

ANNUAL FINAL REPORT  
ON THE  
2010 BGS FP AND CIEP AUCTIONS

Presented to:

THE NEW JERSEY BOARD OF PUBLIC UTILITIES

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April 21, 2010

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## I. INTRODUCTION AND SUMMARY

Boston Pacific Company, Inc. served as the Advisor to the New Jersey Board of Public Utilities (Board) for the Basic Generation Service (BGS) Auction held in February 2010 as we have for the previous three years. We are pleased to provide this report which is the Annual Final Report required under our contract. The Board defined the purpose and content of this Annual Final Report as follows:

The contractor shall monitor the competitiveness of the auction and provide a complete factual report to the Board on the auction results...In its Annual Report, the contractor shall detail the administration of the auction for compliance with auction rules and agreed upon procedures. The contractor shall provide the Board with an independent certification of the auction process and results to ascertain whether the auction was competitive, transparent, just and reasonable.<sup>1</sup>

It is essential for the Board to have as much information as possible about the Auctions at the time it makes its decision on certification. To that end, the most explicit basis for the Board's certification decision on the Fixed Price (FP) and Commercial and Industrial Energy Pricing (CIEP) Auctions were the Post-Auction Checklists provided to the Board on February 11, 2010. These checklists contain (a) a factual statement of Auction results and (b) the answers to 26 questions about the conduct and results of the Auction. Because of the important role the Checklists play, Boston Pacific also provided what we termed a "Supplemental Checklist" which explained in detail our reasons for the yes/no answers to the 26 questions in the official Checklist. After this Introduction and Summary, the bulk of the Final Annual Report is made up of these Supplemental Checklists which, we believe, show the extensive depth and breadth of the analyses that underlie the Board's certification decisions.

### A. THE BGS FIXED PRICE (FP) AUCTION

As Board Advisor, Boston Pacific recommended that the Board certify the results of the FP BGS Auction. We made that recommendation for three primary reasons: (a) the Auction was open, fair and transparent; (b) the Auction was sufficiently competitive; and (c) the winning prices were consistent with broader market conditions. Before getting into detail on these three reasons, it is constructive to step back to give perspective to the Auction results.

The highlight from this year's FP Auction is that prices are down once again. On average, prices declined about 8% from last year and 16% from their highs of two years ago. This is not only a welcome trend but also expected given the drops in energy and

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<sup>1</sup> See section 3.11, in Request for Proposal 08-X-39379 for Management Consulting: Oversight of BPU Basic Generation Service Auction Process, on page 17.

related fuels costs over the past year. Regarding rate impact, most customers will see a small decrease in their average bill. This is driven by the fact that the contracts being replaced, covering one third of the FP supply and procured in the 2007 FP Auction, are about 3% more expensive, on average, than the new contracts.

### **Fairness and Transparency**

The FP Auction was inherently or structurally open, fair and transparent for at least two reasons. First, because all of the non-price terms and conditions were standardized, all suppliers signed the same supply agreement and provided the same product; this allowed the bid evaluation to be done purely on price. A price-only bid evaluation is the ultimate in transparency. Second, all the rules of participation and conduct were fully explained and fairly applied by the Auction Manager (NERA).

In addition, fairness and transparency were enhanced by the fact that the Auction Manager pro-actively facilitated full access to the process and results by the Board Advisor and Board Staff. As the Board Advisor, we and Board Staff were actively involved in the full range of pre-Auction tasks including, but not limited to, the monitoring of bid information sessions, the calculation of start prices and the evaluation of Part 1 and Part 2 Applications. During the Auction itself we and Board Staff were given complete access to the full range of Auction data. This allowed us to independently verify price decrements and round-by-round bid offers as well as monitor incoming and outgoing communications with bidders.

### **Competitiveness**

We assessed several indicators of the competitiveness of the FP Auction. First, we looked at the total number of bidders in the Auction. A large number of bidders is helpful because it increases the total supply bid in the Auction (thus pushing prices down) and makes it harder for bidders to carry out any collusive schemes. This year there were [REDACTED]. This represents an increase of [REDACTED] bidders as compared to last year's Auction, though it is lower than two and three years ago. [REDACTED] bidders is certainly an adequate number of bidders and we are pleased to see the increase from last year.

Second, we looked at the ratio of the quantity of electricity service offered to the quantity actually needed. This excess is important because it drives price down as the Auction proceeds; the price "ticks down" (is decremented) if and only if there are excess offers. For that reason, we like to see bidders come in and stay in with the maximum number of tranches offered through many rounds of bidding. [REDACTED]

Third, we looked at the number of winners. We like to see a large number of winners for several reasons. First, it means that the Auction was competitive, with

multiple parties pushing down the price at the end. Second, it sends a signal to other participants that no one party is dominating the Auction and that anyone can win supply. Third, it increases the likelihood of these bidders returning in future years. This year there were thirteen winners, three more than last year. [REDACTED]

Finally, we looked for signs of collusive or coordinated bidding behavior. Our tools for this include a panoramic view of the bids round by round which was reviewed by our Auction expert, Professor Ken Hendricks. We found no evidence of any collusive or anti-competitive actions.

### **Prices Consistent with Market Conditions**

We made several checks on the prices received in this Auction to make sure that they were consistent with market conditions. Our primary test involved comparing the winning prices with the predicted ranges from our Benchmark pricing model. With this model we attempt to view the full requirements product as a bidder might. That is, we look at current market data for all the components of full requirements service (e.g. energy, capacity, ancillary services, etc.) and put them together, along with a credit and risk component, in order to create what we think of as a reasonable price for a full requirements product. Because bidders can differ on the valuation of many of the components, we allow key variables to fluctuate via Monte Carlo modeling. The output of the model is a range of prices that we consider “reasonable”.

We created separate Benchmark ranges for each utility. For all utilities, winning prices were within our benchmark ranges. [REDACTED]

A less sophisticated check on these results can be gained by comparing the results here to other Standard Offer Service (SOS) Procurements in nearby jurisdictions. This is difficult, since many States do not disclose their results and each state has slight differences in product and procurement method. With that caveat in mind we can look at one such procurement. Two weeks before the Auction, Delaware held the second tranche of its SOS RFP. Like New Jersey, Delaware solicited a three-year, full-requirements product, although bidders did not provide renewables and network transmission as in New Jersey. The average winning price in the second tranche of the Delaware SOS RFP was about 9 cents per kWh. When we adjust for transmission service and renewable resource requirements, this price is comparable to what we saw in the BGS Auction.

**B. THE BGS COMMERCIAL AND INDUSTRIAL ENERGY PRICING (CIEP) AUCTION**

Boston Pacific also recommended that the Board certify the results of the Commercial and Industrial Energy Pricing (CIEP) Auction. We used the same three criteria as in our recommendation for the FP Auction.

**Fairness and Transparency**

We believe the CIEP Auction was fair and transparent for essentially the same reasons stated above for the FP Auction.

**Competitiveness**

We used the same indicators of competitiveness as we did for the FP Auction. While we found no problems, based on these indicators the CIEP Auction is less competitive than the FP Auction.

- First, there were [REDACTED] this is an acceptable number of bidders for this process.
- Second, the excess quantity offered was adequate. [REDACTED]
- Third, there were 7 winners in the Auction. This is an increase from last year’s Auction which saw 5 winners.
- Fourth, we, along with our Auction Expert, reviewed the round-by-round results and found no evidence of collusion or anti-competitive behavior.

**Prices Consistent with Market Conditions**

This year the winning CIEP price was down by a good margin. For PSE&G the price dropped about 16%, from \$203/MW-day to about \$171/MW-day. Overall the tranche-weighted average winning price was down 8% from last year. It’s always good to remember that the price received in the CIEP Auction represents only a small share of the costs that CIEP customers will face. The Auction price essentially represents the cost to supply the capacity and renewable requirements portion of that service. In addition, suppliers are paid an energy price set at the real-time market spot price and a fixed amount for ancillary services.

Creating any sort of benchmark price for the CIEP product is more difficult than it is for the FP Auction. This is because small changes in bidder assumptions can make a big difference in the winning Auction price. For example, bidders are paid \$6/MWh to cover the costs of providing ancillary services. If a bidder thinks it can provide ancillary services for less than \$6/MWh they can afford to discount their price. However a \$1/MWh profit translates into about \$17/MW-day (at PSE&G's load factor). Thus, small assumed profits on this service can translate into big price changes.

Nonetheless we did create a rough benchmark for the CIEP price.

For PSE&G this gave us a benchmark of [REDACTED] The winning price was, as mentioned about \$171/MW-day, [REDACTED]

### C. THE RECO SWAP RFP

Separate from the BGS Auction, RECO solicited offers to provide a Swap Agreement for a small section of its service territory for about 53 MW of customer need. Under the Swap Agreements, RECO will buy energy and capacity from short-term markets run by the New York Independent System Operator (NYISO). These purchases of energy and capacity will be short-term so the prices will vary over time. What bidders are offering to do is to guarantee those prices by swapping a fixed price offer for the variable prices from the NYISO markets. Bidders bid on four products. Three of them are one-year fixed price energy swaps— one for each of the next three years, beginning June 1<sup>st</sup> of this year. The fourth product is a three-year, fixed price capacity swap also beginning June 1<sup>st</sup> of this year. This is the second time we have monitored RECO's Swap Agreement RFP, the last RFP being in 2007.

Boston Pacific recommended that the Board certify the results of the RECO Swap RFP, which took place on January 26, 2010. We did so for three primary reasons. First, the process was fair and transparent. Second, the RFP was sufficiently competitive. Third, the winning prices were consistent with market conditions.

As to fairness and transparency, the RECO Swap RFP set out a well-defined product and most of the non-price terms and conditions were standardized. All bidders signed the same transaction confirmation sheet, agreed to the same credit terms, and signed a similar Master Agreement with RECO. This standardization in turn allowed for a price-only bid evaluation. In addition, based on our participation in a pre-bid meeting and the fact that this RFP has been conducted before, we believe the product, although it involves some sophisticated financial concepts, was well understood by potential bidders. In addition RECO and World Energy (the Auction Manager for this RFP) provided access to all the information we requested.

