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Agenda Item: 2C

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

REVENUE AND RATES

IN THE MATTER OF THE PROVISION OF BASIC GENERATION SERVICE (BGS) FOR THE PERIOD BEGINNING JUNE 1, 2027	)))	DECISION AND ORDER DOCKET NO. ER26040105

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Kenneth Wan, Esq., Attorney for Atlantic City Electric Company
James Meehan, Esq., Attorney for Jersey Central Power & Light Company
Danielle Lopez, Esq., Attorney for Public Service Electric and Gas Company
Enver Acevedo, Esq., Associate General Counsel for Rockland Electric Company

BY THE BOARD:

By this Decision and Order the New Jersey Board of Public Utilities ("Board" or "BPU") considers the procurement process for Basic Generation Service ("BGS") for retail customers who purchase their electric supply from their electric distribution company ("EDC") for the period beginning June 1, 2027.[1]

I. BACKGROUND AND PROCEDURAL HISTORY

By Order dated April 22, 2026, the Board directed the EDCs and interested parties to file proposals by July 1, 2026, to determine how to procure the remaining one-third of the State's BGS requirements for Residential and Small Commercial Pricing ("RSCP") customers and the annual Commercial and Industrial Energy Pricing ("CIEP") requirements for the period beginning June 1, 2027.[2] The April 2026 Order also ordered RECO to file a proposal as part of its BGS filing to procure the BGS energy and capacity requirements for its non-PJM Interconnection, LLC ("PJM") service area within New Jersey for the period beginning June 1, 2027, to the extent not previously addressed.

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[1] The EDCs are Atlantic City Electric Company ("ACE"), Jersey Central Power & Light Company ("JCP&L"), Public Service Electric and Gas Company ("PSE&G"), and Rockland Electric Company ("RECO").

[2] In re the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2027, BPU Docket No. ER26040105, Order dated April 22, 2026 ("April 2026 Order").

On July 1, 2026, the EDCs submitted a joint filing ("Proposal") for procuring BGS supply beginning on June 1, 2027, including proposed preliminary auction ("Auction") rules, Supplier Master Agreements ("SMAs"), and EDC-specific addenda.

Initial Comments on the Proposal were due to the Board on or before September 4, 2026, the Board held a Legislative-Type Hearing, chaired by President Ben Hertz-Shargel, on September 22, 2026, and Final Comments were due on or before October 9, 2026. The National Economic Research Associates ("NERA"), the New Jersey Division of Rate Counsel ("Rate Counsel"), NextEra Energy Marketing ("NextEra"), Vote Solar, and the EDCs submitted comments and/or spoke at the Legislative-Type hearing.

Each EDC held a virtual public hearing in its service territory to allow members of the public to present their views on the Proposal and its potential impact on rates.[3] No members of the public commented at any of the public hearings.

II. SUMMARY OF POSITIONS

A. PROPOSAL

The Proposal largely relies on the Auction process approved by the Board for the past twenty-five (25) years. Specifically, two (2) simultaneous, multi-round, descending clock Auctions for procurement of services to meet the full electricity requirements of retail customers that have not chosen a third-party supplier ("TPS"). One (1) Auction would procure hourly-priced service for a one (1)-year period beginning June 1, 2027, for the EDCs' commercial and industrial ("C&I") customers ("BGS-CIEP Auction"). The customers in this category represent approximately 2,642 megawatts ("MW") of load to be procured through bidding on an expected thirty-five (35) full-requirements tranches.[4] The second Auction would procure service for a three (3)-year period beginning June 1, 2027, for the EDCs' residential and small commercial customers ("BGS-RSCP Auction"). The BGS-RSCP load represents approximately 5,429 MW of load to be procured through bidding on an expected fifty-seven (57) full-requirements tranches of approximately 93 to 103 MW each. The Board approved the same type of Auctions last year in Docket No. ER25040190.[5]

The Proposal considers each of the EDC's retail load as a separate "product" in each Auction. Auction participants bid by stating the number of tranches they are willing to serve for each EDC at the prices in force at that point in the Auction. In the BGS-RSCP Auction, a price for an EDC is the amount, in cents per kilowatt-hour ("kWh"), to be paid for each kWh of BGS load served. In the BGS-CIEP Auction, a price for an EDC is the amount, in dollars per Megawatt-Day ($/MW-day), paid for the capacity obligation associated with the BGS-CIEP customers served. A tranche of one product [i.e., a tranche of the BGS load for one (1) EDC] is a full requirements (capacity,

[3] JCP&L held its public hearing on August 31, 2026, PSE&G held its public hearing on September 3, 2026, RECO held its public hearing on September 10, 2026, and ACE held its public hearing on September 16, 2026.

[4] Tranche sizes are approximate amounts of BGS-CIEP eligible load and are as follows: ACE- 66.95 MW, JCP&L- 79.10 MW, PSE&G- 76.20 and RECO- 46.30 MW.

[5] In re the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2026, BPU Docket No. ER25040190, Order dated November 21, 2025 ("November 2025 Order").

energy, ancillary services, etc.) tranche.[6] At the end of the Auctions, the final prices for the EDCs' tranches may be different because of differences in the products, due to each EDC's load factor, delivery location, and other factors.

The EDCs proposed that rates for BGS-RSCP customers be designed using a generic methodology implemented as described in each Company-specific addendum. Bidders would receive a spreadsheet that converts the Auction price into customer rates for each EDC, enabling bidders to assess migration risk at various Auction price levels. BGS-RSCP tariff rates would be determined by converting Auction prices to BGS-RSCP rates in a manner that reflects seasonality and time of use indications, where appropriate and feasible, in order to provide appropriate price signals.

The EDCs proposed that payments to winning BGS-RSCP bidders for June through September may be adjusted to reflect higher summer costs, and payments to bidders for the remainder of the delivery period may be adjusted to reflect lower winter costs. The EDCs designed the proposed summer and winter factors such that the overall average payment to the bidder would equal the Auction clearing price.

The EDCs proposed that, for BGS-CIEP tranches, rate schedules would include ancillary service costs and a provision to pass through the hourly PJM real-time energy price. Bidders would indicate how many tranches they want to supply in exchange for a $/MW-day capacity payment and other payments for energy and ancillary services known in advance of the Auction. Under the Proposal, winning bidders would also receive a Standby Fee of $0.00015/kWh to act as an "option fee." CIEP customers who take BGS service would pay the capacity payment, while all CIEP customers would pay the Standby Fee whether they take BGS service or obtain service through a TPS. Winning bidders would be paid the Auction clearing price for all capacity provided to customers taking BGS-CIEP service, plus the Standby Fee rate, times the monthly sales to all CIEP customers, whether on BGS-CIEP or not.

By the Proposal, each BGS supplier would assume PJM Load Serving Entity ("LSE") responsibility for the portion of BGS load (whether BGS-CIEP or BGS-RSCP) served by that supplier. In accordance with the PJM Agreements required of LSEs, BGS suppliers would be physically and financially responsible for the hour-by-hour provision of electric supply for BGS customers. The detailed commercial terms and conditions under which the BGS supplier would operate, including credit requirements, are set forth in the BGS-CIEP and BGS-RSCP SMAs attached to the Proposal as Appendix C and D, respectively.

The EDCs requested that the Board approve or reject, in its entirety, the results of the BGS-RSCP Auction, and separately approve or reject, in its entirety, the results of the BGS-CIEP Auction by the end of the second full business day after the calendar day on which the last of the two (2) Auctions closes. The EDCs recommended that the Board clarify that it may, at its discretion, act on one (1) completed Auction while the second is still ongoing. Upon Board approval, the Auction results would be a binding commitment on the EDCs and winning bidders.

The EDCs proposed modifications to the SMAs with the addition of the Capacity Supplements to the BGS-RSCP SMA for the 2028/2029 and 2029/2030 delivery years, and no Capacity Supplements for the BGS-CIEP, given that the 2027/2028 PJM results became available December 17, 2025. Additionally, the EDCs proposed modifications to the EDCs' rate design

[6] In Auctions prior to 2021, transmission was included in the BGS product and suppliers were responsible for changes in firm transmission rates during the term of the SMAs.

methodology, and modifications to each EDC's Company Specific Addendum to allow for the eventual calculation of the change in the Auction price necessary to accommodate additional payments to (or from) BGS-RSCP suppliers relating to the Capacity Proxy Price for the 2028/2029 and 2029/2030 delivery years.

The Proposal includes numerous other Auction details, Company-specific addenda, and attachments, including the following:

BGS suppliers must meet all New Jersey Renewable Portfolio Standards ("RPS") requirements and any similar standards imposed under any federal, state or local legislation applicable throughout the respective supply periods;

As conditions of qualification, applicants must meet pre-bidding creditworthiness requirements; agree to comply with all rules of the Auction; and agree that, if they become Auction winners, they will execute the BGS SMA within three (3) business days of Board certification of the results, and they will demonstrate compliance with the creditworthiness requirements set forth in that agreement;

To qualify, applicants must disclose which, if any, bidder associations exist, and if such associations exist, applicants must provide additional information as the Auction Manager may require;

Qualified bidders must post a per-tranche letter of credit or bid bond;

The BGS-CIEP Auction secures supply for a period of twelve (12) months, and the BGS-RSCP Auction secures approximately one-third of each EDC's total load requirements for three (3) years, with the remaining two-thirds having been secured through previous BGS-RSCP Auctions; and

Each Company-Specific Addendum addresses the individual EDC's use of committed supply, contingency plans, accounting and cost recovery, and utility pricing and tariff sheets. Each EDC Company-Specific Addendum also included individual proposals from each EDC. ACE's Company-Specific Addendum indicated a proposal to recover costs for the BGS Electric Vehicle ("EV") 2 Cents Program via the BGS reconciliation and to terminate the program. Additionally, ACE proposed to revise the residential whole-house BGS Time of Use ("TOU"), which would replace the BGS EV 2 Cents Program. JCP&L's Company-Specific Addendum requested that the Board authorize it to continue to offer the DCFC BGS-CIEP Pilot Program during the 2027/2028 BGS supply period when the EV Driven Program is active, as well as approval of cost recovery related to JCP&L's residential BGS EV TOU program. The Company-Specific Addendum for PSE&G included the request to eliminate ongoing residential EV charging data collection/reporting and to phase out the residential EV credit in favor of the approved Residential Three (3) Period TOU ("RS-TOU-3P"). Additionally, PSE&G proposed to migrate from a quarterly reconciliation charge to an annual reconciliation charge and modified the level of migration it included in its forecasted calendar month sales. RECO's Company-Specific Addendum included its proposal to procure the BGS energy and capacity requirements for its non- PJM service area within New Jersey for the period beginning June 1, 2027, to the extent not previously addressed.

B. PJM CAPACITY MARKET CONSTRUCT

1. Capacity Proxy Price

In the 2020 BGS proceeding, the Board approved the use of a capacity proxy price ("Capacity Proxy Price") for each EDC to be treated as the capacity price for the 2022/2023 delivery year because the actual capacity price for that delivery year was not expected to be known prior to the 2020 BGS Auctions.[7] The Board noted that keeping the BGS-RSCP structure as a three (3)-year product would help mitigate rate changes and avoid the complications of requiring a supplemental Auction when the 2022/2023 capacity price becomes known. The Board further noted that, if the BGS-RSCP product is to cover three (3) years, bidders must have some set capacity price to set their bids. In its Orders issued in November 2020, November 2021, November 2022, November 2023, November 2024, and November 2025, the Board further approved the use of the Capacity Proxy Price for the proposed delivery years where an applicable delivery year's capacity price was not expected to be known prior to the given BGS-RSCP Auction.

On April 11, 2023, PJM filed to revise its schedule for its capacity auctions for the 2025/2026 through 2028/2029 delivery years. On June 9, 2023, the Federal Energy Regulatory Commission ("FERC") issued an Order accepting PJM's proposed revisions to the base residual auction ("BRA") schedules for the 2025/2026 through the 2028/2029 delivery years. Additionally, the FERC required PJM to submit a compliance filing in response to the FERC's June 9, 2023, Order, and such compliance filing was to include an illustrative auction schedule for the 2025/2026 through the 2028/2029 delivery years. On February 12, 2024, PJM filed to delay the commencement of its BRA for the 2025/2026 delivery year, and the FERC issued an Order accepting PJM's request to delay on February 26, 2024. On October 15, 2024, PJM filed to delay the commencement of its base residual auction for the 2026/2027 delivery year by approximately six (6) months. In this filing, PJM provided a revised capacity auction schedule for the 2026/2027 through the 2029/2030 delivery years and explained that the delay in conducting the BRA for the 2026/2027 delivery year would also result in a delay for other delivery years through the 2029/2030 delivery year. The FERC issued an Order granting PJM's request to delay on November 8, 2024.

At the time that the EDCs filed the Proposal, the results of the BRAs for the 2028/2029 and 2029/2030 delivery years were not yet available. The EDCs asserted that if the capacity price was not known for the delivery years prior to the 2027 BGS-RSCP Auction, it may be the case that BGS-RSCP suppliers are likely to include risk premiums into their bids to address this uncertainty and it may be the case that some bidders choose not to participate altogether. The EDCs asserted that this could result in higher closing prices in the BGS-RSCP Auction than would otherwise be the case, to the detriment of BGS-RSCP customers. To address this potential problem, the EDCs proposed to continue the approach approved by the Board each year since the 2020 BGS proceeding. Specifically, the EDCs proposed to address this issue by setting a Capacity Proxy Price for the 2028/2029 delivery year and a Capacity Proxy Price for the 2029/2030 delivery year that suppliers will be able to incorporate into their bids.

However, if the results of the BRA for any of the delivery years are known at least five (5) business days prior to the start of the BGS-RSCP Auction, the EDCs asserted that the Capacity Proxy Price for the applicable delivery year would no longer be needed and would be voided.

[7] In re the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2020, BPU Docket No. ER19040428, Order dated November 13, 2019.

In their proposal in the 2025 BGS proceeding, the EDCs acknowledged that at the time of the filing, capacity prices had begun to increase, where the Final Zonal Net Load price for the 2024/2025 delivery year was higher than that of the 2023/2024 delivery year. Further, the EDCs expressed a possibility that the increase in capacity prices could continue and potentially be greater than the relatively small increase realized between the 2024/2025 delivery year and the 2023/2024 delivery year. As such, in the 2025 BGS proceeding proposal, the EDCs proposed that if the results of the BRA for the 2025/2026 delivery year reflected significant increases in capacity prices, the EDCs would adjust the calculation of the Capacity Proxy Prices that were more reflective of current prices. Specifically, the EDCs proposed that if the results of the BRA for the 2025/2026 delivery year were fifty percent (50%) (or more) higher than the Final Zonal Net Load Price for the 2024/2025 delivery year, the EDCs would set the Capacity Proxy Prices for those two (2) delivery years at the actual BRA price realized for the 2025/2026 delivery year.

On July 30, 2024, PJM made available the results of the BRA for the 2025/2026 delivery year. The results of the BRA for the 2025/2026 delivery year ($270.43/MW-day) were approximately 378% higher than the Final Zonal Net Load Price for the 2024/2025 delivery year ($56.56/MW-day). Consistent with their proposal in the 2025 BGS proceeding, the EDCs then updated the proposed Capacity Proxy Prices for the 2026/2027 and 2027/2028 delivery years to be equal to the BRA results for the 2025/2026 delivery year. By Order dated November 21, 2024, the Board authorized the EDCs to set the Capacity Proxy Prices for the 2026/2027 and 2027/2028 delivery years equal to the BRA results for the 2025/2026 delivery year.[8] As the results of the BRAs for the 2026/2027 and 2027/2028 delivery years were not made available prior to the 2025 BGS-RSCP Auction, the values of the Capacity Proxy Prices for the 2026/2027 and 2027/2028 delivery years remained set to the BRA results for the 2025/2026 delivery year. Similarly, by the November 2025 Order, Board authorized the EDCs to use a Capacity Proxy Price equal to the most recent BRA results for the 2027/2028 and 2028/2029 delivery years.

The EDCs stated that they have monitored the prices in PJM's capacity auctions and provided the following table demonstrating the Final Zonal Net Load Prices reached in PJM's capacity auctions beginning with the 2019/2020 delivery year:[9]

EDC	2019/2020 Final Zonal Net Load Price ($/MW-day)	2020/2021 Final Zonal Net Load Price ($/MW-day)	2021/2022 Final Zonal Net Load Price ($/MW-day)	2022/2023 Final Zonal Net Load Price ($/MW-day)	2023/2024 Final Zonal Net Load Price ($/MW-day)	2024/2025 Final Zonal Net Load Price ($/MW-day)	2025/2026 Final Zonal Net Load Price ($/MW-day)	2026/2027 Final Zonal Net Load Price ($/MW-day)	2027/2028 Preliminary Zonal Net Load Price
PSE&G	115.83	174.32	188.46	97.93	50.96	56.56	270.43	329.08	333.69
JCP&L	115.58	174.32	164.73	97.93	50.96	56.56	270.43	329.08	333.69
ACE	115.58	174.32	164.73	97.93	50.96	56.56	270.43	329.08	333.69
RECO	115.58	174.32	164.73	97.93	50.96	56.56	270.43	329.08	333.69

The EDCs further stated that the significant increase in PJM capacity market costs has resulted in considerable focus on capacity pricing and customer bill impacts. Following a complaint filed on December 30, 2024, by Governor Shapiro and the Commonwealth of Pennsylvania, that asserted the price cap for PJM's capacity auctions was unreasonable, PJM itself filed a response on February 20, 2025, that would establish a price cap and price floor for its capacity auctions for the 2026/2027 and 2027/2028 delivery years ("Price Collar"). PJM proposed that the lower and upper bounds for the Price Collar be approximately $175/MW-day and approximately $325/MW-

[8] In re the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2025, BPU Docket No. ER24030191, Order dated November 21, 2024.

[9] See Proposal, Table 1.

day, respectively. The FERC approved PJM's filing and Price Collar on April 21, 2025. On February 27, 2026, PJM filed to extend the price cap and price floor for its capacity auctions through the 2028/2029 and 2029/2030 delivery years. PJM attributed the need for the extension of the price collar to similar factors that led to its initial proposal of a price collar for the 2026/2027 and 2027/2028 delivery years. The FERC approved PJM's filing and extension of the price collar on April 28, 2026. As such, absent any subsequent changes, the BRA results, as well as any incremental auction results for the 2028/2029 and 2029/2030 delivery years, will not be less than approximately $175/MW-day or greater than approximately $325/MW-day.

The EDCs maintained that, like the Board, the EDCs cannot predict the results of PJM's capacity auctions, even for those delivery years to which a Price Collar applies. However, the EDCs stated that setting the Capacity Proxy Prices at a reasonable estimate of the unknown capacity price for a given delivery year is the best approach for BGS customers. The EDCs reiterated that in the Proposal, the EDCs proposed to set the Capacity Proxy Prices for the 2028/2029 and 2029/2030 delivery years equal to the Preliminary Zonal Net Load Price for Load Price for the 2027/2028 delivery year ($333.69/MW-day), which was the most recently available PJM capacity auction price available at the time the EDCs made their filing on July 1, 2026. The EDCs further stated that proposed values for the Capacity Proxy Prices for the 2028/2029 and 2029/2030 delivery years are within the bounds of PJM's Price Collar and the proposed values are consistent with the 2026 EDCs' Proposal as the values aim to achieve Capacity Proxy Prices that are reflective of current prices.

