



Agenda Date: 5/29/13  
Agenda Item: 21

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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ENERGY

IN THE MATTER OF ATLANTIC CITY ELECTRIC )  
COMPANY'S VERIFIED PETITION REQUESTING ) ORDER  
AUTHORIZATION TO IMPLEMENT CHANGES TO ITS )  
RESIDENTIAL CONTROLLABLE SMART )  
THERMOSTAT PROGRAM ("RCSTP") COMPONENT )  
OF ITS RGGI RECOVERY CHARGE FOR 2012-2013 ) DOCKET NO. ER12050426

IN THE MATTER OF ATLANTIC CITY ELECTRIC )  
COMPANY'S VERIFIED PETITION REQUESTING )  
AUTHORIZATION TO IMPLEMENT CHANGES TO ITS )  
RESIDENTIAL CONTROLLABLE SMART )  
THERMOSTAT PROGRAM ("RCSTP") COMPONENT )  
OF ITS RGGI RECOVERY CHARGE FOR 2011-2012 ) DOCKET NO. ER11060379

**Parties of Record:**

**Nicholas W. Mattia Jr., Esq.**, on behalf of Atlantic City Electric Company  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

**BY THE BOARD:**

By this decision and Order the New Jersey Board of Public Utilities ("Board") considers a stipulation (2013 Stipulation") to settle all factual and legal issues pertaining to Atlantic City Electric Company's ("ACE" or "Company") 2011 and 2012 cost true up petitions filed with the Board regarding the Company's air conditioner cycling program, the residential Controllable Small Thermostat Program ("RCSTP"). On April 12, 2011, ACE filed its 2011 petition with the Board updating the status of the RCSTP but not seeking to change that portion of its electric Regional Greenhouse Gas Recovery ("RGGI") charge that recovers the reasonable and prudent costs of the RCSTP. On April 11, 2012, ACE filed its 2012 petition with the Board requesting approval for increases in its RGGI Charge to cover costs attributable to the RCSTP. Both filings were submitted to the Board pursuant to the Board's Order approving ACE's RCSTP on July 31, 2009.<sup>1</sup>

<sup>1</sup> In the Matter of Atlantic City Electric Company's Responsive Petition to the Board of Public Utilities Order Dated July 1, 2008 Regarding the Submission of Demand Response Programs for the Period Beginning June 1, 2009 for Electric Distribution Companies, and for Supplemental Inclusion of Same in

The 2012 petition proposed a modification to the RGGI Charge that is currently in effect for the RCSTP, and provided a status report with regard to the implementation of the RCSTP. Following the filing of the 2012 petition, Staff and the Division of Rate Counsel ("Rate Counsel"), the only parties to these proceedings (collectively, "Parties"), submitted discovery and engaged in discussions with the Company with respect to the information contained in the petition, including but not limited, to questions about the Company's apparent failure to submit bids in certain PJM Interconnection, LLC ("PJM") capacity auctions for which the RCSTP was eligible. This omission by the Company resulted in ACE's customers not receiving the full value of PJM auction revenues that they otherwise were entitled to receive under the terms of the stipulation entered into by the Parties on July 26, 2009 ("2009 Stipulation") which, as stated above, was subsequently approved by the Board by Order dated July 31, 2009.

## **BACKGROUND AND PROCEDURAL HISTORY**

By Order dated July 1, 2008 ("2008 Order"), the Board, pursuant to N.J.S.A. 48:3-98.1(a)(3), directed the State's four electric distribution companies ("EDCs"), including ACE, to submit proposals to the Board by August 1, 2008 for demand response ("DR") programs to be implemented for the period beginning June 1, 2009.<sup>2</sup> In response to the 2008 Order, ACE submitted its DR petition to the Board on August 4, 2008 ("August 4 Filing"), under N.J.S.A. 48:3-98.1 and Board Order in Docket Number EO08030164 ("RGGI Order").<sup>3</sup> The August 4 Filing contained a proposal for the RCSTP for residential customers, along with other DR proposals.

After numerous formal and informal discovery responses, meetings and telephonic discussions related to the RCSTP, ACE, Rate Counsel and Staff signed the 2009 Stipulation to settle issues regarding the implementation of the Company's RCSTP. The Board adopted the 2009 Stipulation and its Appendices in their entirety, and granted approval to ACE to develop and implement the RCSTP within eight (8) months of the date of the Order. The Order directed that ACE's reasonable and prudently incurred costs associated with the RCSTP be recovered through a component of the RGGI Charge, the RRC, which is consistent with the Board's treatment of other programs filed under N.J.S.A. 48:3-98.1.

The RCSTP, which is marketed to customers as the "EnergyWise Rewards Program", is a DR program that replaced the Company's Peak Savers Club. It was approved as a voluntary air conditioner cycling program for all residential customers with central air conditioners and heat pumps in ACE's territory. After its four-year roll-out by the end of 2014, it is expected that approximately 42,500 participants would be enrolled in the program. DR devices, either thermostats or switches, would be installed at the homes of program participants and remotely controlled by the Company to reduce electric usage during periods of peak electric demand.

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Its "Blueprint for the Future" Filing Dated November 17, 2007; Dockets No. EO08050326, EO08080543, EO07110881, and In the Matter of the Demand Response Programs for the Period Beginning June 1, 2009 - Electric Distribution Companies; Docket No. EO08050326.

<sup>2</sup> In The Matter of Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Company Programs, BPU Docket No. EO08050326.

<sup>3</sup> In The Matter of Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Resources, and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis Pursuant to N.J.S.A. 48:3-91, BPU Docket No. EO08030164 (May 12, 2008).