Regarding the competitiveness of the RFP, there were a total of [REDACTED] bidders for all four products. This represents [REDACTED]

[REDACTED] Three bidders were winners, a good diversity [REDACTED]

Regarding those prices, all three winning prices for the energy products [REDACTED] Boston Pacific additionally validated the price-to-compare number by calculating our own price benchmarks. We found the price to compare numbers to be acceptable. For the capacity swap, the winning bid [REDACTED]

#### **D. RECOMMENDATIONS**

The BGS Auction has been successful for several years now at efficiently procuring supply for ratepayers at market-based prices within the context of a competitive process. In other words, it does what it was designed to do. This is not insignificant as “old line” utilities provided full requirements service, but never at fixed prices nor with reliability guarantees.

Going forward, we always want to be on the lookout for ways in which to improve the process. Moreover, as times change many state and federal governments are setting policy goals such as dictating a specific mix of generating resources or implementing demand-side management measures such as Advanced Metering Infrastructure (AMI). In these cases it is always important to make sure that the BGS process is serving these goals or at least not preventing these goals from being reached. With these thoughts in mind, we present some suggestions for the Board to consider.

##### **Renewable Standards**

Currently each BGS supplier is responsible for fulfilling their share of the New Jersey State Renewable Portfolio Standard. This means that they must provide a certain number of Type I, Type II and Solar Renewable Energy Certificates (RECs) each year. This has the benefit of ensuring that the State’s goals regarding renewable generation are met, while at the same time reducing the transaction cost of doing so, since bidders simply add this cost into their bids in the BGS Auction.

While this is a simple solution, it does cause a few problems. First, it is becoming increasingly difficult to tell how much ratepayers are paying for this renewable supply. To value the renewable component of the BGS Auction price an analyst can use either (a) market quotes for RECs or (b) the Alternate Compliance Payment (ACP), the penalty rate



a supplier would pay if they did not supply the necessary RECs. Typically, there is a large gap between these two prices, especially for Type I and Type II RECs. When the renewable portfolio obligation was small, this was not an especially pressing problem, but as the obligation grows the effect on the final price grows as well. For example, for PSE&G, this year the renewable component would be about \$5/MWh using market REC prices and over \$8/MWh<sup>2</sup> using the ACP. This lack of transparency makes it difficult to tell (a) how much ratepayers are paying for renewables versus (b) how much is being paid for the rest of the full requirements product.

A second, and larger, problem, is that this structure cuts down on the flexibility of policy makers to bring about a desired resource mix. For example, in order to promote the solar industry, the outgoing governor this year changed the requirements for Solar Energy RECs with a bill that was signed in January instead of having a long-term RFP for solar resources. This meant that suppliers had to scramble to estimate the impact of the bill on their bids and grapple with interpreting the new legislation.

A potential solution to this problem is to break out the renewable requirement into a separate RFP. This could take the form of a separate procurement for RECs, or long-term solicitations for unit-contingent renewable supply, or a combination of the two. This sort of separation of renewable requirements from Standard Offer Solicitation is practiced in several jurisdictions, including Delaware, Illinois, and FirstEnergy's territory in Ohio.

This separation has several advantages. First, it increases transparency, showing ratepayers just what they are paying for renewables as well as removing this uncertainty from the full requirements product. Second, it will allow the State more flexibility in implementing policy with regards to renewables. Nothing will be tied to the three-year BGS procurement contracts and there does not have to be any concern with bidders misinterpreting legislation or adding additional risk premiums to compensate for the risk of changes in renewables laws. Third, and most importantly, by directly dealing with renewable suppliers, rather than relying on BGS suppliers to do so themselves, this opens up the possibility of getting lower prices for renewable supply. It has been our experience that separate REC RFPs draw a different crowd of bidders as compared to full requirements procurements. By directly challenging these suppliers to offer lower costs, we could see lower overall costs to ratepayers.

It's also worth noting that this measure would not harm the BGS Auction. As noted, other states have separated the renewable requirement with no harm to their standard offer procurement.

### **Bid Information Session in DC**

The BGS Auction process has several bidder information sessions. These sessions are crucial to publicizing the Auction as well as providing a forum to distribute

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<sup>2</sup> These numbers include the incremental cost for existing requirements resulting from the solar legislation (P.L. 2009 c.239) signed into law in early 2010

information to potential bidders and allow bidders to ask questions. Traditionally, the Auction process has kicked off with two bidder information sessions, one in Philadelphia and one in Washington. These sessions share the same presentation. Historically, attendance at the Washington session has been very low. This year only two bidders attended the session. To better utilize everyone's time, we would suggest eliminating the Washington bid session.

### **RECO Capacity Auction**

The RECO Auction uses the World Energy Auction platform to solicit bids in a multi-round, descending clock format. Under this format bidding takes place for a pre-determined amount of time (e.g. fifteen minutes). During that bid window bidders have the opportunity to offer a price to serve the particular product up for bid. They can see (a) their own bid history and (b) the current price to beat. There is no limit on the number of bids a bidder may place. At the end of the bidding session the lowest bid is declared the winner.

This bidding format is generally effective, allowing bidders to compete against each other in real time and providing instant price information to all participants. However, the format runs into some risks when there are few participants. If there aren't enough participating bidders, we run the risk of bidders not "bidding down" the price to an acceptable level. If a bidder does not see the price to beat move down, he may deduce that there is really no other competition and keep his final offer high.

[REDACTED]

A solution to this problem is to have bidders submit a single sealed bid for the capacity product. [REDACTED]

[REDACTED]

This could be accomplished on the same World Energy platform and could then eliminate the risk of bidders for this product ascertaining the level of competition for the product.

**II. THE NEW JERSEY 2010 BGS-FP AUCTION**

A. POST-AUCTION CHECKLIST

**ATTACHMENT B  
DOCKET NO. EO09050351**



**POST-AUCTION CHECKLIST  
FOR THE NEW JERSEY 2010 BGS-FP AUCTION**

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Prepared by: Boston Pacific Company, Inc.

Auction began with the opening of Round 1 at 08:45 on Mon, February 8, 2010

Auction finished with the close of Round 21 at 16:35 on Tue, February 9, 2010

	Start of Round 1	Start of Round 2 * (after volume reduction in Round 1, if applicable)	Start of Round n * (after post-Round 1 volume reduction, if applicable)
# Bidders		NA	NA
Tranche target	54	NA	NA
Eligibility ratio		NA	NA
PSE&G load cap	13	NA	NA
JCP&L load cap	8	NA	NA
ACE load cap	3	NA	NA
RECO load cap	1	NA	NA
Statewide load cap	20	NA	NA

\*Note: No volume adjustment was made during the FP auction, so the pre-auction tranche target and EDC-specific load caps were unchanged for the auction.

**ATTACHMENT B  
DOCKET NO. EO09050351**

**Post-Auction Checklist for the New Jersey 2010 BGS-FP Auction**

Table 1 below shows pertinent indicators and measures for the auction.

**Table 1. Summary of BGS-FP Auction**

	<b>PSE&amp;G</b>	<b>JCP&amp;L</b>	<b>ACE</b>	<b>RECO</b>	<b>Total</b>
BGS-FP peak load share (MW)	2,875.89	1,828.64	697.10	111.45	5,513.08
Total tranches needed	28	18	7	1	54
Starting tranche target in auction	28	18	7	1	54
Final tranche target in auction	28	18	7	1	54
Tranche size (%)	1.18	1.89	4.55	25.00	
Tranche size (approximate MW)	102.71	101.59	99.59	111.45	
Starting EDC load caps (# tranches)	13	8	3	1	
Starting statewide load cap (#tranches)	--	--	--	--	20
Final EDC load caps (# tranches)	13	8	3	1	
Final statewide load cap (#tranches)	--	--	--	--	20
Quantity procured (# tranches)	28	18	7	1	54
Quantity procured (% BGS-FP load)	100%	100%	100%	100%	100%
# Winning bidders	9	9	4	1	13
Maximum # of tranches procured from any one bidder	11	5	3	1	19
Minimum and maximum starting prices prior to indicative bids (cents/kWh)					16.0 13.0
Starting price at start of auction (cents/kWh) *					
Final auction price (cents/kWh) **	9.577	9.517	9.856	10.332	9.607

\* Price shown in “Total” column is an average across the EDCs weighted by each EDC’s “Starting tranche target in auction”.

\*\*Price shown in “Total” column is an average across the EDCs weighted by each EDC’s “Final tranche target in auction”.

**ATTACHMENT B  
DOCKET NO. EO09050351**

**Post-Auction Checklist for the New Jersey 2010 BGS-FP Auction**

**Table 2. Overview of Findings on BGS-FP Auction**

	<b>Question</b>	<b>Comments</b>
1	<b>BP's recommendation as to whether the Board should certify the FP auction results?</b>	Yes, certify
2	Did bidders have sufficient information to prepare for the FP auction?	Yes
3	Was the information generally provided to bidders in accordance with the published timetable? Was the timetable updated appropriately as needed?	Yes
4	Were there any issues and questions left unresolved prior to the FP auction that created material uncertainty for bidders?	No
5	From what BP could observe, were there any procedural problems or errors with the FP auction, including the electronic bidding process, the back-up bidding process, and communications between bidders and the Auction Manager?	No
6	From what BP could observe, were protocols for communication between bidders and the Auction Manager adhered to?	Yes
7	From what BP could observe, were any hardware or software problems or errors observed, either with the FP auction system or with its associated communications systems?	No
8	Were there any unanticipated delays during the FP auction?	No
9	Did unanticipated delays appear to adversely affect bidding in the FP auction? What adverse effects did BP directly observe and how did they relate to the unanticipated delays?	No
10	Were appropriate data back-up procedures planned and carried out?	Yes
11	Were any security breaches observed with the FP auction process?	No

