

## **Appendix #1 – Biographies of Task Force Members**

### **Zulima V. Farber, Task Force Chair**

Zulima V. Farber is the former New Jersey Public Advocate and Public Defender, under former Governor Jim Florio. In that capacity, she, among other duties, argued cases of public interest before the New Jersey Supreme Court.

Both before and after her work as the state's Public Advocate, Ms. Farber has worked for Lowenstein Sandler PC (1981-1992, 1994- ). She became a member of the firm in 1986. She has more than 25 years of litigation experience in both state and federal courts. Before coming to Lowenstein Sandler, Ms. Farber served as Assistant counsel to Governor Brendan Byrne (1978 - 1981), and as Assistant Prosecutor in Bergen County (1975 - 1978).

Ms. Farber was Chairperson of the Hudson County Improvement Authority from 1985 to 1990 and the Board of Trustees of Jersey City Medical Center, and is currently a member of the Boards of Trustees of Liberty Healthcare Systems, Inc. and Fairleigh Dickinson University. She is also a member, and former Chairperson, of the New Jersey State Advisory Committee to the U.S. Commission on Civil Rights.

In 1983, Ms. Farber was President of the Hispanic Bar Association. She is a member of the Supreme Court Advisory Committee on Ethics and has been a member of the New Jersey Supreme Court Committee on Criminal Rules, the Committee on Evidence Rules, and the Committee on Character. From 1982-1985, she was a member of the Supreme Court Task Force on Court Interpreters and Translators.

Ms. Farber received her B.A. in 1968 and her M.A. in 1970 from Montclair State College. In 1974, she earned her J.D. from Rutgers School of Law.

### **Lawrence R. Codey**

Lawrence R. Codey, currently retired, was President and Chief Operating Officer of Public Service Electric and Gas Company (PSE&G) and a member of the Board of Directors of Public Service Enterprise Group, PSE&G's parent holding company.

Mr. Codey joined PSE&G as an attorney in 1973. He became Corporate Rate Counsel in 1975 and was elected Vice President in 1983. He was named Senior Vice President-Gas in December 1987, and was elected Senior Vice President in January 1989, before becoming CEO in 1991.

Mr. Codey earned a B.S. degree in history from St. Peter's College in 1966, a J.D. degree from Seton Hall University of Law in 1969, and an M.B.A degree from Rutgers in 1975. He also completed the Advanced Management Program at the Harvard Graduate School of Business Administration.

He served in the U.S. Army in Vietnam, attaining the rank of captain. He is a member of the New Jersey Bar Association. He also serves as a director on the boards of the Trust Company of New Jersey, United Water Sources, Inc., Blue Cross and Blue Shield of New Jersey, Sealed Air Corporation, the American Gas Association, the Regional Business Paternship, The Chamber of Commerce of the Metro Newark Region and the New Jersey Utilities Association. Mr. Codey is a member of the Board of Trustees for St. Peters College. In March, 1991, he was appointed to the U.S. Environmental Agency's National Clean Air Act Advisory Committee and in July 1992, was named to the New Jersey Board of Regulatory Commissioner's Advisory Council on Electricity Planning and Procurement. In 1994, Mr. Codey was appointed to the State Commission on Higher Education. He is co-chair of the New Jersey Quality Achievement Award Advisory Board.

### **Jim Dieterle**

Jim Dieterle is AARP's New Jersey State Director, and is the top staff person for AARP in the State. Jim provides leadership and works collaboratively with his state and national AARP staff team, and with literally hundreds of dedicated AARP New Jersey volunteers to help make life better for AARP members and for all generations by providing information, consumer and legislative advocacy, and opportunities for community involvement.

A lifelong New Jersey resident, Jim's career has been rooted in consumer advocacy. Prior to coming to AARP in 1998, Jim headed up Business/Advocacy Resources, a consulting firm providing professional services to non-profit organizations and government agencies. Previously, with PSE&G, he held numerous senior managerial positions covering customer outreach activities, customer relations, and commercial office operations. While at PSE&G, Jim developed and implemented numerous consumer education and customer outreach programs, many of which focused on older adults and/or low-income consumers.

During his career Jim has established win-win collaborations between industry and state government to improve the quality of life for New Jersey's lower-income families. He founded or co-founded several consumer-focused organizations. These have included the New Jersey Energy and Aging Consortium, the New Jersey Low-Income Energy Network, The Partnership Committee, and New Jersey SHARES, a statewide energy fund. He has served as President of the NY Metro Chapter of The Society of Consumer Affairs Professionals in Business, and continues to hold officer-level positions in several non-profit organizations. Married to Dr. Maura C. Ryan, a geriatric nurse practitioner and President of Elder Options, they have six children, six grandchildren, and reside in Princeton, New Jersey.

### **Steven Gabel**

Steven Gabel is currently President of Gabel Associates. Gabel Associates is a consulting firm, which assists clients in strategic energy issues, regulatory matters and

negotiations with utilities and other suppliers. Gabel Associates currently provides energy planning, procurement and financial advice, strategic analysis and expert testimony to a wide range of public and private sector clients.

Steven Gabel has provided extensive expert testimony on energy and public utility issues and has participated actively in restructuring issues in New Jersey, PJM and the New York ISO. He is an economist with a background in pricing, industrial organization, public policy and the history of economic thought.

From 1983 to 1990, Steven Gabel served as the Director of the Electric Division of the New Jersey Board of Public Utilities, where he worked extensively on various utility rate cases and developed and implemented rate setting, alternative energy, demand side management, incentive regulation, cost of service and tariff design initiatives.

From 1990 to 1993 he served as Director of Solid Waste Management at the New Jersey Board of Public Utilities and the New Jersey Department of Environmental Protection and Energy, where he directed the policies and activities of the only comprehensive economic and environmental solid waste program in the nation.

### **John E. McCormac**

John E. McCormac, 43, is utilizing years of experience balancing budgets and acting with fiscal responsibility in his new role as New Jersey's next State Treasurer.

For the past year, McCormac had been the Acting Business Administrator for Woodbridge Township, where he was responsible for the day-to-day operations of the Township, including the supervision of seven departments and over 700 employees. He was also the Chief Financial Officer for the Township since 1992 in which he was responsible for over \$93 million dollars in budget appropriations and over \$250 million in cash receipts and disbursements. For the past thirteen years, McCormac was the owner and manager of a small CPA firm, McCormac & Co., CPA's, which services clients in the fields of government, retail, contracting and professional services. Prior to this, he worked for Arthur Young & Co., CPA's where he was Manager of Governmental Auditing and Consulting.

McCormac, who lives in the Colonia section of Woodbridge Township, is a Certified Public Accountant, Certified Municipal Finance Officer, Certified Management Accountant, Registered Municipal Accountant, Certified Financial Planner, Licensed Public School Accountant, and a Certified Government Financial Manager. He received his M.B.A. in Finance from St. John's University in 1984 and his B.A. in Accounting from the Newark College of Arts and Sciences of Rutgers University in 1980. He was also a part of Rutgers University's Accounting and Auditing adjunct faculty and was a teacher for Certified Government Finance Officer courses.

**James E. McGuire**

Mr. McGuire has more than 25 years of broad-based experience as an ombudsman, mediator and attorney, including 20 years of service with the New Jersey Public Advocate Department (1974-1994). He served as an Assistant Deputy Public Advocate in the New Jersey Division of Rate Counsel where he handled a full range of utility rate cases involving electric, gas, water, sewer, and solid waste utilities. Mr. McGuire established and directed the New Jersey Center for Public Dispute Resolution where he also mediated complex multi-party disputes involving environmental, land use, infrastructure, and other public policy issues. He served as a court-appointed mediator in a dispute involving the cost allocation of a \$500 million regional sewer system among 37 municipalities. Mr. McGuire also served as the Acting Director and Deputy Director of the New Jersey Division of Citizen Complaints. As the ombudsman for New Jersey state government, he successfully resolved citizen complaints about the state bureaucracy, issued white papers, and initiated strategies which sought to correct the root cause of systemic program problems. Most recently, he served as Co-Chair of the Public Advocate Transition Team for Governor-Elect McGreevey's 2001-2002 transition.

