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ANNUAL FINAL REPORT
ON THE
2020 BGS RSCP AND CIEP AUCTIONS

Presented to:

THE NEW JERSEY BOARD OF PUBLIC UTILITIES

Prepared By

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I. INTRODUCTION AND SUMMARY

Bates White, LLC (Bates White) served as the Advisor to the New Jersey Board of Public Utilities (Board or BPU) for the Basic Generation Service (BGS) Auctions held on January 31st, February 3rd and February 4th, 2020. Bates White personnel have performed this function in each of the previous thirteen years.[1] We are pleased to provide this Annual Final Report as required under our contract. The Board defined the purpose and content of this Annual Final Report as follows:

> The contractor shall submit... the annual report... including a summary of the auction process and all recommendations in accordance with the contract schedule… 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 and transparent and is consistent with market conditions. The Annual Report shall also include any recommendations on how to improve future BGS procurements.[2]

As the Board Advisor, we recommended that the Board certify the results of both the Residential Small Commercial Pricing (RSCP) and Commercial and Industrial Energy Pricing (CIEP) Auctions. Each Auction (a) was open, fair and transparent, (b) was sufficiently competitive, and (c) saw winning prices in line with market conditions. The Board certified the results of both Auctions on February 5, 2020. The most explicit evidence for the Board's certification decisions were the Post-Auction Checklists that we provided to the Board on February 4, 2020. These checklists, which are included in this report, contain a factual record of Auction results and answers to the questions about the conduct and results of each Auction.

Because of the important role that the checklists play, Bates White also provided supplemental checklists which explained in detail our reasons for the yes/no answers to the 26 questions in the official RSCP and CIEP checklists. These Supplemental Checklists are included in this report as well. We believe that the Post-Auction and Supplemental Checklists demonstrate the extensive scope of the analyses that underlie our work and support the Board's certification decisions.

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[1] Bates White personnel have extensive hands-on experience monitoring many of the major full requirements solicitations throughout the country, including solicitations for the District of Columbia, Illinois, Maryland, New Jersey, Ohio, Delaware, and part of Pennsylvania.

[2] The State of New Jersey Board of Public Utilities, "Request for Proposals for New Jersey Board of Public Utilities (BPU) Basic Generation Services (BGS) Auction Consulting and Monitoring," April 21, 2017, p. 10.

A. THE BGS RESIDENTIAL SMALL COMMERCIAL PRICING (RSCP) AUCTION

The BGS RSCP product is a 3-year, fixed price, load-following product that supplies the majority of New Jersey's residential and small commercial customers who decide not to choose a competitive third-party electric supplier. RSCP suppliers provide what is called a "full-requirements" product, which means that the product includes nearly all of the components (energy, capacity, ancillary services, etc.) necessary for the New Jersey Electric Distribution Companies (EDCs), to provide service to their ratepayers. Each RSCP supplier provides a fixed percentage of an EDC's residential and small commercial BGS load, whatever that amount turns out to be, as load varies over the course of the contract. This year, as in past years, the EDCs bid out roughly one-third of their RSCP supply needs for the period of June 1, 2020 to May 31, 2023. The remaining two-thirds of RSCP load for the upcoming June 2020 to May 2021 period will be served under contracts procured in the 2018 and 2019 BGS Auctions.

Bates White attended the BPU Board meeting in Trenton, New Jersey on February 5, 2020, one day after the close of the RSCP Auction, and recommended that the Board certify the results. Before getting into detail on our reasons for making this recommendation, it is constructive to step back and provide an overview of the Auction results.

RSCP Auction Results

Table 1 shows the winning prices in this year's RSCP Auction, as well as the winning prices from last year's Auction.

Table 1: Winning 2020 RSCP Prices Compared to 2019 Winning RSCP Prices

EDC	2020 Winning Price ¢/kWh	2019 Winning Price ¢/kWh	% Change
Atlantic City Electric	8.269	8.740	-5.4%
Jersey Central Power & Light	7.243	7.715	-6.1%
Public Service Electric & Gas	10.216	9.804	4.2%
Rockland Electric Company	8.242	8.803	-6.4%
Tranche Weighted Average	9.006	8.951	0.6%

Compared to last year, the winning price for Public Service Electric and Gas Company (PSE&G) increased by 4.2 percent due mainly to higher transmission costs, but the winning prices for each of the other three EDCs decreased between 5.4 percent and 6.4 percent, driven

mainly by decreasing energy prices. The overall tranche-weighted average price increased by 0.6.

Table 2 compares the prices of the new contracts to the prices of the expiring contracts procured three years ago. This comparison is the starting point for any discussion of rate impacts resulting from the RSCP Auction.

Table 2: Winning 2020 RSCP Prices Compared to Expiring Contracts from the 2017 RSCP Auction

EDC	2020 Winning Price ¢/kWh	2017 Winning Price ¢/kWh	% Change
Atlantic City Electric	8.269	7.549	9.5%
Jersey Central Power & Light	7.243	6.908	4.8%
Public Service Electric & Gas	10.216	9.078	12.5%
Rockland Electric Company	8.242	8.050	2.4%
Tranche Weighted Average	9.006	8.194	9.9%

The winning prices for all four EDCs are higher than the winning prices from the 2017 Auction. Increases range from 2.4 to 12.5 percent. Factors driving prices higher included increases in state Renewable Portfolio Standard (RPS) requirements and transmission costs. Transmission costs for PSE&G, already the highest of the four EDCs, increased significantly from last year, from $286.87/MW-day to $378.41/MW-day in this Auction. The effect of higher transmission costs is somewhat mitigated by the fact that energy prices have decreased.

Bill Impact

The starting point for assessing any rate impact is a comparison between winning prices in this Auction and the cost of expiring contracts. As shown above, 2020 winning prices were higher than 2017 winning prices, with increases ranging from 2.4 percent to 12.5 percent. This would lead us to expect rate increases, albeit on a smaller scale since the EDCs are only replacing one-third of their load and the average bill includes additional charges that are not determined by the RSCP auction.

Table 3 shows the estimated monthly bill impacts of the 2020 BGS-RSCP Auction as forecasted by the EDCs for a residential customer with an annual monthly average usage of 650 kWh.[3]

Table 3: Forecast Residential Monthly Bill Impacts from 2020 BGS-RSCP Auction

EDC	% Change in Monthly Bill
Atlantic City Electric	0.3%
Jersey Central Power & Light	2.4%
Public Service Electric & Gas	4.4%
Rockland Electric Company	-1.6%

As a result of this year's Auction, residential ratepayers for three of the four EDCs are forecast to see an increase in their estimated bill. Specifically, PSE&G forecasts a bill increase of 4.4%; Jersey Central Power & Light Company (JCP&L) forecasts a bill increase of 2.4%; and, Atlantic City Electric Company (ACE) forecasts a bill increase of 0.3%. Rockland Electric Company (RECO) forecasts a bill decrease of 1.6%.

Beyond the difference in the new and expiring contracts these changes were also affected by changes in network transmission rates over the years as well as changes in the annual multipliers used to convert the winning Auction prices to residential rates. These multipliers generally increased this year due to increased peak usage by residential customers which, in turn, allocates more cost to those customers.

Recommendation

Bates White recommended that the Board certify the results of the BGS-RSCP Auction 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. Below, we discuss each reason in detail.

Openness, Fairness and Transparency

Our first reason for recommending acceptance of the results of the 2020 RSCP Auction was that the Auction was open, fair and transparent. All of the non-price terms and conditions were standardized; therefore, all suppliers, including EDC affiliates, signed the same supply agreement and provided the same product. This allowed bid evaluation to be based solely on

[3] The calculation reflects the impact on a customer using 574 kWh in the winter for 8 months and 802 kWh in the summer for 4 months.

price. A price-only bid evaluation provides maximum transparency. In addition, all rules of participation and conduct were fully explained and fairly applied by the Auction Manager, NERA Economic Consulting (NERA).

