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IN THE MATTER OF THE PROVISION OF  
BASIC GENERATION SERVICE  
FOR THE PERIOD BEGINNING JUNE 1, 2021

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: **Docket No. ER20030190**  
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Public Service Electric and Gas Company, Jersey Central Power &  
Light Company, Atlantic City Electric Company  
and  
Rockland Electric Company

**PROPOSAL FOR  
BASIC GENERATION SERVICE  
REQUIREMENTS TO BE PROCURED EFFECTIVE  
JUNE 1, 2021**

**July 1, 2020**

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## **I. INTRODUCTION**

The New Jersey electric distribution companies (“EDCs”) are Public Service Electric and Gas Company (“PSE&G”), Jersey Central Power & Light Company (“JCP&L”), Atlantic City Electric Company (“ACE”), and Rockland Electric Company (“RECO”). On March 27, 2020, the New Jersey Board of Public Utilities (“BPU” or “Board”) issued an Order in BPU Docket No. ER20030190 instructing the EDCs to submit a proposal to procure basic generation service supply (“BGS Supply”) beginning June 1, 2021. Accordingly, the EDCs hereby submit this proposal to completely specify how the EDCs intend to procure supply for their BGS customers.

This will be the twentieth year where the EDCs have submitted a joint proposal for the procurement of electric power for all BGS customers in the state through a statewide Auction Process. While the core elements of the EDCs’ joint proposal have been stable over the years, the EDCs have continually and incrementally refined the Auction Process aiming to maintain or strengthen the level of participation by suppliers so that prices at the Auctions, and rates paid by customers, are the product of vigorous competition and are consistent with market conditions. For instance, in 2009, the EDCs introduced a process by which prospective suppliers could provide comments from their financial institutions on the pre-auction letter of credit so as to facilitate compliance with the requirement for financial guarantees in the application process. This comment process was expanded in 2015 to include the letter of credit appended to the BGS Supplier Master Agreements (“BGS SMAs”) used during the supply period. In 2018 and 2019, the EDCs modified the shape of the decrement formulas, which are auction parameters that are important to ensure that the round-by-round pace of the Auctions is appropriate. The EDCs have also monitored closely through the years changes in the markets that could adversely impact suppliers and customers. This led, for example, to the introduction of supplements to the SMAs to protect BGS suppliers from uncertainty in capacity costs as a result of the introduction of the Capacity Performance Resource construct in PJM for the 2015 Auctions and again in 2020 as PJM delayed the base residual auction for the 2022/2023 delivery year until changes to its capacity market were finalized at the Federal Energy Regulatory Commission (“FERC”). In turn, the latter change protected the EDCs’ customers by reducing the likelihood that suppliers would find it necessary to include a risk premium in their BGS-RSCP bids to account for an uncertain capacity price in the 2022/2023 delivery year.

BGS suppliers are physically and financially responsible for the hour-by-hour provision of electricity to BGS customers. One core element of the EDCs' joint proposal has been the full requirements service provided by BGS suppliers, which includes energy, capacity, ancillary services, transmission, as well as the obligation to meet the requirements under the Renewable Portfolio Standards ("RPS"). With transmission included in the BGS product, suppliers were responsible for changes in firm transmission rates during the term of the BGS SMAs. Because these transmission rate changes could not be hedged, suppliers have sought protections from this risk over the years. For instance, in 2004, Section 15.9 was added to the BGS SMAs to allow for the adjustment of payments to BGS suppliers for changes in transmission rates during the supply period. In the 2012 BGS proceeding, the term "Final FERC Order"<sup>1</sup> was amended to clarify that payments to suppliers for changes to firm transmission rates would be made upon receipt of an order by FERC no longer subject to rehearing and to reflect FERC's development and implementation of formula rates for certain transmission providers, which were not in place when the BGS SMAs were initially developed. Under Section 15.9, to the extent that firm transmission rates increase, the EDCs make a filing to the Board to increase the rates of BGS customers. The resulting additional revenues are tracked and paid to BGS suppliers after FERC issues a Final FERC Order. However, absent a Final FERC Order, the Board has not typically approved payment to BGS suppliers of amounts collected from BGS customers for increases in PJM transmission costs. The greater the delay in the issuance of a Final FERC Order, the greater is the amount tracked by the EDCs and not paid to BGS suppliers.

While Section 15.9 has been in place since almost the beginning of the BGS Auctions, the treatment of transmission and its inclusion in the BGS product have been a subject of debate. At various times, suppliers have submitted comments to the Board advocating for the removal of some or all of the transmission responsibility from the BGS product. In both the 2009 and the

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<sup>1</sup> The term "Final FERC Order" means a final order issued by FERC in connection with a request for an increase or decrease in the rates for Firm Transmission Service, or, if FERC has issued an order authorizing Company's recovery of transmission costs through formula rates, the acceptance by operation of law or otherwise of the Company's rate tariff filing seeking an increase or decrease for Firm Transmission Service, which is no longer subject (either actually or potentially) to rehearing or judicial review in which the amount of the increase or decrease is in dispute or in question and is not the subject of proceedings at FERC on remand from any court in which the amount of the specific increase or decrease in the Firm Transmission Service rate is in dispute or in question.

2010 BGS proceedings, Constellation Energy Commodities Group (“Constellation”) called for the Board to direct the EDCs to amend the BGS SMAs so that the EDCs, rather than the BGS suppliers, would be responsible for transmission service and transmission-related costs. In the 2010 BGS proceeding, Constellation argued that continuing to make BGS suppliers responsible for transmission service may result in bidders including a risk premium in their bids to account for the potential lag in the BGS suppliers’ receipt of payment by the EDCs of costs incurred due to increases in firm transmission rates (Constellation Initial Filing at pages 18 - 19). Additionally, Constellation argued that passing on the responsibility of transmission service and transmission-related costs to the EDCs would reduce the administrative costs incurred by the EDCs and by BGS suppliers for administering “pass-throughs” for changes in transmission rates under Section 15.9 of the BGS SMAs (Constellation Initial Filing at page 18). The EDCs, at the time, opposed this proposal and the Board rejected Constellation’s proposal. The Board considered that the “pass-through” of increases and decreases in transmission-related costs under Section 15.9 was the most efficient mechanism for minimizing the uncertainty of collection of these costs while maintaining the full requirements nature of the BGS product.<sup>2</sup>

In the 2015 BGS proceeding, the Retail Energy Supply Association (“RESA”) stated its view to the Board that the EDCs would be best suited to handle charges related to Network Integration Transmission Service (also called “NITS”), PJM Transmission Enhancement Charges (“TECs”), and Reliability Must Run (“RMR”) (RESA Initial Comments at page 4). RESA urged for a similar change in the 2016 BGS proceeding (RESA Initial Comments at page 5). The EDCs opposed the proposal and the Board maintained its stance on the matter. The Board stated that, “while it is true that Section 15.9 can be complex at times and does result in administrative costs, it represents a well-crafted balance that preserves in large part the fixed-price nature of BGS and provides for a reasonable means of compensating BGS suppliers for unhedgeable costs approved in advance by the Board.”<sup>3</sup>

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<sup>2</sup> See Decision and Order, *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2009*, BPU Docket No. ER08050310, p. 16 (January 20, 2009).