On August 6, 2009, ACE, along with other PHI utility subsidiaries, filed with the United States Department of Energy ("DOE") a plan for a Smart Grid Investment Grant ("SGIG") Program, pursuant to the American Recovery and Reinvestment Act of 2009 ("ARRA"), which included funding for a portion of the costs associated with the RCSTP. On October 27, 2009, ACE became aware that it had been selected to receive a grant of up to 50 percent of \$13.4 million associated with the RCSTP, for which the Company was eligible to receive a maximum matching ARRA award of \$6.7 million. On March 5, 2010, the Company officially received notification of the DOE SGIG grant.

On March 31, 2010, ACE filed its first petition and program update.<sup>4</sup> On June 2, 2010, ACE, Rate Counsel, and Staff entered into a stipulation to approve an increase in the RRC charge for the initial RCSTP costs. The stipulation was subsequently approved by the Board on June 16, 2010.

On April 12, 2011, the Company filed its second required annual update to the RCSTP. As previously stated, the 2011 petition provided a status report on RCSTP implementation but did not propose any modification to the RRC Charge.

On April 11, 2012 the Company filed its third annual update on the RCSTP.<sup>5</sup> The 2012 petition included a status report on RCSTP implementation; an update regarding the Federal Stimulus grant money received by the Company associated with the RCSTP and a proposal for an increase in the RRC Charge for service rendered on and after July 1, 2012. Following notice in newspapers in general circulation in the Company's service territory, public hearings in this matter were conducted at 3:30 P.M. and at 5:30 P.M. on May 31, 2012, at the Atlantic County Library in Mays Landing, New Jersey. No members of the public appeared at either of the public hearings, nor were any comments on the 2012 petition submitted by members of the public.

Following the filing of the 2012 petition, Staff and Rate Counsel submitted discovery to the Company regarding information contained in the filing. Specifically, Rate Counsel and Staff questioned why the Company had not submitted DR bids in certain PJM capacity auctions for which the RCSTP was eligible and which was required by the terms of the 2009 Stipulation. The Company acknowledged that it should have submitted bids in several PJM auctions, and that it had failed to do so. This omission resulted in ACE's customers not receiving the full value of certain PJM auction revenues that they otherwise would have been entitled to receive, pursuant to the terms of the 2009 Stipulation and Board Order.

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<sup>4</sup> In the Matter of Atlantic City Electric Company Requesting Approval of Changes to Its Electric Regional Greenhouse Gas Recovery ("RGGI") Charge in Connection to the Residential Controllable Smart Thermostat Program, Docket No. ER10050351.

<sup>5</sup> In the Matter of Atlantic City Electric Company's Responsive Petition to the Board of Public Utilities Order Dated July 1, 2008 Regarding the Submission of Demand Response Programs for the Period Beginning June 1, 2009 for Electric Distribution Companies, and for Supplemental Inclusion of Same in Its "Blueprint for the Future" Filing Dated November 17, 2007, BPU Docket Nos. EO08050326, EO08080543, EO07110881; and In the Matter of Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Company Programs, Docket No. EO08050326.

The 2013 Stipulation sets forth the PJM revenue credit adjustments that the Company has agreed to make in order to provide customers with the full amount of PJM auction revenues to which they are entitled under the terms of the 2009 Stipulation.

### THE 2013 STIPULATION

The 2013 Stipulation represents a full resolution of the issues raised in ACE's April 12, 2011 and April 11, 2012 RCSTP petitions. The 2013 Stipulation, attached in its entirety, includes, but is not limited to, the following key provisions:

- This Stipulation settles all issues related to the RCSTP, PJM DR market and/or Program activities arising out of the Petition or pending from prior filings related to the RCSTP.
- The Company commits to compensate ratepayers for PJM revenues and other credits to offset Program costs in its annual filing for recovery of RCSTP costs through its RGGI Charge as follows:
  - 1) \$9,429,359 (\$9,129,359 from PJM revenue commitments, plus \$300,000 additional credit), as specifically set forth in Table 1 attached to the Stipulation;
  - 2) Any additional revenues derived from the Company's bids in the energy year 2016 and 2017 RPM auctions of 45.3 MW ("megawatts") per year for auctions held in May of 2013 and 2014.
- The Company will credit the RGGI Clause on a monthly basis with the revenue it receives from PJM and, at a minimum, the following:
  - (1) To reflect in the calculation of the RGGI PJM DR revenue commitments that were received or should have been received by the Company during the annual period June 1, 2012 through May 31, 2013, the amount of \$1,171,789 (to be included in the RGGI Charge, and subject to additional interest thereon, as sufficient PJM revenues are received);
  - (2) The annual 2013 RGGI filing will reflect a PJM revenue commitment by the Company of \$3,062,465 (to be included in the RGGI Charge, and subject to additional interest thereon, as sufficient PJM revenues are received);
  - (3) The annual 2014 RGGI filing will reflect a PJM revenue commitment by the Company of \$1,911,699 (to be included in the RGGI Charge, and subject to additional interest thereon, as sufficient PJM revenues are received);
  - (4) The annual 2015 filing will reflect a PJM revenue commitment by the Company of \$2,604,840 (to be included in the RGGI Charge, and subject to additional interest thereon, as sufficient PJM revenues are received);
  - (5) Subject to an event of Force Majeure affecting the level of MW that the Company has available for bidding into the PJM Auction, the annual 2016 filing will reflect PJM revenue commitments based upon a PJM bid of 45.3 MW ("UCAP") at the PJM clearing price for the "Extended Summer DR Resource" or equivalent PJM DR Resource;
  - (6) Subject to an event of Force Majeure affecting the level of MW that the Company has available for bidding into the PJM Auction, the annual 2017 filing will reflect PJM revenue commitments based upon a PJM bid of 45.3 MW ("UCAP") at the PJM clearing price for the "Extended Summer DR Resource" or equivalent PJM Resource;

- (7) In addition to the \$9,129,359 PJM revenue commitment detailed above, the Company commits to credit customers an additional \$300,000 to the final PJM DR revenue credit amount due customers as a result of the Program. ACE will reflect such amount as part of its final calculation of PJM DR revenue credits due to customers following the publication of the results of the 2017/2018 BRA ("Base Residual Auction") results, and shall be credited to ratepayers in May 2014. This additional \$300,000 credit to customers shall be deemed to be "below the line" for ratemaking purposes.
- (8) ACE will be permitted to include actual PJM revenue amounts above \$378,565 recorded in PJM revenues from its annual 2011 filing as PJM revenues offsetting program costs over the period 2012 through 2017 for purposes of the calculation of PJM revenues required to satisfy the Company's total revenue commitment in this settlement.