This year, a particular challenge came from disruptions in the PJM Interconnection LLC (PJM) wholesale market. On July 25, 2019, the Federal Energy Regulatory Commission (FERC) responded to PJM's request for clarification by directing PJM not to conduct its auction for capacity for the June 2022-May 2023 delivery year. This order was part of a long period of debate concerning the participation of subsidized generation in federal capacity markets. This development was a concern for the BGS Auction since bidders use the capacity price from the PJM auction to price their offers in the BGS Auction. Because the 2020 RSCP product would cover the June 2022-May 2023 time period, the danger was that without a PJM capacity price, bidders would either not participate in the BGS Auction or include large risk premiums in their offer.

In reaction to this, on October 2, 2019, the EDCs filed a joint motion for an extension of the deadline for submission of final comments in the BGS proceeding. In the motion, the EDCs indicated that in light of recent actions taken by FERC, the EDCs intended to submit an amended filing, on or before October 8, 2019, proposing enhancements to address concerns related to unknown capacity prices for Energy Year (EY) 2023.

On October 8, 2019, the EDCs submitted a Supplemental Proposal related to the capacity price for EY 2023. In the Supplemental Proposal, to alleviate bidder uncertainty, the EDCs proposed to include a Capacity Proxy Price for each EDC for the 2022-2023 Delivery Year that bidders could incorporate into their bids, calculated by averaging the actual capacity prices for the last two (2) years for each EDC zone using the most recent data available from PJM, multiplied by a factor of 0.9 to account for the lower capacity prices seen in the 2019-2020 Delivery Year relative to previous years. Successful bidders would then either receive or pay a true-up to the actual price once it is known. The Board approved the EDC's proposal on November 13, 2019.

Given that the Auction saw solid participation and market-reflective prices, it appears that this was a positive decision.

In addition, the Auction Manager also kept potential bidders informed regarding the implementation of the 2018 Clean Energy Act. Prior to the 2020 BGS Auction, in August 2019 the Board adopted the amendments to New Jersey Administrative Code 14:8-2.3 to conform current RPS rules to provisions of the Clean Energy Act. These sections of the code were published in September 2019. The Auction Manager posted an example calculation using the approved method for calculating RPS requirements on the BGS website on January 28, 2020.

Based on the levels of participation and prices received it appears that bidders were able to understand and implement the approved calculation method and the Clean Energy Act did not ultimately create material uncertainty by the time of the Auction.

Fairness and transparency were also enhanced by the Auction Manager's proactive facilitation of full access to the process and results for the Board Advisor and Board Staff. As the Board Advisor, we, along with Board Staff, were actively involved in the full range of pre-auction tasks including, but not limited to, (a) the monitoring of bid information sessions, (b) the calculation of starting prices, and (c) the evaluation of Part 1 and Part 2 Applications. During the Auction itself we 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, winning prices, and to monitor bidding behavior. We also monitored incoming and outgoing communications with bidders.

In addition, Bates White reviewed all of the EDC RSCP Pricing spreadsheets and average bill calculation models and conducted testing with the models to ensure accuracy. Once winning prices were determined, we reviewed each EDC's calculation of the new projected rates and impact on average residential bills to ensure they were correct.

Competitiveness

Our second reason for recommending certification of the RSCP Auction results was that the Auction was sufficiently competitive. We assessed five indicators of 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, pushing prices down. It also makes it harder for bidders to carry out any collusive schemes. This year there were 14 registered bidders [redacted]. This is a healthy number of bidders for an auction of this size.

Second, we looked at the ratio of tranches offered to tranches needed at several points in the process. A tranche represents the obligation to serve a fixed percentage of an EDC's full requirements load, whatever that load turns out to be, in any hour.[4] Having excess tranches offered is important because the excess drives prices down as the Auction proceeds; the price for a given product "ticks down" (is decremented) only if there are excess tranches offered for that product. For that reason, we like to see bidders come in and stay in with the maximum number

[4] Each tranche was sized to be roughly 100 MW of the peak load of each EDC. Because each EDC has a different peak load, tranches for each EDC equate to a different percentage of each EDC's load.

of tranches offered through many rounds of bidding. [redacted] This points to the fact that all bidders stayed in the process for many rounds, driving prices lower and competing for supply. [redacted] All of the above supports the conclusion that this Auction was competitive.

Third, we looked at the number of winners. We like to see a large number of winners because it means that the auction was competitive, with multiple parties pushing down the price at the end. Having a large number of winners also signals to other participants that no one party is dominating the auction and that anyone can win, increasing the likelihood that winning bidders will return in future years. This year there were nine winners. This compares to eight winners last year and is a reasonable number of winners. Axpo U.S. LLC and Shell Energy North America (US), L.P. both were winners. This is a good sign of the transparency of the Auction [redacted].

Fourth, we analyzed the results using the Herfindahl-Hirschman Index, or HHI. HHI is based on the market shares of each participant (technically it is the sum of the squares of the market shares). The U.S. Department of Justice (DOJ) primarily uses a three-part standard for HHIs when judging the competitive effect of mergers and acquisitions. An HHI below 1,500 is a safe harbor of sorts because the market is said to be un-concentrated, meaning that 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 uses more conservative HHIs when analyzing mergers and acquisitions. FERC characterizes a market with an HHI below 1,000 as un-concentrated; HHIs between 1,000 and 1,800 indicate moderate concentration, and HHIs above 1,800 indicate a highly concentrated market.

Calculated with the market shares of just the winning suppliers for this year, the HHI was 1,299. This is lower than last year's HHI of 1,598 and is in the un-concentrated range by DOJ standards and below the mid-point of the moderately concentrated range by the more conservative FERC standards.

However, to include only winning bidders may be too narrow a focus for this exercise. A more appropriate focus would be to expand the calculation of the HHI to include all 13 suppliers

who will serve consumers from June 2020 to May 2021. This includes in the analysis the market shares of all winners in the 2018 and 2019 Auctions. The HHI calculated in this manner is 1,292. As shown by the table below, in general, the supplier pool has grown less concentrated in recent years.

Table 4: HHI in Recent RSCP Auctions

RSCP Auction Year	HHI for Winning Bidders	HHI for All Parties Serving Load
2012	1757	1773
2013	1838	1573
2014	1912	1533
2015	1739	1683
2016	1722	1620
2017	1463	1515
2018	1505	1307
2019	1598	1263
2020	1299	1292

Fifth, we also employed a method used by FERC in antitrust evaluations, which examines the HHI of a market when the price is within 5 percent of the final market price. This so-called "Delivered Price Test" gives a sense of what suppliers could have offered supply at a price level roughly consistent with market prices. [redacted]

In addition, we looked for signs of collusive or coordinated bidding behavior by closely examining all bids by all bidders on a round by round basis. Bidding behavior was also reviewed by our Auction Theory Expert, Professor Ken Hendricks of the University of Wisconsin, subsequent to the close of the Auction and before the results were certified. We found no evidence of any collusive or anti-competitive actions.[5]

Prices Consistent with Market Conditions

The third reason for recommending certification of the BGS RSCP Auction results was that winning prices were consistent with broader market conditions. Our primary test of prices

[5] 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.

involved comparing the winning prices with the predicted ranges from our Benchmark Pricing Model. [redacted] The output of the model is a range of prices that we consider reasonable. We created separate benchmark ranges for each EDC. Table 5 below shows our projections as compared to actual results.

Table 5: Winning RCP Prices compared to Expectations

2020 BGS Auction					
Product	Tranches Filled	Final Price (cents/kWh)	Price Expectation Range (cents/kWh)[1]		
			Average	Low	High
PSE&G	28	10.216	[redacted]		
JCP&L	15	7.243			
ACE	8	8.269			
RECO	2	8.242			
Total	**53**				
Average[2]		**9.006**			

[redacted]

[redacted] These results give us a great deal of confidence that winning prices were reflective of current market conditions. We note that the benchmark model utilized the proposed proxy capacity prices for the June 2022-May 2023 time period, so these results indicate that bidders also utilized these numbers in pricing their offers and did not add any additional risk premiums into their offers.

