



Agenda Date: 1/29/14
Agenda Item: 2C

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE PETITION OF THE FOUR)
ELECTRIC DISTRIBUTION COMPANIES FOR)
APPROVAL OF THE RESULTS OF THE REVIEW)
PROCESS TO EVALUATE THE MANNER FOR)
SELECTING A SOLAR RENEWABLE ENERGY)
CERTIFICATE AUCTION MANAGER)

ORDER APPROVING
PETITION

DOCKET NO. EO13121180

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Margaret Comes, Esq., Rockland Electric Company
Mally Becker, Esq., Public Service Electric and Gas Company
Philip J. Passanante, Esq., Atlantic City Electric Company
Gregory Eisenstark, Esq. Morgan, Lewis & Bockius, LLP, on behalf of Jersey Central Power & Light Company

BY THE BOARD:

By this Decision and Order, the New Jersey Board of Public Utilities ("Board") considers the joint letter petition dated December 4, 2013 ("Letter Petition") filed by Public Service Electric and Gas Company ("PSE&G"), Atlantic City Electric Company ("ACE"), Jersey Central Power and Light Company ("JCP&L"), and Rockland Electric Company ("RECO") (collectively, the "EDCs") requesting that the Board issue an Order approving NERA Economic Consulting ("NERA") as the joint EDC Solar Renewable Energy Certificate ("SREC") Auction Manager for a two year period beginning February 2014 or until a subsequent auction administrator is approved by the Board.

BACKGROUND AND PROCEDURAL HISTORY

On April 19, 2007, PSE&G filed with the Board a petition and exhibits requesting approval to implement a 30 MW solar photovoltaic ("PV") development program within its electric service territory across all customer classes, with segments for residential, residential low-income, municipal/public entities, and commercial/industrial and not-for-profit customers.

After extensive discovery and settlement meetings, on March 24, 2008 a settlement ("PSE&G Solar Loan Program Settlement") was executed by PSE&G, Board Staff, the Division of Rate Counsel ("Rate Counsel"), Mid-Atlantic Solar Energy Industries Association ("MSEIA"), New Jersey Natural Gas Company ("NJNG"), and South Jersey Gas Company ("SJG").¹

The PSE&G Solar Loan Program Settlement addressed the auction process for solicitation and sale of the SRECs transferred to the company under the terms of the program. Moreover it discussed responsibilities with respect to the auction manager in sections 2.5 and 2.6 of the PSE&G Solar Loan Program Settlement. It stated the following:

- 2.5 The manager of the SREC auctions (the "SREC manager") will establish a public web site that is the main source of information for the SREC auctions. Prospective bidders and other stakeholders can visit this web site to obtain information and documents related to the SREC auctions. The web site will provide information on the number of systems currently in operation, the estimate of the number of SRECs for sale and links to information about market pricing. After each auction, the web site will also post information about the price and quantity of SRECs sold at that auction. Additional information, for example regarding the amount purchased by specific bidders, would also be released upon receiving consent from the bidders.
- 2.6 The SREC manager will develop a list of prospective bidders. Promotional efforts would include direct marketing via phone and emails to prospective bidders as well as holding virtual meetings or bidder information sessions to present the qualification, bidding and purchase and sale process.

The Board approved the PSE&G Loan Program Settlement on November 7, 2008 ("2008 PSE&G SREC Order").

The Board found that the auction process described in the Settlement provides a transparent process for the disposition of Program SRECs. The SREC auction is open to all SREC market participants, including SREC traders, aggregators, as well as Basic Generation Service providers and third party suppliers. Information and documents related to the auction are posted on a public website.

With respect to Paragraphs 2.5 and 2.6 of the PSE&G Solar Loan Program Settlement which detail some of the responsibilities of the SREC auction manager, the Board stated the following:

...In addition, the Board notes that PSE&G used NERA Economic Consulting ("NERA") to assist in the development of the auction process. PSE&G has notified the parties that NERA will initially manage the SREC auction.

