

II. MOTIONS

On March 20, 2020, Atlantic City Electric Company ("ACE") filed a Motion to Intervene, taking no position on the merits of DCO Energy's Petition.

ACE is a public utility engaged in the transmission and distribution of electric energy for light, heat, and power to residential, commercial, and industrial customers. The Company's service territory comprises eight counties located in southern New Jersey and includes approximately 556,000 customers.

ACE contends the outcome of DCO Energy's request will have significant impacts on ACE, its views are sufficiently different from that of any other party, and granting ACE intervenor status would add constructively to the scope of the case. ACE provides that it will work cooperatively with other parties to this proceeding and that its intervention will not cause confusion or delay.

III. FINDINGS AND DISCUSSION

Pursuant to N.J.S.A. 48:2-32, the Board **HEREBY DESIGNATES** Commissioner Solomon as the presiding officer. Commissioner Solomon is **HEREBY AUTHORIZED** to control the conduct of this proceeding, including to rule on all motions that arise during the pendency of this proceeding and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the Petition.

Motion to Intervene

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 has 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.¹

¹ See In re the Verified Joint Petition of Solops, LLC and College Road Assocs., LLC for a Declaratory Judgment or, in the Alternative, for a Waiver of Rule, 2016 N.J. PUC LEXIS 210 at *5 (Aug. 24, 2016).

After consideration of the papers and given the lack of any objection, the Board **HEREBY FINDS**, pursuant to N.J.A.C. 1:1-16.3, that ACE will be directly affected by the outcome of this proceeding and will measurably and constructively contribute to the scope of the case. The Board **HEREBY FINDS** that ACE has met the standards for intervention as it has a sufficient interest in this proceeding. Accordingly, having received no objection, the Board **HEREBY GRANTS** the motion for intervention of ACE.

Further the Board **HEREBY ISSUES** the following as the procedural schedule, identified as Exhibit A, and **HEREBY DIRECTS** the parties to comply with its terms.

i. Nature of Proceeding and Issues to be Resolved

Through this proceeding, DCO Energy seeks a declaratory ruling from the Board.

The issues to be resolved:

1. Whether AtlantiCare is located on property contiguous to the MTCC generation facilities; and
2. Whether the reductions in kilowatt hour consumption and peak demand anticipated from the new CHP commercial participants of the microgrid are qualified and may be counted under the Clean Energy Act as third-party energy efficiency gains to satisfy a portion of ACE's energy efficiency requirements.

ii. Parties and Their Designated Attorneys or Representatives

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iii. Schedule of Hearing Dates, Time, and Place

This matter will be decided on the papers in accordance with the timeframes set forth in the procedural schedule found in Exhibit A.

iv. Settlement

Parties are encouraged to engage in settlement discussion. Notice should be provided to all parties of any settlement discussions for the preparation of an agreement to resolve the issues in the case.

v. Motions

All pending motions to intervene and/or participate have been addressed.

vi. Special Matters

None at this time.

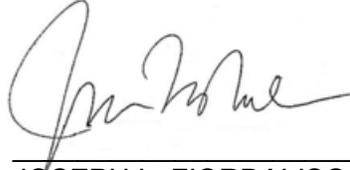
The parties are directed to work cooperatively with each other to the fullest extent possible in the interests of reaching a just determination in this proceeding.

In the interests of economy and consistent with the Board's Order of March 19, 2020 (BPU Docket No. EO20030254), all parties are **HEREBY DIRECTED** to serve all documents electronically.

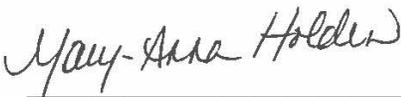
The Order is effective September 9, 2020.

DATED: September 9, 2020

BOARD OF PUBLIC UTILITIES
BY:



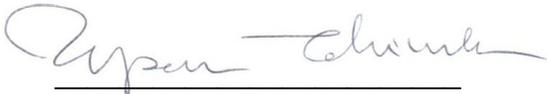
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PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
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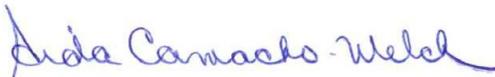


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF THE PETITION FOR DCO ENERGY, LLC
FOR A DECLARATORY RULING

BPU DOCKET NO. QO20030191

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EXHIBIT A

In the Matter of the Petition for DCO Energy, LLC for a Declaratory Ruling
BPU Docket No. QO20030191

Procedural Schedule

Opposition to Motions filed	September 14, 2020
Reply to Opposition to Motions Filed	September 21, 2020
Settlement Conference	September 2020
Discovery	September 23, 2020
Discovery Responses	September 30, 2020
Initial Briefs Due	October 5, 2020
Reply Briefs Due	October 19, 2020