	:	
IN THE MATTER OF THE PROVISION OF	:	
BASIC GENERATION SERVICE	:	**Docket No. ER08050310**
FOR THE PERIOD BEGINNING JUNE 1, 2009	:	
	:	

Public Service Electric and Gas Company, Jersey Central Power & Light Company, Atlantic City Electric Company and Rockland Electric Company

PROPOSAL FOR BASIC GENERATION SERVICE REQUIREMENTS TO BE PROCURED EFFECTIVE JUNE 1, 2009

July 1, 2008

TABLE of CONTENTS

I. INTRODUCTION 3

II. GOALS OF THE BGS PROCUREMENT PROCESS 4

III. THE ESTABLISHED BGS AUCTION PROCESS IS UNIQUELY SUITED TO THE GOALS OF BGS PROCUREMENT 9
A. Product Definition 9
B. Auction Format 11
C. Competitive Safeguards 12
D. Qualification Procedures 12
E. Rate Design 13
F. Roles 13

IV. RESPONSE TO ISSUES RAISED BY BOSTON PACIFIC 15
A. BGS-FP Price Increases and New Investment 15
B. CIEP Price Levels 15
C. Round One Bidding Extension 16
D. Disclosure 16
E. Indicative Offers 17
F. Web-Ex Conferences 17

V. RESPONSE TO ISSUES RAISED BY THE BOARD IN ITS PRECEDURAL ORDER 18

VI. OVERVIEW OF THE EDCS' PROPOSAL FOR THE 2009 AUCTION 19

VII. CONDUCT OF THE AUCTIONS 24
A. The Roles of the Board, the Board Advisor, the EDCs and the Auction Manager 24
1. The Role of the Board and the Board Advisor 24
2. The Role of the EDCs 25
3. The Role of the Auction Manager 26
B. Confidentiality of Auction Information 27
C. Regulatory Milestones and Tentative Auction Timeline 29

VIII. BOARD APPROVAL AND EXECUTION OF BGS SUPPLIER AGREEMENTS 31

IX. SUPPLIER MASTER AGREEMENTS 32

X. APPENDIX A I

XI. APPENDIX B II

XII. APPENDIX C III

XIII. APPENDIX D IV

I. INTRODUCTION

The New Jersey electric distribution companies ("EDCs") – Public Service Electric and Gas Company ("PSE&G"), Jersey Central Power & Light Company ("JCP&L"), Atlantic City Electric Company ("ACE"), and Rockland Electric Company ("RECO") – first filed a joint proposal for the procurement of electric power for basic generation service ("BGS") customers on July 1, 2001. On December 10, 2001, after allowing various stakeholders to comment and holding public hearings, the New Jersey Board of Public Utilities ("BPU" or "Board") approved the EDCs' joint proposal to implement a statewide simultaneous descending clock auction ("clock auction"). The first BGS clock auction was held in February 2002. In the ensuing years, the EDCs have jointly filed an annual auction proposal to procure BGS Supply, which has been consistently approved by the Board and successfully implemented through the combined efforts of the Board, its Staff, the Auction Manager, the Board's advisor, Boston Pacific Company, Inc. ("Boston Pacific"), and the EDCs. Since 2002, the annual energy auctions created and administered by the New Jersey BPU have been used to efficiently meet the demand of BGS customers.

Following a fifth successful auction in February 2006, the BPU elected to review its five years of BGS Auction experience and to seek comments from interested parties to help guide the July 2006 BGS proposal to be made by the EDCs. That review affirmed the principal features of the BGS Auction Process – the full requirements product definition; the use of two auctions: a fixed price auction for residential and smaller non-residential customers and an hourly priced auction for larger commercial and industrial customers; the auction term structures; the descending clock auction format; the competitive safeguards; the qualification procedures; the rate design process; and the roles of the Board, the Board Staff, the Board Advisor, the EDCs, and the Auction Manager. That review also paved the way for two subsequent successful auctions in February 2007 and February 2008.

In April 2008, Governor Jon Corzine published the draft New Jersey Energy Master Plan ("Draft EMP"), identifying the main energy challenges facing the State and outlining the State's strategies to overcome those challenges. The Draft EMP explicitly calls for a thorough review of the BGS Auction Process before the auction is held in 2009. The EDCs believe that

the current BGS Auction Process, as affirmed by the five-year review in 2006, is compatible with the goals of the Draft EMP and will not hinder the implementation of proposals in the Draft EMP. The EDCs and the Auction Manager would inform suppliers participating in the BGS Auctions of any changes that affect them sufficiently prior to the auctions so that suppliers have the opportunity to fully evaluate the impact of any changes. In the instant filing, the EDCs present their proposal for an eighth BGS Auction to be held in February 2009 and explain how the Auction Process remains uniquely suited to procuring supply for customers that remain on BGS.

II. GOALS OF THE BGS PROCUREMENT PROCESS

The BGS Auction Process has benefited New Jersey customers, and the EDCs review below why the BGS Auction Process continues to best meet the interests of New Jersey customers. The starting point of the explanation is a review of the goals of the BGS procurement process. In the Electric Discount and Energy Competition Act of 1999 ("EDECA"), the Legislature found and declared that it is the policy of the State, consistent with other important policy objectives, to rely upon competitive markets, where such markets exist, to deliver energy services to consumers (N.J.S.A. 48:3-50.a(2)). To accomplish these policy objectives, EDECA directed the Board to implement "retail choice." Retail choice allows retail electric customers to be given the choice of shopping directly for their electric service or opting not to shop and to receive BGS. Furthermore, as the Draft EMP points out, under EDECA, the EDCs are no longer responsible for generating electricity and instead purchase any needed supply from participants in the wholesale market.

EDECA is quite clear on the subject of power procurement for BGS: "Power procured for basic generation service by an electric power supplier shall be purchased at prices consistent with market conditions" (N.J.S.A. 48:3-57.d). The same section goes on to note that "charges assessed to customers for basic generation service shall be regulated by the Board, and shall be based on the reasonable and prudent cost to the supplier of providing such service, ***including the cost of power purchased at prices consistent with market conditions, by the supplier in the competitive wholesale marketplace.***" (Emphasis added.) BGS is a regulated ***market-priced*** service.

