



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF)
GERDAU AMERISTEEL SAYREVILLE, INC.) ORDER ESTABLISHING A
FOR WAIVER OF REQUIREMENTS) COMMENT PERIOD
CONCERNING THE SOCIETAL BENEFITS)
CHARGE) BPU DOCKET NO. EW17030256

Parties of Record:

Kenneth R. Stark, Esq., McNeese, Wallace & Nurick, LLC on behalf of Gerdau Ameristeel Sayreville, Inc.
Stefanie A. Brand, Esq., Director, Division of Rate Counsel
Gregory Eisenstark, Esq., Windels Marx Lane and Mittendorf, LLP on behalf of Jersey Central Power and Light Company
Justin Incardone, Esq., on behalf of Public Service Electric and Gas Company

BY COMMISSIONER DIANNE SOLOMON:

On February 9, 1999, the Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-1 to 3-46, N.J.S.A. 48:3-49, 48:3-98 and N.J.S.A. 48:3-51, -57, -59, -60, -63, 65 and -66, was enacted. L. 1999, c. 23, § 66. Among other provisions, EDECA established the societal benefits charge ("SBC") at N.J.S.A. 48:3-60. The SBC constitutes a per unit charge billed to ratepayers by an electric or gas public utility at a level determined by the Board in accordance with N.J.S.A. 48:3-60. The total amount of the SBC paid by each commercial or industrial ratepayer constitutes its SBC liability, and a portion of those remittances funds clean energy programs.

On January 17, 2012, the Legislature enacted N.J.S.A. 48:3-60.3, providing for a credit against the SBC and supplementing L. 1999, c. 23. L. 2007, c. 340 (the "Act"). Under the Act, on and after January 1 next following the date of enactment, commercial and industrial ratepayers are entitled to a credit against their annual SBC payment. The credit amount is based on investments in qualifying energy efficiency measures. N.J.S.A. 48:3-60.3(b). The amount of the credit to be allowed against the SBC in any calendar year for each ratepayer is determinable by the Board. N.J.S.A. 48:3-60.3(c). While the credit may be used to offset the SBC liability of the ratepayer, the maximum amount of credit that may be applied in any year cannot exceed 100

percent of the ratepayer's SBC liability that would otherwise be due in each calendar year. N.J.S.A. 48:3-60.3(d).

On March 13, 2017, Gerdau Ameristeel Sayreville, Inc. ("Gerdau"), a corporation with its principal office in the State of New Jersey, filed a petition pursuant to relevant statutes and regulations with the New Jersey Board of Public Utilities ("Board"). By its petition, Gerdau sought determinations that (i) it qualifies for a limited waiver of certain SBC credit program requirements; and that (ii) Gerdau's past SBC credit program-related energy efficiency and conservation investments qualify for a fifty percent (50%) reduction in its SBC obligations for electric and natural gas service going forward. Gerdau additionally requested expedited treatment of the petition.

On May 31, 2017, the Board issued an order, retaining this matter with the Board and designating the undersigned commissioner as the presiding officer authorized to rule on all motions that arise during the pendency of these proceedings and to modify any schedules that may be set as necessary to secure a just and expeditious determination of the issues. The order also granted the motion for admission pro hac vice filed by Gerdau and the motions to intervene filed by Public Service Electric and Gas Company ("PSE&G") and Jersey Central Power and Light Company ("JCP&L")(collectively, the "Intervenors"). Additionally, the order established June 23, 2017 as the deadline for the filing of motions to intervene or participate in this matter. No other motions to intervene were filed.

On November 13, 2017, Gerdau filed an Amended Petition arguing in support of a lower SBC rate. In its Amended Petition, Gerdau requested that the Board, pursuant to N.J.S.A. 48:3-60(a), make the following determinations and grant the following requested relief: (i) that Gerdau has demonstrated good cause for a modification of the amount of the SBC paid for electric and natural gas service to its Sayreville, New Jersey Mill; (ii) that good cause supports a modification of Gerdau's SBC charges starting in 2018, amounting to a fifty percent (50%) reduction at approximately \$0.0033315 per kilowatt hour for electric service provided by JCP&L and \$0.0209975 per therm for gas service provided by PSE&G; and (iii) that the Board act on the Amended Petition on an expedited basis.

Following a period of discovery and conferences between and among Staff of the Board of Public Utilities ("Board Staff"), the New Jersey Division of Rate Counsel ("Rate Counsel"), Gerdau, and the Intervenors, Board Staff and Gerdau agreed to execute a Joint Position, which Gerdau filed with the Board on March 15, 2018.