Mr. McGuire currently practices in the Princeton and Newark offices of Reed Smith. Mr. McGuire concentrates his practice in the areas of public utility and environmental law and regulation. Mr. McGuire represents utility companies and municipal utility authorities in regulatory and permitting matters before the New Jersey Board of Public Utilities, New Jersey Department of Environmental Protection and other regional agencies. He also represents the interests of numerous trade groups and large commercial customers in utility rate and regulatory proceedings, including the proceedings before the New Jersey Board of Public Utilities to restructure the electric and gas utility industries. Mr. McGuire presently serves as an Officer of the NJ State Bar Association's Public Utility Law Section.

Mr. McGuire is a 1973 graduate of Lafayette College and earned his J.D. from Seton Hall University in 1993. He also holds an MSEL in Environmental Law, *magna cum laude* from Vermont Law School and an MPA degree from Rutgers University. Mr. McGuire is admitted to practice in New Jersey, Pennsylvania and the District of Columbia. He is a member of the Mercer County, New Jersey State and American Bar Associations.

**Robert L. Smartt**

Bob Smartt serves as Deputy State Treasurer, a position he previously held from 1992 to 1994. He has served as Administrator of the state Office of Telecommunications and Information Systems, and has held management positions in planning, policy analysis and public affairs at the Port Authority of New York and New Jersey.

Bob worked as Deputy Director of the New Jersey General Assembly, and served as Staff Vice President of the National Conference of State Legislatures, the highest-ranking legislative staff officer in the organization.

Before working for the Legislature, Bob was a reporter and editor at The Record in Morristown and a reporter at The Star-Ledger.

He received a B.A. from Drew University and an M.B.A. from the Stern School of Business at New York University.

**Scott A. Weiner**

Scott Weiner has held a number of elected and appointed public offices including: Chief Counsel to former New Jersey Governor Jim Florio; Commissioner of the New Jersey Department of Environmental Protection and Energy; and President of the New Jersey Board of Public Utilities. Scott was also a member and Chairman of the U.S. Ozone Transport Commission and a member of the 1992 Clinton-Gore EPA transition team. He also was a councilman in Fort Lee, NJ and held appointed positions in Bergen County, NJ and in the U.S government.

Scott is currently a member of the Senior Management team of Sithe Energies, a company that develops, owns and operates wholesale electric power facilities. Scott is Sithe's Senior Vice President, Market Structure, Regulatory and Legislative Affairs. Immediately prior to joining Sithe, Scott was President of Ballard Generation Systems, a subsidiary of Ballard Power Systems where he lead the commercialization of distributed generation systems, based on the Ballard Fuel Cell Technology. Prior to joining Ballard in 1996, Scott was Vice President for Development at GPU International where he was responsible for investment and project development activities related to power generation and distribution, including the commercialization of emerging energy technologies. Scott has also practiced law with a concentration in municipal finance. He currently serves as a Trustee of the Hun School of Princeton, where he chairs the Development and Strategic Planning Committees.

Scott is active in many organizations that promote sustainable development and technology commercialization. He is a member of the Board of Directors of the Center for Sustainable Development in the Americas and serves as Chairman of the Business Council for Sustainable Energy. He has served as a member of the Board of Trustees of the New Jersey Corporation for Advanced Technology, the Solar Energy Industries Association and the Board of Directors of the National Hydrogen Association.

Scott is a graduate of New York University and has a Juris Doctorate from the New York Law School where he graduated Magna cum laude.

## **Appendix #2 – Task Force Questionnaires**

*a) Questionnaires were sent out to the following individuals and organizations (full questionnaire responses are posted at [www.state.nj.us/deferredbalances](http://www.state.nj.us/deferredbalances))*

### ***Interest Groups***

Independent Energy Producers of New Jersey  
New Jersey Citizen Action  
New Jersey Chamber of Commerce  
New Jersey Citizen Action  
New Jersey PIRG  
New Jersey Utilities Association  
William Potter, energy expert  
Seema Singh, Ratepayer Advocate

### ***Legislators***

Senator Leonard Connors, Jr.

### ***Utilities***

Conectiv  
JCP&L  
PSE&G  
Rockland Electric

A number of other individuals and organizations were sent questionnaires and did not respond.

*b) The following letter was sent to interest groups and utilities along with Task Force Questionnaires*

August 8, 2002

<<Name>>

<<Address>>

Dear <<Salutation>>:

As you may know, on July 31, Governor James E. McGreevey signed an Executive Order creating the Deferred Balances Task Force. The Governor named me Chair of the Task Force, and it is in this capacity that I am writing you.

The Task Force is charged with investigating the nearly \$1 billion in deferred balances that utilities are expected to accumulate by August 2003. Under provisions of the Electric Discount and Energy Competition Act of 1999 (EDECA), retail energy rates were reduced and capped for four years, while utilities continued to purchase energy at wholesale market prices. EDECA allows utilities to recover deferred balances, the difference between the wholesale price of electricity and the capped rates, from ratepayers beginning on August 1, 2003.

The Governor has asked the Task Force to address the following questions with regard to deferred balances: why were they accumulated, what mitigation steps did utilities take to reduce deferred balances, and how should they be addressed to best protect the interests of ratepayers? Included in this evaluation will be an assessment of the merits of allowing the Board of Public Utilities to approve the securitization of these balances.

On behalf of the Task Force, I would like to solicit your input on these general areas of inquiry. Toward that end, I have attached a list of more specific questions related to our investigation. Because of the time constraints the Task Force is operating under, oral presentations would be impractical, but we value your input and request that you submit a written statement by noon on Thursday, August 15.

Please send written statements to Jess Melanson, Policy Advisor to the Governor, who is providing staff assistance to the Task Force. He can be reached by email at [jess.melanson@gov.state.nj.us](mailto:jess.melanson@gov.state.nj.us), or by fax at 609-777-4081. Jess will then distribute your input to Task Force members.

Thank you in advance for your assistance in helping us address this important issue.

Sincerely,

Zulima Farber

*c) The following questionnaire was sent out to each of New Jersey's four electric utilities*

Answers to the following questions will greatly help the Task Force in completing its charge. Please feel free to attach any supporting documentation.

1. Did your company take a position on EDECA, and specifically on the issues relating to deferred balances, before the Act was passed?
2. When EDECA was passed, did your company anticipate accruing significant deferred balances? Why or why not? If this assessment changed please describe when and why.
3. Please provide, in a matrix, the positive/negative of purchase power costs (i.e., deferred costs) for each month since deregulation commenced up to the present time.
4. Why deferred balances were accrued:
  - a. To what degree did the provisions of EDECA contribute to the accumulation of deferred balances? Would any specific changes in EDECA have decreased the scope of the deferred balance problem?
  - b. To what degree was utility management responsible for the accumulation of deferred balances?
  - c. How did unanticipated external factors (e.g. changes in the electricity market) contribute to deferred balances?
  - d. Why do utilities have such vastly different deferred balances, even on a per customer basis?
5. Prudency Review / Mitigation:
  - a. Explain the process your company utilized for purchasing power in wholesale markets. Specifically, please describe:
    - i. the sources of power purchases
    - ii. the methods by which prices were bid and/or negotiated
    - iii. the types of agreements entered into (e.g. short- or long-term contracts, hedge agreements, etc.)
    - iv. identify the sources of the power by quantity and price.
  - b. Describe all efforts to mitigate or reduce your purchased power costs and deferred balances, particularly at periods of peak demand, and including but not limited to the following mitigation techniques:
    - i. negotiating and/or bidding techniques
    - ii. the search for alternative supply sources
    - iii. attempts at demand side management, particularly at periods of peak demand
    - iv. attempts to renegotiate non-utility generation contracts that were above market rates