<sup>3</sup> See Decision and Order, *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2015*, BPU Docket No. ER14040370, p. 26 (November 24, 2014).

During the 2019 BGS proceeding, both Exelon Generation Company, LLC (“ExGen”) and Hartree Partners, LP (“Hartree”) attempted to quantify the amounts that, at the time, were owed to BGS suppliers but had not yet been paid under Section 15.9. Each stated that “shortfalls between the PJM collected firm transmission charges and the portion of payments made to suppliers related to these transmission specific costs, with total non-reimbursed costs of approximately \$125 million since June 2017. Moreover, the situation is worsening as the shortfall is growing at a rate of over \$21 million per-month. There is no market-based means available to suppliers to hedge against this unanticipated regulatory change and resulting shortfalls” (ExGen Initial Comments at page 1 and Hartree Initial Comments at page 1). Both ExGen and Hartree proposed that these costs be allocated to the EDCs, “effectively removing the firm transmission rate component from the BGS auction clearing price” (ExGen Initial Comments at page 2 and Hartree Initial Comments at page 2). ExGen and Hartree argued that failing to implement their proposed change would mean that “suppliers will be exposed to financing costs on the mismatch between the PJM payable and potential utility payments, which leads to the need for higher risk premiums and lower supplier participation rates in BGS auctions due to uncertainty about these non-market related costs” (ExGen Initial Comments at pages 1 - 2 and Hartree Initial Comments at page 1). At the time, the EDCs opposed ExGen’s and Hartree’s proposed changes to the treatment of transmission and transmission-related costs. However, the EDCs did express to the Board that “participation in the BGS Auctions may be negatively impacted by the current treatment of certain transmission-related charges” and that, “[given] the EDCs’ obligation to seek Board approval prior to collecting the incremental transmission-related costs, and the Board’s ability to approve collection but not payment to BGS suppliers, BGS suppliers may not view their recovery of such costs as being certain or guaranteed” (EDCs’ Final Comments at page 5). The Board rejected the proposal to remove transmission from the BGS product and stated that “the EDCs can, and have, petitioned the Board for authority to begin collecting and paying such changes absent a Final FERC Order on a case by case basis” and that Section 15.9 “provides a balance between the protection of ratepayers and the concerns of BGS suppliers regarding risk, while allowing the Board discretion on a case by case basis.”<sup>4</sup>

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<sup>4</sup> See Decision and Order, *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2019*, BPU Docket No. ER18040356, p. 11 (November 19, 2018).

Most recently, at the legislative-type hearing held on September 19, 2019 in the 2020 BGS proceeding (the “Hearing”), ExGen again proposed “modifying Section 15.9 of the proposed BGS SMAs either to (1) require EDCs to pay TECs directly to PJM without any pass-through to suppliers, as is done in some other jurisdictions, or (2) allow the EDCs, subject to Board approval, to reimburse BGS suppliers at the time PJM bills those increased charges” (Hearing Transcript at page 28, lines 17 - 22). ExGen argued that either of its proposed changes “would remove the significant uncertainty suppliers currently face regarding TECs that a BGS supplier pays but cannot account for in its auction bids. Removing this uncertainty would not increase costs to customers. In fact, we believe it would accomplish exactly the opposite, by reducing the risk for suppliers and making the auction more competitive” (Hearing Transcript at page 34, lines 11-19). Vitol Inc. (“Vitol”) also expressed its concern in the 2020 BGS proceeding regarding the current mechanism by which suppliers were protected against changes to the firm transmission rate. At the Hearing, Vitol requested that the Board either “1. Remove all pass-through transmission costs from the BGS suppliers’ obligation, or 2. In the alternative, remove from the BGS suppliers’ obligation the portion of the PJM transmission enhancement costs associated with the pending cases at FERC specific to the ConEd Wheel and the HTP and Linden VFT transmission service changes” (Hearing Transcript at page 44, lines 4 - 12). Vitol also stated that, regarding the cost of not-yet-reimbursed transmission charges, “BGS suppliers price this risk into their auction offers, leading to higher rates for customers” (Hearing Transcript at page 43, lines 19 - 21). In their final comments submitted in the 2020 BGS proceeding, the EDCs acknowledged the concern expressed by the parties at the Hearing about the disparity in the timing between BGS suppliers’ payment for transmission costs to PJM and BGS suppliers’ receipt of payment for these costs from the EDCs. The EDCs also expressed that they were “concerned with testimony at the hearing that a supplier may include a risk premium in its auction bid” (EDCs’ Final Comments at page 21). The EDCs also voiced support for the opportunity to work with the Board and with stakeholders to “identify opportunities to reduce this disparity and the potential risks that accrue from the same to BGS suppliers and the EDCs’ customers” (EDCs’ Final Comments at page 21).

Over time, delays at FERC have increasingly disrupted the balance that Section 15.9 had provided between the protection of ratepayers and the concerns of BGS suppliers regarding risk

associated with delayed payment of transmission-related costs. In its Order approving the 2020 Auction Process<sup>5</sup> (“2020 Board Order”), the Board expressed its concern for the ever-increasing tracked amounts from transmission-related costs that were collected from BGS customers but withheld from BGS suppliers (2020 Board Order at page 15). The Board stated that: “We are now entering the third BGS auction wherein a significant amount of transmission costs are not finalized by FERC. Concerns previously expressed by parties regarding the ability to find suppliers who may no longer be participants in the BGS Auction are growing” (2020 Board Order at page 15). Recognizing that these payment delays may have a negative impact on suppliers’ willingness to participate in future BGS Auctions, the Board directed Board Staff to work with the EDCs and interested stakeholders in an attempt to find a resolution to the issues surrounding the disparity in timing between BGS suppliers’ payments to PJM for transmission costs and the receipt of payment for such costs from the EDCs (2020 Board Order at page 15).

The EDCs have heard the concerns of suppliers regarding the treatment of transmission expressed in prior BGS proceedings and have embraced the opportunity to work with all parties to find a resolution to these issues. Pursuant to the 2020 Board Order, Board Staff conducted, and the EDCs attended, a number of calls<sup>6</sup> regarding transmission. During these calls, suppliers repeated concerns voiced in the 2019 BGS proceeding. The issues surrounding the treatment of transmission have become pressing. Suppliers have consistently stated that failing to properly address these issues could result in risk premiums included in the bids and impact the willingness of suppliers to participate in future BGS Auctions. This, in turn, would impact the competitiveness of the BGS Auctions and the ability of the Auction Process to yield competitive prices consistent with the market to the benefit of customers. As a result, the EDCs are proposing to remove transmission from the BGS product through the transfer of specific PJM billing line items from the BGS supplier (who would remain the load serving entity) to the EDC.

This aspect of the BGS product, as well as other critical aspects of the joint proposal for a statewide Auction Process, are explained in the next section. Section III explains how the

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<sup>5</sup> See Decision and Order, *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2020*, BPU Docket No. ER19040428, (November 13, 2019).