ACE will be permitted to utilize any actual PJM revenues it receives in excess of the PJM revenue amounts to which it has committed in any given year from 2012 through 2017, to offset its commitments for prior years.

All revenues derived from the RCSTP Program including all PJM revenues shall be credited to ratepayers through the RGGI Charge or other successor clause. Any penalties arising from PJM bids in excess of 75 percent of available DR capacity, including penalties incurred due to capacity shortfall under the PJM DR program shall not under any circumstances be recoverable from ACE customers through rates. Interest payments on the PJM revenues commitments will begin in the year to which the commitment applies and continue through the time period until sufficient PJM revenues are available to reflect the PJM revenue commitment in the annual RGGI Charge calculation. The monthly interest calculation shall be as specified in paragraph (b) under "RCSTP Cost Recovery Mechanism"

Within 60 days of the final PJM 2017/2018 Base Residual Auction ("BRA") publication of results in May 2014, ACE shall file a final calculation of the PJM revenue credits received, expected PJM revenues, and interest payments due its customers as a result hereof. In the event that the PJM revenues received for the RCSTP are not sufficient to meet the Company's commitment of \$9,129,329, the Company shall immediately credit such deficiency to the RGGI deferred balance. Such deficiency shall not be recovered from ratepayers. All PJM revenue credits, including any deferred amounts, shall be credited to ratepayers, as shown on table 1 in the stipulation, no later than May 31, 2018, which is the end date of the 2017-18 PJM Planning Year to which the May 2015 BRA auction applies.

## **DISCUSSION AND FINDINGS**

The Board has carefully reviewed the record to date in this proceeding and the attached 2013 Stipulation and Appendices. In 2009, the Board approved ACE's RCSTP with the expectation that revenues earned from the program's participation in PJM DR programs and market-based opportunities would be used to offset program costs. Accordingly, the 2009 Stipulation approved by the Board directed such participation by the Company to minimize the impact from program implementation on ratepayers' bills. In the 2009 Stipulation, ACE had agreed to make its best efforts to register, nominate and bid each year's expected MW reduction resulting from the RCSTP into PJM's Base Residual and Incremental Auctions in time to meet PJM deadlines, beginning with the 2010 auctions. Such requirements and commitments were critical to the overall cost-effectiveness of the program. Indeed, the Board's approval was predicated on the finding that the RCSTP was cost-effective for ratepayers, in part due to anticipated revenues from wholesale market opportunities for which the program was eligible.

The 2013 Stipulation acknowledges that the Company should have submitted bids in several PJM auctions for which the RCSTP was eligible, but did not, resulting in a loss of revenues to offset program costs. Thus, ACE's customers did not receive the full value of certain PJM auction revenues that they were otherwise entitled to receive pursuant to the terms of the 2009 Stipulation and Board Order. The 2013 Stipulation rectifies this shortage by setting forth the revenue adjustments that the Company has agreed to make to provide customers with the full value of PJM auction revenues to which they are entitled under the 2009 Stipulation. The Board, therefore **FINDS** that ratepayers are protected by the following: ACE has committed to specific increased credit adjustments; the Company will credit the RGGI Clause on a monthly basis with the revenue it receives from PJM, and the Company will pay interest on any commitment amounts that are deferred.

The Board notes that the 2013 Stipulation compensates ACE's customers by providing additional revenues to offset program costs, in accordance with relevant provisions of the adopted 2009 Stipulation. The Company has committed to revenue amounts in the 2013 Stipulation beyond what was contained in the Company's April 11, 2012 filing. Therefore, the 2013 Stipulation provides significant program cost savings to ratepayers when compared to the revenue amounts contained in the Company's 2012 filing.

Accordingly, the Board **FINDS** that, subject to the terms and conditions set forth below, the 2013 Stipulation is reasonable, in the public interest, and in accordance with the law. The Board **HEREBY ADOPTS** the 2013 Stipulation and Appendices in its entirety, as if fully set forth herein. The 2009 Stipulation, to the extent not specifically modified hereby, remains in full force and effect.

Pursuant to the terms of the 2013 Stipulation, all revenues derived from the RCSTP Program, including all PJM revenues, shall be credited to ratepayers through the RGGI Charge or other successor clause on a monthly basis. The Company is **ORDERED** to submit its April 2013 Fourth Update to the RCSTP within 30 days of this Order, consistent with the terms and provisions of the 2013 Stipulation. Furthermore, the Company is **DIRECTED** to file a final calculation of the PJM revenue credits received, the expected PJM revenues, and interest payments due its customers, within 60 days of the publication of the final PJM 2017/2018 Base Residual Auction in May 2014.

