

ANNUAL FINAL REPORT  
ON THE  
2011 BGS FP AND CIEP AUCTIONS

Presented to:

THE NEW JERSEY BOARD OF PUBLIC UTILITIES

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April 28, 2011

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## I. INTRODUCTION AND SUMMARY

Boston Pacific Company, Inc. served as the Advisor to the New Jersey Board of Public Utilities (Board) for the Basic Generation Service (BGS) Auction held in February 2011 as we have for the previous four years. We are pleased to provide this report which is the Annual Final Report required under our contract. The Board defined the purpose and content of this Annual Final Report as follows:

The contractor shall monitor the competitiveness of the auction and provide a complete factual report to the Board on the auction results...In its Annual Report, the contractor shall detail the administration of the auction for compliance with auction rules and agreed upon procedures. The contractor shall provide the Board with an independent certification of the auction process and results to ascertain whether the auction was competitive, transparent, just and reasonable.<sup>1</sup>

It is essential for the Board to have as much information as possible about the Auctions at the time it makes its decision on certification. To that end, the most explicit basis for the Board's certification decision on the Fixed Price (FP) and Commercial and Industrial Energy Pricing (CIEP) Auctions were the Post-Auction Checklists provided to the Board on February 9, 2011. These checklists contain (a) a factual statement of Auction results and (b) the answers to 26 questions about the conduct and results of the Auction. Because of the important role the Checklists play, Boston Pacific also provided what we termed a "Supplemental Checklist" which explained in detail our reasons for the yes/no answers to the 26 questions in the official Checklist. After this Introduction and Summary, the bulk of the Final Annual Report is made up of these Supplemental Checklists which, we believe, show the extensive depth and breadth of the analyses that underlie the Board's certification decisions.

### A. THE BGS FIXED PRICE (FP) AUCTION

As Board Advisor, Boston Pacific recommended that the Board certify the results of the FP BGS Auction. We made that recommendation for three primary reasons: (a) the Auction was open, fair and transparent; (b) the Auction was sufficiently competitive; and (c) the winning prices were consistent with broader market conditions. Before getting into detail on these three reasons, it is constructive to step back to give perspective to the Auction results.

The good news is that, as a result of this year's FP Auction, customers of all four EDCs will see rate decreases of between 3 and 5 percent. These decreases were caused by replacing expiring high-cost contracts solicited in 2008 with lower-priced supply from

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<sup>1</sup> See section 3.11, in Request for Proposal 08-X-39379 for Management Consulting: Oversight of BPU Basic Generation Service Auction Process, on page 17.

this year's winning bids. This decrease was something that we expected to see given the large decreases in the market price of electricity which were driven by falling natural gas prices.

### **Fairness and Transparency**

The FP Auction was inherently or structurally open, fair and transparent for at least two reasons. First, because all of the non-price terms and conditions were standardized, all suppliers signed the same supply agreement and provided the same product; this allowed the bid evaluation to be done purely on price. A price-only bid evaluation is the ultimate in transparency. Second, all the rules of participation and conduct were fully explained and fairly applied by the Auction Manager (NERA).

In addition, fairness and transparency were enhanced by the fact that the Auction Manager pro-actively facilitated full access to the process and results by the Board Advisor and Board Staff. As the Board Advisor, we and Board Staff were actively involved in the full range of pre-Auction tasks including, but not limited to, the monitoring of bid information sessions, the calculation of start prices and the evaluation of Part 1 and Part 2 Applications. During the Auction itself we and Board Staff were given complete access to the full range of Auction data. This allowed us to independently verify round-by-round bid offers, price decrements, winning suppliers, and winning prices. We also monitored incoming and outgoing communications with bidders.

### **Competitiveness**

Our second reason for recommending certification of the FP Auction results was that the Auction was sufficiently competitive. We assessed several indicators of the competitiveness. First, we looked at the total number of bidders in the Auction. A large number of bidders is helpful because it increases the total supply bid in the Auction (thus pushing prices down) and makes it harder for bidders to carry out any collusive schemes. This year there were [REDACTED] registered bidders [REDACTED]

Second, we looked at the ratio of the quantity of electricity service offered to the quantity actually needed. This excess is important because it drives prices down as the Auction proceeds; the price "ticks down" (is decremented) if and only if there are excess offers. For that reason, we like to see bidders come in and stay in with the maximum number of tranches offered through many rounds of bidding. [REDACTED]

Third, we looked at the number of winners. We like to see a large number of winners for several reasons. First, it means that the Auction was competitive, with multiple parties pushing down the price at the end. Second, it sends a signal to other participants that no one party is dominating the Auction and that anyone can win. Third, it increases the likelihood of these bidders returning in future years. This year there were eight winners, five fewer than last year. Eight winners still is a good diversity of winners.

Finally, we looked for signs of collusive or coordinated bidding behavior. Our tools for this include a panoramic view of the bids round by round which was reviewed by our Auction expert, Professor Ken Hendricks. We found no evidence of any collusive or anti-competitive actions<sup>2</sup>.

### **Prices Consistent with Market Conditions**

The third reason for recommending certification of the BGS FP Auction results was that winning prices were consistent with broader market conditions. As noted above, we expected that prices would be lower as compared to the contracts that are being replaced due to decreases in natural gas prices over the past few years. In fact this is what happened, winning prices were, on average, down 15.9% from the contracts procured in the 2008 Auction. As compared to last year, prices were down 0.8%.

We made several checks on the prices received in this Auction to make sure that they were consistent with market conditions. Our primary test involved comparing the winning prices with the predicted ranges from our Benchmark pricing model.

The output of the model is a range of prices that we consider “reasonable”.

We created separate Benchmark ranges for each utility. For all utilities, winning prices were within our benchmark ranges.

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<sup>2</sup> Had we detected any collusive behavior in the Auction we did have the power to call a recess and discuss the issue with the Auction Manager and Staff.

**B. THE BGS COMMERCIAL AND INDUSTRIAL ENERGY PRICING (CIEP) AUCTION**

Boston Pacific also recommended that the Board certify the results of the Commercial and Industrial Energy Pricing (CIEP) Auction. We used the same three criteria as in our recommendation for the FP Auction.

**Fairness and Transparency**

We believe the CIEP Auction was open, fair and transparent for essentially the same reasons stated above for the FP Auction.

**Competitiveness**

We used the same indicators of competitiveness as we did for the FP Auction. While we found no problems, based on these indicators the CIEP Auction is somewhat less competitive than the FP Auction.

- First, there were [REDACTED] This is a good number of bidders for this process.
- Second, the excess quantity offered was adequate. [REDACTED]
- Third, there were 6 winners in the Auction. This is a slight decrease from last year's Auction which saw 7 winners.
- Fourth, we, along with our Auction Expert, reviewed the round-by-round results and found no evidence of collusion or anti-competitive behavior.

**Prices Consistent with Market Conditions**

This year the winning CIEP price was down by a good margin. For PSE&G the price dropped about 32%, from \$171/MW-day to about \$116/MW-day. Overall the tranche-weighted average winning price across all four utilities was also down 32% from last year. This drop was expected due to the decrease in RPM price from last year's \$174/MW-day to the upcoming year's \$110/MW-day. Recall that the price received in the CIEP Auction represents only a small share of the costs that CIEP customers will actually pay. The Auction price essentially represents the cost to supply the capacity and renewable requirements portion of that service. In addition, suppliers are paid an energy price set at the real-time market spot price and a fixed amount (\$6/MWh) for ancillary services.

Creating any sort of benchmark price for the CIEP product is more difficult than it is for the FP Auction.

[REDACTED]

[REDACTED]

### **C. RECOMMENDATIONS**

We are always on the lookout for ways in which to improve the BGS Auction process. Today, states are taking a much more active role in setting their energy policy, simply ensuring that the lights stay on at a reasonable price is no longer enough. States now are working to encourage the growth of renewables, demand side management and energy efficiency technologies, and new technologies such as “clean coal.”

With that as a backdrop we always want to be sure that the BGS Auction is serving these goals, or, at a minimum, not hindering New Jersey’s energy policies. Below we present a suggestion which we believe will assist the State going forward.

#### **Renewable Portfolio Standards**

Currently each BGS supplier is responsible for fulfilling their share of New Jersey’s Renewable Portfolio Standard (RPS). In our 2010 Final Report on the BGS Auction we suggested that Board consider breaking out this requirement into a separate RFP (or several RFPs). We made this suggestion because we believed it would (a) increase the transparency of the cost of the BGS product and the cost of meeting the RPS, (b) increase the ability of policymakers to enact new renewables-only policies without worrying about their effect on the BGS process and (c) potentially lower the costs of meeting RPS by dealing directly and transparently with renewable suppliers.

We were pleased to see that, in its Order approving the 2011 BGS Auction, the Board directed the Division of Energy and the Board’s Policy and Planning group to examine the viability of this option after the 2011 BGS Auction and report back to the Board. We continue to believe that this separation would be beneficial for New Jersey

ratepayers and policymakers especially in light of continued activities by the BPU such as the new Offshore Wind REC (OREC) program.