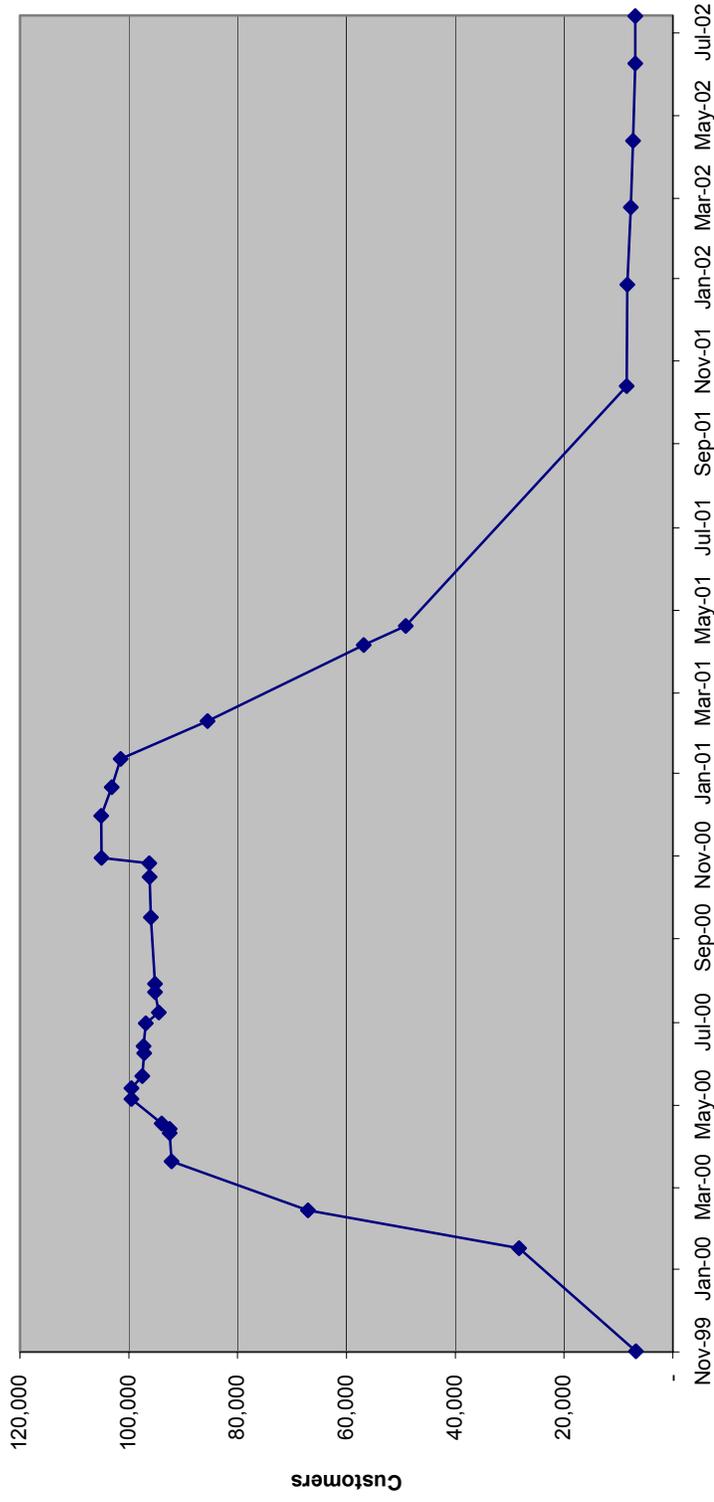
6. Are there specific remedies that your company supports to address the issue of deferred balances? Does your company support the securitization of deferred balances as allowed for by S-869?
7. Does your company have a position on the process by which deferred balances should be investigated and heard by the Board of Public Utilities?

*d) The following questionnaire was sent out to non-utility interest groups*

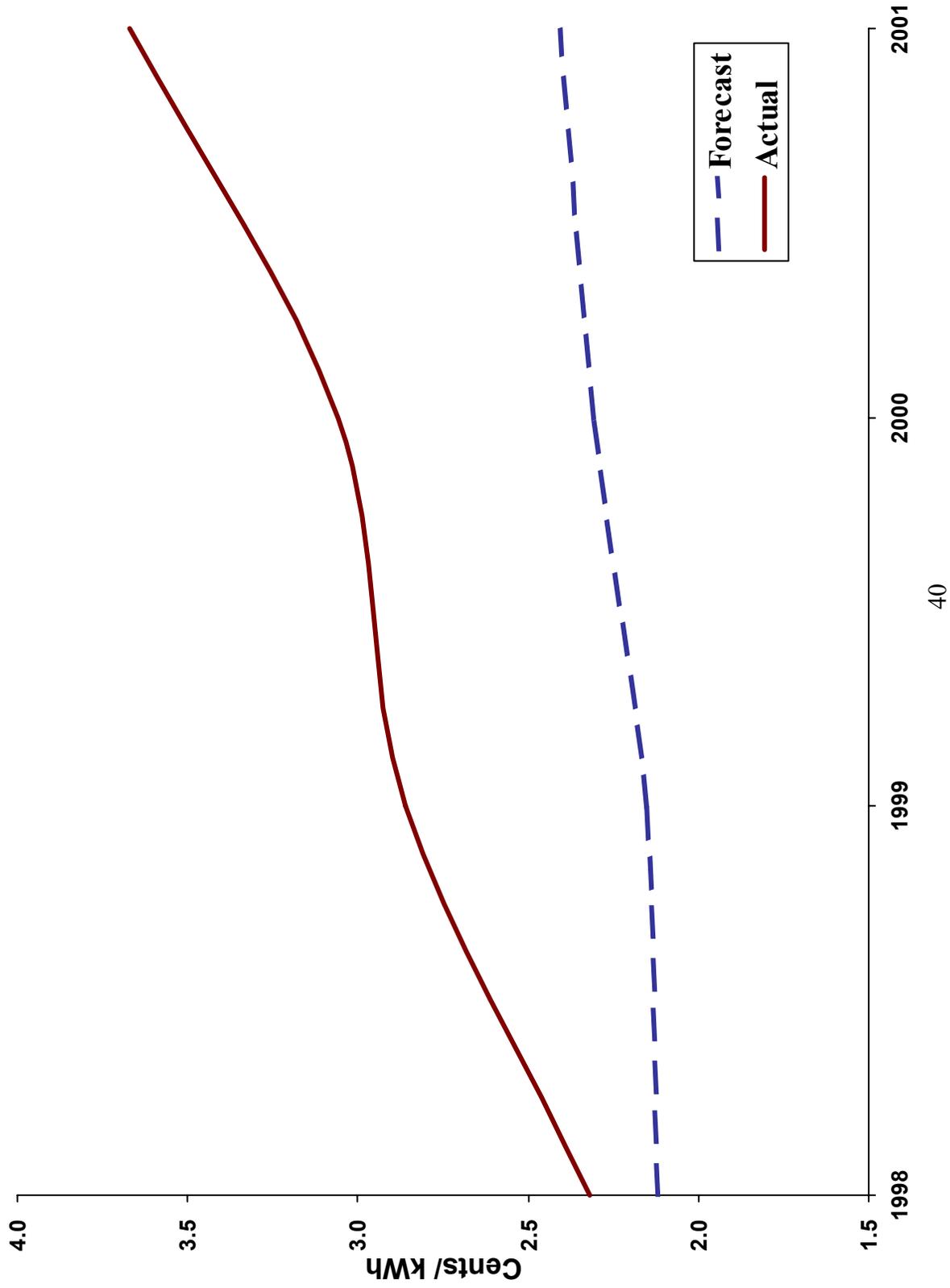
Answers to the following questions will greatly help the Task Force in completing its charge. Please feel free to attach any supporting documentation.