DATED: 5/29/13

BOARD OF PUBLIC UTILITIES  
BY:

  
ROBERT M. HANNA  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

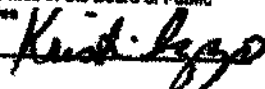
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
MARY-ANNA HOLDEN  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



In the Matter of Atlantic City Electric Company's Verified Petition Requesting Authorization to Implement Changes to Its Residential Controllable Smart Thermostat Program ("RCSTP")  
Component of Its RGGI Recovery Charge for 2012-2013

And

In the Matter of Atlantic City Electric Company's Verified Petition Requesting Authorization to Implement Changes to Its Residential Controllable Smart Thermostat Program ("RCSTP")  
Component of Its RGGI Recovery Charge for 2011-2012

Docket Nos. ER12050426 and ER11060379

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**IN THE MATTER OF ATLANTIC CITY  
ELECTRIC COMPANY'S VERIFIED PETITION  
REQUESTING AUTHORIZATION TO  
IMPLEMENT CHANGES TO ITS RESIDENTIAL  
CONTROLLABLE SMART THERMOSTAT  
PROGRAM ("RCSTP") COMPONENT OF ITS  
RGGI RECOVERY CHARGE FOR 2012-2013**

**IN THE MATTER OF ATLANTIC CITY  
ELECTRIC COMPANY'S VERIFIED PETITION  
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RGGI RECOVERY CHARGE FOR 2011-2012**

**STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES**

**STIPULATION OF  
SETTLEMENT**

**DOCKET NO. ER12050426**

**DOCKET NO. ER11060379**

This Stipulation of Settlement (the "Stipulation") is hereby made and executed as of this 11th day of April, 2013, by and among Atlantic City Electric Company ("ACE" or the "Company"), the Staff of the Board of Public Utilities ("Staff"), and the New Jersey Division of the Rate Counsel ("Rate Counsel") (individually, the "Party" and collectively, the "Parties"), in settlement of all factual and legal issues pertaining to the Company's April 11, 2012 "Verified Petition and Third RCSTP Program Update" (BPU Docket No. ER12050426) (the "Petition"). This Stipulation is not intended to replace the Stipulation entered into by the Parties on July 26, 2009 (the "2009 Stipulation"), which, to the extent not specifically modified hereby, remains in full force and effect.

As required by the Board of Public Utilities' (the "Board") Order dated July 31, 2009 in the above captioned matters (the "Order"), which approved the 2009 Stipulation of the Parties, the Company is required to file periodic updates to its Residential Controllable Smart Thermostat Program (the "RCSTP" or "Program") with the Board and the Parties. The specific details of the RCSTP, including the related background leading to its development and implementation

thereof, are fully set forth in the 2009 Stipulation, as well as the Orders issued in this regard and as such, they are not repeated in total herein, but are incorporated by in this Stipulation.

### **BACKGROUND**

The RCSTP was approved with an expectation that the Program would start in March 2010 with a four year roll out period during which time ACE was required to offer the Program to all of its eligible customers, and connect approximately 42,200 demand response devices (either thermostats or switches) by year-end 2014. Such demand response devices can be remotely managed by the Company in order to reduce electric usage in customers' homes during periods of peak electric demand. ACE agreed to make its best efforts to register, nominate and/or bid each year's expected MW reduction resulting from the RCSTP into PJM's Base Residual and Incremental Auctions in time to meet PJM registration deadlines, beginning and including registration for summer 2010 auctions. The Order noted that revenues from participation in PJM DR programs and market-based opportunities would be used to off-set Program costs and mitigate the impact on ratepayers' bills, especially as the total amount of demand response increases during the RCSTP's evolution.

ACE was required to provide an annual update filing to the Board and the Parties with respect to (1) the progress of customer acceptance of the RCSTP, and the number of installations of the relevant devices achieved to date; (2) the status of PJM revenue credits associated with the RCSTP; (3) the status of Federal Stimulus Award monies associated with the RCSTP received by the Company; (4) the impact of each of the above on the overall cost of the Program relative to the original cost estimate for the RCSTP, along with the resultant cost/benefit of the Program; and (5) to reset, if necessary, the Regional Greenhouse Gas Initiative Recovery Charge (the

“RGGI Charge”) associated with the RCSTP for the upcoming program year in order for ACE to recover its costs of Program implementation.

On April 12, 2011, the Company filed its second update Petition with respect to the progress of the RCSTP. ACE proposed no change in the RGGI rates in its April 2011 filing. On April 11, 2012, the Company filed its third update Petition with respect to the progress of the RCSTP as required by the Board’s Order. In its 2012 RCSTP filing ACE proposed certain changes to its then-existing RGGI rate for the RCSTP. Following appropriate notice in newspapers of general circulation in the Company’s service territory, public hearings in this matter were conducted at 3:30 P.M., and again at 5:30 P.M., on Thursday, May 31, 2012, at the Atlantic County Library in Mays Landing, New Jersey. No members of the public appeared at either of the public hearings to speak with respect to the Petition, nor were any comments on the Petition submitted by members of the public.

Following the filing of the Petition, the Parties submitted discovery to the Company with respect to the information included in the Petition. Specifically, Staff and Rate Counsel questioned why the Company had not submitted bids in certain PJM auctions for which the RCSTP was eligible. The Company provided responses to that discovery, and during the course of further discussions with the Parties, acknowledged that it should have submitted bids in several PJM auctions where it had not done so. This resulted in ACE’s customers not receiving the full value of certain PJM auction revenues that they are otherwise entitled to receive pursuant to the terms of the 2009 Stipulation and Board Order.

The purpose of this Stipulation is to set forth the PJM revenue credit adjustments that the Company has agreed to make in order to provide customers with the full value of PJM auction revenues to which they are entitled.

## STIPULATION

The Signatory Parties to this Stipulation DO HEREBY STIPULATE AND AGREE to the following findings, conclusions, and determinations for purpose of a full, final, and complete resolution of the issues raised in the Company's April 12, 2011 and April 11, 2012 petitions.

