



Agenda Date: 9/12/08  
Agenda Item: 2J

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.nj.gov/bpu/](http://www.nj.gov/bpu/)**

ENERGY

IN THE MATTER OF DEMAND RESPONSE )  
PROGRAMS FOR THE PERIOD BEGINNING )  
JUNE 1, 2009 -- ELECTRIC DISTRIBUTION )  
COMPANY PROGRAMS )

ORDER

And

IN THE MATTER OF DEMAND RESPONSE )  
PROGRAMS FOR THE PERIOD BEGINNING )  
JUNE 1, 2009 -- MARKET-BASED PROGRAMS )

DOCKET NO. EO08050326  
EO08080541  
EO08080542  
EO08080543  
EO08080544

DOCKET NO. EO08060421  
EO08080545  
EO08080546  
EO08080547  
EO08080549

(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. In that same Order, the Board invited market participants, including but not limited to energy suppliers, curtailment service providers ("CSPs") and utilities, to submit market-based program proposals for decreasing New Jersey's total annual electricity consumption, and /or reducing the State's electricity peak load.

The July 1 Order also set a procedural schedule designed to maximize stakeholder participation while expediting the process to increase the use of DR. The procedural schedule had a goal of obtaining a Board decision by mid-November 2008.

Proposals were submitted in a timely manner by PSE&G, JCP&L, ACE and RECO under the EDC docket, and by Honeywell, Energy Curtailment Specialist, EnerNoc and Consumer Powerline under the market-based docket.<sup>1</sup> Several other entities requested intervenor or participant status. Discovery on the eight filed proposals was served and responded to in accordance with the procedural schedule.

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The proposals submitted by the EDCs contained more than a dozen separate programs, ranging from residential air conditioning cycling to a system for electricity storage and an ice-making system that could be used to shift load necessary for running air conditioning. Several of these programs feature new or untested technologies; some of them would require a sizeable financial investment by the utilities that would ultimately be borne by ratepayers. Additionally, after initial review by Staff and Rate Counsel, all four EDC filings were deemed to be deficient in terms of the minimum filing requirements established in the Board Order *In the Matter of Electric Public Utilities and Gas Public Utilities Offering Energy Efficiency and Conservation Programs, Investing in Class I Renewable Energy Sources and Offering Class I Renewable Energy Programs in Their Respective Service Territories on a Regulated Basis Pursuant to N.J.S.A. 48:3-98.1* Docket No. EO08030164 dated May 12, 2008 ("the May 12 Order").

On August 22, 2008, Rate Counsel met with Staff to express its concern that the expedited procedural schedule contained in the July 1 Order did not allow sufficient time for fully evaluating the more innovative and complex proposals. Later that day, Rate Counsel filed a letter with the Board requesting that deficiency letters be issued to the EDCs for failure of the EDC filings to satisfy the minimum filing requirements under the May 12 Order. Staff agreed with Rate Counsel that additional time was necessary, 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. Essentially, the plan called for the following:

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As an interim step to ensure that some level of DR would be in effect for the period beginning June 1, 2009, the parties would ask the Board to adopt 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.

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- Staff and Rate Counsel would meet with each EDC to determine which of the proposed programs filed by that EDC could be reviewed and implemented under a modification of the procedural schedule attached to the July 1 Order, and which would require a longer time frame for review. Those programs requiring more extensive review would be targeted for implementation by June 1, 2010.

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<sup>1</sup> Originally, only two generic docket numbers were assigned to these proceedings: EO08050326 for the EDC Programs and EO08060421 for the Market-Based Programs. Subsequently, separate docket numbers were assigned to each EDC and Market-Based filing as follows: RECO—EO08080541; JCP&L—EO08080542; ACE—EO08080543; PSE&G—EO08080544; ConsumerPowerline—EO08080545; ECS—EO08080546; Honeywell—EO08080547, and EnerNOC—EO08080549. Filings previously made to the relevant generic number will be deemed filed in each of the applicable specific dockets.

- Staff, Rate Counsel and the EDCs would agree to a procedural schedule for those programs requiring a longer review process, with the EDCs agreeing to extend the 180-day review period mandated by Section 98.1(b). This agreement to an alternative schedule would not have an impact on the other provisions of the Section 98.1 filings, such as the EDCs' ability to ask for incentive rate treatment.