<sup>6</sup> Calls were held with Board Staff, the EDCs, and BGS suppliers on March 4<sup>th</sup>, March 30<sup>th</sup>, April 14<sup>th</sup>, and May 7<sup>th</sup>. The EDCs held an additional call with BGS suppliers on May 5<sup>th</sup>.



EDCs' joint proposal is best suited to meet the objectives of the Auction Process. Section IV provides additional details regarding the conduct of the Auctions. Section V closes by providing a list of material changes made by the EDCs compared to last year's approved Auction Process.

## **II. OVERVIEW OF THE EDCS' PROPOSAL FOR THE 2021 AUCTIONS**

The EDCs have again worked together to develop a detailed proposal for the competitive bidding process to procure BGS Supply that builds on the experience of prior BGS Auctions. The EDCs' proposal for the BGS competitive bidding process for the supply period beginning June 1, 2021 ("2021 Auctions") is summarized below.

### **II. A. Product Definition**

The EDCs' proposal to change the BGS product to transfer responsibility of transmission payments from the BGS supplier to the EDC can be summarized as follow:

1. Each BGS supplier will be required to assume PJM Load Serving Entity ("LSE") responsibility for the portion of BGS Load (whether BGS-CIEP or BGS-RSCP) served by that BGS supplier. In accordance with PJM Agreements, BGS suppliers will be physically and financially responsible for the hour-by-hour provision of electricity to BGS customers. The product will be a "full requirements service", which will exclude transmission and transmission-related costs, but which will continue to include the provision of capacity, energy, ancillary services, fulfillment of the obligations under the RPS, and any other services as may be required by PJM.
2. The EDCs, rather than the BGS suppliers, will be responsible for transmission and transmission-related costs. Each EDC will be responsible for payment of transmission-related costs to PJM for BGS Load. The specific charges and credits that will be the responsibility of the EDC rather than the BGS supplier are provided in the BGS SMAs included as Appendices C and D of this filing. Any PJM charges (or credits) and/or other obligations not specifically addressed therein as being the EDCs' responsibility will remain or, if a newly implemented charge (or credit), will become the responsibility of the BGS suppliers.
3. Each EDC will collect from its BGS customers the amounts required to meet its transmission payment obligations to PJM through a specific transmission charge. The details of the transmission charge for an EDC are included in its Company Specific

Addendum. The EDCs will file the level of the transmission charge along with the BGS tariff sheets twice a year for the rates to customers to become effective January 1 and June 1 of each year. If there is a material transmission cost increase (or decrease), the EDCs will (either individually or jointly) make a supplemental filing to the Board to change the transmission charge paid by BGS customers. The EDCs propose that any filed change in the transmission charge become effective 30 days after such filing is made, absent a determination of manifest error by the Board.

4. The BGS SMAs will set forth the commercial terms and conditions under which each BGS supplier will operate and will govern the interaction of each EDC and its BGS suppliers during the supply period. The BGS SMAs for BGS-CIEP and BGS-RSCP, as proposed by the EDCs and subject to Board approval, are attached to this filing as Appendices C and D. The BGS SMAs include an appendix that is new to this year's filing (Appendix D of the BGS-CIEP SMA and Appendix G of the BGS-RSCP SMA), which lists current PJM billing line items and specifies those billing line items that will be the financial responsibility of the EDC.
5. If the Board approves the EDCs' proposed removal of transmission from the BGS product for BGS-CIEP Load and for approximately one-third of BGS-RSCP Load at Auction in 2021, the EDCs propose to remove transmission from the BGS product for prior BGS contracts. The EDCs would prepare amendments to the BGS SMAs to remove transmission from the BGS product. BGS suppliers would be able to execute such amendments at their option. Details on the proposed method for amending prior BGS contracts are provided below in Section II.F of this proposal.
6. Aside from transmission, BGS suppliers assume responsibility for the LSE obligations of each BGS tranche and assume responsibility for managing any uncertainty associated with these obligations, including uncertainty associated with migration risk. All BGS customers are free to come and go from BGS, provided that they give notice at least 13 days before their next scheduled meter reading.

## **II. B. BGS – Residential Small Commercial Pricing (“BGS-RSCP”)**

The EDCs’ proposal for the 2021 BGS-RSCP Auction can be summarized as follows:

1. BGS-RSCP procurement offers will be solicited through a statewide Auction Process that simultaneously seeks offers for all BGS-RSCP Load in the State. Appendix B, the BGS-RSCP Auction Rules, further describe this Auction Process.
2. The BGS-RSCP Auction will seek offers for the supply of full requirements tranches of each EDC’s BGS-RSCP Load for a three-year period. Full requirements service includes energy, capacity, ancillary services, as well as the obligation to meet the requirements under the RPS. For each EDC, tranches in the 2021 BGS-RSCP Auction will be identical and uniform and will represent a fixed percentage of that EDC’s total BGS-RSCP Load. Approximately two-thirds of the EDCs’ BGS-RSCP Load for the period from June 1, 2021 through May 31, 2022 was secured through the 2019 and 2020 Auctions. Therefore, approximately one-third of the EDCs’ BGS-RSCP Load will be procured for the BGS Supply period beginning June 1, 2021. Following a successful Auction Process, the EDCs will have under contract approximately one-third of their total BGS-RSCP Load with a remaining contract term of one year, approximately one-third of their total BGS-RSCP Load with a remaining contract term of two years, and approximately one-third of their total BGS-RSCP Load for a term of three years.
3. The EDCs will use a multiple round descending clock auction to procure BGS-RSCP Supply. In a round, bidders will state how many tranches they wish to serve of an EDC’s BGS-RSCP Load at the price in that round. The going price will decrease each round in which there is excess supply and the BGS-RSCP Auction will end when the amount proposed to be supplied is equal to the amount the EDCs wish to procure. There will be a single clearing price for each EDC’s BGS-RSCP Load that will apply to all tranches for that EDC procured in this Auction. Payments to bidders from June through September will be shaped by the use of a summer multiplicative factor on the Auction price, and payments for the remaining months will be shaped by the use of a winter multiplicative factor.

4. In the 2020 BGS proceeding, the EDCs proposed, and 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 as the actual capacity price for that delivery year was expected not to be known prior to the 2020 BGS Auctions. At this time, PJM has not yet held a capacity auction for the 2022/2023 delivery year or for the 2023/2024 delivery year. Given the announced timeline in the FERC proceeding for consideration of PJM’s changes to the PJM capacity market, and given extensions to deadlines for comments provided to parties in view of emergency measures enacted in the wake of COVID-19, it seems most likely at this time that neither the capacity price for the 2022/2023 delivery year (the second year of the BGS-RSCP supply term) nor the capacity price for the 2023/2024 delivery year (the third year of the BGS-RSCP supply term) will be known prior to the 2021 BGS-RSCP Auction.
5. If the capacity prices are not known for the 2022/2023 and 2023/2024 delivery years, BGS-RSCP suppliers are likely to include risk premiums into their bids and it may be the case that some bidders choose not to participate altogether. 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 propose to continue the approach approved by the Board in the 2020 BGS proceeding. The EDCs propose to address this issue by setting a Capacity Proxy Price for the 2022/2023 delivery year and a Capacity Proxy Price for the 2023/2024 delivery year that suppliers will be able to incorporate into their bids.
6. In its Annual Final Report on the 2020 BGS-RSCP and BGS-CIEP Auctions, the Board Advisor, Bates White, LLC (“Bates White”), in reference to the Board’s approval of the EDCs’ proposal to institute a Capacity Proxy Price for the 2020 BGS-RSCP Auction, indicated that “the Auction saw solid participation and market-reflective prices, it appears that this was a positive decision” (Bates White’s Annual Final Report on the 2020 BGS RSCP and CIEP Auctions at page 5). Bates White further noted that the winning prices in the 2020 BGS-RSCP Auction “were reflective of current market conditions,” that their analysis suggests that bidders incorporated the Capacity Proxy Prices into their bids, and

that bidders “did not add any additional risk premiums into their offers” (Bates White’s Annual Final Report on the 2020 BGS RSCP and CIEP Auctions at page 9).