### PJM DEMAND RESPONSE REVENUE CREDIT ADJUSTMENTS

This Stipulation settles all issues related to the RCSTP PJM Demand Response ("DR") market and/or Program activities arising out of the Petition or pending from prior filings related to the RCSTP.

The Parties agree that in final settlement of this matter, the Company commits to compensate ratepayers for PJM revenues and other credits to offset Program costs in its annual filing for recovery of RCSTP costs through its RGGI Charge as follows: 1) \$9,429,359 (\$9,129,359 from PJM revenue commitments, plus \$300,000 additional credit) as specifically set forth in Table 1 attached hereto and 2) any additional revenues derived from the Company's bids in the energy year 2016 and 2017 RPM auctions of 45.3 MW per year for auctions held in May of 2013 and 2014. The Company will credit the RGGI clause on a monthly basis the revenue it receives from PJM and, at a minimum, as follows:

- (1) To reflect in the calculation of the RGGI PJM DR revenue commitments that were received or should have been received by the Company during the annual period June 1, 2012 through May 31, 2013, the amount of \$1,171,789 (to be included in the RGGI Charge, and subject to additional interest thereon, as sufficient PJM revenues are received);
- (2) the annual 2013 RGGI filing will reflect a PJM revenue commitment by the Company of \$3,062,465 (to be included in the RGGI Charge, and subject to additional interest thereon, as sufficient PJM revenues are received);

- (3) the annual 2014 RGGI filing will reflect a PJM revenue commitment by the Company of \$1,911,699 (to be included in the RGGI Charge, and subject to additional interest thereon, as sufficient PJM revenues are received);
- (4) the annual 2015 filing will reflect a PJM revenue commitment by the Company of \$2,604,840 (to be included in the RGGI Charge, and subject to additional interest thereon, as sufficient PJM revenues are received);
- (5) subject to an event of Force Majeure affecting the level of megawatts (“MWs”) that the Company has available for bidding into the PJM Auction, the annual 2016 filing will reflect PJM revenue commitments based upon a PJM bid of 45.3 MWs (UCAP) at the PJM clearing price for the “Extended Summer DR Resource” or equivalent PJM DR Resource;
- (6) subject to an event of Force Majeure affecting the level of MWs that the Company has available for bidding into the PJM Auction, the annual 2017 filing will reflect PJM revenue commitments based upon a PJM bid of 45.3 MWs (UCAP) at the PJM clearing price for the “Extended Summer DR Resource” or equivalent PJM DR Resource;
- (7) in addition to the \$9,129,359 PJM revenue commitment detailed above, the Company commits to credit customers an additional \$300,000 to the final PJM DR revenue credit amount due customers as a result of the Program. ACE will reflect such amount as part of its final calculation of PJM DR revenue credits due to customers following the publication of the results of the 2017/2018 BRA results and shall be credited to ratepayers in May 2014 as noted above. This additional \$300,000 credit to customers shall be deemed to be “below the line” for ratemaking purposes.
- (8) ACE will be permitted to include actual PJM revenue amounts above \$378,565 recorded in PJM revenues from its annual 2011 filing as PJM revenues offsetting program costs over the period 2012 through 2017 for purposes of the calculation of PJM revenues required to satisfy the Company’s total revenue commitment under in this settlement;

ACE will be permitted to utilize any actual PJM revenues it receives in excess of the PJM revenue amounts to which it has committed in any given year from 2012 through 2017, to offset its commitments for prior years.

It is expressly agreed by the Parties that all revenues derived from the RCSTP Program including all PJM revenues shall be credited to ratepayers through the RGGI Charge or other successor clause. Any penalties arising from PJM bids in excess of 75 percent of available DR capacity, including penalties incurred due to capacity shortfall under the PJM DR program shall not under any circumstances be recoverable from ACE customers through rates. Interest payments on the PJM revenue commitments will begin in the year to which the commitment applies and continue through the time period until sufficient PJM revenues are available to reflect the PJM revenue commitment in the annual RGGI Charge calculation. The monthly interest calculation shall be as specified in paragraph (b) under "RCSTP Cost Recovery Mechanism" (page 13 of the 2009 Stipulation).

Within 60 days of the final PJM 2017/2018 Base Residual Auction ("BRA") publication of results in May 2014, ACE shall file a final calculation of the PJM revenue credits received, expected PJM revenues, and interest payments due its customers as a result hereof. In the event that the PJM revenues received for the RCSTP are not sufficient to meet the Company's commitment of \$9,129,359, the Company shall immediately credit such deficiency to the RGGI deferred balance. Such deficiency shall not be recovered from ratepayers. All PJM revenue credits, including any deferred amounts, shall be credited to ratepayers, as shown on Table 1 hereof, no later than May 31, 2018, which is the end date of the 2017-18 PJM Planning Year to which the May 2015 BRA auction applies.

#### **FURTHER PROVISION**

The Parties agree that this Stipulation, in conjunction with the 2009 Stipulation, where same has not been otherwise amended, shall govern the terms and conditions pursuant to which

the roll-out of the RCSTP shall be implemented and PJM revenues shall be credited to ACE's customers

### SETTLEMENT IMPLEMENTATION

The Parties hereby request that this proposed Stipulation be considered by the Board at its first available agenda meeting in April 2013, and the Company shall submit its April 2013 Fourth Update to the RCSTP within 30 days of the Board Order consistent with the terms and provisions hereof.

