Agenda Date: 05/29/13 Agenda Item: 2H



## STATE OF NEW JERSEY

Board of Public Utilities
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		ENERGY
IN THE MATTER OF INCREASED SOLAR ALTERNATIVE COMPLIANCE PAYMENTS	)	DECISION AND ORDER
IMPACTING THE 2006 AND 2007 BASIC GENERATION SERVICE SUPPLIER MASTER AGREEMENTS	) ) )	DOCKET NO. E011040215

## Parties of Record

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& Light Company
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Stefanie A. Brand, Esq., Director, Division of Rate Counsel

## BY THE BOARD:

In compliance with the Board's May 1, 2012 Order ("May 1 Order") in this matter, on June 26, 2012, the electric distribution companies ("EDCs") made a joint filing proposing how to reimburse Basic Generation Service ("BGS") suppliers for the cost of solar renewable energy certificates ("SRECs") and solar alternative compliance payments ("SACPs") above the \$300 benchmark incurred as part of their solar RPS obligations under BGS-Fixed Price ("FP") contracts for the June 1, 2006 through May 31, 2009 supply period, and for the June 1, 2007 through May 31, 2010 supply period ("Reporting Year 2009 and Reporting Year 2010 requirements"), and a process to pass these costs through to ratepayers. The filing included 1) a mechanism to determine if incremental SREC costs claimed by BGS-FP suppliers are reasonable and prudent, 2) a proposal to recover the subject costs from ratepayers, and 3) a methodology for reimbursing BGS suppliers.

To expedite the review of the above referenced filing, as authorized by N.J.S.A. 48:2-32, the Board designated President Hanna as the presiding officer, with authority to rule on all motions that arose during the proceedings and modify any schedules that were set as necessary to secure just and expeditious determination of the issues. May 1 Order at 17.

President Hanna directed that a preliminary schedule be implemented for this proceeding to consider the EDCs' proposed mechanism for determining: 1) the reasonableness and prudency of the costs for SRECs above the \$300 benchmark which were incurred by BGS suppliers for BGS-FP contracts for the Reporting Year 2009 and Reporting Year 2010 requirements, and 2) a process to pass these costs through to ratepayers. Further, to expedite the review of the EDCs' proposal, President Hanna also directed Staff to convene a stakeholder meeting (with additional meetings scheduled if required) for interested parties.

Board Staff then sponsored a series of meetings with representatives of the EDCs, the Division of Rate Counsel ("Rate Counsel") and other parties, including BGS suppliers, to explore the possibility of settlement. As a result of these discussions, the EDCs, Board Staff and Rate Counsel agreed to a stipulation of settlement ("Settlement") regarding the procedures proposed in the June 26, 2012 filing.

By Order dated December 19, 2012, the Board approved the Settlement finding that it satisfied the requirements established in its May 1 Order, providing BGS suppliers with a mechanism to recover reasonable and prudently incurred costs incurred in the provision of BGS, and providing the EDCs with a rate recovery mechanism. To implement the Settlement, the Board also directed that:

- BGS-FP suppliers seeking reimbursement for incremental SREC costs shall complete and submit all forms and documentation as described in the Settlement within the timeframes provided;
- 2. The EDCs shall jointly retain a consultant to review and verify suppliers' documentation for reimbursement, and that the EDCs shall notify Rate Counsel and Board Staff of the consultant's selection prior to commencement of the review process;
- The EDCs are authorized to recover the costs of the consultant, allocated according to BGS load share, through the BGS reconciliation charge, after notice and opportunity for review by Board Staff and Rate Counsel;
- The EDCs are authorized to provide reimbursement to suppliers in a single payment after completion of the review process as described in the Settlement and Board approval; and
- 5. The EDCs are authorized to recover the Board approved supplier reimbursement through the BGS-FP reconciliation charge, after notice to Board Staff and Rate Counsel of the proposed recovery period which may be spread over multiple periods if needed to moderate the impact on customers.

