



STATE OF NEW JERSEY
Board of Public Utilities
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IN THE MATTER OF THE PETITION OF)
ATLANTIC CITY ELECTRIC COMPANY,) ENERGY
JERSEY CENTRAL POWER & LIGHT)
COMPANY AND PUBLIC SERVICE)
ELECTRIC & GAS COMPANY) DECISION & ORDER
FOR AUTHORIZATION TO)
INCREASE THE TRANSMISSION RELATED) Docket No. ER05040368
CHARGES TO BGS-FP & BGS CIEP)
CUSTOMERS)

And

IN THE MATTER OF THE PROVISION OF)
BASIC GENERATION SERVICE FOR YEAR) Docket No. EO04040288
THREE OF THE POST-TRANSITION PERIOD)

(SERVICE LIST ATTACHED)

BY THE BOARD:

On April 11, 2005, Atlantic City Electric Company, ("ACE"), Jersey Central Power & Light Company ("JCP&L") and Public Service Electric and Gas Company ("Public Service") (collectively, the "EDCs"), filed a joint request with the Board seeking authorization to increase the transmission-related charges to their Basic Generation Service – Fixed Price ("BGS-FP") and Basic Generation Service – Commercial Industrial Energy Price ("BGS-CIEP") customers and to compensate their BGS-FP suppliers and BGS-CIEP suppliers, respectively, for the additional PJM Open Access Transmission Tariff (OATT) costs the suppliers will be assessed by PJM pursuant to the Reliability Must-Run ("RMR") charges recently approved by the Federal Energy Regulatory Commission ("FERC"). The FERC decision on RMR does not impact the Rockland Electric Company ("RECO") at this time; therefore RECO is not part of this petition.

For accounting purposes and to minimize rate charge proration and associated customer complaints, the EDCs requested Board approval for the BGS supplier payment obligation for RMR to begin effective with the FERC approval date of the RMR charge, thus allowing each EDC to accrue its BGS-FP supplier RMR payment expense commencing February 25, 2005. Each of the EDCs also filed proposed tariff sheets reflecting the level of such increases to their BGS-FP and BGS-CIEP transmission rates. In addition, since it is expected that the FERC-approved charge from PJM related to RMR costs may change from time to time, the EDCs also requested, in accordance with their Company Specific Addenda in the above referenced proceeding, to submit compliance tariff sheets as required to implement changes to these PJM RMR charges. The RMR charges will be in effect until September, 2008. Finally, the EDCs requested that the Board address their requests on an expedited basis.

Under Part V of PJM's OATT, a generator wishing to retire a generation facility that has subsequently been notified by PJM that the subject facility is needed for reliability purposes, has a choice of two compensation mechanisms should the generator elect not to retire. The generator may either file a cost of service rate with the FERC to recover the entire cost of the operating unit beyond its deactivation date – the RMR costs – or it may elect to receive a Deactivation Avoidable Cost Credit. RMR costs are recovered by PJM through an additional transmission charge in the transmission zones assigned financial responsibility for the related transmission upgrades. By Order dated January 25, 2005 (PJM Interconnection, LLC 110 FERC Paragraph 61,053 (2005), the FERC approved PJM's OATT Section 119, which reflects the calculation methodology for RMR charges.

The RMR charge reflected in the EDCs' filing stems from a FERC Order issued April 25, 2005 (PSEG Energy Resource & Trade, LLC and PSEG Fossil LLC, 111 FERC Paragraph 61,121 (2005), in which the FERC accepted PSEG Energy Resources & Trade, LLC and PSEG Fossil LLC's (together, "PSEG Power") proposed tariff, subject to further modification, regarding PJM charges for RMR costs incurred to compensate PSEG Power generating units that PSEG Power sought to deactivate but were requested by PJM to continue operating for reliability purposes.

In the instant matter, PSEG Power provided PJM with the requisite 90 day prior notice that certain generating units were to be retired on December 7, 2004. Subsequently, PJM notified PSEG Power that its Sewaren Units 1, 2, 3, and 4 and Hudson Unit 1 were needed to meet PJM's reliability needs at least through the summer of 2006. Pursuant to the FERC-approved PJM OATT, PSEG filed a petition with FERC seeking a cost of service rate for its Sewaren and Hudson units pursuant to Section 119 of the PJM Tariff. See PSEG Energy Resources & Trade, LLC and PSEG Fossil LLC, FERC Docket No. ER05-644-000. FERC suspended the proposed rates for one day, to be effective on February 25, 2005. FERC also approved PSEG Power's request for a waiver of the 60-day notice period for the proposed rates to be effective. FERC also determined that PSEG Power's proposed rates were properly filed under the PJM OATT and PSEG Power is permitted to recover, effective February 25, 2005, PSEG Power's costs associated with making the identified generating units available in the marketplace.