Question		Comments
12	From what BP could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and BP during the FP auction?	Yes
13	From what BP could observe, were the protocols followed for decisions regarding changes in FP auction parameters (e.g., volume, load caps, bid decrements)?	Yes
14	Were the calculations (e.g., for bid decrements or bidder eligibility) produced by the FP auction software double-checked or reproduced off-line by the Auction Manager?	Yes
15	Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the auction?	No
16	From what BP could observe, were the communications between the Auction Manager and bidders timely and effective?	Yes
17	Was there evidence that bidders felt unduly rushed during the process? Should the auction have been conducted more expeditiously?	No
18	Were there any complaints from bidders about the process that BP believed were legitimate?	No
19	Was the FP auction carried out in an acceptably fair and transparent manner?	Yes
20	Was there evidence of non-productive “gaming” on the part of bidders?	No
21	Was there any evidence of collusion or improper coordination among bidders?	No
22	Was there any evidence of a breakdown in competition in the FP auction?	No
23	Was information made public appropriately? From what BP could observe, was sensitive information treated appropriately?	Yes
24	Does the FP auction appear to have generated a result that is consistent with competitive bidding, market-determined prices, and efficient allocation of the BGS-FP load?	Yes



<b>Question</b>		<b>Comments</b>
25	Were there factors exogenous to the FP auction (e.g., changes in market environment) that materially affected the FP auction in unanticipated ways?	No
26	Are there any concerns with the FP auction's outcome with regard to any specific EDC(s)?	No

B. BOSTON PACIFIC SUPPLEMENTAL CHECKLIST

**BOSTON PACIFIC SUPPLEMENT TO NEW JERSEY BGS AUCTION  
CHECKLIST: FP AUCTION**

**QUESTION 1:**

**Boston Pacific's recommendation as to whether the Board should certify the FP Auction results?**

**ANSWER 1:** Yes, certify.

**CRITERIA:**

**a. Were all checklist questions satisfactorily answered?**

Yes.

**QUESTION 2:**

**Did bidders have sufficient information to prepare for the FP Auction?**

**ANSWER 2:** Yes.

**PRE-AUCTION CRITERIA**

**a. Were there Pre-Bid sessions and were they informative?**

Yes, there were Pre-Bid Information Sessions and they informed bidders about Auction procedures and developments.

There were three Pre-Bid Information Sessions held: (i) the first session was held on both October 2, 2009 and October 9, 2009 in Washington, DC and Philadelphia, respectively; (ii) the second session was held on December 4, 2009 in Philadelphia; and (iii) the third session was held on January 26, 2010 in Philadelphia. The first two information sessions were open to any entities interested in participating in the Auction. The third information session was held after the Application process and, thus, was for Registered Bidders only.

Note that 17 companies attended the first information session and 11 companies attended the second information session. In total, 19 companies showed interest in the 2010 Auction by attending one of the first two bidder information sessions. This compares to 24 companies attending one of the first two sessions last year. Seven out of the [REDACTED] attended the third bidder information session. All questions asked at the information sessions were adequately answered by NERA.

**b. Were frequently asked questions (FAQs) posted on the BGS website and were all questions answered?**

Yes, the FAQs were posted and all questions asked in a timely manner were answered.

All questions asked by bidders and their answers were posted on the FAQ section of the BGS website pursuant to NERA's FAQ Protocols. These protocols called for a specific process for answering bidder questions to ensure that all bidders had access to the same information at the same time.

As of January 19, 2010, 168 questions had been asked by bidders since August 11, 2009, the first day FAQs were posted. All of these questions were answered in a timely fashion by NERA. The general topics of questions included: (a) the application process, (b) association and confidential information rules, (c) the Auction Rules, (d) the Supplier Master Agreement, (e) credit, (f) data provided, (g) payments and rates, (h) the new requirements under the "Solar Energy Advancement and Fair Competition Act", and (i) other miscellaneous questions.

Bidders had the most questions concerning the association and confidential information rules. NERA provided responses to all of these questions, which seemed to satisfy bidders. Furthermore, because of the importance of this topic, NERA issued a specific document that addresses common situations with respect to associations and confidential information. Because of concerns over bidders being able to provide proper credit assurances in the current market, bidders were given an opportunity to seek approval for modifications to the existing letter of credit (LOC) document prior to applications being due.

Starting on January 20, 2010, the Auction Manager sent answers to questions received each day to Registered Bidders via email. Boston Pacific was copied onto these emails, and reviewed these FAQs as well.

**c. Was required information and data provided on the website?**

Yes, the BGS Auction website provided required data for bidders to prepare for the Auction.

The following Auction information, among other things, was provided according to the schedule posted by NERA: (a) Application forms, (b) minimum/maximum starting prices, (c) tranche targets, (d) load caps, (e) finalized rules, (f) final Supplier Master Agreements, and (g) finalized decrement formulas.

NERA also maintained a "data room" on their website, which contained data that was updated monthly and additional data that was updated less frequently. NERA provided a document for both of these types of data that provided a description of the data included in the "data room." Examples of such data include load data, which was updated monthly for each EDC and covered the period through October 2009, and switching statistics that showed the percentage of load and customers that have switched to third party suppliers. This data, and other data in

the “data room”, was provided to help bidders prepare their bids. Any time revisions were made to the data, NERA marked this on their website.

A few days prior to the Auction it was discovered that JCP&L’s CIEP Eligible hourly load inadvertently excluded the load of customers over 1,000 kW on the GS and GST rate classes. As a result, the BGS-CIEP Eligible hourly load was somewhat understated and the BGS-FP Eligible Load was somewhat overstated. All bidders were notified of this problem and the necessary data to correct this problem was posted. We do not believe this issue had a material affect on the Auction.

**d. Did Bidders receive Auction logistics information (i.e. Confidential Bidder Information packet) on time?**

Yes, before the Trial Auction,   


**e. Did bidders communicate any material concerns to NERA?**

No. All questions asked by bidders were answered. NERA did not indicate that there were any unresolved, material concerns.

**f. Were bidders given an opportunity to provide proposals and comments concerning the 2010 Auction Process?**

Yes. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2009. Furthermore, interested parties were also invited to file initial comments and final comments by August 28, 2009 and September 25, 2009, respectively. The Board also held a Legislative-type hearing on September 10, 2009. Finally, following its November 10, 2009 Agenda meeting, the Board released a letter on November 12, 2009 asking for comments on whether the retail margin should be reduced, phased-out, or eliminated entirely. After reviewing all comments from the EDCs and other interested parties, the Board approved the 2010 BGS Auction Process.

**QUESTION 3:**

**Was the information generally provided to bidders in accordance with the published timetable? Was the timetable updated appropriately as needed?**

**ANSWER 3: Yes.**

**PRE-AUCTION CRITERIA**

**a. Was the timeline followed?**

Yes.

**b. Were there updates to the timeline?**

Yes, NERA followed the posted calendar of significant events on the BGS website.

The BGS Auction website contained a specific section at the top of the calendar that took note of the upcoming events. It included information from the initial EDC proposal in July 2009 through the Auction in February 2010. As milestones were met, the calendar was updated to reflect each event's completion. As far as Boston Pacific is aware, the Auction process was carried out according to this schedule. In addition, interested parties could sign up for an Auction update mailing list. Reminders of important dates were sent out to all potentially interested bidders and to those registered parties.

**QUESTION 4:**

**Were there any issues and questions left unresolved prior to the FP Auction that created material uncertainty for bidders?**

**ANSWER 4: No.**

**PRE-AUCTION CRITERIA**

**a. Were all questions answered in the FAQs?**

Yes, please see answer to 2b.

**b. Were bidder questions asked after January 19, 2010 directly responded to by NERA?**

Yes, questions were asked by Registered Bidders after January 19, 2010. NERA provided answers to these questions directly to bidders via email. These answers were distributed daily. Bidders did not indicate any concerns with the answers provided by NERA. Also, please see answers to 2b and 2e.

**c. Did other events or issues produce any material uncertainty for bidders?**

No, bidders did not raise any issues in the FAQs that indicated material uncertainty for bidders. Boston Pacific also monitored various industry news sources and did not discover any events that would produce material uncertainty for bidders.

While we believe no factors created *material* uncertainty for bidders, there were factors that could have increased the uncertainty facing bidders to a smaller extent

for this year's Auction. Most notably, the change in Renewable Portfolio Standards, specifically the increase in and new calculation of the requirement for Solar Renewable Energy Certificates (SRECs) brought on by the enactment of "The Solar Energy Advancement and Fair Competition Act" added some uncertainty for bidders as they had only a short amount of time to analyze the new law and price the new requirements into their bids. Nonetheless, we believe that bidders were ultimately able to do this effectively.

**d. Did bidders communicate any material concerns to NERA?**

No, please see answer to 2e.

**e. Was information equitably provided to bidders?**

Yes, information was provided to bidders equally. This was done through Pre-Bid Information Sessions, FAQs provided online on the BGS Auction website, and announcements of upcoming important events and milestones. Also, please see answers to 2a-2d.

**f. Was information provided to maximize the number of bidders for the Auction?**

Yes, before bidders were registered, NERA conducted extensive marketing efforts in order to maximize bidder participation. (Maximum bidder participation is important since the Auction is such that the more excess supply, the further prices can decrease. The supply offered in excess of need directly drives the "tick down" (the decrease) in Auction price.)

NERA conducted direct marketing with potential bidding companies through phone calls. The list of contacts was developed from participants that registered for information on the BGS Auction website. In addition, PJM members who were identified as potential bidders but had not registered on the BGS Auction website were also added to the list of contacts. NERA ran two rounds of phone calls to potential bidders. In total, [REDACTED]

The Auction Manager consulted with Boston Pacific during each of the Application processing periods. [REDACTED]

**g. From Boston Pacific's observation, were there any pre-qualification requirements which directly prevented bidder participation?**

[REDACTED]



**QUESTION 5:**

**From what Boston Pacific could observe, were there any procedural problems or errors with the FP Auction, including the electronic bidding process, the back-up bidding process, and communications between bidders and the Auction Manager?**

**ANSWER 5:** No.

**AUCTION WEEK CRITERIA**

**a. Was protocol followed for the FP Auction?**

Yes, to our knowledge, the Auction was carried out according to the Auction Rules as approved by the Board.