The goal of having BGS reflect market conditions and competitive power market prices not only is consistent with EDECA, but also is consistent with the Draft EMP and several other important objectives. Retail choice can only develop and proliferate efficiently if the alternative to retail choice – BGS – is efficiently priced.[1] As currently structured by the BPU, the BGS Auction Process ensures that BGS is efficiently priced. The BGS product is a full requirements product. Suppliers bear and include in their price a wide variety of risks including load variability, market volatility, fuel price increases, migration, and changes in the PJM marketplace. These risks are not managed by regulation; rather, these risks are managed by competitive entities that can employ creative risk management strategies. Hence, the price that retailers compete against is the risk-adjusted price of competitive BGS suppliers providing full requirements service. As noted by President Fox, the BGS Auction Process "attempts to extract the lowest price." (Public Utilities Fortnightly, September 2005, p.18.)

Further, President Fox recognizes that, "[a]s pleased as we have been with our process, there is no escaping that we are just squeezing the best price out of an industry, and world, over which we have limited control" (op cit, p.19). The Draft EMP also acknowledges that the State of New Jersey itself can do little to directly affect the cost of energy,[2] but must do its best to

---

[1] "Efficient proliferation of retail choice" should not be confused with artificially stimulating retail choice or maximizing switching. Rather, efficient proliferation of retail choice occurs when Third Party Suppliers ("TPSs") are able to offer added value that can induce customers to switch away from a market-priced BGS offering.

[2] "The planning effort must also recognize that the State cannot simply dictate this result, because fuel suppliers, power plant owners, PJM, the FERC, and other countries all may make decisions that affect the cost of energy for New Jersey ratepayers.

For example, the price of electricity for New Jersey customers depends, more than anything else, on the structure of the wholesale markets as determined by PJM and the FERC, and the price at which power plant owners sell their power into these markets. That price, in turn, depends heavily upon decisions made by PJM and the FERC regarding upgrades to the regional transmission grid, and even more heavily upon the prices that national and international commodities markets establish for natural gas and other fuels used to generate electricity.

Similarly, the cost and reliability of New Jersey's supply of electricity depends heavily on decisions made by power plant developers to site plants in strategic locations, and on decisions made by PJM about upgrades to the transmission grid.

For these reasons, this draft EMP has been crafted with full recognition of what the State can do directly to affect the reliability and cost of energy; what the State is constrained to do indirectly to influence the decisions of PJM, the FERC, and power plant owners and developers; and what factors are outside the State's control." (Draft EMP, April 17, 2008, p. 22)

achieve the "ultimate objective" of ensuring that "New Jersey has a reliable supply of energy, at a reasonable price, produced and used in a manner that meets the State's environmental needs." (Draft EMP, April 17, 2008, p. 15). The EDCs share these sentiments. A market price means the best or lowest market price that can be reasonably obtained, a price that will vary with market conditions including conditions in world energy markets. This is exactly what EDECA intended.

Intrinsic characteristics of the customer classes must also be considered in an examination of the appropriate BGS procurement process. In implementing the BGS Auction Process, the Board recognizes that some customer classes are able to understand the risks of price movements in competitive power markets and will be able to absorb risks or contract for the management of those risks. On the other hand, other customer classes may neither understand nor be able to manage these price risks in a way that yields a more economical result than the BGS offering. An efficient BGS offering must be designed to suit the ability of customers in each class to manage energy price risks, and the BGS offering should consider that different types of customers differ in their level of sophistication with respect to evaluating offers and contracting for supply.

In this regard, the BGS-FP product is designed to provide residential customers and smaller commercial and industrial customers with fixed-price BGS that reflects competitive, market-based costs for a price-risk managed service While it is entirely appropriate that such customers receive a stable market price, larger, more sophisticated, commercial and industrial customers can react to real-time electricity price signals to facilitate demand response and can contract for price-risk management in the competitive market. The BGS-CIEP product, which reflects hourly real time energy prices, has been implemented for such larger, more sophisticated customers.

These broad policy goals of the BGS procurement process are reflected in and expanded upon by a number of specific goals that apply to the BGS procurement process:

- To obtain reliable supply on behalf of BGS customers, at prices consistent with market conditions.

- To establish a fair and transparent competitive process that will maximize participation. The process should be transparent in terms of the requirements for participation, the supply contract, the retail rates that will result from the auction, and the manner in which final auction prices are determined and in which winners emerge at the auction. The process should be fair and transparent in terms of providing timely and equal access to information for all bidders.

- To allocate supply responsibility efficiently over the loads of the multiple EDCs. An efficient allocation of supply helps to ensure that prices best reflect the market, so that any market perceptions regarding differences in serving various EDCs are reflected in the prices.

- To have competitive entities take, manage and price BGS risks. BGS is a price-risk management service where competitive entities assemble supply components in the competitive power market, and assess and price these risks. This ensures that customers obtain the full benefits of competition by opening the price-risk management function to competitive discipline.

- To implement BGS at market rates that reflect customer class, seasonal and time-of-day market differences in order to encourage efficient consumption and conservation decisions, and in order to encourage the development of efficient retail competition. BGS rates should also minimize customer switching in response to rate design inefficiencies.

- To minimize customer confusion by presenting customers who stay on BGS with the appropriate type of retail rate structure and design.

- To design a BGS product consistent with the ability of various customer classes to react to price and manage energy price risks.

- To preserve the financial integrity of the EDCs. BGS costs and revenues exceed 50% of total EDC cost and revenues. BGS costs are an order of magnitude greater than EDC earnings. It is imperative that the BGS process protects the financial integrity of the EDCs.

As will be demonstrated in the next section, the Board's established BGS Auction Process, affirmed by the 2006 review and re-assessment, considered in its entirety meets these specific and broad objectives.

III. THE ESTABLISHED BGS AUCTION PROCESS IS UNIQUELY SUITED TO THE GOALS OF BGS PROCUREMENT

The Board's BGS Auction Process fully specifies and provides structure to all necessary aspects of a procurement process. In addition, all of the elements of the BGS Auction Process work together to achieve the goals identified in and flowing from EDECA's mandate, and to provide a structure for the procurement of BGS supply that will support and complement the strategies proposed in the Draft EMP. The remainder of this section discusses briefly how the principal elements of the BGS Auction Process that were affirmed in the 2006 Board review work together to achieve these goals.