As noted above, comparing this year's average winning price to last year's average winning price we can see that, on average, prices increased 0.6 percent. Winning prices for three EDCs decreased between 5.4 percent and 6.4 percent, compared to last year's auction, driven by decreasing energy prices, while the winning price for PSE&G increased by 4.2 percent due mainly to higher transmission costs.

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

The BGS CIEP product is a one-year, load following, full requirements product for larger commercial and industrial customers. Each CIEP supplier provides a fixed percentage of an EDC's commercial and industrial load, whatever that amount turns out to be, as load varies over the contract period. The CIEP contract period runs from June 1, 2020 through May 31, 2021. Each year the EDCs bid out 100 percent of their CIEP supply needs.

Bates White recommended that the Board certify the results of the CIEP Auction. We used the same three criteria as in our recommendation for the RSCP Auction.

Fairness and Transparency

We believe the CIEP Auction was open, fair and transparent for the same reasons stated above for the RSCP Auction. Since the CIEP product did not cover the 2022-2023 PJM service year there was no need for a proxy price for this auction.

Competitiveness

We used the same five indicators of competitiveness as we did for the RSCP Auction. Note that the CIEP Auction is somewhat less competitive than the RSCP Auction. This is to be expected given the smaller amount of supply bid out.

- First, there were eight registered bidders [redacted]
- Second, the excess quantity offered was sufficient. [redacted]

[redacted]

- Third, five [redacted] bidders were winners in the Auction. This is the same number of winners as last year with four of the five also having won last year.

- Fourth, the HHI using the market shares of the winning bidders was 2,552, [redacted]

- Fifth, we, along with our Auction Theory Expert, reviewed the round-by-round results and found no evidence of collusion or anti-competitive behavior.

Prices Consistent with Market Conditions

Before discussing price, we note that the CIEP price is not like the RSCP price. Winning bidders in the CIEP Auction provide a similar full requirements product but are paid the spot market price for providing energy, $6/MWh for providing ancillary services, and a standby fee of $0.15/MWh. The price bidders offer into the CIEP Auction is meant to cover (a) the cost of capacity and (b) the cost of meeting New Jersey's RPS.

[redacted] a rough benchmark for the CIEP product [redacted]

[redacted]

[redacted]

[redacted]

C. LONG-TERM COMPETITIVENESS

In an effort to provide the Board with a longer-term look at the competitiveness of the RSCP Auction, we provide a review of Auction participation over the last several years. Our findings are in the tables below. [redacted]

[redacted]

[redacted]

To further examine long term competitiveness, we looked at trends in both Auction participation and winning bidders. [redacted]

[redacted]

[redacted]

[redacted] we can make several observations. [redacted] These metrics indicate a very competitive process. Second, the Auction continues to attract new bidders [redacted]

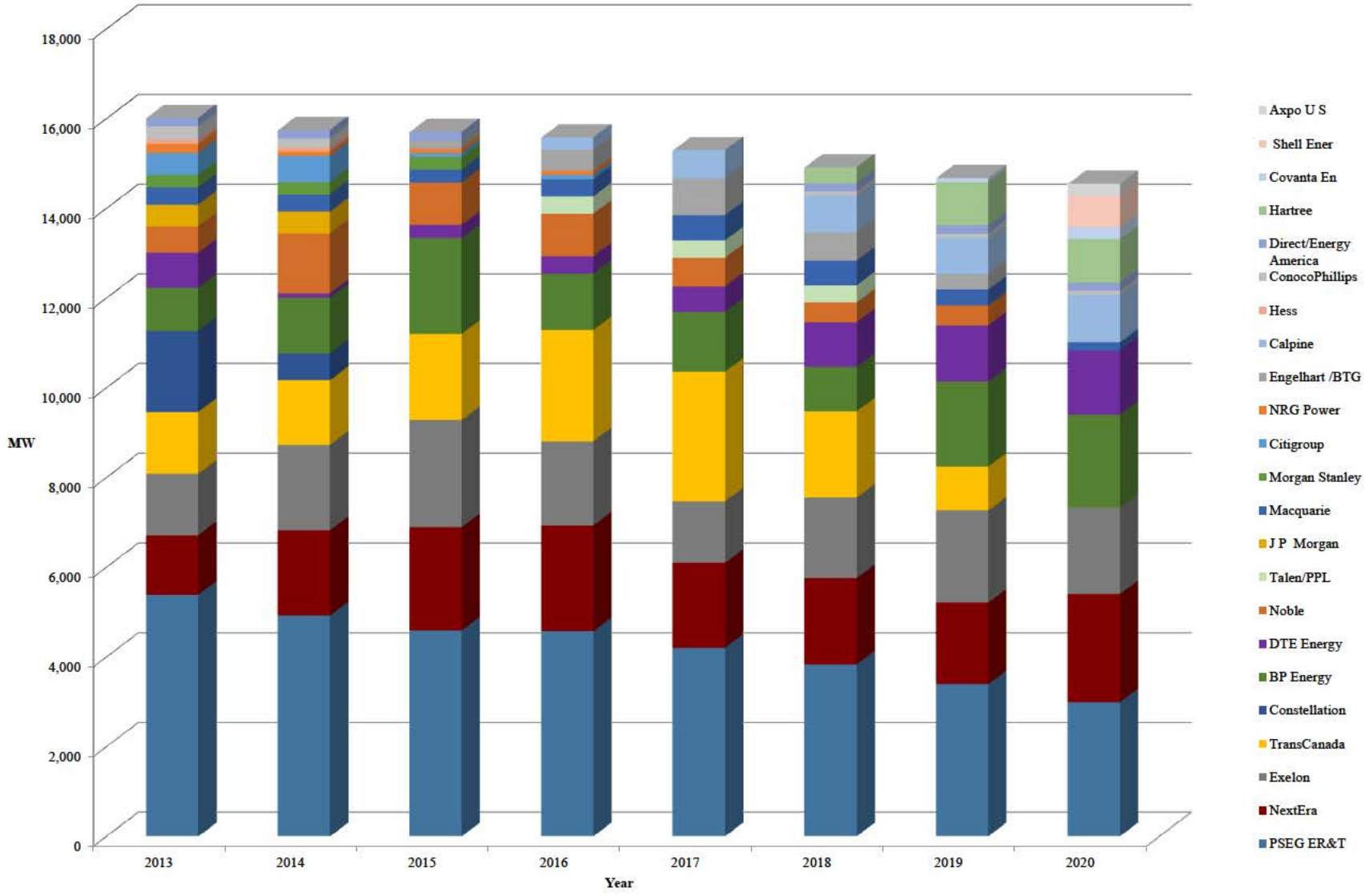
[redacted] and bidders returning after an absence [redacted] This is a good indicator of the transparency of the Auction process. Third, [redacted]

In terms of who is supplying the BGS-RSCP product, we looked at trends in RSCP winners. Figure One displays how much load each supplier served for each energy year (i.e., June-May period) from 2013-2014 to 2020-2021.[6] The columns then map out the growth or decline in load share through the energy years.

From this figure we see that 23 different suppliers have provided (or will provide) supply to RSCP ratepayers over the period 2013-2014 to 2020-2021. For the 2020-2021 year, 13 suppliers will provide RSCP service. PSEG Energy Resources & Trade has been the largest supplier over that period and will serve approximately 21% of the RSCP load in the upcoming year. Other bidders have made significant inroads over the last few years, notably BP Energy, and NextEra.

[6] Our calculations here are based solely on the winning bidders from each Auction and do not account for mergers, such as the Exelon-Constellation merger, or any contracts that were subsequently assigned or sold to other parties.

Figure One
Estimated MW of RSCP Energy Served, by Supplier



D. RECOMMENDATIONS

In this section we present recommendations that we believe will assist the BPU going forward. As a primary goal, these recommendations are our attempt to make sure that the BGS Auction continues to serve the needs of New Jersey's ratepayers.

