

HIGHLY CONFIDENTIAL

ANNUAL FINAL REPORT  
ON THE  
2014 BGS FP AND CIEP AUCTIONS  
AND THE 2014 RECO SWAP RFP

Presented to:

THE NEW JERSEY BOARD OF PUBLIC UTILITIES

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## I. INTRODUCTION AND SUMMARY

Boston Pacific Company, Inc. served as the Advisor to the New Jersey Board of Public Utilities (Board) for the Basic Generation Service (BGS) Auctions held in February 2014, as we have for the previous seven years. 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.<sup>1</sup>

It is essential for the Board to have as much information as possible about the Auctions at the time it makes its decision on certification. As the Board Advisor, we recommended that the Board certify both the Fixed Price (FP) and Commercial and Industrial Energy Pricing (CIEP) Auctions. The most explicit evidence for the Board's certification decisions were the Post-Auction Checklists that we provided to the Board on February 12, 2014. These checklists contain (a) a factual statement of Auction results and (b) answers to the questions about the conduct and results of each Auction. Because of the important role that the checklists play, Boston Pacific also provided what we termed a "Supplemental Checklist" which explained in detail our reasons for the yes/no answers to the 26 questions in the official FP and CIEP checklists for the BGS Auction. These Supplemental Checklists are included in this report. We believe that they show the extensive depth and breadth of the analyses that underlie our work and the Board's certification decisions.

In addition, as part of our work as the Board Advisor we monitored a RFP in January which procured an energy price hedge for customers of Rockland Electric Company (RECO). We recommended that the Board accept the results of this RFP. This RECO RFP is also discussed in this report after our discussions of the FP and CIEP Auctions.

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<sup>1</sup> New Jersey Department of the Treasury, "Request for Proposal 13-X-22552 For: Management Consulting: Oversight of BPU Basic Generation Service Auction Process," May 24, 2012, 18.

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

The BGS FP product is a 3-year, fixed price, load-following product that supplies the majority of New Jersey’s residential and small commercial customers. FP suppliers provide what is called a ‘full-requirements service product’, which means that the product includes essentially all of the components necessary for the Electric Distribution Companies (EDCs) to provide electricity service to their ratepayers. Each FP supplier provides a fixed percentage of an EDC’s residential and small commercial load, whatever that amount turns out to be, as load varies over the course of the contract. This year the EDCs bid out one-third of their FP supply needs; the rest will be served under contracts procured in the 2012 and 2013 BGS Auctions.

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

### Auction Results

Table One shows the estimated monthly bill impacts of the 2014 BGS-FP Auction as forecast by the EDCs for a monthly usage of 650 kWh.

**Table One**  
**Forecast Monthly Bill Impact from 2014 BGS-FP Auction**

| EDC                           | Percent<br>Change in<br>Monthly Bill |
|-------------------------------|--------------------------------------|
| Atlantic City Electric        | (-2.75%)                             |
| Jersey Central Power & Light  | (-1.70%)                             |
| Public Service Electric & Gas | 1.1%                                 |
| Rockland Electric Company     | (-0.7%)                              |

As a result of this year’s Auction, residential ratepayers of three of the four New Jersey EDCs, Atlantic City Electric (ACE), Jersey Central Power & Light (JCP&L) and RECO, will see average bill decreases of between 0.7 percent and 2.75 percent. In contrast, residential ratepayers of Public Service Electric & Gas (PSE&G) will see an average bill increase of 1.1 percent.

These rate changes are primarily caused by replacing expiring contracts, procured in the 2011 BGS-FP Auction, with contracts procured in this Auction. Table Two compares the prices of the new contracts to the prices of the expiring contracts.

**Table Two**  
**Winning FP Prices Compared to Expiring Contracts from 2011 Auction**

| EDC                           | 2014 Winning Price<br>(cents/kWh) | 2011 Winning Price<br>(cents/kWh) | % Change |
|-------------------------------|-----------------------------------|-----------------------------------|----------|
| Atlantic City Electric        | 8.780                             | 10.095                            | (-13.0%) |
| Jersey Central Power & Light  | 8.444                             | 9.256                             | (-8.8%)  |
| Public Service Electric & Gas | 9.739                             | 9.430                             | 3.3%     |
| Rockland Electric Company     | 9.561                             | 10.684                            | (-10.5%) |
| Tranche-Weighted Average      | 9.221                             | 9.528                             | (-3.2%)  |

Winning prices for ACE, JCP&L, and RECO are down between 8.8 percent and 13.0 percent as compared to the contracts from 2011 that are being replaced. This decrease was expected, given that both energy prices and capacity prices are lower as compared to three years ago. As a result, these three EDCs forecast rate decreases, as shown above.

In contrast, winning prices for PSE&G are actually 3.3 percent more expensive than the expiring contracts from 2011. The main driver of these higher prices is an increase in the cost of transmission service in PSE&G's territory – BGS suppliers must cover these costs in their bid. PSE&G has seen its transmission rates more than double since 2011 as it has implemented a number of large-scale projects.

Table Three compares this year's winning prices to winning prices in last year's FP Auction.

**Table Three**  
**Winning FP Prices Compared to 2013 Winning FP Prices**

| EDC                           | 2014 Winning Price<br>(cents/kWh) | 2013 Winning Price<br>(cents/kWh) | % Change |
|-------------------------------|-----------------------------------|-----------------------------------|----------|
| Atlantic City Electric        | 8.780                             | 8.727                             | 0.6%     |
| Jersey Central Power & Light  | 8.444                             | 8.370                             | 0.9%     |
| Public Service Electric & Gas | 9.739                             | 9.218                             | 5.7%     |
| Rockland Electric Company     | 9.561                             | 9.258                             | 3.3%     |
| Tranche-Weighted Average      | 9.221                             | 8.872                             | 3.9%     |

Compared to last year's winning prices, winning bid prices for all EDCs increased anywhere from 0.6 percent to 5.7 percent. [REDACTED]

[REDACTED] these effects added up to a small price increase for all EDCs as compared to last year. Note that PSE&G saw a larger price increase than the other EDCs, 5.7 percent, primarily due to increases in the cost of transmission.

Again, as Board Advisor, Boston Pacific recommended that the Board certify these results of the BGS-FP Auction. We made that recommendation for three primary reasons which we now discuss: (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.