The EDCs stated that the results of the BRA for the 2028/2029 delivery year were expected to be made available on July 14, 2026, and the results of the BRA for the 2029/2030 delivery year were expected to be made available on December 22, 2026. Accordingly, the EDCs proposed that if the results of the BRA for the 2028/2029 delivery year become available at least five (5) business days prior to the BGS-RSCP Auction, and if the BRA results for the 2029/2030 delivery year do not become available at least five (5) business days prior to the BGS-RSCP Auction, then the EDCs will adjust the calculation of the Capacity Proxy Prices for the 2029/2030 delivery year and set them equal to the BRA prices realized for the 2028/2029 delivery year. In this case, the Capacity Proxy Prices for the 2028/2029 delivery year will be voided. The EDCs stated that this proposed methodology assures that the Capacity Proxy Prices that are ultimately utilized for a delivery year reflect the most recent PJM capacity auction results that are available for a prior delivery year. Additionally, the EDCs proposed that if the results of the BRA auctions for both of the 2028/2029 and 2029/2030 delivery years are made available at least five (5) business days prior to the BGS-RSCP Auction, then the Capacity Proxy Prices for the 2028/2029 and 2029/2030 delivery years will be voided.

Regarding the EDCs' updates to the Capacity Proxy Prices, the EDCs proposed that if the results of the BRA auction for the 2028/2029 delivery year are available at the time of the EDCs' Compliance Filing following the Board's decision in this matter, and if the Board approves the EDCs' proposal as it pertains to the use and updating of Capacity Proxy Prices for the 2029/2030 delivery year, the EDCs will update the values of the Capacity Proxy Prices for the 2029/2030 delivery year at that time. In this case, the Capacity Proxy Prices for the 2029/2030 delivery year will be set equal to the most recent PJM capacity auction results (the BRA results) for the 2028/2029 delivery year. If the results of the BRA auctions for both of the 2028/2029 and 2029/2030 delivery years are made available at least five (5) business days prior to the BGS-RSCP Auction, then the Capacity Proxy Prices for the 2028/2029 and 2029/2030 delivery years will no longer be needed and will be voided.

According to the EDCs, winning BGS-RSCP suppliers will be paid the closing price (cents/kWh) in the BGS-RSCP Auction for load served. In the 2028/2029 and 2029/2030 delivery years, BGS-RSCP suppliers will additionally be paid (or will pay) the difference between the rate paid by BGS-RSCP suppliers for capacity and the final Capacity Proxy Price for that delivery year. Consistent with the processes approved by the Board since the 2020 BGS Auctions, these payments would only occur in the 2028/2029 delivery year or in the 2029/2030 delivery year, even if the value of the capacity price for that delivery year is known prior to the start of that delivery year, but only if the results are not known at least five (5) business days prior to the start of the BGS-RSCP Auction. The EDCs argued that this construct provides certainty to BGS-RSCP suppliers that they will be fully compensated for the actual rates for capacity that they pay in the 2028/2029 and 2029/2030 delivery years.

Rate Counsel Comments

In its Initial Comments, Rate Counsel stated that for this proceeding, only the 2029/2030 BRA results will be unknown prior to the February 2027 BGS Auction if PJM remains on schedule. See Rate Counsel Initial Comments at 10. Rate Counsel noted that on July 14, 2026, PJM released the results of the 2028/2029 BRA, which cleared at the administrative cap of $325.00/MW-day. Rate Counsel asserted that, at this point in time, the $325.00/MW-day auction price for the 2028/2029 BRA should be incorporated into suppliers' bids and the results of the 2029/2030 Capacity auction should be known prior to the February 2027 BGS auction. Id. at 10-11. Given the history of mismatch between the BGS Auction and PJM-run capacity auctions, Rate Counsel did not object to the extension of the Capacity Proxy Price for the 2029/2030 delivery year as a backstop for the 2027 BGS Auction. See T1 25:24 to 26:4.[10] Rate Counsel believes that absent significant delays, the five (5) business days advanced notice of the BRA is sufficient for bidders seeking to participate in the 2027 BGS Auction.

Accordingly, Rate Counsel stated that it supports the EDCs' five (5)-day trigger for canceling the Capacity Proxy Price for the 2029/2030 delivery year. See Rate Counsel Initial Comments at 11; T1 25:10 to 12.

EDC Comments

In their Final Comments, the EDCs asserted that the use of a Capacity Proxy Price and subsequent true-up construct provides certainty to BGS-RSCP Suppliers that they will be fully compensated for the actual rates for capacity that they pay in any given delivery year. See EDC Final Comments at 2-3. The EDCs maintained that if a Capacity Proxy Price was not used, and no other mechanism was in place at the time of the BGS-RSCP Auction to address that capacity prices for a delivery year are unknown prior to the BGS-RSCP Auction, bidders will likely include risk premiums in their bids, and some potential bidders may choose not to participate in the BGS-RSCP Auction altogether which may result in higher closing prices in the BGS-RSCP Auction to the detriment of BGS customers. Id. at 3.

The EDCs stated that setting Capacity Proxy Prices at a reasonable estimate of the unknown capacity price for a given delivery year is the best approach for BGS customers as it helps to minimize rate impacts resulting from any true-up payments. As the EDCs cannot predict the results of PJM's capacity auctions, the exact calculation of the Capacity Proxy Prices has varied over time, depending on whether capacity prices were generally expected to decrease, increase,

[10] T1 shall refer to the Transcript of the Legislative-Type Hearing dated September 22, 2026, in this matter.

or be broadly stable. The EDCs stated that they expect capacity prices to be broadly stable at this time. Id. at 4.

On July 14, 2026, PJM made available the results of the BRA for the 2028/2029 delivery year. As such, per the Proposal, the EDCs argue that the Capacity Proxy Price for the second year of the supply term covered by the 2027 BGS-RSCP Auction product would be null and void. Whether the Capacity Proxy Price for the last year of the supply term would be needed will depend on the timing of the BRA that will determine capacity prices for the 2029/2030 delivery year which is anticipated to be held in December 2026. Id. at 5.

Accordingly, the EDCs requested that the Board approve their proposed method for determining, and updating, the Capacity Proxy Price for each EDC for the 2029/2030 delivery year in the event actual capacity prices for this delivery year are not known at least five (5) business days prior to the start of the 2027 BGS-RSCP Auction. Specifically, the EDCs requested that the Board approve the EDCs' proposal to set the value of the Capacity Proxy Price for the 2029/2030 delivery year equal to the results of the BRA for the 2028/2029 delivery year, and the EDCs request that the Board approve the EDCs' proposal that the Capacity Proxy Price for the 2029/2030 delivery year be voided in the event the results of the BRA for the 2029/2030 delivery year are known at least five (5) business days prior to the BGS-RSCP Auction. Id. at 5-6.

2. BPU Investigation of PJM's Capacity Market

On August 15, 2025, P.L. 2025, Joint Resolution No. 11 directed the Board to investigate whether PJM's Reliability Pricing Model ("RPM") is serving its intended design to obtain resource adequacy at the lowest possible cost ("Joint Resolution").[11] The Joint Resolution further directed the Board to report the results of its investigation to the Governor and the Legislature within twelve (12) months. Staff of the Board's Office of Federal and Regional Policy conducted this investigation and prepared a report in fulfillment of that legislative directive ("Investigation Report"). At its August 12, 2026 Board Agenda Meeting, the Board accepted the Investigation Report.[12]

In its Initial Comments, Rate Counsel recommended that the Board not mandate any changes to the BPU Auction process before stakeholders had an opportunity to respond to the conclusions set forth in the Investigation Report. See Rate Counsel Initial Comments at 16. Rate Counsel stated that while the Investigation Report does a commendable job of describing the history leading up to the current crisis, it fails to adequately appreciate the fundamental differences between New Jersey's full requirements service procurement and PJM's capacity only auction. Rate Counsel argued that the hedging assumptions relied on by the Investigation Report, are not specific to New Jersey's BGS Process and therefore fail to appreciate the differences from the BGS process and the standard offer service available in the other PJM retail-choice states. Ibid. Rate Counsel recommended the Board provide notice and the opportunity for comment before implementing any changes based on the recommendations in the Investigation Report to avoid undermining the parts of the BGS which have made it so successful with retail customers. Id. at 16-17.

[11] P.L. 2025, Joint Resolution No. 11 (N.J. Aug 15, 2025), https://pub.njleg.gov/Bills/2024/JR25/11_.HTM.

[12] In re Report Investigating the PJM Reliability Pricing Model Pursuant to P.L. 2025, Joint Resolution No. 11, BPU Docket No. EO26070398.

C. REMOTE AUCTION

Rate Counsel Comments

In Rate Counsel's initial comments, Rate Counsel indicated that it did not object to the EDCs' continuation of the remote Auction process proposal. See Rate Counsel Initial Comments at 16. Rate Counsel stated that the EDCs noted that the protocols for the remote Auction have been in place since 2021. Ibid.

EDC Comments

In their Final Comments, the EDCs noted that, prior to the 2021 BGS Auction process, the Auctions were managed from a physical BGS Auction office established for this purpose with all personnel associated with the BGS Auction present. Starting with the 2021 BGS Auctions, the BGS auctions were held remotely, without all personnel co-located in a dedicated BGS Auction office. See EDC Final Comments at 29. Specific protocols were put in place to ensure the successful implementation of the BGS Auctions. The Board Advisor, the Auction Manager, and Board Staff all agree on the details of such protocols, including, if desired, co-locating members of the Board Advisor and a subset of personnel from the Auction Manager during bidding. The EDCs asserted that these protocols are, several years later, well tested and the success of such protocols is not in dispute. Id. at 30. The EDCs stated that Rate Counsel and the EDCs agree that remote Auctions are appropriate. The EDCs requested that the Board continue to approve the holding of remote Auctions, with the understanding that the EDCs and the Auction Manager are committed to working with Board Staff and the Board Advisor on any future refinement to the protocols that might be needed. Ibid.

D. COMPANY SPECIFIC PROPOSALS

1. ACE

a) BGS EV 2 Cent Program

By Order dated May 24, 2023, the Board approved ACE's BGS EV 2 Cents Program.[13] The Board did not approve ACE's cost recovery proposal in the EV 2 Cents Program Order as the implementation costs were being finalized but did authorize ACE to defer the costs associated with implementing the BGS EV 2 Cents Program until the program was fully implemented. At that point, the Board directed ACE to file a petition to recover the deferred costs, which may include a proposal to recover the costs through the BGS Reconciliation Charge filings.

In its Company-Specific Addendum, ACE proposed to recover all costs associated with the BGS EV 2 Cents Program (including, but not limited to, the cost of the credits to customers, implementation costs of updating ACE's systems, and on-going administration costs) through the BGS Reconciliation Rate, which is applicable to all BGS-RSCP customers. ACE asserted that recovery through the BGS Reconciliation is the appropriate cost recovery mechanism for costs related to BGS-RSCP because the costs incurred were both reasonable and necessary to implement a TOU program. See ACE Company-Specific Addendum at 19.

[13] In re the Petition of Atlantic City Electric Company Requesting Approval of a Tariff Amendment to Add a Net Off-Peak Basic Generation Service (BGS) Energy Credit for Eligible Residential Electric Vehicle Customers Pursuant to N.J.A.C. 14:1-5.11 and N.J.A.C. 14:3-1.3, BPU Docket No. ER23040209, Order dated May 24, 2023 ("EV 2 Cents Program Order").

According to ACE, to minimize the impact on customer bills, ACE proposed to amortize the accumulated costs over twenty-four (24) months. ACE also proposed future ongoing costs incurred in the program to be recovered through the BGS Reconciliation. Id. at 20. From the start of the program through May 2026, ACE indicated that it incurred $1,538,588 related to the program.

ACE also proposed to terminate the BGS EV 2 Cents Program as of May 31, 2027, arguing that the program is not cost-effective. ACE asserted that administrative expenses significantly outweigh the customer credit benefits by a ratio of approximately 13:1. Id. at 20. ACE stated that a major driver of these expenses is the reliance on a third-party vendor to collect EV charger usage data and process credits; a service that, while costly, is essential to the program's operation and cannot be avoided under the current structure. ACE argued that offering a revised whole house TOU rate option can deliver comparable bill savings to customers, while eliminating the need for costly third-party data services and avoiding the burden of subsidizing these expenses across the broader ratepayer base. Ibid. Accordingly, in lieu of the BGS EV 2 Cents Program, ACE proposed a revised BGS Residential (whole house) TOU rate available to Residential EV customers as discussed below. Id. at 21.

Rate Counsel Comments

In its Initial Comments, Rate Counsel indicated that it did not oppose the proposed termination of ACE's current EV 2 Cents Program and the proposed cost recovery mechanism to recover the $1.5 million in program costs. See Rate Counsel Initial Comments at 15.

ACE Comments

In its Final Comments, ACE stated that it appreciated Rate Counsel's support for the proposal to terminate the BGS EV 2 Cents Program and recovery of the associated program costs over a twenty-four (24) month period. See ACE Final Comments at 2. ACE requested that the Board approve the proposed termination and cost recovery treatment as reasonable, prudent, and designed to minimize the impact on customers. Ibid.

b) Revision of Whole House Program

As noted in its Company-Specific Addendum, ACE did not previously have sufficient data from its Advanced Metering Infrastructure ("AMI") program and the Smart Energy Network to support the implementation of a TOU program in 2023. According to ACE, beginning in May 2024, ACE began collecting this usage data and now has over a year of information to leverage in the implementation of a revised TOU program. See ACE Company-Specific Addendum at 21.

ACE proposed revising the existing BGS Residential TOU rate by adjusting the peak period to be 4:00 P.M. to 9:00 P.M., Monday through Friday and aligning it with the then- pending Residential Distribution TOU petition offering (Docket No. ER25070444).[14] In the 2025 Rider RGGI Docket, the Company selected the peak hours of 4:00 P.M. to 9:00 P.M. because, based on a monthly residential and total system load profile analysis, that is the period during which electricity demand consistently reached its highest levels. ACE proposed that these changes take effect on June 1, 2027. Ibid.

Currently, ACE's BGS Residential TOU rate is available to residential customers, including EV customers, but ACE argued that its twelve (12)-hour peak window significantly limits participation due to the difficulty in avoiding peak hours and higher rates. By shortening the peak period to a five (5)-hour window, ACE indicated that it aims to make the rate more accessible and attractive to residential customers, especially to EV customers. The TOU rate design is structured to be revenue-neutral; meaning that a typical residential customer would pay approximately the same total amount under the TOU rate as they would under the standard rate, assuming their usage patterns are similar to the average residential customer. Ibid. ACE argued that customers who shift a portion of their on-peak usage to off-peaks hours can benefit from lower energy costs due to the reduced off-peak TOU rates. ACE stated that EV customers often have greater control over when they charge their vehicles and can easily take advantage of off-peak pricing. By doing so, ACE argued that they can realize meaningful bill savings as compared to the average customer's on-peak to off-peak usage ratio. Adjusting the BGS TOU rate to be identical to the those proposed in the 2025 Rider RGGI Docket allows simultaneous participation in both the distribution and BGS supply portions, maximizing potential savings. ACE plans to market both offerings to customers. Id. at 21-22.

ACE maintained that this dual participation opportunity also supports the goal of broadening adoption of TOU rates, facilitated by the roll out of AMI meters company wide as customers are more likely to engage with and respond to larger time-based pricing signals, enabling them to make informed decisions that help manage their energy costs. ACE further argued that aligning peak periods for distribution and supply will encourage greater participation by customers, promotes a more comprehensive energy management approach, helps reduce system strain during peak demand hours and supports a more balanced and efficient grid, resulting in a more effective approach to reduce long-term costs which can be passed on to ratepayers. Id. at 22.

ACE stated that its proposal offers EV customers a revenue-neutral alternative to the higher cost BGS EV 2 Cents Program no longer requiring other ratepayers to subsidize the cost. By leveraging existing AMI data and billing mechanisms, ACE argued that it eliminates the need for third-party involvement and does not impose additional costs on the customers, making it a more practical solution. Ibid.

[14] In re the Combined and Consolidated Application of Atlantic City Electric Company to Adjust the Level of Its "Rider RGGI" Charges Associated with its Legacy Solar Renewable Energy Certificate ("SREC I") Financing Program, its Successor Solar Renewable Energy Certificate ("SREC II") Financing Program, its Solar Transition Incentive ("TREC") Program, its Successive Solar Incentive ("SuSI") Program, its Energy Efficiency ("EE") T1 and T2 ("EE T1" and "EE T2", Respectively) Programs, its Community Solar Energy Pilot ("CSEP") Program and its Proposed Time of Use ("TOU") Program Modifications (2025), BPU Docket No. ER25070444 ("2025 Rider RGGI Docket").

Rate Counsel Comments

In its Initial Comments, Rate Counsel recommended that the Board consider ACE's proposed Residential TOU rate as part of the 2025 Rider RGGI Docket or as part of a base rate case, where rate design issues would be more fully investigated. See Rate Counsel Initial Comments at 15-16.

ACE Comments

In its Final Comments, ACE disagreed with Rate Counsel's recommendation to consider proposed Residential TOU rate design in the 2025 Rider RGGI Docket or in a future base rate case. See ACE Final Comments at 2. ACE argued that because its proposal modifies the design of existing Residential BGS TOU supply rates and the allocation of BGS procurement costs between on-peak and off-peak periods, it is properly addressed in the annual BGS filing. Ibid.

Furthermore, ACE pointed out that the TOU rate referenced in the 2025 Rider RGGI Docket ER25070444 is a distribution rate and does not concern BGS supply rates. ACE indicated that it was authorized by the Board to develop an AMI-enabled residential distribution TOU rate.[15] Additionally, by Order dated September 24, 2026, the Board approved ACE's Residential distribution TOU rate proposal, including peak hours from 4:00 p.m. to 8:00 p.m.[16] ACE argued that the separate distribution rate proceeding does not provide the appropriate basis for deciding ACE's proposed BGS supply rate design change, which should be resolved in the instant matter so customers can receive the benefits of aligned TOU periods without further delay. Ibid.

ACE asserted that, in this docket, its proposed modification of the existing BGS TOU hours would align the existing supply TOU rate peak periods with the distribution TOU rates approved by the September 2026 Order, enabling BGS customers to maximize potential benefits by participating in both rate components. ACE argued that, without this alignment, customers would not be able to participate in both but would have to choose between participating in the distribution or supply TOU rates. Id. at 2-3.

Additionally, with respect to Rate Counsel's assertion that ACE did not perform a separate revenue-neutrality study specifically evaluating the change from the existing twelve (12)-hour peak period to the proposed five (5)-hour peak period, ACE maintained that it is only proposing to adjust the peak and on-peak hours and is not proposing to change the previously approved BGS TOU pricing methodology. Id. at 3. As a result, ACE argued that the rate was already designed and continues to be revenue neutral, and the proposed change in peak hours would have no bearing on that conclusion. ACE maintained that the proposed five (5)-hour period should also provide customers with a clearer and more focused price signal by aligning the higher-priced

[15] In re the Petition of Atlantic City Electric Company for Approval of a Portfolio of Energy Efficiency, Building Decarbonization and Demand Response Programs, a Cost Recovery Mechanism, and Other Related Relief Pursuant to the Clean Energy Act for the Period January 2025 Through June 2027 (Triennium 2), BPU Docket No. QO23120871, Order dated October 30, 2024.

[16] In re the Combined and Consolidated Application of Atlantic City Electric Company to Adjust the Level of Its "Rider RGGI" Charges Associated with its Legacy Solar Renewable Energy Certificate ("SREC I") Financing Program, its Successor Solar Renewable Energy Certificate ("SREC II") Financing Program, its Solar Transition Incentive ("TREC") Program, its Successive Solar Incentive ("SuSI") Program, its Energy Efficiency ("EE") T1 and T2 ("EE T1" and "EE T2", Respectively) Programs, its Community Solar Energy Pilot ("CSEP") Program and its Proposed Time of Use ("TOU") Program Modifications (2025), BPU Docket No. ER25070444, Order dated September 24, 2026 ("September 2026 Order").

period more closely with the hours ACE has identified for the proposed BGS TOU design. Accordingly, ACE requested that the Board approve the proposal in this proceeding. Ibid.