7. The proposed values for the Capacity Proxy Prices for each of the 2022/2023 and 2023/2024 delivery years are provided in the table below.

**Table 1. Proposed Capacity Proxy Prices.**

<b>EDC</b>	<b>2022/2023 Capacity Proxy Price (\$/MW-day)</b>	<b>2023/2024 Capacity Proxy Price (\$/MW-day)</b>
PSE&G	162.13	166.64
JCP&L	152.06	146.51
ACE	152.06	146.51
RECO	152.06	146.51

8. For the 2022/2023 delivery year, the EDCs propose to continue using the values of the Capacity Proxy Price approved in the 2020 BGS proceeding. This is the simplest approach that avoids any confusion on the part of suppliers as to the capacity value to be incorporated into their bids. This Capacity Proxy Price is also supported by the results of the most recent PJM capacity auction, which did not materially alter the underlying basis for the EDCs’ proposed proxy price in the 2020 BGS proceeding as the incremental auctions have not resulted in significant price changes.
9. The Capacity Proxy Prices proposed above for the 2023/2024 delivery year are calculated by applying a factor of 0.9 to the most recent incremental auction results for the 2021/2022 delivery year. This method is entirely consistent with the method used to calculate the 2022/2023 delivery year Capacity Proxy Prices in last year’s proceeding. The most recent results from the PJM capacity auctions for the two delivery years prior to the year for which the Capacity Proxy Price is calculated are used (if available)<sup>7</sup> and a factor of 0.9 is used to recognize the potential for lower prices in any pending PJM capacity auctions.

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<sup>7</sup> The Capacity Proxy Price for the 2023/2024 delivery year is calculated using the Zonal Net Load Price (\$/MW-day) from the results of PJM’s 2021-2022 First Incremental Auction. PJM has not yet held the Base Residual Auction for the 2022/2023 delivery year so these results are not available.

10. Winning BGS-RSCP suppliers will be paid the closing price (cents/kWh) in the BGS-RSCP Auction for load served. In the 2022/2023 delivery year and in the 2023/2024 delivery year, BGS-RSCP suppliers will additionally be paid (or will pay) the difference between the rate paid by BGS-RSCP suppliers for capacity and the Capacity Proxy Price for that delivery year. Consistent with the process approved by the Board for the 2020 BGS Auctions, these payments will only occur in the 2022/2023 delivery year or in the 2023/2024 delivery year, even if the value of the capacity price for that delivery year is known prior to the start of that delivery year. 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 2022/2023 delivery year and in the 2023/2024 delivery year.
11. The Board's March 27, 2020 order<sup>8</sup> initiated a proceeding to investigate resource adequacy alternatives to achieve New Jersey's clean energy goals as articulated in the State's Energy Master Plan from 2019. Under PJM's current Reliability Pricing Model, the rate paid by BGS-RSCP suppliers for capacity would be the Zonal Net Load Price. Several alternatives will be considered under this proceeding, however, including leaving the PJM capacity market. As such, the EDCs recognize that the rate paid by BGS-RSCP suppliers for capacity in the 2022/2023 delivery year or the 2023/2024 delivery year referenced above may or may not be set by a PJM capacity auction pending the outcome of this proceeding before the Board.
12. The conditions under which BGS-RSCP suppliers are paid (or pay) for the difference between the rate paid by BGS-RSCP suppliers for capacity and the Capacity Proxy Price are provided in detail in the Supplements to the BGS-RSCP SMA, attached to this filing as Appendix D (the "Capacity Supplements").
13. If the base residual auction for the 2022/2023 delivery year is held, and the results are available at least 20 business days prior to the start of the BGS-RSCP Auction, an event that is unlikely at this juncture, then the Capacity Supplement for the 2022/2023 delivery

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<sup>8</sup> See Order, *I/M/O BPU Investigation of Resource Adequacy Alternatives*, BPU Docket No. EO20030203, (March 27, 2020).

year will no longer be needed and will not be used. Furthermore, the EDCs propose to update the Capacity Proxy Price for the 2023/2024 delivery year to average the results of PJM's capacity auction for the 2022/2023 delivery year and the most recent results for the 2021/2022 delivery year.

14. A rate design methodology that accounts for supply procured in prior Auctions will be used to translate final Auction prices into BGS-RSCP customer rates for one year beginning June 1, 2021. In respect to BGS-RSCP customer rates for the second and third year of the BGS-RSCP supply period, the EDCs include a worksheet for purposes of calculating the adjustment to the Auction price necessary to recover (or reimburse) BGS-RSCP customers for the estimated additional payments made to (or from) BGS-RSCP suppliers under each Capacity Supplement. The rate design also includes a line item to add the adjustment of the Capacity Proxy Price to the Auction price.
15. The EDCs' rate design proposals, including the timing of setting these rates, the setting of the transmission charge, and the adjustment in the BGS price because of the unknown capacity price, are detailed in each EDC's Company Specific Addendum. Suppliers will be provided with a spreadsheet that converts final Auction prices into customer rates. This will enable suppliers to assess migration risk at various price levels. BGS-RSCP rates will reflect market-influenced seasonality and time-of-day use, where appropriate and feasible, in order to provide efficient price signals.
16. The rate design methodology yields, for each EDC, a summer multiplicative factor and a winter multiplicative factor used for supplier payments. The EDCs propose that the summer and winter payment factors both be set to 1 for any EDC whose rate design methodology results in a summer payment factor less than 1 and a winter payment factor over 1. The EDCs will update the seasonal payment factors at the time of the compliance filing to the Board, to reflect updates of the inputs. Further, the EDCs will update inputs to the rate design methodology one final time approximately ten days before the BGS-RSCP Auction. All such updates will be communicated to bidders. The last update will be early enough to provide bidders certainty before the Auction while allowing the EDCs to update the PJM transmission obligations to their 2021 values.



