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September 4, 2019

Via Hand Delivery

Ms. Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd floor, Suite 314
Trenton, New Jersey 08625-0350

**Re: I/M/O the Provision of Basic Generation Service (BGS)
For the Period Beginning June 1, 2020
BPU Docket No. ER19040428**

Dear Secretary Camacho-Welch:

Enclosed for filing, please find an original and ten copies of the Division of Rate Counsel's Initial Comments in the above-referenced matter. These comments are being submitted pursuant to the procedural schedule established by the Board of Public Utilities (the "Board") in its Order dated April 18, 2019 ("2020 BGS Procedural Order"). A copy of this letter will also be sent to the email distribution list used by the Board for these BGS filings.

We have also enclosed one additional copy of this letter. Please stamp and date the copy as filed and return to our courier. Thank you for your consideration and attention to this matter.

Respectfully submitted,

STEFANIE A. BRAND
DIRECTOR, DIVISION OF RATE COUNSEL

By: _____



T. David Wand, Esq.
Assistant Deputy Rate Counsel

c: Service List (via e-mail distribution list only)

**I/M/O the Provision of Basic Generation Service
(BGS) For the Period Beginning June 1, 2020
BPU Docket No. ER19040428**

Initial Comments of the Division of Rate Counsel

September 4, 2019

I. Introduction

The Division of Rate Counsel (“Rate Counsel”) is pleased to provide these comments to the Board of Public Utilities (the “Board” or “BPU”) pursuant to the 2020 BGS procedural schedule established by Board Order, dated April 18, 2019, in *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2020*, BPU Docket No. ER19040428, (“2020 BGS Procedural Order”). In their joint filing (“Joint Filing”), the Electric Distribution Companies (the “EDCs”) have proposed two significant changes to the BGS process. First, the EDCs recommend that the Board approve modification to the auction schedule so that the BGS-CIEP and BGS-RSCP auctions start simultaneously on the first Monday of February 2020. Second, the EDCs propose requiring the BGS-CIEP and BGS-RSCP suppliers to transfer Renewable Energy Certificates (“RECs”) and Solar Renewable Energy Certificates (“SRECs”) over the first three quarters of the Energy Year or alternatively post collateral to cover any shortfall in their Renewable Portfolio Standards (“RPS”) obligation.

At this time, Rate Counsel respectfully requests that the Board reject the EDCs’ proposed changes, because the EDCs have not provided sufficient bases to substantiate

the need for these changes, nor have they quantified the extent to which the proposed changes would benefit ratepayers.

In addition, New Jersey's Draft 2019 Energy Master Plan ("EMP") raises the idea of possibly including "a carbon-neutrality requirement" for BGS load to facilitate the achievement of 100% clean energy by 2050.¹ In the EMP Public Meetings, Rate Counsel has filed comments and publicly spoken on our opposition to such a requirement. Rate Counsel takes this opportunity to reiterate its concerns about a 100% carbon neutral requirement in this BGS proceeding.

Last, Rate Counsel further recognizes that FERC's decision to delay the 2022/2023 RPM Base Residual Auction ("BRA")² may introduce uncertainty for potential bidders in the February 2020 BGS auction if the timing or outcome of the BRA remains unresolved. Rate Counsel therefore reserves its right to provide additional comments on the impact of any FERC decision on the 2020 BGS Auction.

II. Discussion

a. Proposed Modification to the Auction Schedule

Historically, BGS auctions have occurred over a period of three days or more.³ In prior auctions, the BGS-CIEP auction started on the first Friday in February and the BGS-RSCP auction started on the first Monday thereafter. In their Joint filing, the EDCs propose to change the schedule so that the two separate auctions start at the same time in the hope of reducing the time and costs borne by the bidders' participation in the two separate auctions. Additionally, the EDCs propose to move the Part 1 Application Date to

¹ Draft 2019 Energy Master Plan at Page 48.

² The Reliability Pricing Model Base Residual Auction is also referred to as the "RPM Auction."

³ Joint Filing Proposal for Basic Generation Service Requirements to be Procured Effective June 1, 2020, Page 18 at Paragraph 11 (July 1, 2019).