2. JCP&L

a) Continuation of DCFC Pilot

By Order dated November 17, 2023, the Board authorized the EDCs to implement two (2)-year Direct Current Fast Charging ("DCFC") pilot programs.[17] The November 2023 Order also directed the EDCs to provide an update on the status of each EDC's pilot program and to continue to collect data subject to customer consent and submit semi-annual reports to the Board and Rate Counsel. By Order dated November 21, 2024, the Board directed the EDCs to provide, in the 2026 BGS proceeding, an update of the status of the pilot programs, as well as a proposal to implement permanent DCFC programs or provide justification for ending the programs.[18] In its Company-Specific Addendum in the 2026 BGS proceeding, JCP&L proposed to continue its DCFC pilot program from June 1, 2026, through May 31, 2027, unless its EV Driven program was discontinued. The Board authorized JCP&L to continue the program by the November 2025 Order.

By Order dated May 21, 2026, the Board ordered all EDCs to extend their respective light duty EV programs past their original program end dates until the earlier of one (1) year or through December 2027.[19]

In its Company-Specific Addendum, JCP&L indicated that for the 2026/2027 supply period, there were ten (10) DCFC accounts signed up for the optional alternative BGS-CIEP Capacity Charge during each supply period. The Company proposed to continue to offer the DCFC BGS-CIEP Pilot Program during the 2027/2028 BGS supply period when the EV Driven Program is active. JCP&L did not propose to make the DCFC BGS-CIEP Pilot program permanent at this time and stated that it believes it should be offered in conjunction with its EV Driven Program to provide maximum benefit for DCFC fast charging. Further, JCP&L proposed no change to the cost recovery mechanism approved by the Board in the November 2023 Order.

No party provided comments on JCP&L's proposal to continue its DCFC BGS-CIEP Pilot Program.

[17] In re the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2024, BPU Docket No. ER23030124, Order dated November 17, 2023 ("November 2023 Order").

[18] In re the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2025, BPU Docket No. ER24030191, Order dated November 21, 2024.

[19] In re Straw Proposal of Electric Vehicle Infrastructure Build Out; In re the Petition of Rockland Electric Company for Approval of an Electric Vehicle Program, Establishment of an Electric Vehicle Surcharge, and for Other Relief; In re the Verified Petition of Jersey Central Power & Light Company for Approval of an Electric Vehicle Program and an Associated Cost Recovery Mechanism; In re the Petition of Atlantic City Electric Company for Approval of a Voluntary Program for Plug-In Vehicle Charging; and In re the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future – Electric Vehicle and Energy Storage ("CEF-EVES") Program on a Regulated Basis, BPU Docket Nos. QO20050357, EO20110730, EO21030630, EO18020190, EO18101111, Order dated May 21, 2026 ("May 2026 Order").

b) BGS EV TOU Program

By Order dated May 24, 2023, the Board authorized JCP&L to implement its BGS EV TOU rate through July 15, 2026.[20] The Board did not approve JCP&L's cost recovery proposal in the JCP&L BGS EV TOU Order, but directed JCP&L to defer the costs associated with implementing the BGS EV TOU rate option until the program was fully implemented. At that time, the Board directed JCP&L to file a petition to the deferred costs, which may include a proposal to recover the costs through the BGS Reconciliation Charge filings. On June 25, 2026, JCP&L filed a letter petition to extend its residential BGS EV TOU rate beyond July 15, 2026 and to recover the deferred program cost, as well as any cost incurred during the Board ordered extension period through the BGS Reconciliation Charge filing ("July 15 Filing"). By Order dated July 15, 2026, the Board authorized the extension of JCP&L's BGS EV TOU rate until such time as the July 15 Filing is reviewed by all parties and the Board issues a final Order in the matter.[21]

No party provided comments on JCP&L's BGS EV TOU rate in this proceeding.

3. PSE&G

a) Reconciliation Charge

By Order dated November 18, 2020, the Board authorized PSE&G to move from a monthly to a quarterly reconciliation charge.[22] In its Company-Specific Addendum, PSE&G argued that since the change to a quarterly reconciliation charge construct, though the month-to-month volatility has been mitigated, seasonal volatility still persists. See PSE&G Company-Specific Addendum at 7. PSE&G argued that this winter/summer seasonal variability and resultant BGS rate volatility can be further muted by changing from a quarterly reconciliation charge construct to one that is set and applied annually. Accordingly, PSE&G sought authorization to migrate to an annual reconciliation charge beginning March 1, 2027. PSE&G indicated that it would calculate the initial reconciliation charge using calendar year 2026 revenue and cost data. Id. at 8. PSE&G argued that implementing the new annual charge methodology in March would further promote BGS rate stability by lessening compounding rate impacts when BGS-RSCP and BGS-CIEP rates become effective June 1. Ibid.

PSE&G stated that the annual charge would be determined separately for BGS-RSCP and BGS-CIEP on a dollars per kWh basis, applied to all BGS kWh billed, and combined with the applicable BGS supply charges for billing. PSE&G stated it would be published on separate reconciliation tariff sheets which would be filed annually around February 15 and remain subject to deferred accounting with interest at the Board-approved Non-Utility Generation Charge rate. Ibid.

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[20] In re Jersey Central Power and Light Company Requesting Approval of a Tariff Amendment to Add Basic Generation Service (BGS) Time-Of-Use Rates for Eligible Residential Electric Vehicle Customers Pursuant to N.J.A.C. 14:1-5.11 and N.J.A.C. 14:3-1.3, BPU Docket No. ER23040212, Order dated May 24, 2023 ("JCP&L BGS EV TOU Order").

[21] In re Jersey Central Power and Light Company Requesting Approval of a Tariff Amendment to Add Basic Generation Service (BGS) Time-Of-Use Rates for Eligible Residential Electric Vehicle Customers Pursuant to N.J.A.C. 14:1-5.11 and N.J.A.C. 14:3-1.3, BPU Docket No. ER23040212, Order dated July 15, 2026.

[22] In re the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2021, BPU Docket No. ER20030190, Order dated November 18, 2020.

Rate Counsel Comments

In its Initial Comments, Rate Counsel stated that it did not oppose the proposed change in the reconciliation process so long as ratepayers are insulated from surprise price spikes due to significant under-collections that could result in higher-than-expected bills. See Rate Counsel Initial Comments at 12.

PSE&G Comments

In its Final Comments, PSE&G noted that prior to the current quarterly construct, the reconciliation charge was calculated on a monthly basis. PSE&G asserted that the shift to quarterly calculations was intended to reduce rate volatility. However, seasonal variability has persisted in the +/- $0.015 per kWh range. PSE&G stated that it expects that adopting an annual reconciliation charge construct would further reduce this variability, resulting in greater rate stability and less overall volatility. Accordingly, the Company argued that this change would benefit customers, including by lessening the risk of the "surprise price hikes" cited by Rate Counsel. See PSE&G Final Comments at 1-2.

b) Migration Adjustment

PSE&G development of BGS cost bid factors in this proceeding contains the total calendar month sales forecasted for calendar year 2026 without a migration adjustment (100% migration) while in past Auctions, PSE&G has used a fifty percent (50%) migration assumption to develop its monthly forecasted energy usage by rate class. See PSE&G Company-Specific Addendum at 20-21. PSE&G contended that, given the historic stability of migration, the development of prices without a migration adjustment should result in lower BGS rates and move the annual average reconciliation charge closer to zero. PSE&G reserved its right to modify the migration adjustment based upon market conditions. Id. at 21.

Rate Counsel Comments

In its Initial Comments, Rate Counsel stated PSE&G's Large Power and Light Service ("LPL-S") rate class has the highest historical migration rate at approximately fifty-four percent (54%) over the past five (5) years, with the LPL-S rate class representing approximately 18.2% of PSE&G's forecasted annual sales. Additionally, the RS rate class is the largest class, representing 57.7% of forecasted annual sales, with a historical migration that averaged 4.6%. Rate Counsel asserted that, across all of PSE&G's rate classes, the five (5)-year historical weighted average migration rate appears to be 18.1%. See Rate Counsel Initial Comments at 12-13.

Rate Counsel stated that, through discovery, PSE&G estimated that a change in the migration rate from fifty percent (50%) to 100% would result in a decrease in the calculated BGS revenue collection by approximately $20 million and contends that historical reconciliation rates have generally been a credit, so that the change in the migration rate may result in future reconciliation rates to be closer to zero. Rate Counsel recommended that should the Board allow PSE&G to modify its migration rate, the Board should require PSE&G to recalculate the estimated BGS revenues using a migration rate of 81.8% that is based on the observed weighted average historical migration rate of 18.1% and is between PSE&G's proposed 100% migration rate and its assumed 50% migration rate currently in-place. Id. at 13.

PSE&G Comments

In its Final Comments, PSE&G explained that the BGS pricing spreadsheet is the tool it utilizes to translate BGS Auction clearing prices into BGS supply rates for customers. One (1) of the tables within the spreadsheet derives the forecasted rate class usage. Since these values are intended to represent forecasted BGS rate class usage, PSE&G asserted that it must account for customer migration (i.e. the portion of load served by TPSs) when calculating the BGS forecasted usage from the total usage from all customers. See PSE&G Final Comments at 2. According to PSE&G, when historically deriving the forecasted BGS usage by rate class, PSE&G adjusted the total forecasted usage by only fifty percent (50%) of anticipated migration. In this proceeding, however, PSE&G proposed modifying this practice by using 100% of the forecasted migration when deriving forecasted BGS loads. PSE&G maintained that the proposed change is expected to produce lower pressure on BGS charges while also reducing future BGS reconciliation over collections and bring the BGS reconciliation charge closer to zero. Given the relative stability of migration levels over the years, PSE&G argued that this enhancement to the pricing spreadsheet is both appropriate and beneficial at this time. Ibid.

With respect to Rate Counsel's comment on this issue, PSE&G indicated that Rate Counsel's comments suggest a possible misunderstanding of PSE&G's proposal. PSE&G explained that it proposed to use the total (or 100% of the) forecasted migration levels when translating total customer rate class usage into forecasted BGS customer rate class usage. PSE&G argued that Rate Counsel's proposal is arbitrary and not beneficial to customers and therefore recommended that the Board reject Rate Counsel's proposal. Ibid.

In furtherance of its proposal to use a 100% migration assumption in designing BGS rates, PSE&G prepared an analysis to compare the impact to the reconciliation balance under: 1) the current construct utilizing a fifty percent (50%) migration adjustment; 2) Rate Counsel's proposal of a 81.8% migration adjustment; and 3) PSE&G's proposal to use a 100% migration adjustment. Id. at 2-3. PSE&G asserted that its analysis shows that, assuming 100% migration in BGS rate design eliminates approximately $18.7 million of BGS reconciliation overcollection while the Rate Counsel proposal still results in approximately a $7.3 million of BGS reconciliation over collection. PSE&G further claimed that its proposal also results in approximately a 0.4% bill reduction with lower BGS rates in lieu of the overcollection being allocated to all BGS-RSCP customers, while the Rate Counsel proposal only results in an approximately 0.2% bill reduction with approximately $7.3 million still being returned to all BGS-RSCP customers via the reconciliation charge. For these reasons, PSE&G maintained that the Board should approve its proposal to use a 100% migration assumption. Id. at 3.

c) EV Data Collection and TOU Rate Program

On June 22, 2026, PSE&G filed a letter petition with the Board in compliance with the Board's May 2026 Order ("PSE&G CEF-EV Extension Petition"). In the PSE&G CEF-EV Extension Petition, PSE&G noted that it reports residential and DCFC charging data in its semi-annual program reports – and such reports include specific EV-related information in accordance with the Board's November 9, 2022 Order.[23] PSE&G indicated that because DCFC sites typically use a separate meter, PSE&G can collect and report DCFC data utilizing its own data without incurring additional data collection costs. However, to report residential EV charging data the Company

[23] In re the Provisional of Basic Generation Service (BGS) for the Period Beginning June 1, 2023, BPU Docket No. ER22030127, Order dated November 9, 2022 ("November 2022 Order").

utilizes a paid service to collect data and incurs costs of more than $2 million annually. In the PSE&G CEF-EV Extension Petition, PSE&G requested that it be permitted to eliminate the requirement to continue to collect and report residential EV charging data – noting that it would rely on the vast amount of data already collected for ongoing analysis of charging behavior, EV load growth, and any other relevant analysis.

By the November 2022 Order, the EDCs were required to create a residential supply side TOU rate (i.e. off-peak credit) similar to the "residential EV charging [that] was addressed in some of the EDCs' EV proceedings." PSE&G subsequently implemented this rate (and utilized the above referenced third-party data collection entity to enable the process), but due to the implementation of its approved RS TOU-3P rate, PSE&G indicated that is it in the process of terminating this residential supply side program and as a result will no longer require the use of the third party vendor for this EV rate option. PSE&G asserted that this provides further support for the request to eliminate the collection and reporting of EV data noted above. See PSE&G Company-Specific Addendum at 30.

As noted above, in its most recent base rate case, PSE&G was authorized to implement its RS TOU 3P rate class. By the November 2025 Order, the Board approved revisions to the 2025 BGS RS TOU 3P rate design. PSE&G began to make RS TOU-3P rates available in late 2025. Customers that opt into the RS TOU-3P program during the first twenty-four (24) months for which it is available will receive a report at the end of their initial twelve (12)-month period on the rate showing the difference between their twelve (12)-month bill-history on the RS TOU-3P rate versus what the bill history would have been on the RS Rate Schedule. If the RS TOU-3P twelve (12)-month total bill is higher, the customer will be provided a one (1)-time bill credit of the difference. For customers served on BGS, the supply portion of the refund is recorded as a reduction to BGS revenue in the month it is credited to the customer and is recovered through the BGS-RSCP reconciliation charge. Id. at 28-29.

PSE&G asserted that the RS TOU-3P rates for service beginning June 1, 2027 continue to be designed to be revenue neutral to the RS rate class. The RS revenue proposed in its BGS Pricing Spreadsheet was allocated to capacity and energy components based upon the underlying cost components in the model. According to PSE&G, capacity costs were designed to be collected during on-peak and mid-peak periods, energy costs were designed to be collected over the three (3) corresponding time periods, and RPS and ancillary costs were designed to be collected over all time periods. Id. at 29. In its Company-Specific Addendum, PSE&G stated that, in order to make RS TOU-3P easily comparable for customers considering the service compared to the RS rate, and to encourage movement to the class, the mid peak energy costs were adjusted slightly between summer and winter to have the total RS-TOU 3P mid-peak rates set to at least $0.001/kWh lower than the corresponding total RS rates. Ibid. PSE&G further asserted that the RS TOU-3P rates have been derived utilizing the RS rate class load profile and that once there is a significant number of customers receiving BGS under the RS TOU-3P rate, the actual load profile of the class will be used and corresponding rate design would be integrated into its BGS Pricing Spreadsheet. Ibid.

Rate Counsel Comments

In its Initial Comments, Rate Counsel contended that this is not the appropriate proceeding to address PSE&G's residential EV charging data reporting obligations. See Rate Counsel Initial Comments at 14. As these reporting obligations were established in a stipulation approved by the Board in an Order dated January 27, 2021, Rate Counsel asserted that notice and opportunity to consent or comment on proposed changes to these reporting obligations by all signatories to

the stipulation in EO18101111 is appropriately achieved in that same docket, not in this proceeding.[24] Ibid.

With respect to PSE&G's proposal to modify its RS TOU-3P rate design, Rate Counsel contended that PSE&G has not provided a quantitative analysis of the proposed change in the TOU 3P rate other than the contention that a lower mid-peak rate that might offset higher on-peak costs when compared to the RS rate. Rate Counsel recommended that the Board address this specific rate design issue in PSE&G's next base rate case filing and not in this BGS proceeding arguing that a base rate case is the more appropriate venue to address this rate design issue through sponsored testimony and discovery. Id. at 13-14.

PSE&G Comments

In its Final Comments, PSE&G stated that it is specifically proposing a slightly lower RS-TOU 3P mid-peak energy rate than the corresponding RS rate so that customers can quickly and easily compare the RS rate to the RS-TOU 3P energy rates focusing on the savings that can accrue by shifting usage to the off-peak period. See PSE&G Final Comments at 4. PSE&G argued that its proposal is designed to make it easier for customers to determine, based on his or her usage patterns, whether a change to the RS-TOU 3P rate is beneficial. Ibid.

With respect to Rate Counsel's recommendation that the Board address its proposal in its next base rate case rather than in the current proceeding, PSE&G noted that the proposals contained in its Company-Specific Addendum are BGS supply rate proposals and as such, it is entirely appropriate for such proposals to be considered by the Board in the current BGS proceeding. Ibid. PSE&G maintained that this approach is consistent with past practice, as the Board regularly approves the EDCs' electric supply rate designs (modified as directed) in its annual November Board Orders, including the November 2025 Order where the Board considered and approved the Company's proposed RS-TOU 3P supply rates for service beginning June 1, 2026. Ibid.

Regarding its request and proposal on EV data collection and reporting, PSE&G clarified why it believes the instant proceeding is the appropriate forum to address the issue. PSE&G acknowledged that the requirement to collect residential EV charging data was set forth in the January 2021 Order, and that its request to discontinue the collection of such data will be addressed in the consideration of the PSE&G CEF-EV Extension Petition. However, PSE&G stated that the reporting requirement for EV-related information did not originate in that proceeding. Although that proceeding established specific reporting requirements, PSE&G argued that those requirements did not include the residential EV charging data that is in question, which were instead established in the Board's November 2022 Order. As such, PSE&G asserted that, in this proceeding, it is seeking Board approval to eliminate the reporting requirement for such data and it will separately pursue the elimination of the data collection requirement in the appropriate EV proceeding, as part of a broader effort to reduce the data collection costs for customers. Id. at 4-5.

[24] In re the Petition of Public Service Electric and Gas Company for Approval of its Clean Energy Future – Electric Vehicle and Energy Storage ("CEF-EVES") Program on a Regulated Basis, BPU Docket No. EO18101111, Order dated January 27, 2021 ("January 2021 Order").

4. RECO

a) Central and Western BGS Customer Requirements

RECO's Central and Western Divisions physically connect to the New York Independent System Operator ("NYISO"). Therefore, RECO must purchase required energy and capacity for its Central and Western BGS customers from markets administered by NYISO.

With regard to the purchase of energy, RECO stated that in its November 2023 Order, the Board approved a Request for Proposal ("RFP") process for RECO to solicit competitive bids from qualified bidders for fixed energy supply prices for BGS customers in RECO's Central and Western Divisions, commencing June 1, 2024. On January 30, 2024, RECO conducted its RFP for the period June 1, 2024 through May 31, 2027. By Order dated January 31, 2024, the Board approved a three (3)-year financial contract, whereby RECO's purchases were hedged through May 31, 2027.[25]

For the BGS year commencing June 1, 2027, RECO proposed the same procurement process that the Board approved in the November 2023 Order. RECO proposed to enter into a bilateral agreement or agreements to hedge the cost of energy purchases from NYISO. The bilateral agreement or agreements will be a financial hedge, where no energy commodity is provided by the counterparty.

RECO proposed to conduct the bidding approximately two (2) weeks before the BGS Auction. The bids would be submitted by bidders the day before a Board agenda meeting, and the bid agreement would specify that the bidder will hold the bid open until the earlier of approval of the bid by the Board or midnight the day of the Board agenda meeting. Any bidder that has an International Swaps and Derivatives Association Master Agreement in place with the Company prior to bidding would be eligible to bid.[26] Bidders would enter into binding bid agreements, but RECO would not require bid collateral, in order to encourage bidder participation. RECO stated that it reserves the right to reject any and all winning bids.

