



STATE OF NEW JERSEY
Board of Public Utilities
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ENERGY

IN THE MATTER OF THE PETITION OF ATLANTIC CITY ELECTRIC COMPANY FOR APPROVAL OF A VOLUNTARY PROGRAM FOR PLUG-IN VEHICLE CHARGING)	SUPPLEMENTAL MOTION TO ADD PARTIES AS INTERVENOR
)	
)	
)	
)	DOCKET NO. EO18020190

Parties of Record:

Andrew McNally, 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

BY COMMISSIONER UPENDRA J. CHIVUKULA:

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”) for approval of a Voluntary Program for Plug-In Vehicle (“PIV”) Charging (“PIV Program”). By Board Order dated March 26, 2018, the Board retained jurisdiction over the original matter, and designated myself as the presiding officer.¹ On or about 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 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. ACE’s Amended Petition includes initiatives that consist of Time of Use (“ToU”) rates for residential customers who charge their PIVs during off peak hours. Additionally, ACE proposes working to have properly sited PIV charging infrastructure to alleviate “range anxiety”, as well as infrastructure accessible to customers living in multi-family dwellings units (“MDUs”) as well as low- to-moderate income communities (“LIC”) and environmental justice (“EJ”) communities.

¹ I/M/O the 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”).

ACE is seeking to recover \$42.107 million dollars via a base rate case. ACE first proposes that all capital investments related to the PIV be added to rate base as it is placed in service, for recovery in a future base rate proceeding. Second, ACE seeks to establish a regulatory asset (“PIV Regulatory Asset”) which would capture the Company’s non-capital costs associated with the program. The PIV Regulatory Asset would also capture the incremental revenues ACE would receive from use of its public chargers under Offerings 7 and 8, offsetting costs to ratepayers.

By the March 2018 Order, the Board designated the undersigned 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.

On April 12, 2018, The Natural Resources Defense Council (“NRDC”) a global nonprofit membership organization with more than three (3) million members, 12,000 of which are in New Jersey, filed a motion to intervene. On April 9, 2020, a prehearing order was issued wherein a procedural schedule was set and motions for intervention and participation status were ruled upon. NRDC was granted intervention status in that order. All motions were due to the Board Secretary by close of business on April 13, 2020. On May 4, 2020 NRDC filed a supplemental motion out of time seeking to add parties as interveners in this proceeding. On April 17, 2020 EVgo Services, LLC (“EVgo”) filed a motion for intervenor status.

THE MOTIONS

NRDC’s Supplemental Motion for Intervenor Status

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.

NRDC is a global nonprofit membership organization that seeks to ensure the rights of all people to the air, the water, and the wild. ENJ is a citizen-based advocacy organization with more than 20,000 dues-paying citizen members. Sierra Club is a grassroots environmental organization, with more than 20,000 members in New Jersey. TSTC is a 501(c)(3) non-profit advocacy and policy organization dedicated to improving people’s lives by expanding mobility options, reducing car dependency, and ensuring a more equitable and sustainable transportation network throughout New York, New Jersey and Connecticut. WEC is an alliance of labor, community, and environmental organizations working together for the safe, secure jobs, and a healthy, sustainable environment. GreenFaith is a not-for-profit membership coalition founded in 1992; its mission is to inspire, educate and mobilize people of diverse religious backgrounds for environmental leadership. Isles is a community development and environmental organization with a mission to foster self-reliant families and healthy, sustainable communities.

The Movants assert that they satisfy the Board’s requirements for intervention and that they will be substantially, specifically, and directly affected by the outcome of this case. NRDC at 9. Movants maintain that ACE’s petition will have a direct impact on NRDC and its members, specifically in that NRDC has an interest in ensuring that the Plug-In Vehicle Program is implemented in a manner that lowers the cost of renewable energy into the grid, lower electricity rates, and deploys charging infrastructure strategically. Movants further state that the “economic

interests, environmental interests, and health of NRDC and its members (especially those within New Jersey) will be substantially, specifically and directly affected by the outcome of this case.” Id. at 9.

Additionally, NRDC points out that the Board has granted intervenor status to it in several clean energy and energy efficiency program petitions, due to NRDC’s expertise in these fields.

NRDC argues that it has a unique position as a nonprofit organization working to use partnerships, best practices and market mechanisms to inform energy policy that benefits the environment.” Id. at 23. NRDC claims that it will “provide material and unique contributions to this matter, particularly with respect to strategic deployment of charging infrastructure, load management, consumer pricing protections, public education on PIVs, data collection and performance metrics.” Id. at 13.