The Joint Position on the application annexed hereto, states that Gerdau will only pay the portion of the SBC that is attributable to the New Jersey Clean Energy Program ("NJCEP"), at the level set each year by the Board and collected through JCP&L's Rider DSF. This reduced SBC payment will be for a 10-year period effective on May 1, 2018 or on a date specified by the Board. Gerdau will also withdraw its request for a reduced gas service rate and has the option to apply for a discounted contract service gas contract with PSE&G. All parties should have the opportunity to comment on the terms contained in the Joint Position prior to Board consideration of the filing. Therefore, a comment period is established and all parties to the filing may submit comments on the Joint Position of Gerdau and Board Staff.

The comment period shall commence on March 23, 2018. All initial comments shall be due no later than 5:00 PM on Friday, March 30, 2018. All reply comments shall be due no later than 5:00 PM on Friday, April 6, 2018. Staff is **DIRECTED** to post this Order on the Board's website and to serve a copy of the Order to the service list electronically.

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: March 20, 2018


DIANNE SOLOMON
COMMISSIONER

IN THE MATTER OF THE PETITION OF GERDAU AMERISTEEL SAYREVILLE, INC. FOR
WAIVER OF REQUIREMENTS CONCERNING THE SOCIETAL BENEFITS CHARGE
DOCKET NO. EW17030256

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**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES
OFFICE OF ADMINISTRATIVE LAW**

IN THE MATTER OF THE PETITION OF
GERDAU AMERISTEEL
SAYREVILLE, INC. FOR WAIVER
OF REQUIREMENTS CONCERNING
THE SOCIETAL BENEFITS CHARGE

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**JOINT
POSITION**

DOCKET NO. EW17030256

Robert A. Weishaar, Jr. and Kenneth R. Stark, McNees Wallace and Nurick, LLC, for the Petitioner, Gerdau Ameristeel Sayreville, Inc.

Alex Moreau and Renee Greenberg, Deputy Attorneys General, for the Staff of the New Jersey Board of Public Utilities (Gurbir S. Grewal, Attorney General of the State of New Jersey)

This Joint Position is hereby made and executed as of the dates indicated below, by and among the Petitioner, Gerdau Ameristeel Sayreville, Inc. (“Gerdau”), and the Staff of the New Jersey Board of Public Utilities (“Board Staff”) (collectively, the “Signatory Parties”).¹

The Signatory Parties hereby join in recommending that the Honorable New Jersey Board of Public Utilities (“Board”) issue an Order approving the Joint Position without modification based upon the following terms:

BACKGROUND AND PROCEDURAL HISTORY

On March 13, 2017, pursuant to N.J.S.A. § 48:2-21.2(c) and N.J.S.A. § 48:3-60.3(a), Gerdau filed a petition and supporting exhibits (the “Initial Petition”) with the Board, requesting that the Board make the following determinations and grant the following requested relief: (i)

¹ Jersey Central Power & Light (“JCP&L”), Public Service Electric & Gas (“PSE&G”), and the New Jersey Division of Rate Counsel (“Rate Counsel”) are not signatories to this Joint Position. JCP&L and PSE&G take no position with respect to the Joint Position.

that Gerdau qualifies for a limited waiver of certain requirements for obtaining a credit against the Societal Benefits Charge (“SBC”) that Gerdau pays for electric and natural gas service to its Sayreville, New Jersey Mill; (ii) that Gerdau’s past energy efficiency investments qualify Gerdau for a fifty percent (50%) reduction in the SBC obligations associated with electric service to Gerdau; and (iii) that the Board act on the Initial Petition on an expedited basis. Absent the requested relief, Gerdau asserted that the Sayreville facility will face the risk of diminished production.

On May 31, 2017, the Board issued an Order retaining this matter and designating Commissioner Dianne Solomon as the presiding officer over this proceeding, and granting intervention status to Public Service Electric and Gas Company (“PSE&G”) and Jersey Central Power and Light Company (“JCP&L”). On May 5, 2017, Rate Counsel issued eight (8) discovery requests (RCR-1 through RCR-8) upon Gerdau requesting further information as to the basis for Gerdau’s Initial Petition. On May 19, 2017, Gerdau provided written responses to Rate Counsel’s May 5, 2017 discovery requests.

On or about September 25, 2017, Gerdau and other parties in this proceeding informally discussed the Initial Petition via a teleconference. Following the teleconference, Gerdau filed a Motion for Leave to Amend its Petition (“Motion”) and Amended Petition with Supporting Exhibits on November 13, 2017.