### **Openness, Fairness and Transparency**

Our first reason for recommending acceptance of the FP Auction is that it was open, fair and transparent. All of the non-price terms and conditions were standardized, all suppliers signed the same supply agreement and provided the same product. This allowed bid evaluation to be done purely on the basis of price. A price-only bid evaluation is the ultimate in transparency. Also, all the rules of participation and conduct were fully explained and fairly applied by the Auction Manager (NERA).

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

### **Competitiveness**

Our second reason for recommending certification of the FP Auction results was that the Auction was sufficiently competitive. We assessed 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 [REDACTED] registered bidders, [REDACTED]. This is a healthy number of bidders for an auction of this size [REDACTED]

Second, we looked at the ratio of the quantity of tranches offered to the quantity actually needed at several points in the Auction 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.<sup>2</sup> Having excess tranches offered is important because it drives prices down as the Auction proceeds; the price for a given product “ticks down” (is decremented) if and 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 of tranches offered through many rounds of bidding. [REDACTED]

[REDACTED]

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<sup>2</sup> Each tranche was sized to be about 75 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 that EDC’s load.

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 sends signals to other participants that no one party is dominating the Auction, that anyone can win, and it increases the likelihood of these bidders returning in future years. This year there were eight winners, as compared to eight last year and eleven winners two years ago. Eight winners [REDACTED] supports our conclusion that the process was sufficiently competitive.

Fourth, we analyzed the results using the Herfindahl-Hirschman Index, or HHI, which is based on the market shares of each participant. 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, 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 1,912. This is similar to last year's HHI of 1,838 and is in the moderately concentrated range by DOJ standards and the highly concentrated range by the more conservative FERC standards. If we expand the market to also include winners in the previous two auctions – to include market shares of all suppliers for the upcoming energy year – the HHI is 1,533, a slight decrease from the HHI of suppliers who served customers for 2013-2014, which was 1,573. These scores are near the DOJ's 1,500 safe harbor score (indicating an un-concentrated market) and in FERC's moderately concentrated range.

A related method that is also employed in FERC antitrust evaluations examines the HHI of market shares when the price in the market is raised by five percent. This so-called "Delivered Price Test" gives a sense of what suppliers could offer into a market at a price level roughly consistent with market prices. [REDACTED]

Fifth, we looked for signs of collusive or coordinated bidding behavior. [REDACTED]



[REDACTED]  
[REDACTED] We found no evidence of any collusive or anti-competitive actions.<sup>3</sup>

**Prices Consistent with Market Conditions**

The third reason for recommending certification of the BGS FP Auction results was that winning prices were consistent with broader market conditions. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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

We created separate benchmark ranges for each utility. Each of the four winning prices were within our benchmark ranges [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] These results give us a great deal of confidence that winning prices were consistent with market conditions.

Taking a broader view, coming into the Auction we expected that prices would generally be lower as compared to the contracts that are being replaced due to decreases in energy and capacity costs. Energy prices have decreased since 2011, mainly due to the development of shale gas supply. Capacity costs, which are set by PJM’s Reliability Pricing Model (RPM) Auction decreased as the result of rolling off the high prices of the June 2013-May 2014 supply period and replacing them with relatively lower prices in the June 2016-May 2017 period.

Generally speaking, our expectations were met. For three of the EDCs we saw prices drop between 8.8 and 13.0 percent as compared to their 2011 winning prices. The exception was PSE&G, which saw energy and capacity price decreases more than offset by increases in its

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<sup>3</sup> Had we detected any collusive behavior in the Auction we did have the power to call a recess and discuss the issue with the Auction Manager and Staff.

FERC-approved cost of transmission.<sup>4</sup> PSE&G's transmission rate, inclusive of credits that account for the socialization of some costs across PJM, rose from \$62.65/MW-Day in 2011 to \$152.66/MW-Day. Overall, PSE&G's winning price in the BGS-FP Auction was up 3.3 percent as compared to 2011.

PSE&G's transmission rates have increased dramatically over the past several years as the utility has undertaken several major projects. Table Four below shows the cost of network integration transmission service (NITS) from 2008 to 2014 for all four EDCs. The data in this table comes from communications from the EDCs and the Auction Manager to registered bidders in the BGS FP Auction. The rates represent the "baseline" transmission rates in the Supplier Master Agreement that all winning bidders will sign. Note that these costs are net of credits that account for the socialization of costs across PJM.

**Table Four**  
**EDC Transmission Rates in BGS-FP Auction**  
**(\$/MW-Day)**

| <b>EDC</b> | <b>2008</b> | <b>2009</b> | <b>2010</b> | <b>2011</b> | <b>2012</b> | <b>2013</b> | <b>2014</b> |
|------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| PSE&G      | 48.30       | 49.47       | 58.14       | 62.65       | 76.94       | 115.85      | 152.66      |
| JCP&L      | 41.40       | 41.40       | 41.40       | 41.40       | 41.40       | 41.40       | 41.40       |
| ACE        | 54.63       | 57.10       | 68.33       | 83.18       | 75.94       | 73.79       | 78.15       |
| RECO       | 87.98       | 87.98       | 87.98       | 87.98       | 87.98       | 87.98       | 87.98       |

According to filings with FERC, PSE&G's transmission rate base has increased from about \$1.8 billion in October 2011<sup>5</sup> to about \$4 billion in December 2013.<sup>6</sup> Consequently, as shown above, PSE&G's rates have almost doubled since the 2012 Auction and tripled as compared to the 2008 Auction. Transmission costs now represent almost as large a share of PSE&G's FP price as do capacity costs. We estimate that transmission costs make up about 15 percent of PSE&G's 2014 BGS price on average, or \$14.80/MWh (1.48 cents/kWh).

<sup>4</sup> New Jersey's BGS-FP product is unusual in that bidders must include the cost of network integration transmission service in their bids. In other jurisdictions this cost is covered by the EDC.

<sup>5</sup> "Informational Filing Public Service Electric and Gas Company: 2012 Formula Rate Modified Annual Update," Docket No. ER09-1257-000, submitted to Federal Energy Regulatory Commission, October 17, 2011, 2.