ENJ proffers that they along with their sister organization have been at the forefront of advocating for clean transportation across the state, including South Jersey, for more than three decades. ENJ represents citizen members across South Jersey and worked directly with communities across the region to create more transportation electrification opportunities. NRDC at 18. ENJ argues that the ACE proceeding directly impacts ENJ’s electrification work because it impacts South Jersey and counteracts the patchwork and currently inadequate charging network. Id. at 18.

Sierra Club states that it has a goal of ensuring that everyone, including its members, benefit from a 21st century clean transportation system and that ACE’s petition has the potential to help realize Sierra Club’s clean transportation objective. Id. at 19.

Tri-State Transportation Campaign is a regionally-recognized advocacy organization focused on transportation policy and its impacts on climate change, the economy, health and equality. Id. at 20. TSTC focuses advocacy efforts on policy and legislation that encourages EV use and support to put EV infrastructure in place. TSTC has successfully worked on efforts to expand transportation electrification options to all New Jersey residents. Ibid. TSTC argues that the ACE proceedings impacts TSTC’s advocacy to achieve more funding for NJ Transit’s capital needs, especially for bus electrification infrastructure in South Jersey. Id. at 21.

Isles, argues that ACE’s petition is in line with its state-wide advocacy for broader vehicle electrification. Id. at 22.

WEC states that the ACE proceeding remedies some the inequities currently in place, by investing in bus electrification infrastructure in South Jersey. As the first state blue-green alliance in the country they have an interest in the matter. Id. at 22.

GreenFaith has individual and institutional members in ACE’s territory and states that they members are likely to have interest in purchasing an EV and that their decision will be materially impacts by the location of charging stations. Additionally, many of GreenFaith’s members are urban congregations, who have an interest in the distribution of charging stations being implemented in an equitable and nondiscriminatory manner. Id. at 23.

NRDC argues that impacts to its members are sufficiently different from impacts to any other party in this proceeding and that they have unique expertise on several relevant issues and can add a unique perspective to the proceeding. Id. at 24.

EVgo Services LLC Motion for Intervenor Status

On April 17, 2020 EVgo filed a Motion to Intervene with the Board. EVgo is an electric vehicle services provider, which owns and operates America's largest EV fast charging network, with more than 800 publicly accessible fast charging locations installed in 34 states and 66 metropolitan markets. In New Jersey EVgo currently owns and operates 40 chargers in New Jersey with a small number in ACE's territory. EVgo has also collaborated with PSE&G on five (5) fast charger station locations on the New Jersey Turnpike and Garden State Expressway and looks forward to being able to provide the same collaboration with ACE.

EVgo believes that the outcome of this proceeding will have a substantial impact on the nature, growth, and economics of the competitive market for DC fast charging stations, a market which EVgo is currently an active participant. EVgo argues that its expertise and perspective will support the Board in assessing the various approaches to implement growth and support of the EV charging network. EVgo states that its intervention status will not cause confusion or delay, and that its interests are distinct from those of other participants in this proceeding and it will cooperate with others in this proceeding.

RESPONSES

The Board has not received any response to the motion for reconsideration.

DISCUSSION AND FINDINGS

Motions to Intervene or Participate

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.

If the standard for intervention is not met, N.J.A.C. 1:1-16.5 provides for a more limited form of involvement in the proceeding as a "participant," if, in the discretion of the trier of fact, the addition of the moving party is likely to add constructively to the case without causing undue delay or confusion. Under N.J.A.C. 1:1-16.6(c), such participation is limited to the right to argue orally, file a statement or brief, file exceptions, or all of these as determined by the trier of fact.

As the Board stated in previous proceedings, application of these standards involves an implicit balancing test. The need and desire for development of a full and complete record, which involves consideration of a diversity of interests, must be weighed against the requirements of the New Jersey Administrative Code, which recognizes the need for prompt and expeditious administrative proceedings by requiring that an intervenor's interest be specific, direct and different from that of the other parties so as to add measurably and constructively to the scope of the case. See In re

the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, BPU Docket No. EM05020106, Order dated June 8, 2005.

After consideration of the papers and given the lack of any objection, I **HEREBY FIND**, pursuant to N.J.A.C. 1:1-16.3 Movants and EvGo will be directly affected by the outcome of this proceeding and will measurably and constructively contribute to the scope of the case. I **HEREBY FIND** that Movants and EvGo have met the standards for intervention as they have a sufficient interest in this proceeding. Accordingly, having received no objection, I **HEREBY GRANT** the motions for intervention of Movants and EvGo pursuant to the authority granted to me by the Board under the March 2018 Order.

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: June 1, 2020

BY:



UPENDRA J. CHIVUKULA
COMMISSIONER

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