Gerdau’s Amended Petition requested that the Board, pursuant to N.J.S.A. § 48:3-60(a), make the following determinations and grant the following requested relief: (i) that Gerdau has demonstrated good cause for a modification of the amount of the SBC paid for electric and natural gas service to its Sayreville, New Jersey Mill; (ii) that good cause supports a modification of Gerdau’s SBC charges starting in 2018, amounting to a fifty percent (50%) reduction at

approximately \$0.0033315 per kilowatt hour for electric service provided by JCP&L and \$0.0209975 per therm for gas service provided by PSE&G; and (iii) that the Board act on the Amended Petition on an expedited basis.

According to the Amended Petition, Gerdau owns and operates a long steel plant in Sayreville, New Jersey. Gerdau employs more than 200 workers at the Sayreville facility, and supports several hundred related employment positions in New Jersey. Gerdau claims the Sayreville facility is the only remaining operational steel mill in New Jersey, is the only steel recycling facility in the State, and is the largest recycler of any products in the State.

Gerdau states in the Amended Petition that energy costs account for a significant portion of its operating expenses and the cost of goods sold. Gerdau represents that its energy-related utility costs at the Sayreville Mill are higher than those of most of its internal and external competitors in the long steel industry, putting the Sayreville Mill at a distinct competitive disadvantage. Although Gerdau has historically been one of New Jersey's largest industrial firms, it claims that its contribution to the State's economy has diminished in recent years. Gerdau also claims that it was forced to close its Perth Amboy, New Jersey steel facility in 2009 due to operational costs, including, in part, the high cost of energy. Gerdau alleges that New Jersey's SBC obligations have had a disproportionate impact on the Sayreville Mill relative to other Gerdau facilities. Since the State Legislature enacted the SBC in 1999, Gerdau represents that the Sayreville Mill has made SBC payments of approximately \$1.5 million per year without withdrawing any SBC funds. Consequently, Gerdau further represents it has made a net contribution to the SBC fund of more than \$20 million.

On January 19, 2018, Board Staff issued six (6) discovery requests (S-GERDAU-1 to S-GERDAU-6) to Gerdau regarding the Amended Petition. On February 5, 2018, Gerdau provided written responses and responsive documents to Board Staff's discovery requests.

On February 23, 2018, the parties engaged in settlement discussions and as a result, the Signatory Parties reached a Joint Position for resolving this matter.

The Signatory Parties stipulate and agree as follows:

1. Gerdau will pay only a portion of the SBC rate that is assessed by JCP&L for electric service. Currently, JCP&L's Rider SBC reflects several elements, including nuclear plant decommissioning costs ("Rider NDC"), demand side management costs ("Rider DSF"), manufactured gas plant remediation costs ("Rider RAC"), uncollectible costs ("Rider UNC"), and universal service fund costs ("Rider USF"). By and through this Joint Position, the Signatory Parties agree that Gerdau will only pay the portion of the SBC that is attributable to the New Jersey Clean Energy Program ("NJCEP") at the level set each year by the Board and collected through JCP&L's Rider DSF. Gerdau will not be responsible for paying for any other elements that comprise JCP&L's Rider SBC.

2. Gerdau's revised SBC rate for electric service will become effective on May 1, 2018 or on a date specified by the Board and will continue in effect for an initial term of ten (10) years. Prior to the conclusion of this initial 10-year term, Gerdau may petition the Board for an extension of the reduced SBC rate described in Paragraph 1 above.

3. To effectuate the reduced SBC contributions described above, JCP&L's tariff for electric service will need to be modified. The Signatory Parties have included a proposed modified tariff as Attachment A.

4. Gerdau will file a letter with the Board withdrawing the portion of its Amended Petition that requests a reduction in the amount of the SBC charge Gerdau pays as part of its PSE&G gas service rate. Gerdau has the option of applying for a discounted Rate Schedule Contract Service Gas (“CSG”) contract with PSE&G. That application may include a request for a reduced SBC rate for Gerdau’s natural gas distribution service. Accordingly, the Signatory Parties agree that this withdrawal is without prejudice to Gerdau re-filing, at a later date, a request for CSG service and a reduced SBC rate for its natural gas distribution service.

5. The Parties respectfully request that the Board approve this Joint Position without modification, with the rate modifications set forth herein effective for service rendered on May 1, 2018 or a date specified by the Board. Upon approval of this Joint Position without modification, the Parties recommend that the Board close this proceeding.

6. The undersigned parties hereby agree that this Joint Position has been made exclusively for the purpose of resolving the issues in this proceeding. The Signatory Parties also agree that this Joint Position was negotiated and agreed to in its entirety, with each section being mutually dependent on approval of all other sections. Therefore, if the Board modifies any of the terms of this Joint Position, each party is given the option, before implementation of any different rate or terms in this case, to accept the change or to resume the proceeding as if no agreement had been reached. If these proceedings are resumed, each party is given the right to return to the position it was in before this Joint Position was executed.