<sup>6</sup> "Informational Filing Public Service Electric and Gas Company: 2014 Formula Rate Modified Annual Update," Docket No. ER09-1257-000, submitted to Federal Energy Regulatory Commission, December 13, 2013, 2.

Looking forward, there is little chance that transmission rates will come down. Several major projects are underway or proposed, including the Susquehanna-Roseland project and Energy Strong. Just recently PJM's Regional Transmission Expansion Plan (RTEP) approved a double-circuit 345kV project in northern New Jersey to prevent short circuits. The cost of this project is expected to be \$1.2 billion, though that cost is likely to be reduced since it will be socialized among PJM members and, according to PJM, will remove the need for other projects.<sup>7</sup>

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

The BGS CIEP product is a 1-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. Each year the EDCs bid out one hundred percent of their CIEP supply needs.

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

### **Fairness and Transparency**

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

### **Competitiveness**

We used the same five indicators of competitiveness as we did for the FP Auction. While we still concluded that it was adequately competitive, based on these indicators the CIEP Auction is somewhat less competitive than the FP Auction. This is to be expected given the smaller amount of supply bid out.

- First, there were [REDACTED] registered bidders, [REDACTED]  
[REDACTED]

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<sup>7</sup> See, for example, PJM Staff, *Transmission Expansion Advisory Committee (TEAC) Recommendations to the PJM Board*, December 11 2013, pp. 2, 9.

- Second, the excess quantity offered was low but adequate. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] As we discuss in more detail later, [REDACTED]  
[REDACTED] we would recommend increasing the CIEP load cap in future auctions.
- Third, [REDACTED] five bidders were winners in the Auction. This is one less winner than last year's Auction.
- Fourth, the HHI using the market shares of just the winning bidders was 2,504, [REDACTED]  
[REDACTED]  
[REDACTED]
- Fifth, we, along with our Auction Expert, [REDACTED] 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 FP price. Winning bidders in the CIEP Auction provide a similar full requirements service 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 they offer into the CIEP Auction is meant to essentially 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]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

**C. THE ROCKLAND ELECTRIC COMPANY SWAP RFP**

This year Rockland Electric Company (RECO) conducted a separate RFP to procure price hedges for its non-PJM load within New Jersey, just as it did last year. Boston Pacific recommended that the Board certify the results of the RECO RFP held on January 28, 2014. This RFP successfully procured one product – a single bundle of standardized, financially-settled bilateral “fixed for floating” futures transactions for energy for the 2014-2015 energy year, to be settled through the NYMEX exchange. As a result, RECO essentially fixed a price for the expected energy needs of its customers outside of PJM.

The RFP started with an opening price and continued for ten minutes. During this time bidders could see their bids, see the lowest current bid price, and submit as many bids as they wanted. When time expired the lowest-priced bidder was declared the winner. [REDACTED]

[REDACTED] the winning price was \$50.85/MWh [REDACTED]

In recommending approval of this procurement we used the same three criteria as in our recommendations for the BGS Auction: (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 is a discussion of the results of this RFP.

[REDACTED]

### **Fairness and Transparency**

We believe the RECO procurement was open, fair and transparent for essentially the same reasons as the FP and CIEP Auctions. First, the procurement was for a well-defined, familiar, exchange-cleared product with a winner selected solely on the basis of price. Second, all the rules of participation and conduct were fully explained and fairly applied by the Auction Manager (World Energy, Inc.), who provided us and Board Staff full access to all information we needed to review and evaluate the RFP including real-time bidding data.

Of note here is that the RFP was originally scheduled for January 21, but was postponed because the BPU Board Agenda Meeting set for the following day, where the BPU would accept or reject the winning bid, was cancelled due to heavy snowfall. RECO did not want to ask the winning bidder to hold open its bid for more than 24 hours, so it rescheduled the bid day for January 28th. We agreed with the decision, and the postponement was communicated to bidders effectively. There was no evidence that this decision had any negative effects on the outcome of the RFP.

### **Competitiveness**

We used three of the same indicators of competitiveness as we did for the BGS Auctions. We found the product to be competitive.

- [REDACTED]  
[REDACTED] This [REDACTED] is a good number of bidders [REDACTED]
- Second, there was one winner for the single product bid out.
- Third, we reviewed the auction results and found no evidence of collusion or anti-competitive behavior.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**D. LONG-TERM COMPETITIVENESS**

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

[REDACTED]

**Table Five**  
**[TABLE REDACTED]**

[REDACTED]

To further examine long term competitiveness, we looked at trends in both Auction participation and New Jersey’s BGS market suppliers. [REDACTED]

[REDACTED]

**Table Six**  
**[TABLE REDACTED]**

[REDACTED] we can make at least four observations. First, [REDACTED] Both of those metrics indicate a very competitive process. Second, bidders are able to leave the process one year and re-enter later [REDACTED] This is a good sign of the transparency of the Auction. Third, [REDACTED] [REDACTED] [REDACTED] Fourth, some merger activity has removed bidders from the Auction. [REDACTED] [REDACTED]

In terms of who is supplying the BGS-FP product, we looked at trends in FP winners. Figure One, below, displays how much load each supplier served for each energy year (i.e. June-May period) from 2008 to 2014.<sup>9</sup> Each column in Figure One is organized from the bottom up from 2008's largest supplier to its smallest supplier; newer suppliers are added on top as they begin supplying. The columns then map out the growth or decline in load share through the energy years.