At this point we have no specific recommendations for the Auction process itself. The major concern we have relates to PJM's continuous efforts to redesign its capacity market, a process we addressed in our report last year. The redesign was driven by concerns that resources which receive state subsidies were participating in and artificially lowering the price of capacity in PJM's RPM capacity auction.

PJM submitted two proposals to deal with the issue in April of 2018. Two months later, in June 2018, FERC rejected both proposals and also declared the current set of rules unjust and unreasonable. Having rejected the proposals put forward by PJM, FERC instituted a paper hearing with the objective of concluding the proceeding by January 2019. On April 10, 2019, with no Order forthcoming, PJM filed a motion for clarification, asking FERC to allow it to run the auction under its existing tariff, using the rate deemed unjust and unreasonable in June 2018. On July 25, 2019, FERC issued an order, which directed PJM not to conduct its auction for capacity for the June 2022-May 2023 delivery year. As a result of this Order this year's BGS Auction was conducted with a "proxy" price for capacity in the June 2022-May 2023 delivery year.

On December 19, 2019, FERC issued an order to resolve the issue. Specifically, the order directed substantial changes to the Minimum Offer Price Rule (MOPR) and eligibility of resources to participate in the BRA for capacity. The MOPR is a price screen that can set a floor price in the capacity auction for resources that PJM deems to be receiving a state subsidy. Having reestablished rules for the capacity market, the order further directed PJM to provide revised dates and timelines for the BRA and related incremental auctions for the 2022-2023 delivery year, along with revised dates and timelines for the BRA for the 2023-2024 delivery year, as necessary. FERC gave PJM 90 days to submit its compliance filing in this proceeding.

On March 18, 2020, PJM filed the required compliance filing. PJM proposed a schedule with two key components: (1) the first two weeks after the order on the compliance filing would serve as an initial adjustment and preparation period for PJM and stakeholders, with no pre-auction deadlines; and (2) the next six months would include a condensed version of the existing pre-auction schedule. PJM proposed that a FERC order on the compliance filing in mid-May would enable PJM to run the 2022-2023 Delivery Year auction no later than December 2020, unless a state utilized a contingency clause that would push the auction to no later than March 31, 2021. PJM

also proposed a four and a half month pre-auction schedule for the BRAs for each of the three succeeding Delivery Years, with 6 weeks break between the auctions, for a total of six months between each succeeding auction. Ultimately, PJM proposes to post the specific schedule for the 2022-2023 BRA and subsequent RPM Auctions consistent with the above description by the later of June 15, 2020, or 14 days after a Commission order accepting the compliance filing.

PJM initially proposed a slightly extended comment period on the compliance filing, until April 22. Given the events of the global pandemic associated with the COVID-19 virus (Coronavirus), the Public Utility Commission of Ohio requested a lengthy extension of time for the filing of comments in this proceeding. FERC extended the deadline until May 15, 2020. In doing so, FERC effectively eliminated the possibility of a December 2020 auction envisioned in the PJM compliance filing.

Moreover, on April 16, 2020, FERC issued orders on rehearing of the December 19, 2019 Order, which established PJM's compliance obligation. FERC largely denied rehearing, but did make certain statements, clarifications, and grants of rehearing that necessitated a further compliance filing by PJM. FERC ordered PJM to provide this further compliance filing within 45 days of the order, or June 1, 2020. This order will require public comment, which may also be extended due to the global pandemic. Given these additional details, it is now, *at best*, likely that FERC would issue its order on the compliance filing by mid-July 2020.

Bates White, in consultation with Staff is monitoring this situation. In case PJM is not able to conduct the 2022-2023 or the 2023-2024 RPM auction prior to the February 2021 bid day – something that appears increasingly likely - Bates White and Staff will work the EDC's and possibly potential suppliers regarding any actions to take going forward.

An additional concern relevant to our monitoring of these auctions comes from FERC's denial of rehearing for its MOPR Order. In denying this rehearing FERC made a point that it will consider default service auctions, like the BGS Auction, to be "state subsidies." Specifically, FERC stated:

> We deny rehearing and clarification requests regarding state default service auctions. State default service auctions meet the definition of State Subsidy to the extent they are a payment or other financial benefit that is a result of a state-sponsored or state-mandated process and the payment or financial benefit is derived from or connected to the procurement of electricity or electric generation capacity sold at wholesale, or an attribute of the generation process for electricity or electric generation capacity sold at wholesale, or will support the construction, development, or operation of a capacity resource, or could have the effect of allowing a resource to clear in any PJM auction. If these auctions are truly

> competitive, as parties assert, and a winning resource wishes to offer below the default offer price floor for its resource type, the resource may demonstrate that its costs are competitive through the Unit-Specific Exemption, or qualify for another exemption elaborated on in the December 2019 Order. Nor do we find it meaningful that the New Jersey Basic Generation Service auction is voluntary or used by power marketers because a state default service auction qualifies as a State Subsidy because it is a state- sponsored process and includes indirect payments to the resource.[7]

The BGS Auction does not accept bids from specific resources, however the concern here is that bidders with portfolios that include generating resources may not want to offer into the Auction for fear of having those resources mitigated in the capacity auction through the MOPR. We will monitor this situation and the effect on default service procurements and advise if additional measures are needed.

In addition, BGS suppliers have expressed concerns regarding the disparity in timing between the BGS suppliers' payments to PJM for transmission costs and the receipt of payments for such costs from the EDCs. BGS suppliers, unlike suppliers in most restructured states, are expected to provide network transmission service. Costs for transmission have been rising in recent years. When suppliers offer into the Auction they are presented a baseline price for transmission to use in bidding. Section 15.9 of the Supplier Master Agreement (SMA) allows for suppliers to receive additional payments to match the approved cost of the service as the cost may change over the term of the SMA. However, such cost increases can only be paid to suppliers upon the issuance of a final FERC Order not subject to refund. This has led to delays since several cost increases have been appealed. Recognizing this issue, the Board Order approving the 2020 Auction, dated November 13, 2019, directed Staff to work with the EDCs on the issue of transmission prior to the 2021 BGS Auction proposals in an attempt to find a resolution to this problem. As directed, we are continuing to work with Staff and parties on this issue and hope to have a proposed resolution soon.

[7] Order on Rehearing and Clarification, Issued April 16, 2020, Docket EL16-49-002, page 185.

I. THE NEW JERSEY 2020 BGS-RSCP AUCTION

A. POST-AUCTION CHECKLIST

ATTACHMENT B
DOCKET NO. ER19040428

POST-AUCTION CHECKLIST
FOR THE NEW JERSEY 2020 BGS-RSCP AUCTION

Prepared by: Bates White, LLC

Auction began with the opening of Round 1 at 8:25 am on Monday, Feb. 3, 2020

Auction finished with the close of Round 22 at 10:20 am on Tuesday, Feb. 4, 2020

	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	[redacted]	NA	NA
Tranche target	53	NA	NA
Eligibility ratio	[redacted]	NA	NA
PSE&G load cap	13	NA	NA
JCP&L load cap	7	NA	NA
ACE load cap	3	NA	NA
RECO load cap	2	NA	NA
Statewide load cap	20	NA	NA

* Note: No volume adjustment was made during the RSCP auction, so the pre-auction tranche target and the statewide load cap were unchanged for the auction.