### **Long-Term Capacity Agreement Pilot Program (LCAPP)**

This March, the BPU created the Long-Term Capacity Agreement Pilot Program or LCAPP. The goal of the program was to attract new capacity in New Jersey by offering a contract which would allow bidders to receive a guaranteed capacity price for a given number of years. Winning bidders would sign a standard contract for differences which would guarantee them a set capacity price in return for offering into PJM's RPM auction and wholesale markets.

As we interpret the program, it does not have a direct link with the BGS process. Winning suppliers are not obligated to participate in the BGS Auction nor will any portion of BGS load be "set aside" to be served by winning LCAPP suppliers. The link to the BGS Auction will, instead, be indirect. LCAPP suppliers will offer into PJM's RPM process and wholesale markets, possibly lowering prices.

Given that the program could procure up to 2,000 MW as early as 2015 the effect on RPM and the wholesale market could be significant. We would therefore recommend that information concerning the LCAPP program be provided to potential BGS suppliers during the next Auction so that they might (if they wish) attempt to factor in the effects of the program into their bids. Information provided could include the location, size, and technology type of the winning bidders, expected on-line dates, location and winning prices. The Board should also make readily available any public analysis of the program's effect on wholesale energy market prices and RPM prices.

### **Long-Term Competitiveness**

[REDACTED]

There are several potential reasons for the lowered interest in the Auction. First and foremost, there are now full requirements procurements throughout PJM. To the extent that supply does not expand as quickly as opportunities to sell, bidders may have reason to be more judicious with the quantity they offer. Second, lower Auction prices and lower price volatility overall may translate to lower margins on the FP product, making the product less desirable for suppliers. Third, with the LCAPP, suppliers may now have another way to sell power in New Jersey other than through the BGS Auction.

Because the Auction depends on healthy competition we think it is important that the Auction continue to be heavily promoted and levels of competition monitored closely. Again, we believe that level of competition this year was good, and NERA did an



excellent job in promoting the Auction. We simply want to raise the point that the levels of competition must be monitored carefully going forward and, if they decline below acceptable levels, the Board may want to consider a corrective action such as using multiple bid days (an effective, but expensive solution).

**II. THE NEW JERSEY 2011 BGS-FP AUCTION**

A. POST-AUCTION CHECKLIST

**ATTACHMENT B  
DOCKET NO. ER10040287**

**POST-AUCTION CHECKLIST  
FOR THE NEW JERSEY 2011 BGS-FP AUCTION**

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Prepared by: Boston Pacific Company, Inc.

Auction began with the opening of Round 1 08:40am on Fri, February 4, 2011

Auction finished with the close of Round 25 10:45am on Tue, February 8, 2011

	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	<u>█</u>	<u>NA</u>	<u>NA</u>
Tranche target	<u>53</u>	<u>NA</u>	<u>NA</u>
Eligibility ratio	<u>█</u>	<u>NA</u>	<u>NA</u>
PSE&G load cap	<u>13</u>	<u>NA</u>	<u>NA</u>
JCP&L load cap	<u>7</u>	<u>NA</u>	<u>NA</u>
ACE load cap	<u>3</u>	<u>NA</u>	<u>NA</u>
RECO load cap	<u>2</u>	<u>NA</u>	<u>NA</u>
Statewide load cap	<u>20</u>	<u>NA</u>	<u>NA</u>

\*Note: No volume adjustment was made during the FP auction, so the pre-auction tranche target and EDC-specific load caps were unchanged for the auction.

**ATTACHMENT B  
DOCKET NO. ER10040287**

**Post-Auction Checklist for the New Jersey 2011 BGS-FP Auction**

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

**Table 1. Summary of BGS-FP Auction**

	<b>PSE&amp;G</b>	<b>JCP&amp;L</b>	<b>ACE</b>	<b>RECO</b>	<b>Total</b>
BGS-FP peak load share (MW)	2,771.26	1,523.21	759.64	219.30	5,273.40
Total tranches needed	28	15	8	2	53
Starting tranche target in auction	28	15	8	2	53
Final tranche target in auction	28	15	8	2	53
Tranche size (%)	1.18	1.82	4.55	25.00	
Tranche size (approximate MW)	98.97	101.55	94.95	109.65	
Starting EDC load caps (# tranches)	13	7	3	2	
Starting statewide load cap (#tranches)	--	--	--	--	20
Final EDC load caps (# tranches)	13	7	3	2	
Final statewide load cap (#tranches)	--	--	--	--	20
Quantity procured (# tranches)	28	15	8	2	53
Quantity procured (% BGS-FP load)	100%	100%	100%	100%	100%
# Winning bidders	■	■	■	■	8
Maximum # of tranches procured from any one bidder	■	■	■	■	■
Minimum and maximum starting prices prior to indicative bids (cents/kWh)					16.0 12.5
Starting price at start of auction (cents/kWh) *	■	■	■	■	■
Final auction price (cents/kWh) **	9.430	9.256	10.095	10.684	9.528

\* 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. ER10040287**

**Post-Auction Checklist for the New Jersey 2011 BGS-FP Auction**

**Table 2. Overview of Findings on BGS-FP Auction**

<b>Question</b>		<b>Comments</b>
1	<b>BP's recommendation as to whether the Board should certify the FP auction results?</b>	Yes, certify
2	Did bidders have sufficient information to prepare for the FP auction?	Yes
3	Was the information generally provided to bidders in accordance with the published timetable? Was the timetable updated appropriately as needed?	Yes
4	Were there any issues and questions left unresolved prior to the FP auction that created material uncertainty for bidders?	No
5	From what BP could observe, were there any procedural problems or errors with the FP auction, including the electronic bidding process, the back-up bidding process, and communications between bidders and the Auction Manager?	No
6	From what BP could observe, were protocols for communication between bidders and the Auction Manager adhered to?	Yes
7	From what BP could observe, were there any hardware or software problems or errors, either with the FP auction system or with its associated communications systems?	No
8	Were there any unanticipated delays during the FP auction?	No
9	Did unanticipated delays appear to adversely affect bidding in the FP auction? What adverse effects did BP directly observe and how did they relate to the unanticipated delays?	No
10	Were appropriate data back-up procedures planned and carried out?	Yes
11	Were any security breaches observed with the FP auction process?	No

Question		Comments
12	From what BP could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and BP during the FP auction?	Yes
13	From what BP could observe, were the protocols followed for decisions regarding changes in FP auction parameters (e.g., volume, load caps, bid decrements)?	Yes
14	Were the calculations (e.g., for bid decrements or bidder eligibility) produced by the FP auction software double-checked or reproduced off-line by the Auction Manager?	Yes
15	Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the auction?	No
16	From what BP could observe, were the communications between the Auction Manager and bidders timely and effective?	Yes
17	Was there evidence that bidders felt unduly rushed during the process? Should the auction have been conducted more expeditiously?	No
18	Were there any complaints from bidders about the process that BP believed were legitimate?	No
19	Was the FP auction carried out in an acceptably fair and transparent manner?	Yes
20	Was there evidence of non-productive “gaming” on the part of bidders?	No
21	Was there any evidence of collusion or improper coordination among bidders?	No
22	Was there any evidence of a breakdown in competition in the FP auction?	No
23	Was information made public appropriately? From what BP could observe, was sensitive information treated appropriately?	Yes
24	Does the FP auction appear to have generated a result that is consistent with competitive bidding, market-determined prices, and efficient allocation of the BGS-FP load?	Yes

<b>Question</b>		<b>Comments</b>
25	Were there factors exogenous to the FP auction (e.g., changes in market environment) that materially affected the FP auction in unanticipated ways?	No
26	Are there any concerns with the FP auction's outcome with regard to any specific EDC(s)?	No



B. BOSTON PACIFIC SUPPLEMENTAL CHECKLIST

**BOSTON PACIFIC SUPPLEMENT TO NEW JERSEY BGS AUCTION  
CHECKLIST: FP AUCTION**

**QUESTION 1:**

**Boston Pacific's recommendation as to whether the Board should certify the FP Auction results?**

**ANSWER 1:** Yes, certify.

**CRITERIA:**

**a. Were all checklist questions satisfactorily answered?**

Yes.

**QUESTION 2:**

**Did bidders have sufficient information to prepare for the FP Auction?**

**ANSWER 2:** Yes.

**PRE-AUCTION CRITERIA**

**a. Were there Pre-Bid sessions and were they informative?**

Yes, there were Pre-Bid Information Sessions and they informed bidders about Auction procedures and developments.

There were three Pre-Bid Information Sessions held: (i) the first session was held on October 1, 2010 in Philadelphia; (ii) the second session was held on December 3, 2010 in Philadelphia; and (iii) the third session was held on January 25, 2011 in Philadelphia. Note that in past years the first information session presentation was given twice, once in Philadelphia and once in Washington DC. However, due to low historical attendance at the Washington DC information session we recommended in our 2010 Final Report that the DC session be eliminated for the 2011 BGS process. This recommendation was accepted and so the first information session was held just once in Philadelphia this year.

The first two information sessions were open to any entities interested in participating in the Auction. The third information session was held after the Application process and, thus, was for Registered Bidders only.

