



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

ENERGY

THE PETITION OF ATLANTIC CITY ELECTRIC)
COMPANY (ACE) FOR APPROVAL TO
IMPLEMENT FERC-APPROVED CHANGES TO
ACE'S RETAIL TRANSMISSION (FORMULA)
RATE PURSUANT TO PARAGRAPH 15.9 OF
THE BGS-FP AND BGS-CIEP SUPPLIER
MASTER AGREEMENTS

ORDER APPROVING
IMPLEMENTATION AND
RECOVERY OF NEW
TRANSMISSION RATES
AND TARIFF CHANGES

DOCKET NO. EO08070462

(SERVICE LIST ATTACHED)

BY THE BOARD:

On July 2, 2008, Atlantic City Electric Company ("ACE", "Company", or "Petitioner") filed a petition with the New Jersey Board of Public Utilities ("Board") requesting approval to implement changes to its retail transmission rates charged to suppliers of Fixed Price and Commercial and Industrial Basic Generation Service ("BGS-FP" and "BGS-CIEP") as filed with the Federal Energy Regulatory Commission ("FERC"). In addition, the Company requested that the affected BGS suppliers receive the appropriate compensation to account for the rate adjustment(s) detailed in the petition, subject to the terms and conditions of the appropriate BGS-FP and BGS-CIEP Supplier Master Agreement(s) ("SMAs").

BACKGROUND

As part of a settlement approved by FERC on August 9, 2004¹, certain transmission owners in PJM Interconnect, L.L.C. ("PJM"), including ACE, agreed to re-examine their existing transmission rates and propose a method (such as a formula rate) to harmonize the new and existing transmission investments by January 31, 2005. It was anticipated that such new rate (if any) would go into effect on or by June 1, 2005.

On or about January 31, 2005, the Petitioner, among others, filed a formula rate for determining the wholesale transmission revenue requirements applicable in its PJM rate zone pursuant to the PJM tariff. The objective of the formula rate filing was to establish a just and reasonable method for determining transmission revenue requirements for the affected transmission pricing

¹ See *Allegheny Power System Operating Companies, et al.* 108 FERC ¶61.167 (2004).

zones, which would reflect existing and new transmission investments on a current basis. The formula rate tracks increases and decreases in costs such that no under-recovery, and no over-recovery, of actual costs will occur. In the formula rate filing, ACE committed to populate the formula with actual data from its filed FERC Form 1 for calendar year 2004, and to post that information on the PJM website no later than May 1, 2004.

On March 20, 2006, certain transmission owners within PJM filed an uncontested settlement in FERC Docket No. ER04-515-000 (the "Settlement"). The Settlement was approved by FERC on or about April 19, 2006. FERC also accepted the revised tariff sheets for filing effective June 1, 2005. The formula rate, implementation protocols included provisions for an annual update to the Annual Transmission Revenue Requirements based on current levels of costs, and the reconciliation of prior period costs and revenues. In addition, the Settlement provided that on or before May 15 of each year [ACE] shall recalculate its [Transmission Rate], produce an "Annual Update" for the upcoming year, (1) post such Annual Update on PJM's Internet Website, and (2) file such Annual Update with FERC as an informational filing.

The Company, in accordance with these protocols, filed an update to the formula rate at FERC on or about May 15, 2007 to be effective June 1, 2007. On January 18, 2008, in Docket Number ER07070512², the Board approved the implementation of changes to the Company's transmission (formula) rates, and ordered ACE to track amounts associated with the rate change to BGS Suppliers until receipt of final FERC action on the 2007 informational filing. The Board further ordered ACE to compensate the affected BGS suppliers for the rate adjustment(s) detailed in that petition, subject to the terms and conditions of the appropriate BGS-FP and BGS-CIEP SMAs.

BGS Supplier Master Agreements

Section 15.9 of the BGS Supplier Master Agreements ("SMA"), approved by the Board for inclusion in the SMA in its December 2, 2003 Order³ provides a means for increasing (or decreasing) the rates paid by the Electric Distribution Companies ("EDCs") to BGS Suppliers to compensate suppliers for FERC-approved rate increases (or decreases) for Firm Transmission Services. The section provides that rate increases for Firm Transmission Services include approved changes to any charge or surcharge imposed on customers receiving Firm Transmission Services. Section 15.9 further provides that if, during the term of the SMA, a filing is made with the FERC to increase the rates for Firm Transmission Services, the EDCs will seek approval from the Board to increase the rates charged to BGS customers by the amount of such rate increase for Firm Transmission Services. Upon receipt of Board approval for the increase in rates charged to BGS Customers, the EDCs would begin collecting the increase from BGS customers, tracking that portion of the rates charged to BGS customers attributable to the rate increase, and retaining such tracked amounts for the ultimate benefit of the BGS suppliers. Upon approval by FERC of a proposed rate increase, in a Final FERC Order not subject to refund, the EDCs would increase, by the amount approved by the Board, the BGS-FP auction price paid to BGS-FP suppliers, and the BGS-CIEP Transmission Charge paid to BGS-CIEP suppliers, and would pay to each BGS supplier, in proportion to its BGS Supplier Responsibility