ATTACHMENT B
DOCKET NO. ER19040428

Post-Auction Checklist for the New Jersey 2020 BGS-RSCP Auction

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

Table 8. Summary of BGS-RSCP Auction

	PSE&G	JCP&L	ACE	RECO	Total
BGS-RSCP peak load share (MW)	2,496.30	1,230.53	688.33	171.42	4,586.58
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	25.0	
Tranche size (approximate MW)	89.15	82.04	86.04	85.71	
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–RSCP load)	100%	100%	100%	100%	100%
# Winning bidders	7	4	6	1	9
Maximum # of tranches procured from any one bidder	7	7	2	2	9
Minimum and maximum starting prices prior to indicative bids (cents/kWh)					12.5 18.0
Starting price at start of auction (cents/kWh) *	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Final auction price (cents/kWh) **	10.216	7.243	8.269	8.242	9.006

* 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. ER19040428

Post-Auction Checklist for the New Jersey 2020 BGS-RSCP Auction

Table 9. Overview of Findings on BGS-RSCP Auction

	Question	Comments
1	**BW's recommendation as to whether the Board should certify the RSCP auction results?**	**Yes, certify**
2	Did bidders have sufficient information to prepare for the RSCP 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 RSCP auction that created material uncertainty for bidders?	No
5	From what BW could observe, were there any procedural problems or errors with the RSCP auction, including the electronic bidding process, the back-up bidding process, and communications between bidders and the Auction Manager?	No
6	From what BW could observe, were protocols for communication between bidders and the Auction Manager adhered to?	Yes
7	From what BW could observe, were there any hardware or software problems or errors, either with the RSCP auction system or with its associated communications systems?	No
8	Were there any unanticipated delays during the RSCP auction?	No
9	Did unanticipated delays appear to adversely affect bidding in the RSCP auction? What adverse effects did BW 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 RSCP auction process?	No

	Question	Comments
12	From what BW could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and BW during the RSCP auction?	Yes
13	From what BW could observe, were the protocols followed for decisions regarding changes in RSCP 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 RSCP 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 BW 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 BW believed were legitimate?	No
19	Was the RSCP 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 RSCP auction?	No
23	Was information made public appropriately? From what BW could observe, was sensitive information treated appropriately?	Yes
24	Does the RSCP auction appear to have generated a result that is consistent with competitive bidding, market-determined prices, and efficient allocation of the BGS-RSCP load?	Yes

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

B. BATES WHITE SUPPLEMENTAL CHECKLIST

BATES WHITE SUPPLEMENT TO NEW JERSEY BGS AUCTION CHECKLIST: RSCP AUCTION

QUESTION 1:
Bates White's recommendation as to whether the Board should certify the RSCP 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 RSCP 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: the first was held on October 3, 2019, the second on December 3, 2019, and the third was held January 21, 2020. All sessions were conducted as webcasts. As a result, bidder confidentiality was maintained.

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 was complete and was restricted to Registered Bidders only. Because the session was conducted as a webcast NERA was able to conduct just one session for both RSCP and CIEP bidders.

Twelve companies attended the first information session and 13 companies attended the second information session. Between the two sessions, 16 unique companies attended. The slide decks and audio from both sessions were posted on the BGS Auction website. 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 31, 2020, 148 questions had been asked by bidders since August 13, 2019, the first day FAQs were posted. All of these questions were answered in a timely fashion by NERA. The topics of questions included: (a) Applications, (b) Association and Confidential Information Rules, (c) Auction Rules, (d) BGS Supplier Master Agreement, and specifically section 15.9, (e) Pre-Auction Security and Credit, (f) Rates and (g) Data. NERA provided responses to all of these questions, which seemed to satisfy bidders.

Answers to FAQs were posted publicly on the BGS website through late January. Starting on January 18, 2020, the Auction Manager sent answers to questions received only to Registered Bidders via email. Bates White 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 Auction information listed below was provided according to the schedule posted by NERA. This information included: (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 descriptions of both types of data. This data room helped bidders prepare their bids. Examples of the data posted here included (a) load data, which was updated monthly for each EDC and covered the period up to October 2019 or later, and (b) switching statistics that showed the percentage of load and number of customers that have switched to third party suppliers. Any revisions made to the data were marked on the website.

NERA also posted models which translated potential winning prices for each EDC into customer rates. As we did last year, Bates White conferred with each EDC to go over their rate models and average bill calculations. We audited each sheet posted on the website to ensure it was correct and double-checked the EDCs calculation of rate and average bill impacts resulting from the actual 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?

Please see answer to 2b.

f. Were bidders given an opportunity to provide proposals and comments concerning the 2020 Auction Process?

Yes. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2019. Interested parties were also invited to file initial comments and final comments by September 4, 2019 and October 25, 2019, respectively. The Board also held a legislative-type hearing on September 19, 2019.

Due to the fact that PJM has yet to establish a capacity price for the June 2022 to May 2023 period, the EDCs submitted a Supplemental Proposal on October 8, 2019. In this Proposal the EDCs established a capacity proxy price for the time period in question. Under an addendum to the Supplier Master Agreement winning bidders in the RSCP Auction would be paid any difference between the final capacity price and these proxy prices. Parties were able to comment on this filing in their October 25 comments.

After reviewing all comments from the EDCs and other interested parties, the Board approved the Joint EDC Proposal for the 2020 BGS Auction, including the Supplemental Proposal.

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?

No.

QUESTION 4:
Were there any issues and questions left unresolved prior to the RSCP 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 18, 2020 directly responded to by NERA?

Yes, questions continued to be asked by Registered Bidders after January 18, 2020 and NERA provided answers to these questions directly to bidders via email. These answers were distributed regularly beginning on January 18, 2020. Bidders did not indicate any concerns with the answers provided by NERA. Also, please see answer to 2b.

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

No questions about the Auction were left unresolved by the start of the Auction.

One concern for bidders was the implementation of the Clean Energy Act and the responsibilities of winning suppliers in the BGS Auction. The 2018 Clean Energy Act significantly increased RPS requirements for suppliers. Of greater concern to potential BGS suppliers was that the Act exempted existing supply contracts from increases in the solar RPS requirement and required non-exempt contracts to make up this missing supply. Prior to the 2019 BGS Auction the BPU held hearings regarding the implementation of this requirement and BPU Staff developed a proposed method to allocate avoided solar RPS increases to non-exempt contracts. The Board approved a method in December of 2018.

Subsequent to the 2019 BGS Auction, on August 2019 the Board adopted the amendments to New Jersey Administrative Code14:8-2.3 to conform current RPS rules to provisions of the Clean Energy Act. These sections of the code were published on September 2019. The Auction Manager posted an example calculation using the approved method on the BGS website on January 28, 2020.

Based on the levels of participation and prices received it appears that bidders were able to understand and implement the approved calculation method and the Act did not ultimately create material uncertainty by the time of the Auction.

In addition, on July 20, 2019, the Federal Energy Regulatory Commission (FERC) issued an order directing PJM Interconnection, LLC (PJM), to not conduct its auction for capacity for the June 2022-May 2023 delivery year. This order was the end result of a long period of debate concerning the participation of subsidized generation in federal capacity markets. On October 2, 2019, the EDCs filed a joint motion for an extension of the deadline for submission of final comments in this matter. In the letter, the EDCs indicated that in light of recent actions taken by FERC, the EDCs intended to submit an amended filing, on or before October 8, 2019, proposing enhancements to the proposal to address concerns related to unknown capacity prices for EY 2023.

On October 8, 2019, the EDCs submitted the Supplemental Proposal related to the capacity price for EY 2023. In the Supplemental Proposal, the EDCs proposed a change to the EDC's Initial Proposal to address the fact that the capacity price for the third year for the BGS-RSCP Auction was not likely to be known prior to the start of the BGS-RSCP Auction. The EDCs explained that if the capacity price is unknown for the 2022/2023 Delivery Year, bidders were likely to include risk premiums in their bids, and some potential bidders may choose to not participate in the BGS-RSCP Auction altogether. To address this and alleviate bidder's uncertainty, the EDCs proposed to include a Capacity Proxy Price for each EDC for the 2022/2023 Delivery Year that bidders can incorporate into their bids, calculated by averaging the actual capacity prices for the last two (2) years for each EDC zone using the most recent data available from PJM, multiplied by a factor of 0.9 to account for the lower capacity prices seen in the 2019/2020 Delivery Year relative to previous years. The Board approved the EDC's proposal on November 13, 2019.

Bates White also monitored various industry news sources and did not discover any other events that would produce material uncertainty for bidders.

d. Did bidders communicate any material concerns to NERA?

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 posted on the BGS Auction website and emailed to all bidders, and email 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 supply offered in excess of need is what drives Auction prices to "tick down" (i.e. decrease) from round to round.