**b. Were there problems with the electronic bidding process?**

No, there were no problems with the Auction software during testing and trials.

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Boston Pacific had full opportunity to test NERA’s bidding software, backup bidding process, and bid recording systems during three Trial Auctions. For the first Trial Auction on January 15, 2010 Boston Pacific assumed the role of a bidder and verified that bidders’ accounts had access to the correct information. We tested the Auction software by submitting problematic bids to determine if the software operated according to the rules and provided proper information to bidders. We also tested NERA’s backup bidding systems by submitting backup bids and creating situations to test NERA’s bidder notification protocols. We found no major issues in our test.

For the second and third Trial Auctions, held on January 22<sup>nd</sup> and January 28<sup>th</sup> 2010, Boston Pacific moved to the evaluation side. We monitored and evaluated bids submitted by the EDC’s and NERA in the second Trial and by Registered Bidders in the third Trial. We received and tested bid reports from NERA’s software and formulated reports and checked price decrements using our own bid evaluation software.

During the Auction, Boston Pacific did not observe any software breakdowns.

**c. Was the back-up bidding process followed?**

Yes [REDACTED] Boston Pacific had tested the backup procedure during Trial Auctions. Further, Registered Bidders also had the opportunity to practice the back-up bid procedure during the Trial Auction for Registered Bidders on January 28, 2010.

**d. Did communications between bidders and the Auction Manager follow procedure?**

Yes, communications between bidders and the Auction Manager followed procedure.

Bidders were given two ways of communicating with the Auction Manager during the Auction. Bidders had a telephone number for technical assistance and they could also send electronic messages through the online platform. Both of these forms of communication were logged. All telephone conversations were taped and all electronic messages and the answers given by the Auction Manager were saved. Boston Pacific reviewed all telephone conversations and electronic messages.

**e. Were Auction schedule protocols followed with regard to extensions and recesses?**

Yes [REDACTED] In addition, bidders were given an automatic

extension after round one. This is the second year that this automatic extension has been utilized. This rule change was made on our suggestion as a way to conceal whether any bidders had decided to not participate in the Auction. Bidders were warned that they still had to provide bids prior to the extension or they would lose an extension themselves.

**f. Did bidders communicate any material concerns to NERA?**

No.

**QUESTION 6:**

**From what Boston Pacific could observe, were protocols for communication between bidders and the Auction Manager adhered to?**

**ANSWER 6: Yes.**

**PRE-AUCTION CRITERIA**

**a. Was confidential information properly provided to bidders?**

Yes. Boston Pacific did not observe any release of confidential information or inappropriate communication that could impair the integrity of the Auction.

**b. Before the Part II Application deadline, were questions placed on the Auction website?**

Yes. The first FAQ was posted on the BGS website August 11, 2009. The Part II Application deadline was on January 12, 2010. There were a total of 167 questions posted before the Part II Application deadline. Additional questions asked by bidders were also answered by NERA following the Part II Application deadline.

**c. Were the communication protocols followed?**

Yes. [REDACTED]

**AUCTION WEEK CRITERIA**

**d. Was confidential information properly provided to bidders?**

Yes, the Auction Software was built to ensure that all participants had controlled access to Auction information. [REDACTED]

- e. Did communications between bidders and the Auction Manager follow procedure?**

Yes, please see the answer to 5d.

**QUESTION 7:**

**From what Boston Pacific could observe, were any hardware or software problems or errors observed, either with the FP Auction system or with its associated communications systems?**

**ANSWER 7: No.**

**AUCTION WEEK CRITERIA**

- a. What problems, if any, were there with the Auction or communications system on NERA's end?**

Boston Pacific is unaware of any material issues with NERA's communication systems based on our review of electronic and voice communications.

- b. Did bidders experience any computer or communications problems that appeared to be the fault of NERA?**

No, all bids were successfully received by NERA.

- c. Was NERA aware of any material technical issues?**

No, NERA did not indicate any material technical issues.

- d. Did bidders communicate any material concerns to NERA?**

No, please see 5f.

**QUESTION 8:**

**Were there any unanticipated delays during the FP Auction?**

**ANSWER 8: No.**

During the Auction concern was expressed with the impending severe snowstorm that threatened the East Coast. The Auction Manager notified all bidders that they would make a decision whether or not to suspend the bidding on Wednesday (when the storm was scheduled to hit) by Tuesday afternoon. Bidding concluded

prior to this decision having to be made and the storm had no notable effect on the Auction.

**QUESTION 9:**

**Did unanticipated delays appear to adversely affect bidding in the FP Auction? What adverse effects did Boston Pacific directly observe and how did they relate to the unanticipated delays?**

**ANSWER 9: No.**

**QUESTION 10:**

**Were appropriate data back-up procedures planned and carried out?**

**ANSWER 10: Yes.**

**AUCTION WEEK CRITERIA**

**a. Was Auction data backed-up during the Auction?**

According to the Auction Manager Protocols, NERA ensured that no Auction information would be lost if there was a problem with the Auction software during the Auction. [REDACTED]

**QUESTION 11:**

**Were any security breaches observed with the FP Auction process?**

**ANSWER 11: No.**

To our knowledge, there were no security breaches.

During the Auction, many security measures were in place. The Auction software used on bid day was built to ensure that all participants had controlled access to Auction data. [REDACTED]

Boston Pacific reviewed communications between NERA and bidders. [REDACTED]

**QUESTION 12:**

**From what Boston Pacific could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and Boston Pacific during the FP Auction?**

**ANSWER 12:** Yes.

**AUCTION WEEK CRITERIA**

**a. Were protocols followed as described by NERA?**

Yes. As far as Boston Pacific is aware, the Communication Protocols were followed during the Auction. Also, please see answer to 5d.

**b. Did BPU Staff and Boston Pacific get all the information that we required?**

Yes, Boston Pacific and BPU Staff received all data requested from NERA in a timely and professional fashion during the Auction.

**QUESTION 13:**

**From what Boston Pacific could observe, were the protocols followed for decisions regarding changes in FP Auction parameters (e.g., volume, load caps, bid decrements)?**

**ANSWER 13:** Yes.

**PRE-AUCTION CRITERIA**

**a. Were notable changes made to the decrement formulas?**

No. No notable changes were made to the decrement formulas this year.

**AUCTION WEEK CRITERIA**

**b. During the Auction, did the Auction Manager impose any changes on the FP Auction parameters?**

Boston Pacific independently calculated the bid decrements including the switch to the second phase (regime) for decrement calculations.

The Auction Rules prescribe two different regimes of formulas for calculating the price decrements during the calculating phase of each round. The Auction Rules also give the conditions used to change from Regime One to Regime Two.

Boston Pacific validated NERA's decision to switch from Regime One to Regime Two.

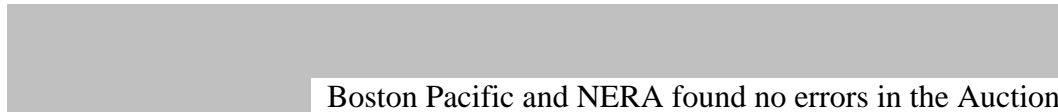


There were no volume reductions during the Auction. There were no changes to the load caps during the Auction.

**QUESTION 14:**

**Were the calculations (e.g., for bid decrements or bidder eligibility) produced by the FP Auction software double-checked or reproduced off-line by the Auction Manager?**

**ANSWER 14: Yes.**



Boston Pacific and NERA found no errors in the Auction software calculations.

**QUESTION 15:**

**Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the Auction?**

**ANSWER 15: No.**

There was no evidence of confusion or misunderstanding that caused delays; as noted, Boston Pacific reviewed all electronic and voice communications.

**QUESTION 16:**

**From what Boston Pacific could observe, were the communications between the Auction Manager and bidders timely and effective?**

**ANSWER 16: Yes.**

**AUCTION WEEK CRITERIA**

All answers to questions reviewed by Boston Pacific seemed relevant and clear. Again, Boston Pacific reviewed electronic messages at the end of each bidding

day. In addition, Boston Pacific also reviewed the phone conversations between bidders and the Auction Manager.

Boston Pacific believes answers to bidders' questions were provided in a timely fashion, and NERA made all possible efforts to ensure bids were placed on time.

**QUESTION 17:**

**Was there evidence that bidders felt unduly rushed during the process? Should the Auction have been conducted more expeditiously?**

**ANSWER 17: No.**

Each bidder is permitted 1 recess request and 3 extension requests during the Auction. The Auction includes an automatic extension after round 1. [REDACTED] there was no indication [REDACTED] that bidders were rushed.

Through our review of electronic messages, there was no indication from bidders that they felt unduly rushed. Through our checks of phone calls, Boston Pacific also did not receive indication that bidders were unduly rushed. In addition, all bids were received by NERA.

Bidders were also able to test the Auction Software during the Trial Auction for Registered Bidders, and therefore were comfortable with it during the actual Auction.

**QUESTION 18:**

**Were there any complaints from bidders about the process that Boston Pacific believed were legitimate?**

**ANSWER 18: No.**

Boston Pacific believes there were no legitimate complaints about the Auction. That is, there were no questions raised by bidders that were not resolved.

**QUESTION 19:**

**Was the FP Auction carried out in an acceptably fair and transparent manner?**

**ANSWER 19: Yes.**

Speaking broadly, the New Jersey Auction is structured to be fair and transparent. The two key features in this regard are (a) the precisely defined product being solicited and (b) the price-only evaluation. These assure that all bidders are supplying the same product and no bidder can gain advantage over another except by offering a lower price. Because the product and evaluation method are clearly spelled out, any bidder that meets the qualification requirements may participate.

In addition, as approved by the BPU, the BGS Auction had several mechanisms in place to ensure a fair and transparent process.

All interested parties were given ample opportunity to comment on the 2010 BGS process. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2009. Furthermore, interested parties were also invited to file initial comments and final comments by August 28, 2009 and September 25, 2009, respectively. The Board also held a Legislative-type hearing on September 10, 2009. Finally, following its November 10, 2009 Agenda meeting, the Board released a letter on November 12, 2009 asking for comments on whether the retail margin should be reduced, phased-out, or eliminated entirely.

