



Agenda Date: 11/13/03
Agenda Item: 2B

State of New Jersey
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

IN THE MATTER OF THE PROVISION OF)
BASIC GENERATION SERVICE FOR)
YEAR TWO OF THE POST-TRANSITION)
PERIOD – CIEP CUSTOMER CLASS)

ENERGY

DECISION AND ORDER

DOCKET NO. EO03050394

(Service List Attached)

BY THE BOARD:

By Order dated December 2, 2003, the Board approved a basic generation service (“BGS”) procurement process for the period beginning June 1, 2004. At that time it left undecided the issue of whether to include additional customers in the commercial and industrial energy price (“CIEP”) class on a mandatory basis¹ in order to further consider customer reaction including actual customer switching data in its evaluation. As currently constituted, the CIEP class consists of customers that take electric service from higher voltage primary circuits. Those CIEP customers that remain on BGS are priced on an hourly basis.

As of October 3, 2003, 860 out of 1766 accounts, representing 67.8% of the load in the CIEP class, had switched to a third-party supplier (“TPS”). Through this same period, the reaction of customers appears to have been generally favorable. While this tends to support the Board’s earlier decision to establish the BGS-CIEP customer class, the data also suggests that customers that have not switched to a TPS and that continue to receive BGS-CIEP service are the smaller customers in this class.

Since the Board issued its Order establishing the CIEP class², a number of parties have provided comments³ concerning mandatory expansion of this class of customers. Based upon the comments received, further expansion of this class to customers with a peak load share⁴ (“PLS”) above 750 kw is supported by the TPSs, at least in part, because hourly-priced

¹ In its December 2, 2003 Order, the Board determined that certain non-residential customers could voluntarily join the CIEP class for the June 1, 2004 procurement period.

² Order dated December 18, 2002, Docket No. EX01110754.

³ Parties providing comments include: the electric distribution companies (EDCs), the Division of the Ratepayer Advocate, Reliant Resources, Inc., Select Energy, NJ Large Energy Users Coalition (NJLEUC), Constellation NewEnergy, New Jersey Commercial Users (NJCU), J. Aron & Company, Mid-Atlantic Power Supply Association (MAPSA), ConEdison Solutions, Inc. (CES), Consolidated Edison Energy, Inc., and DTE Energy Trading, Inc.

⁴ The individual customer's capacity peak load share (PLS) is that customer's portion of the total capacity assigned to the EDC's transmission zone by PJM.

customers are perceived to be more amenable to switching from BGS (MAPSA comments of June 5, 2003 at 2). At least some large CIEP customers also support expansion of this class in order to establish a customer class that is sufficiently broad so as to provide a strong foundation for retail competition, at least among CIEP customers. (NJLEUC at 8). This position is contrasted by those segments of the business community that believe that the Board has insufficient data with which to make an informed decision at this time and possibly that their membership is engaged in activities that, by their nature, do not lend themselves to load shifting and, therefore, they may not be able to readily adjust to and/or benefit from hourly pricing. (NJCU comments of June 17, 2003 at 2).

The Board continues to believe that accurate market pricing reduces the possibility for inter- and intra-class subsidies, appropriately encourages customers to consider conservation and renewable energy alternatives, promotes load management and generally gives customers more control over their energy costs. However, the Board wants to make the transition to hourly pricing in an orderly manner that allows for an informed consumer. The current experience with hourly pricing has involved an abbreviated summer period during which temperatures were below normal. Once CIEP customers witness a full summer of hourly pricing, the reaction from those still receiving BGS may differ from our current experience. In addition, the limited evidence available to date suggests that some customers have made a conscious decision to remain on BGS, at least for the current period, while others have had few or no competitive offers, and still others may not have fully understood the impact of the change to hourly pricing. It is the last two categories, namely those that have not received competitive offers and those that are not yet sufficiently educated about hourly pricing to make an informed decision, that particularly concern the Board. Because of these concerns, the Board would like to have additional experience and data before determining whether customers at the 750 kw level be priced on an hourly basis. The Board will attempt to address and alleviate these two areas of concern through further Board directives, detailed below.

Furthermore, the Board is concerned that if it expands the CIEP class and, specifically if it were to approve a mandatory cutoff of 750 kw, it is likely that a number of retail malls would be included. In many cases, the mall is the electric customer that aggregates merchants' load and allocates costs back to the retailers. The Board would like to work with the Retail Merchants Association to better understand mall operations before further expanding the CIEP class to include many of these types of customers.

The Board also understands hourly pricing is a relatively new concept to many customers, and that not all customers will be able to benefit to the same extent by being priced on an hourly basis. The experience to date indicates that some smaller customers may lack the size, flexibility, or expertise to use hourly pricing to their full advantage.