NERA conducted direct marketing with potential bidding companies through an email distribution list and phone calls. The list of contacts was developed from existing contact lists and from participants that registered for information on the BGS Auction website. This outreach effort began prior to the first information session. NERA also advertised the bidding opportunity by running four ads in Platts publications, two in *Megawatt Daily* on November 20, 2019 and December 3, 2019 and two in *Energy Trader* on November 19, 2019 and December 4, 2019.

The Auction Manager consulted with Bates White during each of the application processing periods. [redacted]

g. From Bates White's observation, were there any pre-qualification requirements which directly prevented bidder participation?

[redacted]

QUESTION 5:
From what Bates White could observe, were there any procedural problems or errors with the RSCP Auction, including the electronic bidding process, the back-up bidding process, and communications between bidders and the Auction Manager?

ANSWER 5: No.

AUCTION WEEK CRITERIA

a. Was protocol followed for the RSCP Auction?

Yes, to our knowledge, the Auction was carried out according to the Auction Rules as approved by the Board and NERA's internal protocols.

b. Were there problems with the electronic bidding process?

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

Bates White had full opportunity to test NERA's bidding software, backup bidding process, and bid recording systems during two Trial Auctions. For the first Trial Auction on January 21, 2020, Bates White 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 phone-based backup bidding systems by submitting backup bids and creating situations to test NERA's bidder notification protocols. [redacted]

For the second Trial Auction, held on January 23, 2020, Bates White moved to the evaluation side. We traveled to the site of the Auction, in Newark, NJ, to test the actual processes that would be used during the Auction. We monitored and evaluated bids submitted by Registered Bidders. We received and tested bid reports from NERA's software, formulated reports, and checked price decrements using our own bid evaluation software.

During the actual Auction, Bates White did not observe any significant software problems.

c. Was the back-up bidding process followed?

Yes. [redacted] Further, Registered Bidders also had the opportunity to practice the back-up bid procedure during the Trial Auction for Registered Bidders on January 23, 2020.

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. Bates White 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.

f. Did bidders communicate any material concerns to NERA?

No.

QUESTION 6:
From what Bates White 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. Bates White did not observe any release of confidential information or inappropriate communication that could impair the integrity of the Auction.

b. Before the Part 2 Application deadline, were questions placed on the Auction website?

Yes. The first FAQ was posted on the BGS website August 13, 2019. The Part 2 Application deadline was on January 9, 2020, by which time there were a total of 111 questions posted and answered. Additional questions asked by bidders were also answered by NERA following the Part 2 Application deadline. See also the answer to 2b.

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]

[redacted]

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

Yes, please see the answer to 5d.

QUESTION 7:
From what Bates White could observe, were there any hardware or software problems or errors, either with the RSCP 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?

Bates White is unaware of any material issues with NERA's communication systems based on our presence in the Auction room and 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.

d. Did bidders communicate any material concerns to NERA?

Bidders did not communicate any material technical concerns to NERA.

QUESTION 8:
Were there any unanticipated delays during the RSCP Auction?

ANSWER 8: No.

QUESTION 9:
Did unanticipated delays appear to adversely affect bidding in the RSCP Auction? What adverse effects did Bates White 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?

[redacted] 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 RSCP 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]

Bates White reviewed communications between NERA and bidders. [redacted]

QUESTION 12:
From what Bates White could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and Bates White during the RSCP Auction?

ANSWER 12: Yes.

AUCTION WEEK CRITERIA

a. Were protocols followed as described by NERA?

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

b. Did BPU Staff and Bates White get all the information that we required?

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

QUESTION 13:
From what Bates White could observe, were the protocols followed for decisions regarding changes in RSCP Auction parameters (e.g., volume, load caps, bid decrements)?

ANSWER 13: Yes.

PRE-AUCTION CRITERIA

a. Were notable changes made to the decrement formulas?

NERA made adjustments to the decrement formulas of all EDC's except RECO, based on last year's bidding, in order to ensure a smooth and more uniform price reduction during the auction.

AUCTION WEEK CRITERIA

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

[redacted]

QUESTION 14:
Were the calculations (e.g., for bid decrements or bidder eligibility) produced by the RSCP Auction software double-checked or reproduced off-line by the Auction Manager?

ANSWER 14: Yes.

[redacted]

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, Bates White reviewed all electronic and voice communications.

QUESTION 16:
From what Bates White could observe, were the communications between the Auction Manager and bidders timely and effective?

ANSWER 16: Yes.

AUCTION WEEK CRITERIA

All answers to questions Bates White was able to review seemed relevant and clear. Again, Bates White reviewed all FAQs and electronic messages. In addition, Bates White also reviewed the phone conversations between bidders and the Auction Manager.

Bates White 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.

The Auction proceeded smoothly. The 2020 RSCP Auction ended after 22 rounds, which compares to 24 rounds last year and 23 the year before.

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 from bidders that they felt unduly rushed. [redacted]

Note that bidders were 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 Bates White believed were legitimate?

ANSWER 18: No.

Bates White believes there were no legitimate complaints about the Auction. That is, we are not aware of any questions raised by bidders that were not resolved.

QUESTION 19:
Was the RSCP 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 ensure that all bidders are supplying the same product and no bidder can gain an 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 Board, 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 2020 BGS process. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2019. Furthermore, interested parties were also invited to file initial comments and final comments by September 4, 2019 and October 25, 2019, respectively. The Board also held a legislative-type hearing on September 19, 2019.

Before the Auction began, the rules and contracts were approved and made public. Auction rules were approved by the Board. Contracts and Supplier 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 as FAQs. This FAQ section ensured that all bidders had equal access to information provided to any one bidder.

The Auction Manager consulted with Bates White and BPU Staff concerning Part 1 and 2 Applications. [redacted]

An additional factor boosting the competitiveness of the Auction is that this is the 19th year it has been held and its results have been consistently certified by the Board. This stability helps attract more bidders and better offers.

Finally, the Auction was also 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 Board. The Auction software ensured 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 RSCP 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 the RSCP Auction (which solicits supply for residential customers as well as some small commercial 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 shares 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. [redacted] Having new and returning bidders speaks well to the quality of the bidding opportunity. [redacted] This level of participation also shows that the Board's decision to approve the EDCs supplemental filing and institute a capacity proxy price for the June 2022 to May 2023 period was an effective one.

[redacted] This excess of offers is important because it is the excess that results in the price decreasing round-by-round, to the benefit of New Jersey ratepayers. [redacted]

[redacted], nine actually won the right to serve some portion of the New Jersey RSCP load. This compares to eight winners last year. [redacted]

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 help ensure at least three winners by limiting to approximately one-third (20 tranches) the portion of statewide consumer need that can be won by any single supplier. In addition, bidders are limited in the amount of supply they can win in each EDC's service territory (RECO excepted) such that there will always be at least three winners per EDC.

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 nine winners in the RSCP Auction, none of the bidders have a market share over 20%. NextEra and PSEG Energy Resources & Trade (ER&T) have the highest market share with each winning 17.0% of the supply offered in this Auction. Looking at all suppliers who will provide BGS-RSCP supply over the June 2020 to May 2021 period (i.e., including winners from the 2018 and 2019 BGS Auctions), only PSEG ER&T has a market share over 20% at 20.7%.

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 primarily uses a three-part standard for HHIs when judging the competitive effect of mergers and acquisitions. 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. For market-based rate authority, FERC already uses a threshold of 2,500 for the HHI in one of its standards.

For the RSCP Auction, using the winning shares as market shares, the HHI is 1,299. This puts the HHI for the RSCP Auction in the un-concentrated range. This is lower than last year's HHI of 1,598. However, to include only winning bidders is a narrow focus for calculating an HHI. For example, a more appropriate focus would be the 13 suppliers who will serve consumers in 2020-2021; these are the winners in 2018 and 2019, as well as in this 2020 Auction.

The HHI in this case would be 1,292. This compares to an HHI of suppliers who served customers for 2019-2020 of 1,263.