7. The Signatory Parties hereby agree that this Joint Position has been made exclusively for the purpose of this proceeding and that this settlement, in total or by specific item, is in no way binding upon them in any other proceeding, except to enforce the terms of this Joint Position.

8. The Signatory Parties further acknowledge that a Board Order approving this Joint Position will become effective upon the service of the Board Order, or upon such date after service thereof as the Board may specify, in accordance with N.J.S.A. 48:2-40.

9. It is specifically understood and agreed that this Joint Position represents a negotiated agreement and has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, Board Staff and Gerdau 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 WITNESS THEREOF, the undersigned Parties do HEREBY AGREE to the form and execution of this Joint Position:

GERDAU AMERISTEEL SAYREVILLE, INC.

By: 
Kenneth R. Stark
McNees Wallace and Nurick LLC
Counsel to Gerdau Ameristeel Sayreville, Inc.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW
JERSEY, Attorney for the Staff of the New
Jersey Board of Public Utilities

By: 
Alex Moreau
Deputy Attorney General

DATED: March 15, 2018

Attachment A

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| Service Classification GT General Service Transmission |
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RECONNECTIONS WITHIN 12-MONTH PERIOD: (Continued)

Customers who request more than one disconnection and reconnection of service at the same location within a 12-month period shall be subject to the conditions specified above for the first such period of disconnection. In addition, for subsequent periods of disconnection, the customer shall be required to pay an additional Reconnection Charge equivalent to the sum of the Minimum Demand Charges, determined in accordance with the conditions specified in the preceding paragraph, for each month of that subsequent period.

SPECIAL PROVISIONS:

(a) **Commuter Rail Service:** Where service is supplied to traction power accounts for a commuter rail system, such accounts shall be conjunctively billed based upon coincident demands. This Special Provision also modifies the DEFINITION OF ON-PEAK AND OFF-PEAK HOURS for Demand Charge purposes only, such that the following Federal Holidays are considered off-peak the entire day: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. In addition, the periods from 8 AM to 10 AM and from 5 PM to 8 PM prevailing time Monday through Friday shall be considered as off-peak for Demand Charge purposes only. The Company reserves the right to change the on-peak hours from time to time as the on-peak periods of the supply system change.

Where traction power is supplied at high tension (230 KV) and such power is being provided during a limited period to supplant power normally supplied by another utility, that limited period shall be excluded for the purpose of determining billing demand.

- (b) **High Tension Service:** Where service is supplied at 230 KV, the determination of KW and KVAR demands shall be modified to refer to 60-minute demands, and the Distribution KW and KWH Charges, except for KW Minimum Charge, shall be reduced by the High Tension Service Credits provided above to reflect the reduced line losses associated with service at this voltage level. Any Customer taking this Special Provision shall not be qualified for Special Provisions (c) and (d) below.
- (c) **Department of Defense Service:** Where service is supplied to the major military installations of the United States Department of Defense at transmission voltages, the Distribution KW Charge, KW Minimum Charge and KWH Charge shall be reduced by the DOD Service Credits provided above.
- (d) **Closing of GTX Service:** Upon the closing of Service Classification GTX effective April 1, 2004, for any GTX customer as of August 1, 2003 where service is supplied at 230 KV, the monthly billing demand shall be the maximum 60-minute integrated kilowatt demand created during all on-peak and off-peak hours of the billing month and the Distribution KW Charge (Demand Charge) shall be \$0.38 per KW (\$0.41 per KW including SUT). The Distribution KW Minimum Charge, KVAR Charge and KWH Charge provided above shall not apply, and the Non-utility Generation Charge shall be the lesser of (1) \$0.000312 per KWH (\$0.000333 per KWH including SUT), or (2) the net of NGC – High Tension Service stated above and an NGC Credit of \$0.009844 per KWH (\$0.010496 per KWH including SUT), but not less than zero, for all KWH usage. Effective May 1, 2018 and for an initial term of 10 years, the Societal Benefits Charge (Rider SBC) shall include only the Demand Side Factor (Rider DSF) charge.

ADDITIONAL MODIFYING RIDERS: This Service Classification may also be modified for other Rider(s), subject to each Rider's applicability, as specified.

STANDARD TERMS AND CONDITIONS: This Service Classification is subject to the Standard Terms and Conditions of this Tariff for Service.

Issued:

Filed pursuant to Order of Board of Public Utilities
Docket No. dated

Effective:

Issued by James V. Fakult, President
300 Madison Avenue, Morristown, NJ 07962-1911

DRAFT