On December 27, 2012, the EDCs, in compliance with the Settlement directives, provided notice to Rate Counsel and Board Staff that the EDCs were jointly retaining the Boston Pacific Company, Inc. ("Boston Pacific") to review and verify suppliers' documentation for reimbursement of incremental SREC and SACP costs.

On March 4, 2013, the EDCs submitted to Rate Counsel and Board Staff a joint Verification Filing ("March 4 Filing"). The Verification Filing consisted of 13 reports ("Reports"), by Boston Pacific, confirming that it had completed its review of the documentation from each of the 13

BGS-FP suppliers that sought to substantiate their reimbursement claims for the incremental cost of SRECs and SACPs used to comply with the Reporting Year 2009 and Reporting Year 2010 solar RPS requirements. Further, on March 22, 2013, the EDCs filed supplemental Reports for Exelon Generation Company, LLC and Constellation Energy Commodities Group, Inc. providing Boston Pacific's analysis of additional proof of payment verifications submitted by these BGS-FP suppliers ("Supplemental Reports").

In each of the 13 Reports and the Supplemental Reports, the EDCs' consultant, Boston Pacific, confirmed that it had completed its review of documentation from BGS-FP suppliers that sought to substantiate their reimbursement claims for the incremental costs of SRECs and SACPs used to comply with the Reporting Year 2009 and Reporting Year 2010 solar RPS requirements. For each supplier, Boston Pacific described the multi-step verification process it utilized to substantiate reimbursement claims made by BGS-FP suppliers. Among other things, Boston Pacific reviewed the supporting documentation that was provided by suppliers and confirmed that they had provided all documentation required by the Stipulation. This included documentation detailing the total number of SRECs needed by each supplier for compliance in each year, as well as the number of SRECs that qualified for reimbursement. Boston Pacific reviewed proof of payment for each of the itemized purchase transactions and for payment of SACPs, as applicable. Finally, as part of its validation, Boston Pacific independently calculated the reimbursement amount due to BGS suppliers to assure the accuracy of the calculations submitted by suppliers.

Based on its assessment, Boston Pacific concluded that all 13 suppliers had provided the required documentation to justify reimbursement of a total of \$30.1 million, as shown in the table in Attachment A.

The Settlement also gave Board Staff and Rate Counsel the opportunity to review the documentation provided by suppliers seeking reimbursement and the verification Reports completed by Boston Pacific. Objections could only be based on transaction(s) for which documentation submitted by the supplier was alleged to be deficient under the terms of the Settlement.

Further, consistent with the Settlement, the EDCs in the March 4 Filing confirmed that they will notify Board Staff and Rate Counsel of their proposed recovery periods within seven (7) days of the date of the Board's approval authorizing the EDCs to disburse payments to BGS-FP suppliers representing incremental SREC/SACP costs for Reporting Year 2009 and Reporting Year 2010 requirements in excess of \$300/MWh as described in the Verification Filing and summarized in the table in Attachment A.

On May 10, 2013, the Board received a letter ("May 10 Letter") from Rate Counsel indicating that it had reviewed the EDCs' March 4th filing and their March 22th supplemental filing, containing the documentation provided by BGS-FP suppliers seeking reimbursement and the verification Reports completed by Boston Pacific. Rate Counsel indicated it does not object to the reimbursement claims verified by Boston Pacific but requests that the Board establish a procedure for setting the schedule for EDC recovery of the reimbursement amounts from ratepayers with an opportunity for comment by Rate Counsel and other stakeholders.

On May 15, 2013, the Board received a letter from the EDCs in response to the May 10 Letter. The EDCs note that the Board has already defined the process and schedule by which the EDCs will recover reimbursement costs, and that the Board has already ensured that Rate

Counsel and Board Staff will receive notice of the proposed reimbursement period. Specifically, the EDCs indicate that the Board's December 19, 2012 Decision approving the Settlement directed the EDCs to recover the Board approved supplier reimbursement through the BGS-FP reconciliation charge, after notice to Board Staff and Rate Counsel of the proposed recovery period which may be spread over multiple periods if needed to moderate the impact on customers. Thus, the EDCs respectfully urge the Board to conclude that Rate Counsel's request for a schedule and additional comments is unnecessary because the EDCs and Rate Counsel are subject to the December 19, 2012 Decision and Settlement, which established the agreed-upon cost recovery schedule and requires the EDCs to provide Staff and Rate Counsel with notice thereof.