A. Product Definition

The BGS Auction Process defines the product as a full requirements product. BGS Suppliers are responsible for serving a percentage of an EDC's default service load, whatever that load may be at any given point in time. Bidders compete to serve BGS customers by striving to be the best at assembling supply components (energy, capacity, etc.) in the competitive power market, and at assessing and pricing the risks associated with serving a percentage of BGS load. Having a full requirements product places the portfolio acquisition and price-risk management function in the hands of the competitive entities that can most efficiently carry out these tasks. The full requirements product is designed so that all aspects of BGS Supply that can be provided through the competitive market, including risk assessment and management, are provided and priced through the competitive market. The full requirements product is fully consistent with EDECA's preference for reliance on competitive forces. The full requirements product also obtains a full service price for BGS that serves as an efficient competitive benchmark for efficient retail choice and enables potential BGS suppliers to bid with knowledge as to what retail rates will result from the auction. The full requirements product thus also encourages the development and efficient working of competitive retail markets.

Currently, the full requirements product is procured separately for residential and smaller commercial and industrial customers (the "BGS-FP product") and for larger commercial and industrial customers (the "BGS-CIEP product"). The BGS-FP product is

procured on a three-year rolling portfolio and the BGS-CIEP product is procured on an annual basis. The use of an appropriate term structure enables smaller commercial and residential customers to benefit from a stable yet market-based rate that is appropriate for these customers, consistent with EDECA, and helps to minimize customer confusion. The proposed approach is consistent with the objectives of the Draft EMP, which states: "The three-year average exposes New Jersey customers to less of the volatility in the wholesale electricity markets." (Draft EMP, April 17, 2008, p. 40.) Providing larger customers the certainty of a fixed price for capacity, RPS compliance and ancillary services also helps to minimize customer confusion and provides for an environment where the retail offerings can develop efficiently. This dual structure provides appropriate stability and a hedge against volatility for each customer type, and achieves the goal of designing a product that is consistent with the ability of various customer classes to react to price and manage energy price risks.

The full requirements BGS product also includes the regulatory mandates for renewable energy. Renewable resources are currently, and should continue to be, an integral part of the total supply mix delivered to New Jersey's electric customers. The best and most cost effective way to procure renewable resources on a competitive playing field is through the Board's existing Renewable Energy Portfolio Standards ("RPS").

All New Jersey energy suppliers – whether BGS suppliers or TPSs – must comply with RPS requirements by including the appropriate percentages of renewable energy in their supply portfolios or by paying an alternative compliance payment. This assures that all electric suppliers in New Jersey, BGS and otherwise, help to support the renewable marketplace by seeking out renewable supply attributes directly.

Demand response ("DR") also has a place in the statewide electric supply mix. A well-designed DR program should reduce suppliers' peak resource needs, and thereby reduce energy costs for all New Jersey customers.

However, DR requirements should not be implemented through the BGS Auction Process. Rather, the Board could choose to implement one or more DR program(s) outside the BGS process. DR providers and the EDCs can also bid qualifying demand response programs into PJM's Reliability Pricing Model Auctions and receive payments for capacity equal to the

auction clearing price in the delivery zone in which the resource is located. This market signal will encourage the development of cost-effective DR resources. The Draft EMP proposes an expansion of incentives for participation in regional DR programs, like the one offered by PJM, as well as the development of voluntary load management programs for customers to decrease peak demand during high-usage and/or high-price periods. (Draft EMP, April 17, 2008, p. 59-60.) DR programs such as these, if implemented effectively and separately from the BGS process, would help reach the Draft EMP's goal of reducing electricity consumption while potentially lowering the cost of electricity to all customers.

The EDCs propose to inform suppliers of the operating parameters of any DR program designed before the 2009 BGS Auction takes place. The "B" in BGS stands for "Basic." BGS is a basic, plain vanilla service that is not promoted and that serves as an efficient and market-based competitive benchmark. DR, energy efficiency, and additional renewable power are enhanced – not basic – services that are best suited to be conducted outside BGS and determined separately from any BGS proceeding.

B. Auction Format

The BGS Auction Process solicits bids through a clock auction: a multiple round process with dynamic information feedback. Bidders submit bids each round as prices tick down, and each round bidders get information about how the market views the auction opportunity. On the basis of that information, bidders have an opportunity to revise their bids, and switch their bids from one EDC to another. The information that bidders receive during the BGS Auction reduces the uncertainty that bidders face and leads to more aggressive bidding. In this way, the BGS clock auction format encourages competitive bidding and efficient market prices consistent with EDECA. The fact that bidders can switch from one EDC to another means that any price differences among the EDCs reflect the market's view of differences in the cost to serve each EDC's BGS load. Hence, the BGS Auction achieves efficient relative prices and an efficient allocation of supply responsibility among the EDCs. As explained later in greater detail, the BGS Auction also provides a large degree of transparency as all bidders understand how prices are determined and how winners emerge. This

transparency encourages participation and further helps obtain reliable supply at prices consistent with market conditions.

C. Competitive Safeguards

In addition to the fact that a clock auction format promotes competitive bidding, several competitive safeguards are part and parcel with the BGS Auction Process: (i) the Association and Confidential Information Rules; (ii) the setting of load caps; and (iii) the ability to reduce the volume at the auction.

The Association and Confidential Information Rules ensure that bidders independently and vigorously compete against each other at the auction, resulting in competitive bidding, and leading to the procurement of reliable supply at an efficient market price. Additionally, the Association and Confidential Information Rules ensure that the bidders' confidential information is properly kept confidential so that participation in the BGS procurement process does not damage or hinder any other market activities that the bidder undertakes. Through its Auction orders, the Board has consistently upheld the confidentiality of bidders' information as an exception to OPRA. Bidders' certainty that their competitively-sensitive information will be protected as confidential encourages participation. Robust participation in turn leads to efficient market prices.

The load cap limits the number of tranches that a bidder can bid and win at the auction. This competitive safeguard not only controls the ability of any entity to unduly influence the auction clearing price but also provides for needed diversity in the pool of BGS Suppliers. This diversity limits the exposure of the EDCs and their customers to the credit risk of any one entity, providing reliable supply sources to BGS customers.