The Board established the framework for the 2004 BGS Auctions (for the supply period beginning June 1, 2004) in its Order issued December 2, 2003 in Docket No. EO03050394 ("Year Two Order").¹ At that time, the Board specifically found that "the 'pass through' of any

¹ I/M/O the Provision of Basic Generation Service for Year Two of the Post-Transition Period, BPU Docket No. EO03050394, Decision and Order (issued December 2, 2003).

changes in the network integration transmission charges, and other charges associated with the FERC-approved [PJM OATT²] is appropriate.” (Year Two Order at 20).

With respect to this issue, the Board-approved 2004 BGS-FP Supplier Master Agreement included a new Section 15.9 which provides a means for the EDCs to compensate BGS-FP suppliers for FERC-approved increases in Firm Transmission Services rates. Section 15.9 provides that if, during the term of the BGS-FP Supplier Master Agreement, a filing is made with the FERC to increase the rates for Firm Transmission Services, the EDCs will notify BGS-FP suppliers of the filing and seek approval from the Board to increase the rates charged to BGS-FP customers by the amount of such rate increase for Firm Transmission Services. Upon receipt of Board approval for the increase in the rate charged to BGS-FP customers, the EDCs would begin collecting the rate increase from the BGS-FP customers. Commencing with the date that the EDCs begin collecting the rate increase approved by the Board from the BGS-FP customers, the EDCs would track that portion of the payments due suppliers associated with the increase and would retain such tracked amounts for the benefit of the BGS-FP suppliers. Upon approval by the FERC of the proposed rate increase, in a final FERC Order not subject to refund, the EDCs will pay each BGS-FP supplier, in proportion to its BGS Supplier Responsibility Share, the additional amounts tracked and retained for the benefit of BGS-FP suppliers with applicable interest. The EDCs estimate that the impact of the current FERC Order will be to increase residential rates by: 0.21% for ACE; by 0.6% to 0.7% for JCP&L; and by 0.8% to 0.9% for PSE&G. The uncollected RMR rates, those that were in effect from February 25, 2005 until the effective date of this Order will be recovered through the end of 2005 and will therefore appear, just for those few months, as a slightly higher increase.

The 2004 BGS-CIEP Supplier Master Agreement provides for a much more streamlined implementation of increases in charges associated with the PJM OATT. Specifically, Section 9.1(a) of the BGS-CIEP Supplier Agreement provides that the EDCs will pay the BGS-CIEP suppliers for “Transmission Charges equal to the PJM OATT daily rate for the [EDC] Transmission Zone multiplied by the BGS-CIEP Supplier Responsibility Share of the BGS-CIEP Firm Transmission Service obligation for each day of the Billing Month.” Therefore, to the extent that the PJM OATT daily rate increases to reflect the addition of RMR charges, the amount paid by the EDCs to BGS-CIEP suppliers would increase correspondingly.

For the 2005 BGS-FP and BGS-CIEP Auctions, the Board approved a similar pass through of changes in the PJM OATT^{3,4}.

On May 25, 2005 Staff, through its electric industry list server, notified interested parties that comments on the EDCs’ filing should be made by June 3, 2005. On June 3, 2005, comments were received from the Division of the Ratepayer Advocate (“RPA”), the Retail Energy Supply Association (“RESA”) formerly known as the Mid-Atlantic Power Supply Association (“MAPSA”); and from the Independent Energy Producers of New Jersey (“IEPNJ”). The RPA indicates that

² The term “PJM OATT” is defined in the BGS-FP and BGS-CIEP Supplier Master Agreements as “the prevailing PJM Open Access Transmission Tariff on file with the FERC, which sets forth the rates, terms and conditions of transmission services over transmission facilities located in the PJM Control Area, as in effect on the date hereof and as modified from time to time.”

³ I/M/O the Provision of BGS for Year Three of the Post-Transition Period, BPU Docket No. EO04040288, Decision and Order (issued December 1, 2004)

⁴ Since the BGS-FP Supplier Master Agreements entered into as a result of the 2003 BGS Auction did not have such a “pass through” provision, the subject Petition does not seek to change the payments to BGS Suppliers pursuant to those contracts.

it has become increasingly concerned at the number and the amount of rate increases that are being "passed through" to New Jersey ratepayers by the EDCs with little scrutiny to ensure that these rate increases reflect the lowest possible rates necessary for the provision of safe, adequate and proper service. Therefore, the Ratepayer Advocate requests that the Board address the generic issue of transmission pass-throughs in the pending BGS proceeding. The RPA maintains that the State has a continuing obligation to "maintain adequate regulatory oversight . . . to assure that consumer protection safeguards inherent to traditional public utility regulation are maintained." *N.J.S.A. 48:3-50*. These basic protections are denied ratepayers and the Board's approval process is rendered meaningless if the Board adopts the EDCs' suggestion that the Board's role in this process is purely administrative.