According to its proposal, RECO would seek bids on financial transactions for NYISO Zone G energy for the periods specified below. Each transaction will be a fixed-price transaction for approximately fifteen (15) MW "around-the-clock" of NYISO Zone G energy. RECO would seek to procure transactions to cover the period of June 1, 2027 to May 31, 2030 and will seek pricing for the following four (4) periods:

1. Year 1: June 1, 2027 through May 31, 2028;
2. Year 2: June 1, 2028 through May 31, 2029;
3. Year 3: June 1, 2029 through May 31, 2030; and
4. Blended Price: June 1, 2027 through May 31, 2030.

RECO indicated that it would enter into a NYISO Zone G fixed-for-floating swap with a counterparty, whereby RECO effectively pays the fixed price monthly for the term of the transaction.

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[25] In re the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2024 – Decision and Order on RECO RFP, BPU Docket No. ER23030124, Order dated January 31, 2024.

[26] The ISDA Master Agreement is a document that outlines the terms applied to a derivatives transaction between two (2) parties.

RECO proposed to review the bids with Board Staff and its BGS Auction consultant and select a winning bid that is the most competitive and that is consistent with market conditions. RECO would submit this winning bid to the Board for approval. In the event that the bids that the Company receives do not reflect market conditions, the Board does not approve the winning bidder, or the bidder defaults on the bid agreement, the Company would report a failed procurement and would proceed to a default procurement process. Under the default process as proposed by RECO, the company would purchase the energy needs of its BGS customers in the Central and Western Divisions in the NYISO Day-Ahead and Real Time Markets without a financial hedge.

On August 16, 2013, in FERC Docket Number ER13-1380, FERC approved the creation of a new capacity market zone in the Lower Hudson Valley region encompassing NYISO Load Zones G, H, I, and J. According to RECO, Lower Hudson Valley capacity is not actively traded, and RECO does not expect any change before the BGS Auction. Because of capacity market changes at the NYISO noted above, RECO proposed purchasing the capacity needs of its BGS customers in its Central and Western Divisions in the NYISO capacity market and blending its forecast of those prices into the BGS-RSCP price. According to RECO, this is the same proposal approved in the November 18, 2020 Order.[27] RECO expects these capacity purchases to have minimal impact because its Central and Western Divisions constitute only about ten percent (10%) of RECO's BGS load.

No party took issue or provided comments on RECO's proposal.

E. NEXTERA PROPOSALS

1. Reliability Backstop Procurement ("RBP")

In its Initial Comments, NextEra stated it would like to better understand how the utility intends to allocate the costs associated with PJM's upcoming RBP. NextEra further stated that PJM indicated that RBP costs are intended to be borne by those new large loads whose demand necessitates the additional reliability procurement, but acknowledged its understanding that the utility will ultimately decide cost allocation. NextEra stated that broad allocation across all distribution customers could impose costs unrelated to their load and recommended that the Board require a transparent cost allocation methodology prior to the BGS procurement to avoid supplier uncertainty and potentially higher costs for ratepayers.

Rate Counsel Comments

In its comments at the Legislative-Type Hearing, Rate Counsel stated that while the RBP selection process is expected to occur between October to December 2026, there is no clarity as to how the RBP process will impact the 2027 BGS process at this time. See T1 25:16 to 26:2. However, Rate Counsel agreed with NextEra that the Board should work with the EDCs to see what impact the RBP would have on the BGS Auction and that the process be as transparent as possible. Id. at 26:3 to 7.

[27] In re the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2021, BPU Docket No. ER20030190, Order dated November 18, 2020.

EDC Comments

In their Final Comments, the EDCs explained that on July 31, 2026, after the EDCs' submittal of their Proposal, PJM filed with the FERC its proposed revisions to the PJM Open Access Transmission Tariff and the Reliability Assurance Agreement Among Load Serving Entities to establish and conduct an RBP, which is a one (1)-time procurement for a fifteen (15)-year commitment of additional capacity needed because of the addition of large loads in the PJM region, primarily stemming from data centers ("RBP Proposal"). The procurement target for the RBP would be based on the megawatt shortfall observed in PJM's BRA for the 2028/2029 delivery year that was held in late June 2026. See EDC Final Comments at 6.

According to the EDCs, under PJM's RBP Proposal, RBP cost would first be allocated to certain EDC zones/areas based on the specific zone's pro-rata share of the RBP procurement target, which would next be allocated to LSEs within an EDC's zone based on a process to be determined at the state level. Ibid.

The FERC issued an Order accepting PJM's proposed tariff and Reliability Assurance Agreement revisions related to the RBP on September 29, 2026, but suspended the RBP for five (5) months until February 28, 2027, subject to refund and the outcome of further procedures in the proceeding.[28] Among other items, by the FERC RFP Order, the FERC took issue with aspects of PJM's proposed allocation of RBP costs and specifically found that "relying on Load Adjustments to measure load growth may be inconsistent or not reasonably capture forecasted load growth or actual large load growth; thus, PJM's method for allocating RBP costs may be unjust and unreasonable".[29] The FERC directed PJM to submit an initial brief on cost allocation, Transmission Owner exit rules, and LSE collateral requirements with other parties invited to also submit initial briefs on those topics. The EDCs claimed that, throughout the order, the FERC strongly encouraged PJM to act quickly to correct the issues that it identified and to refile within thirty (30) days explaining that making such a filing would obviate the need for a paper hearing and "could expedite a potential RBP auction".[30] At the time of the EDCs' submittal of their Final Comments, PJM had not submitted a new filing in response to the FERC RBP Order, and the final details of the RBP cost allocation process remain unknown. Id. at 7-8.

The EDCs agreed with NextEra that the RBP costs constitute an item that BGS suppliers will consider in formulating their bids in the BGS Auctions. To the extent that the RBP costs become the responsibility of BGS suppliers, or that such costs are borne by customers other than the large load customers that led to the RBP Proposal, or to the extent that there is a lack of transparency in the methodology of such cost allocation, then BGS suppliers could face cost uncertainty leading to higher costs for ratepayers. Id. at 8-9. However, the EDCs argued that it is too soon for the EDCs or the Board to be able to provide certainty in this regard as PJM's filing in response to and in accordance with the FERC RBP Order has yet to be made, let alone for the Board to have issued directives and for the EDCs to have submitted filings that will provide such a cost allocation methodology. As such, the EDCs note the concerns raised by NextEra and assured the Board that the EDCs would keep BGS suppliers apprised of proceedings before the Board in this regard. Id. at 9. The EDCs agreed with Rate Counsel and NextEra that such cost allocation methodology should be as transparent as possible and welcomed the opportunity to work with the Board, and

[28] See "Order Accepting Reliability Backstop Procurement and Establishing Further Procedures" dated September 29, 2026, in FERC Docket Nos. ER26-3380-000 and EL26-108-000 ("FERC RBP Order").

[29] FERC RBP Order at page 63, paragraph 154.

[30] FERC RBP Order at page 2, paragraph 3.

any other parties deemed appropriate by the Board, to ensure the allocation of the RBP costs is executed in accordance with any state and Board directives. Ibid.

2. RPS Uncertainty Ahead of Upcoming Wholesales Power Procurement

In its Initial Comments, NextEra expressed concern about regulatory uncertainty surrounding potential changes to the RPS. While no formal revisions have been issued, NextEra argued that potential beyond 2028 changes to Class I Renewable Energy Certificate/Solar Renewable Energy Certificate obligations pose material risk to bid competitiveness and ratepayer outcomes. NextEra recommended that any revisions to the RPS percentage or the Alternative Compliance Payment ("ACP") be made prior to the BGS procurement.

Rate Counsel Comments

In its comments at the Legislative Type Hearing, Rate Counsel agreed with NextEra that any changes to the RPS and ACP should be made clear with notice and opportunity to be heard by all interested parties before the 2027 Auction. See T1 26:12 to 15.

EDC Comments

In their Final Comments, the EDCs recommended that, as the prospect of post-BGS Auction modifications to the RPS requirements can add risk to bidders and potentially result in lost savings for customers in cases where the requirements are reduced (post-Auction, and therefore not incorporated in suppliers' bids), the Board consider the timing of any future changes to RPS requirements and seek to approve such changes before BGS Load for any portion of the applicable delivery year(s) is procured through the BGS Auctions. See EDC Final Comments at 31.

3. BGS EDC Municipal Aggregation Enrollment

NextEra stated that municipal government energy aggregations ("GEAs") automatically enroll residential customers into a new power supply contract unless they actively opt out. NextEra argued that, while these programs aim to offer competitive pricing, sudden large-scale shifts in customer accounts can disrupt the utility's default BGS. NextEra further claimed that mass migration can negatively impact the pricing and stability of the utility's BGS and increase residential customer rates. NextEra recommended that municipalities align GEA program launches with the natural expiration of current BGS contract terms to maintain stability and protect customers.

Rate Counsel Comments

In its Final Comments, Rate Counsel noted that coordination could be improved between the timing of GEA programs and BGS contracts, but the GEA programs should have the flexibility to operate in a manner that best serves their customers. See Rate Counsel Final Comments at 3.

4. PJM's Reserve Certainty Senior Task Force ("RCSTF")

NextEra stated that PJM's RCSTF is advancing significant reserve market reforms, creating substantial cost uncertainty for suppliers under the fixed price, full requirements BGS model. NextEra asserted that given the unsettled scope and design, suppliers would incorporate risk premiums into their BGS bids. Accordingly, NextEra urged the Board to carve out or direct pass

through mechanism for any new RCSTF costs in the SMA, which would ultimately reduce the overall cost of default service for New Jersey consumers.

Rate Counsel Comments

In its comments at the Legislative-Type Hearing, Rate Counsel agreed with NextEra that the scope and magnitude of the RCSTF are unknown at this point. However, Rate Counsel expressed concerns with NextEra's proposal. Rate Counsel stated that the bidders are in the best position to handle this risk, not residential customers struggling in the middle of New Jersey's affordability crisis. See T1 26:5 to 27:8. Accordingly Rate Counsel recommended that the Board decline NextEra's proposal to ensure that the BGS Auction process remains consistent with market conditions. Id. at 27:9 to 12.

In its Final Comments, Rate Counsel asserted that the scope and magnitude of PJM's RCSTF changes are unknown at this point and that the Board should proceed transparently and deliberately before choosing a course of action. See Rate Counsel Final Comments at 3.

EDC Comments

In their Final Comments, the EDCs noted that this is not a new issue, pointing out that in 2023, PJM initiated the RCSTF to explore ways to reform and enhance PJM's reserve market performance. See EDC Final Comments at 10. The EDCs acknowledged that changes to the ancillary service construct at PJM create uncertainty for BGS suppliers, but argued that, unlike costs associated with the one (1)-time, new procurement of capacity under the RBP Proposal, changes to ancillary services are potentially ongoing. The EDCs maintained that it is part of the responsibility of BGS suppliers in providing a full requirements product to manage the uncertainty associated with costs of such services. Unlike the RBP costs, the PJM proposal for reforms to the reserve market is not at this time fully formed or filed before the FERC. Id. at 10-11. As such, the EDCs contended that a call for an extraordinary measure such as removing RCSTF-related charges from the BGS product that would break from the full requirements nature of the BGS product is entirely premature and its necessity is entirely unclear at this time. Accordingly, the EDCs urged the Board to reject the proposal by NextEra to implement a pass-through or carve-out for these costs of uncertain magnitude in the BGS SMAs. Id. at 11.

F. VOTE SOLAR PROPOSALS

1. BGS Procurement Process Competition

In its Initial Comments, Vote Solar asserted that the EDCs must continue to demonstrate their commitment to incremental refinement by iteratively piloting reforms that have been found to strengthen competition and improve market alignment in nearby jurisdictions. Vote Solar argued that, as New Jersey's utility bills have risen more than most other states, it is clear that alternative mechanisms must be explored to determine their savings potential. See Vote Solar Initial Comments at 3.

Vote Solar argued that the current full-requirements service structure limits the number of unique bidders, especially due to the significant level of uncertainty and risk for bidding suppliers resulting from the difference between forecasted versus actual load shapes over the course of the relatively lengthy contracted delivery period. Vote Solar claimed that this explains why New Jersey only saw sixteen (16) registered BGS-RSCP bidders in the 2025 Auction. Id. at 3-4.

Vote Solar recommended that an alternative to the full-requirements service model that should be piloted is the block purchase approach to supply procurements. According to Vote Solar, the supply procurement would involve blocks of power, organized into specific MWh quantities at specific times with $/MWh prices for each block. Select spot market purchases would then be utilized to account for any potential fluctuations between procured blocks and actual load are accounted for through select spot market purchases. Vote Solar claimed that the block procurement is a simpler process, because it structures based on known quantities of energy at specific times, rather than procuring full service and poses less risk to suppliers. Id. at 4. Vote Solar stated that these block procurements also optimize for competitive supply to come from the most appropriate resource, such as competitive suppliers with a fleet of demand-side resources bidding for blocks of power during peak periods. Additionally, Vote Solar argued that these conditions increase supplier confidence, which can lead to more and diverse unique bidders competing in the procurement process at diminished price premiums. Ibid.

Specifically, Vote Solar advocated for the EDCs to transfer a five percent (5%) portion of the BGS-RSCP load profile from the traditional full-requirements service procurement to a new block-based pilot procurement structure coming specifically from load during on-peak periods as these periods are some of the most expensive periods to supply. Vote Solar stated that it believes piloting the five percent (5%) portion of BGS-RSCP load would allow the EDCs and the BPU to test this procurement model's viability to increase competition and lower prices for some of the most expensive components of BGS load. Id. at 4-5.

Additionally, pending the degree of savings realized through the inaugural block purchase pilot procurement, Vote Solar proposed to work with state leadership to expand the portion of the BGS load served by the block-based model. Id. at 5. Vote Solar argued that the EDCs must do their due diligence to work with state regulators and policymakers to ensure the BGS procurement process is serving the affordability needs of default customers.

Vote Solar pointed to the Bates White 2025 Final Report, which identified the block procurement structure as a possible alternative for New Jersey policymakers to review. Vote Solar also stated that a separate study conducted by Synapse Energy Economics found that $1.8 billion in utility bill savings would have been realized Massachusetts from 2015-2024 if the state implemented supply procurement reforms that included switching from a full-service procurement model to a block procurement structure. Ibid. Vote Solar noted that the block purchase procurement structure has relevant precedent, including in Illinois and New York. Vote Solar argued that New Jersey can draw from the experiences in both states to identify opportunities for the improvement and expansion of the block procurement structure to enable more flexibility and market competition. Ibid.

Vote Solar asserted that expanding the block procurement model also better aligns the BGS process with state objectives, pointing to the pending initiatives related to virtual power plants ("VPPs"). Id. at 5-6. Vote Solar argued that establishing this favorable block structure for a portion of the 2027 on-peak load beginning June 1 positions this procurement pilot to precede the state's planned July 1, 2027 launch of the EDC interim VPP programs. Id. at 6. Vote Solar maintained that piloting the block purchase structure simply provides an additional layer of potential optionality for these cheaper resources to be utilized by further enabling their market participation under a more competitive supply procurement framework. Additionally, Vote Solar stated that by better enabling distributed resource participation, this procurement model increases the number of competitive bidders in the BGS Auction, resulting in lower prices irrespective of the resources providing peak supply. Ibid.

Vote Solar further argued that with ongoing PJM market implementation to meet FERC 2222 compliance, apportioning some of the BGS peak load to a block purchase structure now would create a clearer mechanism for cheaper distributed resource alternatives to optimally and more directly compete as peak suppliers, and without having to be part of larger full-requirements service portfolios. This direct participation provides clearer value propositions for savings realized by distributed resources, especially with regards to avoided energy costs. Vote Solar argued that transferring a limited percentage of this peak now to a piloted block purchase structure would allow EDCs and the BPU to test this structure's cost saving viability through enhanced competition and bring some of the BGS Auction load portfolio into further alignment with other BPU clean energy initiatives to meet costly peak demand. Ibid.

Rate Counsel Comments

In its comments at the Legislative-Type Hearing, Rate Counsel recommended that the Board not pursue a block purchase pilot without a comprehensive review of the goals and consequences of changing the State's energy supply procurement process. See T1 27:21 to 28:1. Rate Counsel asserted that the states cited in Vote Solar's Initial Comments have significantly different regulatory structures than New Jersey, which should be carefully assessed before assuming those structures could be viable options in the BGS process. Id. at 28:2 to 7.

Rate Counsel further argued that although Vote Solar's comments cite heavily to the 2025 Bates White report, the authors concluded that "it is unclear that any of these changes will result in lower rates for customers." Accordingly, Rate Counsel recommended that the Board decline to make any changes to the jointly-filed 2027 BGS Auction structure stating that part of the BGS success as a product for residential customers has been its stability over the years. Id. at 28:8 to 18.

In its Final Comments, Rate Counsel maintained that Vote Solar's recommendation does not account for the fact that Illinois and New York, the two (2) states currently utilizing block purchase structures, have separate power authorities that coordinate the purchase of electricity supply or, in the case of New York, owns generation outright. Rate Counsel noted that these two (2) states have very different procurement processes than New Jersey. See Rate Counsel Final Comments at 4. Additionally, Rate Counsel argued that Vote Solar's recommendation does not account for the fact that the block purchase process would require New Jersey to develop active portfolio management and technical expertise, along with allocating staff resources, to manage the spot market purchases. Accordingly, Rate Counsel recommended that the Board not pursue the block purchase recommendation without first undertaking a comprehensive review of the goals and consequences of changing the State's energy supply procurement process. Ibid.

Rate Counsel further stated that the 2025 Bates White Report identified six (6) alternative procurement options, but also provided that it was unclear that any of these changes would result in lower rates for customers. Ibid. Accordingly, Rate Counsel reiterated its recommendation that the Board should not consider any of the alternatives listed in the 2025 Bates White Report without a comprehensive review of the goals and consequences of changing the State's energy supply procurement process. Id. at 5. Rate Counsel stated that part of BGS's success as a product for residential customers has been its stability over the years and recommended that the Board recognize the value that stability provides to ratepayers. Ibid.

EDC Comments

The EDCs argued that Vote Solar's proposed block-procurement pilot lacks demonstrated benefits and fails to quantify potential savings for BGS customers. The EDCs stated that Vote

Solar did not provide a clear or actionable description of how block energy or other BGS components would be procured for the five percent (5%) of BGS-RSCP load, nor did it assess impacts on the remaining ninety-five percent (95%) of the BGS-RSCP Auction, supplier risk, or bidder participation. See EDC Final Comments at 12.

The EDCs contended that the proposal is insufficiently developed and would require spot-market purchases to manage load fluctuations, exposing residential and small commercial customers to price volatility—contrary to the Board's long-standing practice of insulating these customers from spot-market risks. The EDCs argued that such exposure is especially inappropriate given rising capacity costs and New Jersey's current affordability concerns. Id. at 16.

The EDCs further asserted that the pilot could alter migration risk and the valuation of full-requirements tranches, complicating any assessment of "savings." The EDCs maintained that Vote Solar's reliance on examples from other states is unpersuasive because procurement structures, regulatory environments, and market conditions differ significantly. The EDCs further noted that that some utilities, such as PECO Energy Company in 2012, have moved away from block procurement. Id. at 17-19.

The EDCs also rejected claims of insufficient Auction participation, citing two (2) decades of findings that the BGS-RSCP Auction consistently produces competitive, market-based results. The EDCs argued that if entities can provide cheaper energy, full-requirements bidders already have incentives to procure it. Id. at 20-21.