¹ JCP&L, RECO, and the Retail Energy Supply Association ("RESA") submitted letters to the Board taking no position in support or opposition of the Settlement. The New Jersey Large Energy Users Coalition ("NJLEUC") submitted its comments to the Board, and ultimately took no position, either in support of or opposition to the Settlement.

In the event that the Board approves the inclusion of additional EDCs in the SREC Auction established by the Stipulation, or after four SREC Auctions, whichever comes first, the Board shall conduct a review process to evaluate the manner for selecting the SREC Auction Manager. Approval of this Stipulation shall not preclude any rulings by the Board concerning the SREC Auction Manager selection process as may be determined to be appropriate at that time.

In an order dated August 7, 2008 in Docket No. EO06100744 ("August 7 Order"), the Board, among other things, ordered the EDCs, including Jersey JCP&L), ACE and RECO, to file a proposal pursuant to N.J.S.A. 48:3-98.1 for SREC-based financing of solar generation projects that would incorporate the criteria and provisions outlined by the Board in the August 7 Order.

On September 30, 2008 and October 1, 2008, JCP&L and ACE respectively filed petitions for approval of an SREC-Based Financing Program in Docket Nos. EO08090840 ("JCP&L SREC I Program.") and EO08100875 ("ACE SREC I Program"). On March 27, 2009, the Board issued an Order approving a settlement agreement in the matter where Rate Counsel did not join in all aspects of the Settlement. Thereafter on September 16, 2009, the Board approved a subsequent settlement resolving the remaining issues in the matter.² On February 2, 2009, RECO filed a petition for approval of an SREC-Based Financing Program, in BPU Docket No. EO09020097 ("RECO SREC I Program"), which was ultimately settled and approved by Order dated July 31, 2009.³ By July 2009, ACE, JCP&L and RECO all had SREC Programs approved by the Board, and thus subsequently participated in the PSE&G auction process for disposition of the SRECs financed through their programs.

In compliance with the 2008 PSE&G SREC Order, and as a result of ongoing consultation with Board Staff and Rate Counsel between 2011 and 2013, the EDCs issued a Request for Proposals ("RFP") on June 1, 2013 to retain the services of an Auction Manager to implement a fair and transparent competitive process that will maximize participation in the SREC auction process and deliver competitive SREC prices for the benefit of New Jersey ratepayers. The RFP incorporated Board Staff's and Rate Counsel's revisions, which they provided in the course of their review of the EDCs' proposed SREC Auction Manager procurement process.

The RFP specified that the Auction Manager will be required to promote the SREC Auctions to bidders, qualify bidders, conduct the SREC Auctions, and assist the EDCs in the contract execution process. The Auction Manager will be required to conduct four to twelve SREC auctions per year as requested by EDCs for an initial period for up to two years.

² On March 27, 2009, the Board issued an Order approving a settlement agreement in the matter. Thereafter, Rate Counsel, which did not join in all aspects of the Settlement, filed an appeal of the March 27, 2009 Order with the Superior Court of New Jersey, Appellate Division. The parties subsequently reached settlement to resolve the issues Rate Counsel raised in its appeal, which the Board approved via an Order dated September 16, 2009, after which Rate Counsel withdrew its appeal.

³ The Board approved a Stipulation of Settlement providing for RECO's implementation of the SREC I Program by an Order dated July 31, 2009, In re the Verified Petition of Rockland Electric Company Concerning a Proposal for an SREC-Based Financing Program Under N.J.S.A. 48:3-98.1, Docket No. EO09020097.

According to the Letter Petition, the EDCs advertised the RFP in trade publications and also contacted thirteen potential bidders regarding the RFP. A mandatory pre-bid meeting was held on June 19, 2013 and with seven potential bidders in attendance. Four bids were submitted on August 1, 2013 and subsequently reviewed by the EDCs.

