



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)

) ORDER ON MOTION TO MODIFY THE
) PROCEDURAL SCHEDULE
)
) 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 and Giuditta P.C. on behalf of ChargePoint, Inc.
William Bittinger, Esq., Eastern Environmental Law Center on behalf of Environmental Movants
Kevin Auerbacher, Esq., on behalf of Tesla, Inc.
Martin C. Rothfelder, Esq., on behalf of EVGO Services LLC
Nathan C. Howe, Esq., McCarter and English LLP on behalf of Greenlots
Ira G. Megdal, Esq., on behalf of Electrify America, LLC

BY COMMISSIONER UPENDRA J. CHIVUKULA:

By this Order, I modify the procedural schedule issued on October 15, 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, 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. The March 2018 Order further directed that any entities seeking to intervene or participate in this matter file the appropriate application with the Board by April 13, 2018.¹

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”).

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 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 and 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 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 May 13, 2020, I subsequently granted Tesla, Inc. (“Tesla”) Motion for Reconsideration of Intervenor status.

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.

By order dated June 26, 2020, Rate Counsel’s motion to dismiss was denied and the parties were ordered 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.

On September 9, 2020, I issued an order (“September 2020 Amended Procedural Schedule Order”) granting Electrify America, LLC’s (“Electrify America”) motion to intervene and modifying the procedural schedule.

On October 13, 2020, ACE filed a motion for a modification of the procedural schedule, set forth in the September 2020 Amended Procedural Schedule Order (“ACE Motion for Procedural Schedule Modification”). Additionally, ACE provided notice that it intended to substitute an expert witness. Further, the motion stated that ACE wishes to allow “for greater opportunity for meaningful and continued settlement discussions.” On October 15, 2020, I issued an order (“October 15, 2020 Amended Procedural Schedule Order”) modifying the procedural schedule.

II. CHARGEPOINT MOTION FOR A MODIFICATION TO THE PROCEDURAL SCHEDULE

On October 29, 2020, ChargePoint filed a letter with the Board requesting for a modification to the Procedural Schedule issued in the October 15, 2020 Amended Procedural Schedule Order (“Motion for Procedural Schedule Modification”).

ChargePoint asserted that ACE amended its PIV Petition through its rebuttal testimony without advance notice to the other parties, and therefore, the intervenors were deprived of the opportunity to address ACE’s revised program offerings 7 through 9 in their pre-filed testimony. In order to provide a fair opportunity for intervenors to develop a comprehensive record, ChargePoint requested a modification to the procedural schedule so that parties may have the opportunity to submit pre-filed sur-rebuttal testimony regarding ACE’s recent changes to its proposed offerings 7 through 9 and provide a longer time period for settlement discussions prior to the evidentiary hearings. Rate Counsel, EVgo and Electrify America joined ChargePoint’s motion.

On November 4, 2020, ACE filed a response to ChargePoint’s motion to modify the schedule. ACE disagreed with ChargePoint’s assertion that ACE’s rebuttal testimony constituted an “amendment” to the Company’s filing. ACE maintained that its rebuttal testimony was intended to be reflective of the Board’s policy direction set forth in the recent EV Infrastructure Straw Proposal.

Additionally, ACE objected to the request for written sur-rebuttal testimony, stating that the extra procedural step is highly unusual. ACE asserted that the schedule set forth in the October 15, 2020 Amended Procedural Schedule Order already provides for oral sur-rebuttal at the evidentiary hearings. ACE believes that the time needed to prepare written sur-rebuttal would be better spent exploring settlement options and no party would be prejudiced since oral sur-rebuttal at the evidentiary hearings has already been provided for. ACE otherwise consents to the date changes requested by ChargePoint.

III. DISCUSSION AND FINDINGS

I **FIND** that ChargePoint’s Motion to Modify the Procedural Schedule is reasonable and in the interest of developing a complete record. All parties must be granted sufficient due process and opportunity to be heard on disputed issues in this proceeding.

Having been granted the authority to amend the schedules within this proceeding by the Board, and after consideration of ChargePoint’s Motion for Procedural Schedule Modification, finding the request meritorious, I **HEREBY AMEND** the procedural schedule set forth in the October 15, 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

I **HEREBY DIRECT** that this Order be posted on the Board’s website.

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

DATED: November 10, 2020

BY:

A handwritten signature in cursive script, appearing to read "Upendra Chivukula", written in black ink.

UPENDRA J. CHIVUKULA
COMMISSIONER

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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 19, 2020
Discovery Requests propounded on Rebuttal Testimony	October 26, 2020
Public Hearings (2)	TBA
Responses to discovery requests on Rebuttal Testimony	November 4, 2020
Settlement conference, if necessary	November 4,5 and 6, 2020
Sur-Rebuttal Testimony filed by parties (limited to addressing ACE's revisions to Offerings 7 through 9)	November 12, 2020
Evidentiary Hearings, with oral surrebuttal	November 17, 19 and 20, 2020
Public Hearings	December 2, 2020, at 4:30 and 5:30 P.M.
Initial Briefs Due	TBD by Commissioner at evidentiary hearings