² IMO the Petition of Atlantic City Electric Company for Approval to Implement FERC-Approved Changes to ACE's Retail Transmission (Formula) Rate Pursuant to Paragraph 15.9 of the BGS-FP and BGS-CIEP Supplier Master Agreements, BPU Docket No. ER07070512, January 18, 2008.

³ IMO the Provision of Basic Generation Service for Year Two of the Post-Transition Period. BPU Docket No. EO03050394. December 2, 2003.

Share, the amounts tracked and retained for the benefit of BGS Suppliers until the date the final FERC approval was received.

In its March 24, 2006 Order⁴, the Board directed the parties to revisit the terms and conditions of the Supplier Master Agreements. One issue raised by several parties related to Section 15.9 of the Board-approved BGS-FP and BGS-CIEP SMAs. The Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") filed comments requesting that the Board eliminate Section 15.9 of the SMA arguing that it is not consistent with the purpose of the BGS-FP Auction, which they claimed was to obtain a fixed price for customers. After considering the arguments of several parties, the Board denied Rate Counsel's request to eliminate Section 15.9 of the SMAs and approved Section 15.9 of the SMAs as filed by the EDCs stating that based on the information available at the time, the risks to BGS customers outweighs any potential benefits of eliminating Section 15.9 of the SMAs.

Company's Request

In the instant petition, the Company requested approval for the Company to implement changes in its retail transmission rates, as filed with FERC on May 15, 2008 to be effective June 1, 2008. The Petitioner filed revised tariffs reflecting the changes in BGS-FP and BGS-CIEP charges to customers resulting from a change in the FERC-approved Transmission Rates. The revised tariff sheets reflect changes in BGS-FP and BGS-CIEP charges to customers resulting from a change in FERC-approved transmission rates.⁵ The Company has modified the Transmission Rates in the filing in accordance with the Board-approved methodology contained in the Company-Specific Addenda provided pursuant to the BGS dockets listed in footnote 5, *supra*.⁶

In addition, the Company requests that the affected BGS suppliers receive the appropriate compensation for the rate adjustment(s) detailed in the petition, subject to the terms and conditions of the appropriate BGS-FP and BGS-CIEP SMAs.

DISCUSSION AND FINDING

Having reviewed the documents submitted in this matter, including the Petition, the Board **HEREBY FINDS** that the implementation of the changes to the Petitioner's retail transmission (formula) rates is reasonable and in the public interest.

The pass through of FERC-approved changes in rates for Firm Transmission Service is effectuated by Section 15.9 of the SMAs. The Board has, in several previous BGS orders, found the pass through of any changes in the network integration transmission charge, and other charges associated with the FERC-approved Open Access Transmission Tariff appropriate. Accordingly, the Board **HEREBY APPROVES** the change in ACE's retail transmission (formula) rates effective for service on or after January 1, 2009. In accordance with ¶¶ 15.9(a)(iii) and (iv) of the BGS-FP and BGS-CIEP SMAs, the Board **HEREBY ORDERS** the Petitioner to track amounts associated with the rate change to BGS Suppliers until receipt of final FERC action on

⁴ IMO the Provision of Basic Generation Service for the Period Beginning June 1, 2007. BPU Dkt. No. EO06020119. March 24, 2006.

⁵ Relevant Board dockets include BPU Docket Nos. EO05040317; EO06020119, and ER07060379.

⁶ See BPU Order dated December 8, 2005 in connection with BPU Docket No. EO05040317; BPU Order dated December 22, 2006 in BPU Docket No. EO06020119; and BPU Order dated January 25, 2008, in BPU Docket No. ER07060379, reporting the Board's approval of, among other things, the EDC's Company-Specific Addenda.

the 2008 informational filing. The Board **FURTHER ORDERS** ACE to compensate the affected BGS suppliers for the rate adjustment(s) detailed in the petition, subject to the terms and conditions of the appropriate BGS-FP and BGS-CIEP SMAs.

Further, the Board **HEREBY DIRECTS** the Company to file tariffs consistent with the Board's findings within five (5) business days of this Board Order.

DATED: 12/18/08

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

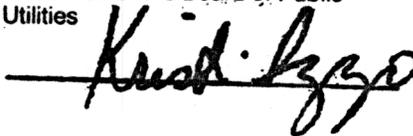

NICHOLAS ASSELTA
COMMISSIONER


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



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