Note that 9 companies attended the first information session and 13 companies attended the second information session. In total, 18 companies showed interest in the 2011 Auction by attending one of the first two bidder information sessions. This compares to 19 companies attending one of the first two sessions last year. Five out of the [REDACTED] attended the third bidder information

session. All questions asked at the information sessions were adequately answered by NERA.

**b. Were frequently asked questions (FAQs) posted on the BGS website and were all questions answered?**

Yes, the FAQs were posted and all questions asked in a timely manner were answered.

All questions asked by bidders and their answers were posted on the FAQ section of the BGS website pursuant to NERA's FAQ Protocols. These protocols called for a specific process for answering bidder questions to ensure that all bidders had access to the same information at the same time.

As of January 20, 2011, 156 questions had been asked by bidders since August 10, 2010, the first day FAQs were posted. All of these questions were answered in a timely fashion by NERA. The general topics of questions included: (a) Applications, (b) Association and Confidential Information Rules, (c) Auction Rules, (d) the BGS Supplier Master Agreement, (e) Credit, (f) Data, (g) Payments and Rates, and (h) General questions.

Outside of data questions, bidders had the most questions concerning the association and confidential information rules. NERA provided responses to all of these questions, which seemed to satisfy bidders. Furthermore, because of the importance of this topic, NERA issued a specific document that addresses common situations with respect to associations and confidential information. Because of concerns over bidders being able to provide proper credit assurances in the current market, bidders were given an opportunity to seek approval for modifications to the existing letter of credit (LOC) document prior to applications being due.

Starting on January 20, 2011, the Auction Manager sent answers to questions received each day to Registered Bidders via email. Boston Pacific reviewed these FAQs as well.

**c. Was required information and data provided on the website?**

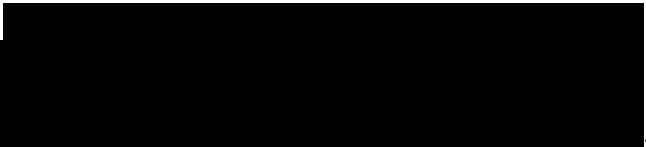
Yes, the BGS Auction website provided required data for bidders to prepare for the Auction.

The following Auction information, among other things, was provided according to or earlier than the schedule posted by NERA: (a) Application forms, (b) minimum/maximum starting prices, (c) tranche targets, (d) load caps, (e) finalized rules, (f) final Supplier Master Agreements, and (g) finalized decrement formulas.

NERA also maintained a “data room” on their website, which contained data that was updated monthly and additional data that was updated less frequently. NERA provided a document for both of these types of data that provided a description of the data included in the “data room.” Examples of such data include load data, which was updated monthly for each EDC and covered the period through October 2010, and switching statistics that showed the percentage of load and customers that have switched to third party suppliers. This data, and other data in the “data room”, was provided to help bidders prepare their bids. Any time revisions were made to the data, NERA marked this on their website.

Similar to an error which occurred in last year’s Auction, JCP&L’s CIEP Eligible hourly load inadvertently excluded the load of customers over 1,000 kW on the GS and GST rate classes. As a result, the BGS-CIEP Eligible hourly load was somewhat understated and the BGS-FP Eligible Load was somewhat overstated. All bidders were notified of this problem and the necessary data to correct this problem was posted. We do not believe this issue had a material affect on the Auction.

**d. Did Bidders receive Auction logistics information (i.e. Confidential Bidder Information packet) on time?**

Yes, before the Trial Auction 

**e. Did bidders communicate any material concerns to NERA?**

No. All questions asked by bidders were answered. NERA did not indicate that there were any unresolved, material concerns.

**f. Were bidders given an opportunity to provide proposals and comments concerning the 2011 Auction Process?**

Yes. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2010. Furthermore, interested parties were also invited to file initial comments and final comments by August 27, 2010 and October 1, 2010, respectively. The Board also held a Legislative-type hearing on September 21, 2010. Finally, the Board issued a procedural order on June 28, 2010 concerning the removal of the retail margin and the reduction of the CIEP threshold. Initial comments were due July 9, 2010, and final comments were due September 3, 2010 with a public hearing held on August 20, 2010. The Board then moved to remove the Retail Margin and lower the CIEP threshold to 750 kW on October 5, 2010. After reviewing all comments from the EDCs and other interested parties, the Board approved the 2011 BGS Auction Process.

**QUESTION 3:**

**Was the information generally provided to bidders in accordance with the published timetable? Was the timetable updated appropriately as needed?**

**ANSWER 3: Yes.**

**PRE-AUCTION CRITERIA**

**a. Was the timeline followed?**

Yes.

**b. Were there updates to the timeline?**

Yes, NERA followed the posted calendar of significant events on the BGS website.

The BGS Auction website contained a specific section at the top of the calendar that took note of the upcoming events. It included information from the initial EDC proposal in July 2010 through the Auction in February 2011. As milestones were met, the calendar was updated to reflect each event's completion. As far as Boston Pacific is aware, the Auction process was carried out according to this schedule. In addition, interested parties could sign up for an Auction update mailing list. Reminders of important dates were sent out to all potentially interested bidders and to those registered parties.

**QUESTION 4:**

**Were there any issues and questions left unresolved prior to the FP Auction that created material uncertainty for bidders?**

**ANSWER 4: No.**

**PRE-AUCTION CRITERIA**

**a. Were all questions answered in the FAQs?**

Yes, please see answer to 2b.

**b. Were bidder questions asked after January 20, 2011 directly responded to by NERA?**

Yes, questions were asked by Registered Bidders after January 20, 2011. NERA provided answers to these questions directly to bidders via email. These answers were distributed daily. Bidders did not indicate any concerns with the answers provided by NERA. Also, please see answers to 2b and 2e.

**c. Did other events or issues produce any material uncertainty for bidders?**

No, bidders did not raise any issues in the FAQs that indicated material uncertainty for bidders. Boston Pacific also monitored various industry news sources and did not discover any events that would produce material uncertainty for bidders.

**d. Did bidders communicate any material concerns to NERA?**

No, please see answer to 2e.

**e. Was information equitably provided to bidders?**

Yes, information was provided to bidders equally. This was done through Pre-Bid Information Sessions, FAQs provided online on the BGS Auction website, and announcements of upcoming important events and milestones. Also, please see answers to 2a-2d.

**f. Was information provided to maximize the number of bidders for the Auction?**

Yes, before bidders were registered, NERA conducted extensive marketing efforts in order to maximize bidder participation. (Maximum bidder participation is important since the Auction is such that the more excess supply, the further prices can decrease. The supply offered in excess of need directly drives the “tick down” (the decrease) in Auction price.)

NERA conducted direct marketing with potential bidding companies through phone calls. The list of contacts was developed from participants that registered for information on the BGS Auction website. In addition, PJM members and NERC participants who were identified as potential bidders but had not registered on the BGS Auction website were also added to the list of contacts. NERA ran two rounds of phone calls to potential bidders. [REDACTED]

[REDACTED] NERA also advertised the Auction opportunity in the trade press.

The Auction Manager consulted with Boston Pacific during each of the Application processing periods. [REDACTED]

**g. From Boston Pacific’s observation, were there any pre-qualification requirements which directly prevented bidder participation?**

[REDACTED] to our knowledge, there were no issues with the Part I application process that knowingly prevented a bidder from becoming approved. This was also true of all Part II applicants. [REDACTED]

[REDACTED]

[REDACTED]

**QUESTION 5:**

**From what Boston Pacific could observe, were there any procedural problems or errors with the FP Auction, including the electronic bidding process, the back-up bidding process, and communications between bidders and the Auction Manager?**

**ANSWER 5: No.**

**AUCTION WEEK CRITERIA**

**a. Was protocol followed for the FP Auction?**

Yes, to our knowledge, the Auction was carried out according to the Auction Rules as approved by the Board.

**b. Were there problems with the electronic bidding process?**

No, there were no major problems with the Auction software during testing and trials.

Boston Pacific had full opportunity to test NERA's bidding software, backup bidding process, and bid recording systems during three Trial Auctions. For the first Trial Auction on January 21, 2011 Boston Pacific assumed the role of a bidder and verified that bidders' accounts had access to the correct information. We tested the Auction software by submitting problematic bids to determine if the software operated according to the rules and provided proper information to bidders. We also tested NERA's backup bidding systems by submitting backup bids and creating situations to test NERA's bidder notification protocols. We found only one minor error in our tests. [REDACTED]

[REDACTED] the problem was fixed before the Registered Bidder trial and before the actual Auction.

For the second and third Trial Auctions, held on January 24<sup>th</sup> and January 27<sup>th</sup> 2011, Boston Pacific moved to the evaluation side. We monitored and evaluated bids submitted by the EDCs and NERA in the second Trial and by Registered Bidders in the third Trial. We received and tested bid reports from NERA's software and formulated reports and checked price decrements using our own bid evaluation software.

During the Auction, Boston Pacific did not observe any software breakdowns.