### CONCLUSION

1. The Parties agree that this Stipulation contains mutual balancing and interdependent clauses and is intended to be accepted and approved in its entirety. In the event any particular provision of this Stipulation is not accepted and approved in its entirety by the Board or is modified by a court of competent jurisdiction, then any Party aggrieved thereby shall not be bound to proceed with this Stipulation and shall have the right, upon written notice, to be provided to all other Parties within ten (10) days after receipt of any such adverse decision, to litigate all issues addressed herein to a conclusion. More particularly, in the event this Stipulation is not adopted in its entirety by the Board in an appropriate Order, or is modified by a court of competent jurisdiction, then any Party hereto is free, upon the timely provision of such written notice, to pursue its then available legal remedies with respect to all issues addressed in this Stipulation, as though this Stipulation had not been signed.

2. The Parties agree that this Stipulation shall be binding on them for all purposes herein.

3. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and, except as otherwise expressly provided for herein:



- a. by executing this Stipulation, no Party waives any rights it possesses under any prior Stipulation, except where the terms of this Stipulation supersede such prior Stipulation; and
- b. the contents of this Stipulation shall not in any way be considered, cited or used by any of the Parties as an indication of any Party's position on any related or other issue litigated in any other proceeding or forum, except to enforce the terms of this Stipulation.

4. It is specifically understood and agreed that this Stipulation represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, the Parties shall not be deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein in total or by specific item. The Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of this Stipulation.

5. This Stipulation may be executed in any number of counterparts, each of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties.

WHEREFORE, the Parties hereto have duly executed and do respectfully submit this Stipulation to the Board and recommend that the Board issue a Final Decision and Order adopting and approving this Stipulation in their entirety in accordance with the terms hereof.

**[SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

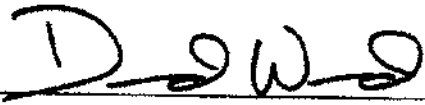
ATLANTIC CITY ELECTRIC COMPANY

Dated: April 11, 2013

By:   
Philip J. Passanante  
Associate General Counsel

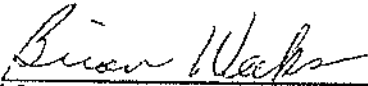
JEFFREY S. CHIESA  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the New Jersey Board of  
Public Utilities

Dated: \_\_\_\_\_

By:   
Alex Moreau  
T. David Wand  
Deputy Attorneys General

STEFANIE A. BRAND, ESQ.  
DIRECTOR  
DIVISION OF RATE COUNSEL

Dated: 4/22/13

By:   
Brian Weeks  
Deputy Rate Counsel

# Table 1

**TABLE 1**

**Residential Controllable Smart Thermostat Program ("RCSTP") Annual RGGI Surcharge Filing  
Proposed Settlement of PJM Bidding Issues**

Line	(A) Month	(B) Actual PJM Revenues Received	(C) PJM Revenue Commitments	(D) Difference Monthly (B)-(C)	(E) Difference Cumulative	(F) Interest Rate	(G) Interest Amount 3/ (E)x(F)/12
1	Jun-11	\$41,177	(\$31,030)	\$10,147	\$10,147	0.31%	\$3
2	Jul-11	\$42,550	(\$32,064)	\$10,486	\$20,633	0.29%	\$5
3	Aug-11	\$42,550	(\$32,064)	\$10,486	\$31,119	0.34%	\$9
4	Sep-11	\$41,177	(\$31,030)	\$10,147	\$41,266	0.30%	\$10
5	Oct-11	\$42,550	(\$32,064)	\$10,486	\$51,752	0.64%	\$28
6	Nov-11	\$41,177	(\$31,030)	\$10,147	\$61,899	0.66%	\$34
7	Dec-11	\$42,550	(\$32,064)	\$10,486	\$72,385	0.72%	\$43
8	Jan-12	\$42,550	(\$32,064)	\$10,486	\$82,871	0.83%	\$57
9	Feb-12	\$39,805	(\$29,996)	\$9,809	\$92,680	0.85%	\$65
10	Mar-12	\$42,550	(\$32,064)	\$10,486	\$103,166	0.90%	\$77
11	Apr-12	\$41,177	(\$31,030)	\$10,147	\$113,313	0.92%	\$87
12	May-12	\$42,550	(\$32,064)	\$10,486	\$123,799	0.42%	\$43
PJM Plan Year 11-12		\$502,364	(\$378,565)	\$123,799			\$461
13	Jun-12	\$2,500	(\$96,311)	(\$93,811)	\$29,987	0.41%	\$10
14	Jul-12	\$2,583	(\$99,522)	(\$96,939)	(\$66,951)	0.42%	(\$23)
15	Aug-12	\$2,583	(\$99,522)	(\$96,939)	(\$163,890)	0.41%	(\$57)
16	Sep-12	\$2,500	(\$96,311)	(\$93,811)	(\$257,701)	0.41%	(\$89)
17	Oct-12	\$2,583	(\$99,522)	(\$96,939)	(\$354,640)	0.42%	(\$123)
18	Nov-12	\$2,500	(\$96,311)	(\$93,811)	(\$448,451)	0.42%	(\$157)
19	Dec-12	\$2,583	(\$99,522)	(\$96,939)	(\$545,390)	0.41%	(\$185)
20	Jan-13	\$2,583	(\$99,522)	(\$96,939)	(\$642,328)	0.39%	(\$210)
21	Feb-13	\$2,333	(\$89,891)	(\$87,557)	(\$729,885)	0.36%	(\$216)
22	Mar-13	\$2,583	(\$99,522)	(\$96,939)	(\$826,824)	0.49%	(\$336)
23	Apr-13	\$2,500	(\$96,311)	(\$93,811)	(\$920,635)	0.49%	(\$376)
24	May-13	\$2,583	(\$99,522)	(\$96,939)	(\$1,017,574)	0.49%	(\$416)
PJM Plan Year 12-13		\$30,416	(\$1,171,789)	(\$1,141,373)			(\$2,178)

