



STATE OF NEW JERSEY
Board of Public Utilities
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ENERGY/ CLEAN ENERGY

IN THE MATTER OF THE PETITION OF)
ATLANTIC CITY ELECTRIC COMPANY) ORDER ON MOTION TO
CONCERNING A PROPOSAL FOR AN) INTERVENE
EXTENDED SREC-BASED FINANCING)
PROGRAM UNDER N.J.S.A. 48:3-98.1) DOCKET NO. EO12090799

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Philip Passanante, Esq., Atlantic City Electric Company
Michael A. Guin, Esq., Solar Energy Industries Association ("SEIA")

BY COMMISSIONER MARY-ANNA HOLDEN:

By Order dated May 23, 2012, ("May 23 Order"), in In re Review of Utility Supported Programs, Docket EO11050311V, the New Jersey Board of Public Utilities ("Board") authorized the extension of certain utility run solar financing programs that had been approved by the Board pursuant to an Order dated August 7, 2008¹.

On September 4, 2012, Atlantic City Electric Company ("ACE") filed a petition² with the Board requesting approval of its "SREC II" solar financing program ("ACE Program"), pursuant to the Board's May 23 Order and pursuant to N.J.S.A. 48:3-98.1. As proposed, the ACE Program is a 23 megawatt ("MW") program modeled closely on ACE's first solar renewable energy certificate ("SREC") financing program approved by Board Order dated March 27, 2009 under docket

¹ In re Renewable Energy Portfolio Standards: Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy and Conservation Programs and for Electric Distribution Company Submittal of Filing in Connection with Solar Financing. (Docket EOO6100744).

I/M/O the Petition of Atlantic City Electric Company Concerning a Proposal for an Extended Solar Renewable Energy Certificate ("SREC")-based Financing Program Pursuant to N.J.S.A. 48:3-98.1 (Docket EO12090799)

EO06100744.³

By Order dated December 19, 2012, the Board retained ACE's petition for review and hearing, and as authorized by N.J.S.A. 48:2-32, designated me as the presiding officer with authority to rule on all motions that arise during the pendency of the case.

THE MOTION TO INTERVENE

By letter dated September 20, 2012, Mr. Michael A. Gruin, Esq., filed a motion to intervene with the Board on behalf of the Solar Energy Industries Association ("SEIA"). The motion states that SEIA is a national trade association representing the interests of approximately 1,000 companies and business engaged in various solar businesses in New Jersey and nationally. According to the motion, SEIA's members have invested \$3 billion in solar projects in New Jersey, and have installed approximately 60% of all solar MWs currently under operation in New Jersey. According to the motion, SEIA's members therefore have substantial interests and will be directly affected by the outcome of ACE's proceeding. The motion further states that SEIA has a practical industry-based perspective and insight regarding solar energy markets, installation, financing as well as the SREC market. SEIA claims that the interests it represents are different from and not adequately represented by other party in the proceeding because its members comprise a broad range of business models operating across all market segments.

By letter dated January 17, 2013, ACE indicated that the company does not object to the motion to intervene filed by SEIA. No other responses were received.

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, or file a statement or brief, or 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,

³ In re of the Verified Petition of Jersey Central Power and Light Company Concerning a Proposal for an SREC Based Financing Program under N.J.S.A. 48:3-98.1 Docket No EO08090840 and I/M/O of Atlantic City Electric Company Renewable Energy Portfolio Standards Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy, and Conservation Programs; and for Electric Distribution Company Submittals of Filings in Connection with Solar Financing. Docket No. EO08100875, March 27, 2009.

direct and different from that of the other parties so as to add measurably and constructively to the scope of the case. See, Order, In re the Joint Petition of Public Service Electric and Gas Company and Exelon Corporation for Approval of a Change in Control, Docket No. EM05020106 (June 8, 2005).

The Board has encouraged full participation in proceedings that have the potential to affect large groups of interested parties to ensure that a full record is created. In light of the criteria stated above and based on my review of the motion to intervene filed by SEIA, and in the absence of objections, I **HEREBY FIND** that SEIA meets the standards for intervention. Accordingly, I **HEREBY GRANT** the motion to intervene of SEIA provided that the newly added party conforms to the current schedule and agrees to work cooperatively and constructively with the other parties to the fullest extent possible in this proceeding.

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

DATED: *February 26, 2013*

BY:

Mary-Anna Holden
MARY-ANNA HOLDEN
COMMISSIONER

In the Matter of the Verified Petition of Jersey Central Power & Light Company Concerning a
 Proposal for an SREC-Based Financing Program Under N.J.S.A. 48:3-98.1
 Docket EO12080750

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