1. Did you or your organization take a position on EDECA, and specifically on the issues relating to deferred balances, before the Act was passed? If so, please describe.
2. Were there provisions relating to deferred balances that you or your organization opposed and/or believed should have been included in EDECA but were not? For example, some organizations opposed the imposition of rate caps, while others supported a levelized adjustment clause or a trigger mechanism to prevent mandated rate reductions if savings from competition were not realized.
3. What do you or your organization believe are the principal factors responsible for the accumulation of nearly \$1 billion in deferred balances? Possible explanations include utility management, certain provisions in EDECA, or factors in the energy market unrelated to EDECA.
4. Are there specific remedies that you or your organization support to address the issue of deferred balances? Do you or your organization support the securitization of deferred balances as allowed for by S-869?
5. What are your or your organization's views on the process by which deferred balances should be investigated and heard by the Board of Public Utilities?

**Appendix #3 - Number of Customers who have Switched to Alternate Energy Suppliers**

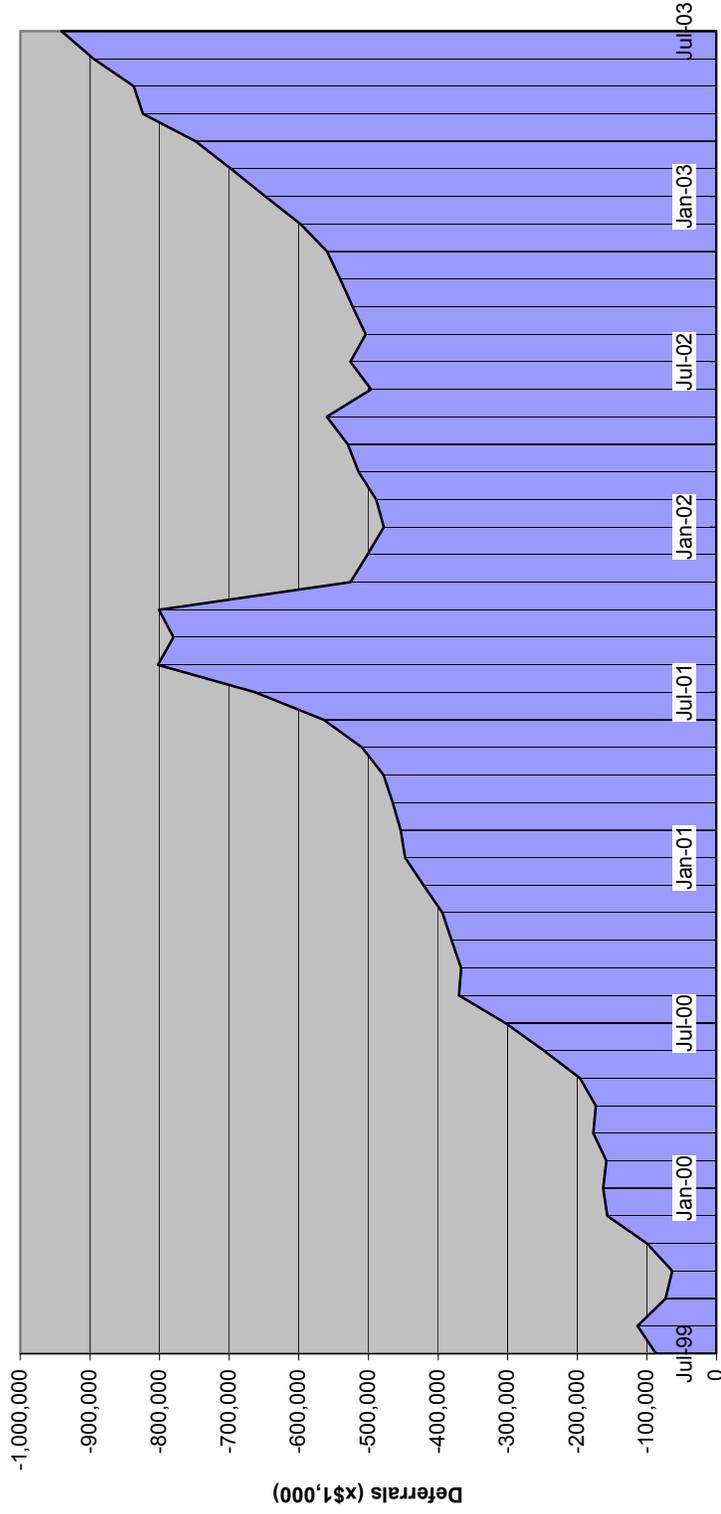


Appendix #4 – Wholesale Energy Market Prices



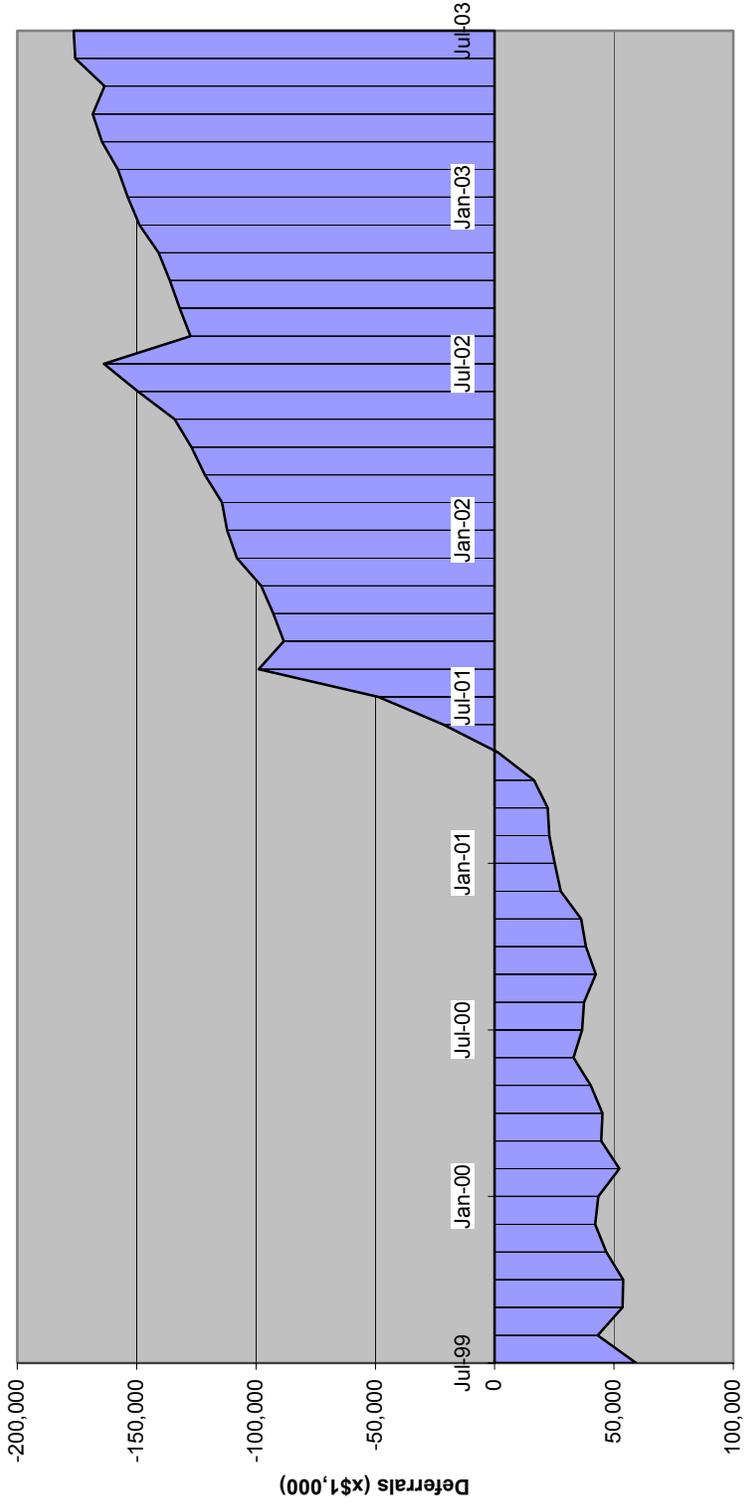
**Appendix #5 – Month-by-Month Accumulation of Deferred Balances**