RESA and IEPNJ both support the EDCs' petition and recommend the Board allow the pass-through. RESA states that the pricing for Basic Generation Service should cover all of the costs related to the service, including, as here, a new component of the transmission costs. RESA's position continues to be that BGS pricing must reflect the full cost of generation, transmission and distribution, customer support and all of the other components of retail service. Real-time, accurate price signals on which customers may base decisions to conserve, shift load, self-generate or otherwise manage their use are the key to making the competitive market work. IEPNJ states that BGS suppliers have relied on the Board's authorization of the pass through and recovery of increased PJM transmission charges, when participating in the BGS auctions and calculating bid prices. BGS suppliers and future BGS bidders require certainty that such commitments will be met and that they will be compensated for increases in FERC-approved PJM transmission charges as anticipated when they participated in the BGS auction. Absent such assurances, BGS suppliers would have included in their BGS bids a premium to reflect the risk that they would be unable to recover increased transmission charges from BGS customers over the course of the term of the BGS Master Supplier Agreements. Prompt implementation by the Board will help maintain supplier confidence and help ensure that future auctions do not embed unnecessary risk premiums.

The Board has reviewed the EDCs' proposed tariff sheets, the relevant FERC Orders, the Board's BGS Year Two and Year Three Orders, including the approved BGS-FP and BGS-CIEP Supplier Master Agreements, and the comments received from outside parties on the matter. RMR charges to BGS suppliers are the type of charges associated with the PJM OATT that the Board previously determined should be passed through to BGS customers. Moreover, Section 15.9 of the BGS-FP Supplier Master Agreement provides a methodology for such charges to be passed through to and collected from BGS-FP customers. Additionally, Section 15.9 specifically indicates that the EDCs will not compensate the BGS-FP suppliers until the FERC Order becomes final and not subject to refund. In accordance with this provision, the EDCs have made it clear that in the event that the RMR charge ultimately approved by the FERC is less than has been collected, the EDC's will credit any over-collections with interest to their BGS Reconciliation Charge, and will make the appropriate level of payment to BGS-FP suppliers. Likewise any under collections will be flowed through the BGS reconciliation charges.

Approving the timely collection of these RMR charges from BGS customers will have the added potential benefit of safeguarding the efficiency and integrity of the BGS Auction process and maintaining bidder's confidence in the New Jersey regulatory process. Such intangible benefits have the potential to reduce risk premiums related to transmission rate changes in future auctions.

For the foregoing reasons, the Board APPROVES the EDCs' request to recover RMR-related charges through their BGS-FP and BGS-CIEP tariffs with any over or under recoveries flowing

through each EDC's BGS Reconciliation Charge. Furthermore, the Board DIRECTS the EDCs to:

1. File revised tariffs within five days of the date of this Order reflecting the recovery of RMR charges commencing July 1, 2005 and amortized through the end of 2005.
2. Commence charging new BGS rates reflecting the RMR charges effective July 1, 2005.
3. File revised tariffs, as may be necessary, to reflect further changes associated with the RMR and implement those changes in a timely manner.
4. Adjust the BGS tariff rates on an annual basis, effective January 1 of each year, and submit compliance tariff sheets as required to implement changes to the PJM RMR charges that reflect the then current effective RMR costs including any anticipated net revenue or other credits applicable for the following 12 month period.
5. Compensate BGS suppliers for RMR charges pursuant to the terms of their BGS Supplier Master Agreements, and flow the difference between charges to customers and payments to suppliers through the BGS Reconciliation Charges.
6. Consistent with the representations made by the EDCs in connection with their joint submission, in the event that the RMR charge ultimately approved by FERC is less than has been collected, the EDCs shall credit any over-collections with interest⁵ to their respective BGS-FP Reconciliation Charge, and to make the appropriate level of payment to BGS-FP suppliers.

Concerning the RPA request to revisit the issue of transmission charge pass-throughs in the upcoming BGS proceeding, the Board had previously indicated in its SECA Order⁶ that the mechanism to review and approve these charges should be reconsidered by the parties in the 2006 BGS proceeding.

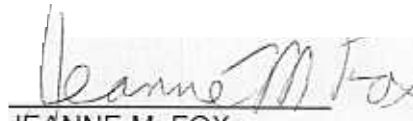
⁵ Interest will be calculated in the manner set forth in each EDC's Board-approved compliance filing for the 2005 Auctions.

⁶ I/M/O the Petition of Atlantic City Electric Company db/a Conectiv Power Delivery, Jersey Central Power & Light Company, and Rockland Electric Company for Authorization to Increase the Transmission Related Charges to BGS-FP Customers and I/M/O the Provision of BGS For Year Three of the post-Transition Period, BPU Docket Nos. ER05010025 & EO04040288, Decision and Order (issued April 11, 2005)


Therefore, the Board DIRECTS Staff to review this matter further in the upcoming BGS proceeding and provide the Board with alternatives for its consideration on a prospective basis.

DATED: 6/22/05

BOARD OF PUBLIC UTILITIES
BY:

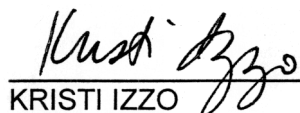

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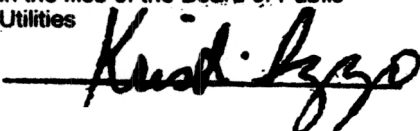

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I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



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