D. Qualification Procedures

The BGS Auction Process provides for a standardized qualification process. As part of the qualification process, all prospective bidders must accept in advance the terms of a form of master contract between the BGS Supplier and the EDC acting as agent for its customers, and the terms of the auction rules under which BGS is procured. All prospective bidders also must meet standard credit provisions, which ensure that customers receive the benefit of the BGS

bargain in terms of reliable service for the term of the contract. The standard contract terms, qualification process, credit terms, and the price-only basis for the evaluation of bids, directly contribute to the transparency of the process as bidders understand the terms under which they participate in the BGS process. These features also contribute to the fairness of the process. Once a prospective supplier has been qualified, and registered as a bidder, its bids are evaluated on a price-only basis, which ensures that all bidders compete on a "level playing field." The transparency and fairness of the process encourage maximum participation, and maximum participation is what leads to efficient market prices.

E. Rate Design

The BGS Auction Process features a method for translating the auction closing prices into retail rates. For residential and smaller commercial and industrial customers, the rate design methodology properly reflects time-of-use pricing differentials. For larger commercial and industrial customers, the rate design methodology prices energy at the hourly market. In both cases, the methodologies employed provide the proper benchmarks to advance the goal of efficient retail pricing and development of competitive retail markets. Furthermore, the methodologies importantly contribute to the design of a BGS product that is consistent with the ability of various customer classes to react to price and manage energy price risks.

The EDCs specify and communicate the rate design methodology to bidders in advance of the auction. Thus, the bidders can properly assess the risk in serving BGS load, reducing bidders' uncertainty and encouraging participation in the process.

F. Roles

The EDCs, the BGS Auction Manager, Board Staff, and the Board's Advisor all have clearly defined roles that allow them to contribute to the management of the BGS procurement process. The EDCs file with the Board their procurement proposal each year, provide bidders with data and documents needed to prepare their bids, assess the financial and creditworthiness qualifications of suppliers, support the promotion of the auction opportunity, and manage the contracts with BGS suppliers on behalf of their customers. These activities maximize the participation in the process and ensure efficient market prices. The Board considers the

procurement proposal as well as accounting, contingency plans, and cost recovery. Approval of these items helps to further the goal of protecting the financial integrity of the EDCs.

The BGS Auction Manager serves as a single point of contact for bidder questions and concerns, maintains a web site through which bidders are kept informed about the process, ensuring the fairness of the process by providing equal access to information for all bidders. Additionally, the BGS Auction Manager manages the qualification procedure and the bid process. Board Staff and the Board Advisor monitor the entire process and monitor the bids round by round. This oversight further enhances the fairness and the transparency of the process, promoting participation.

Further, the BGS Auction Manager and the Board's Advisor each submit a report to the Board promptly at the close of the auction so that the Board can be in a position to evaluate whether the process was competitive and whether the process was conducted as approved. The Board has in the past committed to make this assessment within two business days. This prompt Board review of auction results enables suppliers to give their best bids and contributes to the goal of obtaining reliable supply at prices consistent with market conditions. The way in which the BGS Auction Process has been managed and the oversight by the Board are important factors in its success and in the ability of the process to meet its goals.

IV. RESPONSE TO ISSUES RAISED BY BOSTON PACIFIC

In its Post-Auction Final Report dated April 15, 2008 (the "Final Report"), Boston Pacific suggested several changes to the BGS Auction Process. The EDCs address these suggestions in this section.

A. BGS-FP Price Increases and New Investment

Boston Pacific noted that price increases in the BGS-FP Auction were a result of increases in both energy and capacity prices, driven by rising fuel prices and the implementation of PJM's RPM. Boston Pacific acknowledges the potential for capacity shortfalls, given that, in Boston Pacific's view**,** RPM has not attracted investment in new construction at sufficient levels, and suggests a study to examine New Jersey's capacity and transmission expansion. This issue is properly addressed elsewhere and the EDCs believe that discussions of RPM do not belong in the BGS proceeding.

B. CIEP Price Levels

Boston Pacific recommended that the methodology for determining the starting price for the BGS-CIEP Auction be revised because, in retrospect, the starting price for the 2008 BGS-CIEP Auction could have been set lower. The EDCs agree that the methodology for determining the BGS-CIEP starting price and decrements should be examined for improvements for the 2009 auction. While the EDCs acknowledge that the price for the 2008 BGS-CIEP Auction was high, the EDCs believe that the length of the 2008 auction was more dependent on the pace of the decrements. Setting a lower starting price will only cause the auction to have one or two fewer rounds. As such, the EDCs propose a revision to both the methodology for determining the starting price and the decrement formulas for the 2009 BGS-CIEP Auction.

C. Round One Bidding Extension

In the Final Report, Boston Pacific also proposed that bidders who are qualified to bid in the auction but do not want to participate in round 1 notify the Auction Manager who will skip the automatic extension that otherwise would have been triggered. Boston Pacific makes this suggestion because it believes that the extension in round 1 provides information to other bidders that a bidder has decided not to bid.

The EDCs note that nothing confirms for bidders that an extension in round 1 is being triggered because a bidder is failing to bid. It would be common for bidders to trigger extensions in a first round as bidders may have difficulty initially logging into to the software or may have forgotten their passwords. Boston Pacific and the Auction Manager know when an extension is triggered because a bidder has failed to submit a bid, but other bidders do not.

The EDCs also note that Boston Pacific's proposal is not practical. A bidder's decision of whether to submit bids in the auction is the bidder's to make. It would be difficult and perhaps impossible to force bidders that did not want to participate in the bidding to notify the Auction Manager of that fact. If the bidder did not notify the Auction Manager and did not submit a bid, it is unclear what the consequences for the bidder should be – the bidder is already "penalized" by not participating in the auction and by foregoing its ability to serve BGS customers.

The EDCs oppose a formal requirement for bidders to notify the Auction Manager of any intention to bid or not. Instead, the EDCs propose that there be an automatic extension in the first round of bidding. As such, that there will be no indication whatsoever of whether a bidder has failed to bid in the first round of the auction.