**Total Accumulation of Deferred Balances - All Utilities**

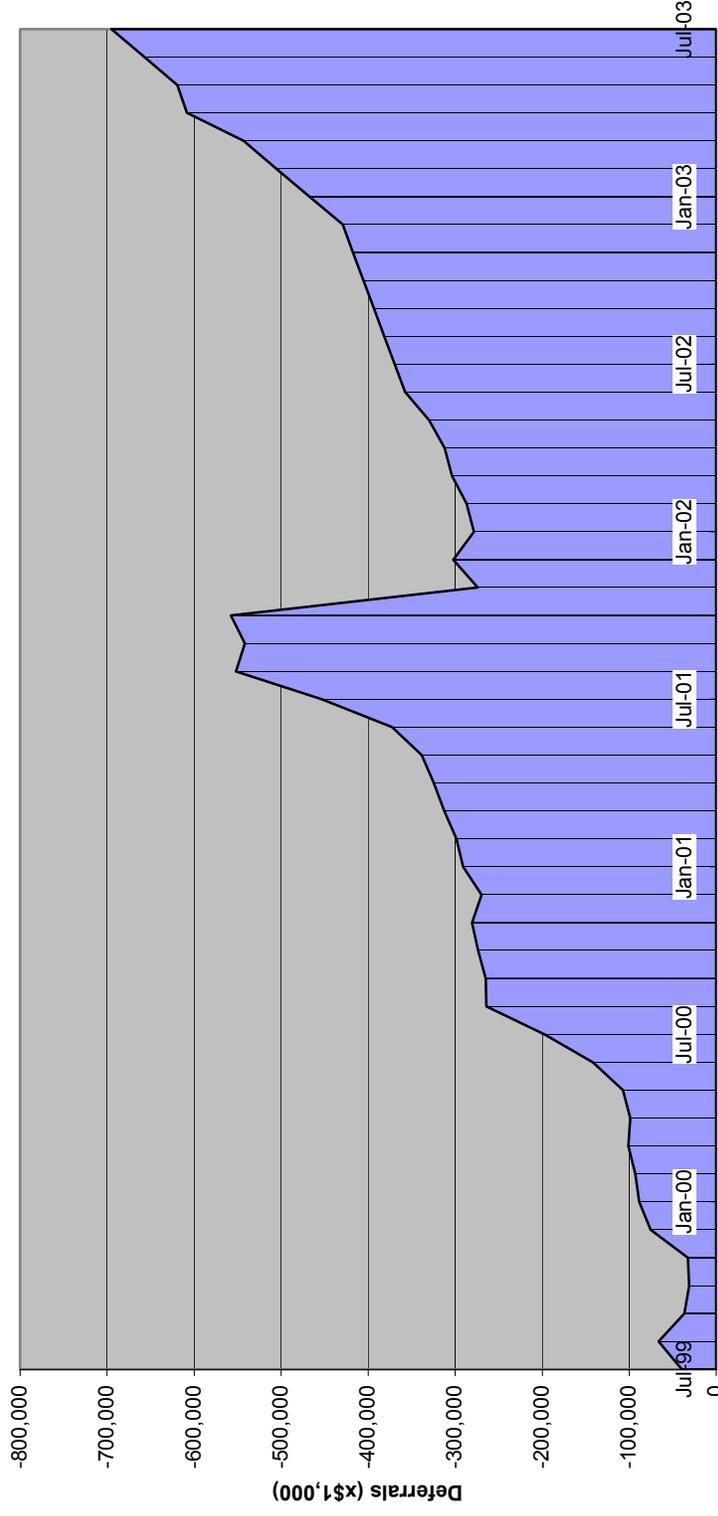


*The sudden decrease in total deferred balances is a result of First Energy absorbing \$300 million of JCP&L's deferred balances as a condition of their merger.*