## **DISCUSSION AND FINDINGS**

As a preliminary matter, the Board FINDS that it has already defined the process and schedule for the EDCs to recover reimbursement costs, and that the Board has already ensured that Rate Counsel and Board Staff receive notice of the proposed reimbursement periods. The Settlement provided that Board-approved amounts payable to suppliers would be recovered through the BGS-FP reconciliation charge with recovery spread over multiple periods, up to six months, if necessary to moderate customer billing impacts. Therefore, the Board agrees with the EDCs that the December 19, 2012 Decision and Settlement already established the cost recovery schedule, and already requires the EDCs to provide Board Staff and Rate Counsel with notice of the proposed recovery period.

The Board has also reviewed the 13 Reports and the Supplemental Reports provided by the EDCs' consultant, Boston Pacific, regarding the documentation from BGS-FP suppliers that sought to substantiate their reimbursement claims. The Board <u>FINDS</u> that the necessary documentation was provided by the BGS-FP suppliers seeking reimbursement, and that the information was provided in accordance with the Settlement approved by the Board in the December 19,2012 Order.

Further, The Board <u>FINDS</u> that approval of these reimbursement claims is consistent with the intent of the May 1 Order where the Board found, on balance, that given these specific circumstances, and in light of the requirements of <u>N.J.S.A.</u> 48:3-57(e), authorizing recovery of "reasonable and prudently incurred costs incurred in the provision of basic generation services," the BGS suppliers should not have been required to assume the results of the Board's regulatory action that resulted in the increased costs of compliance with the solar RPS. The Board <u>FINDS</u> that these costs submitted by the BGS-FP suppliers seeking recovery have proven to be reasonable and prudently incurred costs incurred in the provision of BGS.

Therefore, the Board **HEREBY APPROVES** the EDCs' request authorizing:

 reimbursement of the incremental costs of SRECs and SACPs used to comply with the Reporting Year 2009 and Reporting Year 2010 solar requirements to the 13 BGS-FP suppliers who have provided the required documentation to justify reimbursement as identified in the table in Attachment A;

- recovery by the EDCs of the costs of the services of Boston Pacific, allocated according to BGS load share, through the BGS reconciliation charge, after notice and opportunity for review by Board Staff and Rate Counsel; and
- recovery by the EDCs through the BGS reconciliation charge of the Board approved supplier reimbursement payments representing incremental SREC/SACP costs for Reporting Year 2009 and Reporting Year 2010 solar requirements as described in the Verification Filing and summarized in the table in Attachment A;

Further, the Board <u>HEREBY ORDERS</u> that the EDCs notify Board Staff and Rate Counsel of their proposed recovery periods through the BGS reconciliation charge, which may be spread over multiple periods if needed to moderate the impact on customers, within seven (7) days of the date of the service of this Order.

DATED: 5/29/13

BOARD OF PUBLIC UTILITIES

ROBERT M. HANNA PRESIDENT

JEANNE M. FOX COMMISSIONER

ØSEPH L. FIORDALISO OMMISSIONER

MARY/ANNA HOLDEN COMMISSIONER

ATTEST:

KRISTI IZZO SECRETARY

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

# ATTACHEMENT A SUMMARY OF PAYMENTS OWED TO SUPPLIERS

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# In The Matter of Increased Solar Alternative Compliance Payment ("SACP") Impacting the 2006 and 2007 Basic Generation Service ("BGS") Supplier Master Agreements Docket No. EO11040215

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# In The Matter of Increased Solar Alternative Compliance Payment ("SACP") Impacting the 2006 and 2007 Basic Generation Service ("BGS") Supplier Master Agreements Docket No. EO11040215

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## In The Matter of Increased Solar Alternative Compliance Payment ("SACP") Impacting the 2006 and 2007 Basic Generation Service ("BGS") Supplier Master Agreements Docket No. EO11040215

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