



Agenda Date: 1/7/21
Agenda Item: 2B

STATE OF NEW JERSEY
Board of Public Utilities
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ENERGY

IN THE MATTER OF ATLANTIC CITY ELECTRIC)
COMPANY’S CERTIFIED PETITION TO RECONCILE) ORDER ADOPTING
THE FINAL COSTS AND REVENUES ASSOCIATED) STIPULATION
WITH ITS RESIDENTIAL CONTROLLABLE SMART)
THERMOSTAT PROGRAM FOR THE PERIOD FROM)
JUNE 1, 2019 THROUGH MAY 31, 2020, AND TO)
PROPOSE ITS PLAN FOR THE RETURN OF ALL)
EXCESS REVENUES DERIVED FROM THE)
PROGRAM TO ITS CUSTOMERS) DOCKET NO. ER20080515

Parties of Record:

Philip J. Passanante, Esq., Atlantic City Electric Company
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities (“Board” or “BPU”) considers a stipulation of settlement (“Stipulation”) executed by Atlantic City Electric Company (“ACE” or “Company”), Board Staff (“Staff”), and the New Jersey Division of Rate Counsel (“Rate Counsel”) (collectively, “Parties”). The Stipulation resolves all factual and legal issues pertaining to the Company’s August 5, 2020 Petition which sought to reconcile costs associated with its Residential Controllable Small Thermostat Program (“RCSTP” or “Program”) for the period of June 1, 2019 through May 31, 2020, as well as the Company’s proposal to refund all excess revenues associated with the concluded Program (“August 2020 Petition”).

BACKGROUND AND PROCEDURAL HISTORY

By Order dated July 1, 2008, pursuant to N.J.S.A. 48:3-98.1(a)(3), the Board directed the State’s four (4) electric distribution companies, including ACE, to submit proposals by August 1, 2008 for demand response (“DR”) programs to be implemented for the period beginning June 1, 2009.¹ In response to the 2008 Order, ACE submitted its DR petition to the Board on August 4, 2008 under N.J.S.A. 48:3-98.1 (“August 4 Filing”).² The August 4 Filing contained a proposal for the RCSTP for residential customers, along with other DR proposals.

¹ In re Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Company Programs, BPU Docket No. EO08050326, Order dated July 1, 2008 (“2008 Order”).

² In re Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation

By Order dated July 29, 2009, the Board authorized the Company to commence the rollout of the RCSTP over approximately eight (8) months, following program approval on a "region by region" basis within its service territory, and to continue over an approximate four (4) year period until all eligible customers were afforded an opportunity to participate in the RCSTP.³ The stated objective was to enroll and maintain approximately 42,200 residential customer participants, some of whom could have multiple controllable DR devices installed at their residences, by the conclusion of the initial four (4) year period (May 31, 2014). The expected amount of DR reduction by the end of the initial four (4) year period was approximately 50.64 megawatts ("MW").

In addition to reducing the Company's demand for electric capacity to meet its customers' energy requirements, the RCSTP enabled ACE to participate in available PJM Base Residual Auctions ("BRAs") and Incremental Auctions ("IAs") that would provide economic support for the costs associated with establishing the Program. ACE agreed to use its best efforts to register, nominate, and/or bid each year's expected MW reduction resulting from the RCSTP into any and all PJM market(s) and/or program(s) for which the RCSTP is eligible during the life of the program. Specifically, the Company agreed to participate in PJM's BRAs and IAs in time to meet PJM registration deadlines, beginning and including registration for the summer 2010 auctions. The Initial Order provided that revenues from participation in PJM DR programs and market-based opportunities be used to offset RCSTP costs and mitigate the impact on ratepayers' bills.

The Initial Order directed that ACE's reasonable and prudently incurred costs associated with the RCSTP be recovered through a Rider in the Company's tariff, Rider RGGI, consistent with the Board's treatment of other programs filed under N.J.S.A. 48:3-98.1. Revenues received, or to be received, from bids placed by the Company into PJM BRAs and IAs during the initial Program rollout period, plus any Federal Stimulus Award monies received by the Company pursuant to the American Recovery and Reinvestment Act of 2009 ("ARRA") associated with the RCSTP, as well as other financial commitments made by the Company as a result of prior stipulations and associated Board Orders, were expected to offset Program costs for the initial four (4) year roll-out of the RCSTP. While the Initial Order approved the establishment of the RCSTP component of its Rider RGGI Charge, no rate implementation occurred at that time. The Initial Order required ACE to provide annual update filings ("Annual Filings") with the Board 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 the ARRA monies associated with the RCSTP received by ACE; 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) the reset, if necessary, of the Rider RGGI Charge associated with the RCSTP for the upcoming program year in order for ACE to recover its costs of Program implementation.