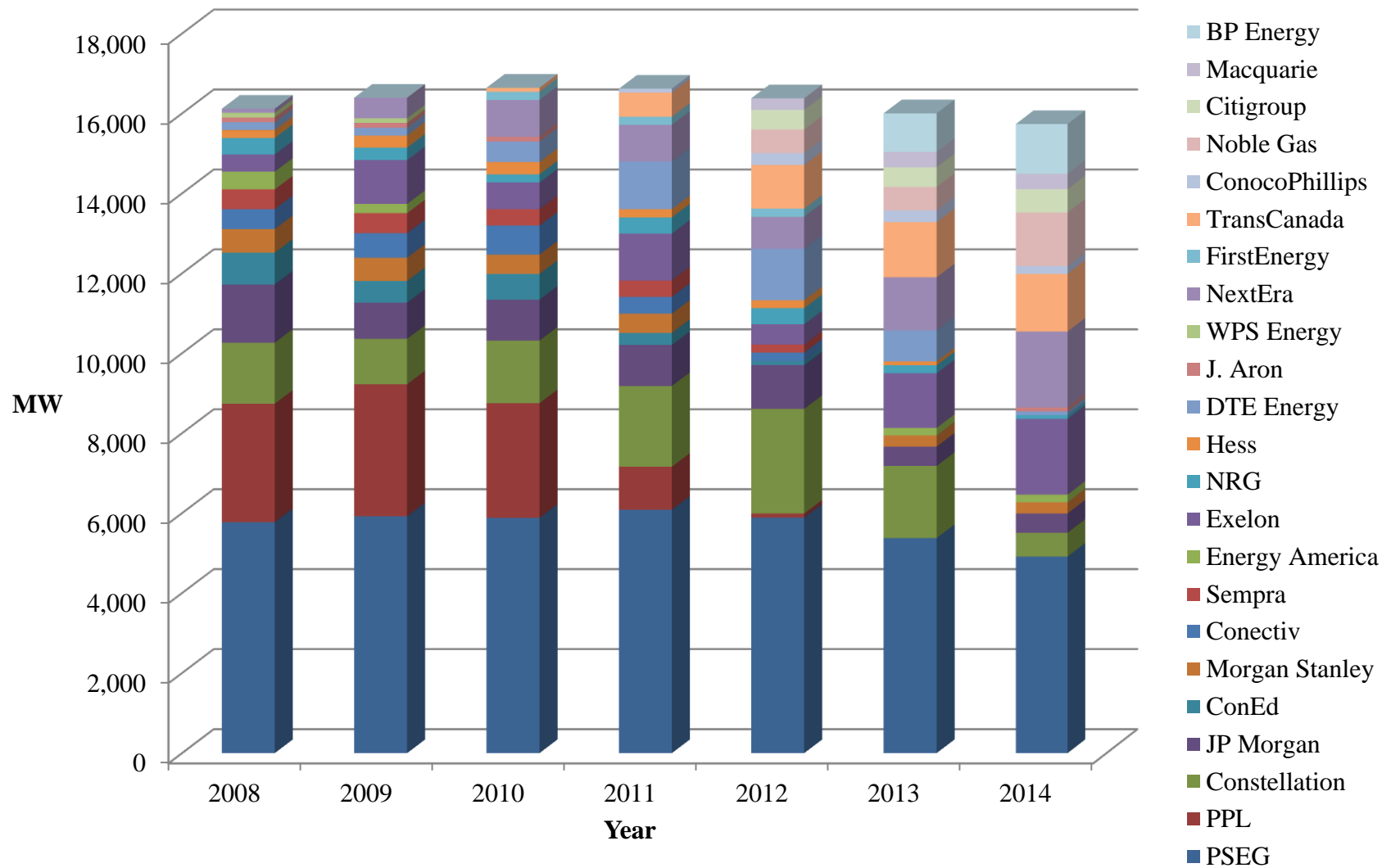
From this figure we see that 23 different suppliers have provided (or will provide) supply to FP ratepayers over the period 2008-2009 to 2014-2015.<sup>10</sup> For the 2014-15 year, 16 suppliers will provide FP service (technically 15 since Constellation and Exelon have merged). PSE&G Energy Resources and Trade has been the largest supplier over that period, winning at or near the load cap, about one-third of total supply, in each year. Beyond PSE&G, however, the positions of bidders have shifted over the years. For example, PPL served roughly 19 percent of supply from 2008 to 2010, but will serve none in 2014. We also see new parties such as TransCanada taking larger shares in recent years. All this is indicative of a very competitive process.

<sup>9</sup> 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. However, we do account for any bidders who have always bid under the same parent company, such as Coral Power merging into its parent company Shell and Florida Power & Light launching its energy trading subsidiary, NextEra.

<sup>10</sup> Note that WPS and Energy America won tranches in the 2007 BGS Auction and therefore were contracted to supply load in 2008 through 2010.



**Figure One**  
**Estimated MW of FP Energy Served, by Supplier**



**E. RECOMMENDATIONS**

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

**CIEP Load Cap**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The fact that some bidders who previously participated in the CIEP Auction may no longer be participating is of particular concern to us. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

As a solution to low excess supply, we suggest that the BPU and EDCs consider a small increase in the load cap for the CIEP Auction from its current level of about one-third of the CIEP tranche target to 45 percent of the CIEP tranche target. We make this suggestion for two reasons. First, as noted above, at least some of the reduced participation seen this year is likely to carry over to future Auctions. Second, the bidders who do offer in the CIEP Auctions tend to offer at the load cap. [REDACTED] Bidders would likely respond to higher load caps by increasing their offers, thereby increasing the ratio of offers to need and potentially driving down prices.

The actual size of the load cap is up for debate. We chose a 45 percent load cap because it would likely increase bidding while guaranteeing that at least three suppliers will win. If such a cap had been enforced in this past Auction, bidders could have offered 20 tranches (versus 15 under the current cap). [REDACTED]

[REDACTED]

## II. THE NEW JERSEY 2014 BGS-FP AUCTION

*A. POST-AUCTION CHECKLIST*



**ATTACHMENT B**  
**DOCKET NO. ER13050378**

**POST-AUCTION CHECKLIST**  
**FOR THE NEW JERSEY 2014 BGS-FP AUCTION**

Prepared by: Boston Pacific Company, Inc.

Auction began with the opening of Round 1 at 8:55 am on Monday, February 10, 2014

Auction finished with the close of Round 16 at 10:34 am on Tuesday, February 11, 2014

|                    | Start of Round 1  | Start of Round 2 *<br>(after volume<br>reduction in Round 1,<br>if applicable) | Start of Round n *<br>(after post-Round 1<br>volume reduction, if<br>applicable) |
|--------------------|---|--|--|
| # Bidders          |    | NA   | NA   |
| Tranche target     | 53  | NA   | NA   |
| Eligibility ratio  |  | 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 FP auction, so the pre-auction tranche target and EDC-specific load caps were unchanged for the auction.