17. To ensure supplier diversity, each EDC will have a load cap for its BGS-RSCP Load (“EDC load cap”). An EDC load cap is a maximum number of tranches that a bidder can win in the BGS-RSCP Auction for that EDC. In addition, there will be a statewide load cap that limits the aggregate amount of BGS-RSCP Load for all EDCs that can be won by any bidder.
18. The EDCs changed the shape of decrement functions from a linear function shape to a stepwise function shape starting with the 2019 BGS-RSCP Auction. The EDCs propose to continue using decrement functions that are stepwise functions. The EDCs are proposing adjustments to the parameters to reflect the difference in the tranche targets for each EDC compared to the targets in the 2020 BGS-RSCP Auction. These adjustments are expected to promote an appropriate pace for the Auction, with price decreases sufficiently large when excess supply is abundant and price levels are above those consistent with the market, and with smaller price decreases as the Auction nears its end and prices approach bidders’ valuations. These decrement formulas are provided in an appendix to the BGS-RSCP Auction Rules (Appendix B to this filing).

## **II. C. BGS – Commercial and Industrial Energy Pricing (“BGS-CIEP”)**

The EDCs’ proposal for the 2021 BGS-CIEP Auction can be summarized as follows:

1. The EDCs propose a multiple round descending clock auction to procure BGS-CIEP Supply. BGS procurement offers will be solicited through a statewide Auction Process that simultaneously seeks offers for all BGS-CIEP Load in the State. Appendix A, the BGS-CIEP Auction Rules, further describe this Auction Process.
2. The BGS-CIEP Auction will seek offers for the supply of full requirements tranches of each EDC’s BGS-CIEP Load. Full requirements service includes energy, capacity, ancillary services, as well as the obligation to meet the requirements under the RPS. For each EDC, tranches will be identical and uniform and will represent a fixed percentage of that EDC’s total BGS-CIEP Load based on a tranche size of approximately 75 MW on

an eligible basis. The procurement term for BGS-CIEP load will be one year with the BGS-CIEP Supply period beginning on June 1, 2021.

3. The BGS-CIEP Auction will determine the BGS-CIEP Price, which will be paid to bidders on the basis of the capacity obligation of customers.
4. Rate schedules for BGS-CIEP customers will specify the BGS-CIEP charge resulting from the final BGS-CIEP Auction Price as a per kW or per kWh rate. Rate schedules will also include a pre-specified per kWh rate for ancillary services, a provision to pass through the hourly real-time energy spot price,<sup>9</sup> as well as a transmission charge. All CIEP customers will be charged the CIEP Standby Fee, which the EDCs propose be set at 0.015¢/kWh.
5. BGS-CIEP suppliers will receive a proportional share of revenue, comprised of four elements: (i) the pre-specified CIEP Standby Fee for sales made to all CIEP-eligible customers at the customer meter, (ii) the daily BGS-CIEP capacity obligation times the BGS-CIEP Price determined at the BGS-CIEP Auction, (iii) the hourly BGS-CIEP Load at the EDC's PJM zone bus times the hourly real-time energy spot price, and (iv) the pre-specified ancillary services rate times BGS-CIEP sales adjusted for losses. The EDCs propose, consistent with previous BGS-CIEP Auctions, a pre-specified ancillary service component of \$6.00/MWh.
6. As reflected in the BGS-CIEP Auction Rules (Appendix A to this filing), the EDCs propose adjustments to the decrement formulas to incorporate the final decrements used in the 2020 BGS-CIEP Auction.

## **II. D. BGS-RSCP and BGS-CIEP**

The EDCs' proposal for additional items with respect to both the 2021 BGS-CIEP Auction and the 2021 BGS-RSCP Auction can be summarized as follows:

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<sup>9</sup> Hourly real-time energy spot price refers to PJM's Residual Metered Load aggregate real-time Locational Marginal Price.

1. As described in Section II.A of this proposal, the EDCs propose to remove transmission from the BGS product. The EDCs will be responsible for transmission and transmission-related costs as fully specified in the BGS-CIEP and BGS-RSCP SMAs.
2. The EDCs propose that the CIEP line remain unchanged at 500 kW for the 2021 BGS Auctions. BGS customers with a Peak Load Contribution (“PLC”) of 500 kW or more will be required to take service under a BGS-CIEP tariff or rate.
3. The EDCs propose to continue to allow potential bidders to propose modifications to the standard form of the post-auction letter of credit as well as to the standard form of the pre-auction letter of credit. The EDCs propose to continue to make available an alternate guaranty process for bidders that have corporate policies that preclude them from using the Standard Form of Guaranty appended to the BGS SMAs.
4. The EDCs have developed contingency plans, tariff sheets, and accounting and cost recovery proposals that are detailed in each EDC’s respective Company Specific Addendum. These are essential elements of the EDCs’ proposal, and the EDCs request that the Board review and approve these elements of the proposal.
5. The Board will render a decision on the Auction Process and render a decision on the Auction results. Under the proposed Auction Process, the Board will approve or reject in their entirety the results of the BGS-RSCP Auction and, separately, the results of the BGS-CIEP Auction, by the end of the second business day following the day on which the last Auction closes. The Board, at its discretion, has the option of rendering a decision on the results of one Auction and of rendering a decision on the results of the other Auction at different points in time. For example, the Board may render a decision on the first Auction that closes while the second Auction is still in progress.
6. The bids at the Auctions will represent binding commitments on behalf of bidders and full acceptance of all contract terms. Upon Board approval, Auction results will be a binding commitment on the EDCs and the winning BGS suppliers.

## II. E. Regulatory Milestones and Tentative Auction Timeline

The proposed Auction timeline is as follows. The tentative timeline is consistent with the timeline approved for the 2019 Auction Process in BPU Docket No. ER18040356 and the revised timeline filed by the EDCs as part of their compliance filing in accordance with the 2020 Board Order. The EDCs request that the Board approve this tentative timeline as a guideline for the conduct of the Auctions with the understanding that the time lapses between the various steps be materially adhered to (e.g., the time between the Part 2 application and the Auction not be unreasonably shortened). However, the specific dates would be subject to adjustment to accommodate holiday schedules, the schedules of other procurements in the region, and external events.

<b>Event</b>	<b>Date</b>
EDC proposal filed	Wednesday, July 01, 2020
Discovery request deadline	Wednesday, July 22, 2020
Discovery response deadline	Wednesday, August 05, 2020
First FAQ is posted	Thursday, August 13, 2020
Release of Preliminary Draft of RSCP Pricing Spreadsheet	Thursday, August 20, 2020
Deadline for Initial Comments on all proposals	Friday, September 04, 2020
Legislative-type Board Hearing	September 2020
Public Hearings	September 2020
Announce Alternate Guaranty Process Available	Tuesday, September 08, 2020
Deadline for Final Comments	Monday, October 05, 2020
Information Webcast for Potential Bidders	Thursday, October 15, 2020 (tentative)
Illustrative Part 1 and Part 2 Application Forms are posted	Thursday, October 22, 2020
Deadline for Expression of Interest in Alternate Guaranty Process	Tuesday, October 27, 2020
Deadline to propose modifications to the standard form of the Pre-Auction and Post-Auction Letters of Credit by NOON	Tuesday, October 27, 2020
Auction Manager provides individual responses to parties proposing modifications to the Letters of Credit	Thursday, November 05, 2020
All modifications to the standard form of the Letters of Credit that are acceptable on an optional basis are posted	Monday, November 09, 2020
Statewide minimum and maximum starting prices announced	Monday, November 16, 2020
Load caps announced	Monday, November 16, 2020
Tranche sizes announced	Monday, November 16, 2020