**c. Was the back-up bidding process followed?**

Yes [REDACTED]. Boston Pacific had tested the backup procedure during Trial Auctions. Further, Registered Bidders also had the opportunity to practice the back-up bid procedure during the Trial Auction for Registered Bidders on January 27, 2011.

**d. Did communications between bidders and the Auction Manager follow procedure?**

Yes, communications between bidders and the Auction Manager followed procedure.

Bidders were given two ways of communicating with the Auction Manager during the Auction. Bidders had a telephone number for technical assistance and they could also send electronic messages through the online platform. Both of these forms of communication were logged. All telephone conversations were taped and all electronic messages and the answers given by the Auction Manager were saved. Boston Pacific reviewed all telephone conversations and electronic messages.

**e. Were Auction schedule protocols followed with regard to extensions and recesses?**

Yes [REDACTED] In addition, bidders were given an automatic extension after round one. Bidders were warned that they still had to provide bids prior to the extension or they would lose an extension themselves.

**f. Did bidders communicate any material concerns to NERA?**

No.



**QUESTION 6:**

**From what Boston Pacific could observe, were protocols for communication between bidders and the Auction Manager adhered to?**

**ANSWER 6:** Yes.

**PRE-AUCTION CRITERIA**

**a. Was confidential information properly provided to bidders?**

Yes. Boston Pacific did not observe any release of confidential information or inappropriate communication that could impair the integrity of the Auction.

**b. Before the Part II Application deadline, were questions placed on the Auction website?**

Yes. The first FAQ was posted on the BGS website August 10, 2010. The Part II Application deadline was on January 13, 2011. There were a total of 156 questions posted by the Part II Application deadline. Additional questions asked by bidders were also answered by NERA following the Part II Application deadline.

**c. Were the communication protocols followed?**

Yes. [REDACTED]

**AUCTION WEEK CRITERIA**

**d. Was confidential information properly provided to bidders?**

Yes, the Auction Software was built to ensure that all participants had controlled access to Auction information. [REDACTED]

**e. Did communications between bidders and the Auction Manager follow procedure?**

Yes, please see the answer to 5d.

**QUESTION 7:**

**From what Boston Pacific could observe, were there any hardware or software problems or errors, either with the FP Auction system or with its associated communications systems?**

**ANSWER 7: No.**

**AUCTION WEEK CRITERIA**

- a. What problems, if any, were there with the Auction or communications system on NERA's end?**

Boston Pacific is unaware of any material issues with NERA's communication systems based on our review of electronic and voice communications.

- b. Did bidders experience any computer or communications problems that appeared to be the fault of NERA?**

No, all bids were successfully received by NERA.

- c. Was NERA aware of any material technical issues?**

No, NERA did not indicate any material technical issues. [REDACTED]

- d. Did bidders communicate any material concerns to NERA?**

No, please see 5f.

**QUESTION 8:**

**Were there any unanticipated delays during the FP Auction?**

**ANSWER 8: No.**

**QUESTION 9:**

**Did unanticipated delays appear to adversely affect bidding in the FP Auction? What adverse effects did Boston Pacific directly observe and how did they relate to the unanticipated delays?**

**ANSWER 9: No.**

**QUESTION 10:**

**Were appropriate data back-up procedures planned and carried out?**

**ANSWER 10: Yes.**

**AUCTION WEEK CRITERIA**

**a. Was Auction data backed-up during the Auction?**

According to the Auction Manager Protocols, NERA ensured that no Auction information would be lost if there was a problem with the Auction software during the Auction. [REDACTED]

**QUESTION 11:**

**Were any security breaches observed with the FP Auction process?**

**ANSWER 11: No.**

To our knowledge, there were no security breaches.

During the Auction, many security measures were in place. The Auction software used on bid day was built to ensure that all participants had controlled access to Auction data. [REDACTED]

Boston Pacific reviewed communications between NERA and bidders. [REDACTED]

**QUESTION 12:**

**From what Boston Pacific could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and Boston Pacific during the FP Auction?**

**ANSWER 12: Yes.**

**AUCTION WEEK CRITERIA**

**a. Were protocols followed as described by NERA?**

Yes. As far as Boston Pacific is aware, the Communication Protocols were followed during the Auction. Also, please see answer to 5d.

**b. Did BPU Staff and Boston Pacific get all the information that we required?**

Yes, Boston Pacific and BPU Staff received all data requested from NERA in a timely and professional fashion during the Auction.

**QUESTION 13:**

**From what Boston Pacific could observe, were the protocols followed for decisions regarding changes in FP Auction parameters (e.g., volume, load caps, bid decrements)?**

**ANSWER 13: Yes.**

**PRE-AUCTION CRITERIA**

**a. Were notable changes made to the decrement formulas?**

[REDACTED]

**AUCTION WEEK CRITERIA**

**b. During the Auction, did the Auction Manager impose any changes on the FP Auction parameters?**

Boston Pacific independently calculated the bid decrements including the switch to the second phase (regime) for decrement calculations.

The Auction Rules prescribe two different regimes of formulas for calculating the price decrements during the calculating phase of each round. The Auction Rules also give the conditions used to change from Regime One to Regime Two. Boston Pacific validated NERA's decision to switch from Regime One to Regime Two.

[REDACTED]

There were no volume reductions during the Auction. There were no changes to the load caps during the Auction.

**QUESTION 14:**

**Were the calculations (e.g., for bid decrements or bidder eligibility) produced by the FP Auction software double-checked or reproduced off-line by the Auction Manager?**

**ANSWER 14: Yes.**

[REDACTED]

[REDACTED] Boston Pacific and NERA found no errors in the Auction software calculations.

**QUESTION 15:**

**Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the Auction?**

**ANSWER 15: No.**

There was no evidence of confusion or misunderstanding that caused delays; as noted, Boston Pacific reviewed all electronic and voice communications.

**QUESTION 16:**

**From what Boston Pacific could observe, were the communications between the Auction Manager and bidders timely and effective?**

**ANSWER 16: Yes.**

**AUCTION WEEK CRITERIA**

All answers to questions reviewed by Boston Pacific seemed relevant and clear. Again, Boston Pacific reviewed all electronic messages. In addition, Boston Pacific also reviewed the phone conversations between bidders and the Auction Manager.

Boston Pacific believes answers to bidders' questions were provided in a timely fashion, and NERA made all possible efforts to ensure bids were placed on time.

**QUESTION 17:**

**Was there evidence that bidders felt unduly rushed during the process? Should the Auction have been conducted more expeditiously?**

**ANSWER 17: No.**

Each bidder is permitted 1 recess request and 2 extension requests during the Auction. The Auction includes an automatic extension after round 1. [REDACTED]

[REDACTED] there was no indication [REDACTED] that bidders were rushed.

Through our review of electronic messages, there was no indication from bidders that they felt unduly rushed. Through our checks of phone calls, Boston Pacific also did not receive indication that bidders were unduly rushed. In addition, all bids were received by NERA.

Bidders were also able to test the Auction Software during the Trial Auction for Registered Bidders, and therefore were comfortable with it during the actual Auction.

**QUESTION 18:**

**Were there any complaints from bidders about the process that Boston Pacific believed were legitimate?**

**ANSWER 18: No.**

Boston Pacific believes there were no legitimate complaints about the Auction. That is, there were no questions raised by bidders that were not resolved.

**QUESTION 19:**

**Was the FP Auction carried out in an acceptably fair and transparent manner?**

**ANSWER 19: Yes.**

Speaking broadly, the New Jersey Auction is structured to be fair and transparent. The two key features in this regard are (a) the precisely defined product being solicited and (b) the price-only evaluation. These assure that all bidders are supplying the same product and no bidder can gain advantage over another except by offering a lower price. Because the product and evaluation method are clearly spelled out, any bidder that meets the qualification requirements may participate.

In addition, as approved by the BPU, the BGS Auction had several mechanisms in place to ensure a fair and transparent process.

All interested parties were given ample opportunity to comment on the 2011 BGS process. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2010. Furthermore, interested parties were also invited to file initial comments and final comments by August 27, 2010 and October 1, 2010, respectively. The Board also held a Legislative-type hearing on September 21, 2010. Finally, the Board issued a procedural order on June 28, 2010 concerning the removal of the retail margin and the reduction of the CIEP threshold. Initial comments were due July 9, 2010, and final comments were due September 3, 2010 with a public hearing held on August 20, 2010. The Board then moved to remove the Retail Margin and lower the CIEP threshold to 750 kW on October 5, 2010.

Before the Auction began, the procedures were approved and made public. For instance, Auction rules were approved by the Board. Contracts and master agreements were standardized, approved, and made public before the Auction. Any optional changes in the language of these agreements were standardized, approved, and made public before the Auction as well. Finally, application and credit requirements to become a bidder in the BGS Auction were also standardized, approved, and made public before the Auction.

Bidder information sessions were held by the Auction Manager to educate potential bidders on the Auction process. They provided an opportunity for questions to be asked in a public forum. Any questions asked pertaining to the Auction were posted on the BGS Auction website. This FAQ section ensured that all bidders had equal access to information provided to any one bidder. Boston Pacific believes that they were helpful for bidders, as evidenced by the attendance at these sessions.