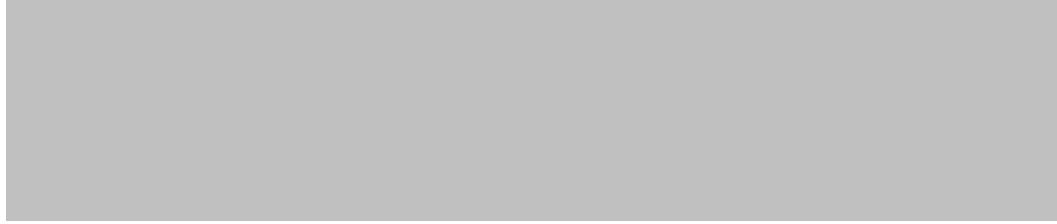
Before the Auction began, the procedures were approved and made public. For instance, Auction rules were approved by the Board. Contracts and master agreements were standardized, approved, and made public before the Auction. Any optional changes in the language of these agreements were standardized, approved, and made public before the Auction as well. Finally, application and credit requirements to become a bidder in the BGS Auction were also standardized, approved, and made public before the Auction.

Bidder information sessions were held by the Auction Manager to educate potential bidders on the Auction process. They provided an opportunity for questions to be asked in a public forum. Any questions asked pertaining to the Auction were posted on the BGS Auction website. This FAQ section ensured that all bidders had equal access to information provided to any one bidder. Boston Pacific believes that they were helpful for bidders, as evidenced by the attendance at these sessions.

The Auction Manager consulted with Boston Pacific and BPU Staff concerning Part I and II Applications. 







An additional factor helping the Auction is that it had been going on for several years and that its results have been constantly honored by the Board. This fairness and consistency of process helps attract more bidders and better offers.

Finally, the Auction was carried out in a fair and transparent manner in the sense that the Auction adhered to the Auction Rules. The Auction rules and the Auction Software were designed to produce a fair and transparent Auction. The rules were made public and approved by the BPU. The Auction Software assured that bidders received the correct information.

**QUESTION 20:**

**Was there evidence of non-productive “gaming” on the part of bidders?**

**QUESTION 21:**

**Was there any evidence of collusion or improper coordination among bidders?**

**QUESTION 22:**

**Was there any evidence of a breakdown in competition in the FP Auction?**

**ANSWER 20: No.**

**ANSWER 21: No.**

**ANSWER 22: No.**

Developing the information to answer these three questions and, more broadly, assessing the competitiveness of the BGS Auction was a central focus of our monitoring efforts. We assessed both structural and behavioral indicators of competitiveness in each round of bidding in both the FP Auction (which includes residential customers as well as some commercial customers) and the CIEP Auction (which includes larger commercial and industrial customers). Although we go into some detail here, these indicators are just that, indications of competitiveness; they are not hard and fast numerical standards.

Both structural and behavioral indicators give support for the specific answers provided to all three of these questions as well as support to the broader finding

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that the BGS Auction was competitive. Among the structural indicators were the number of bidders, the number of winners, the market share of winners, and a widely-used measure of competitiveness related to market shares called the Herfindahl-Hirschman Index (HHI).

[REDACTED]

This is a good number of bidders and the list includes many well-known participants in the U.S. electricity business. As a group, these suppliers offered to supply a number of tranches [REDACTED]

This excess in offers is important because any excess automatically results in the price decreasing round-by-round to the benefit of New Jersey consumers.

[REDACTED]

Of the suppliers who bid, 13 suppliers actually won the right to serve some portion of the New Jersey consumer need in the FP Auction. With respect to market share of each winner, some background on standards is useful. Having a minimum of three suppliers is sometimes set as a standard of competitiveness. The BGS Auction rules assures this by limiting to approximately 37% the portion of statewide consumer need that can be won by any single supplier.

Another standard for judging market share comes from a FERC standard for granting the right for a supplier to sell at market-based prices (as opposed to regulated cost-based rates.) In one of two FERC threshold tests for granting the right to sell at market-based prices, FERC asks that the supplier have no more than a 20% share of the market. If the market share is 20% or less, it is presumed the supplier cannot exercise market power. If the market share exceeds 20%, the supplier can conduct an additional test or point to mitigation for market power, such as the mitigation measures and monitoring of the PJM Interconnection or the Midwest ISO – that is, the 20% is not a hard and fast limit to market based rate authority.

Among the 13 winners in the FP Auction, [REDACTED]

The Herfindahl-Hirschman Index (HHI) is a measure of competitiveness closely related to market shares. Again, some background on the HHI standard is useful. The U.S. Department of Justice has a three-part standard for HHIs when judging the competitive effect of mergers and acquisitions. An HHI at or under 1,000 is a safe harbor of sorts because the market is said to be un-concentrated. If, after a merger or acquisition, the HHI is at or below 1,000, it is generally thought that there is no competitive harm from the merger or acquisition; that is, the merger or acquisition does not make the exercise of market power more likely. An HHI between 1,000 and 1,800 is said to indicate moderate concentration. An HHI over 1,800 is said to indicate a highly concentrated market. FERC uses these same standards when it assesses mergers and acquisitions. However, for market-based-rate authority, FERC uses a threshold of 2,500 for the HHI in one of its standards.

For the FP Auction, using the winning shares as market shares, the HHI is 1,790. This puts the HHI for the FP Auction into the high end of the moderately concentrated range of the DOJ's HHI brackets. At 1,790 this HHI is below the 2,500 level used by FERC as an additional standard for granting a supplier the right to charge market-based prices. Moreover, to include only winning bidders is a narrow focus for calculating an HHI. For example, a more appropriate focus would be the total of 16 suppliers who will serve consumers in 2010-2011; these are the winners in 2008 and 2009, as well as in the 2010 Auction. The HHI in this case would be exactly the same.

A final method that is also employed in antitrust evaluations examines the HHI of a market when the price in the market is raised by 5%. This so-called "Delivered Price Test" gives a sense of what supplier would have participated at a price level roughly consistent with market prices.

With respect to behavioral indicators, the core of this effort was to detect any sign of collusion among bidders. No evidence of collusion was found in the FP Auction. We assessed the moves of each bidder in each round of bidding. Looking at a panoramic view of tranches bid in each round we detected no evidence of coordination of bidding.

**QUESTION 23:**

**Was information made public appropriately? From what Boston Pacific could observe, was sensitive information treated appropriately?**

**ANSWER 23: Yes.**

Yes, Pre-Auction information was treated appropriately pursuant to the communication protocols. Please see answers 6a-6c.

To our knowledge, no confidential information was leaked while the Auction was conducted. All suppliers, NERA, EDCs, and Boston Pacific signed confidentiality agreements. [REDACTED]

**QUESTION 24:**

**Does the FP Auction appear to have generated a result that is consistent with competitive bidding, market-determined prices, and efficient allocation of the BGS-FP load?**

**ANSWER 24: Yes.**

Although the acceptance or rejection of Auction results is not based on any assessment of price levels, Boston Pacific attempted to develop an expectation of the final Auction prices [REDACTED]

Furthermore, the fact that the product has a three-year duration requires the analyst to have some opinion on the state of future market conditions for cost factors such as congestion.

[REDACTED]

[REDACTED]



2010 BGS Auction							
Product	Tranches Filled	Final Price (cents/kWh)	2009 price (cents/kWh)	% Decrease from 2009	Price Expectation Range (cents/kWh)		
					Average	Low	High
PSE&G	28	9,577	10,372	-8%			
JCP&L	18	9,517	10,351	-8%			
ACE	7	9,856	10,536	-6%			
RECO	1	10,332	11,27	-8%			
<b>Total</b>	54						
<b>Average<sup>3</sup></b>		9,607	10,403	-8%			

1) Source: Boston Pacific 2009 Auction Report  
 2) [Redacted]  
 3) Tranche-Weighted average.

Comparing this year’s average winning price to last year we can see that prices dropped about 8 percent. This is largely as we would expect given decreased prices in the energy market over the past year along with improvements in such risk factors as electricity price volatility and slightly improved conditions in the credit markets.

As mentioned above, the full requirements product is not traded publicly on any market. However, other states do also solicit a full requirements product, so a rough comparison with those states can also give us a check on our results. One such state is Delaware, which solicits a full requirements product similar to New Jersey’s. In their most recent solicitation, held two weeks before the FP Auction, Delaware received a price for its Residential and Small Commercial product (a three year full requirements product similar to FP service in New Jersey) of about 9 cents/kWh. This number is not completely comparable to New Jersey as Delaware bidders do not have to provide Renewable Energy Certificates or Transmission service. Adjusting the Delaware price for these components easily brings the final price into the same range as we saw here in New Jersey.

**QUESTION 25:**

**Were there factors exogenous to the FP Auction (e.g., changes in market environment) that materially affected the FP Auction in unanticipated ways?**

**ANSWER 25: No.**

No, please see the answer to 24. Changes from last year’s results were driven primarily by decreases in energy prices, and improvements in risk factors such as

lowered volatilities in electricity prices and improved conditions in the credit markets.

**QUESTION 26:**

**Are there any concerns with the FP Auction's outcome with regard to any specific EDC(s)?**

**ANSWER 26: No**

**III. THE NEW JERSEY 2010 BGS-CIEP AUCTION**

A. POST-AUCTION CHECKLIST



**ATTACHMENT B  
DOCKET NO. EO09050351**



**POST-AUCTION CHECKLIST FOR THE NEW JERSEY  
2010 BGS-CIEP AUCTION**

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Prepared by: Boston Pacific Company, Inc.

Auction began with the opening of Round 1 at 08:30 on Fri, February 5, 2010

Auction finished with the close of Round 36 at 11:20 on Tue, February 9, 2010

	Start of Round 1	Start of Round 2 * (after volume reduction in Round 1, if applicable)	Start of Round n * (after post-Round 1 volume reduction, if applicable)
# Bidders		NA	NA
Tranche target	40	NA	NA
Eligibility ratio		NA	NA
Statewide load cap	14	NA	NA

\* Note: No volume adjustment was made during the CIEP auction, so the pre-auction tranche target and the statewide load cap were unchanged for the auction.