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, Order dated May 12, 2008.

³ In re 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 19, 2007, BPU Docket Nos. EO08050326, EO08080543 and EO07110881 and In re the Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Programs, BPU Docket No. EO08050326, Order dated July 29, 2009 ("Initial Order").

On March 31, 2010, ACE filed its first Annual Filing as required by the Initial Order. By Order dated June 16, 2010, the Board approved an RCSTP component rate of the Rider RGGI Charge of \$0.000190 per kWh.⁴

By petition dated April 12, 2011, the Company filed its second Annual Filing on the RCSTP and provided a status report on RCSTP implementation ("April 2011 Petition"). The April 2011 Petition did not request a modification to the RCSTP component of ACE's Rider RGGI Charge. By petition dated April 11, 2012, the Company filed its third Annual Filing on the RCSTP ("April 2012 Petition"). In addition to the required information, the April 2012 Petition included a request to increase the RCSTP component of the Rider RGGI Charge for service rendered on and after July 1, 2012. By Order dated May 29, 2013, the Board approved a stipulation that resolved both the April 2011 Petition and the April 2012 Petition.⁵

By petition dated July 5, 2013, ACE filed its fourth Annual Filing and requested an increase in the RCSTP component of the Rider RGGI Charge. By Order dated September 18, 2013, the Board approved a stipulation among the Parties that increased the RCSTP component of ACE's RGGI Rider Charge to \$0.000493 per kWh.⁶ The September 2013 Order also authorized ACE to continue the Program beyond the initial four (4) year rollout, which was anticipated to be completed by May 31, 2014, and ordered ACE to file a petition no later than October 1, 2013 with proposed parameters for the continuation of the Program. ACE made the requisite filing on September 30, 2013.

By petition dated September 30, 2013, ACE filed a petition seeking authorization to continue implementation of its RCSTP for a four (4) year period commencing June 1, 2014 and ending on May 31, 2018 ("September 2013 Petition"). The September 2013 Petition also constituted ACE's Annual Filing and sought approval to decrease the RCSTP component of ACE's Rider RGGI Charge for the period June 1, 2014 through May 31, 2015. By Order dated April 24, 2014, the Board approved a stipulation that reduced the RCSTP portion of the Rider RGGI Charge applicable to the RCSTP to \$0.000010 per kWh.⁷ Additionally, the April 2014 Order extended the RCSTP for an additional four (4) years from June 1, 2014 through May 31, 2018, which allowed the Company to continue participating in the PJM BRAs and IAs and to continue the Company's eligibility to receive revenues to offset the costs for the RCSTP.

By petition dated July 31, 2014, the Company filed an Annual Filing in conformance with the requirements of the Initial Order, to reconcile the results of the four (4) year initial implementation

⁴ In re the Petition 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, BPU Docket No. ER10050351, Order dated June 16, 2010.

⁵ In re 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 and In re 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, BPU Docket Nos. ER11060379 and ER12050426, Order dated May 29, 2013.

⁶ In re Atlantic City Electric Company's Verified In Petition Requesting Authorization to Implement Changes to its Residential Controllable Smart Thermostat Program Component of its RGGI Recovery Charge for 2012-2013, BPU Docket No. ER13070627, Order dated September 18, 2013 ("September 2013 Order").

⁷ In re Atlantic City Electric Company's Verified Petition Requesting Authorization to Continue Implementation of its Residential Controllable Smart Thermostat Program for the Four Year Period Commencing on or about June 1, 2014 and Modification of its RGGI Recovery Charge for 2014-2015, BPU Docket No. ER13100907, Order dated April 24, 2014 ("April 2014 Order").

of the RCSTP ("July 2014 Petition"). The July 2014 Petition requested a further reduction in the RCSTP component of Rider RGGI to \$0.000000 per kWh. During the course of the review of the July 2014 Petition, ACE advised the Parties that it wanted to submit a bid in the upcoming PJM BRA scheduled to be conducted in May 2015 ("May 2015 BRA") with a performance period commencing on June 1, 2018 and continuing through May 31, 2019. However, that performance period was beyond the current BPU authorized termination date for the RCSTP. Accordingly, the Company requested an extension of the RCSTP covering the performance period for the May 2015 BRA; otherwise, it would not submit a bid in that auction.⁸ By Order dated April 15, 2015, the Board approved the stipulation, which resolved the July 2014 Petition, authorizing a reduction of the Rider RGGI rate related to the RCSTP to \$0.000000 per kWh, granting an extension of the RCSTP for an additional year until May 31, 2019, and permitting the Company to participate in the May 2015 BRA.⁹