The Auction Manager consulted with Boston Pacific and BPU Staff concerning Part I and II Applications. [REDACTED]

[REDACTED] having the greatest number of bidders ensures healthy competition during the Auction, maximizing the potential for the lowest rates.

An additional factor helping the Auction is that it had been going on for several years and that its results have been constantly honored by the Board. This fairness and consistency of process helps attract more bidders and better offers.

Finally, the Auction was carried out in a fair and transparent manner in the sense that the Auction adhered to the Auction Rules. The Auction rules and the Auction Software were designed to produce a fair and transparent Auction. The rules were

made public and approved by the BPU. The Auction Software assured that bidders received the correct information.

**QUESTION 20:**

**Was there evidence of non-productive “gaming” on the part of bidders?**

**QUESTION 21:**

**Was there any evidence of collusion or improper coordination among bidders?**

**QUESTION 22:**

**Was there any evidence of a breakdown in competition in the FP Auction?**

**ANSWER 20: No.**

**ANSWER 21: No.**

**ANSWER 22: No.**

Developing the information to answer these three questions and, more broadly, assessing the competitiveness of the BGS Auction was a central focus of our monitoring efforts. We assessed both structural and behavioral indicators of competitiveness in each round of bidding in both the FP Auction (which includes residential customers as well as some commercial customers) and the CIEP Auction (which includes larger commercial and industrial customers). Although we go into some detail here, these indicators are just that, indications of competitiveness; they are not hard and fast numerical standards.

Both structural and behavioral indicators give support for the specific answers provided to all three of these questions as well as support to the broader finding that the BGS Auction was competitive. Among the structural indicators were the number of bidders, the number of winners, the market share of winners, and a widely-used measure of competitiveness related to market shares called the Herfindahl-Hirschman Index (HHI).

[REDACTED] This is a good number of bidders and the list includes many well-known participants in the U.S. electricity business. As a group, these [REDACTED] suppliers offered to supply a number of tranches [REDACTED]

[REDACTED] This excess in offers is important because any excess automatically results in the price decreasing round-by-round to the benefit of New Jersey consumers.



[REDACTED]

Of the suppliers who bid, 8 suppliers actually won the right to serve some portion of the New Jersey consumer need in the FP Auction. With respect to market share of each winner, some background on standards is useful. Having a minimum of three suppliers is sometimes set as a standard of competitiveness. The BGS Auction rules assures this by limiting to approximately 38% the portion of statewide consumer need that can be won by any single supplier.

Another standard for judging market share comes from a FERC standard for granting the right for a supplier to sell at market-based prices (as opposed to regulated cost-based rates.) In one of two FERC threshold tests for granting the right to sell at market-based prices, FERC asks that the supplier have no more than a 20% share of the market. If the market share is 20% or less, it is presumed the supplier cannot exercise market power. If the market share exceeds 20%, the supplier can conduct an additional test or point to mitigation for market power, such as the mitigation measures and monitoring of the PJM Interconnection or the Midwest ISO – that is, the 20% is not a hard and fast limit to market-based rate authority.

Among the 8 winners in the FP Auction [REDACTED]

The Herfindahl-Hirschman Index (HHI) is a measure of competitiveness closely related to market shares. Again, some background on the HHI standard is useful. The U.S. Department of Justice has a three-part standard for HHIs when judging the competitive effect of mergers and acquisitions – these have recently been updated. An HHI below 1,500 is a safe harbor of sorts because the market is said to be un-concentrated. If, after a merger or acquisition, the HHI is below 1,500, it is generally thought that there is no competitive harm from the merger or acquisition; that is, the merger or acquisition does not make the exercise of market power more likely. An HHI between 1,500 and 2,500 is said to indicate moderate concentration. An HHI over 2,500 is said to indicate a highly concentrated market. FERC may update to use these same standards when it assesses mergers and acquisitions. For market-based rate authority, FERC already uses a threshold of 2,500 for the HHI in one of its standards.

For the FP Auction, [REDACTED]  
This puts the HHI for the FP Auction into the high end of the DOJ's moderately concentrated range. Moreover, to include only winning bidders is a narrow focus for calculating an HHI. For example, a more appropriate focus would be the total of 16 suppliers who will serve consumers in 2011-2012; these are the winners in

2009 and 2010, as well as in the 2011 Auction. The HHI in this case would be about [REDACTED], which is in the low end of the moderately concentrated range under the DOJ's guidelines.

[REDACTED]

[REDACTED]

With respect to behavioral indicators, the core of this effort was to detect any sign of collusion among bidders. No evidence of collusion was found in the FP Auction. [REDACTED]

[REDACTED]

**QUESTION 23:**

**Was information made public appropriately? From what Boston Pacific could observe, was sensitive information treated appropriately?**

**ANSWER 23: Yes.**

Yes, Pre-Auction information was treated appropriately pursuant to the communication protocols. Please see answers 6a-6c.

To our knowledge, no confidential information was leaked while the Auction was conducted. All suppliers, NERA, EDCs, and Boston Pacific signed confidentiality agreements. [REDACTED]

[REDACTED]

**QUESTION 24:**

**Does the FP Auction appear to have generated a result that is consistent with competitive bidding, market-determined prices, and efficient allocation of the BGS-FP load?**

**ANSWER 24: Yes.**

Although the acceptance or rejection of Auction results is not based on any assessment of price levels, Boston Pacific attempted to develop an expectation of the final Auction prices [REDACTED]

Furthermore, the fact that the product has a three-year duration requires the analyst to have some opinion on the state of future market conditions for cost factors such as congestion.

[REDACTED]

[REDACTED]

[REDACTED]

2011 BGS Auction							
Product	Tranches Filled	Final Price (cents/kWh)	2010 price (cents /kWh)	% Decrease from 2010	Price Expectation Range (cents/kWh)		
					Average	Low	High
PSE&G	28	9.43	9.577	-2%			
JCP&L	15	9.256	9.517	-3%			
ACE	8	10.095	9.856	2%			
RECO	2	10.684	10.332	3%			
<b>Total</b>	53						
<b>Average<sup>3</sup></b>		9.528	9.607	-1%			

1) Source: Boston Pacific 2010 Auction Report

3) Tranche-Weighted average.

Comparing this year’s average winning price to last year we can see that prices decreased about 1 percent. This is largely as we would expect. Over the past year we have seen some developments that serve to decrease prices, namely lower energy prices and lower electric price volatility (which can lower the risk premium a supplier builds into their price). Working against these factors are factors that can increase prices, specifically, increases in capacity costs and increased migration to third-party suppliers. Together these forces effectively cancel each other out, leading us to expect stable prices as compared to last year. This is exactly what we saw.

**QUESTION 25:**

**Were there factors exogenous to the FP Auction (e.g., changes in market environment) that materially affected the FP Auction in unanticipated ways?**

**ANSWER 25: No.**

No, please see the answer to 24. Changes from last year’s results were driven primarily by decreases in energy prices, improvements in risk factors such as lowered volatilities in electricity prices, increases in RPM prices and increased migration rates to third-party suppliers.

**QUESTION 26:**

**Are there any concerns with the FP Auction’s outcome with regard to any specific EDC(s)?**

**ANSWER 26: No**

**III. THE NEW JERSEY 2011 BGS-CIEP AUCTION**

A. POST-AUCTION CHECKLIST

**ATTACHMENT B  
DOCKET NO. ER10040287**

**POST-AUCTION CHECKLIST FOR THE NEW JERSEY  
2011 BGS-CIEP AUCTION**

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Prepared by: Boston Pacific Company, Inc.

Auction began with the opening of Round 1 at 08:30 am on Thurs, February 3, 2011

Auction finished with the close of Round 55 at 10:45am on Tues, February 8, 2011

	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	█	NA	NA
Tranche target	46	NA	NA
Eligibility ratio	█	NA	NA
Statewide load cap	16	NA	NA

\* 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.