### Total Deferred Balance Accumulation - Conectiv

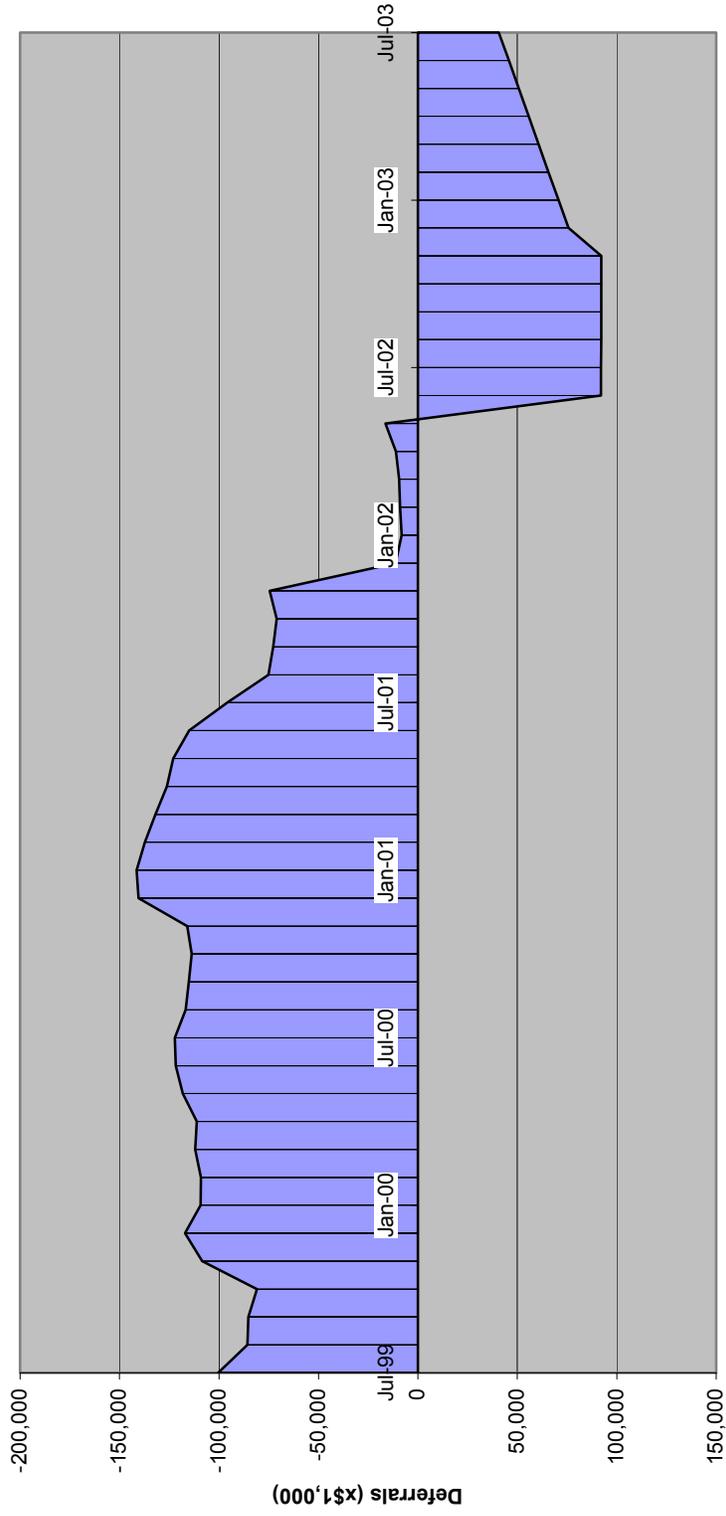


## Total Deferred Balance Accumulation - JCP&L

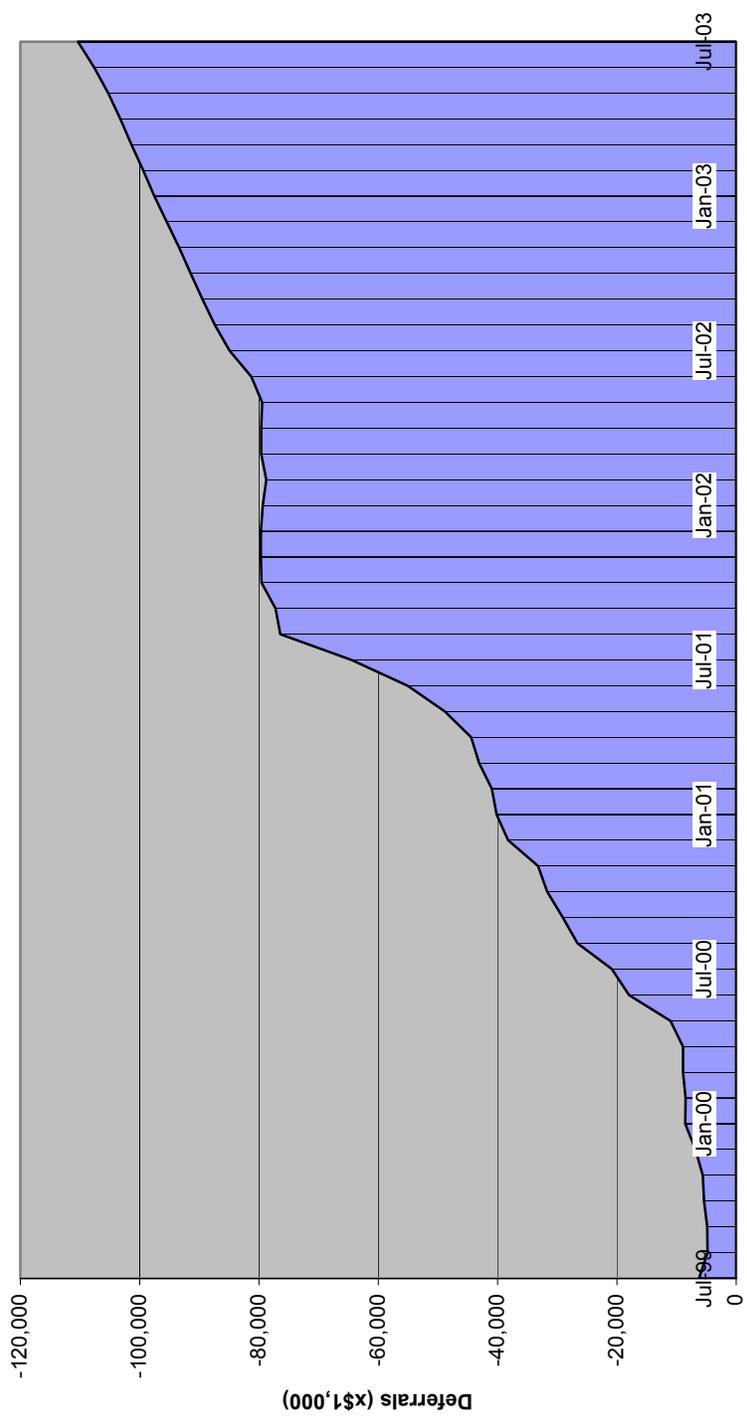


*The sudden decrease in total deferred balances is a result of First Energy absorbing \$300 million of JCP&L's deferred balances as a condition of their merger.*

### Total Deferred Balance Accumulation - PSE&G



**Total Deferred Balance Accumulation - Rockland Electric**



## **Appendix #6 - Technical Addendum Submitted by the Staff of the Board of Public Utilities**

*To further illuminate some of the technical elements relating to the issue of deferred balances, the BPU staff has submitted to the Task Force the following addendum. The Task Force has appended this submission from the BPU in its entirety, but does not necessarily endorse its contents.*

### ***The Board's Deferral Authority***

While there are no explicit references to deferrals in the EDECA, the Board firmly believes that it was only through their use that the EDECA's at times competing objectives could be achieved, particularly the EDECA-mandated rate reductions and shopping credits<sup>1</sup> high enough to stimulate competition without at the same time impairing the utilities' financial integrity. Thus the deferrals were implicitly allowable and necessary, and clearly in keeping with the broad ratemaking authority conferred on the Board by subsection c. (4) of Section 2. of the EDECA (*N.J.S.A. 48:3-50*), which found it to be in the public interest to:

Provide each electric public utility the opportunity to recover above-market power generation and supply costs and other reasonably incurred costs associated with the restructuring of the electric industry in New Jersey, the level of which will be determined by the Board of Public Utilities to the extent necessary to maintain the financial integrity of the electric public utility through the transition to competition, subject to the achievement of the other goals and provisions of this act, and subject to the public utility having taken and continuing to take all reasonably available steps to mitigate the magnitude of its above-market electric power generation and supply costs;

With respect to the provision of basic generation service (BGS), in subsection e. of Section 9. (*N.J.S.A. 48:3-57*), the EDECA affirmed the recoverability of all reasonable and prudently incurred BGS costs:

Each electric public utility...that provides basic generation service pursuant to subsection a., c., or d. of this section shall be permitted to recover in its basic generation charges on a full and timely basis all reasonable and prudently

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<sup>1</sup> The "shopping credit" is the amount charged non-switching customers for generation service obtained from the utility. Conversely, it is the amount not billed (credited to) customers who switched to third party suppliers, thus the name "shopping credit." Since far fewer customers switched during the transition period than anticipated, the utilities' obligation to provide basic generation service was far greater than anticipated.

incurred costs incurred in the provision of basic generation services consistent with the provisions of this section...

Moreover, in permitting utilities to obtain BGS supply from a related competitive business segment, or otherwise, the EDECA expressly allowed for the use of an alternative accounting or cost recovery process if it were needed to mitigate price fluctuations and sustain the EDECA-mandated rate reductions, as set forth in subsection b. (3) of Section 9. (*N.J.S.A.* 48:3-57).<sup>2</sup>

The board may devise an alternative accounting or cost recovery process that permits an electric public utility to purchase power from a related competitive business segment of its public utility holding company, or otherwise, to provide basic generation service to its customers during the period that the public utility is providing for sustainable rate reductions pursuant to subsection j. of section 4 of this act and subsection a. of this section, if the board determines that such process is necessary to mitigate the impacts of market price fluctuations and to sustain such rate reductions.

With respect to the above-market cost (“stranded cost”) of utility-owned generation, buydowns and buyouts of power purchase agreements (PPAs) with other utilities and non-utility generators (NUGs), as well as Board-approved restructuring costs, Section 13. (*N.J.S.A.* 48:3-61) of the EDECA directed the Board to permit each utility the opportunity to recover, through use of a market transition charge (MTC), the level of such costs the Board found eligible for recovery pursuant to subsection e. of Section 13. The mechanism for achieving the recovery was also to be established by the Board pursuant to subsection c. Similarly, by means of a Societal Benefits Charge (SBC), the Board was to permit recovery of all or some portion of the cost of social programs and other expenditures judged to have a societal benefit, as set forth in Section 12. of the EDECA (*N.J.S.A.* 48:3-60). With respect to the recovery of gas plant remediation costs, for example, Section 12. implicitly permitted the use of deferrals by allowing the continued use of the pre-existing rate mechanism approved by the Board for the recovery of these costs.

### ***Components of Total Deferred Balances***

Given this broad ratemaking authority, the Board in its orders implementing the EDECA permitted the utilities to defer the following costs, and in the manner summarized below. The summaries include the most recent estimates of the deferred amounts, as set forth in

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<sup>2</sup> In upholding the Board’s final order in PSE&G’s stranded cost, rate unbundling and restructuring proceeding upon appeal, the Appellate Division of the Superior Court of New Jersey cited this section of the EDECA in finding that the Board had the statutory discretion to authorize such alternative accounting methods as it deemed necessary, i.e., deferred accounting, to achieve the rate reductions mandated by the EDECA.

the petitions filed with the Board by Conectiv (Atlantic City Electric Company) and JCP&L on August 1, 2002, and as estimated by PSE&G in response to the Board's deferred balance reporting requirement. Rockland Electric's estimates are preliminary estimates of the balances for which it will seek recovery in its deferral case to be filed on August 30, 2002.