January 9, 2020, to avoid the holidays. The EDCs assert that these schedule changes would foster an increase in the number of auction participants.⁴

In principle, Rate Counsel supports the idea of increasing the number of bidders that could result in lower supply costs for ratepayers. However, the EDCs have not provided any empirical evidence to support their assertion that the schedule changes are needed or would result in more bidders participating in the 2020 BGS auction. For example, in response to RCR-BGS-14, the EDCs acknowledge that they did not communicate the proposed schedule changes with any potential participants.⁵ There is also no indication that potential bidders have requested the auction schedule be changed in the manner proposed by the EDCs. Consequently, it is unclear whether the proposed schedule changes will result in more participants.

That said, Rate Counsel would not be opposed to changes in the schedule if there was a reasonable indication that potential bidders were requesting or supported the proposed changes and the EDCs provided evidence demonstrating that the change would likely result in more bidder participation. However, the Joint Filing does not establish these proofs. Therefore, we recommend that the Board deny the EDCs request for the schedule changes at this time.

b. SREC and REC Transfer Requirement

In addition to the schedule changes, the EDCs propose changes to the Supplier Master Agreements (“SMA”) which would require each BGS supplier to provide RECs and SRECs to the EDCs after each of the first three quarters of the Energy Year; or post

⁴ Joint Filing, Page 17.

⁵ See Response to RCR-BGS-14 (attached hereto as Exhibit A).

collateral for the value associated with such RECs and SRECs.⁶ In previous years, the RECs and SRECs were provided to the EDCs at the end of the Energy Year. The EDCs' proposed SMA amendments aim to mitigate the risk of RPS compliance by the EDCs, in the event that a BGS Supplier defaults on its RPS obligation.⁷

Rate Counsel has concerns regarding the EDC's proposed changes to provide RECs, SRECs, or collateral on a quarterly basis. The current form of SMA already assigns RECs and SRECs to the EDCs and obligates suppliers to meet RPS requirements. Although the EDCs state their proposed change is in response to the increased levels of RPS⁸ requirements in future years (35% by 2025),⁹ none of the EDCs have experienced a shortfall of RECs in the past five years.¹⁰ Based on this track record, the EDCs' Joint Filing does not demonstrate that the changes to the SMA are crucial to mitigate the perceived risk of a higher RPS obligation on the part of the BGS Suppliers. Further, the smaller RPS compliance window and increased collateral exposure are additional obligations that have the potential to discourage smaller BGS suppliers from participating in the auction at all. Therefore, we recommend that the Board reject the EDCs' proposal at this time.

c. Draft Energy Master Plan “carbon neutrality” requirement

The Draft 2019 EMP, released for comments on June 10, 2019, mentions the possibility of including “a carbon-neutrality requirement” for BGS load to achieve 100%

⁶ Joint Filing, Page 14 and 15.

⁷ Joint Filing, Page 15.

⁸ Joint Filing, Page 15.

⁹ L. 2018, c. 17 caps the cost of class one RECs to be nine percent for Energy Year 2020 and 2021, and at seven percent thereafter. https://www.njleg.state.nj.us/2018/Bills/A4000/3723_I1.PDF

¹⁰ See Responses to RCR-BGS-30, RCR-BGS-35, RCR-BGS-41, and RCR-BGS-46 (attached hereto as Exhibit B)

clean energy by 2050.¹¹ Rate Counsel has concerns about including such a requirement in the BGS Auction without clear coordination with other New Jersey legislation. As noted by Rate Counsel at EMP stakeholder meetings, the BGS auction has been working well for many years by providing reliable, competitively-priced electricity to New Jersey's residential and small commercial customers. Adding a carbon neutrality requirement for BGS load would severely limit competition within the BGS auction; because the only carbon-neutral generation available to serve a significant portion of residential load would be nuclear power.¹² Since there is really only one or two potential bidders of nuclear power, there may be no competition for this portion of the BGS load. Even if there are a few bidders, there will be little competition, which will result in much higher rates for BGS customers. A carbon-neutral requirement would also not be particularly effective at achieving the State's 100% clean energy goal, because customers could then just flee the higher BGS rates for the lower rates of third-party suppliers.¹³

d. Delay in PJM Base Residual Auction

On July 29, 2019, FERC ordered that PJM not hold the capacity auction scheduled to begin on August 14, 2019.¹⁴ The auction would have procured capacity for the 2022/23 Delivery Year. It is not known how the delay will impact the current BGS auction, since the BGS Supplier commitment period will be for June 1, 2020 through May 31, 2023. While it is unlikely that FERC and PJM will indefinitely delay the BRA, the delay introduces a level of uncertainty for potential BGS bidders which may

¹¹ 2019 Draft Energy Master Plan, at page 48.