**ATTACHMENT B  
DOCKET NO. EO09050351**

**Post-Auction Checklist for the New Jersey 2010 BGS-CIEP Auction**

Table 1 below shows pertinent indicators and measures for the auction.

**Table 1. Summary of BGS-CIEP Auction**

	<b>PSE&amp;G</b>	<b>JCP&amp;L</b>	<b>ACE</b>	<b>RECO</b>	<b>Total</b>
BGS-CIEP peak load share (MW)	1,712.02	782.30	314.80	37.20	2,846.32
Total tranches needed	23	11	5	1	40
Starting tranche target in auction	23	11	5	1	40
Final tranche target in auction	23	11	5	1	40
Tranche size (%)	4.35	9.09	20.00	100.00	
Tranche size (approximate MW)	74.44	71.12	62.96	37.20	
Starting load cap (# tranches)	--	--	--	--	14
Final load cap (# tranches)	--	--	--	--	14
Quantity procured (# tranches)	23	11	5	1	40
Quantity procured (% BGS-CIEP load)	100%	100%	100%	100%	100%
# Winning bidders	3	4	2	1	7
Maximum # of tranches procured from any one bidder	12	4	4	1	12
Minimum and maximum starting prices prior to indicative bids (\$/MW-day)					340 275
Starting price at start of auction (\$/MW-day)*					
Final auction price (\$/MW-day)**	170.79	177.99	170.54	185.82	173.11

\* Price shown in “Total” column is an average across the EDCs weighted by each EDC’s “Starting tranche target in auction”.

\*\* Price shown in “Total” column is an average across the EDCs weighted by each EDC’s “Final tranche target in auction”.

**ATTACHMENT B  
DOCKET NO. EO09050351**

**Post-Auction Checklist for the New Jersey 2010 BGS-CIEP Auction**

**Table 2. Overview of Findings on BGS-CIEP Auction**

Question		Comments
1	<b>BP's recommendation as to whether the Board should certify the CIEP auction results?</b>	Yes, certify
2	Did bidders have sufficient information to prepare for the CIEP auction?	Yes
3	Was the information generally provided to bidders in accordance with the published timetable? Was the timetable updated appropriately as needed?	Yes
4	Were there any issues and questions left unresolved prior to the CIEP auction that created material uncertainty for bidders?	No
5	From what BP could observe, were there any procedural problems or errors with the CIEP auction, including the electronic bidding process, the back-up bidding process, and communications between bidders and the Auction Manager?	No
6	From what BP could observe, were protocols for communication between bidders and the Auction Manager adhered to?	Yes
7	From what BP could observe, were there any hardware or software problems or errors, either with the CIEP auction system or with its associated communications systems?	No
8	Were there any unanticipated delays during the CIEP auction?	No
9	Did unanticipated delays appear to adversely affect bidding in the CIEP auction? What adverse effects did BP directly observe and how did they relate to the unanticipated delay?	No
10	Were appropriate data back-up procedures planned and carried out?	Yes
11	Were any security breaches observed with the CIEP auction process?	No

Question		Comments
12	From what BP could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and BP during the CIEP auction?	Yes
13	From what BP could observe, were the protocols followed for decisions regarding changes in CIEP auction parameters (e.g., volume, load cap, bid decrements)?	Yes
14	Were the calculations (e.g., for bid decrements or bidder eligibility) produced by the CIEP auction software double-checked or reproduced off-line by the Auction Manager?	Yes
15	Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the auction?	No
16	From what BP could observe, were the communications between the Auction Manager and bidders timely and effective?	Yes
17	Was there evidence that bidders felt unduly rushed during the process? Should the auction have been conducted more expeditiously?	No
18	Were there any complaints from bidders about the process that BP believed were legitimate?	No
19	Was the CIEP auction carried out in an acceptably fair and transparent manner?	Yes
20	Was there evidence of non-productive “gaming” on the part of bidders?	No
21	Was there any evidence of collusion or improper coordination among bidders?	No
22	Was there any evidence of a breakdown in competition in the CIEP auction?	No
23	Was information made public appropriately? From what BP could observe, was sensitive information treated appropriately?	Yes
24	Does the CIEP auction appear to have generated a result that is consistent with competitive bidding, market-determined prices, and efficient allocation of the BGS-CIEP load?	Yes

<b>Question</b>		<b>Comments</b>
25	Were there factors exogenous to the CIEP auction (e.g., changes in market environment) that materially affected the CIEP auction in unanticipated ways?	No
26	Are there any concerns with the CIEP auction's outcome with regard to any specific EDC(s)?	No

B. BOSTON PACIFIC SUPPLEMENTAL CHECKLIST

**BOSTON PACIFIC SUPPLEMENT TO NEW JERSEY BGS AUCTION  
CHECKLIST: CIEP AUCTION**

**QUESTION 1:**

**Boston Pacific's recommendation as to whether the Board should certify the CIEP Auction results?**

**ANSWER 1:** Yes, certify.

**CRITERIA:**

**a. Were all checklist questions satisfactorily answered?**

Yes.

**QUESTION 2:**

**Did bidders have sufficient information to prepare for the CIEP Auction?**

**ANSWER 2:** Yes.

**PRE-AUCTION CRITERIA**

**a. Were there Pre-Bid sessions and were they informative?**

Yes, there were Pre-Bid Information Sessions and they informed bidders about Auction procedures and developments.

There were three Pre-Bid Information Sessions held: (i) the first session was held on both October 2, 2009 and October 9, 2009 in Washington, DC and Philadelphia, respectively; (ii) the second session was held on December 4, 2009 in Philadelphia; and (iii) the third session was held on January 26, 2010 in Philadelphia. The first two information sessions were open to any entities interested in participating in the Auction. The third information session was held after the Application process and, thus, was for Registered Bidders only.

Note that 17 companies attended the first information session and 11 companies attended the second information session. In total, 19 companies showed interest in the 2010 Auction by attending one of the first two bidder information sessions. This compares to 24 companies attending one of the first two sessions last year. Three out of the [REDACTED] attended the third bidder information session. All questions asked at the information sessions were adequately answered by NERA.

**b. Were frequently asked questions (FAQs) posted on the BGS website and were all questions answered?**

Yes, the FAQs were posted and all questions asked in a timely manner were answered.

All questions asked by bidders and their answers were posted on the FAQ section of the BGS website pursuant to NERA's FAQ Protocols. These protocols called for a specific process for answering bidder questions to ensure that all bidders had access to the same information at the same time.

As of January 19, 2010, 168 questions had been asked by bidders since August 11, 2009, the first day FAQs were posted. All of these questions were answered in a timely fashion by NERA. The general topics of questions included: (a) the application process, (b) association and confidential information rules, (c) the Auction Rules, (d) the Supplier Master Agreement, (e) credit, (f) data provided, (g) payments and rates, (h) the new requirements under the "Solar Energy Advancement and Fair Competition Act", and (i) other miscellaneous questions.

Bidders had the most questions concerning the association and confidential information rules. NERA provided responses to all of these questions, which seemed to satisfy bidders. Furthermore, because of the importance of this topic, NERA issued a specific document that addresses common situations with respect to associations and confidential information. Because of concerns over bidders being able to provide proper credit assurances in the current market, bidders were given an opportunity to seek approval for modifications to the existing letter of credit (LOC) document prior to applications being due.

Starting on January 20, 2010, the Auction Manager sent answers to questions received each day to Registered Bidders via email. Boston Pacific was copied onto these emails, and reviewed these FAQs as well.

**c. Was required information and data provided on the website?**

Yes, the BGS Auction website provided required data for bidders to prepare for the Auction.

The following Auction information, among other things, was provided according to the schedule posted by NERA: (a) Application forms, (b) minimum/maximum starting prices, (c) tranche targets, (d) load caps, (e) finalized rules, (f) final Supplier Master Agreements, and (g) finalized decrement formulas.

NERA also maintained a "data room" on their website, which contained data that was updated monthly and additional data that was updated less frequently. NERA provided a document for both of these types of data that provided a description of the data included in the "data room." Examples of such data include load data, which was updated monthly for each EDC and covered the period through October 2009, and switching statistics that showed the percentage of load and customers that have switched to third party suppliers. This data, and other data in



the “data room”, was provided to help bidders prepare their bids. Any time revisions were made to the data, NERA marked this on their website.

A few days prior to the Auction it was discovered that JCP&L’s CIEP Eligible hourly load inadvertently excluded the load of customers over 1,000 kW on the GS and GST rate classes. As a result, the BGS-CIEP Eligible hourly load was somewhat understated and the BGS-FP Eligible Load was somewhat overstated. All bidders were notified of this problem and the necessary data to correct this problem was posted. We do not believe this issue had a material affect on the Auction.

**d. Did Bidders receive Auction logistics information (i.e. Confidential Bidder Information packet) on time?**

Yes, before the Trial Auction, [REDACTED]

**e. Did bidders communicate any material concerns to NERA?**

No. All questions asked by bidders were answered. NERA did not indicate that there were any unresolved, material concerns.

**f. Were bidders given an opportunity to provide proposals and comments concerning the 2010 Auction Process?**

Yes. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2009. Furthermore, interested parties were also invited to file initial comments and final comments by August 28, 2009 and September 25, 2009, respectively. The Board also held a Legislative-type hearing on September 10, 2009. Finally, following its November 10, 2009 Agenda meeting, the Board released a letter on November 12, 2009 asking for comments on whether the retail margin should be reduced, phased-out, or eliminated entirely. After reviewing all comments from the EDCs and other interested parties, the Board approved the 2010 BGS Auction Process.

**QUESTION 3:**

**Was the information generally provided to bidders in accordance with the published timetable? Was the timetable updated appropriately as needed?**

**ANSWER 3: Yes.**

**PRE-AUCTION CRITERIA**

**a. Was the timeline followed?**

Yes.

**b. Were there updates to the timeline?**

Yes, NERA followed the posted calendar of significant events on the BGS website.