#### Conectiv (Atlantic City Electric Company)

##### Basic Generation Service (BGS):

In meeting Atlantic's BGS requirement, the generation from its owned generating units prior to their planned divestiture<sup>3</sup>, as well as the energy purchased from non-utility generators under pre-existing long-term contracts, was to be devoted to BGS supply, and priced at the production cost component<sup>4</sup> of the shopping credit charged customers who continued to obtain basic generation service from the utility. Any energy or capacity from these sources not needed for BGS supply was to be sold in the wholesale markets, and the amount received from such sales credited to the BGS deferral. In the first three years of the transition period, the balance of Atlantic's BGS supply was to be obtained from a combination of spot (PJM) purchases and firm supply contracts secured through an open competitive bidding process, and included in Atlantic's BGS costs at actual cost. Atlantic's year four BGS requirement not supplied by its retained generation and NUG purchases is to be supplied by the winning bidder chosen in the Board-approved statewide BGS auction conducted in February 2002.

The difference between the cost of the energy supplied by these sources in the aggregate and the related BGS revenue received from the production cost component of the shopping credit is deferred. After crediting the over-recovered balance of Atlantic's pre-transitional and now discontinued Levelized Energy Adjustment Clause (LEAC) (\$50 million as of July 31, 1999) and the PEPCO merger settlement (\$30 million, credited in August 2002) to the BGS deferred balance, in its compliance filing made with the Board on August 1, 2002, Atlantic estimates that its deferred BGS balance will be \$49 million as of the end of the transition period (July 31, 2003), excluding interest.

##### Market Transition Charge (MTC):

Prior to the divestiture of Atlantic's owned generating units, the units' capital costs (return on and of investment), and operating costs (principally fuel, payroll, and maintenance expenses), net of the amount received from devoting the units' output to BGS supply were to be included in the MTC, the component of unbundled rates for the

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<sup>3</sup> Atlantic's minority ownership interests in its nuclear units aggregating 378 Mw were sold to PSEG Power LLC, an unregulated affiliate of PSE&G, and PECO Energy (now Exelon) in October 2001. An agreement to sell Atlantic's fossil units aggregating 740 Mw to NRG Energy, Inc. fell through in April of this year, but these units have since been placed back on the market.

<sup>4</sup> While its exact composition differs among utilities, in addition to the cost of energy the shopping credit includes provision for the 6% New Jersey Sales and Use Tax (SUT), ancillary services, a "retail adder" intended to stimulate competition, and transmission costs.

recovery of stranded costs, and the component that was adjusted to achieve and maintain the EDECA-related rate reductions during the transition period. Following divestiture, the units' stranded cost approved by the Board was to continue to accrue the return allowed on Atlantic's generation investment prior to divestiture, pending the closing of Atlantic's requested securitization if approved by the Board.<sup>5</sup> Atlantic was also permitted to include in its MTC the capital and operating costs incurred in enhancing its transition-related customer care and balancing and settlement systems, as well as the cost of restructuring-related regulatory proceedings. After reflecting credits associated with the now-superseded New Jersey gross receipts and franchise taxes imposed prior to 1998, Atlantic estimates that its MTC deferred balance will be \$115 million as of the end of the transition period, excluding interest.

Net Non-Utility Generation Charge (NNC, billed as part of the MTC):

Atlantic's contractual NUG payments, net of the amount received from including the related purchased energy in its BGS supply (or for resale in wholesale markets if not needed for BGS supply), were to be deferred, as was the interest incurred in financing NUG buydowns and buyouts (i.e., the buyout of Atlantic's PPA with the Pedricktown project in December 1999) and "swap breakage" costs previously incurred in amending Atlantic's PPA with the Keystone/Logan project. After reflecting additional costs associated with the Keystone/Logan project, Atlantic estimates in its August 1 compliance filing with the Board that its post-transitional NNC deferred balance will be \$27 million, excluding interest.

Societal Benefits Charge (SBC):

As components of its SBC, Atlantic was authorized to include Demand Side Management (DSM) costs, uncollectible accounts expenses, and prior to the sale of its interests in its nuclear units, a previously-allowed provision for nuclear decommissioning costs. Upon the sale of the nuclear interests the decommissioning provision was to be applied to deferral recovery. Reflecting this and the crediting of the July 31, 1999 balance of over-recovered DSM costs of \$9 million to the SBC deferred balance, Atlantic estimates that it will have an over-recovered SBC deferred balance of \$24 million as of the end of the transition period.

Total Atlantic Electric Deferred Balance:

Adding the BGS, MTC, NNC and SBC deferred balances of \$49, \$115, \$27 and \$(24) million, respectively, and accrued interest of \$10 million, yields a total deferred balance of \$177 million projected to be incurred at the end of the transition period. In its August 1 petition Atlantic requested recovery of this amount over four years with interest at

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<sup>5</sup> Currently pending before the Board is Atlantic's petition to securitize nuclear-related stranded costs and costs incurred in buying out and buying down its PPAs with the Pedricktown and Ref-Fuel NUG projects. The total amount requested is \$440 million, including securitization-related transaction costs of \$20 million.

5.4%, which it asserted would require a rate increase of approximately \$43 million, or 5.1%.

### JCP&L

#### Basic Generation Service (BGS):

Revenue received from providing BGS service (i.e., from the production cost component of the shopping credit) is to be used to recover the market value of utility and non-utility energy purchases devoted to BGS supply, the reasonable and prudently incurred costs of company-owned generation devoted to BGS supply, and costs incurred in procuring the additional energy and capacity needed to supply the balance of JCP&L's BGS requirement not obtainable from these sources.

Prior to the sale of JCP&L's fossil units (1,558 Mw, excluding the Forked River gas turbines) in November 1999 and its 25% interest in the TMI-1 nuclear unit in December 1999 (196 Mw), the generation from these units was used to supply JCP&L's BGS requirements (or if not needed for that purpose, resold in wholesale energy markets with the amount received credited to BGS costs). The revenue requirement of these units was correspondingly included as part of recoverable BGS costs. Prior to its sale in August 2000, the generation from Oyster Creek, a 619 Mw nuclear unit located in Lacey Township and wholly owned by JCP&L, was also devoted to BGS supply, as was the generation from the still-owned Forked River units (68 Mw) and the Yards Creek pumped storage plant owned jointly by JCP&L and PSE&G (50%, or 200 Mw, each). Oyster Creek fuel and O&M expenses, as well as the revenue requirement of the still-owned facilities were included in BGS recoverable costs.

As part of the sales agreement with the purchaser of its fossil units (Sithe Energies, Inc.), JCP&L negotiated a "parting contract" that gave it the option of purchasing generating capacity (but not energy) at a fixed range of prices through May 2002. As part of the sales agreement with the purchaser of Oyster Creek (Amergen), JCP&L negotiated a parting contract that allowed it to purchase the energy output of the unit (as well as its capacity) at a fixed price through March 31, 2003. A similar parting contract with Amergen allowed JCP&L to purchase the output and capacity of TMI-1 at fixed prices through the year 2001. The energy secured under these contracts was devoted to BGS supply at its actual cost.

Similarly, the energy purchased from utility and non-utility generators was used to supply BGS (or if not needed for that purpose resold at wholesale), but priced at its administratively-determined market value for purposes of BGS cost recovery.

During the first three years of the transition period the balance of JCP&L's BGS requirement was obtained from a combination of firm 2-party purchases and PJM spot purchases. In year four, the balance of JCP&L's BGS supply above that obtainable from its NUG and other contractual purchases and the retained Forked River units and Yards

Creek is to be supplied by the winning bidder chosen in the statewide BGS auction conducted in February 2002.

The difference between these costs in the aggregate and the BGS revenue received from the production cost component of JCP&L's shopping credit is deferred if the costs exceed the related BGS revenue, or credited to stranded cost recovery if the BGS revenue exceeds the related BGS costs. In its petition filed with the Board on August 1, 2002, JCP&L estimates that its BGS deferred balance will be \$314 million at the end of the transition period, excluding interest.