Ultimately, the EDCs asserted that the full-requirements model best serves BGS customers and has been appropriately refined over time. The EDCs emphasized that extracting a single component, such as energy, for separate procurement would undermine the BGS price as a competitive benchmark and offers no proven benefit. Id. at 21-22.

Vote Solar Final Comments

In its Final Comments, Vote Solar agreed with Rate Counsel that any reforms to BGS should be thoroughly vetted with a rigorous analysis of the impact to New Jersey's local energy supply procurement and argued that its recommendation to introduce a small pilot structure does just that. See Vote Solar Final Comments at 3. Vote Solar claimed a pilot would help the BPU, EDCs, and stakeholders establish a record of real impacts of a reform option without having its introduction have undue price impacts on customer bills. Further, Vote Solar recognized the sensitivity of introducing any changes, even small ones, to the BGS structure. Ibid.

Vote Solar argued that the block purchase pilot recommendation provides a means to begin investigating how the State's BGS structure might contribute to rising utility bills, and how alternate structures could be tested for their savings potential by better aligning with other state energy policy goals (such as VPP programming). Id. at 3-4. Vote Solar stated that the recommendation was based upon growing frustration that state leadership is not doing enough to examine BGS as a determinative factor in utility bill increases. Id. at 4. Vote Solar noted that it has provided extension comments in the BPU's Utility Business Model Reform proceeding where Vote Solar provided extensive comments.[31] Additionally, according to Vote Solar, there is no clarity as to how the BPU engages with the findings in the BPU Advisor's reports, especially recommendations

[31] In re Executive Order 1 Modernization of the Traditional Electric Distribution Utility Business Model Study, BPU Docket No. EO26040117.

for reform options that the report authors provide as examples for New Jersey's "policy makers to review." Ibid.

Vote Solar argued that New Jersey's BGS is the primary gateway through which PJM prices manifest in New Jersey utility bills and "[w]ithout an adequate policy home from which regulators and stakeholders can collaboratively and thoroughly examine the BGS structure and its interaction with today's affordability crisis, we are missing the mark in comprehensively addressing all means by which to reduce customer bills." Ibid.

Vote Solar contended that the overarching concern is that BPU must do more to collaboratively investigate BGS as a key modulator of energy costs and affordability in New Jersey. Furthermore, Vote Solar argued that the BPU must promptly initiate an investigation into how the BGS impacts customer bills, and establish a stakeholder process that explores how BGS can be updated to work with parallel affordability initiatives to deliver real savings to customers faced with an affordability crisis. Id. at 5.

Vote Solar recommended that if the Board does not require the EDCs to pursue a block purchase pilot, the Board should initiate a comprehensive review of the BGS framework and assess its impact on customer affordability and alignment with the state's energy policy objectives. Vote Solar stated that this review should be transparent and collaborative, thoroughly evaluate potential reforms, develop a robust evidentiary record, and provide meaningful opportunities for public participation through stakeholder meetings and formal notice-and-comment procedures, consistent with Rate Counsel's recommendations for the BPU's investigation of the PJM capacity market. Id. at 5-6.

2. Additional BGS Timing Reforms

According to Vote Solar, the uncertainty built into the full-requirements service structure is compounded by New Jersey's BGS Auction being one (1) of the least frequent supply procurements (annual), paired with one (1) of the longest delivery periods [three (3) years], among all PJM states, which encourage suppliers to build significant price premiums into their auction bids to account for risk, and these premiums are passed onto ratepayers. See Vote Solar Initial Comments at 6. Vote Solar noted that Washington D.C. is the only other jurisdiction within PJM with the same supply procurement frequency and three (3)-year delivery period as New Jersey and both saw the highest and second-highest average utility bill increases. Id. at 6-7. Additionally, Vote Solar asserted that New Jersey must do more to ensure the amount of load procured to serve BGS-RSCP customers is truly reflective of customer usage so suppliers do not assume too high a price premium to serve these customers, and loads can be effectively profiled and settled in proper concert with distribution-side load management programs such as VPPs and demand response. Id. at 7.

Vote Solar argued that, between the BGS Auction for service beginning June 1, 2027 and the subsequent Auction, additional reforms that integrate flexibility into the procurement process and establish prices that are market reflective should be explored with state leadership. Ibid. Vote Solar argued that in addition to the full-requirement structure being a cause for risk and uncertainty, New Jersey is also significantly constrained by when supply can be purchased and the duration for which it is purchased, which together limit the alignment between prices derived from the BGS Auction and the changing market conditions. Vote Solar argued that the EDCs should work proactively with state leadership to explore the other recommended reforms delineated in Bates White's 2025 Final Report, specifically increasing the number of bid days per year and changing the duration of contracted delivery periods. Id. at 7-8. Vote Solar noted that

these reform pathways would better align with the BPU's formal position on sub-annualizing PJM's wholesale market auctions and holding prompt auctions closer to delivery periods. Id. at 8.

According to Vote Solar, amidst an energy affordability crisis, it is imperative that EDCs and regulators refine their methods of measuring the load that is procured versus actual customer load to ensure customer costs closely align with their actual load. Ibid. Vote Solar argued that the EDCs must document how their load forecasting, tracking, reporting, and settlement methodologies are changing to integrate the more precise customer AMI data made more readily available and actionable through updates to N.J.A.C. 14:5-10. Vote Solar asserted that the EDCs must maintain transparency into how this data is increasingly factoring into their load profiling and settlement methodologies for each successive BGS Auction. Ibid. Vote Solar claimed that this would allow for more proactive scrutiny of how load profiling, modeling, forecasting and settlement methodologies can be improved to better represent actual customer energy usage, thus resulting in more accurate BGS-RSCP procurement estimations and better pricing. Ibid. Vote Solar suggested that to ensure sustained engagement with AMI integration into EDC load calculations and supply procurement procedures between BGS Auctions, the BPU could initiate a docket similar to the Massachusetts Department of Public Utilities' investigation into the use of AMI data to settle load with ISO New England. Id. at 8-9.

EDC Comments

In their Final Comments, the EDCs argued that Vote Solar did not provide a specific proposal to accomplish better alignment between BGS outcomes and market conditions, and instead only offered two (2) broad ideas. In offering these two (2) additional ideas, the EDCs asserted that Vote Solar ignores the rate stability that the rolling procurement structure of the BGS-RSCP Auction provides BGS-RSCP customers. See EDC Final Comments at 23. The EDCs posited that Vote Solar does not fully understand the construct and benefits of the rolling three (3)-year procurement structure of the BGS-RSCP Auction. The EDCs argued that BGS-RSCP customers are not served for a three (3) year period based on prices established during a single Auction. Rather approximately one-third of BGS-RSCP supply is purchased each year for a three (3)-year term, so that customers at any given point in time are served via supply purchased during three (3) sequential auctions. The EDCs posited that, in this way, current market conditions enter the BGS-RSCP supply portfolio every year. Id. at 23-24. The EDCs maintained that the three (3)-year rolling structure of the BGS-RSCP Auction is designed to provide residential and smaller commercial customers with a stable, market-based rate, while protecting these customers from short-term market volatility and the structure enables these customers to benefit from market-based prices as required by the Electric Discount and Energy Competition Act ("EDECA") while providing a hedge against market volatility that is appropriate for customers who may not have the ability or desire to react to short-term price movements or the ability to independently manage energy-price risk.[32] Id. at 24.

The EDCs claimed that Vote Solar failed to provide a concrete proposal and did not identify the following: 1) how many procurements should occur each year or when they should occur; 2) what proportion of BGS-RSCP supply should be purchased at each Auction; 3) what contract duration should replace the existing three (3)-year term. With the lack of analysis on how any such structure would affect rate volatility, bidder participation, supplier risk premiums, or administrative costs, the EDCs maintained that there is no basis presented by Vote Solar to alter a structure that

[32] N.J.S.A. 48:3-49 et. seq.

has been repeatedly found by the Board to appropriately balance market-reflective prices and rate stability. Id. at 25.

The EDCs continued to assert that the BGS -RSCP Auction is intentionally designed so that rates do not follow every movement in the short-term wholesale market but instead balances the need to reflect competitive market prices with the need to protect residential and smaller commercial customers from market volatility. Id. at 25-26. The EDCs further point to Rate Counsel's support of the rolling three (3)-year structure of the BGS-RSCP product. When combined with the Board's repeated recognition of the value of this balance, the EDCs urged the Board to reject Vote Solar's recommendation to explore changes to the BGS-RSCP procurement frequency and contract length. Id. at 26.

The EDCs asserted that Vote Solar discounted the numerous changes that have been made to the BGS Auction process over time as the result of the careful, methodical review and collaborative efforts by the Board, Board Staff, and the EDCs. While the core elements of the BGS Auction Process have remained stable, the process has been continually and incrementally refined the BGS Auction Process in response to changing market conditions and concerns raised by suppliers and other stakeholders. Id. at 27. The EDCs argued that the existing BGS Auction process is not inflexible or resistant to appropriate refinement, and instead has been incrementally modified when particular market developments or concerns have demonstrated a reason for change, and only as a result of careful, appropriate, intentional consideration. Id. at 27-28.

With respect to Vote Solar's discussion regarding AMI data, the EDCs argued that Vote Solar's attempt to set the stage for its comments is taken out of context based on language in the Provisional BGS-RSCP Auction rules. Id. at 28. The EDCs asserted that language is not intended to specify or otherwise document the specific processes the EDCs utilize to establish BGS and TPS energy obligations (i.e., "loads") for the purposes of energy settlements. According to the EDCs, most EDCs already utilize customers' AMI data to derive the BGS and TPS energy obligations that are submitted to PJM as part of their energy settlements processes (or are exploring the development of such functionality). In this manner, BGS-RSCP and BGS-CIEP energy obligations are calculated at the individual customer level and aggregated to the respective totals (not simply calculated by difference as Vote Solar suggested). Id. at 29.

Additionally, the EDCs noted that the Board already initiated a proceeding to develop an AMI Data Access plan and to establish AMI Data Access Standards in which the types of issues that Vote Solar has raised would have been considered, which resulted in the adoption of AMI Data Access Standards through a rulemaking, with related rules effective August 3, 2026.[33]

Vote Solar Final Comments

In its Final Comments, Vote Solar reiterated the importance of requiring EDCs to report on how AMI data are used to model and track BGS-RSCP customer load and to support settlement processes. See Vote Solar Final Comments at 6.

[33] In re a Rulemaking Proceeding to Establish AMI Data Access Standards, BPU Docket No. EX24090717.

DISCUSSION AND FINDINGS

BGS-RSCP and BGS-CIEP AUCTION FORMAT

In reaching our decision regarding the provision of BGS for the period beginning June 1, 2027, the Board is mindful that the current BGS Auction process contains a set of carefully crafted and well-defined features, and that it is not always possible to modify one (1) aspect of the process without disrupting the balance of the entire process. In 2001, when the Auction process was a new concept, the Board considered many arguments for alternate processes, alternate designs within the Auction framework, and varying procurement periods. In 2002, after conducting a process open to all interested participants, the Board determined that it was appropriate to retain the basic Auction design while initiating separate Auctions for both BGS-RSCP and BGS-CIEP customers.[34] For the 2003 through 2026 BGS Auctions, the Board continued to approve descending-clock Auctions for the procurement of default service while continuing to adjust certain elements of the process.[35]

The Board afforded an opportunity for parties to file alternatives for Board consideration on how to procure the BGS requirements for the RSCP and CIEP customer classes for the period beginning June 1, 2027. At this time, while the Board is again presented with recommendations to modify certain elements of the Auction process, there have not been fully developed, concrete proposals to change the basic descending-clock Auction design. The Board believes that the Auction process implemented with the 2002 Auction, and since modified, resulted in the best prices possible at the time.

The Board appreciates the efforts of all involved to provide constructive comments and criticism to improve on a process that is important to all ratepayers. It is the Board's intent to reach a balance of competing interests, while remaining mindful of its statutory responsibility to ensure continued provision of BGS at just and reasonable rates consistent with market conditions. N.J.S.A. 48:3-57(a)(1). The Board will address the issues raised by the parties during the proceeding in this Order.

Based upon the experience of previous BGS Auctions, and having considered the record in this matter, the Board **HEREBY FINDS** that the EDC-proposed BGS-RSCP and BGS-CIEP Auctions, using a descending-clock Auction format, should be used for the procurement period beginning June 1, 2027.

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[34] In re the Provision of Basic Generation Service Pursuant to the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq., BPU Docket Nos. EO02070384 and EX01110754, Order dated December 18, 2002.

[35] Board Orders dated December 2, 2003, Docket No. EO03050394; December 1, 2004, Docket No. EO04040288; December 8, 2005, Docket No. EO05040317; December 22, 2006, Docket No. EO06020119; January 25, 2008, Docket No. ER07060379; January 20, 2009, Docket No. ER08050310; December 10, 2009, Docket No. EO09050351; December 6, 2010, Docket ER10040287; November 11, 2011, Docket No. EO11040250; November 20, 2012, Docket No, ER12060485; November 22, 2013, Docket No. ER13050378; November 24, 2014, Docket No. ER14040370; November 16, 2015, Docket No. ER15040482; October 31, 2016, Docket No. ER16040337; November 21, 2017, Docket No. ER17040335; November 19, 2018, Docket No. ER18040356; November 13, 2019, Docket No. ER19040428; November 18, 2020, Docket No. ER20030190; November 17, 2021, Docket No. ER21030631; November 9, 2022, Docket No. ER22030127; November 17, 2023, Docket No. ER24030191; November 21, 2024, Docket No. ER24030191, and November 21, 2025, Docket No. ER25040190.

BGS-CIEP AUCTION SUPPLY PERIOD

The Board notes that no party took issue with the continued use of a twelve (12)-month period for the BGS-CIEP Auction. As such, the Board **HEREBY FINDS** that a twelve (12)-month procurement period is appropriate and reasonable, and **HEREBY APPROVES** that aspect of the EDCs' Proposal.

BGS-RSCP AUCTION SUPPLY PERIOD

The Board notes that no party took issue with the continued use of a three (3) year BGS Auction structure. In its Initial Comments, Rate Counsel concluded that the BGS-RSCP provides residential and small commercial customers who have not chosen a TPS with a three (3)-year product for energy and capacity supply. See Rate Counsel Initial Comments at 3. Rate Counsel stated that changes in BGS-RSCP prices over the last ten (10) years follow comparable consumer price indices over the same period and that, with the exception of the price increases experienced in the last year, BGS-RSCP and BGS-CIEP Auction prices are generally lower than inflation. Ibid. Rate Counsel further stated that the three (3)-year procurement structure enables prices to remain stable, since short-term market fluctuations are mitigated by virtue of only one-third of the portfolio for RSCP customers being exposed to current market conditions at each Auction. Id. at 6.

Based upon previous BGS Auctions, and having considered the record in this matter, the Board **HEREBY FINDS** that the current staggered three (3)-year rolling procurement process used for the BGS-RSCP Auction provides a hedge to customers in a time of extreme weather events that impact prices, volatile energy prices, and the potential increased capacity prices, even though it may make it more difficult for retail suppliers to compete for RSCP customers in times of rising prices. By way of contrast, in periods where market prices started to come down in wholesale electric markets, TPSs have been able to be somewhat more competitive than the rolling three (3)-year average BGS-RSCP Auction price. The Board **FURTHER FINDS** that the goal of the BGS procurement process should be to enable smaller commercial and residential customers to benefit from both a stable yet market-based rate for BGS-RSCP supply for this service while still allowing these customers the ability to choose alternative providers.

As such, the Board **HEREBY FINDS** that the use of the staggered three (3)-year rolling procurement process, ensuring price stability, is a policy decision that has value for those customers who continue to receive BGS service from the EDCs. The Board **HEREBY DIRECTS** the EDCs to procure the approximate one-third of the EDCs' current BGS-RSCP load not under contract for a thirty-six (36)-month period. The tranche-weighted average of the winning bids from the upcoming thirty-six (36)-month period, blended with the tranche-weighted average of the 36-month supply contracts secured previously, will be used to determine the price for BGS-RSCP rates for the June 1, 2027, to May 31, 2028, period.

PJM CAPACITY MARKET CONSTRUCT

Capacity Proxy Price

The Board continues to recognize the difficulty in setting a Capacity Proxy Price because the BRA traditionally produced volatile results. As noted by Rate Counsel and the EDCs, some uncertainty remains for the upcoming BGS-RSCP Auction regarding the BRA results for the 2029/2030 delivery year. Because the Board cannot know the upcoming capacity auction prices, the Board **HEREBY APPROVES** the EDCs' proposal to use a Capacity Proxy Price equal to the most recent BRA results for the 2028/2029delivery year. The Board agrees that, should the prices for the

2029/2030 delivery year be known at least five (5) business days prior to the BGS-RSCP Auction, the EDCs would no longer need the Capacity Proxy Price for the applicable delivery year and it would be voided.

BPU Investigation of PJM's Capacity Market

The Board acknowledges Rate Counsel's concerns about the conclusions of the Investigation Report, specifically related to possible changes to the BGS Auction process before proper stakeholdering has been conducted. The Board **HEREBY NOTES** that there is a pending docket through which the Board accepted the Investigation Report. The Board **HEREBY FINDS** that the instant proceeding is not the appropriate forum for issues related to the Investigation Report or any future proposals related thereto and **HEREBY DIRECTS** interested parties to file comments in Docket No. EO26070398.

COMPANY-SPECIFIC PROPOSALS

ACE

BGS EV 2 Cents Program

The Board notes that no party opposed ACE's proposal to terminate the BGS EV 2 Cents Program or its request to recover approximately $1.5 million in associated program costs through the BGS Reconciliation Charge over a twenty-four (24)-month amortization period. Rate Counsel expressly stated that it did not oppose either the program's termination or the proposed cost recovery mechanism. Accordingly, the Board **HEREBY APPROVES** ACE's proposal.

Revision of Whole House Program

The Board notes that the Board has previously addressed TOU modifications within previous BGS proceeding as they relate to BGS rates. Accordingly, the Board **HEREBY FINDS** that it is appropriate to consider ACE's proposal to adjust the peak-hour window is consistent with the already approved BGS TOU structure within the instant proceeding.

As pointed out by ACE, by the September 2026 Order, the Board approved ACE's residential distribution TOU rate proposal, including peak hours from 4:00 p.m. to 8:00 p.m. What ACE has proposed here would align the existing supply TOU rate peak periods with the distribution TOU rates approved by the September 2026 Order, enabling BGS customers to maximize potential benefits by participating in both rate components. Accordingly, the Board **HEREBY APPROVES** ACE's proposal.

JCP&L

Having received no opposition to JCP&L's proposal to continue its DCFC BGS-CIEP Pilot Program, the Board **HEREBY APPROVES** JCP&L's request.

Additionally, as noted above, no party opposed JCP&L's BGS EV TOU rate in this proceeding. The Board **HEREBY NOTES** that the June 2026 filing made by JCP&L is still pending final resolution.

PSE&G

Reconciliation Charge

No party opposed PSE&G's request to migrate to an annual reconciliation charge beginning March 1, 2027. The Board **HEREBY FINDS** that while no utility has recently used an annual reconciliation charge mechanism, it may be beneficial to ratepayers. Accordingly, the Board **HEREBY APPROVES** PSE&G's proposal. The Board **HEREBY DIRECTS** PSE&G to continue to file quarterly information related to the reconciliation charge balances. The Board **FURTHER DIRECTS** PSE&G to file information in the next annual BGS filing so the parties can review the mechanism to see if further changes are necessary.