¹² The development of enough renewables to serve the State's BGS load is many years away.

¹³ A statewide carbon neutral requirement would apply to all energy suppliers serving the State's ratepayers, including BGS Suppliers. Therefore, a separate carbon-neutral requirement for BGS, as proposed in the 2019 Draft EMP, presumes that legislation imposing a statewide carbon-neutrality requirement has not passed.

¹⁴ Calpine Corporation, et al. v. PJM Interconnection LLC, 168 F.E.R.C. ¶ 61,051 (2019).

adversely affect the bids seen at the February 2020 BGS auctions. Rate Counsel reserves the right to comment on this issue, if and when FERC or PJM provide more clarity on the matter. As noted in the 2019 Bates White Consulting report:

While the likelihood is that the RPM Auction will be conducted prior to February 2020 - PJM recently reaffirmed its intent to hold the RPM Auction in August - we would recommend that if this does not happen (or if the RPM Auction does take place but is invalidated via subsequent FERC Order) the EDCs should reach out to Staff and Rate Counsel immediately to discuss possible contingency plans. We would be happy to work with the EDCs and the BPU to consider potential scenarios and workarounds to the issue.¹⁵

Rate Counsel recommends that the Board collaborate with the EDCs and other stakeholders to address this issue before the scheduled BGS auctions in February 2020.

III. Conclusion

Based on the foregoing, Rate Counsel respectfully requests that the Board reject, at this time, the EDCs' proposals to (i) change the auction schedule; and (ii) require suppliers to provide RECs and SRECs before the end of the Energy Year. In addition Rate Counsel, is concerned about the proposed language in the 2019 Draft EMP regarding a possible "carbon neutrality" requirement for future BGS. Finally, Rate Counsel reserves the right to comment further in the event that FERC or PJM takes any action on the BRA which has the potential to affect bidding in the BGS auction. Rate Counsel thanks the Board for this opportunity to provide Initial Comments and looks forward to working with all parties throughout this BGS proceeding.

¹⁵ Bates White, Annual Final Report of the 2019 BGS RSCP and CIEP Auctions- REDACTED, at Page 16 (May 29, 2019) (Available at [http://www.bgs-auction.com/documents/Post-Auction_Report_2019_Auctions_Bates_White_\(redacted\).pdf](http://www.bgs-auction.com/documents/Post-Auction_Report_2019_Auctions_Bates_White_(redacted).pdf)).

EXHIBIT A

The New Jersey EDCs
Case Name: BGS 2020
Docket No(s): ER19040428

Response to Discovery Request: RCR-BGS-0014

Date of Response: 8/5/2019

Witness: N/A

Simultaneous Auction Communication

Question:

With reference to p. 27 of the Proposal for Basic Generation Service Requirements to be Procured Effective June 1, 2020 dated July 1, 2019, please indicate if the EDCs communicated with other parties regarding the proposal to conduct the RSCP and CIEP auctions separately but at the same time. If so, please identify the parties to whom the EDCs communicated with regarding the proposed auction changes. If not, please explain why not.

Attachments Provided Herewith: 0

Response:

The EDCs did not communicate with other parties regarding the proposed change to conduct the BGS-RSCP and BGS-CIEP auctions separately but at the same time.

See response to RCR-BGS-0004.

EXHIBIT B

**In the Matter of the Provision of Basic Generation Service
for the Period Beginning June 1, 2020**

BPU Docket No. ER19040428

Response to DRC Data Requests – Set DRC-1

08/05/19

Question No: RCR-BGS-30

With reference to page 15 of the Proposal for Basic Generation Service Requirements to be Procured Effective June 1, 2020 dated July 1, 2019, please indicate if the Company has had to purchase RECs and/or SRECs due to a BGS supplier shortfall in the last five years. If so, please provide details of the amount and the circumstances of each event.

RESPONSE:

ACE has not had to purchase RECs or SRECs due to a BGS supplier shortfall in the last five years.

Public Service Electric and Gas Company
Case Name: BGS 2020
Docket No(s): ER19040428

Response to Discovery Request: RCR-BGS-0035

Date of Response: 8/5/2019

Witness: N/A

Purchase of RECs and SRECs by the Company

Question:

With reference to page 15 of the Proposal for Basic Generation Service Requirements to be Procured Effective June 1, 2020 dated July 1, 2019, please indicate if the Company has had to purchase RECs and/or SRECs due to a BGS supplier shortfall in the last five years. If so, please provide details of the amount and the circumstances of each event.