**Actual Committed Levels  
Under Completed PJM Auctions  
(As of May 31, 2016)**

Total Due Ratepayers	
PJM Commitments	(\$9,129,359)
Additional Payments	(\$300,000)
Interest	(\$38,475)
Total Due Ratepayers	(\$9,467,833)
PJM Revenues Received	\$7,341,684
Final Amount Due Ratepayers	(\$2,126,150)

**TABLE 1**

**Residential Controllable Smart Thermostat Program ("RCSTP") Annual RGGI Surcharge Filing  
Proposed Settlement of PJM Bidding Issues**

Line	(A) Month	(B) Actual PJM Revenues Received	(C) PJM Revenue Commitments	(D) Difference Monthly (B)-(C)	(E) Difference Cumulative	(F) Interest Rate	(G) Interest Amount 3/ (E)x(F/12)
25	Jun-13	\$64,800	(\$251,709)	(\$186,909)	(\$1,204,483)	0.49%	(\$492)
26	Jul-13	\$66,960	(\$260,100)	(\$183,140)	(\$1,387,623)	0.49%	(\$571)
27	Aug-13	\$66,960	(\$260,100)	(\$183,140)	(\$1,590,763)	0.49%	(\$650)
28	Sep-13	\$64,800	(\$251,709)	(\$186,909)	(\$1,777,672)	0.49%	(\$726)
29	Oct-13	\$66,960	(\$260,100)	(\$193,140)	(\$1,970,812)	0.49%	(\$805)
30	Nov-13	\$64,800	(\$251,709)	(\$186,909)	(\$2,157,722)	0.49%	(\$882)
31	Dec-13	\$66,960	(\$260,100)	(\$193,140)	(\$2,350,861)	0.49%	(\$961)
32	Jan-14	\$66,960	(\$260,100)	(\$193,140)	(\$2,544,001)	0.49%	(\$1,040)
33	Feb-14	\$60,480	(\$234,929)	(\$174,449)	(\$2,718,450)	0.49%	(\$1,111)
34	Mar-14	\$66,960	(\$260,100)	(\$193,140)	(\$2,911,590)	0.49%	(\$1,190)
35	Apr-14	\$64,800	(\$251,709)	(\$186,909)	(\$3,098,499)	0.49%	(\$1,266)
36	May-14	\$66,960	(\$260,100)	(\$193,140)	(\$3,291,639)	0.49%	(\$1,345)
PJM Plan Year 13-14		\$788,400	(\$3,052,465)	(\$2,274,065)			(\$11,039)
37	Jun-14	\$200,138	(\$157,126)	\$43,012	(\$3,248,626)	0.49%	(\$1,328)
38	Jul-14	\$206,810	(\$162,363)	\$44,446	(\$3,204,180)	0.49%	(\$1,309)
39	Aug-14	\$206,810	(\$162,363)	\$44,446	(\$3,159,734)	0.49%	(\$1,291)
40	Sep-14	\$200,138	(\$157,126)	\$43,012	(\$3,116,722)	0.49%	(\$1,274)
41	Oct-14	\$206,810	(\$162,363)	\$44,446	(\$3,072,276)	0.49%	(\$1,255)
42	Nov-14	\$200,138	(\$157,126)	\$43,012	(\$3,028,263)	0.49%	(\$1,238)
43	Dec-14	\$206,810	(\$162,363)	\$44,446	(\$2,984,817)	0.49%	(\$1,220)
44	Jan-15	\$206,810	(\$162,363)	\$44,446	(\$2,940,371)	0.49%	(\$1,202)
45	Feb-15	\$186,796	(\$146,651)	\$40,145	(\$2,900,226)	0.49%	(\$1,185)
46	Mar-15	\$206,810	(\$162,363)	\$44,446	(\$2,855,780)	0.49%	(\$1,167)
47	Apr-15	\$200,138	(\$157,126)	\$43,012	(\$2,812,767)	0.49%	(\$1,149)
48	May-15	\$206,810	(\$162,363)	\$44,446	(\$2,768,321)	0.49%	(\$1,131)
PJM Plan Year 14-15		\$2,436,017	(\$1,911,699)	\$523,318			(\$14,749)

Actual Committed Levels  
Under Completed PJM Auctions  
(As of May 31, 2016)

**TABLE 1**

**Residential Controllable Smart Thermostat Program ("RCSTP") Annual RGGI Surcharge Filing  
Proposed Settlement of PJM Bidding Issues**