Migration Adjustment

Having reviewed the comments submitted by Rate Counsel and PSE&G, the Board believes that PSE&G's proposal is reasonable. The Board **HEREBY APPROVES** PSE&G's proposed migration adjustment and **HEREBY DIRECTS** PSE&G to file information in the next annual BGS filing related to the results of the migration adjustment so the parties can review.

EV Data Collection and TOU Rate Program

In this proceeding, PSE&G proposed a lower RS-TOU 3P mid-peak energy rate than the corresponding RS rate asserting that customers would be able to quickly and easily compare the RS rate to the RS-TOU 3P energy rates with a focus on savings. Rate Counsel argued that this should be considered in PSE&G's next base rate case. Similar to ACE's proposal related to BGS TOU rates, the Board **HEREBY FINDS** that it is appropriate to address this issue in the instant proceeding and **FURTHER FINDS** that PSE&G's proposal is reasonable. As such, the Board **HEREBY APPROVES** PSE&G's proposal.

With respect to PSE&G's request to eliminate DCFC pilot reporting, the Board **HEREBY FINDS** that PSE&G's proposal is reasonable as PSE&G is no longer operating the pilot program. Accordingly, the Board **HEREBY APPROVES** this request.

RECO

Having received no opposition to RECO's proposal related to the capacity requirements of its Central and Western BGS customers, the Board **HEREBY APPROVES** RECO's proposal.

NEXTERA PROPOSALS

RBP

NextEra raised concerns that uncertainty surrounding PJM's proposed RBP, including the unresolved cost allocation details, could lead to suppliers to incorporate risk premiums into their BGS bids. Rate Counsel agreed that transparency is important but noted that the impact of the RBP process remains unclear. The EDCs similarly explained that PJM has not finalized the RBP structure of cost allocation methodology, and therefore no definitive guidance can yet be provided. The Board **HEREBY FINDS** it premature to establish any allocation methodology at this time. However, the Board recognizes the importance of transparency for suppliers participating in the BGS Auction. The Board **HEREBY DIRECTS** the EDCs to keep suppliers informed of all developments related to the RBP and establish a clear and transparent cost allocation approach once PJM's final framework is issued. Should FERC rule on PJM's filing, the Board **FURTHER**

DIRECTS the EDCs to immediately notify the Board, Rate Counsel, and BGS suppliers and initiate discussions on any potential impacts.

RPS Uncertainty Ahead of Upcoming Wholesales Power Procurement

NextEra, Rate Counsel, and the EDCs all recommended that any RPS changes be clarified before the BGS Auctions to avoid suppliers pricing uncertainty into bids and to ensure fair, market-reflective outcomes. The Board **HEREBY NOTES** that there is a rule proposal currently published in the New Jersey Register that addresses RPS obligations. As suppliers remain responsible for RPS compliance and should incorporate applicable RPS obligations into their bid pricing for the upcoming BGS Auction, suppliers bear the responsibility of monitoring proceedings, including rulemaking proposals, that may modify obligations.

BGS EDC Municipal Aggregation Enrollment

The Board acknowledges NextEra's concern that uncoordinated GEA launches can trigger abrupt mass migration from BGS, and Rate Counsel's view that municipalities should retain operational flexibility to serve local customers. The Board **HEREBY FINDS** that a mandatory alignment of GEA launch dates with BGS contract expirations is not warranted and would restrict municipal discretion which would be inconsistent with the EDECA's competitive supply framework. The Board **HEREBY REJECTS** NextEra's recommendation to require such alignment.

RCSTF

The Board notes that the specification and implementation details of PJM's RCSTF reserve market reforms remain unsettled and that managing ancillary-service cost uncertainty is intrinsic to the full-requirements BGS construct under which suppliers price within their bids. The Board **HEREBY FINDS** that establishing a carve-out or pass-through for potential RCSTF costs in the SMA is not warranted and would be a departure from the construct of the BGS Auctions. The Board **HEREBY FINDS** that targeted relief may be considered only if finalized RCSTF reforms demonstrate extraordinary, non-customary costs that cannot reasonably be managed within the full requirements of the BGS framework. Accordingly, the Board **HEREBY REJECTS** NextEra's proposal at this time.

VOTE SOLAR PROPOSALS

BGS Procurement Process

With respect to Vote Solar's proposal to create the five percent (5%) block-based carve out, the Board **HEREBY REJECTS** Vote Solar's recommendation at this time. The Board recognizes the concerns raised by both Rate Counsel and the EDCs, including the significant administrative overhaul of the current Auction format to monitor the new carve out. The Board emphasizes that the opportunity for proposals pertaining to the structure of the BGS Procurement Process are always encouraged from all stakeholders.[36] However, as the current Auction format success can be attributed to the stability it provides ratepayers, such a drastic change without first undertaking a comprehensive review would undermine that stability. Accordingly, the Board **HEREBY DIRECTS** Staff to work with the parties prior to filing the 2028 BGS Auction proposals in an attempt to encourage competition in future BGS Auctions.

[36] New Jersey Board of Public Utilities*, New Jersey Board of Public Utilities – April 23, 2025*. YouTube (Apr. 23, 2025), https://www.youtube.com/live/LM_LpwwG6po?si=SPSMHbuZUfVyD8Ya (at 58:21).

Additional BGS Timing Reforms

The Board **HEREBY REJECTS** Vote Solar's recommendation to explore the other recommended reforms delineated in the Bates White's 2025 Final Report. In its 2025 Report, Bates White stated that "it is unclear that any of these changes will result in lower rates for customers. Certain changes can bring more flexibility to procurement, more rate volatility and more price transparency, but none of these methods allow for the utility to avoid the cost of energy and capacity in a given wholesale market."[37] For the same reasons delineated above, Vote Solar's recommendation would be better addressed in a different venue.

The Board **FURTHER REJECTS** Vote Solar's proposal on reporting AMI Data usage in the BGS-RSCP process. On August 3, 2026, AMI data access standards were recently adopted and made effective August 3, 2026, through a rulemaking.

CONFIDENTIALITY

The EDCs requested that the Board approve a confidentiality order as in prior years. The integrity of the Auction process depends on a fair set of rules that promotes dissemination of information in a non-discriminatory manner, and results in no bidder or bidders having an advantage over any other. From the Board's experience with prior BGS Auctions, it appears that certain information pertaining to the Auction design methodologies, including, but not limited to, the starting price and volume adjustment guidelines, if made public, could potentially distort the Auction results. Furthermore, information provided in the bidder application forms and specific bidder activity during the Auction may be information that, if disclosed, could place bidders at a competitive disadvantage and/or could also potentially distort the Auction results. The Board considered and found that certain financial and competitive information should be protected, not only as a matter of fairness to potential bidders, but also to ensure that these and any future BGS Auctions are competitive. These confidentiality provisions were adopted and applied in subsequent Auctions.[38] The Board **HEREBY FINDS** that the confidentiality provisions of its December 1, 2004 Order in Docket No. EO04040288 remain necessary and appropriate for the continued success of the BGS Auctions, and **HEREBY APPROVES** the same confidentiality provisions for the 2027 BGS Auctions and incorporates the reasoning and relevant provisions of its December 1, 2004 Order as if set forth at length herein. A copy of that Order is attached hereto as Attachment C.

AUCTION PROMOTION/DEVELOPMENT

Based upon a review of the record, the Board **HEREBY FINDS** that a successful BGS procurement can be achieved with a well-designed simultaneous descending clock Auction, provided that the rules and details are specified and implemented correctly, and provided that the Auction process provides sufficient awareness among qualified potential bidders so that a competitive procurement takes place. To maximize participation and competition, the Auction process requires a marketing and promotion plan aimed at ensuring exposure and awareness

[37] Bates White Economic Consulting, Annual Final Report on the 2025 BGS RSCP and CIEP Auctions, May 6, 2025, available at https://www.bgs-auction.com/documents/Post-Auction_Report_2025_Auctions_Bates_White_(redacted).pdf at page 28.

[38] In re the Provision of Basic Generation Service for Year Three of the Post-Transition Period – Confidentiality Issues, BPU Docket No. EO04040288, Order dated December 1, 2004 ("December 1, 2004 Order").

among qualified potential bidders. This year, as in past years, the EDCs and the Auction Manager will attempt to facilitate the Auction process and increase the number of prospective bidders by publicizing the Auctions and by educating potential bidders about the proposed Auctions. Among the steps to be undertaken are the following:[39]

- Bidder Information Webcasts;
- An Auction Web Site at www.bgs-auction.com which publicizes new developments, allows interested parties to download documents related to the Auctions, has FAQs (Frequently Asked Questions with answers) so all bidders are similarly informed, provides potential bidders with data relevant to the bidding process, and has links to PJM and other useful sites;
- Press releases to newspapers and trade publications; and
- Direct e-mails to interested parties to inform them of any new developments or any new documents posted to the web site.

The Board **HEREBY FINDS** that the foregoing marketing efforts by the EDCs and the Auction Manager should increase the chances that a successful BGS procurement will be achieved. Accordingly, the Board **HEREBY APPROVES** continuation of the above-referenced Auction process promotion initiatives.

BOARD APPROVAL PROCESS

As noted above, the Board believes that a successful BGS procurement can be achieved with a well-designed simultaneous descending clock Auction process, provided that the rules and details are specified and implemented correctly. Therefore, barring some unforeseen emergency, the timing of the Auction process approved with this Order, including certification of the Auction results, needs to take place according to a pre-approved schedule. As indicated in Attachment A, Tentative 2027 Auction Approvals and Decision Process, there are a number of decisions/actions that need to be made after Board approval of the Auction process.[40] Each of these decisions/actions needs to take place according to such a schedule so that the bidders are prepared for and comfortable with participating in the Auctions, and the Auctions result in competitive market-based BGS prices.

Based upon the Board's experience with the previous BGS Auctions, uncertainty or delay in the period between the submission of bids and the approval of bid results by the Board is of substantial concern to bidders. Paramount among the actions that must be taken by the Board is prompt certification of the Auctions' results. Because of the volatility of the electric markets, bids cannot remain viable for any prolonged period of time. If bidders perceive that there may be a delay in certifying the results, this perceived additional risk could be reflected through higher bid prices. Furthermore, the Auctions have been designed to secure supply for all four (4) EDCs at the same time. The structure of the Auctions that permits and encourages bidder movement

[39] These actions have occurred for past Auctions, and in anticipation of a favorable Board ruling herein, some of these actions may have already been undertaken for the 2027 Auction.

[40] Attachment A is labeled "Tentative" to indicate that the Auction Manager, in consultation with Staff, has discretion to make minor adjustments to these dates in order to provide for an orderly implementation process, not to indicate that the Board anticipates any significant changes to this schedule.

among EDC products implies to the bidders that, while being different products, tranches will be viewed on equal terms by the Board. It is important to the efficiency and economy of the process that bidders do not impute unwarranted uncertainty into the Auction results of any EDC. Therefore, as with past Auctions, the Board will consider the results of the BGS-RSCP Auction in their entirety and consider the results of the BGS-CIEP Auction in their entirety and certify the results of each Auction for all of the EDCs or for none of them. The Board will also commit to addressing the results of the BGS-RSCP Auction and the BGS-CIEP Auction no later than the second business day after the last Auction closes.[41] At its discretion and depending on circumstances, the Board may address the results of one (1) Auction that has closed while the second Auction continues. However, under all circumstances, the Board intends to have considered the outcome of both Auctions by no later than the second business day after the last Auction closes.

In recognition of the significance of this proceeding, the Board **HEREBY DIRECTS** the EDCs to submit a Compliance Filing by December 4, 2026. Further, the Board grants Staff the authority to review the EDCs' compliance filings, and to request that the Board Secretary issue compliance letters approving the filings should Staff find them in compliance with this Order.

Either the EDCs or the Auction Manager, in consultation with Staff and the Board's advisor, may make other Auction decisions as identified in Attachment A to this Order. These decisions include establishing minimum and maximum starting prices, establishing specific starting prices, the resolution of association issues, specific bidder application and credit issues, load cap and volume adjustment decisions, Auction price decrements, and other decisions, which might be required throughout the implementation process. Some of the aforementioned areas, such as bidder application and credit issues, are subject to specific rules found in the Proposal. Other areas, such as load caps and volume adjustment decisions, establishing minimum and maximum starting prices, establishing specific starting prices, the resolution of association issues, and Auction price decrements, are either Company-specific concerns, are determined directly from algorithms included in and approved as part of this proceeding, or are issues best addressed by the Auction Manager based on its experience. If these areas need to be addressed by the Auction Manager, the Board **HEREBY DIRECTS** that the Auction Manager include in its Final Report a description of any such actions. Should any unforeseen circumstances occur during the Auction decision-making process, the Board **HEREBY DIRECTS** Staff to immediately bring the matter to the Board's attention.

When the Auctions are complete, the Board will review and consider the results within the time frame set forth above. Prior to Board certification of the results, the Auction Manager will provide a Final Report to the Board on the results of the Auctions and how the Auctions were conducted, including the post-Auction evaluation forms in Attachment B. The Auction Manager will also provide a redacted version of the Final Report, consistent with the confidentiality provisions of this Order, to the EDCs and Rate Counsel. The Board's Auction advisor shall provide a Precertification Report to the Board, including completed post-Auction evaluation forms in the form of Attachment B to this Order, prior to Board certification of the results.

FINDINGS AND CONCLUSIONS

[41] As used in this Order, a "business day" is a day when the Board is open for business. Should weather or other conditions make the Board's offices inaccessible, the period will run until the end of the next day that is not a Saturday, Sunday or legal holiday.

Based upon the foregoing and after careful review of the record in this proceeding, the Board **HEREBY FINDS** that:

This was an open proceeding, with all parties seeking to present written or oral comments on the record having been afforded the opportunity to do so;

The Proposal, as modified herein, is consistent with the Electric Discount Energy and Competition Act, N.J.S.A. 48:3-49 et seq., and the EDCs' Final Restructuring Orders;

The Proposal, as modified herein, can and should be implemented in a timely fashion to secure BGS service for BGS customers beginning June 1, 2027;

The Proposal, as modified herein, appears to be the best means to secure BGS service for the 2027 BGS period for BGS-CIEP customers, and for the remaining one-third of the needs of BGS-RSCP customers, as well as for a portion of the BGS-RSCP service required for the 2028 and 2029 BGS periods;

An Auction process for one-third of the EDCs' BGS-RSCP load for a thirty-six (36)-month period balances risks and provides a reasonable opportunity for price stability under current conditions;

An Auction process for procurement of the entire non-shopping BGS-CIEP load for a twelve (12)-month period is appropriate;

The EDCs' BGS-RCSP rate designs, as modified herein, are an appropriate methodology to translate final BGS-RCSP bids into customer rates for the purpose of this Auction;

The application of seasonal payment factors to the tranche-weighted Auction prices, determined in the manner prescribed herein, is appropriate, and may be updated by the EDCs in January to reflect the most recent data;

Consistent with the Board's policy that all CIEP customers benefit and should pay the costs of having BGS-CIEP service available, capacity is the bid product in the CIEP Auction and the CIEP Standby Fee will be assessed to all CIEP customers;

The EDCs are responsible to the Board for compliance with the RPS requirements;

The EDCs will prepare the RPS reports required by the Board on behalf of the BGS suppliers, and will contractually require the BGS suppliers to comply with the Board's RPS requirements;

The EDCs designated NERA to continue to act as the Auction Manager for the 2027 Auctions;

Fulfillment of their Auction obligations will not cause successful bidders in the BGS Auction to be "Electric Power Suppliers" as defined in N.J.S.A. 48:3-51 and N.J.A.C. 14:4-1.2, and thus, successful bidders do not need to obtain a New Jersey electric power supplier license to fulfill their Auction obligations;

All Auction rules, algorithms, and procedures that were unchanged in this proceeding, and were approved in prior Board Orders, as well as the Auction rules, algorithms, and procedures that were modified in this proceeding, including changes in the decrement formulas, are deemed reasonable for the purpose of these Auctions;

Certain information and processes associated with the Auctions may be competitively sensitive by nature, and the Board has incorporated herein a Protective Order addressing treatment of this competitive information as Attachment C;

The accounting and cost recovery processes identified in the EDC-specific Addenda to the Proposal, as modified herein, are reasonable and consistent with the Board's Final Unbundling Orders;

The EDC-specific Contingency Plans are reasonable;

The Tentative Approvals and Decision Process Schedule in Attachment A reasonably balance process efficiency with Board oversight;

Bates White will be the Board's Auction Advisor for the 2027 Auctions, and will oversee the Auctions on behalf of the Board consistent with the terms of its contract;

Designees from the Board's Revenue and Rates Division and the Board's advisor, Bates White, shall observe the Auctions for the Board;

Bates White shall also provide a completed post-Auction evaluation form using the form of Attachment B to the Board, prior to Board certification of the results;

The Board will consider the results of the BGS-RCSP Auction and the BGS-CIEP Auction each in its entirety and certify the results of each for all of the EDCs, or for none of them, no later than the second business day after the last Auction closes. At its discretion and depending on circumstances, the Board may address one Auction that has closed while the second continues;

Nothing herein is in any way intended to relieve the EDCs and/or the Auction Manager of their responsibilities to conduct the Auction in a lawful manner, including obtaining any appropriate licenses that may be required by law; and

For RPS compliance purposes, winning bidders in the 2027 BGS Auction, through the EDCs, will be credited with an equivalent level of non-utility generation Renewable Energy Certificates as would be available to them through the EDCs.

Accordingly, for the foregoing reasons, the Board **HEREBY APPROVES** the Proposal, including the BGS-RSCP and BGS-CIEP Auction Rules, the EDC-specific addenda and the SMAs, with the modifications described herein. The Board reserves the right, at the certification meeting, to reject the BGS-RSCP Auction results and/or the BGS-CIEP Auction results.

Furthermore, the Board **HEREBY ORDERS** that the Proposal be modified consistent with the foregoing, and that the EDCs make compliance filings consistent with this decision by December 4, 2026. The Board **HEREBY AUTHORIZES** Staff, after reviewing the EDCs' above described compliance filings, to request that the Board Secretary issue a compliance letter of approval if Staff upon review finds the filings in compliance with this Order.

The Board **HEREBY DIRECTS** the EDCs to work with Staff and Bates White to ensure that any supplemental documents are fair and consistent with this decision, and that the review procedures for bidder applications are applied in a consistent and non-discriminatory manner.

The EDCs' costs, including those related to BGS, will remain subject to audit by the Board. This Decision and Order shall not preclude, nor prohibit, the Board from taking any actions determined to be appropriate as the result of any such audit.

The effective date of this Board Order is November 20, 2026.