<b>Event</b>	<b>Date</b>
Board decision on Auction proposal	November 2020
EDC Compliance Filing	November/December 2020
Expected Board Decision on Compliance Filing	December 2020
Online Application Portal made available to Bidders	No later than Tuesday, December 01, 2020
Deadline for Foreign Applicants/Guarantors to submit draft documents	December 01, 2020
Information Webcast for Potential Bidders	Thursday, December 03, 2020 (tentative)
Deadline to submit Part 1 Application due by NOON	Tuesday, December 15, 2020
Part 1 Applications are reviewed	December 15-18, 2020
Applicants are notified of Part 1 Application Results	Friday, December 18, 2020
Auction Manager provides results of EDCs' review of draft documents submitted by Foreign Applicants/Guarantors	Friday, December 18, 2020
Online Part 2 Form made available to Bidders	Monday, December 21, 2020
Deadline to submit Part 2 Application due by NOON	Thursday, January 14, 2021
Deadline for Foreign Applicants/Guarantors to submit revised draft documents	Thursday, January 14, 2021
Part 2 Applications are reviewed	January 14-22, 2021
Applicants are notified of Part 2 Application results	Friday, January 22, 2021
Mark-to-Market Information Release	Tuesday, January 26, 2021
Tranche Fee is announced	Tuesday, January 26, 2021
Final rate spreadsheets are posted	Tuesday, January 26, 2021
Final seasonal factors announced	Tuesday, January 26, 2021
Information Webcast for Registered Bidders	Tuesday, January 26, 2021 (tentative)
Auction Manager informs Registered Bidders of changes to decrement formulas or ranges of total excess supply (if necessary)	Wednesday, January 27, 2021
Trial Auctions for Registered Bidders	Thursday, January 28, 2021
EDCs provide Foreign Applicants/Guarantors with assessment of revised documents	Friday, January 29, 2021
Auction Manager informs Bidders registered in BGS-CIEP Auction of starting prices	Tuesday, February 02, 2021
Auction Manager informs Bidders registered in BGS-RSCP Auction of starting prices	Wednesday, February 03, 2021
<b>BGS-CIEP Auction Starts</b>	<b>Friday, February 05, 2021</b>
<b>BGS-RSCP Auction Starts</b>	<b>Monday, February 08, 2021</b>

Event	Date
Board decision on Auction results	Within 2 business days of close of the BGS-RSCP Auction or BGS-CIEP Auction, whichever comes later
Winning suppliers execute BGS Supplier Master Agreements	Within 3 business days of Board decision
Documents provided to bidders by Auction Manager containing confidential information must be destroyed	Within 5 business days of Board decision
BGS-RSCP rates filed with Board	No later than 30 days prior to becoming effective
Power Flows	Tuesday, June 01, 2021

## II. F. Prior BGS Contracts

The EDCs further propose to amend prior BGS contracts to remove transmission from the BGS product. The proposal is summarized as follows.

1. As discussed in Section II.A of this proposal, following a change in transmission rates, and absent a Final FERC Order, the EDCs may not receive approval from the Board to pay BGS suppliers for the incremental transmission costs that BGS suppliers would incur from PJM. The EDCs' proposal to remove transmission from the BGS product will eliminate this disparity for future BGS suppliers that win tranches in the 2021 Auctions.
2. However, suppliers that hold prior BGS contracts are still exposed to this risk, and the costs not-yet-paid to these suppliers involving any pending cases at FERC will continue to accumulate. To avoid any further accumulation of amounts owed to BGS suppliers, the EDCs propose to amend prior BGS contracts to reflect the removal of transmission from the BGS product.
3. The 2021 BGS proceeding will provide an opportunity for all stakeholders to comment on the terms of the BGS SMAs and the manner in which the EDCs propose to remove transmission from the BGS product, and the EDCs will have an opportunity to respond. The BGS SMAs as approved by the Board will incorporate the Board's decision regarding the manner in which transmission will be treated going forward. The EDCs can then use the 2021 BGS SMAs as approved by the Board to produce an amendment (the "Transmission Amendment") that would be used to modify prior BGS contracts to reflect

the removal of transmission from the BGS product. The EDCs will prepare amendments that suppliers holding prior BGS contracts can execute at their option.

4. Transmission was part of the BGS product in prior BGS Auctions and thus suppliers holding prior BGS contracts are paid for transmission. The removal of transmission from the BGS product for prior BGS contracts means that supplier payments must be adjusted. The EDCs are proposing to reduce supplier payments by an amount equal to the applicable transmission rate multiplied by the transmission obligation and to cease to pay any amounts under Section 15.9 that accrue after the date of the removal of transmission from the BGS product. Under this proposal, the EDCs become responsible for transmission payments for the entirety of their BGS Load once the Transmission Amendments come into effect. Thus, any transmission charge and changes to the BGS tariffs will also come into effect at this time. There is no expected impact to customers rates from this proposal.
5. PSE&G, JCP&L, and ACE propose to modify all BGS SMAs in effect at the time of the Board decision in this proceeding. Specifically, PSE&G, JCP&L, and ACE propose to amend the BGS SMAs for BGS suppliers with tranches won at the 2018 BGS-RSCP Auction, the 2019 BGS-RSCP Auction, the 2020 BGS-RSCP Auction, and the 2020 BGS-CIEP Auction, to remove transmission from the BGS product with a target date of January 1, 2021. PSE&G, JCP&L, and ACE anticipate requiring 20 business days to effect this change following the Board's approval of their compliance filings including the Transmission Amendment and any changes to the rate design and tariffs. Should the Board's approval of their compliance filings be unexpectedly delayed, resulting in the target implementation date of January 1, 2021 becoming infeasible, PSE&G, JCP&L, and ACE will effect this change on the first day of the first month occurring at least 20 business days after the Board's approval of their compliance filings. This will ensure that the growth of the costs owed to these suppliers is brought to a halt as soon as practicable.
6. RECO is proposing to modify the prior BGS contracts that remain in effect as of June 1, 2021. Specifically, RECO proposes to amend the BGS SMAs for BGS suppliers with tranches won at the 2019 BGS-RSCP Auction and the 2020 BGS-RSCP Auction to

remove transmission from the BGS product with a target date of June 1, 2021. RECO will present a proposal to the Board to that effect in its Company Specific Addendum.



### **III. THE EDCS' PROPOSAL MEETS THE OBJECTIVES OF THE BGS PROCUREMENT PROCESS**

In this next section, the EDCs review why the joint proposal best meets the interests of New Jersey customers.

#### **III. A. The Goals**

The starting point of the explanation is a review of the goals of the BGS procurement process. In the Electric Discount and Energy Competition Act of 1999 (“EDECA”), the Legislature found and declared that it is the policy of the State, consistent with other important policy objectives, to rely upon competitive markets, where such markets exist, to deliver energy services to consumers (N.J.S.A. 48:3-50a(2)). To accomplish these policy objectives, EDECA directed the Board to implement “retail choice.” Retail choice allows retail electric customers to be given the choice of shopping directly for their electric service or opting not to shop and to receive BGS.