**ATTACHMENT B  
DOCKET NO. ER13050378**

**Post-Auction Checklist for the New Jersey 2014 BGS-FP Auction**

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

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

|  | <b>PSE&amp;G</b> | <b>JCP&amp;L</b> | <b>ACE</b> | <b>RECO</b> | <b>Total</b> |
|--|------------------|------------------|------------|-------------|--------------|
| BGS-FP peak load share (MW)  | 2,637.96         | 1,386.79         | 787.31     | 192.25      | 5,004.31     |
| Total tranches needed  | 28               | 15               | 8          | 2           | 53           |
| Starting tranche target in auction                                       | 28               | 15               | 8          | 2           | 53           |
| Final tranche target in auction  | 28               | 15               | 8          | 2           | 53           |
| Tranche size (%)   | 1.18             | 1.82             | 4.55       | 25.00       |              |
| Tranche size (approximate MW)  | 94.21            | 92.45            | 98.41      | 96.13       |              |
| Starting EDC load caps (# tranches)                                      | 13               | 7                | 3          | 2           | --           |
| Starting statewide load cap (#tranches)                                  | --               | --               | --         | --          | 20           |
| Final EDC load caps (# tranches)   | 13               | 7                | 3          | 2           | --           |
| Final statewide load cap (#tranches)                                     | --               | --               | --         | --          | 20           |
| Quantity procured (# tranches)   | 28               | 15               | 8          | 2           | 53           |
| Quantity procured (% BGS-FP load)  | 100%             | 100%             | 100%       | 100%        | 100%         |
| # Winning bidders  | 7                | 6                | 4          | 2           | 8            |
| Maximum # of tranches procured from any one bidder                       | 10               | 4                | 3          | 1           | 16           |
| Minimum and maximum starting prices prior to indicative bids (cents/kWh) |                  |                  |            |             | 15.0<br>11.0 |
| Starting price at start of auction (cents/kWh) *                         |                  |                  |            |             |              |
| Final auction price (cents/kWh) **                                       | 9.739            | 8.444            | 8.780      | 9.561       | 9.221        |

\* 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. ER13050378**

**Post-Auction Checklist for the New Jersey 2014 BGS-FP Auction**

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

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

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



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

*B. BOSTON PACIFIC SUPPLEMENTAL CHECKLIST*

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

**QUESTION 1:**

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

**ANSWER 1: Yes, certify.**

**CRITERIA:**

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

Yes.

**QUESTION 2:**

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

**ANSWER 2: Yes.**

**PRE-AUCTION CRITERIA**

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

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

There were three Pre-Bid Information Sessions: the first on October 4, 2013, the second on December 6, 2013, and the third on January 28, 2014. All three were held in Philadelphia.

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

Note that 3 companies attended the first information session and 8 companies attended the second information session. In total, 9 companies showed interest in the FP and/or CIEP 2014 Auction by attending one of the first two bidder information sessions. This compares to 13 companies attending one of the first two sessions last year. [REDACTED]

[REDACTED] attended the third bidder information session. This relatively low turnout, contrasted with the high turnout of actual bidders in the Auction itself, reflects the fact that the process is very stable and well-known by most of the participants. 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 21, 2014, 168 questions had been asked by bidders since August 13, 2013, 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, especially section 15.9, (e) Credit, (f) Data, (g) Payments and Rates, and (h) other general questions. NERA provided responses to all of these questions, which seemed to satisfy bidders.

Starting on January 23, 2014, the Auction Manager sent answers to questions received regularly to Registered Bidders via email. Boston Pacific reviewed these FAQs as well and found all answers provided to be appropriate.

**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 most of which covered the period through either October 2013 or December 2013, 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 and notifications of the revisions were provided to bidders.

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

Yes, before the Trial Auction

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

At the final bidder information session on January 28, 2014, one bidder asked whether the Auction would be postponed due to recent volatility in the energy markets resulting from cold weather and high natural gas usage. NERA responded that this was unlikely. Boston Pacific agreed, as significant price volatility had only been seen in data for near-term months, before the delivery period for the products in this Auction begins in June 2014.

**f. Were bidders given an opportunity to provide proposals and comments concerning the 2014 Auction Process?**

Yes. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2013. Interested parties were also invited to file initial comments and final comments by August 30, 2013 and September 27, 2013, respectively. The Board also held a legislative-type hearing on September 19, 2013. After reviewing all comments from the EDCs and other interested parties, the Board approved the Joint EDC Proposal for the 2014 BGS Auction.

**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, with one adjustment as detailed below.

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

Yes, there was one adjustment to this schedule, which we believe had no effect on the Auction results. The Board's approval of the BGS Auction Proposal was not held as anticipated on November 15, 2013, but rather on November 22, 2013. This had no impact on the remainder of the Auction schedule.

The BGS Auction website contained a specific section at the top of the calendar that took note of the upcoming events. It included information from the BGS filing process that began in the Summer of 2013 through the Auction in February 2014. As milestones were met, the calendar was updated to reflect each event's completion.

In addition, interested parties could sign up for an Auction update mailing list. Reminders of important dates were sent out to all potentially interested bidders and to registered parties.

**QUESTION 4:**

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

**ANSWER 4: No.**

**PRE-AUCTION CRITERIA**

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

Yes, please see answer to 2b.

**b. Were bidder questions asked after January 21, 2014 directly responded to by NERA?**

Yes, questions continued to be asked by Registered Bidders after January 21, 2014 and NERA provided answers to these questions directly to bidders via email. These answers were distributed regularly beginning on January 23, 2014. Bidders did not indicate any concerns with the answers provided by NERA. Also, please see answers to 2b and 2e.

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

No, no questions about the Auction were left unresolved by the start of the Auction. For more information, please see the answer to 2e.

Bidders did not raise any other issues in the FAQs that indicated material uncertainty.

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

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

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. The supply offered in excess of need directly drives the Auction prices 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. This outreach effort began prior to the first information session. NERA also advertised the initial bidding deadline in several industry publications from December 2, 2013 through the Part 1 deadline of December 17, 2013.

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

[REDACTED]

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

[REDACTED]

[REDACTED]



**QUESTION 5:**

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

**ANSWER 5: No.**


**AUCTION WEEK CRITERIA**

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

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

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

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

Boston Pacific 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 24, 2014, Boston Pacific assumed the role of a bidder and verified that bidders' accounts had access to the correct information. We tested the Auction software by submitting problematic bids to determine if the software operated according to the rules and provided proper information to bidders. We also tested NERA's fax- and phone-based backup bidding systems by submitting backup bids and creating situations to test NERA's bidder notification protocols. 