Attachments Provided Herewith: 0

Response:

While the Company has not had to purchase RECs and/or SRECs due to a BGS supplier shortfall in the last five years, the EDCs' Proposal for Basic Generation Service in this filing seeks to mitigate the impact that the increasing RPS obligation can have on BGS customers in the event of a BGS supplier default. Specifically, the proposed modification to the SMAs requires the BGS suppliers to either (i) transfer RECs or SRECs to the EDCs several times during the year or (ii) provide additional collateral to the EDCs that could be used to purchase the RECs or SRECs in an event of supplier default - thus mitigating the risk to BGS customers.

**In the Matter of the Provision of Basic Generation Service
for the Period Beginning June 1, 2020
BPU Docket No. ER19040428**

DIVISION OF RATE COUNSEL DISCOVERY REQUESTS

Rockland Electric Company Responses

RCR-BGS-40. With reference to page 15 of the Proposal for Basic Generation Service Requirements to be Procured Effective June 1, 2020 dated July 1, 2019, please indicate if the Company has experienced difficulties from suppliers regarding the transfer of RECs and/or SRECs.

RESPONSE: While the Company has not experienced any difficulties from BGS suppliers regarding the transfer of RECs and/or SRECs in the normal course of complying with RPS, the EDCs' Proposal for Basic Generation Service in this filing seeks to mitigate the impact that the increasing RPS obligation can have on BGS customers in the event of a BGS supplier default. Specifically, the proposed modification to the SMAs requires the BGS suppliers to either (i) transfer RECs or SRECs to the EDCs several times during the year or (ii) provide additional collateral to the EDCs that could be used to purchase the RECs or SRECs in an event of supplier default - thus mitigating the risk to BGS customers.

RCR-BGS-41. With reference to page 15 of the Proposal for Basic Generation Service Requirements to be Procured Effective June 1, 2020 dated July 1, 2019, please indicate if the Company has had to purchase RECs and/or SRECs due to a BGS supplier shortfall in the last five years. If so, please provide details of the amount and the circumstances of each event.

RESPONSE: While the Company has not had to purchase RECs and/or SRECs due to a BGS supplier shortfall in the last five years, the EDCs' Proposal for Basic Generation Service in this filing seeks to mitigate the impact that the increasing RPS obligation can have on BGS customers in the event of a BGS supplier default. Specifically, the proposed modification to the SMAs requires the BGS suppliers to either (i) transfer RECs or SRECs to the EDCs several times during the year or (ii) provide additional collateral to the EDCs that could be used to purchase the RECs or SRECs in an event of supplier default - thus mitigating the risk to BGS customers.

RCR-BGS-42. With reference to page 7 of the RECO Company Specific Addendum, please indicate if the Company's definition of *directly-incurred* administrative costs is consistent with the other EDCs. Please explain why the Company has no directly-incurred costs.

RESPONSE: The Company's definition of directly-incurred administrative costs is consistent with the other EDCs. The Company does not include as BGS costs any administrative costs other than commonly-incurred costs, and

**In the Matter of the Verified Petition of
Jersey Central Power & Light Company Review and
the Provision of Basic Generation Service
for the Period Beginning June 1, 2020
BPU Docket No. ER19040428**

DATA REQUEST RESPONSE

RCR-BGS-46 With reference to page 15 of the Proposal for Basic Generation Service Requirements to be Procured Effective June 1, 2020 dated July 1, 2019, please indicate if the Company has had to purchase RECs and/or SRECs due to a BGS supplier shortfall in the last five years. If so, please provide details of the amount and the circumstances of each event.

Response: While the Company has not had to purchase RECs and/or SRECs due to a BGS supplier shortfall in the last five years, the EDCs' Proposal for Basic Generation Service in this filing seeks to mitigate the impact that the increasing RPS obligation can have on BGS customers in the event of a BGS supplier default. Specifically, the proposed modification to the SMAs requires the BGS suppliers to either (i) transfer RECs or SRECs to the EDCs several times during the year or (ii) provide additional collateral to the EDCs that could be used to purchase the RECs or SRECs in an event of supplier default – thus mitigating the risk to BGS customers.