DATED: November 20, 2026

BOARD OF PUBLIC UTILITIES
BY:

BEN HERTZ-SHARGEL
PRESIDENT

CHRISTINE GUHL-SADOVY
COMMISSIONER

MICHAEL BANGE
COMMISSIONER

EMMA REBHORN
COMMISSIONER

JOSEPH COVIELLO
COMMISSIONER

ATTEST:

SHERRI L. LEWIS
BOARD SECRETARY

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

IN THE MATTER OF THE PROVISION OF BASIC GENERATION SERVICE ("BGS") FOR THE PERIOD BEGINNING JUNE 1, 2027

DOCKET NO. ER26040105

Service List

BPU

44 South Clinton Ave., 1st Floor
Post Office Box 350
Trenton, NJ 08625-0350

Sherri L. Lewis, Secretary
board.secretary@bpu.nj.gov

Lloyd Kass, Executive Director
lloyd.kass@bpu.nj.gov

Stacy Peterson, Deputy Executive Director
stacy.peterson@bpu.nj.gov

Division of Revenue and Rates

Stephen Foxall, Deputy Director
stephen.foxall@bpu.nj.gov

Dari Urban
dari.urban@bpu.nj.gov

Patrick Holbaur
patrick.holzbaur@bpu.nj.gov

Counsel's Office

Ava-Marie Madeam, General Counsel
avamarie.madeam@bpu.nj.gov

Elspeth Faiman Hans, Dep General Counsel
elspeth.hans@bpu.nj.gov

Heather Weisband, Senior Counsel
heather.weisband@bpu.nj.gov

Division of Law
25 Market Street
Post Office Box 112
Trenton, NJ 08625-0112

Terel Klein, DAG, Section Chief
terel.klein@law.njoag.gov

Pamela Owen, DAG
pamela.owen@law.njoag.gov

Matko Ilic, DAG
matko.ilic@law.njoag.gov

Rachel Reckeweg
rachel.reckeweg@law.njoag.gov

Tanya Lloyd-Samuel
tanya.lloydsamuel@law.njoag.gov

BPU's BGS CONSULTANTS

Frank Mossburg, Managing Director
Bates White, LLC
2001 K Street, NW
North Building, Suite 500
Washington DC, 20006
frank.mossburg@bateswhite.com

DIVISION OF RATE COUNSEL

140 East Front Street, 4th Floor
Post Office Box 003
Trenton, New Jersey 08625

Brian Lipman, Esq., Director
blipman@rpa.nj.gov

David Wand, Esq., Managing Attorney
dwand@rpa.nj.gov

Lisa Littman, Esq.
llittman@rpa.nj.gov

Debra Layugan, Paralegal
dlayugan@rpa.nj.gov

Rate Counsel Consultant

Max Chang, President
Zooid Energy
11 S. Angell St., #411
Providence, RI 02906
mchang@zooid-energy.com

ACE

Pepco Holdings, LLC – 92DC42
500 N. Wakefield Drive
PO Box 6066
Newark, DE 19714-6066

Susan DeVito
susan.devito@pepcoholdings.com

Kenneth Wan, Esq.
kenneth.wan@exeloncorp.com

Peter Samuel
peter.samuel@pepcoholdings.com

Ashley Fitzgerald
ashley.fitzgerald@pepcoholdings.com

Deborah Sears
deborah.sears2@exeloncorp.com

ROCKLAND

Enver Acevedo, Esq.
4 Irving Place
New York, NY 10003
acevedoe@coned.com

PSE&G

80 Park Plaza, T-18
Newark, NJ 07102-4194

Terrance J. Moran
terrance.moran@pseg.com

Danielle Lopez, Esq.
danielle.lopez@pseg.com

Myron Filewicz, BGS Manager
myron.filewicz@pseg.com

Maria Barling
maria.barling@pseg.com

Caitlyn White
caitlyn.white@pseg.com

JCP&L

300 Madison Avenue
Morristown, NJ 07962-1911

Jennifer Spricigo
jspricigo@firstenergycorp.com

Yongmei Peng
ypeng@firstenergycorp.com

James Meehan, Esq.
jameehan@firstenergycorp.com

341 White Pond Drive
A-WAC-C2
Akron, OH 44320

Randy Feucht
rfeucht@firstenergycorp.com

Courtney Luff
caluff@firstenergycorp.com

NERA
1255 23rd Street NW, Suite 600
Washington, DC 20037

Chantale LaCasse
chantale.lacasse@nera.com

Rachel Northcutt
rachel.northcutt@nera.com

NERA Economic Consulting
777 S. Figueroa, Suite 1950
Los Angests, CA 90017

Kathleen Orlandi
kathleen.orlandi@nera.com

Paul Cardona
paul.cardona@nera.com

Service List

BGS Suppliers

Steven Gabel - IEPNJ
Gabel Associates
417 Denison Street
Highland Park, NJ 08904
steven@gabelassociates.com

Holly Reed
Gabel Associates
417 Denison Street
Highland Park, NJ 08904
holly.reed@gabelassociates.com

Raymond Depillo
PSEG Services Corporation
80 Park Plaza, T-19
P.O. Box 570
Newark, NJ 07101
raymond.depillo@pseg.com

Shawn P. Leyden, Esq.
PSEG Energy Resources & Trade
80 Park Plaza, T-19
P. O. Box 570
Newark, NJ 07101
shawn.leyden@pseg.com

Kathleen Maher
Constellation New Energy
810 Seventh Avenue, Suite 400
New York, NY 10019-5818
kathleen.maher@constellation.com

David B. Applebaum
Director, Regulatory Affairs
NextEra Energy Resources, LLC
21 Pardee Place
Ewing, New Jersey 08628
david.applebaum@nexteraenergy.com

David Gil
Manager, Regulatory Affairs
NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408
david.gil@nexteraenergy.com

David K Richter, Esq.
PSEG
Regulatory Department
80 Park Plaza, T-5C
P. O. Box 570
Newark, NJ 07101
david.richter@pseg.com

Sharon Weber
PPL Energy Plus
2 North 9th Street TW 20
Allentown, PA 18101
sjweber@pplweb.com

Craig S. Blume
Director, Power Marketing
UGI Energy Services / UGI Development Company
One Meridian Boulevard, Suite 2C01
Wyomissing, PA 19610
cblume@ugies.com

Cynthia Klots, General Counsel
DTE Energy Trading, Inc.
414 South Main Street
Suite 200
Ann Arbor, MI 48104
cynthia.klots@dteenergy.com

Don Hubschman
American Electric Power
155 W. Nationwide Blvd.
Columbus, OH 43215
dmhubschman@aepes.com

Christine McGarvey
AEP Energy Partners, Inc.
Energy Trader
155 W Nationwide Blvd
Suite 500
Columbus, OH 43215
clmcgarvey@aepes.com

Matthew Davies
TransCanada Power Marketing Ltd.
110 Turnpike Road, Suite300
Westborough, MA 01581
matthew_daview@transcanada.com

Becky Merola
Noble Americas Energy Solutions, LLC
5325 Sheffield Avenue
Powell, OH 43065
bmerola@noblesolutions.com

Glenn Riepl
AEP Energy Services
1 Riverside Plaza
14th Floor
Columbus, OH 43215-2373
gfriepl@aep.com

Howard O. Thompson
Russo Tumulty Nester Thompson Kelly, LLP
240 Cedar Knolls Road
Suite 306
Cedar Knolls, NJ 07927
hthompson@russotumulty.com

Tom Hoatson
LS Power Development, LLC
2 Tower Center
East Brunswick, NJ 08816
thoatson@lspower.com

Glen Thomas
The P^3 Group; GT Power Group LLC
1060 First Avenue
Suite 400
King of Prussia, PA 19406
gthomas@gtpowergroup.com

Adam Kaufman, Executive Director
Independent Energy Producers of NJ
Five Vaughn Drive, Suite 101
Princeton, NJ 08540
akaufman@kzgrp.com

Anthony Pietranico
ConEdison Solutions Inc.
Electricity Supply Specialist
pietranicoa@conedsolutions.com

Christi L. Nicolay, Division Director
Macquarie Energy LLC
500 Dallas St., Level 31
Houston, TX 77002
Christi.Nicolay@macquarie.com

Dinkar Bhatia
Hartree Partners LP
8 Market Place, Suite 500 A
Baltimore, MD 21202
dbhatia@hartreepartners.com

Other Parties

Ray Cantor
NJBIA
10 West Lafayette Street
Trenton, NJ 08608-2002
rcantor@njbia.org

John Holub
NJ Retail Merchants Assoc.
332 West State Street
Trenton, NJ 08618
john@njrma.org

Steven S. Goldenberg, Esq.
Giordano, Halleran & Ciesla, P.A.
125 Half Mile Road, Suite 300
Red Bank, NJ 07701
sgoldenberg@ghclaw.com

Angela Schorr
NRG Energy, Inc.
804 Carnegie Center
Princeton, NJ 08540
angela.schorr@nrg.com

Murray E. Bevan, Esq.
Bevan, Mosca & Giuditta, P.C.
163 Madison Avenue, Suite 220-8
Morristown, NJ 07960
mbevan@bmglaw.com

ATTACHMENT A

Tentative 2027 Auction Approvals and Decision Process

This document sets forth a high level view of the proposed approval and interaction process. For purposes of the decision making schedule, the following abbreviations apply:

1. EDCs – These are decisions for which the EDCs are solely responsible. The EDCs may draw upon the Auction Manager (AM) or consultants as they desire.

2. EDCs/BA – These are decisions for which the EDCs are solely responsible, where the Board Advisor (Staff and/or Bates White) will have an opportunity to observe the decision process, but for which consensus or approval is not requested.

3. EDCs/AM/BA – These are decisions for which the EDCs are responsible, but where the Auction Manager may advise, and the Board Advisor (Staff and/or Bates White) will have an opportunity to observe.

4. AM/BA – These are actions for which the Auction Manager is responsible, and on which the BA will have the opportunity to observe and advise.

5. BPU – These are actions to be taken by the Board.

6. AM/EDCs – These are actions for which the Auction Manager is responsible and for which the Auction Manager acts in concert with the EDCs.

Decision point	**Decision process**	**Timing**
Joint EDC Filing	EDCs	July 1, 2026
Announce minimum and maximum starting prices	AM	November 13, 2026
Announce Load Caps	AM/BA	November 13, 2026
Announce Tranche Sizes	AM/BA	November 13, 2026
Decision on Auction Process	BPU	November 20, 2026
Information webcast for potential bidders	AM/EDCs	December 1, 2026 (tentative)
Compliance Filings	EDCs	December 4, 2026
Approval of Compliance filing	BPU	December 2026
Final Auction Rules and Supplier Master Agreements available	AM/EDCs	December 2026
Part 1 Applications Due		December 15, 2026 (noon)
Review Part 1 applications	AM/BA	December 15-18, 2026

ATTACHMENT A

Tentative 2027 Auction Approvals and Decision Process

Part 2 Applications Due		January 13, 2027 (noon)
Review Part 2 applications	AM/BA	January 13-21, 2027
Information Webcast for registered bidders	AM/EDCs	January 27, 2027 (tentative)
First Trial Auction	AM	January 28, 2027
Second Trial Auction	AM	February 2, 2027
Inform bidders of EDC-specific starting prices	EDCs/AM/BA	CIEP – February 2, 2027 RSCP – February 3, 2027
BGS-CIEP Auction starts		February 5, 2027
BGS-RSCP Auction starts		February 8, 2027
Provide full factual report to Board	AM/BA	Upon completion of RSCP Auction
Board decision on Auction results	BPU	No later than by end of 2nd business day following the calendar day on which the last auction closes.

ATTACHMENT B
Docket No. ER26040105

POST-AUCTION CHECKLIST FOR THE NEW JERSEY

2027 BGS-CIEP AUCTION

Prepared by: [Company] .

[Introductory comments, if any]

Auction began with the opening of Round 1 [x:xx am] on February 6, 2027

Auction finished with the close of Round ## [xxx] on [xxx]

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

* Note: [No volume adjustment was made during the CIEP auction, so the pre-auction tranche target and the statewide load cap were unchanged for the auction. Alternatively, note details of volume adjustments if they occurred.]

ATTACHMENT B
Docket No. ER26040150

Post-Auction Checklist for the New Jersey 2027 BGS-CIEP Auction

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

Table 1. Summary of BGS-CIEP Auction

	PSE&G	JCP&L	ACE	RECO	Total
BGS-CIEP peak load share (MW)					
Total tranches needed					
Starting tranche target in auction					
Final tranche target in auction					
Tranche size (%)					
Tranche size (approximate MW)					
Starting load cap (# tranches)					
Final load cap (# tranches)					
Quantity procured (# tranches)					
Quantity procured (% BGS-CIEP load)					
# Winning bidders					
Maximum # of tranches procured from any one bidder					
Minimum and maximum starting prices prior to indicative bids ($/MW-day)					
Starting price at start of auction ($/MW-day)*					
Final auction price ($/MW-day)**					

* Price shown in "Total" column is an average across the EDCs weighted by each EDC's "Starting tranche target in auction".
** Price shown in "Total" column is an average across the EDCs weighted by each EDC's "Final tranche target in auction".

ATTACHMENT B
Docket No. ER26040150

Post-Auction Checklist for the New Jersey 2027 BGS-CIEP Auction

Table 2. Overview of Findings on BGS-CIEP Auction

	Question	Comments
1	BW's/NERA's recommendation as to whether the Board should certify the CIEP auction results?	
2	Did bidders have sufficient information to prepare for the CIEP auction?	
3	Was the information generally provided to bidders in accordance with the published timetable? Was the timetable updated appropriately as needed?	
4	Were there any issues and questions left unresolved prior to the CIEP auction that created material uncertainty for bidders?	
5	From what BW/NERA could observe, were there any procedural problems or errors with the CIEP auction, including the electronic bidding process, the back-up bidding process, and communications between bidders and the Auction Manager?	
6	From what BW/NERA could observe, were protocols for communication between bidders and the Auction Manager adhered to?	
7	From what BW/NERA could observe, were there any hardware or software problems or errors, either with the CIEP auction system or with its associated communications systems?	
8	Were there any unanticipated delays during the CIEP auction?	
9	Did unanticipated delays appear to adversely affect bidding in the CIEP auction? What adverse effects did BW/NERA directly observe and how did they relate to the unanticipated delay?	
10	Were appropriate data back-up procedures planned and carried out?	
11	Were any security breaches observed with the CIEP auction process?	
12	From what BW/NERA could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and BW/NERA during the CIEP auction?	

ATTACHMENT B
Docket No. ER26040150

Post-Auction Checklist for the New Jersey 2027 BGS-CIEP Auction

	Question	Comments
13	From what BW/NERA could observe, were the protocols followed for decisions regarding changes in CIEP auction parameters (e.g., volume, load cap, bid decrements)?	
14	Were the calculations (e.g., for bid decrements or bidder eligibility) produced by the CIEP auction software double-checked or reproduced off-line by the Auction Manager?	
15	Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the auction?	
16	From what BW/NERA could observe, were the communications between the Auction Manager and bidders timely and effective?	
17	Was there evidence that bidders felt unduly rushed during the process? Should the auction have been conducted more expeditiously?	
18	Were there any complaints from bidders about the process that BW/NERA believed were legitimate?	
19	Was the CIEP auction carried out in an acceptably fair and transparent manner?	
20	Was there evidence of non-productive "gaming" on the part of bidders?	
21	Was there any evidence of collusion or improper coordination among bidders?	
22	Was there any evidence of a breakdown in competition in the CIEP auction?	
23	Was information made public appropriately? From what BW/NERA could observe, was sensitive information treated appropriately?	
24	Does the CIEP auction appear to have generated a result that is consistent with competitive bidding, market-determined prices, and efficient allocation of the BGS-CIEP load?	

ATTACHMENT B
Docket No. ER26040150

Post-Auction Checklist for the New Jersey 2027 BGS-CIEP Auction

	Question	Comments
25	Were there factors exogenous to the CIEP auction (e.g., changes in market environment) that materially affected the CIEP auction in unanticipated ways?	
26	Are there any concerns with the CIEP auction's outcome with regard to any specific EDC(s)?	

ATTACHMENT B
Docket No. ER26040105

POST-AUCTION CHECKLIST

FOR THE NEW JERSEY 2027 BGS-RSCP AUCTION

Prepared by: [Company]

[Introductory comments, if any.]

Auction began with the opening of Round 1 [x:xx am] on February 9, 2027

Auction finished with the close of Round ## [xxx] on [xxx]

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

* Note: [No volume adjustment was made during the RSCP auction, so the pre-auction tranche target and EDC-specific load caps were unchanged for the auction. Alternatively, note details of volume adjustments if they occurred.]

ATTACHMENT B
Docket No. ER26040105

Post-Auction Checklist for the New Jersey 2027 BGS-RSCP Auction

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

Table 1. Summary of BGS-RSCP Auction

	PSE&G	JCP&L	ACE	RECO	Total
BGS-RSCP peak load share (MW)					
Total tranches needed					
Starting tranche target in auction					
Final tranche target in auction					
Tranche size (%)					
Tranche size (approximate MW)					
Starting EDC load caps (# tranches)					
Starting statewide load cap (#tranches)					
Final EDC load caps (# tranches)					
Final statewide load cap (#tranches)					
Quantity procured (# tranches)					
Quantity procured (% BGS–RSCP load)					
# Winning bidders					
Maximum # of tranches procured from any one bidder					
Minimum and maximum starting prices prior to indicative bids (cents/kWh)					
Starting price at start of auction (cents/kWh) *					
Final auction price (cents/kWh) **					

* Price shown in "Total" column is an average across the EDCs weighted by each EDC's "Starting tranche target in auction".
** Price shown in "Total" column is an average across the EDCs weighted by each EDC's "Final tranche target in auction".

ATTACHMENT B
Docket No. ER26040105

Post-Auction Checklist for the New Jersey 2027 BGS-RSCP Auction

Table 2. Overview of Findings on BGS-RSCP Auction

	Question	Comments
1	BW's/NERA's recommendation as to whether the Board should certify the RSCP auction results?	
2	Did bidders have sufficient information to prepare for the RSCP auction?	
3	Was the information generally provided to bidders in accordance with the published timetable? Was the timetable updated appropriately as needed?	
4	Were there any issues and questions left unresolved prior to the RSCP auction that created material uncertainty for bidders?	
5	From what BW/NERA could observe, were there any procedural problems or errors with the RSCP auction, including the electronic bidding process, the back-up bidding process, and communications between bidders and the Auction Manager?	
6	From what BW/NERA could observe, were protocols for communication between bidders and the Auction Manager adhered to?	
7	From what BW/NERA could observe, were there any hardware or software problems or errors, either with the RSCP auction system or with its associated communications systems?	
8	Were there any unanticipated delays during the RSCP auction?	
9	Did unanticipated delays appear to adversely affect bidding in the RSCP auction? What adverse effects did BW/NERA directly observe and how did they relate to the unanticipated delays?	
12	Were appropriate data back-up procedures planned and carried out?	
11	Were any security breaches observed with the RSCP auction process?	
12	From what BW/NERA could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and BW/NERA during the RSCP auction?	

ATTACHMENT B
Docket No. ER26040105

Post-Auction Checklist for the New Jersey 2027 BGS-RSCP Auction

	Question	Comments
13	From what BW/NERA could observe, were the protocols followed for decisions regarding changes in RSCP auction parameters (e.g., volume, load caps, bid decrements)?	
14	Were the calculations (e.g., for bid decrements or bidder eligibility) produced by the RSCP auction software double-checked or reproduced off-line by the Auction Manager?	
15	Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the auction?	
16	From what BW/NERA could observe, were the communications between the Auction Manager and bidders timely and effective?	
17	Was there evidence that bidders felt unduly rushed during the process? Should the auction have been conducted more expeditiously?	
18	Were there any complaints from bidders about the process that BW/NERA believed were legitimate?	
19	Was the RSCP auction carried out in an acceptably fair and transparent manner?	
20	Was there evidence of non-productive "gaming" on the part of bidders?	
21	Was there any evidence of collusion or improper coordination among bidders?	
22	Was there any evidence of a breakdown in competition in the RSCP auction?	
23	Was information made public appropriately? From what BW/NERA could observe, was sensitive information treated appropriately?	
24	Does the RSCP auction appear to have generated a result that is consistent with competitive bidding, market-determined prices, and efficient allocation of the BGS-RSCP load?	

ATTACHMENT B
Docket No. ER26040105

Post-Auction Checklist for the New Jersey 2027 BGS-RSCP Auction

	Question	Comments
25	Were there factors exogenous to the RSCP auction (e.g., changes in market environment) that materially affected the RSCP auction in unanticipated ways?	
26	Are there any concerns with the RSCP auction's outcome with regard to any specific EDC(s)?	