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

The goal of having BGS reflect market conditions and competitive power market prices not only is consistent with EDECA, but also is consistent with several other important objectives. Retail choice can only develop and proliferate efficiently if the alternative to retail choice – BGS – is efficiently priced.<sup>10</sup> As currently structured by the Board, the Auction Process ensures that BGS is efficiently priced. The BGS product is a full requirements product, as described in

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<sup>10</sup> “Efficient proliferation of retail choice” should not be confused with artificially stimulating retail choice or maximizing switching. Rather, efficient proliferation of retail choice occurs when Third Party Suppliers are able to offer added value that can induce customers to switch away from a market-priced BGS offering.

Section II.A above. Suppliers bear and include in their price a wide variety of risks including load variability, market volatility, fuel price increases, migration, and changes in the PJM marketplace. These risks are not managed by regulation; rather, these risks are managed by competitive entities that can employ creative risk management strategies. Hence, the price that Third Party Suppliers (“TPSs”) compete against is the risk-adjusted price of competitive BGS suppliers providing full requirements service plus the transmission charge paid by BGS customers. The transmission charge paid by BGS customers is representative of the transmission costs of all load serving entities in PJM, including TPSs. A market price means the best or lowest market price that can be reasonably obtained, a price that will vary with market conditions including conditions in world energy markets. This is exactly what EDECA intended.

Intrinsic characteristics of the customer classes must also be considered in an examination of the appropriate BGS procurement process. In implementing the Auction Process, the Board recognizes that some customer classes are able to understand the risks of price movements in competitive power markets and will be able to absorb risks or contract for the management of those risks. On the other hand, other customer classes may neither understand nor be able to manage these price risks in a way that yields a more economical result than the BGS offering.

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

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

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

- To establish a fair and transparent competitive process that will maximize participation. The process should be transparent in terms of the requirements for participation, the supply contract, the retail rates that will result from the Auction, and the way final Auction prices are determined and in which winners emerge at the Auction. The process should be fair and transparent in terms of providing timely and equal access to information for all bidders.
- To allocate supply responsibility efficiently over the loads of the multiple EDCs. An efficient allocation of supply helps to ensure that prices best reflect the market, so that any market perceptions regarding differences in serving various EDCs are reflected in the prices.
- To have competitive entities take, manage, and price BGS risks. BGS is a price-risk management service where competitive entities assemble supply components in the competitive power market and assess and price these risks. This ensures that customers obtain the full benefits of competition by opening the price-risk management function to competitive discipline.
- To implement BGS at market rates that reflect customer class, seasonal and time-of-day market differences in order to encourage efficient consumption and conservation decisions, and in order to encourage the development of efficient retail competition. BGS rates should also minimize customer switching in response to rate design inefficiencies.
- To minimize customer confusion by presenting customers who stay on BGS with the appropriate type of retail rate structure and design.
- To design a BGS product consistent with the ability of various customer classes to react to price and manage energy price risks.
- To preserve the financial integrity of the EDCs. BGS costs and revenues exceed 60% of total EDC cost and revenues. BGS costs are an order of magnitude greater than EDC earnings. It is imperative that the BGS process protects the financial integrity of the EDCs, including through the timely collection of the transmission

charge from BGS customers to meet each EDC's transmission payment obligations to PJM.

### **III. B. Joint Proposal Meets the Objectives**

The Board's Auction Process fully specifies and provides structure to all necessary aspects of a procurement process. In addition, all of the elements of the Auction Process work together to achieve the goals identified in and flowing from EDECA's mandate. The remainder of this section discusses briefly how the principal elements of the Auction Process work together to achieve these goals.

#### **III. B. 1. Product Definition**

The Auction Process defines the product as a full requirements product including energy, capacity, ancillary services, as well as the obligation to meet the requirements under the RPS. BGS suppliers are responsible for serving a percentage of an EDC's default service load, whatever the load may be at any given point in time. Bidders compete to serve BGS customers by striving to be the best at assembling supply components (energy, capacity, renewable attributes, etc.) in the competitive power market, and at assessing and pricing the risks associated with serving a percentage of BGS Load. Having a full requirements product places the portfolio acquisition and price-risk management function in the hands of the competitive entities that can most efficiently carry out these tasks. The full requirements product is designed so that components of the BGS product that can be provided through the competitive market, including risk assessment and management, are provided and priced through the competitive market. The EDCs are responsible for transmission and transmission-related costs as transmission rate changes cannot be hedged by BGS suppliers. This full requirements product is fully consistent with EDECA's preference for reliance on competitive forces. The full requirements product also obtains a price for BGS, which together with the transmission charge paid by BGS customers, serves as an efficient competitive benchmark for efficient retail choice and enables potential BGS suppliers to bid with knowledge as to the retail rates that will result from the Auction. The full requirements product thus also encourages the development and efficient working of competitive retail markets.

Currently, the full requirements product is procured separately for residential and smaller commercial and industrial customers (the “BGS-RSCP product”) and for larger commercial and industrial customers (the “BGS-CIEP product”). The BGS-RSCP product is procured on a three-year rolling portfolio basis and the BGS-CIEP product is procured on an annual basis. The use of an appropriate term structure enables smaller commercial and residential customers to benefit from a stable yet market-based rate that is appropriate for these customers, consistent with EDECA, and helps to minimize customer confusion. Providing larger customers price certainty for capacity, RPS compliance, and ancillary services also helps to minimize customer confusion and provides for an environment where the retail offerings can develop efficiently. This dual structure provides appropriate stability and a hedge against volatility for each customer type and achieves the goal of designing a product that is consistent with the ability of various customer classes to react to price and to manage energy price risks.

### **III. B. 2. Auction Format**

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

### **III. B. 3. Competitive Safeguards**

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

The Association and Confidential Information Rules ensure that bidders independently and vigorously compete against each other at the Auction, resulting in competitive bidding, and leading to the procurement of reliable supply at an efficient market price. Additionally, the Association and Confidential Information Rules ensure that the bidders' confidential information is properly kept confidential so that participation in the BGS procurement process does not damage or hinder any other market activities that the bidder undertakes. Through its Auction Orders, the Board has consistently upheld the confidentiality of bidders' information as an exception to the Open Public Records Act ("OPRA"), N.J.S.A. 47:1A-1 et seq. Bidders' certainty that their competitively sensitive information will be protected as confidential encourages participation. Robust participation in turn leads to efficient market prices.

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

### **III. B. 4. Qualification Procedures**

The Auction Process provides for a standardized qualification process. As part of the qualification process, all prospective bidders must accept in advance the terms of a form of master contract between the BGS supplier and the EDC acting as agent for its customers, and the terms of the auction rules under which BGS is procured. All prospective bidders also must meet standard credit provisions, which ensure that customers receive the benefit of the BGS bargain in terms of reliable service for the term of the contract. The standard contract terms, qualification process, credit terms, and the price-only basis for the evaluation of bids, directly contribute to the transparency of the process as bidders understand the terms under which they participate in

the Auction Process. These features also contribute to the fairness of the process. Once a prospective supplier has been qualified, and registered as a bidder, its bids are evaluated on a price-only basis, which ensures that all bidders compete on a “level playing field.” The transparency and fairness of the process encourage maximum participation, and maximum participation leads to efficient market prices.