D. Disclosure

Boston Pacific also suggests that there is room for disclosing more information about the Auction process and results to the public in a timely manner without harming the integrity of the BGS Auctions. The EDCs propose to address this suggestion by considering the release of additional information about the auction, concurrently with the release of the amounts of each product won by each winning bidder, approximately one month prior to the start of the

relevant supply period. In order to give the public a more transparent view of the auction process, the EDCs would work in close conjunction with Board Staff and Boston Pacific to determine the nature of the additional information regarding the auction that could be released without also revealing sensitive information about a particular bidder's bids or bidding strategy. After each auction, the BGS Auction Manager and Boston Pacific would both confirm with the Board in their respective confidential reports that the release of such data would not harm future auctions.

E. Indicative Offers

Boston Pacific recommends that, during the qualification stage of the BGS Auctions, prospective bidders be required to provide an indicative offer at the minimum starting price for the BGS-CIEP Auction, in addition to the current requirement of providing an indicative offer at the maximum starting price for the BGS-CIEP Auction. The EDCs agree with this recommendation and will incorporate the new requirement into the Auction Rules and the Application forms for the 2009 BGS Auctions.

F. Web-Ex Conferences

Boston Pacific's final recommendation is the adoption of web-based conferences instead of in-person meetings for the dissemination of information regarding the bidding process. The EDCs believe that in-person conferences have been extremely successful in stimulating participation in the BGS Auctions. The EDCs understand Boston Pacific's point that more suppliers could potentially participate if suppliers did not need to physically attend to participate in bidder information sessions. The EDCs propose that the schedule of in-person meetings as in previous BGS Auctions be continued and that, in addition, web-based capability be added for one of the bidder information sessions before the filing as well as for the December bidder information session.

V. RESPONSE TO ISSUES RAISED BY THE BOARD IN ITS PRECEDURAL ORDER

In its Order dated June 19, 2008 in BPU Docket No. ER08050310 (the "Order"), the Board directed the EDCs to comment on what barriers, if any, exist that might be limiting customers with a peak load share between 1,000 and 1,250 kW from switching to a TPS. The Order also asked the EDCs to comment on the potential problems or benefits resulting from lowering the mandatory CIEP threshold from 1,000 kW to 750 kW.

The EDCs recognize that CIEP customers with peak load shares between 1,000 and 1,250 kW are not switching to TPSs at the same rate as larger CIEP customers. However, the EDCs are not aware of any fundamental barriers that are preventing smaller CIEP-eligible customers from switching to TPSs, and cannot speculate on why these smaller customers tend to remain on BGS-CIEP supply. The EDCs note, however, that a 2007 survey conducted by the Board's Office of the Business Energy Ombudsperson (the "2007 Survey") indicated that many CIEP customers who remain on BGS believe they will not save money by switching to a TPS.

The EDCs also do not foresee any technical problems with lowering the CIEP threshold to 750 kW. Each EDC has the necessary systems in place to accommodate the lowering of the CIEP threshold to 750 kW. The EDCs have not identified any specific benefits to lowering the CIEP threshold, since any benefits will vary from customer to customer depending upon their respective usage patterns and ability to minimize electric power use during peak hours. Moreover, the results of the 2007 Survey indicate that many customers with peak load shares between 750 and 1,000 kW seem reluctant to switch to TPSs. Because customers that may benefit from being served on the CIEP rate can already "opt-in" to CIEP service, the EDCs urge the Board to continue its current policy of gradually expanding the CIEP class after careful consideration of the impacts on affected customers.

VI. OVERVIEW OF THE EDCS' PROPOSAL FOR THE 2009 AUCTION

The EDCs have again worked together to develop a detailed proposal for the competitive bidding to procure BGS Supply that builds on the experience of prior BGS Auctions. The EDCs' proposal for the BGS competitive bidding process for the supply period beginning June 1, 2009 ("2009 BGS Auction") is summarized below.

A. BGS – Fixed Price ("BGS-FP")

1. BGS-FP procurement offers will be solicited through a statewide Auction Process that simultaneously seeks offers for all BGS-FP Load in the State. Appendix B, the BGS-FP Auction Rules further describes this Auction Process.

2. The BGS-FP Auction will seek offers for the supply of full requirements tranches of each EDC's BGS-FP Load for a three-year period. For each EDC, tranches will be identical and uniform and will represent a fixed percentage of that EDC's total BGS-FP Load. Approximately two-thirds of the EDCs' BGS-FP Load for the period from June 1, 2009 through May 31, 2010 was secured through the 2007 and 2008 BGS-FP Auctions. Therefore, approximately one-third of the EDCs' BGS-FP Load will be procured for the BGS supply period beginning June 1, 2009. Following a successful Auction Process, the EDCs will have under contract one-third of their total BGS-FP Load with a remaining contract term of one year (the "2007 BGS-FP Auction tranches"), one-third of their total BGS-FP Load with a remaining contract term of two years (the "2008 BGS-FP Auction tranches"), and one-third of their total BGS-FP Load for a term of three years (the "2009 BGS-FP Auction tranches").

3. The EDCs will use a multiple round descending clock auction to procure BGS-FP Supply. In a round, bidders will state how many tranches they wish to serve of an EDC's BGS-FP Load at the price in that round. The going price will decrease each round in which there is excess supply, and the BGS-FP Auction will end when the amount proposed to be supplied is equal to the amount the EDCs wish to procure. There will be a single clearing price for each EDC's BGS-FP Load that will apply to all tranches for that EDC procured in this Auction. Using multiplicative factors, payments

to bidders will be shaped to reflect seasonal cost differences: for June through September, payments will be shaped to reflect higher summer costs by the use of a multiplicative factor on the Auction price which is greater than one, and payments for the remaining months will be shaped to reflect lower winter costs by the use of a multiplicative factor which is less than one.

4. A rate design methodology that accounts for supply procured in prior Auctions will be used to translate final Auction prices into BGS-FP customer rates for one year beginning June 1, 2009. The EDCs' rate design proposals are detailed in each EDC's Company Specific Addendum. Bidders will be provided with a spreadsheet that converts final Auction prices into customer rates. This will enable bidders to assess migration risk at various price levels. BGS-FP rates will reflect market-influenced seasonality and time-of-day use, where appropriate and feasible, in order to provide efficient price signals.