Line	(A) Month	(B) Actual PJM Revenues Received	(C) PJM Revenue Commitments	(D) Difference Monthly (B)-(C)	(E) Difference Cumulative	(F) Interest Rate	(G) Interest Amount 3/ (E)x(F)/12
49	Jun-15	\$293,892	(\$213,512)	\$80,381	(\$2,687,940)	0.49%	(\$1,098)
50	Jul-15	\$303,689	(\$220,629)	\$83,060	(\$2,604,880)	0.49%	(\$1,064)
51	Aug-15	\$303,689	(\$220,629)	\$83,060	(\$2,521,820)	0.49%	(\$1,031)
52	Sep-15	\$293,892	(\$213,512)	\$80,381	(\$2,441,439)	0.49%	(\$998)
53	Oct-15	\$303,689	(\$220,629)	\$83,060	(\$2,358,379)	0.49%	(\$964)
54	Nov-15	\$293,892	(\$213,512)	\$80,381	(\$2,277,998)	0.49%	(\$931)
55	Dec-15	\$303,689	(\$220,629)	\$83,060	(\$2,194,938)	0.49%	(\$897)
56	Jan-16	\$303,689	(\$220,629)	\$83,060	(\$2,111,878)	0.49%	(\$863)
57	Feb-16	\$294,096	(\$206,394)	\$77,701	(\$2,034,176)	0.49%	(\$831)
58	Mar-16	\$303,689	(\$220,629)	\$83,060	(\$1,951,116)	0.49%	(\$797)
59	Apr-16	\$293,892	(\$213,512)	\$80,381	(\$1,870,735)	0.49%	(\$764)
60	May-16	\$303,689	(\$220,629)	\$83,060	(\$1,787,675)	0.49%	(\$731)
PJM Plan Year 15-16		\$3,585,486	(\$2,604,840)	\$980,646			(\$10,969)
61	Jun-16	\$263,250	(\$203,850)	\$59,400	(\$1,728,275)	0.49%	(\$706)
62	Jul-16	\$272,025	(\$210,645)	\$61,380	(\$1,666,895)	0.49%	(\$681)
63	Aug-16	\$272,025	(\$210,645)	\$61,380	(\$1,605,515)	0.49%	(\$656)
64	Sep-16	\$263,250	(\$203,850)	\$59,400	(\$1,546,115)	0.49%	(\$632)
65	Oct-16	\$272,025	(\$210,645)	\$61,380	(\$1,484,735)	0.49%	(\$607)
66	Nov-16	\$263,250	(\$203,850)	\$59,400	(\$1,425,335)	0.49%	(\$582)
67	Dec-16	\$272,025	(\$210,645)	\$61,380	(\$1,363,955)	0.49%	(\$557)
68	Jan-17	\$272,025	(\$210,645)	\$61,380	(\$1,302,575)	0.49%	(\$532)
69	Feb-17	\$245,700	(\$180,260)	\$65,440	(\$1,247,135)	0.49%	(\$510)
70	Mar-17	\$272,025	(\$210,645)	\$61,380	(\$1,185,755)	0.49%	(\$485)
71	Apr-17	\$263,250	(\$203,850)	\$59,400	(\$1,126,355)	0.49%	(\$460)
72	May-17	\$272,025	(\$210,645)	\$61,380	(\$1,064,975)	0.49%	(\$435)
PJM Plan Year 16-17		\$3,202,875 2/	(\$2,480,175) 1/	\$722,700			(\$6,844)

**Actual Committed Levels  
Under Completed PJM Auctions  
(As of May 31, 2016)**

**Forecasted Levels  
Under Future PJM Auctions  
At Assumed PJM Clearing Price of: \$150.00**

Total Due Ratepayers	
PJM Commitments	(\$4,860,350)
Additional Payments	\$0
Interest	(\$10,144)
<b>Total Due Ratepayers</b>	<b>(\$4,970,494)</b>
PJM Revenues Received	\$6,405,750
<b>Final Amount Due Ratepayers</b>	<b>\$1,435,256</b>

**TABLE 1**

**Residential Controllable Smart Thermostat Program ("RCSTP") Annual RGGI Surcharge Filing  
Proposed Settlement of PJM Bidding Issues**

Line	(A) Month	(B) Actual PJM Revenues Received	(C) PJM Revenue Commitments	(D) Difference Monthly (B)-(C)	(E) Difference Cumulative	(F) Interest Rate	(G) Interest Amount 3/ (E)x(F)/12
73	Jun-17	\$263,250	(\$203,850)	\$59,400	(\$1,005,575)	0.49%	(\$411)
74	Jul-17	\$272,025	(\$210,845)	\$61,380	(\$944,196)	0.49%	(\$366)
75	Aug-17	\$272,025	(\$210,845)	\$61,380	(\$882,815)	0.48%	(\$361)
76	Sep-17	\$263,250	(\$203,850)	\$59,400	(\$823,415)	0.49%	(\$336)
77	Oct-17	\$272,025	(\$210,845)	\$61,380	(\$762,035)	0.49%	(\$311)
78	Nov-17	\$263,250	(\$203,850)	\$59,400	(\$702,635)	0.49%	(\$287)
79	Dec-17	\$272,025	(\$210,845)	\$61,380	(\$641,255)	0.49%	(\$262)
80	Jan-18	\$272,025	(\$210,845)	\$61,380	(\$579,875)	0.49%	(\$237)
81	Feb-18	\$245,700	(\$190,260)	\$55,440	(\$524,435)	0.49%	(\$214)
82	Mar-18	\$272,025	(\$210,845)	\$61,380	(\$463,055)	0.49%	(\$189)
83	Apr-18	\$263,250	(\$203,850)	\$59,400	(\$403,655)	0.49%	(\$165)
84	May-18	\$272,025	(\$210,845)	\$61,380	(\$342,275)	0.49%	(\$140)
<b>PJM Plan Year 17-18</b>		<b>\$3,202,875</b>	<b>2/ (\$2,480,175)</b>	<b>1/ \$722,700</b>			<b>(\$3,300)</b>
<b>Subtotal</b>		<b>\$13,747,434</b>	<b>(\$14,089,709)</b>		<b>(\$342,275)</b>		<b>(\$48,618)</b>
<b>Additional Payment</b>			<b>(\$300,000)</b>		<b>(\$300,000)</b>		

Forecasted Levels Under Future PJM Auctions

**Actual and Forecasted Levels Under Past and Future PJM Auctions**

Total Due Ratepayers	
PJM Commitments	(\$14,089,709)
Additional Payments	(\$300,000)
Interest	(\$48,618)
<b>Total Due Ratepayers</b>	<b>(\$14,438,327)</b>
PJM Revenues Received	\$13,747,434
<b>Final Amount Due Ratepayers</b>	<b>(\$690,893)</b>

1/ Assumes that 45.3MWs are bid into PJM as ratepayers share at a clearing price estimated at \$150 per MW

2/ Assumes that 58.5MWs are bid into the PJM at a clearing price estimated at \$150 per MW

3/ Short Term Interest Rate per Stipulation, rates are based on actuals through February 2013 and estimated with no change through May 2013.