Recognizing that this is not an exact science, the Board believes that a cautious, gradual approach is appropriate at this time and accordingly, FINDS that a PLS of 1500 kw is the appropriate cutoff for further mandatory inclusion in CIEP⁵ for the coming auction. This would expand the CIEP class by approximately 128 accounts, representing a 7.2% increase in the number of eligible accounts. As CES points out, by keeping the next group of customers who migrate to CIEP to a manageable level, and by focusing on moving the largest, most sophisticated customers, the Board can assure

⁵ Mandatory inclusion in CIEP for the current year was done on a rate class basis. Mandating customers with a PLS of 1500 kw or greater to be included in the CIEP class is in addition to the rate classes that currently comprise the CIEP class.

that long-term policy goals are met while minimizing short-term customer education requirements. (CES comments of June 5, 2003 at 3). Therefore, the Board DIRECTS the EDCs to include all commercial and industrial customers with a peak load share of 1500 kw and greater⁶ in the CIEP class beginning June 1, 2004. Voluntary inclusion in CIEP continues to be available consistent with the Board's Order of December 2, 2003. The Board will consider further mandatory expansion of the CIEP class for future procurement periods.

In the Board's December 2, 2003 decision, a process was established for customers with a peak load share of 750 kw or greater to voluntarily release their contact information to TPSs, registered energy agents and private aggregators. In order to facilitate identification of CIEP customers by TPSs, all CIEP customers should be afforded a similar opportunity to release their contact information to industry participants and thereby increase the likelihood that BGS-CIEP customers, and specifically smaller ones, will become aware of all their competitive options. The Board would also like to see these same customers made aware of the licensed TPSs in the State in case a customer wants to initiate the switching process on its own. Therefore, the Board DIRECTS the EDCs to provide new CIEP customers with a PLS above 1500 kw and existing CIEP customers that remain on BGS with the opportunity to release their contact information, as described above, and to make these customers aware of the list of TPSs licensed by the Board. The EDCs shall provide Staff with the draft information and contact release letters for the customers with a peak load share of 750 kw or greater and for the new and existing CIEP customers, prior to the release of the letters.

In the spring of 2003, the EDCs, through group meetings and individual customer contacts afforded all CIEP customers the opportunity to better understand the BGS-CIEP pricing structure. The Board believes that this was a reasonable approach to reaching and educating all CIEP customers in a uniform manner for the first year of hourly pricing. The Board further believes that the EDCs should continue with a similar approach to reaching customers who will be required to be part of the CIEP class for Year Two, as a result of this Order, or who may volunteer for CIEP now, or in the future, as well as those customers with a PLS of 750 kw or greater so that these smaller customers can begin to become familiar with hourly pricing. In addition, Energy Division Staff should work with the EDCs, the TPSs, the Division of the Ratepayer Advocate and the Office of Clean Energy to expand the education process. The additional education efforts should include, but are not limited to, fact sheets, website information, meetings with focused segments of the current and potential CIEP class customers, and media releases and interviews. The Board DIRECTS the EDCs and Board Staff to implement the foregoing education efforts.

In its December 2, 2003 Order, the Board indicated that it would determine at a later date, the manner in which the retail margins that are being collected from BGS-CIEP customers and which will be collected from BGS-FP customers with a peak load share above 750 kw, would be used. As part of that determination, the Board will consider whether some or all of the retail margins collected by the EDCs should be used to educate current and future CIEP customers.

Additionally, the Board DIRECTS Staff to establish a working group to include, at a minimum, the Retail Merchants Association, the EDCs and TPSs to identify and attempt to resolve issues associated with shopping mall load aggregation vis-à-vis hourly pricing. This working group

⁶ Rockland Electric will determine all eligibility criteria by measuring when a customer's billing demand exceeds the eligibility level during any two months of a calendar year.

should also consider other situations where individual customer loads are aggregated under one account and may result in an aggregate PLS of 750 kw or greater.

The Board FURTHER DIRECTS Staff to compile data including, but not limited to: switching information; bill comparisons; and customer surveys to help the Board understand which customers are switching to TPSs; which customers are not and why; how customers on BGS-CIEP are faring compared to BGS-Fixed Price; the level of understanding of customers remaining on BGS-CIEP; and any other issues which Staff believes might be relevant to the Board in its future consideration of this issue. The Board FURTHER DIRECTS the EDCs to provide the data requested, in the format requested, by Staff pursuant to this Order.

Finally, the Board DIRECTS the EDCs to make their November 7, 2003 compliance filing consistent with the findings and directives of this Order, and to file such revised pages and/or documents with the Board by December 31, 2003.

DATED: **12/23/03**

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

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JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)

KRISTI IZZO
SECRETARY