The BGS Auction website contained a specific section at the top of the calendar that took note of the upcoming events. It included information from the initial EDC proposal in July 2009 through the Auction in February 2010. As milestones were met, the calendar was updated to reflect each event's completion. As far as Boston Pacific is aware, the Auction process was carried out according to this schedule. In addition, interested parties could sign up for an Auction update mailing list. Reminders of important dates were sent out to all potentially interested bidders and to those registered parties.

**QUESTION 4:**

**Were there any issues and questions left unresolved prior to the CIEP Auction that created material uncertainty for bidders?**

**ANSWER 4: No.**

**PRE-AUCTION CRITERIA**

**a. Were all questions answered in the FAQs?**

Yes, please see answer to 2b.

**b. Were bidder questions asked after January 19, 2010 directly responded to by NERA?**

Yes, questions were asked by Registered Bidders after January 19, 2010. NERA provided answers to these questions directly to bidders via email. These answers were distributed daily. Bidders did not indicate any concerns with the answers provided by NERA. Also, please see answers to 2b and 2e.

**c. Did other events or issues produce any material uncertainty for bidders?**

No, bidders did not raise any issues in the FAQs that indicated material uncertainty for bidders. Boston Pacific also monitored various industry news sources and did not discover any events that would produce material uncertainty for bidders.

While we believe no factors created *material* uncertainty for bidders, there were factors that could have increased the uncertainty facing bidders to a smaller extent

for this year's Auction. Most notably, the change in Renewable Portfolio Standards, specifically the increase in and new calculation of the requirement for Solar Renewable Energy Certificates (SRECs) brought on by the enactment of "The Solar Energy Advancement and Fair Competition Act" added some uncertainty for bidders as they had only a short amount of time to analyze the new law and price the new requirements into their bids. Nonetheless, we believe that bidders were ultimately able to do this effectively.

**d. Did bidders communicate any material concerns to NERA?**

No, please see answer to 2e.

**e. Was information equitably provided to bidders?**

Yes, information was provided to bidders equally. This was done through Pre-Bid Information Sessions, FAQs provided online on the BGS Auction website, and announcements of upcoming important events and milestones. Also, please see answers to 2a-2d.

**f. Was information provided to maximize the number of bidders for the Auction?**

Yes, before bidders were registered, NERA conducted extensive marketing efforts in order to maximize bidder participation. (Maximum bidder participation is important since the Auction is such that the more excess supply, the further prices can decrease. The supply offered in excess of need directly drives the "tick down" (the decrease) in Auction price.)

NERA conducted direct marketing with potential bidding companies through phone calls. The list of contacts was developed from participants that registered for information on the BGS Auction website. In addition, PJM members who were identified as potential bidders but had not registered on the BGS Auction website were also added to the list of contacts. NERA ran two rounds of phone calls to potential bidders. In total, [REDACTED]

The Auction Manager consulted with Boston Pacific during each of the Application processing periods. [REDACTED]

**g. From Boston Pacific's observation, were there any pre-qualification requirements which directly prevented bidder participation?**

[REDACTED] to our knowledge, there were no issues with the Part I application process that knowingly prevented a bidder from becoming approved. This was also true of all Part II applicants. [REDACTED]

[REDACTED]

[REDACTED]

**QUESTION 5:**

**From what Boston Pacific could observe, were there any procedural problems or errors with the CIEP Auction, including the electronic bidding process, the back-up bidding process, and communications between bidders and the Auction Manager?**

**ANSWER 5: No.**

**AUCTION WEEK CRITERIA**

**a. Was protocol followed for the CIEP Auction?**

Yes, to our knowledge, the Auction was carried out according to the Auction Rules as approved by the Board.

**b. Were there problems with the electronic bidding process?**

No, there were no problems with the Auction software during testing and trials.

Boston Pacific had full opportunity to test NERA's bidding software, backup bidding process, and bid recording systems during three Trial Auctions. For the first Trial Auction on January 15, 2010 Boston Pacific assumed the role of a bidder and verified that bidders' accounts had access to the correct information. We tested the Auction software by submitting problematic bids to determine if the software operated according to the rules and provided proper information to bidders. We also tested NERA's backup bidding systems by submitting backup bids and creating situations to test NERA's bidder notification protocols. We found no major issues in our test.

For the second and third Trial Auctions, held on January 22<sup>nd</sup> and January 28<sup>th</sup> 2010, Boston Pacific moved to the evaluation side. We monitored and evaluated bids submitted by the EDC's and NERA in the second Trial and by Registered Bidders in the third Trial. We received and tested bid reports from NERA's software and formulated reports and checked price decrements using our own bid evaluation software.

During the Auction, Boston Pacific did not observe any software breakdowns.

**c. Was the back-up bidding process followed?**

Yes [REDACTED]. Boston Pacific had tested the backup procedure during Trial Auctions. Further, Registered Bidders also had the opportunity to practice the back-up bid procedure during the Trial Auction for Registered Bidders on January 28, 2010.

**d. Did communications between bidders and the Auction Manager follow procedure?**

Yes, communications between bidders and the Auction Manager followed procedure.

Bidders were given two ways of communicating with the Auction Manager during the Auction. Bidders had a telephone number for technical assistance and they could also send electronic messages through the online platform. While there were no telephone calls for the CIEP Auction, all electronic messages and the answers given by the Auction Manager were saved. Boston Pacific reviewed all electronic messages.

**e. Were Auction schedule protocols followed with regard to extensions and recesses?**

Yes [REDACTED]. In addition, bidders were given an automatic extension after round one. This is the second year that this automatic extension has been utilized. This rule change was made on our suggestion as a way to conceal whether any bidders had decided to not participate in the Auction. Bidders were warned that they still had to provide bids prior to the extension or they would lose an extension themselves.

**f. Did bidders communicate any material concerns to NERA?**

No.

**QUESTION 6:**

**From what Boston Pacific could observe, were protocols for communication between bidders and the Auction Manager adhered to?**

**ANSWER 6: Yes.**

**PRE-AUCTION CRITERIA**

**a. Was confidential information properly provided to bidders?**

Yes. Boston Pacific did not observe any release of confidential information or inappropriate communication that could impair the integrity of the Auction.

**b. Before the Part II Application deadline, were questions placed on the Auction website?**

Yes. The first FAQ was posted on the BGS website August 11, 2009. The Part II Application deadline was on January 12, 2010. There were a total of 167 questions posted before the Part II Application deadline. Additional questions asked by bidders were also answered by NERA following the Part II Application deadline.

**c. Were the communication protocols followed?**

Yes.



**AUCTION WEEK CRITERIA**

**d. Was confidential information properly provided to bidders?**

Yes, the Auction Software was built to ensure that all participants had controlled access to Auction information.



**e. Did communications between bidders and the Auction Manager follow procedure?**

Yes, please see the answer to 5d.

**QUESTION 7:**

**From what Boston Pacific could observe, were there any hardware or software problems or errors, either with the CIEP Auction system or with its associated communications systems?**

**ANSWER 7: No.**

**AUCTION WEEK CRITERIA**

**a. What problems, if any, were there with the Auction or communications system on NERA's end?**

Boston Pacific is unaware of any material issues with NERA's communication systems based on our review of electronic communications.

**b. Did bidders experience any computer or communications problems that appeared to be the fault of NERA?**

No, all bids were successfully received by NERA.

**c. Was NERA aware of any material technical issues?**

No, NERA did not indicate any material technical issues.

**d. Did bidders communicate any material concerns to NERA?**

No, please see 5f.

**QUESTION 8:**

**Were there any unanticipated delays during the CIEP Auction?**

**ANSWER 8: No.**

During the Auction concern was expressed with the impending severe snowstorm that threatened the East Coast. The Auction Manager notified all bidders that they would make a decision whether or not to suspend the bidding on Wednesday (when the storm was scheduled to hit) by Tuesday afternoon. Bidding concluded prior to this decision having to be made and the storm had no notable effect on the Auction.

**QUESTION 9:**

**Did unanticipated delays appear to adversely affect bidding in the CIEP Auction? What adverse effects did Boston Pacific directly observe and how did they relate to the unanticipated delays?**

**ANSWER 9: No.**

**QUESTION 10:**

**Were appropriate data back-up procedures planned and carried out?**

**ANSWER 10: Yes.**

**AUCTION WEEK CRITERIA**

**a. Was Auction data backed-up during the Auction?**

According to the Auction Manager Protocols, NERA ensured that no Auction information would be lost if there was a problem with the Auction software during the Auction. [REDACTED]

**QUESTION 11:**

**Were any security breaches observed with the CIEP Auction process?**

**ANSWER 11: No.**

To our knowledge, there were no security breaches.

During the Auction, many security measures were in place. The Auction software used on bid day was built to ensure that all participants had controlled access to Auction data. [REDACTED]

Boston Pacific reviewed communications between NERA and bidders. [REDACTED]

**QUESTION 12:**

**From what Boston Pacific could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and Boston Pacific during the CIEP Auction?**

**ANSWER 12: Yes.**



**AUCTION WEEK CRITERIA**

**a. Were protocols followed as described by NERA?**

Yes. As far as Boston Pacific is aware, the Communication Protocols were followed during the Auction. Also, please see answer to 5d.

**b. Did BPU Staff and Boston Pacific get all the information that we required?**

Yes, Boston Pacific and BPU Staff received all data requested from NERA in a timely and professional fashion during the Auction.

**QUESTION 13:**

**From what Boston Pacific could observe, were the protocols followed for decisions regarding changes in CIEP Auction parameters (e.g., volume, load caps, bid decrements)?**

**ANSWER 13: Yes.**

**PRE-AUCTION CRITERIA**

**a. Were notable changes made to the decrement formulas?**



**AUCTION WEEK CRITERIA**

**b. During the Auction, did the Auction Manager impose any changes on the CIEP Auction parameters?**

Boston Pacific independently calculated the bid decrements including the switch to the second phase (regime) for decrement calculations.