A final method that is also employed by FERC in antitrust evaluations examines the HHI of a market when the price is within 5% of the final market price. This so-called "Delivered Price Test" gives a sense of what suppliers would have participated at a price level roughly consistent with market prices. [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 RSCP Auction. Bates White and its Auction expert, Professor Ken Hendricks [redacted] we detected no evidence of explicit coordination of bidding.

QUESTION 23:
Was information made public appropriately? From what Bates White 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 Bates White signed confidentiality agreements. [redacted]

In addition, Bates White reviewed communication between all Auction personnel and bidders; we had access to communications sent to all bidders through the online platform and recordings of calls between NERA and bidders. Moreover, the Auction is held in a secure, separate suite of offices.

QUESTION 24:
Does the RSCP Auction appear to have generated a result that is consistent with competitive bidding, market-determined prices, and efficient allocation of the BGS-RSCP load?

ANSWER 24: Yes.

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

[redacted]

[redacted]

2020 BGS Auction					
Product	Tranches Filled	Final Price (cents/kWh)	Price Expectation Range (cents/kWh)[1]		
			Average	Low	High
PSE&G	28	10.216	[redacted]		
JCP&L	15	7.243			
ACE	8	8.269			
RECO	2	8.242			
Total	53				
Average[2]		9.006			

[redacted]

[redacted]

Comparing this year's average final price to last year's average final price of 8.951 cents/kWh, we can see that, on average, prices increased 0.6%. Winning prices for three EDC's decreased between 5.4% and 6.4% compared to last year's auction, driven by decreasing energy prices, while the winning price for PSE&G increased by 4.2% due mainly to higher transmission costs.

From a rate impact standpoint, as a starting point, we generally compare the winning prices in this Auction to the contracts that are being replaced. In this case that would be contracts from the 2017 BGS Auction. For all utilities, winning prices were higher than 2017 winning prices, ranging from 2.4% to 12.5% higher. Prices are higher due to increases in RPS requirements and transmission costs while energy prices have come down in part to mitigate these increases.

Overall three EDCs forecast an increase in the average residential bill for the upcoming June to May period. Specifically, PSE&G forecasts a bill increase of 4.4%; JCP&L forecasts a bill increase of 2.4%; ACE forecasts a bill increase of 0.3% and RECO forecasts a bill decrease of 1.6%. Beyond the difference in the

new and expiring contracts these changes were also affected by changes in network transmission rates over the years as well as changes in the annual multipliers used to convert the winning Auction prices to residential rates. These multipliers changed due to increase peak usage by residential customers which, in turn, allocates more cost to those customers.

QUESTION 25:
Were there factors exogenous to the RSCP Auction (e.g., changes in market environment) that materially affected the RSCP Auction in unanticipated ways?

ANSWER 25: No.

No, please see the answer to 24.

QUESTION 26:
Are there any concerns with the RSCP Auction's outcome with regard to any specific EDC(s)?

ANSWER 26: No.

II. THE NEW JERSEY 2020 BGS-CIEP AUCTION

A. POST-AUCTION CHECKLIST

ATTACHMENT B
DOCKET NO. ER19040428

POST-AUCTION CHECKLIST FOR THE NEW JERSEY
2020 BGS-CIEP AUCTION

Prepared by: Bates White, LLC

Auction began with the opening of Round 1 at 8:25 am on Friday, January 31, 2020

Auction finished with the close of Round 24 at 4:30 pm on Friday, January 31, 2020

	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	[redacted]	NA	NA
Tranche target	41	NA	NA
Eligibility ratio	[redacted]	NA	NA
Statewide load cap	19	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. ER19040428

Post-Auction Checklist for the New Jersey 2020 BGS-CIEP Auction

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

Table 1. Summary of BGS-CIEP Auction

	PSE&G	JCP&L	ACE	RECO	Total
BGS-CIEP peak load share (MW)	1,826.05	896.16	313.00	58.40	3,093.61
Total tranches needed	24	12	4	1	41
Starting tranche target in auction	24	12	4	1	41
Final tranche target in auction	24	12	4	1	41
Tranche size (%)	4.17	8.33	25.00	100.00	
Tranche size (approximate MW)	76.09	74.68	78.25	58.40	
Starting load cap (# tranches)	--	--	--	--	19
Final load cap (# tranches)	--	--	--	--	19
Quantity procured (# tranches)	24	12	4	1	41
Quantity procured (% BGS-CIEP load)	100%	100%	100%	100%	100%
# Winning bidders	5	4	2	1	5
Maximum # of tranches procured from any one bidder	7	7	3	1	15
Minimum and maximum starting prices prior to indicative bids ($/MW-day)					550 700
Starting price at start of auction ($/MW-day)*	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Final auction price ($/MW-day)**	359.98	321.00	350.55	383.31	348.22

* 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. ER19040428

Post-Auction Checklist for the New Jersey 2020 BGS-CIEP Auction

Table 2. Overview of Findings on BGS-CIEP Auction

	Question	Comments
1	**BW's recommendation as to whether the Board should certify the CIEP auction results?**	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 BW 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 BW could observe, were protocols for communication between bidders and the Auction Manager adhered to?	Yes
7	From what BW 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 BW 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 BW could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and BW during the CIEP auction?	Yes
13	From what BW 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 BW 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 BW 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 BW 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

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

B. BATES WHITE SUPPLEMENTAL CHECKLIST

BATES WHITE SUPPLEMENT TO NEW JERSEY BGS AUCTION CHECKLIST: CIEP AUCTION

QUESTION 1:
Bates White'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: the first was held on October 3, 2019, the second on December 3, 2019, and the third was held January 21, 2020. All sessions were conducted as webcasts. As a result, bidder confidentiality was maintained.

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 was complete and was restricted to Registered Bidders only. Since the session was conducted via webcast, NERA was able to conduct just one session for both RSCP and CIEP bidders.

Twelve companies attended the first information session and 13 companies attended the second information session. Between the two sessions, 16 unique companies attended. The slide decks and audio from both sessions were posted on the BGS Auction website. 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 31, 2020, 148 questions had been asked by bidders since August 13, 2019, the first day FAQs were posted. All of these questions were answered in a timely fashion by NERA. The topics of questions included: (a) Applications, (b) Association and Confidential Information Rules, (c) Auction Rules, (d) BGS Supplier Master Agreement, and specifically section 15.9, (e) Pre-Auction Security and Credit, (f) Rates and (g) Data. NERA provided responses to all of these questions, which seemed to satisfy bidders.

Answers to FAQs were posted publicly through late January. Starting on January 18, 2020, the Auction Manager sent answers to questions received regularly to Registered Bidders via email. Bates White 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 Auction information listed below was provided according to the schedule posted by NERA. This information included: (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 descriptions of both types of data. This data room helped bidders prepare their bids. Examples of the data posted here included (a) load data, which was updated monthly for each EDC and covered up to at least October 2019, and (b) switching statistics that showed the percentage of load and number of customers that have switched to third party suppliers. Any revisions made to the data were marked on the website.

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.

f. Were bidders given an opportunity to provide proposals and comments concerning the 2020 Auction Process?

Yes. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2019. Interested parties were also invited to file initial comments and final comments by September 4, 2019 and October 25, 2019, respectively. The Board also held a legislative-type hearing on September 19, 2019.

Due to the fact that PJM has yet to establish a capacity price for the June 2022 to May 2023 period, the EDCs submitted a Supplemental Proposal on October 8, 2019. In this Proposal the EDCs established a capacity proxy price for the time period in question. Under an addendum to the Supplier Master Agreement winning bidders in the RSCP Auction would be paid any difference between the final capacity price and these proxy prices. Parties were able to comment on this filing in their October 25 comments. This issue did not impact the CIEP Auction since the product only covered the June 2020 through May 2021 period.

After reviewing all comments from the EDCs and other interested parties, the Board approved the Joint EDC Proposal for the 2020 BGS Auction, including the Supplemental Proposal.

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?

No, there were no adjustments to this schedule.

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 starting on or about January 18, 2020 directly responded to by NERA?