**ATTACHMENT B  
DOCKET NO. ER10040287**

**Post-Auction Checklist for the New Jersey 2011 BGS-CIEP Auction**

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

**Table 1. Summary of BGS-CIEP Auction**

	<b>PSE&amp;G</b>	<b>JCP&amp;L</b>	<b>ACE</b>	<b>RECO</b>	<b>Total</b>
BGS-CIEP peak load share (MW)	1,924.71	975.90	327.90	38.70	3,267.21
Total tranches needed	26	14	5	1	46
Starting tranche target in auction	26	14	5	1	46
Final tranche target in auction	26	14	5	1	46
Tranche size (%)	3.85	7.14	20.00	100.00	
Tranche size (approximate MW)	74.03	69.71	65.58	38.70	
Starting load cap (# tranches)	--	--	--	--	16
Final load cap (# tranches)	--	--	--	--	16
Quantity procured (# tranches)	26	14	5	1	46
Quantity procured (% BGS-CIEP load)	100%	100%	100%	100%	100%
# Winning bidders	■	■	■	■	6
Maximum # of tranches procured from any one bidder	■	■	■	■	■
Minimum and maximum starting prices prior to indicative bids (\$/MW-day)					300 250
Starting price at start of auction (\$/MW-day)*	■	■	■	■	■
Final auction price (\$/MW-day)**	116.47	120.01	114.73	128.94	117.63

\* 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. ER10040287**

**Post-Auction Checklist for the New Jersey 2011 BGS-CIEP Auction**

**Table 2. Overview of Findings on BGS-CIEP Auction**

Question		Comments
1	<b>BP's recommendation as to whether the Board should certify the CIEP auction results?</b>	Yes, certify
2	Did bidders have sufficient information to prepare for the CIEP auction?	Yes
3	Was the information generally provided to bidders in accordance with the published timetable? Was the timetable updated appropriately as needed?	Yes
4	Were there any issues and questions left unresolved prior to the CIEP auction that created material uncertainty for bidders?	No
5	From what BP 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?	No
6	From what BP could observe, were protocols for communication between bidders and the Auction Manager adhered to?	Yes
7	From what BP could observe, were there any hardware or software problems or errors, either with the CIEP auction system or with its associated communications systems?	No
8	Were there any unanticipated delays during the CIEP auction?	No
9	Did unanticipated delays appear to adversely affect bidding in the CIEP auction? What adverse effects did BP directly observe and how did they relate to the unanticipated delay?	No
10	Were appropriate data back-up procedures planned and carried out?	Yes
11	Were any security breaches observed with the CIEP auction process?	No

Question		Comments
12	From what BP could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and BP during the CIEP auction?	Yes
13	From what BP could observe, were the protocols followed for decisions regarding changes in CIEP auction parameters (e.g., volume, load cap, bid decrements)?	Yes
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?	Yes
15	Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the auction?	No
16	From what BP could observe, were the communications between the Auction Manager and bidders timely and effective?	Yes
17	Was there evidence that bidders felt unduly rushed during the process? Should the auction have been conducted more expeditiously?	No
18	Were there any complaints from bidders about the process that BP believed were legitimate?	No
19	Was the CIEP auction carried out in an acceptably fair and transparent manner?	Yes
20	Was there evidence of non-productive “gaming” on the part of bidders?	No
21	Was there any evidence of collusion or improper coordination among bidders?	No
22	Was there any evidence of a breakdown in competition in the CIEP auction?	No
23	Was information made public appropriately? From what BP could observe, was sensitive information treated appropriately?	Yes
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?	Yes

<b>Question</b>		<b>Comments</b>
25	Were there factors exogenous to the CIEP auction (e.g., changes in market environment) that materially affected the CIEP auction in unanticipated ways?	No
26	Are there any concerns with the CIEP auction's outcome with regard to any specific EDC(s)?	No

B. BOSTON PACIFIC SUPPLEMENTAL CHECKLIST

**BOSTON PACIFIC SUPPLEMENT TO NEW JERSEY BGS AUCTION  
CHECKLIST: CIEP AUCTION**

**QUESTION 1:**

**Boston Pacific's recommendation as to whether the Board should certify the CIEP Auction results?**

**ANSWER 1:** Yes, certify.

**CRITERIA:**

**a. Were all checklist questions satisfactorily answered?**

Yes.

**QUESTION 2:**

**Did bidders have sufficient information to prepare for the CIEP Auction?**

**ANSWER 2:** Yes.

**PRE-AUCTION CRITERIA**

**a. Were there Pre-Bid sessions and were they informative?**

Yes, there were Pre-Bid Information Sessions and they informed bidders about Auction procedures and developments.

There were three Pre-Bid Information Sessions held: (i) the first session was held on October 1, 2010 in Philadelphia; (ii) the second session was held on December 3, 2010 in Philadelphia; and (iii) the third session was held on January 25, 2011 in Philadelphia. Note that in past years the first information session presentation was given twice, once in Philadelphia and once in Washington DC. However, due to low historical attendance at the Washington DC information session we recommended in our 2010 Final Report that the DC session be eliminated for the 2011 BGS process. This recommendation was accepted and so the first information session was held just once in Philadelphia this year.

Note that 9 companies attended the first information session and 13 companies attended the second information session. In total, 18 companies showed interest in the 2011 Auction by attending one of the first two bidder information sessions. This compares to 19 companies attending one of the first two sessions last year. Three out of the [REDACTED] attended the third bidder information session. All questions asked at the information sessions were adequately answered by NERA.

**b. Were frequently asked questions (FAQs) posted on the BGS website and were all questions answered?**

Yes, the FAQs were posted and all questions asked in a timely manner were answered.

All questions asked by bidders and their answers were posted on the FAQ section of the BGS website pursuant to NERA's FAQ Protocols. These protocols called for a specific process for answering bidder questions to ensure that all bidders had access to the same information at the same time.

As of January 20, 2011, 156 questions had been asked by bidders since August 10, 2010, the first day FAQs were posted. All of these questions were answered in a timely fashion by NERA. The general topics of questions included: (a) Applications, (b) Association and Confidential Information Rules, (c) Auction Rules, (d) the BGS Supplier Master Agreement, (e) Credit, (f) Data, (g) Payments and Rates, and (h) General questions.

Outside of data questions, bidders had the most questions concerning the association and confidential information rules. NERA provided responses to all of these questions, which seemed to satisfy bidders. Furthermore, because of the importance of this topic, NERA issued a specific document that addresses common situations with respect to associations and confidential information. Because of concerns over bidders being able to provide proper credit assurances in the current market, bidders were given an opportunity to seek approval for modifications to the existing letter of credit (LOC) document prior to applications being due.

Starting on January 20, 2011, the Auction Manager sent answers to questions received each day to Registered Bidders via email. Boston Pacific reviewed these FAQs as well.

**c. Was required information and data provided on the website?**

Yes, the BGS Auction website provided required data for bidders to prepare for the Auction.

The following Auction information, among other things, was provided according to or earlier than the schedule posted by NERA: (a) Application forms, (b) minimum/maximum starting prices, (c) tranche targets, (d) load caps, (e) finalized rules, (f) final Supplier Master Agreements, and (g) finalized decrement formulas.

NERA also maintained a "data room" on their website, which contained data that was updated monthly and additional data that was updated less frequently. NERA provided a document for both of these types of data that provided a description of the data included in the "data room." Examples of such data include load data,

which was updated monthly for each EDC and covered the period through October 2010, and switching statistics that showed the percentage of load and customers that have switched to third party suppliers. This data, and other data in the “data room”, was provided to help bidders prepare their bids. Any time revisions were made to the data, NERA marked this on their website.

Similar to an error which occurred in last year’s Auction, it was discovered that JCP&L’s CIEP Eligible hourly load inadvertently excluded the load of customers over 1,000 kW on the GS and GST rate classes. As a result, the BGS-CIEP Eligible hourly load was somewhat understated and the BGS-FP Eligible Load was somewhat overstated. All bidders were notified of this problem and the necessary data to correct this problem was posted. We do not believe this issue had a material affect on the Auction.

**d. Did Bidders receive Auction logistics information (i.e. Confidential Bidder Information packet) on time?**

Yes, before the Trial Auction [REDACTED]

**e. Did bidders communicate any material concerns to NERA?**

No. All questions asked by bidders were answered. NERA did not indicate that there were any unresolved, material concerns.

**f. Were bidders given an opportunity to provide proposals and comments concerning the 2011 Auction Process?**

Yes. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2010. Furthermore, interested parties were also invited to file initial comments and final comments by August 27, 2010 and October 1, 2010, respectively. The Board also held a Legislative-type hearing on September 21, 2010. Finally, the Board issued a procedural order on June 28, 2010 concerning the removal of the retail margin and the reduction of the CIEP threshold. Initial comments were due July 9, 2010, and final comments were due September 3, 2010 with a public hearing held on August 20, 2010. The Board then moved to remove the Retail Margin and lower the CIEP threshold to 750 kW on October 5, 2010. After reviewing all comments from the EDCs and other interested parties, the Board approved the 2011 BGS Auction Process.

**QUESTION 3:**

**Was the information generally provided to bidders in accordance with the published timetable? Was the timetable updated appropriately as needed?**

**ANSWER 3: Yes.**

**PRE-AUCTION CRITERIA**

**a. Was the timeline followed?**

Yes.

**b. Were there updates to the timeline?**

Yes, NERA followed the posted calendar of significant events on the BGS website.

The BGS Auction website contained a specific section at the top of the calendar that took note of the upcoming events. It included information from the initial EDC proposal in July 2010 through the Auction in February 2011. As milestones were met, the calendar was updated to reflect each event's completion. As far as Boston Pacific is aware, the Auction process was carried out according to this schedule. In addition, interested parties could sign up for an Auction update mailing list. Reminders of important dates were sent out to all potentially interested bidders and to those registered parties.

**QUESTION 4:**

**Were there any issues and questions left unresolved prior to the CIEP Auction that created material uncertainty for bidders?**

**ANSWER 4: No.**

**PRE-AUCTION CRITERIA**

**a. Were all questions answered in the FAQs?**

Yes, please see answer to 2b.

