



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF DEMAND RESPONSE)
PROGRAMS FOR THE PERIOD BEGINNING) ORDER
JUNE 1, 2009 -- ELECTRIC DISTRIBUTION)
COMPANY PROGRAMS) DOCKET NOS. EO08050326
EO08080541
EO08080542
EO08080543
EO08080544

(SERVICE LIST ATTACHED)

BY THE BOARD:

By Order dated July 1, 2008, pursuant to N.J.S.A. 48:3-98.1 ("Section 98.1"), the Board directed the State's electric distribution companies ("EDCs"), Public Service Electric & Gas Company ("PSE&G"), Jersey Central Power & Light Company ("JCP&L"), Atlantic City Electric Company ("ACE"), and Rockland Electric Company ("RECO"), to submit proposals for demand response ("DR") programs to be implemented for the period beginning June 1, 2009. Proposals were submitted in a timely manner by PSE&G, JCP&L, ACE and RECO.

The July 1, 2008 Order also set a procedural schedule designed to maximize stakeholder participation while expediting the process to increase the use of DR. On August 22, 2008, Rate Counsel met with Staff to express its concern that due, in part, to missing necessary components in the filings, proposals as submitted were not administratively complete, and that the expedited procedural schedule did not allow sufficient time for fully evaluating the more innovative and complex proposals submitted by the EDCs. Staff agreed with Rate Counsel, but was concerned that extending the procedural schedule could jeopardize the timely implementation of those DR programs that contemplated participation in the relevant PJM programs in time to meet the deadline for registering DR with PJM for the period beginning June 1, 2009.

Staff and Rate Counsel agreed on a suggested plan of action that would address these concerns, and presented it to the EDCs at a meeting on August 27, 2008. One of the key elements of this plan was an interim step to ensure that some level of DR would be in effect for the period beginning June 1, 2009, namely, the adoption by the Board of a modified version of the proposal submitted in November 2007 by the Demand Response Working Group ("DRWG") to be implemented through the EDCs under Section 98.1. The plan of action outlined at the August 27 meeting was memorialized in a letter sent to the EDCs by Energy Division Director Nusha Wyner on August 29, 2008. The letter requested responses from the EDCs by September 8, 2008.

The EDCs responses to adopting a modified version of the DRWG proposal are summarized as follows:

- ACE stated that if the Board chooses to implement the DRWG proposal "...the Company respectfully submits that funding for the proposed 'premium payment' be provided through funds available to the Office of Clean Energy."

PSE&G stated that "[i]f the BPU wishes to pursue a near-term CSP-based DR initiative, it can do so in the competitive segment of the DR program...without the involvement of the EDCs."

RECO proposed a DR incentive program for commercial and industrial customers that "essentially implements the DRWG proposal... [and] is both consistent with your proposal and eminently feasible."

JCP&L supported the implementation of the DRWG proposal subject to "satisfactory resolution of the funding/cost recovery issues."

After carefully considering the filings and responses, and in view of its desire to follow the recommendations of the draft Energy Master Plan by implementing a program that will encourage the growth of DR in New Jersey, at its September 12, 2008 agenda meeting, the Board directed Staff to reconvene and lead a working group on September 18, 2008 for the purpose of modifying the DRWG proposal to include, but not be limited to, the following issues:

- Identifying a funding source other than the Retail Margin account;
Suggesting funding options in the event that the proposal's 300 MW cap is exceeded;
- Establishing measurement and verification protocols; and
Fostering cooperation between EDCs and CSPs (curtailment service providers).

These decisions were later memorialized in an Order dated September 22, 2008.

As directed, Staff convened a working group on September 18, 2008, and in a 3½-hour session chaired by Frank Perrotti and Ronald Reisman, addressed the issues that required modification. On September 26, 2008, a Secretary's letter containing the proposal as modified by Staff based on working group suggestions, was e-mailed to the listserv and posted on the BPU website. Comments were requested by October 10, 2008.