#### Market Transition Charge (MTC):

Revenue from the MTC (the component of JCP&L's unbundled rates for the recovery of stranded costs, and the component that was adjusted to achieve and maintain the EDECA-related rate reductions during the transition period) is to be applied to the recovery of deferred BGS costs, if any, the above-market cost of utility and non-utility power purchases, the unamortized balance of buyout costs previously incurred in terminating JCP&L's PPA with the Freehold NUG project (\$54 million as of July 31, 1999, subject to the Board's final approval), the under-recovered balance of JCP&L's discontinued LEAC (\$89 million as of July 31, 1999, less pro-rated LEAC revenues received in August, yielding a net balance of \$52 million), and Oyster Creek stranded costs, including an annuity at 7% interest for the recovery of JCP&L's investment in the unit prior to the Board-approved securitization of the unamortized balance of the unit's stranded cost on June 11, 2002.

Credited to the MTC deferred balance were revenue received from JCP&L's Telcom subsidiary, a DSM over-recovery of \$4 million, a termination payment of \$58 million received from NEIL, the insurer of JCP&L's now-divested nuclear units, an over-accrued New Jersey low-level radwaste siting liability of \$31million, a \$27 million PPA restructuring credit to be received from the Bayonne NUG project, \$0.5 million reserved in connection with a dispute with the Sussex Rural Electric Cooperative, a net divestiture credit from the sale of JCP&L's fossil units and TMI-1 of \$48 million, and finally, the \$300 million First Energy merger settlement written off, as a credit to the deferred balance, in November 2001.

Reflecting the above, in its petition filed with the Board on August 1, 2002, JCP&L estimates that its MTC deferred balance (excluding interest and the BGS component) will be \$327 million at the end of the transition period. Adding the BGS component (\$314 million) and interest of \$43 million yields a total deferred MTC balance of \$684 million, for which JCP&L is requesting recovery over 15 years if securitized, and over 4 years if not securitized. If securitized in full (which JCP&L maintains is allowed by the EDECA), recovery of the MTC deferred balance would require a rate increase of \$69 million, or 3.5%. If not securitized and recovered over 4 years, JCP&L asserts that a rate increase of \$195 million, or 10.0%, would be needed. In each case, an interest rate of 5.5% was assumed.

#### Societal Benefits Charge (SBC):

Included in JCP&L's SBC were DSM costs, EDECA-related consumer education and universal service fund costs (when incurred), remediation costs associated with JCP&L's formerly-owned manufactured gas plant sites, uncollectible accounts expense, and nuclear decommissioning costs. As of the end of the transition period JCP&L estimates that its deferred SBC balance will be \$11 million.

#### Total JCP&L Deferred Balance:

Adding the \$11 million deferred SBC balance to the \$684 million deferred MTC balance yields a total balance of \$695 million projected to be incurred as of the end of the transition period.

#### PSE&G

#### Basic Generation Service (BGS):

For the first three years of the transition period, PSE&G's BGS requirement was supplied in full by PSEG Power LLC, PSE&G's unregulated affiliate to which it transferred all of its generating units (aggregating approximately 10,000 Mw) in August 2000. The energy was priced at the production cost component of PSE&G's shopping credit, and thus there was no BGS deferral in these years. In year four, PSE&G's BGS requirement is to be supplied by the winning bidder chosen in the statewide auction approved by the Board in February 2002. Because the cost of this energy will exceed the comparable component of PSE&G's year four shopping credit, PSE&G projects that its BGS deferred balance will be approximately \$250 million by the end of the transition period.

#### Market Transition Charge (MTC):

The Board's restructuring and securitization Orders allowed PSE&G to securitize \$2.4 billion of its generation-related stranded costs (net of tax), as well as securitization-related transaction costs of \$125 million, and to recover additional unsecuritized generation-related stranded costs of \$540 million (also net of tax) through its MTC. As a result of a delay in the implementation of its securitization-related rate reduction, PSE&G estimates that its MTC deferred balance will be over-recovered by about \$200 million as of the end of the transition period.

#### Non-Utility Generation Charge (NTC):

PSE&G's NTC was initially set to recover its above-market NUG payments at the level experienced in 1999 (\$183 million annually), and was to be held constant throughout the transition period. The related revenue, plus the amount received from the resale of the purchased energy to PJM, or otherwise at wholesale, was to be used to offset PSE&G's contractual energy and capacity payments required under its NUG PPAs. As a result of PSE&G's aggressive NUG mitigation efforts and crediting the beginning balance of the

NTC with the over-recovered balance of its discontinued LEAC, PSE&G projects that its NTC balance will be over-recovered by approximately \$125 million by the end of the transition period.

Societal Benefits Charge (SBC):

Included in PSE&G's SBC were uncollectible accounts expense, nuclear decommissioning costs, DSM and manufactured gas plant remediation costs, and when incurred, EDECA-related consumer education and universal service fund costs. PSE&G estimates that as of the end of the transition period its SBC deferred balance will be \$34 million.

Net PSE&G Deferred Balance:

In its most recent deferred balance report filed with the Board (on which the above is based), PSE&G projects that it will have a net over-recovered balance of \$41 million (including interest) as of the end of the transition period (July 31, 2003).

Rockland Electric

Basic Generation Service (BGS):

Orange and Rockland Utilities (O&R), Rockland Electric's (RECO's) parent company and now a subsidiary of Con Ed, and from whom RECO purchased all of its pre-EDECA energy requirements, divested its generating units in 1999. As part of the sales agreement with the purchaser (Southern Energy Affiliates), O&R negotiated parting contracts (Transition Power and Incremental Energy Sales Agreements) to supply the energy requirements of the O&R system (including RECO's) at fixed prices through October 1999 and April 2000, respectively. RECO's BGS requirement was also supplied in part from the parent company's NUG purchases (priced at market value) and spot and other short-term power purchases during the transition period. In March 2002, after becoming a member, RECO obtained 90% of its BGS requirements from PJM. Starting in August 2002, this portion of its BGS requirement will be supplied by the winning bidder chosen in the statewide auction approved by the Board in February 2002, and the remaining 10% by a combination of NUG purchases and spot purchases from the New York Independent System Operator. The costs of all of these sources are recoverable by the production cost component of Rockland's shopping credits, and the unrecovered amounts are deferred with interest. Preliminarily (with the final estimate to be included in its filing to be made with the Board on August 30, 2002), RECO estimates that its BGS deferred balance will be \$97 million by the end of the transition period.

Market Transition Charge (MTC):

To the extent not recovered by its delivery charges, RECO was authorized to include the cost of upgrading and operating its retail access billing and data exchange systems, as

well as deferred restructuring proceeding costs, in its MTC. RECO projects that as of the end of the transition period, the unrecovered balance of these costs will be between \$1 and \$2 million.

Energy Cost Adjustment (ECA):

RECO was permitted to establish an ECA for the recovery of above-market NUG costs, and projects that it will have an over-recovered balance of these costs of approximately \$7 million by the end of the transition period.

Total RECO Deferred Balance:

Preliminarily, and subject to revision when it files its deferral case with the Board on August 30, 2002, RECO estimates that its total deferred balance will be approximately \$110 million (including interest of \$16 million) as of the end of the transition period.

Aggregate Deferred Balances, All Utilities

In the aggregate the four utilities are projected to incur total deferred balances of \$941 million by the end of the transition period, comprised of BGS, MTC, NNC/NTC/ECA, SBC and interest deferrals of \$710, \$243, \$(105), \$24 and \$69 million, respectively, as summarized below:

**NEW JERSEY ELECTRIC UTILITIES**  
Components of Deferred Balances Projected to be  
Incurred as of the End of the Transition Period

(July 31, 2003; \$millions)

	<u>ACE</u>	<u>JCP&amp;L</u>	<u>PSE&amp;G</u>	<u>RECO</u>	<u>TOTAL</u>
BGS	\$49	\$314	\$250	\$ 97	\$710
MTC	115	327	(200)	1	243
NNC/NTC/ECA	27	incl. in MTC	(125)	(7)	(105)
SBC	(24)	11	34	3	24
Interest	10	43	incl. in above	16	69
	_____	_____	_____	_____	_____
Total	\$177	\$695	\$(41)	\$110	\$941