5. To ensure supplier diversity, each EDC will have a load cap for its BGS-FP Load ("EDC load cap"). An EDC load cap is a maximum number of tranches that a bidder can win in the auction for that EDC. In addition, there will be a statewide load cap that limits the aggregate amount of BGS-FP Load for all EDCs that can be won by any bidder.

C. BGS – Commercial and Industrial Energy Pricing ("BGS-CIEP")

The EDCs proposal for the 2009 BGS-CIEP Auction can be summarized as follows:

1. The EDCs propose a multiple round descending clock auction to procure BGS-CIEP Supply. BGS procurement offers will be solicited through a statewide Auction Process that simultaneously seeks offers for all BGS-CIEP Load in the State. Appendix A, the BGS-CIEP Auction Rules, describes this Auction Process.

2. The BGS-CIEP Auction will seek offers for the supply of full requirements tranches of each EDC's BGS-CIEP Load. For each EDC, tranches will be identical and uniform and will represent a fixed percentage of that EDC's total BGS-CIEP-eligible Load based on a tranche size of 75 MW of BGS-CIEP-eligible Load. The procurement term

for BGS-CIEP load will be one year with the BGS-CIEP Supply period beginning on June 1, 2009.

3. The EDCs propose that the BGS-CIEP Auction determine the BGS-CIEP Price, as in the 2008 BGS-CIEP Auction. This Price will be paid to bidders on the basis of the capacity obligation of customers. The EDCs propose, consistent with the BGS-CIEP 2008 Auction, a pre-specified ancillary service component of $6.00/MWh based on the level of ancillary service prices applicable to serving load in the real-time market.

4. There will be a statewide load cap that limits the aggregate amount of BGS-CIEP Load for all EDCs that can be won by any bidder.

5. For BGS-CIEP tranches, rate schedules will specify the EDC BGS-CIEP charges resulting from the final BGS-CIEP Auction Prices as a per kW or per kWh rate, a per kW or per kWh rate for the transmission obligation, a pre-specified per kWh rate for ancillary services, and a provision to pass through the hourly PJM real-time energy price. All CIEP customers will be charged the CIEP Standby Fee, which the EDCs propose be set at $0.00015.

6. BGS-CIEP suppliers will receive a proportional share of revenue, comprised of five elements: (i) the pre-specified CIEP Standby Fee for sales made to all CIEP-eligible customers at the customer meter, (ii) the daily BGS-CIEP capacity obligation times the BGS-CIEP Price determined at the BGS-CIEP Auction, (iii) the daily BGS-CIEP transmission obligation times the transmission rate, (iv) the hourly BGS-CIEP Load at the EDC's PJM zone bus times the zone hourly PJM spot price, and (v) the pre-specified ancillary services rate times BGS-CIEP sales adjusted for losses.

BGS-FP and BGS-CIEP

1. Each BGS Supplier will be required to assume PJM Load Serving Entity ("LSE") responsibility for the portion of BGS Load (whether BGS-CIEP or BGS-FP) served by that Supplier. In accordance with the PJM Agreements, BGS Suppliers will be physically and financially responsible for the day-to-day provision of electricity to BGS

customers. This full-requirements service includes the provision of capacity, energy, transmission, ancillary services and any other services as may be required by PJM. The LSE obligations of each BGS tranche are subject to uncertainty and bidders will be required to manage this uncertainty. All BGS customers are free to come and go from the BGS service, provided that they give notice at least 20 days before their next scheduled meter reading, except for customers affected by Board-imposed switching restrictions effective June 1, 2008 applicable to 500 kW or greater BGS-FP customers. The EDCs are opposed to these switching restrictions and are requesting the Board consider eliminating them in this BGS proceeding.

2. The detailed commercial terms and conditions under which the BGS Supplier will operate will be set forth in the BGS Supplier Master Agreements. The BGS Supplier Master Agreements are designed to govern the interaction of each EDC and the BGS Suppliers during the period when the BGS Supplier is serving BGS Load. The BGS Supplier Master Agreements for BGS-CIEP and BGS-FP, as proposed by the EDCs and subject to Board approval, are attached to this filing as Appendices C and D.

3. The EDCs have developed contingency plans, tariff sheets and accounting and cost recovery proposals that are detailed in their respective Company Specific Addenda. These are essential elements of the EDCs' Auction proposal, and the EDCs request that the Board review and approve these elements of the proposal.

4. The Board will render a decision on the Auction Process and render a decision on the Auction results. Under the proposed Auction Process, the Board will approve or reject in their entirety the results of the BGS-FP Auction and, separately, the results of the BGS-CIEP Auction by the end of the second business day following the day on which the last Auction closes. The Board, at its discretion, has the option of rendering a decision on the results of one Auction and of rendering a decision on the results of the other Auction at different points in time. For example, the Board may render a decision on the first Auction that closes while the second Auction is still in progress.

5. The bids at the Auctions will represent binding commitments on behalf of bidders and full acceptance of all contract terms. Upon Board approval, Auction results will be a binding commitment on the EDCs and the winning BGS Suppliers.

VII. CONDUCT OF THE AUCTIONS

In this section, the EDCs explain particular aspects of the conduct of the 2009 Auctions. There are no changes from prior Auctions. The roles of the Board, the Board Advisor, the EDCs and the Auction Manager are explained. In addition, the EDCs' proposal for continued confidentiality of sensitive Auction information is presented. Finally, a preliminary timeline for the Auction Process is provided.

A. The Roles of the Board, the Board Advisor, the EDCs and the Auction Manager

1. The Role of the Board and the Board Advisor

Past Auction Processes have proven successful in achieving the benefit of market-based prices for BGS supply. The EDCs believe that it is appropriate for the Auction Process to be similar to that approved in the previous Auctions.