Yes, questions continued to be asked by Registered Bidders after January 18, 2020 and NERA provided answers to these questions directly to bidders via email. These answers were distributed regularly beginning on January 18, 2020. Bidders did not indicate any concerns with the answers provided by NERA. Also, please see answer to 2b.

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

One concern for bidders was the implementation of the Clean Energy Act and the responsibilities of winning suppliers in the BGS Auction. The 2018 Clean Energy Act significantly increased RPS requirements for suppliers. Of greater concern to potential BGS suppliers was that the Act exempted existing supply contracts from increases in the solar RPS requirement and required non-exempt contracts to make up this missing supply. Prior to the 2019 BGS Auction the BPU held hearings regarding the implementation of this requirement and BPU Staff developed a proposed method to allocate avoided solar RPS increases to non-exempt contracts. The Board approved a method in December of 2018.

Subsequent to the 2019 BGS Auction, on August 2019 the Board adopted the amendments to New Jersey Administrative Code14:8-2.3 to conform current RPS rules to provisions of the Clean Energy Act. These sections of the code were published on September 2019. The Auction Manager posted an example calculation using the approved method on the BGS website on January 28, 2020.

Based on the levels of participation and prices received it appears that bidders were able to understand and implement the approved calculation method and the Act did not ultimately create material uncertainty by the time of the Auction.

Bates White also monitored various industry news sources and did not discover any other events that would produce material uncertainty for bidders. As noted

above, the failure of PJM to establish a capacity price for the June 2022-May 2023 period, while important for the RSCP Auction, was not a factor in this Auction due to the time period covered by the CIEP product.

d. Did bidders communicate any material concerns to NERA?

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 posted on the BGS Auction website and emailed to all bidders, and email 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 operates such that the greater the excess supply, the further prices can decrease. Supply offered in excess of need directly drives the Auction price to "tick down" (decrease).

NERA conducted direct marketing with potential bidding companies through an email distribution list and phone calls. The list of contacts was developed from existing contact lists and from participants that registered for information on the BGS Auction website. NERA also advertised the bidding opportunity by running four ads in Platts publications, two in *Megawatt Daily* on November 20, 2019 and December 3, 2019 and two in *Energy Trader* on November 19, 2019 and December 4, 2019.

The Auction Manager consulted with Bates White during each of the Application processing periods. [redacted]

g. From Bates White's observation, were there any pre-qualification requirements which directly prevented bidder participation?

[redacted]

QUESTION 5:
From what Bates White 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 major problems with the Auction software during testing or trials.

Bates White had full opportunity to test NERA's bidding software, backup bidding process, and bid recording systems during two Trial Auctions. For the first Trial Auction on January 21, 2020, Bates White 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 phone-based backup bidding systems by submitting backup bids and creating situations to test NERA's bidder notification protocols. [redacted]

For the second Trial Auction, held on January 23, 2020, Bates White moved to the evaluation side. We traveled to the site of the Auction, in Newark, NJ to test the actual processes that would be used during the Auction. We monitored and evaluated bids submitted by Registered Bidders. 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 actual Auction, Bates White did not observe any software problems.

c. Was the back-up bidding process followed?

Yes, [redacted] Further, Registered Bidders also had the opportunity to practice the back-up bid procedure during the Trial Auction for Registered Bidders on January 23, 2020.

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. Bates White reviewed all telephone conversations and electronic messages.

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

Yes. There were no extensions requested by bidders.

f. Did bidders communicate any material concerns to NERA?

No.

QUESTION 6:
From what Bates White 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. Bates White did not observe any release of confidential information or inappropriate communication that could impair the integrity of the Auction.

b. Before the Part 2 Application deadline, were questions placed on the Auction website?

Yes. The first FAQ was posted on the BGS website August 13, 2019. The Part 2 Application deadline was on January 9, 2020 by which time there were a total of 111 questions posted and answered. Additional questions asked by bidders were also answered by NERA following the Part 2 Application deadline. See also the answer to 2b.

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 Bates White 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?

Bates White is unaware of any material issues with NERA's communication systems based on our presence in the Auction room and 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.

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 Bates White 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?

[redacted] 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]

[redacted]

Bates White reviewed communications between NERA and bidders. [redacted]

QUESTION 12:
From what Bates White could observe, were protocols followed for communications among the EDCs, NERA, BPU staff, the Board (if necessary), and Bates White during the CIEP Auction?

ANSWER 12: Yes.

AUCTION WEEK CRITERIA

a. Were protocols followed as described by NERA?

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

b. Did BPU Staff and Bates White get all the information that we required?

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

QUESTION 13:
From what Bates White 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?

Adjustments were made to decrement formulas for three of the four EDCs. These were done based on interest expressed by bidders in order to keep the Auction running smoothly.

AUCTION WEEK CRITERIA

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

No.

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.

[redacted] Bates White 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, Bates White reviewed all electronic and voice communications.

QUESTION 16:
From what Bates White 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 Bates White seemed relevant and clear. Again, Bates White reviewed all electronic messages. In addition, Bates White also reviewed the phone conversations between bidders and the Auction Manager.

Bates White 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.

In general, NERA's decrement formulas made this year's CIEP Auction proceed smoothly [redacted].

The 2020 CIEP Auction ended after 24 rounds, which compares to 27 rounds last year. [redacted]

Each bidder is permitted 1 recess request and 2 extension requests during the Auction. The Auction design also features an automatic extension after Round 1. [redacted]

[redacted] there were also no indications from bidders that they felt unduly rushed. [redacted]

Note that bidders were 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 Bates White believed were legitimate?

ANSWER 18: No.

Bates White believes there were no legitimate complaints about the Auction. That is, we are not aware of any 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 ensure that all bidders are supplying the same product and no bidder can gain an 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 Board, 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 2020 BGS process. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2019. Furthermore, interested parties were also invited to file initial comments and final comments by September 4, 2019 and October 25, 2019, respectively. The Board also held a legislative-type hearing on September 19, 2019.

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 as FAQs. These FAQs ensured that all bidders had equal access to information provided to any one bidder.

The Auction Manager consulted with Bates White and BPU Staff concerning Part 1 and 2 Applications. [redacted]

An additional factor boosting the competitiveness of the Auction is that this is the 19th year that it has been held and its results have been consistently certified by the Board. This stability helps attract more bidders and better offers.

Finally, the Auction was also 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 Board. The Auction software ensured 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 the CIEP Auction (which targets 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 an acceptable number of bidders for an auction this size. [redacted]

[redacted]

[redacted]

Five of the seven bidders won the right to serve at least some portion of the New Jersey CIEP consumer need. The biggest winner was Exelon, who won 15 tranches (seven for PSE&G, seven for JCP&L and one for ACE). Last year's process saw five winners with the largest supplier (ConocoPhillips) winning 13 tranches.

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 five winners in the CIEP Auction, two had a market share over 20% (Exelon and DTE won 37%, and 24%, respectively). The other three winners had a market share below 20%.

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. 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. 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, using the winning shares as market shares, the HHI is 2,552. This puts the HHI for the CIEP Auction just barely in the concentrated range of the DOJ's HHI brackets.

However, to include only winning bidders is a narrow focus for calculating an HHI. A broader method that is also employed by FERC in antitrust evaluations examines the HHI of a market when the price is within 5% of the final market price. This so-called "Delivered Price Test" gives a sense of what suppliers would have participated at a price level roughly consistent with market prices. [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. Bates White and its auction expert, Professor Ken Hendricks of the University of Wisconsin, [redacted] we detected no evidence of explicit coordination of bidding.

QUESTION 23:
Was information made public appropriately? From what Bates White 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 Bates White signed confidentiality agreements. [redacted]

In addition, Bates White reviewed communication between all Auction personnel and bidders; we had access to communications sent to all bidders through the online platform and recordings of calls between NERA and bidders. Moreover the Auction is held in a secure, separate suite of offices.

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, Bates White 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.) to CIEP customers. Winning bidders 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, and the cost of meeting the State RPS. Bidders are paid the PJM spot energy price to cover the energy portion of the service. [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.