Attachment C

Agenda Date: 10/22/04
Agenda Item: 2A

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

IN THE MATTER OF THE PROVISION OF BASIC GENERATION SERVICE FOR YEAR THREE OF THE POST-TRANSITION PERIOD – CONFIDENTIALITY ISSUES	ENERGY DECISION AND ORDER DOCKET No. EO04040288

(SERVICE LIST ATTACHED)

BY THE BOARD:

This matter concerns the confidentiality of certain information to be utilized during the upcoming Basic Generation Service ("BGS") Auction.

At its October 22, 2004, public agenda meeting the Board approved an auction process for the procurement of BGS supplies for the period beginning June 1, 2005 ("Year Three of the post-Transition Period" or "Year Three"), which process is substantially similar to the process which was utilized for the past three years. In each of those auctions, the Board directed that certain sensitive information and processes would be afforded confidential treatment. At this time, in response to a request by the electric distribution companies ("EDCs") (EDC's Initial Proposal at 10-11), the Board is reaffirming the proprietary and confidential nature of the same procurement information and processes for Year Three bidding as it did in its previous Orders. The following areas are covered by this Order:

(1) **The Logic Processes and Algorithms**: The auction manager, National Economic Research Associates ("NERA"), uses logic processes and algorithms to foster a competitive auction.

(2) **Starting Prices**: EDC - specific minimum and maximum starting prices and final starting prices in effect during the bidding phase of the first round of the auction. Each EDC, in consultation with Staff, NERA and the Board's consultant, Charles River Associates ("CRA") sets its own starting prices. The EDC-specific final starting prices are announced to approved bidders only, shortly before the start of the auction.

(3) **Indicative Offers**: The number of tranches that a qualified bidder is willing to supply at the maximum starting price and the number of tranches a qualified bidder is willing to supply at the minimum starting price. Indicative offers are used to determine

eligibility for participation in the auction and are considered in determining final starting prices.

(4) **Round Prices and Individual Bids**: The price set by NERA for each round of the auction, the number of tranches bid by each qualified bidder during each round of the auction, and any other information submitted by the bidder in each round to fully specify its bid, such as exit prices and switching priorities.

(5) **Bidder Information**: The bidder identities and information supplied to NERA on the application forms to become a bidder in the New Jersey BGS Auction.

DISCUSSION

The Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq., which amended the former Right to Know Law concerning the public's access to government records, became effective on July 8, 2002. One of the modifications includes an expansion of the definition of a government record from only those documents required to be made, maintained or kept on file by law, to information received, made, maintained or kept on file by a public agency in the course of its official business, except for advisory, consultative or deliberative material. N.J.S.A. 47:1A-1.1. The statute goes on to list information which shall not be included in the definition of a government record and shall be deemed confidential, including trade secrets, proprietary commercial or financial information, and information which, if disclosed, would give an advantage to competitors or bidders. Id.

OPRA also changed procedures regarding government records by setting forth new format and timing requirements for making and responding to requests for access. As a result, many public agencies proposed new rules and regulations to redesign their record request operations in compliance with OPRA. The proposed new rules of the Board of Public Utilities appeared in the July 1, 2002, New Jersey Register, and were adopted in the July 21, 2003 publication of the New Jersey Register.

As part of the new procedures established concerning the public's access to its records and for claimants asserting confidentiality claims, the Board authorized its custodian of records to determine whether information requested by the public is a government record within the meaning of OPRA or is confidential. N.J.A.C.14:1-12.6. Additionally, the Board reserved its authority to make a confidentiality determination when appropriate:

> Nothing herein shall limit the Board's authority to make a confidentiality determination within the context of a hearing or other proceeding or with regard to any other matter, as the Board may deem appropriate.
>
> [N.J.A.C. 14:1-12.6(d).]

Accordingly, the Board may make confidentiality determinations regarding information gathered in proceedings such as the within matter. In ruling on the Year Three procurement processes, the Board has determined that an auction process similar to the ones approved for the past three years are the most appropriate means for obtaining energy prices consistent with those achieved by a competitive market, as required by N.J.S.A. 48:3-57(d).

Simulating market conditions, however, requires that the auction participants know that their competitive positions will not be compromised. Based on the experience and expertise gained

in the previous auctions, as well as the advice of its consultant, the Board recognizes the need to alleviate any doubts about its treatment of competitively sensitive information.

The Board has approved the use of a descending clock auction process for Year Three. The auction process, at its most basic level, includes three groups of contributors. The first group is made up of the four electric distribution companies the purchasers of the BGS supply, who rely on maximum participation by qualified bidders in order to ensure a competitive procurement for its BGS customers. The second group consists of the qualified bidders or BGS suppliers, which proffer the competitive bids to supply tranches[1] of power to the EDCs. In order to become a qualified bidder, BGS suppliers must meet certain general, financial and credit requirements. Qualified bidders are made up of two groups: (a) those that provide direct supply and (b) those that provide supply through market purchases. The third contributor is the Auction Manager, National Economic Research Associates, who administers the auction in consultation with the EDCs, the Board Staff and the Board's consultant, Charles River Associates.

During the course of the auction, the auction manager solicits bids through a series of auction rounds. The first round begins as the BGS suppliers bid the number of tranches they are willing to supply at each EDCs-specific starting prices. Assuming the number of tranches bid are greater than those needed by an EDC, the next auction round proceeds at a lower price. With each new price in the rounds, BGS suppliers may change their bids by modifying the number of tranches they are willing to supply. Rounds in the auction continue until the total number of tranches bid equals the total demand from the EDCs.

The auction process is expected to simulate a competitive market. The object is to allow prices to tick down round by round until the final price is one that approximates a price that could be achieved on an open market. To ensure that the EDCs get a competitive price, the BGS suppliers must bid based on their individual assessments of a fair market value or at least their assessment of individual ability to provide BGS supply at a particular rate. If the bidders knew each other's "market" positions or bid positions, the process would fail to create competition. Similarly, if bidders knew all of the details of the auction process they might also be able to determine their exact position in relation to other bidders and also circumvent the competitive intent of the process.

The Board is charged with overseeing the EDCs acquisition of BGS supply at market value. In order to achieve this goal, the Board FINDS and CONCLUDES that it must provide a certain amount of protection to the information supplied by the participants and to the formulas, algorithms and logic used to develop critical auction particulars. The Board's analysis of the need to treat certain information as competitively sensitive and confidential is set forth below.

I. THE LOGIC PROCESSES AND ALGORITHMS THE AUCTION MANAGER USES TO FOSTER A COMPETITIVE AUCTION

The auction manager will set the parameters for the auction, including the minimum and maximum starting prices. The EDCs must use this price range, as well as their own calculations to set their EDC-specific starting prices. Likewise, the qualified bidders must submit indicative offers using the minimum and maximum starting prices. Though the minimum and maximum starting prices are released publicly prior to the auction, the method used to determine these

[1] A tranche of one product (i.e. a tranche of the BGS load for one EDC) is a full requirements tranche. A tranche for an EDC is a fixed percentage share of the BGS load of that EDC for Year Three of the post-Transition Period beginning June 1, 2004.

prices is confidential information. Revealing this thought process could prejudice the independent evaluation of market prices that qualified bidders would perform. Furthermore, it would impede the competitive nature of the auction. So long as the bidders do not know the rationale behind the auction prices, they must bid based on independent methodologies. As a result, the bidders are more likely to make bids of varying degrees because their valuations will be based on diverse variables.

Just as minimum and maximum starting prices are used to promote competition, volume adjustments during the auction rounds must be used to ensure that the EDCs receive the most competitive bids. The auction manager is given the authority to make two volume adjustments to ensure that the prices not only continue to decrease, but that bidding remains competitive. The auction manager may reduce the auction volume (reduce the number of tranches that the EDCs will purchase) after review of the first round bids. Again, simple market theories apply - if demand is larger than supply, the price remains high. Therefore, the auction rules allow for a volume adjustment after the first round, and once more in a later round. If the guidelines/ algorithms used to make these adjustments were disclosed, the bidders might be able to manipulate the system.

In short, the methodologies used to determine the starting prices, as well as volume adjustments, are integral to the competitive bidding process. Both categories of information fall under an OPRA exception to the definition of a government record because they would provide an advantage to competitors or bidders. As stated above, the Legislature has required the Board to procure energy prices consistent with market conditions. N.J.S.A. 48:3-57(d). The Board is therefore simulating a market scenario through the use of supply and demand theory. Releasing these auction parameters would result in an advantage to all of the bidders, at the expense of higher energy prices for the EDC's customers. Thus, as long as the Board continues to rely on a similar auction process to procure BGS supply, this information continues to require confidential treatment.

The Board HEREBY FINDS and CONCLUDES that this information, if disclosed would provide an advantage to competitors or bidders to the detriment of BGS customers, and shall be deemed confidential and not included as a government record pursuant to OPRA.

Therefore, should a request for this information be made to the Board's custodian, the Board DIRECTS that such information be treated as confidential and that any requests for access be denied.

II. EDC-SPECIFIC STARTING PRICES

There are two types of starting prices used in the auction. First, there are the minimum and maximum starting prices, which are released to potential bidders shortly before the application process to provide a basis for the EDC-specific starting prices and the BGS suppliers' indicative offers. The second type consists of the EDC-specific starting prices that will be in effect for the first round of the auction. These prices must fall somewhere between the minimum and maximum starting prices, and are released to the qualified bidders shortly before the auction. The EDC-specific starting prices are derived from the indicative offers and the value judgments of the EDCs, Board Staff, CRA and Auction Manager regarding the future price of energy.

Both types of starting prices are intended to attract qualified bidders to the auction. The financial community and/or the general public could misinterpret the EDC-specific starting prices if they were to be made public prior to the release of the final auction results.

Rather than having qualified bidders making independent business judgments on the value assigned to a product, their bids could be influenced by outside perception. For example, should the starting prices create lofty expectations regarding energy prices on the part of shareholders or financial analysts, BGS suppliers might not bid as aggressively as necessary to create market conditions. In short, releasing this information prior to the public announcement of the final auction results could put the entire auction process at a competitive disadvantage. While some individual bidders in the auction might not suffer, distorted financial perceptions could lead to a less competitive auction, ultimately disadvantaging the ratepayers through inflated prices.

The Board HEREBY FINDS and CONCLUDES that this information would provide an advantage to competitors or bidders, and shall be deemed confidential and not included as a government record pursuant to OPRA.

Therefore, should a request for this information be made to the Board's custodian, the Board DIRECTS that such information be treated as confidential and that any requests for access be denied until the Board has released the auction results.

III. INDICATIVE OFFERS

Indicative offers are the number of tranches that a qualified bidder is willing to supply at the maximum starting price and at the minimum starting price. The number of tranches the bidder offers to supply at the maximum starting price determines the bidder's initial eligibility for the auction. The indicative offer creates two limitations for the bidder. First, the total number of tranches the BGS supplier can bid in any round of the auction is now capped at its initial eligibility. As such, bidders are encouraged to make an indicative offer for the maximum number of tranches they would be willing to serve. Second, the bidder is now required to post a financial guarantee proportional to its initial eligibility.

Clearly, the indicative offer contains proprietary commercial and financial information. N.J.S.A. 47:1A-1.1. The BGS supplier is making a business judgment regarding the amount of load it is willing to supply. These judgments could be based on many factors. For instance, a direct supplier might indicate a willingness to supply a high number of tranches because it has a limited number of supply contracts compared to its available plant capacity. On the other hand a supplier who buys its energy from the market may only be willing to supply a low number of tranches because it has already entered into a number of contracts at the time of the auction. As stated, the indicative offers also reveal information concerning the amount of credit a BGS supplier may or may not have at hand.

Not only do the indicative offers constitute proprietary commercial and financial information, but their release would provide an advantage to competitors, including those not participating as bidders in the auction. N.J.S.A. 47:1A-1.1. BGS suppliers compete in a market place outside of the auction. If such information were to become public, the BGS suppliers' competitors would be given otherwise confidential information, providing an opportunity to speculate on the individual supplier's market position. If the Board does not keep sensitive market data confidential, it will not be able to simulate an arms-length negotiation. Moreover, release of this proprietary commercial and financial information would have a chilling effect on the BGS suppliers' willingness to participate in this or any future auctions.

Accordingly, the Board HEREBY FINDS and CONCLUDES that this information is proprietary commercial and financial information that would provide an advantage to competitors or bidders, and shall be deemed confidential and not included as a government record pursuant to OPRA.

Therefore, should a request for this information be made to the Board's custodian, the Board DIRECTS that such information be treated as confidential and that any such requests for access be denied for a period of three years from the close of the auction. Three years after the conclusion of the auction, the Board will consider the indicative bids public information, unless prior to the expiration of the three years a party formally requests that this information remain confidential. If a request for continuing confidentiality is made, the information shall remain confidential pending a further decision by the Board.

IV. ROUND PRICES AND INDIVIDUAL BIDS

Each round of the auction produces two sets of information: (a) the price for each round as determined by the auction manager and (b) the individual bids.

For similar reasons to those set forth above in Indicative Offers, the individual bids contain proprietary commercial and financial information. N.J.S.A. 47:1A-1.1. Furthermore, release of either the round-by-round price or the number of tranches individually bid in a round would allow the bidders to mathematically work backwards and determine the incremental algorithm used by the auction manager to make volume adjustments during the course of the auction. As explained in Section I, supra, revealing this methodology could impede the current and any future competitive process to the detriment of customers.

Accordingly, the Board FINDS and CONCLUDES that this information could provide an anti-competitive advantage to competitors or bidders, and shall be deemed confidential and not considered a government record pursuant to OPRA.

Therefore, should a request for the round-by-round prices be made to the Board's custodian, the Board DIRECTS that such information be treated as confidential and that any requests for access be denied.

Should a request for the individual bids be made to the Board's custodian, the Board DIRECTS that such information be treated as confidential and that any such requests be denied for a period of three years from the close of the auction. Three years after the conclusion of the auction, the Board will consider the individual bids public information, unless prior to the expiration of the three years a party has formally requested that this information remain confidential. If a request for continuing confidentiality is made, the information shall remain confidential pending a further decision by the Board.

V. BIDDER INFORMATION

While the upcoming auction will be held in February 2005, the period of power supply being procured will not begin to flow until June 1, 2005. For all past auctions, the list of bidders obtaining contracts was announced with the Board Order approving the auction results. Approximately one month before the load was to be served, when suppliers had presumably locked up their contracts, the list of bidders with BGS contracts along with the volumes and prices for each contract were released. The reason for the delayed release of this information was to ensure that the bidders were not placed at a competitive disadvantage. As stated above,

there are two types of BGS suppliers - those who supply directly from their own plants and those that purchase power from the market for resale. Power marketers must go to the market and fulfill the BGS requirements they have won by negotiating contracts. If their competitors knew the volumes that the bidder had already contracted to supply as a result of the auction, the successful bidder might be at a competitive disadvantage. The same can be said for direct suppliers who must market their product. If buyers knew the amount of their plant supply already locked up due to the BGS auction, it could put them at a competitive disadvantage for negotiation of other contracts.

The Board also believes that if it were to release the names of all of the auction participants, those suppliers that participated in the auction but failed to obtain a contract could be prejudiced in the private sector energy market. Specifically, the financial community might interpret loss of the contracts as a sign of weakened financial position. Furthermore, releasing the names of everyone who participated but failed to leave the auction with a contract, could lead to speculation by the financial community that might have a chilling effect on the BGS suppliers' willingness to participate in this or any future auctions. As such, the Board could be damaging the competitive nature of its own auction by making the financial risk of participation unpalatable to participants. The ultimate result would be higher energy prices passed on to consumers.

Based on its experience with the past three BGS auctions and the expert recommendations of the Board's consultant, CRA, the Board believes that releasing the winning bidders' volume and price information before contracts for the supply period are locked up, could put those suppliers participating in the auction at a disadvantage in the greater energy market, making such information an exemption to the definition of a government record. N.J.S.A. 47:1A-1.1. Additionally, releasing the list of unsuccessful participants could impair the competitive nature of the auction by making the financial risk of participation unpalatable to participants and resulting in higher energy prices for consumers therefore making such information an exemption to the definition of a government record. N.J.S.A. 47:1A-1.1.

The Board HEREBY FINDS and CONCLUDES that this information is proprietary commercial and financial information that could provide an advantage to competitors or bidders, and that such information shall be deemed confidential and not included as a government record pursuant to OPRA.

Therefore, should a request for the names of winning bidders be made to the Board's custodian, the Board DIRECTS that such information be treated as confidential and all requests for access be denied, until May 1, 2005.

Should a request for the names of unsuccessful participants be made to the Board's custodian, the Board DIRECTS that such information be treated as confidential and that all requests for access be denied.

Once the Board has determined that the winning auction suppliers have had sufficient time to lock in their BGS supply for the designated period of time, information such as volume and the identities of the successful participants may be released. In the past, this information has been released approximately a month before the beginning of the supply period. Identification information would also include all of the public information supplied to NERA on the application forms to become a qualified bidder in the New Jersey Basic Generation Service Auction. For example, information such as name, authorized representative, authorized legal representative, name of the entities' directors are of a public nature and must be disclosed as a government record. On the other hand, both the Part 1 and Part 2 Application Forms contain confidential business information of bidders that is not available publicly. The following information from the

applications is non-public proprietary commercial or financial information, which is not considered a government record pursuant to OPRA. N.J.S.A. 47:1A-1.1.

Part 1 Application Form:

Bidding Agreements

Financial and Credit Requirements, except for the supplemental data which includes the following public information:
(i) Two most recent annual Reports
(ii) Most recent SEC From 10-K;
(iii) Applicant's senior unsecured debt rating from Moody's, Standard & Poor's, and Fitch, if unavailable, the issuer rating may be provided instead.

Guarantor's Information

Justification for Omissions

Part 2 Application Form:

Qualified Bidder's Indicative Offer and Calculation of Required Bid Bond

Qualified Bidder's Preliminary Maximum Interest in Each EDC

Additional Financial and Credit Requirements

Bidder Certifications Concerning Associations and Confidential Information

Justification for Omissions

If the information above were to become public as a result of participation in the BGS Auction, some bidders might elect not to participate in order to maintain the confidentiality of their proprietary commercial and financial information. This could impair the ability of the Auction to obtain a market price and could be detrimental to the interests of the EDCs' customers.

The Board HEREBY FINDS and CONCLUDES that the information listed above is proprietary commercial and financial information, and shall be deemed confidential and not included as a government record pursuant to OPRA.

Therefore, should a request for the public bidder information provided to NERA concerning successful bidders be made to the Board's custodian, the Board DIRECTS that such information be treated as confidential and that all requests for access be denied, until such time as the Board releases the final names and volumes for successful bidders.

Should a request for the public bidder information provided to NERA concerning non-successful bidders be made to the Board's custodian, the Board DIRECTS that such information be treated as confidential and that all requests for access be denied, since such information would identify the non-successful bidders.

Should a request for the non-public bidder information provided to NERA be made to the Board's custodian, the Board DIRECTS that such information be treated as confidential and that all requests for access be denied.

At its October 22, 2004, public agenda meeting the Board approved a descending clock Auction to procure needed BGS supplies for Year Three as well as for Year Four (supply period beginning June 1, 2006). It is anticipated that, should a request for confidentiality be made, similar reasoning to that described above would apply.

DATED: 12/1/04

BOARD OF PUBLIC UTILITIES
BY:

JEANNE M. FOX
PRESIDENT

FREDERICK F. BUTLER
COMMISSIONER

CONNIE O. HUGHES
COMMISSIONER

JACK ALTER
COMMISSIONER

ATTEST:

KRISTI IZZO
SECRETARY