**b. Were bidder questions asked after January 20, 2011 directly responded to by NERA?**

Yes, questions were asked by Registered Bidders after January 20, 2011. NERA provided answers to these questions directly to bidders via email. These answers were distributed daily. Bidders did not indicate any concerns with the answers provided by NERA. Also, please see answers to 2b and 2e.

**c. Did other events or issues produce any material uncertainty for bidders?**

No, bidders did not raise any issues in the FAQs that indicated material uncertainty for bidders. Boston Pacific also monitored various industry news



sources and did not discover any events that would produce material uncertainty for bidders.

**d. Did bidders communicate any material concerns to NERA?**

No, please see answer to 2e.

**e. Was information equitably provided to bidders?**

Yes, information was provided to bidders equally. This was done through Pre-Bid Information Sessions, FAQs provided online on the BGS Auction website, and announcements of upcoming important events and milestones. Also, please see answers to 2a-2d.

**f. Was information provided to maximize the number of bidders for the Auction?**

Yes, before bidders were registered, NERA conducted extensive marketing efforts in order to maximize bidder participation. (Maximum bidder participation is important since the Auction is such that the more excess supply, the further prices can decrease. The supply offered in excess of need directly drives the “tick down” (the decrease) in Auction price.)

NERA conducted direct marketing with potential bidding companies through phone calls. The list of contacts was developed from participants that registered for information on the BGS Auction website. In addition, PJM members and NERC participants who were identified as potential bidders but had not registered on the BGS Auction website were also added to the list of contacts. NERA ran two rounds of phone calls to potential bidders. [REDACTED] NERA also advertised the Auction opportunity in the trade press.

The Auction Manager consulted with Boston Pacific during each of the Application processing periods. [REDACTED]

**g. From Boston Pacific’s observation, were there any pre-qualification requirements which directly prevented bidder participation?**

[REDACTED] to our knowledge, there were no issues with the Part I application process that knowingly prevented a bidder from becoming approved. This was also true of all Part II applicants. [REDACTED]

[REDACTED]

[REDACTED]

**QUESTION 5:**

**From what Boston Pacific 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?**

**ANSWER 5: No.**

**AUCTION WEEK CRITERIA**

**a. Was protocol followed for the CIEP Auction?**

Yes, to our knowledge, the Auction was carried out according to the Auction Rules as approved by the Board.

**b. Were there problems with the electronic bidding process?**

No, there were no problems with the Auction software during testing and trials.

Boston Pacific had full opportunity to test NERA's bidding software, backup bidding process, and bid recording systems during three Trial Auctions. For the first Trial Auction on January 21, 2011 Boston Pacific assumed the role of a bidder and verified that bidders' accounts had access to the correct information. We tested the Auction software by submitting problematic bids to determine if the software operated according to the rules and provided proper information to bidders. We also tested NERA's backup bidding systems by submitting backup bids and creating situations to test NERA's bidder notification protocols. We found no major issues in our test.

For the second and third Trial Auctions, held on January 24<sup>th</sup> and January 27<sup>th</sup> 2011, Boston Pacific moved to the evaluation side. We monitored and evaluated bids submitted by the EDCs and NERA in the second Trial and by Registered Bidders in the third Trial. We received and tested bid reports from NERA's

software and formulated reports and checked price decrements using our own bid evaluation software.

During the Auction, Boston Pacific did not observe any software breakdowns.

**c. Was the back-up bidding process followed?**

Yes.

[REDACTED] Boston Pacific had tested the backup procedure during Trial Auctions. Further, Registered Bidders also had the opportunity to practice the back-up bid procedure during the Trial Auction for Registered Bidders on January 27, 2011.

**d. Did communications between bidders and the Auction Manager follow procedure?**

Yes, communications between bidders and the Auction Manager followed procedure.

Bidders were given two ways of communicating with the Auction Manager during the Auction. Bidders had a telephone number for technical assistance and they could also send electronic messages through the online platform. Both of these forms of communication were logged. All telephone conversations were taped and all electronic messages and the answers given by the Auction Manager were saved. Boston Pacific reviewed all telephone conversations and electronic messages.

**e. Were Auction schedule protocols followed with regard to extensions and recesses?**

Yes

[REDACTED]. In addition, bidders were given an automatic extension after round one. Bidders were warned that they still had to provide bids prior to the extension or they would lose an extension themselves.

**f. Did bidders communicate any material concerns to NERA?**

No.

**QUESTION 6:**

**From what Boston Pacific could observe, were protocols for communication between bidders and the Auction Manager adhered to?**

**ANSWER 6: Yes.**

**PRE-AUCTION CRITERIA**

**a. Was confidential information properly provided to bidders?**

Yes. Boston Pacific did not observe any release of confidential information or inappropriate communication that could impair the integrity of the Auction.

**b. Before the Part II Application deadline, were questions placed on the Auction website?**

Yes. The first FAQ was posted on the BGS website August 10, 2010. The Part II Application deadline was on January 13, 2011. There were a total of 156 questions posted by the Part II Application deadline. Additional questions asked by bidders were also answered by NERA following the Part II Application deadline.

**c. Were the communication protocols followed?**

Yes. [REDACTED]

**AUCTION WEEK CRITERIA**

**d. Was confidential information properly provided to bidders?**

Yes, the Auction Software was built to ensure that all participants had controlled access to Auction information. [REDACTED]

**e. Did communications between bidders and the Auction Manager follow procedure?**

Yes, please see the answer to 5d.

**QUESTION 7:**

**From what Boston Pacific could observe, were there any hardware or software problems or errors, either with the CIEP Auction system or with its associated communications systems?**

**ANSWER 7: No.**

**AUCTION WEEK CRITERIA**

**a. What problems, if any, were there with the Auction or communications system on NERA's end?**

Boston Pacific is unaware of any material issues with NERA's communication systems based on our review of electronic and voice communications.

**b. Did bidders experience any computer or communications problems that appeared to be the fault of NERA?**

No, all bids were successfully received by NERA.

**c. Was NERA aware of any material technical issues?**

No, NERA did not indicate any material technical issues. [REDACTED]

**d. Did bidders communicate any material concerns to NERA?**

No, please see 5f.

**QUESTION 8:**

**Were there any unanticipated delays during the CIEP Auction?**

**ANSWER 8: No.**

**QUESTION 9:**

**Did unanticipated delays appear to adversely affect bidding in the CIEP Auction? What adverse effects did Boston Pacific directly observe and how did they relate to the unanticipated delays?**

**ANSWER 9: No.**

**QUESTION 10:**

**Were appropriate data back-up procedures planned and carried out?**

**ANSWER 10: Yes.**

**AUCTION WEEK CRITERIA**

**a. Was Auction data backed-up during the Auction?**

According to the Auction Manager Protocols, NERA ensured that no Auction information would be lost if there was a problem with the Auction software during the Auction. [REDACTED]

**QUESTION 11:**

**Were any security breaches observed with the CIEP Auction process?**

**ANSWER 11: No.**

To our knowledge, there were no security breaches.

During the Auction, many security measures were in place. The Auction software used on bid day was built to ensure that all participants had controlled access to Auction data. [REDACTED]

Boston Pacific reviewed communications between NERA and bidders. [REDACTED]

**QUESTION 12:**

**From what Boston Pacific could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and Boston Pacific during the CIEP Auction?**

**ANSWER 12: Yes.**

**AUCTION WEEK CRITERIA**

**a. Were protocols followed as described by NERA?**

Yes. As far as Boston Pacific is aware, the Communication Protocols were followed during the Auction. Also, please see answer to 5d.

**b. Did BPU Staff and Boston Pacific get all the information that we required?**

Yes, Boston Pacific and BPU Staff received all data requested from NERA in a timely and professional fashion during the Auction.

**QUESTION 13:**

**From what Boston Pacific could observe, were the protocols followed for decisions regarding changes in CIEP Auction parameters (e.g., volume, load caps, bid decrements)?**

**ANSWER 13:** Yes.

**PRE-AUCTION CRITERIA**

**a. Were notable changes made to the decrement formulas?**

[REDACTED]

**AUCTION WEEK CRITERIA**

**b. During the Auction, did the Auction Manager impose any changes on the CIEP Auction parameters?**

Boston Pacific independently calculated the bid decrements including the switch to the second phase (regime) for decrement calculations.

The Auction Rules prescribe two different regimes of formulas for calculating the price decrements during the calculating phase of each round. The Auction Rules also give the conditions used to change from Regime One to Regime Two. Boston Pacific validated NERA's decision to switch from Regime One to Regime Two.


[REDACTED]

There were no volume reductions during the Auction. There were no changes to the load caps during the Auction.

**QUESTION 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?**

**ANSWER 14: Yes.**

  
Boston Pacific and NERA found no errors in the Auction software calculations.

**QUESTION 15:**

**Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the Auction?**

**ANSWER 15: No.**

There was no evidence of confusion or misunderstanding that caused delays; as noted, Boston Pacific reviewed all electronic and voice communications.