The Letter Petition states that the four bidders were evaluated on a weighted average of several factors which included the following: (1) proposed pricing to develop and administer the services described in the RFP's Scope of Services and Letter of Instruction, (ii) technical approach, including such factors as experience in ascending clock auctions, absence of conflicts of interest, transferability of the auction website to the EDCs at termination of the contract, and experience with New Jersey SREC auctions and other Renewable Energy Certificate auctions, and (iii) commercial factors, including evaluation of the bidding Company's financial condition and level of exceptions or deviations to commercial terms and conditions.

Based on the results of the RFP Process, the EDCs assert that NERA scored the highest overall. Therefore, the EDCs propose to retain NERA as the SREC Auction Manager for an initial two years period from February 2014, and to extend thereafter until a subsequent auction manager is approved by the Board.

Rate Counsel filed comments with the Board on December 16, 2013. Rate Counsel acknowledges that the EDC Letter Petition provides documentation of the process. Rate Counsel states that it did not conduct an independent review of the solicitation and selection process, and emphasizes that the selection of the Auction Manager is a responsibility of the EDCs' respective managements. However, based on the information provided in the Letter Petition and at the November 8, 2013 meeting held to provide Staff and Rate Counsel with information about the results of the RFP, the EDCs appear to have conducted a fair and competitive solicitation process, and appear to have a reasonable basis for their proposed selection of NERA. Rate Counsel does not object to Board approval of NERA as Auction Manager for a two year period, and thereafter until subsequent action by the Board.

DISCUSSION AND FINDINGS

The Board has carefully reviewed the record in this matter, including the RFP, the Letter of Instruction, and Scope of Services, and the results of the evaluation of the responses to the RFP and the Letter Petition. As discussed below, the Board **FINDS** that the RFP was conducted in a fair and reasonable manner, and that approval of the resulting selection is in the public interest.


The Board **FINDS** that the process for selecting an auction manager was performed in a transparent, and equitable manner by opening the RFP to all potential bidders, and setting forth multiple criteria rather than just price on which to evaluate the bids received. This allowed bidders to show their technical expertise. Moreover, the RFP protected against bidders with potential conflicts of interests by requiring the Auction Manager to divulge whether it or any of its affiliates are engaged in the trading of SRECs in New Jersey or other states or other similar products outside of New Jersey and to explain what safeguards are in place to protect against potential conflicts of interest which could impact the SREC market.

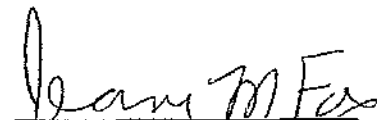
Based on the information provided in the Letter Petition and the comments filed by Rate Counsel with respect to the results and evaluation of the bids based upon the criteria set forth in the RFP, the Board **FINDS** that the EDCs' selection of NERA is reasonable given that NERA had the highest score.

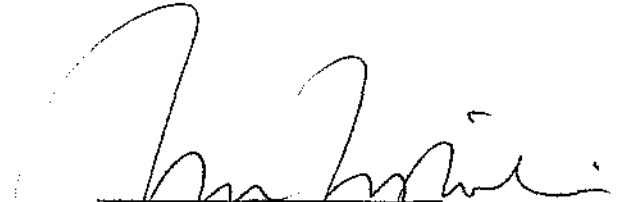
Accordingly, the Board **HEREBY APPROVES** NERA as the Auction Manager for a two-year period, and thereafter until a subsequent auction manager is approved by the Board. Prior to the end of the two years, the Board **ORDERS** the EDCs to provide a report to the Board and Rate Counsel advising whether NERA still meets the criteria established in the RFP and whether they believe it is in the best interests of ratepayers to issue another RFP or extend the NERA contract.


DATED: 1/29/14

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PRESIDENT


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MARY-ANNA HOLDEN
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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



IN THE MATTER OF THE PETITION OF THE FOUR ELECTRIC DISTRIBUTION COMPANIES
FOR APPROVAL OF THE RESULTS OF THE REVIEW PROCESS TO EVALUATE THE
MANNER FOR SELECTING A SOLAR RENEWABLE ENERGY CERTIFICATE AUCTION
MANAGER - DOCKET NO. EO13121180

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