By petition dated August 19, 2015, the Company filed an Annual Filing to reconcile the results for the period June 1, 2014 through May 31, 2015 and to seek approval to maintain the RCSTP component of its Rider RGGI Charge of \$0.000000 per kWh for the period October 1, 2015 through May 31, 2016 ("August 2015 Petition"). On October 15, 2015, ACE amended the August 2015 Petition seeking to extend the RCSTP for an additional 12-month period, commencing on June 1, 2019 and terminating on May 31, 2020, to allow ACE to submit bids into the BRA for May 2016 ("October 2015 Amendment"). By Order dated March 18, 2016, the Board approved a stipulation that approved the August 2015 Petition and October 2015 Amendment, authorizing ACE to maintain its Rider RGGI Charge of \$0.000000 per kWh related to the RCSTP in addition to extending the Program for an additional year until May 31, 2020.¹⁰

Through a series of subsequent Orders, the Board authorized the continued maintenance of the \$0.000000 per kWh RCSTP component of ACE's Rider RGGI.¹¹

By petition dated September 12, 2018, ACE filed an Annual Filing to reconcile costs associated with its RCSTP for the period of June 1, 2017 through May 31, 2018, and to maintain the current RCSTP component of its Rider RGGI Charge of \$0.000000 per kWh for the period of October 1, 2018 through May 31, 2019. By Order dated February 27, 2019, the Board approved a stipulation that authorized ACE to maintain its Rider RGGI Charge of \$0.000000 per kWh related to the RCSTP.¹² Additionally, the February 2019 Order directed ACE to propose a plan for the

⁸ According to ACE, to submit a bid in the May 2015 BRA, it had to submit the requisite documents to PJM on or about April 15, 2015.

⁹ In re Atlantic City Electric Company's Verified Petition to Reconcile the Initial Four Year Term of Residential Controllable Smart Thermostat Program and to Reduce its RGGI Recovery Charge for the Period June 1, 2014 Through May 31, 2015, BPU Docket No. ER14070832, Order dated April 15, 2015.

¹⁰ In re Atlantic City Electric Company's Verified Petition to Reconcile the Initial Four Year Term of Residential Controllable Smart Thermostat Program and to Maintain its RGGI Recovery Charge for the Period June 1, 2015 Through May 31, 2016, BPU Docket No. ER15080971, Order dated March 18, 2016.

¹¹ In re Verified Petition to Reconcile Costs Associated with its Residential Controllable Smart Thermostat Program for the Period from June 1, 2015 Through May 31, 2016 and to Maintain its Rider RGGI Recovery Charge for the Period October 1, 2016 Through May 31, 2017, BPU Docket No. ER16090846, Order dated March 24, 2017; and In re Verified Petition to Reconcile Costs Associated with its Residential Controllable Smart Thermostat Program for the Period from June 1, 2016 Through May 31, 2017 and to Maintain its Rider RGGI Recovery Charge for the Period October 1, 2017 Through May 31, 2018, BPU Docket No. ER17090972, Order dated February 28, 2018.

¹² In re Verified Petition to Reconcile Costs associated with its Residential Controllable Smart Thermostat Program for the Period from June 1, 2017 Through May 31, 2018 and to Maintain its RGGI Recovery Charge for the Period October 1, 2018 Through May 31, 2019, BPU Docket No. ER18090984, Order Dated

termination of the Program as of May 31, 2020, and to include a proposed method for the return of any over-collected Program revenues to customers.

By petition dated July 12, 2019, ACE filed an Annual Filing to reconcile costs associated with its RCSTP for the period June 1, 2018 through May 31, 2019, and to maintain its existing Rider RGGI recovery charge of \$0.000000 per kWh associated with the Program for the period October 1, 2019 through May 31, 2020 ("July 2019 Petition"). The July 2019 Petition also sought authorization to conclude the Program. By Order dated February 5, 2020, the Board approved a stipulation that authorized ACE to maintain its Rider RGGI Charge of \$0.000000 per kWh related to the RCSTP.¹³ The February 2020 Order also approved the Company's proposed plan to submit a filing no later than August 15, 2020 detailing the final reconciliation of Program costs and revenues and a recommendation to refund customers through the Company's NGC rate.