**QUESTION 16:**

**From what Boston Pacific could observe, were the communications between the Auction Manager and bidders timely and effective?**

**ANSWER 16: Yes.**

**AUCTION WEEK CRITERIA**

All answers to questions reviewed by Boston Pacific seemed relevant and clear. Again, Boston Pacific reviewed all electronic messages. In addition, Boston Pacific also reviewed the phone conversations between bidders and the Auction Manager.

Boston Pacific believes answers to bidders' questions were provided in a timely fashion, and NERA made all possible efforts to ensure bids were placed on time.

**QUESTION 17:**

**Was there evidence that bidders felt unduly rushed during the process? Should the Auction have been conducted more expeditiously?**

**ANSWER 17: No.**



Each bidder is permitted 1 recess request and 2 extension requests during the Auction. The Auction includes an automatic extension after round 1. [REDACTED] there was no indication [REDACTED] that bidders were rushed.

Through our review of electronic messages, there was no indication from bidders that they felt unduly rushed. Through our checks of phone calls, Boston Pacific also did not receive indication that bidders were unduly rushed. In addition, all bids were received by NERA.

Bidders were also able to test the Auction Software during the Trial Auction for Registered Bidders, and therefore were comfortable with it during the actual Auction.

**QUESTION 18:**

**Were there any complaints from bidders about the process that Boston Pacific believed were legitimate?**

**ANSWER 18: No.**

Boston Pacific believes there were no legitimate complaints about the Auction. That is, there were no questions raised by bidders that were not resolved.

**QUESTION 19:**

**Was the CIEP Auction carried out in an acceptably fair and transparent manner?**

**ANSWER 19: Yes.**

Speaking broadly, the New Jersey Auction is structured to be fair and transparent. The two key features in this regard are (a) the precisely defined product being solicited and (b) the price-only evaluation. These assure that all bidders are supplying the same product and no bidder can gain advantage over another except by offering a lower price. Because the product and evaluation method are clearly spelled out, any bidder that meets the qualification requirements may participate.

In addition, as approved by the BPU, the BGS Auction had several mechanisms in place to ensure a fair and transparent process.

All interested parties were given ample opportunity to comment on the 2011 BGS process. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2010. Furthermore, interested parties were also

invited to file initial comments and final comments by August 27, 2010 and October 1, 2010, respectively. The Board also held a Legislative-type hearing on September 21, 2010. Finally, the Board issued a procedural order on June 28, 2010 concerning the removal of the retail margin and the reduction of the CIEP threshold. Initial comments were due July 9, 2010, and final comments were due September 3, 2010 with a public hearing held on August 20, 2010. The Board then moved to remove the Retail Margin and lower the CIEP threshold to 750 kW on October 5, 2010.

Before the Auction began, the procedures were approved and made public. For instance, Auction rules were approved by the Board. Contracts and master agreements were standardized, approved, and made public before the Auction. Any optional changes in the language of these agreements were standardized, approved, and made public before the Auction as well. Finally, application and credit requirements to become a bidder in the BGS Auction were also standardized, approved, and made public before the Auction.

Bidder information sessions were held by the Auction Manager to educate potential bidders on the Auction process. They provided an opportunity for questions to be asked in a public forum. Any questions asked pertaining to the Auction were posted on the BGS Auction website. This FAQ section ensured that all bidders had equal access to information provided to any one bidder. Boston Pacific believes that they were helpful for bidders, as evidenced by the attendance at these sessions.

The Auction Manager consulted with Boston Pacific and BPU Staff concerning Part I and II Applications. [REDACTED]

[REDACTED] having the greatest number of bidders ensures healthy competition during the Auction, maximizing the potential for the lowest rates.

An additional factor helping the Auction is that it had been going on for several years and that its results have been constantly honored by the Board. This fairness and consistency of process helps attract more bidders and better offers.

Finally, the Auction was carried out in a fair and transparent manner in the sense that the Auction adhered to the Auction Rules. The Auction rules and the Auction Software were designed to produce a fair and transparent Auction. The rules were made public and approved by the BPU. The Auction Software assured that bidders received the correct information.

**QUESTION 20:**

**Was there evidence of non-productive “gaming” on the part of bidders?**

**QUESTION 21:**

**Was there any evidence of collusion or improper coordination among bidders?**

**QUESTION 22:**

**Was there any evidence of a breakdown in competition in the CIEP Auction?**

**ANSWER 20: No.**

**ANSWER 21: No.**

**ANSWER 22: No.**

Developing the information to answer these three questions and, more broadly, assessing the competitiveness of the BGS Auction was a central focus of our monitoring efforts. We assessed both structural and behavioral indicators of competitiveness in each round of bidding in both the FP Auction (which includes residential customers as well as some commercial customers) and the CIEP Auction (which includes larger commercial and industrial customers). Although we go into some detail here, these indicators are just that, indications of competitiveness; they are not hard and fast numerical standards.

Both structural and behavioral indicators give support for the specific answers provided to all three of these questions as well as support to the broader finding that the BGS Auction was competitive. Among the structural indicators were the number of bidders, the number of winners, the market share of winners, and a widely-used measure of competitiveness related to market shares called the Herfindahl-Hirschman Index (HHI).

[REDACTED]

This is a good number of bidders and the list includes many well-known participants in the U.S. electricity business. As a group, these suppliers offered to supply a number of tranches [REDACTED]

[REDACTED]. This excess in offers is important because any excess automatically results in the price decreasing round-by-round to the benefit of New Jersey consumers.

Of the suppliers who bid, 6 suppliers actually won the right to serve some portion of the New Jersey consumer need in the CIEP Auction. With respect to market

share of each winner, some background on standards is useful. Having a minimum of three suppliers is sometimes set as a standard of competitiveness. The BGS Auction rules assures this by limiting to approximately 35% the portion of statewide consumer need that can be won by any single supplier.

Another standard for judging market share comes from a FERC standard for granting the right for a supplier to sell at market-based prices (as opposed to regulated cost-based rates.) In one of two FERC threshold tests for granting the right to sell at market-based prices, FERC asks that the supplier have no more than a 20% share of the market. If the market share is 20% or less, it is presumed the supplier cannot exercise market power. If the market share exceeds 20%, the supplier can conduct an additional test or point to mitigation for market power, such as the mitigation measures and monitoring of the PJM Interconnection or the Midwest ISO – that is, the 20% is not a hard and fast limit to market-based rate authority.

Among the 6 winners in the CIEP Auction [REDACTED]  
[REDACTED].

The Herfindahl-Hirschman Index (HHI) is a measure of competitiveness closely related to market shares. Again, some background on the HHI standard is useful. The U.S. Department of Justice has a three-part standard for HHIs when judging the competitive effect of mergers and acquisitions – which it has just updated. An HHI below 1,500 is a safe harbor of sorts because the market is said to be un-concentrated. If, after a merger or acquisition, the HHI is below 1,500, it is generally thought that there is no competitive harm from the merger or acquisition; that is, the merger or acquisition does not make the exercise of market power more likely. An HHI between 1,500 and 2,500 is said to indicate moderate concentration. An HHI over 2,500 is said to indicate a highly concentrated market. FERC may update to use these same standards when it assesses mergers and acquisitions. For market-based rate authority, FERC already uses a threshold of 2,500 for the HHI in one of its standards.

For the CIEP Auction, [REDACTED]  
[REDACTED] This puts the HHI for the CIEP Auction slightly into the highly concentrated range of the DOJ’s HHI brackets and above the 2,500 level used by FERC as an additional standard for granting a supplier the right to charge market-based prices. However, to include only winning bidders is a narrow focus for calculating an HHI.

[REDACTED]

[REDACTED]

[REDACTED]

With respect to behavioral indicators, the core of this effort was to detect any sign of collusion among bidders. No evidence of collusion was found in the CIEP Auction.

[REDACTED]

**QUESTION 23:**

**Was information made public appropriately? From what Boston Pacific could observe, was sensitive information treated appropriately?**

**ANSWER 23: Yes.**

Yes, Pre-Auction information was treated appropriately pursuant to the communication protocols. Please see answers 6a-6c.

To our knowledge, no confidential information was leaked while the Auction was conducted. All suppliers, NERA, EDCs, and Boston Pacific signed confidentiality agreements.

[REDACTED]

**QUESTION 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?**

**ANSWER 24: Yes.**

Although the acceptance or rejection of Auction results is not based on any assessment of price levels, Boston Pacific attempted to develop an expectation of the final Auction prices [REDACTED].

Bidders who win the right to serve CIEP load must provide a full requirements product (i.e. energy, capacity, ancillary services, RPS requirements, etc.) and are paid their winning bid price, plus the spot energy price per MWh delivered plus \$6/MWh for ancillary services, plus the standby fee of \$0.15 per MWh.

Although CIEP is also a full requirements product, the Auction price primarily reflects a fixed price for the capacity portion of that service, since bidders are paid the spot energy price.

[REDACTED]

[REDACTED]

**QUESTION 25:**

**Were there factors exogenous to the CIEP Auction (e.g., changes in market environment) that materially affected the CIEP Auction in unanticipated ways?**

**ANSWER 25: No.**

**QUESTION 26:**

**Are there any concerns with the CIEP Auction's outcome with regard to any specific EDC(s)?**

**ANSWER 26: No**