For the second Trial Auction, held on January 30, 2014, Boston Pacific 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 just as we did during the actual Auction. We received and tested bid reports from NERA's software and formulated reports and checked price decrements using our own bid evaluation software.

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

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

Yes,   
 Further, Registered



Bidders also had the opportunity to practice the back-up bid procedure during the Trial Auction for Registered Bidders on January 30, 2014.

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

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

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

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

Yes

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

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

No.

**QUESTION 6:**

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

**ANSWER 6: Yes.**

**PRE-AUCTION CRITERIA**

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

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

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

Yes. The first FAQ was posted on the BGS website August 13, 2013. The Part 2 Application deadline was on January 15, 2014 by which time there were a total of 163

questions posted. 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.



**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.



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

Yes, please see the answer to 5d.

**QUESTION 7:**

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

**ANSWER 7: No.**

**AUCTION WEEK CRITERIA**

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

Boston Pacific is unaware of any material issues with NERA's communication systems based on our review of electronic and voice communications and our presence in the Auction Manger's office during the Auction.

**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 FP Auction?**

**ANSWER 8: No.**

Prior to Auction week a large snowstorm was forecast for the east coast. In anticipation of this Boston Pacific worked with NERA, Staff and the EDCs to develop a contingency plan in the event of bad weather. Bidders provided a contact for Sunday evening in case NERA, Staff and BP decided to delay the FP Auction start. Because the threat of serious weather had diminished by Sunday parties agreed to proceed with the Auction as scheduled.

**QUESTION 9:**

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

**ANSWER 9: No.**

**QUESTION 10:**

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

**ANSWER 10: Yes.**

**AUCTION WEEK CRITERIA**

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

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

Auction. [REDACTED]

**QUESTION 11:**

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

**ANSWER 11: No.**

To our knowledge, there were no security breaches.

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

[REDACTED]

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

**QUESTION 12:**

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

**ANSWER 12: Yes.**

**AUCTION WEEK CRITERIA**

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

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

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

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

**QUESTION 13:**

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

**ANSWER 13:** Yes.

**PRE-AUCTION CRITERIA**

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

Yes. NERA made adjustments to the decrement formulas for all four EDCs this year to create a smoother path for price declines over the Auction. NERA did this by adding a third decrement regime that produced decrements in between those of the existing two decrement regimes. This was done to make the decrement formulas this year produce decrements similar to those used in the Auction last year, when there were a number of manual decrement overrides made to make prices descend more smoothly.

**AUCTION WEEK CRITERIA**

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

[REDACTED]

Boston Pacific independently calculated the bid decrements for each round. This year, the Auction Rules prescribe three different regimes of formulas for calculating the price decrements during the calculating phase of each round. Boston Pacific validated NERA's decision to switch from Regime One to Regime Two and to from Regime Two to Regime Three.

[REDACTED]

NERA sent bidders a message to clarify how the decrement formulas were being calculated.

**QUESTION 14:**

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

**ANSWER 14: Yes.**



**QUESTION 15:**  
**Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the Auction?**

**ANSWER 15: No.**

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

**QUESTION 16:**

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

**ANSWER 16: Yes.**

**AUCTION WEEK CRITERIA**

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

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

**QUESTION 17:**

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

**ANSWER 17: No.**

The Auction proceeded smoothly. NERA's changes to the decrement formulas this year [REDACTED]  
[REDACTED] The 2014 FP Auction ended after 16 rounds, which compares to 21 rounds last year and 26 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]

[REDACTED] there was no indication from bidders that they were unable to fully consider their bids in each round. [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 Boston Pacific believed were legitimate?**

**ANSWER 18: No.**

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

**QUESTION 19:**

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

**ANSWER 19: Yes.**

Speaking broadly, the New Jersey Auction is structured to be fair and transparent. The two key features in this regard are (a) the precisely defined product being solicited and (b) the price-only evaluation. These 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 BPU, the BGS Auction had several mechanisms in place to ensure a fair and transparent process.

All interested parties were given ample opportunity to comment on the 2014 BGS process. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2013. Furthermore, interested parties were also invited to file initial comments and final comments by August 30, 2013 and September 27, 2013, respectively. The Board also held a legislative-type hearing on September 19, 2013.

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. This FAQ section ensured that all bidders had equal access to information provided to any one bidder.

The Auction Manager consulted with Boston Pacific and BPU Staff concerning Part 1 and 2 Applications.



An additional factor boosting the competitiveness of the Auction is that this is the 13<sup>th</sup> 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 BPU. 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 FP Auction?**

**ANSWER 20: No.**

**ANSWER 21: No.**

**ANSWER 22: No.**

Developing the information to answer these three questions and, more broadly, assessing the competitiveness of the BGS Auction was a central focus of our monitoring efforts. We assessed both structural and behavioral indicators of competitiveness in each round of bidding in the FP Auction (which includes residential customers as well as some 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 share of winners, and a widely-used measure of competitiveness related to market shares called the Herfindahl-Hirschman Index (HHI).

[REDACTED] This is a good number of bidders and the list includes many well-known participants in the U.S. electricity business.

[REDACTED]

[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 consumers.

[REDACTED] 8 actually won the right to serve some portion of the New Jersey consumer need in the FP Auction. In addition, one winning bidder had not won supply in either of the last two Auctions. Having new winners is a good sign of a competitive process.

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 8 winners in the FP Auction [REDACTED]

The Herfindahl-Hirschman Index (HHI) is a measure of competitiveness closely related to market shares. Again, some background on the HHI standard is useful. The U.S. Department of Justice 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 FP Auction, using the winning shares as market shares, the HHI is 1,912. This puts the HHI for the FP Auction into the moderately concentrated range. This is similar to last year's HHI of 1,838. However, to include only winning bidders is a narrow focus for calculating an HHI. For example, a more appropriate focus would be the total of 16 suppliers who will serve consumers in 2014-2015; these are the winners in 2012 and 2013, as well as in this 2014 Auction. The HHI in this case would be 1,533, which is at the bottom of the moderately concentrated range under the DOJ's guidelines. This compares to an HHI of suppliers who served customers for 2013-2014 of 1,573.