The EDCs believe that the Board should again play a substantial role in the 2009 BGS Auctions. Specifically, the EDCs respectfully recommend that the Board and the Board Advisor be responsible for the following activities:

- The Board will approve the Auction Process set forth in this Proposal, the Auction Rules, and the EDCs' Company Specific Addenda;
- The Board will approve the BGS-CIEP Supplier Master Agreement and the BGS-FP Supplier Master Agreement;
- The Board Advisor will oversee the conduct of the Auctions and brief the Board during the Auction Process; and
- The Board will render a decision on final Auction results by the end of the second business day following the day on which the last Auction closes. The Board, at its discretion, has the option of rendering a decision on the results of one Auction and on the results of the other Auction at different points in time. For example, the Board may render a decision on the first Auction that closes while the second Auction is still in progress.

2. The Role of the EDCs

It is important for the EDCs to work with the Board and with other parties to design a process that assures that supply for BGS customers is procured at a cost consistent with market conditions, that there is a smooth and seamless transfer of BGS supply from the prior year's Suppliers to Suppliers for the supply period beginning June 1, 2009, and that adequate protections are in place to assure that the BGS Suppliers are physically and financially reliable.

In that regard, the EDCs believe that it is appropriate for the EDCs to continue to assume the previously-approved logistical responsibilities that include:

- Retention of an Auction Manager to administer the Auction;
- Development of the Auction Process, which is presented to the Board in this filing;
- Promotion of the Auctions in conjunction with the Auction Manager;
- Supply of the data and other key information that the suppliers would use to prepare their bids and that will be made available through an Auction web site maintained by the Auction Manager;
- Provision of follow-up technical support to the Auction Manager in response to specific questions received from bidders and potential bidders with respect to the data and Auction Process information and pre-Auction information packages;
- Development of the BGS Supplier Master Agreements and instruments for financial guarantees;
- Review and approval of financial qualifications, including review of alternate guaranty forms; and
- Execution of the BGS Supplier Master Agreements on behalf of their customers.

In addition, the EDCs propose to (continue to) fund the Board's retention of an independent Board Advisor to oversee the BGS Auctions under the Board's supervision and to advise the Board with respect to interim and final approvals. As in years past, the cost of the independent Board Advisor will be recovered through the tranche fees paid by winning bidders.

3. The Role of the Auction Manager

The EDCs will retain an Auction Manager to administer the Auctions. The Auction Manager will be responsible for day-to-day administration, for dissemination of information about the Auction Process. Further, if necessary, the Auction Manager will be responsible for the development of software that will implement the rules of the Auction.

The Auction Manager would be primarily responsible for the following tasks:

- Setting up and maintaining a web site for the dissemination of Auction information to stakeholders. This Auction information includes application deadlines and information session dates, as well as the information packages prepared by the EDCs and the Auction Manager;

- Receiving queries from interested parties, directing the questions to EDC representatives if necessary, and returning the answers to the inquiring parties. To maintain fairness and to ensure that all parties have the same information, the Auction Manager will also maintain a database of all questions and answers on the web site;

- Receiving applications for qualification and notifying interested parties of the results of the qualification procedure;

- Managing the Alternate Guaranty process;

- Receiving indicative offers and bid bonds, ensuring that these are in accordance with the rules and notifying registered bidders of their initial eligibility;

- Developing and testing bidding procedures that implement the Auction rules;

- Providing technical help to bidders with respect to the Auction rules and the bidding procedures;

- Managing the interface during the Auctions, to ensure that Auction parameters such as length of rounds and decrements are set appropriately;

- Developing information packages that bidders will receive at bidder information sessions;

- Drafting manuals for the Auction;

- Reviewing other information required of bidders before and after qualification and resolving issues over associations with the Board Advisor;

- Training potential bidders in the bidding procedures; and
- Providing to the Board and the EDCs a full factual report on the Auction and on the final results.

In addition, the Auction Manager would support the EDCs and the Board by providing assistance, when appropriate, with the following tasks:

- Promoting the Auctions to potential participants; and
- Coordinating between the Board with its Advisor, and the EDCs.

The Auction Manager is important to a well-run process, from the promotion of the Auctions to the certification of the results, and performs an essential task in developing and testing the bidding procedures for the Auctions. As in years past, the cost of the Auction Manager will be recovered through the tranche fees paid by winning bidders.

B. Confidentiality of Auction Information

On October 22, 2004, the Board issued an Order (Docket No. EO04040288) wherein a list of information was found exempt from the requirements of the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq., and the rules promulgated by the Board at N.J.A.C. 14:1-12 et seq. The Board found the following information, filed as part of the Auction Process, resulting from the BGS-FP or the BGS-CIEP Auctions, or provided by market participants for the purpose of participating in the Auctions, to be information that would provide an advantage to competitors or bidders, and deemed it confidential and not included as a government record pursuant to OPRA:

1. EDC-specific starting prices that are in effect for the first round of bidding;
2. Logic processes and algorithms used by the Auction Manager to determine the starting prices, and volume adjustments during the Auction rounds;
3. Indicative offers consisting of the number of tranches a qualified bidder is willing to supply at the maximum (and minimum starting) prices;
4. Auction round prices and individual bids in each round;

5. Bidder information supplied to qualify for the Auctions from the Part 1 Application;

    - The identities of the bidders except for the identities of the winners as released by the Board;
    - Information on Bidding Agreements;
    - Financial and Credit Requirements;
    - Guarantors' Information;
    - Justification for Omissions.

6. Bidder information supplied to register for the Auctions from the Part 2 Application:

    - The identities of the bidders except for the identities of the winners as released by the Board;
    - Qualified Bidders' Indicative Offers and Calculations of Required Bid Bond;
    - Qualified Bidders' Preliminary Maximum Interest in Each Product;
    - Additional Financial and Credit Requirements;
    - Associations and Confidential Information Certifications;
    - Justification for Omissions.

The EDCs request that the Board find and conclude that the foregoing information be deemed non-public proprietary commercial and financial information that would provide an advantage to competitors or bidders and not included as a government record pursuant to OPRA. The EDCs also request that the Board allow the release of any information that the EDCs, working in close conjunction with Board Staff and Boston Pacific, determine could be released one month before the supply period begins to improve the transparency of the process without also revealing sensitive information about a particular bidder's bids or bidding strategy.

C. Regulatory Milestones and Tentative Auction Timeline

The proposed Auction timeline is as follows. The EDCs request that the Board approve this tentative timeline as a guideline for the conduct of the Auction with the understanding that the time lapses between the various steps be materially adhered to (e.g., the time between the Part 2 application and the Auction not be unreasonably shortened). However, the specific dates would be subject to adjustment to accommodate holiday schedules, the schedules of other procurements in the region, and external events.