August 2020 Petition

In the August 2020 Petition, which included supporting exhibits, the Company requested approval for the final reconciliation of the costs associated with the Company's Program for the period from June 1, 2019 through May 31, 2020. The August 2020 Petition also proposed a plan to return all excess revenues as of June 30, 2020 (a credit of \$5,416,267, plus any additional accrued interest) derived from the RCSTP to its customers through its 2021 Non-Utility Generation Charge ("NGC") filing. ACE asserted that, by utilizing the 2021 NGC, the Parties would be afforded sufficient time to evaluate the Company's determination of the appropriate level of excess revenues to be refunded and would ensure that such revenues would be returned to the customers that supported the Program. Additionally, the August 2020 Petition sought authorization to terminate the RCSTP rate component of ACE's Rider RGGI tariff and to eliminate the Rider RCSTP tariff.

As the petition requested no increase in rates, no public hearings were required or held in association with the August 2020 Petition.

STIPULATION

The Parties have engaged in discovery and discussed the issues in this matter. As a result of those discussions, the Parties executed the Stipulation, which provides for the following:¹⁴

The Parties agree in settlement of this matter that the August 2020 Petition, including the estimated costs and revenues, as more fully set forth on Exhibit A of the August 2020 Petition, and attached to the Stipulation as Attachment A, as well as the Company's proposed amount to be returned to customers and the method for such return as a credit to the Company's next to be filed NGC Reconciliation Petition is consistent in all material respects with the terms and conditions of the 2009 Initial Order and the February 2020 Order, as well as all other Board Orders issued with respect to the RCSTP, and therefore should be approved by the Board.

February 27, 2019 ("February 2019 Order").

¹³ In re Verified Petition to Reconcile Costs associated with its Residential Controllable Smart Thermostat Program for the Period from June 1, 2018 Through May 31, 2019, to Maintain its RGGI Recovery Charge for the Period October 1, 2019 Through May 31, 2020, and to Establish a Plan for the Termination of the Program as of May 31, 2020, BPU Docket No. ER19070816, Order dated February 5, 2020 ("February 2020 Order").

¹⁴ Although summarized in this Order, should there be any conflict between this summary and the Stipulation, the terms of the Stipulation control, subject to the findings and conclusion in this Order. Paragraphs are numbered to coincide with the Stipulation.

DISCUSSION AND FINDING

The Board carefully reviewed the record in this proceeding, including the August 2020 Petition and the attached Stipulation. The Board **HEREBY FINDS** that the Stipulation represents a fair and reasonable resolution of the issues, is in the public interest, and is in accordance with the law. Accordingly, the Board **HEREBY ADOPTS** the attached Stipulation as its own, incorporating by reference its terms and conditions as if fully set forth herein.

The Board **HEREBY APPROVES** the Company's proposed method of refunding excess revenues related to the Program through the Company's NGC rate. As a result of the Stipulation, there will be no impact on the bills of ACE's ratepayers.

The Board **HEREBY ORDERS** the Company to eliminate the Rider RCSTP tariff sheets and file the appropriate revised Rider RGGI tariff sheets conforming to the terms of this Order by February 1, 2021.

The Company's costs, including those related to the RCSTP, will remain subject to audit by the Board. This Decision and Order shall not preclude nor prohibit the Board from taking any actions determined to be appropriate as a result of any such audit.

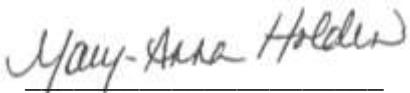
The effective date of this Order is January 17, 2021.

DATED: January 7, 2021

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF ATLANTIC CITY ELECTRIC COMPANY'S CERTIFIED PETITION TO RECONCILE THE FINAL COSTS AND REVENUES ASSOCIATED WITH ITS RESIDENTIAL CONTROLLABLE SMART THERMOSTAT PROGRAM FOR THE PERIOD FROM JUNE 1, 2019 THROUGH MAY 31, 2020, AND TO PROPOSE ITS PLAN FOR THE RETURN OF ALL EXCESS REVENUES DERIVED FROM THE PROGRAM TO ITS CUSTOMERS

BPU DOCKET NO. ER20080515

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