All four EDCs submitted comments by October 10, 2008 that are summarized as follows:

- ACE and JCP&L filed comments jointly, noting that they "...are generally supportive of the Board's DR objectives and the fundamental underlying premise of the Modified Proposal", although they suggested that "...the cost recovery method must be clarified..." and EDCs should be allowed to call curtailment events.

RECO "has no objection to such proposal" although it supports the cost recovery clarification suggested by ACE and JCP&L, and also believes the Board should allow for "incentive rate treatment" in addition to program cost recovery.

PSE&G "does not support the DRWG proposal for implementation at this time." PSE&G states that the Board should adopt the DR programs outlined in its August 5, 2008 filing, which are "...supported by pre-filed testimony...subject to extensive discovery, and include[s] a detailed cost-benefit analysis." PSE&G states that the DRWG proposal "...has not been subject to any discovery and there is no supporting cost-benefit analysis," while also challenging the Board's authority "...that allows it to direct utilities to undertake a program such as the DRWG proposal."

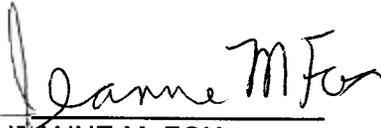
In discussions with Staff and Rate Counsel, JCP&L, ACE and RECO agreed to schedule public hearings within their service areas on the DRWG Modified Proposal, and have published notice of same. RECO will hold its hearings on November 5, 2008 in Alpine; JCP&L on November 13, 2008 in Morristown; and ACE on November 25, 2008 in Mays Landing. PSE&G has advised Staff and Rate Counsel that it refuses to schedule public hearings on the DRWG Modified Proposal because of the objections outlined in its comments.

The Board has not yet determined whether it will approve the DRWG Modified Proposal, since, as noted by the EDCs, there are still some issues which must be clarified before the proposal can be submitted for the Board's review. However, prior to the Board's review of the DRWG Modified Proposal, and due to the potential for some level of rate increase if approved, the public is entitled to notice and an opportunity to be heard. Accordingly, public hearings are appropriate at this time to provide for public comment. The Board is disappointed in PSE&G's position and the lack of cooperation which PSE&G has demonstrated in this matter in light of the importance of increasing DR as part of the State's energy initiatives.

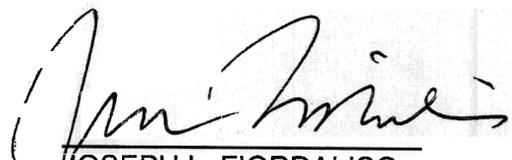
Therefore, the Board HEREBY ORDERS PSE&G to immediately prepare and publish a Notice of Public Hearing on the DRWG Modified Proposal. The hearings shall be scheduled for the earliest possible dates allowed under N.J.A.C. 14:1 – 5.12(c), but no later than December 1, 2008.

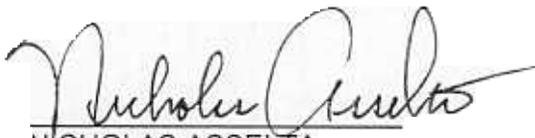
DATED: 10/23/08

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

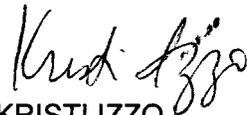

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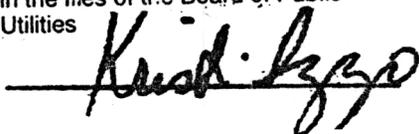

NICHOLAS ASSELTA
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ELIZABETH RANDALL
COMMISSIONER

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



Board of Public Utilities
 I/M/O Demand Response Programs for the Period Beginning June 1, 2009 – Electric Distribution Company Programs,
 Docket No. EO08050326 and
 I/M/O Demand Response Programs for the Period Beginning June 1, 2009 – Market-based Programs,
 Docket No. EO08060421
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