Event in BGS	Date
EDC proposal filed	Tuesday, July 01, 2008
Discovery request deadline	Friday, July 18, 2008
Discovery response deadline	Friday, August 01, 2008
First FAQ is posted	Tuesday, August 05, 2008
Release of Preliminary Draft of FP Pricing Spreadsheet	Wednesday, August 06, 2008
Deadline for Initial Comments on all proposals	Friday, August 22, 2008
Posting of Alternate Guaranty Process	Wednesday, September 17, 2008
Legislative-type Board Hearing	TBA
Public Hearings	TBA
Deadline for Final Comments	Friday, September 26, 2008
Information Session for Potential Bidders, Philadelphia	Friday, September 26, 2008
Information Session for Potential Bidders, Washington, D.C.	Friday, October 03, 2008
Final Part 1 Application Form is posted	Thursday, October 16, 2008
Draft Part 2 Application Form is posted	Thursday, October 16, 2008
Deadline to submit alternate form of guaranty	Tuesday, October 28, 2008
Auction Manager informs parties proposing alternate form of guaranty of status of submission	Tuesday, November 04, 2008
Deadline to submit required modifications or revisions to the alternate form of guaranty or other required documents	Thursday, November 06, 2008
Statewide minimum and maximum starting prices announced	Wednesday, November 12, 2008
Load caps announced	Wednesday, November 12, 2008
Tranche sizes announced	Wednesday, November 12, 2008
Auction Manager informs parties proposing alternate forms of guaranty of the EDCs' decision	Thursday, November 13, 2008
Final Part 2 Application Form is posted	Thursday, November 13, 2008

Expected Board decision on Auction proposal	TBA
EDC Compliance Filing	TBA
Expected Board decision on Compliance Filing	TBA
Final Supplier Master Agreements and Auction Rules Posted	TBA
Information Session for Potential Bidders, Philadelphia	Friday, December 05, 2008
Deadline to submit Part 1 Application due by NOON	Tuesday, December 16, 2008
Part 1 Applications are reviewed	December 16 - 19, 2008
Applicants are notified of Part 1 Application Results	Friday, December 19, 2008
Deadline to submit Part 2 Application due by NOON	Tuesday, January 06, 2009
Part 2 Applications are reviewed	January 6 - 13, 2009
Applicants are notified of Part 2 Application results	Tuesday, January 13, 2009
Auction Manager informs Registered Bidders of changes to decrement formulas or ranges of total excess supply (if necessary)	Friday, January 16, 2009
Mark-to-Market Information Release	Friday, January 16, 2009
Tranche Fee is announced	Tuesday, January 20, 2009
Information session for Registered Bidders, Philadelphia	Tuesday, January 20, 2009
Trial auctions for Registered Bidders	Thursday, January 22, 2009
Auction Manager informs Bidders registered in BGS-CIEP Auction of starting prices	Tuesday, January 27, 2009
Auction Manager informs Bidders registered in BGS-FP Auction of starting prices	Wednesday, January 28, 2009
BGS-CIEP Auction Starts	Friday, January 30, 2009
BGS-FP Auction Starts	Monday, February 02, 2009
Board decision on Auction results	Within 2 business days of close of the BGS-FP Auction or BGS-CIEP Auction, whichever comes later
Winning suppliers execute BGS Supplier Master Agreements	Within 3 business days of Board decision
Documents provided to bidders by Auction Manager containing confidential information must be destroyed	Within 5 business days of Board decision
BGS-FP rates filed with Board	Within 60 business days of Board decision
Power Flows	Monday, June 01, 2009

VIII. BOARD APPROVAL AND EXECUTION OF BGS SUPPLIER AGREEMENTS

The EDCs propose that the Board decide formally, within two business days of the day on which the last Auction closes, whether or not to accept the Auction results. The Board, at its discretion, has the option of rendering a decision on the results of one Auction and of rendering a decision on the results of the other Auction at different points in time. For example, the Board may render a decision on the first Auction that closes while the second Auction is still in progress. Since the Auction Process would have been previously approved by the Board**,** accepted bids resulting from the Auction would be deemed reasonable and prudent.

The EDCs recommend that each winning bidder be immediately notified by the Auction Manager of the Board's approval of the Auction results, and that each winning bidder and each EDC be given a period of three business days from receipt of the notification to formally execute the BGS-CIEP and BGS-FP Supplier Master Agreements. The obligations outlined in those Agreements will be part of an irrevocable offer that will become a binding, contractual obligation upon the award of the bid and contract execution will memorialize this commitment.

In other words, the purpose of the review and approval process recommended by the EDCs is for the Board to take the necessary time at the start of the Auction Process to resolve potentially contentious issues, to provide a mechanism for an expeditious decision from the Board in response to the Auction results, and to provide assurance to potential bidders that, once they are notified by the Board that their offer to serve one or more tranches has been accepted, they will indeed be serving that BGS Load. With this overall approach, the risk to potential bidders associated with participation in the Auctions will best be minimized, thereby helping to mitigate some of the risk premiums that bidders may include in their offers and thereby reducing costs for customers, and encouraging maximum bidder participation in the Auctions.

IX. SUPPLIER MASTER AGREEMENTS

Appendices C and D to the filing contain the drafts of the BGS Supplier Master Agreements (for BGS-CIEP and BGS-FP) proposed by the EDCs for the supply period beginning June 1, 2009. These will be the subject of collaboration among the EDCs, Board Staff and interested prospective suppliers and will be updated.

The following changes were made to the Supplier Master Agreements:

- ILR Language: the provisions governing payments to BGS-FP Suppliers from ILR Credits are removed from the BGS-FP SMA;
- Dates are updated to reflect current auction year; and
- Docket numbers are updated to reflect current proceeding.

X. APPENDIX A

Provisional BGS-CIEP Auction Rules

XI. APPENDIX B

Provisional BGS-FP Auction Rules

XII. APPENDIX C

BGS-CIEP Supplier Master Agreement

XIII. APPENDIX D

BGS-FP Supplier Master Agreement