### **III. B. 5. Rate Design**

The Auction Process features a method for translating the auction closing prices into retail rates. For residential and smaller commercial and industrial customers, the rate design methodology properly reflects time-of-use pricing differentials. For larger commercial and industrial customers, the rate design methodology reflects energy prices at the hourly market. In both cases, the methodologies employed provide the proper benchmarks to advance the goal of efficient retail pricing and development of competitive retail markets. BGS customers also pay a specific transmission charge for each EDC to collect from its BGS customers the amounts required to meet its transmission payment obligations to PJM. The EDCs specify and communicate the rate design methodology to bidders in advance of the Auction. Thus, bidders can properly assess the risk in serving BGS Load, reducing bidders’ uncertainty and encouraging participation in the process. The EDCs’ prompt collection of the transmission charge from customers is crucial to ensuring that the EDCs meet their payment obligations to PJM and preserve the financial integrity of the EDCs.

### **III. B. 6. Roles**

The EDCs, the BGS Auction Manager, Board Staff, and the Board’s Advisor all have clearly defined roles that allow them to contribute to the management of the BGS procurement process. The EDCs file with the Board their procurement proposal each year, provide bidders with data and documents needed to prepare their bids, assess the financial and creditworthiness qualifications of suppliers, support the promotion of the auction opportunity, and manage the contracts with BGS suppliers on behalf of their customers. These activities maximize the participation in the process and ensure efficient market prices. The Board considers the procurement proposal as well as accounting, contingency plans, and cost recovery. Approval of these items helps to further the goal of protecting the financial integrity of the EDCs.

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

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



## **IV. CONDUCT OF THE AUCTIONS**

In this section, the EDCs explain particular aspects of the conduct of the 2021 BGS Auctions. The roles of the Board, the Board Advisor, the EDCs and the Auction Manager are explained. In addition, the EDCs' proposal for continued confidentiality of sensitive Auction information is presented. Finally, the EDCs present their request that the Board consider the results of the Auctions within two business days.

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

#### **IV. A. 1. The Role of the Board and the Board Advisor**

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

The EDCs believe that the Board should again play a substantial role in the 2021 BGS Auctions. Specifically, the EDCs respectfully recommend that the Board and the Board Advisor be responsible for the following activities:

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

#### **IV. A. 2. The Role of the EDCs**

It is important for the EDCs to work with the Board and with other parties to design a process that assures that supply for BGS customers is procured at a cost consistent with market conditions, that there is a smooth and seamless transfer of responsibility for BGS Supply from the prior year's BGS suppliers to BGS suppliers for the supply period beginning June 1, 2021, and that adequate protections are in place to assure that the BGS suppliers are physically and financially reliable.

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

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

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

### **IV. A. 3. The Role of the Auction Manager**

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

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

- Setting up and maintaining a website for the dissemination of Auction information to stakeholders. This Auction information includes application deadlines and information webcast dates, as well as the information packages prepared by the EDCs and the Auction Manager;
- Receiving queries from interested parties, directing the questions to EDC representatives if necessary, and returning the answers to the inquiring parties. To maintain fairness and to ensure that all parties have the same information, the Auction Manager will also maintain a database of all questions and answers on the website;
- Receiving applications for qualification and notifying interested parties of the results of the qualification procedure;
- Managing the Alternate Guaranty process;
- Receiving indicative offers and letters of credit, ensuring that these are in accordance with the rules and notifying registered bidders of their initial eligibility;
- Developing and testing bidding procedures that implement the Auction Rules;
- Providing technical help to bidders with respect to the Auction Rules and the bidding procedures;
- Managing the interface during the Auctions, to ensure that Auction parameters such as length of rounds and decrements are set appropriately;
- Developing information packages that will be made available to bidders at the time of the bidder information webcasts;
- Drafting manuals for the Auctions;
- Reviewing other information required of bidders before and after qualification and resolving issues over associations with the Board Advisor;

- Training potential bidders in the bidding procedures;
- Providing to the Board and the EDCs a full factual report on the Auctions and on the final results; and
- Preparing the BGS SMAs for the EDCs upon the completion of the Auctions, but before the Board renders its decision on the Auction results, in order to streamline and expedite the contract execution process.

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

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

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

#### **IV. B. Confidentiality of Auction Information**

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

1. EDC-specific starting prices that are in effect for the first round of bidding;
2. Logic processes and algorithms used by the Auction Manager to determine the starting prices, and volume adjustments during the Auction rounds;

3. Indicative offers consisting of the number of tranches a qualified bidder is willing to supply at the maximum and minimum starting prices;
4. Auction round prices and individual bids in each round;
5. Bidder information supplied to qualify for the Auctions from the Part 1 Application;
  - The identities of the bidders except for the identities of the winners as released by the Board;
  - Information on Bidding Agreements;
  - Financial and Credit Requirements;
  - Guarantors' Information;
  - Justification for Omissions.
6. Bidder information supplied to register for the Auctions from the Part 2 Application;
  - The identities of the bidders except for the identities of the winners as released by the Board;
  - Qualified Bidders' Indicative Offers and Calculations of Required Bid Bond;
  - Qualified Bidders' Preliminary Maximum Interest in Each Product;
  - Additional Financial and Credit Requirements;
  - Associations and Confidential Information Certifications;
  - Justification for Omissions.

The EDCs request that the Board find and conclude that the foregoing information be deemed non-public proprietary commercial and financial information that would provide an advantage to competitors or bidders and not included as a government record pursuant to OPRA.

#### **IV. C. Board Approval and Execution of BGS Supplier Master Agreements**

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

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

In other words, the purpose of the review and approval process recommended by the EDCs is for the Board to take the necessary time at the start of the Auction Process to resolve potentially contentious issues, to provide a mechanism for an expeditious decision from the Board in response to the Auction results, and to provide assurance to potential bidders that, once they are notified by the Board that their offer to serve one or more tranches has been accepted, they will indeed be serving that BGS Load.

## **V. LIST OF MATERIAL CHANGES**

Below is a list of material changes made in this proposal for the provision of BGS Supply for the period beginning June 1, 2021 compared to the Auction Process approved in the 2020 BGS proceeding.

- The removal of transmission from the BGS product through the transfer of specific PJM billing line items from the BGS suppliers to the EDCs. The BGS SMAs are modified to list the specific PJM billing line items transferred from the BGS supplier to the EDC;
- The removal of transmission from the BGS product for prior BGS contracts;
- The addition of the Capacity Supplements to the BGS-RSCP SMA for both the 2022/2023 delivery year and the 2023/2024 delivery year;
- Modifications to the EDCs' rate design methodology, as well as modifications to each EDC's Company Specific Addendum, to reflect the removal of transmission from the BGS product and 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 the Capacity Proxy Price for the 2022/2023 and 2023/2024 delivery years; and
- PSE&G's proposal for a quarterly (rather than monthly) reconciliation charge.