The Auction Rules prescribe two different regimes of formulas for calculating the price decrements during the calculating phase of each round. The Auction Rules also give the conditions used to change from Regime One to Regime Two. Boston Pacific validated NERA's decision to switch from Regime One to Regime Two.



[REDACTED]

There were no volume reductions during the Auction. There were no changes to the load caps during the Auction.

**QUESTION 14:**

**Were the calculations (e.g., for bid decrements or bidder eligibility) produced by the CIEP Auction software double-checked or reproduced off-line by the Auction Manager?**

**ANSWER 14: Yes.**

[REDACTED] Boston Pacific and NERA found no errors in the Auction software calculations.

**QUESTION 15:**

**Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the Auction?**

**ANSWER 15: No.**

There was no evidence of confusion or misunderstanding that caused delays; as noted, Boston Pacific reviewed all electronic communications.

**QUESTION 16:**

**From what Boston Pacific could observe, were the communications between the Auction Manager and bidders timely and effective?**

**ANSWER 16: Yes.**

**AUCTION WEEK CRITERIA**

All answers to questions reviewed by Boston Pacific seemed relevant and clear. Again, Boston Pacific reviewed electronic messages at the end of each bidding day.

Boston Pacific believes answers to bidders' questions were provided in a timely fashion, and NERA made all possible efforts to ensure bids were placed on time.

**QUESTION 17:**

**Was there evidence that bidders felt unduly rushed during the process? Should the Auction have been conducted more expeditiously?**

**ANSWER 17: No.**

Each bidder is permitted 1 recess request and 3 extension requests during the Auction. The Auction includes an automatic extension after round 1. [REDACTED] there was no indication [REDACTED] that bidders were rushed.

Through our review of electronic messages, there was no indication from bidders that they felt unduly rushed. In addition, all bids were received by NERA.

Bidders were also able to test the Auction Software during the Trial Auction for Registered Bidders, and therefore were comfortable with it during the actual Auction.

**QUESTION 18:**

**Were there any complaints from bidders about the process that Boston Pacific believed were legitimate?**

**ANSWER 18: No.**

Boston Pacific believes there were no legitimate complaints about the Auction. That is, there were no questions raised by bidders that were not resolved.

**QUESTION 19:**

**Was the CIEP Auction carried out in an acceptably fair and transparent manner?**

**ANSWER 19: Yes.**

Speaking broadly, the New Jersey Auction is structured to be fair and transparent. The two key features in this regard are (a) the precisely defined product being solicited and (b) the price-only evaluation. These assure that all bidders are supplying the same product and no bidder can gain advantage over another except by offering a lower price. Because the product and evaluation method are clearly spelled out, any bidder that meets the qualification requirements may participate.

In addition, as approved by the BPU, the BGS Auction had several mechanisms in place to ensure a fair and transparent process.

All interested parties were given ample opportunity to comment on the 2010 BGS process. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2009. Furthermore, interested parties were also invited to file initial comments and final comments by August 28, 2009 and September 25, 2009, respectively. The Board also held a Legislative-type hearing on September 10, 2009. Finally, following its November 10, 2009 Agenda meeting, the Board released a letter on November 12, 2009 asking for comments on whether the retail margin should be reduced, phased-out, or eliminated entirely.

Before the Auction began, the procedures were approved and made public. For instance, Auction rules were approved by the Board. Contracts and master agreements were standardized, approved, and made public before the Auction. Any optional changes in the language of these agreements were standardized, approved, and made public before the Auction as well. Finally, application and credit requirements to become a bidder in the BGS Auction were also standardized, approved, and made public before the Auction.

Bidder information sessions were held by the Auction Manager to educate potential bidders on the Auction process. They provided an opportunity for questions to be asked in a public forum. Any questions asked pertaining to the Auction were posted on the BGS Auction website. This FAQ section ensured that all bidders had equal access to information provided to any one bidder. Boston Pacific believes that they were helpful for bidders, as evidenced by the attendance at these sessions.

The Auction Manager consulted with Boston Pacific and BPU Staff concerning Part I and II Applications. [REDACTED]

[REDACTED] having the greatest number of bidders ensures healthy competition during the Auction, maximizing the potential for the lowest rates.

An additional factor helping the Auction is that it had been going on for several years and that its results have been constantly honored by the Board. This fairness and consistency of process helps attract more bidders and better offers.

Finally, the Auction was carried out in a fair and transparent manner in the sense that the Auction adhered to the Auction Rules. The Auction rules and the Auction Software were designed to produce a fair and transparent Auction. The rules were made public and approved by the BPU. The Auction Software assured that bidders received the correct information.

**QUESTION 20:**

**Was there evidence of non-productive “gaming” on the part of bidders?**

**QUESTION 21:**

**Was there any evidence of collusion or improper coordination among bidders?**

**QUESTION 22:**

**Was there any evidence of a breakdown in competition in the CIEP Auction?**

**ANSWER 20: No.**

**ANSWER 21: No.**

**ANSWER 22: No.**

Developing the information to answer these three questions and, more broadly, assessing the competitiveness of the BGS Auction was a central focus of our monitoring efforts. We assessed both structural and behavioral indicators of competitiveness in each round of bidding in both the FP Auction (which includes residential customers as well as some commercial customers) and the CIEP Auction (which includes larger commercial and industrial customers). Although we go into some detail here, these indicators are just that, indications of competitiveness; they are not hard and fast numerical standards.

Both structural and behavioral indicators give support for the specific answers provided to all three of these questions as well as support to the broader finding that the BGS Auction was competitive. Among the structural indicators were the number of bidders, the number of winners, the market share of winners, and a widely-used measure of competitiveness related to market shares called the Herfindahl-Hirschman Index (HHI).

[REDACTED]

This is a good number of bidders and the list includes many well-known participants in the U.S. electricity business. As a group, these suppliers offered to supply a number of tranches [REDACTED]

[REDACTED]

This excess in offers is important because any excess automatically results in the price decreasing round-by-round to the benefit of New Jersey consumers.

Of the suppliers who bid, 7 suppliers actually won the right to serve some portion of the New Jersey consumer need in the CIEP Auction. With respect to market share of each winner, some background on standards is useful. Having a

minimum of three suppliers is sometimes set as a standard of competitiveness. The BGS Auction rules assures this by limiting to approximately 35% the portion of statewide consumer need that can be won by any single supplier.

Another standard for judging market share comes from a FERC standard for granting the right for a supplier to sell at market-based prices (as opposed to regulated cost-based rates.) In one of two FERC threshold tests for granting the right to sell at market-based prices, FERC asks that the supplier have no more than a 20% share of the market. If the market share is 20% or less, it is presumed the supplier cannot exercise market power. If the market share exceeds 20%, the supplier can conduct an additional test or point to mitigation for market power, such as the mitigation measures and monitoring of the PJM Interconnection or the Midwest ISO – that is, the 20% is not a hard and fast limit to market based rate authority.

Among the 7 winners in the CIEP Auction, [REDACTED]

The Herfindahl-Hirschman Index (HHI) is a measure of competitiveness closely related to market shares. Again, some background on the HHI standard is useful. The U.S. Department of Justice has a three-part standard for HHIs when judging the competitive effect of mergers and acquisitions. An HHI at or under 1,000 is a safe harbor of sorts because the market is said to be un-concentrated. If, after a merger or acquisition, the HHI is at or below 1,000, it is generally thought that there is no competitive harm from the merger or acquisition; that is, the merger or acquisition does not make the exercise of market power more likely. An HHI between 1,000 and 1,800 is said to indicate moderate concentration. An HHI over 1,800 is said to indicate a highly concentrated market. FERC uses these same standards when it assesses mergers and acquisitions. However, for market-based-rate authority, FERC uses a threshold of 2,500 for the HHI in one of its standards.

For the CIEP Auction, using the winning shares as market shares, the HHI is 1,963. This puts the HHI for the CIEP Auction into the highly concentrated range of the DOJ’s HHI brackets. However, at 1,963 this HHI is below the 2,500 level used by FERC as an additional standard for granting a supplier the right to charge market-based prices. To include only winning bidders is a narrow focus for calculating an HHI.

A broader method that is also employed in antitrust evaluations examines the HHI of a market when the price in the market is raised by 5%. This so-called “Delivered Price Test” gives a sense of what supplier would have participated at a price level roughly consistent with market prices. [REDACTED]

With respect to behavioral indicators, the core of this effort was to detect any sign of collusion among bidders. No evidence of collusion was found in the CIEP Auction. We assessed the moves of each bidder in each round of bidding. Looking at a panoramic view of tranches bid in each round we detected no evidence of coordination of bidding.

**QUESTION 23:**

**Was information made public appropriately? From what Boston Pacific could observe, was sensitive information treated appropriately?**

**ANSWER 23: Yes.**

Yes, Pre-Auction information was treated appropriately pursuant to the communication protocols. Please see answers 6a-6c.

To our knowledge, no confidential information was leaked while the Auction was conducted. All suppliers, NERA, EDCs, and Boston Pacific signed confidentiality agreements. [REDACTED]

**QUESTION 24:**

**Does the CIEP Auction appear to have generated a result that is consistent with competitive bidding, market-determined prices, and efficient allocation of the BGS-CIEP load?**

**ANSWER 24: Yes.**

Although the acceptance or rejection of Auction results is not based on any assessment of price levels, Boston Pacific attempted to develop an expectation of the final Auction prices [REDACTED]

Bidders who win the right to serve CIEP load must provide a full requirements product (i.e. energy, capacity, ancillary services, RPS requirements, etc.) and are paid their winning bid price, plus the spot energy price per MWh delivered plus \$6/MWh for ancillary services, plus standby fee of \$0.15 per MWh.

Although CIEP is also a full requirements product, the Auction price primarily reflects a fixed price for the capacity portion of that service, since bidders are paid the spot energy price. [REDACTED]



**QUESTION 25:**

**Were there factors exogenous to the CIEP Auction (e.g., changes in market environment) that materially affected the CIEP Auction in unanticipated ways?**

**ANSWER 25: No.**

**QUESTION 26:**

**Are there any concerns with the CIEP Auction's outcome with regard to any specific EDC(s)?**

**ANSWER 26: No**