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]

[REDACTED]

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

[REDACTED]

**QUESTION 23:**

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

**ANSWER 23: Yes.**

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

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

[REDACTED]

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

**ANSWER 24: Yes.**

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

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

| 2014 BGS Auction           |                 |                         |                                      |                      |  |     |      |
|----------------------------|-----------------|-------------------------|--------------------------------------|----------------------|--|-----|------|
| Product                    | Tranches Filled | Final Price (cents/kWh) | 2013 price (cents /kWh) <sup>1</sup> | % Increase from 2013 | Price Expectation Range (cents/kWh) <sup>2</sup> |     |      |
|                            |                 |                         |                                      |                      | Average  | Low | High |
| PSE&G                      | 28              | 9.739                   | 9.218                                | 5.7%                 |  |     |      |
| JCP&L                      | 15              | 8.444                   | 8.37                                 | 0.9%                 |  |     |      |
| ACE                        | 8               | 8.78                    | 8.727                                | 0.6%                 |  |     |      |
| RECO                       | 2               | 9.561                   | 9.258                                | 3.3%                 |  |     |      |
| <b>Total</b>               | 53              |                         |                                      |                      |  |     |      |
| <b>Average<sup>3</sup></b> |                 | 9.221                   | 8.872                                | 3.9%                 |  |     |      |

1) Source: Boston Pacific 2013 Auction Report

3) Tranche-weighted estimate

Comparing this year’s average winning price to last year we can see that prices increased 3.9%. This is largely as we would expect. Over the past year energy prices have remained essentially flat. Capacity costs for all utilities, which are set by PJM’s Reliability Pricing Model (RPM) Auction, have come down slightly while the costs of meeting State Renewable Portfolio Standards (RPS) have increased slightly. In addition, recent price volatility likely increased the perceived risk of supplying the BGS FP product by a small amount.

The only other major cost increase is in the cost of transmission for PSE&G. PSE&G also saw a significant increase in transmission charges since last year, which is chiefly why its price increased more than the other EDCs.

From a rate impact standpoint, we compare the winning prices this year to the cost of bids being replaced, procured three years ago. We note that this year’s prices are, on average, lower than the prices of the expiring contracts solicited in the 2011 BGS Auction. The newest winning prices are about 3.2% less expensive than these contracts, which cost 9.528 cents/kWh on a tranche-weighted average basis. This decrease is mainly attributable to lower energy and capacity prices.


While the cost of new supply is, on average, less expensive than the 2011 contracts this is not true for PSE&G. This is because the drops in energy and capacity prices are offset by the significant increase in transmission costs. Since 2011 PSE&G’s transmission costs have more than doubled. The BPU should monitor the effect of these transmission investments to ensure that they have the desired benefit on reliability and prices.

**QUESTION 25:**

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

**ANSWER 25: No.**

No, please see the answer to 24.



**QUESTION 26:**

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

**ANSWER 26: No.**

**III. THE NEW JERSEY 2014 BGS-CIEP AUCTION**

*A. POST-AUCTION CHECKLIST*





**ATTACHMENT B  
DOCKET NO. ER13050378**

**POST-AUCTION CHECKLIST FOR THE NEW JERSEY  
2014 BGS-CIEP AUCTION**

Prepared by: Boston Pacific Company, Inc.

Auction began with the opening of Round 1 at 8:25 am On Friday, February 7, 2014  
 Auction finished with the close of Round 31 at 11:38 am on Monday, February 10, 2014

|                    | Start of Round 1  | Start of Round 2 *<br>(after volume reduction in Round 1, if applicable) | Start of Round n *<br>(after post-Round 1 volume reduction, if applicable) |
|--------------------|---|--|--|
| # Bidders          |    | NA   | NA   |
| Tranche target     | 45  | NA   | NA   |
| Eligibility ratio  |  | NA   | NA   |
| Statewide load cap | 15  | 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.

## DOCKET NO. ER13050378

## Post-Auction Checklist for the New Jersey 2014 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)  | 2,057.99 | 978.03 | 314.00 | 65.50  | 3,415.52   |
| Total tranches needed  | 27       | 13     | 4      | 1      | 45         |
| Starting tranche target in auction                                       | 27       | 13     | 4      | 1      | 45         |
| Final tranche target in auction  | 27       | 13     | 4      | 1      | 45         |
| Tranche size (%)   | 3.70     | 7.69   | 25.00  | 100.00 |            |
| Tranche size (approximate MW)  | 76.22    | 75.23  | 78.50  | 65.50  |            |
| Starting load cap (# tranches)   | --       | --     | --     | --     | 15         |
| Final load cap (# tranches)  | --       | --     | --     | --     | 15         |
| Quantity procured (# tranches)   | 27       | 13     | 4      | 1      | 45         |
| Quantity procured (% BGS-CIEP load)                                      | 100%     | 100%   | 100%   | 100%   | 100%       |
| # Winning bidders  | 5        | 3      | 2      | 1      | 5          |
| Maximum # of tranches procured from any one bidder                       | 15       | 5      | 2      | 1      | 15         |
| Minimum and maximum starting prices prior to indicative bids (\$/MW-day) |          |        |        |        | 400<br>270 |
| Starting price at start of auction (\$/MW-day)*                          |          |        |        |        |            |
| Final auction price (\$/MW-day)**  | 284.04   | 254.79 | 235.22 | 290.41 | 271.39     |

\* 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. ER13050378**

**Post-Auction Checklist for the New Jersey 2014 BGS-CIEP Auction**

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

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

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

| 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. BOSTON PACIFIC SUPPLEMENTAL CHECKLIST*

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

**QUESTION 1:**

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

**ANSWER 1:** Yes, certify.

**CRITERIA:**

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

Yes.

**QUESTION 2:**

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

**ANSWER 2:** Yes.

**PRE-AUCTION CRITERIA**

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

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

There were three Pre-Bid Information Sessions: the first on October 4, 2013, the second on December 6, 2013, and the third on January 28, 2014. All three were held in Philadelphia.

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

Note that 3 companies attended the first information session and 8 companies attended the second information session. In total, 9 companies showed interest in the FP and/or CIEP 2014 Auction by attending one of the first two bidder information sessions. This compares to 13 companies attending one of the first two sessions last year. [REDACTED]

[REDACTED] attended the third bidder information session.