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, which was accompanied by a separate letter noting the deficiencies in each company's filing. The letter requested responses from the EDCs by September 8, 2008. Each of the EDCs responded in a timely manner, and their responses are summarized as follows:

### RECO

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."

- RECO's AC cycling program "is simply an expansion of the AC cycling program that RECO filed with the Board on June 17, 2007 in accordance with the Stipulation of Settlement in its most recent electric base rate case...In light of this record, the Board should be able to complete its review of, and issue its decision regarding [this] Program in an expeditious fashion."
- RECO questions the notice of deficiency in its filing and requests Staff and Rate Counsel "identify exactly how RECO's DR filing is deficient."

### ACE

- ACE states 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."
- ACE believes that both its proposed Internet Platform and Direct Load Control programs should begin implementation for the June 1, 2009 timeframe.
- Since Direct Load Control is part of ACE's "Blueprint for the Future" filing in November 2007 (Docket No. EO07110881), it has already been sufficiently analyzed by Staff and Rate Counsel.

### PSE&G

- PSE&G states 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."
- PSE&G believes that its residential and small commercial AC cycling programs can be reviewed under the present procedural schedule.
- The PHEV portion of the load shifting demonstration should go forward to "take advantage of the EPRI/Ford project."
- PSE&G offers to review the following sub-programs under an extended schedule:
  - Residential Pool Pump Load Control
  - Commercial & Industrial Curtailment Services
  - Remainder of Load Shifting Demonstration

PSE&G believes that its filing was not deficient. If after discussions with Staff, there is a determination that any deficiency exists, it should be cured by a supplemental filing "made contemporaneously with the Board approval of the foregoing programs."

#### JCP&L

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

- JCP&L "strongly urges" that the DRWG proposal be modified to allow the EDCs to "initiate local curtailment events, rather than relying solely on PJM-initiated events." JCP&L also recommends penalties for non-performance, and a clarification that premium payments be applied only to new DR.

JCP&L is "prepared to meet with Board Staff and Rate Counsel to review which programs...are appropriate for implementation in accordance with the schedule set forth in the July 1, 2008 Order.

JCP&L "wishes to voice its objections" to the deficiency letter, and requests that Staff "indicate the specific areas in which the filing was, in fact, deficient from Staff's perspective."

After careful consideration of the filings and responses, and in view of what has transpired in this proceeding to date, and given the Board's desire to follow the recommendations of the draft Energy Master Plan by implementing a program that will encourage the growth of demand response in New Jersey, the Board HEREBY ORDERS the following:

- Staff shall 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.

After modification of the proposal by the working group, the Board Secretary shall issue a letter to be circulated through the Board's listserv for this proceeding, and posted on its website, providing notice of the Board's intention to consider the proposal, and seeking comments on that course of action. Comments must be submitted by the close of business on October 10, 2008.

- Staff shall meet individually with each of the EDCs and Rate Counsel no later than September 24, 2008, to the extent practicable, to identify those programs within the EDCs' August 1 filings that may be reviewed within a modification of the procedural schedule attached to the July 1 Order, as well as those programs which will require extended review. Staff, the EDCs and Rate Counsel will develop proposed procedural schedules for the latter programs that will permit the implementation of programs approved by the Board by June 1, 2010.

Staff shall meet with the four parties that submitted proposals under the market-based docket and Rate Counsel by September 30, to the extent practicable, to develop proposed procedural schedules that will ensure adequate review of those proposals.

- The procedural schedule appended to the July 1 Order is HEREBY SUSPENDED until such time as Staff, Rate Counsel, the EDCs and other parties have had an opportunity to meet and confer, and report back to the Board.

DATED: 9/22/08

BOARD OF PUBLIC UTILITIES  
BY:



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PRESIDENT



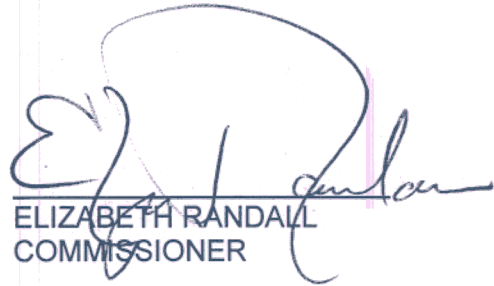
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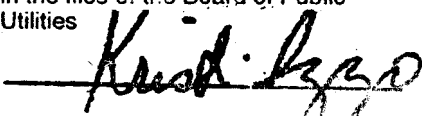
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I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



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