chargers already in operation.

Electrify America contends that its relationships with owners and operators of EVs is unique based upon its business model, and accordingly, its interests are individual and cannot be represented adequately by any other party in this proceeding. Electrify America maintains that its existing and planned charging infrastructure will be materially impacted by the utility’s proposed programs, including a potential for an increased cost of doing business due to this proceeding.

According to its Motion to Intervene, Electrify America did not operate any charging stations in New Jersey in April 2018 when intervention motions were originally due. In May 2019, Electrify America opened its first EV charging station in New Jersey. Presently, Electrify America has nine charging stations in New Jersey and intends to open an EV charging station in ACE’s service territory in the foreseeable future. It, therefore, asserts that it will be substantially, specifically and directly affected by the outcome of this proceeding.

Electrify America affirmed it will not add confusion to, or otherwise delay, the proceeding in any way and stated that it would abide by the existing procedural schedule.

Response

On August 17, 2020, ACE filed an opposition to Electrify America’s motion to intervene, stating that the motion is untimely and inclusion at this late stage in the proceeding as an intervenor may cause unnecessary confusion and delay. The opposition further states that Electrify America’s interests are not sufficiently different from other parties, and as such, is already well represented by existing intervenors. ACE does maintain, however, that it does not object to Electrify America’s inclusion in the proceeding as a participant.

Electrify America filed a reply to ACE’s opposition on August 21, 2020, stating that its interests are not served by another intervenor because its business model is substantially different from other intervenors, nor can their interests be materially represented by the other parties. Electrify America reasserts that it will abide by the existing procedural schedule and will not cause delays. Lastly, Electrify America requests that its motion be granted so that it may present evidence which will assist in the Board making a decision on the Petition.

III. ACE MOTION FOR A MODIFICATION TO THE PROCEDURAL SCHEDULE

On September 1, 2020, ACE filed a motion for a modification of the procedural schedule, set forth in the June 2020 Amended Procedural Schedule Order (“ACE Motion for Procedural Schedule Modification”). According to the motion, ACE wishes to “fully respond to all pending discovery

requests and provide an opportunity for meaningful and continued settlement discussions.” ACE Motion for Procedural Schedule Modification at 1.

IV. DISCUSSION AND FINDINGS

In ruling on a 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.

After consideration of the papers, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.3, Electrify America will be directly affected by the outcome of this proceeding and its interests are not currently served by another party. I **HEREBY FIND** that Electrify America will add measurably and constructively, while abiding by the current procedural schedule.

While untimely, I **HEREBY FIND** that Electrify America's Motion to Intervene has met the standards for intervention in this proceeding. Accordingly, I **HEREBY GRANT** the motion to intervene by Electrify America pursuant to the authority granted to me by the Board under the March 2018 Order. Due to the tardiness of Electrify America's participation in this proceeding, I **HEREBY ORDER** that, as an intervener in this proceeding, Electrify America must abide by the existing procedural schedule set forth herein Exhibit A.

Further, ACE's Motion to Modify the Procedural Schedule to allow for additional time to respond to discovery and explore settlement is reasonable in the interest of developing a complete record. Having been granted the authority to amend the schedules within this proceeding by the Board, and after consideration of ACE's Motion for Procedural Schedule Modification, finding the request meritorious, I **HEREBY AMEND** the procedural schedule set forth in the June 2020 Amended Procedural Schedule Order and **HEREBY ISSUE** the following modified procedural schedule (Exhibit A). I **HEREBY DIRECT** all parties to comply with its terms.

This provisional ruling is subject to ratification or other alteration by the Board as it deems appropriate during the proceedings in this matter.

DATED: September 9, 2020

BY:



UPENDRA J. CHIVUKULA
COMMISSIONER

IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR
APPROVAL OF A VOLUNTARY PROGRAM FOR PLUG-IN VEHICLE CHARGING
BPU DOCKET NO. EO18020190

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EXHIBIT A

IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR
APPROVAL OF A VOLUNTARY PROGRAM FOR PLUG-IN VEHICLE CHARGING DOCKET
NO. EO18020190

Amended Procedural Schedule

Bar Date – Pending Motions to Intervene	March 13, 2020
Motion for Interventions Decision	March 20, 2020
Motions Filed by any Party	April 13, 2020
Opposition to Motions filed	May 4, 2020
Reply to Opposition Motions Filed	May 18, 2020
First round discovery requests propounded	June 24, 2020
Decision on Motions	June 26, 2020
First round discovery responses	July 9, 2020
Discovery Settlement Conference	Week of July 20, 2020
Second round discovery requests propounded	July 27, 2020
Second Round responses	August 11, 2020
Discovery/Settlement Conference	August 17, 2020
Rate Counsel/Intervenor Direct Testimony Due	September 18, 2020
Discovery propounded on Rate Counsel/Intervenors Direct Testimony	September 25, 2020
Responses to Discovery on Testimony	October 7, 2020
Rebuttal Testimony filed by parties as appropriate	October 14, 2020
Discovery Requests propounded on Rebuttal Testimony	October 21, 2020
Public Hearings (2)	TBA
Responses to discovery requests on Rebuttal Testimony	November 2, 2020
Settlement conference, if necessary	November 2, 2020
Evidentiary Hearings, with oral surrebuttal	Week of November 9, 2020
Initial Briefs Due	TBD by Commissioner at evidentiary hearings