[REDACTED] reflects the fact that the process is stable and well-known by most of the participants. 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 21, 2014, 168 questions had been asked by bidders since August 13, 2013, 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, especially section 15.9, (e) Credit, (f) Data, (g) Payments and Rates, and (h) other general questions. NERA provided responses to all of these questions, which seemed to satisfy bidders.

Starting on January 23, 2014, the Auction Manager sent answers to questions received regularly to Registered Bidders via email. Boston Pacific reviewed these FAQs as well and found all answers provided to be appropriate.

**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 most of which covered the period through either October 2013 or December 2013, 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 and notifications of revisions were provided to bidders.

**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?**

At the final bidder information session on January 28, 2014, one bidder asked whether the Auction would be postponed due to recent volatility in the energy markets resulting from cold weather and high natural gas usage. NERA responded that this was unlikely. Boston Pacific agreed, as significant price volatility had only been seen in data for near-term months, before the delivery period for the products in this Auction begins in June 2014. Moreover, CIEP bidders are paid spot energy prices, so the price fluctuations should have little effect on their offers.

**f. Were bidders given an opportunity to provide proposals and comments concerning the 2014 Auction Process?**

Yes. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2013. Interested parties were also invited to file initial comments and final comments by August 30, 2013 and September 27, 2013, respectively. The Board also held a legislative-type hearing on September 19, 2013. After reviewing all comments from the EDCs and other interested parties, the Board approved the Joint EDC Proposal for the 2014 BGS Auction.

**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, with one adjustment as detailed below.

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

Yes, there was one adjustment to this schedule, which we believe had no effect on the Auction results. The Board's approval of the BGS Auction Proposal was not on November 15, 2013 as anticipated, but on November 22, 2013. This had no impact on the remainder of the Auction schedule.

The BGS Auction website contained a specific section at the top of the calendar that took note of the upcoming events. It included information from the BGS filing process that began in the Summer of 2013 through the Auction in February 2014. As milestones were met, the calendar was updated to reflect each event's completion.

In addition, interested parties could sign up for an Auction update mailing list. Reminders of important dates were sent out to all potentially interested bidders and to registered parties.

**QUESTION 4:**

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

**ANSWER 4: No.**

**PRE-AUCTION CRITERIA**

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

Yes, please see answer to 2b.

**b. Were bidder questions asked after January 21, 2014 directly responded to by NERA?**

Yes, questions continued to be asked by Registered Bidders after January 21, 2014 and NERA provided answers to these questions directly to bidders via email. These answers were distributed regularly beginning on January 23, 2014. Bidders did not indicate any concerns with the answers provided by NERA. Also, please see answers to 2b and 2e.

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

No, no questions about the Auction were left unresolved by the start of the Auction. For more information, please see the answer to 2e.

Bidders did not raise any other issues in the FAQs that indicated material uncertainty. However, recent market energy price volatility may have caused bidders to decide not to bid. [REDACTED]

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

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

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. The 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. This outreach effort began prior to the first information session. NERA also advertised the initial bidding deadline in several industry publications from December 2, 2013 through the Part 1 deadline of December 17, 2013.

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

[Redacted]

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

[Redacted]

[Redacted]



**QUESTION 5:**

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

**ANSWER 5: No.**


**AUCTION WEEK CRITERIA**

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

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

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

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

Boston Pacific 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 24, 2014, Boston Pacific assumed the role of a bidder and verified that bidders' accounts had access to the correct information. We tested the Auction software by submitting problematic bids to determine if the software operated according to the rules and provided proper information to bidders. We also tested NERA's fax- and phone-based backup bidding systems by submitting backup bids and creating situations to test NERA's bidder notification protocols. 

For the second Trial Auction, held on January 30, 2014, Boston Pacific 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 just as we did during the actual Auction. We received and tested bid reports from NERA's software and formulated reports and checked price decrements using our own bid evaluation software.

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

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

Yes,   
 Further, Registered

Bidders also had the opportunity to practice the back-up bid procedure during the Trial Auction for Registered Bidders on January 30, 2014.

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

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

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

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

Yes

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

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

No.

**QUESTION 6:**

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

**ANSWER 6: Yes.**

**PRE-AUCTION CRITERIA**

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

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

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

Yes. The first FAQ was posted on the BGS website August 13, 2013. The Part 2 Application deadline was on January 15, 2014 by which time there were a total of 163

questions posted. 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.



**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.



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

Yes, please see the answer to 5d.

**QUESTION 7:**

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

**ANSWER 7: No.**

**AUCTION WEEK CRITERIA**

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

Boston Pacific is unaware of any material issues with NERA's communication systems based on our review of electronic and voice communications and our presence in the Auction Manager's office during the Auction.

**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.**

Prior to Auction week a large snowstorm was forecast for the east coast. In anticipation of this Boston Pacific worked with NERA, Staff and the EDCs to develop a contingency plan in the event of bad weather. Bidders provided a contact for Sunday evening in case NERA, Staff and BP decided to delay the continuation of bidding on Monday. Because the threat of serious weather had diminished by Sunday parties agreed to proceed with the Auction as scheduled.

**QUESTION 9:**

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

**ANSWER 9: No.**

**QUESTION 10:**

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

**ANSWER 10: Yes.**

**AUCTION WEEK CRITERIA**

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

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

**QUESTION 11:**

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

**ANSWER 11: No.**

To our knowledge, there were no security breaches.

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

[REDACTED]

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

**QUESTION 12:**

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

**ANSWER 12: Yes.**

**AUCTION WEEK CRITERIA**

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

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



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

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

**QUESTION 13:**

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

**ANSWER 13: Yes.**

**PRE-AUCTION CRITERIA**

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

Yes. NERA made adjustments to the decrement formulas for all four EDCs this year to create a smoother path for price declines over the Auction. NERA did this by adding a third decrement regime that produced decrements in between those of the existing two decrement regimes. This was done to make the decrement formulas this year produce decrements similar to those used in the Auction last year, when there were a number of decrement overrides to make prices descend more smoothly.

**AUCTION WEEK CRITERIA**

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

[REDACTED]

Boston Pacific independently calculated the bid decrements for each round. The Auction Rules prescribe three different regimes of formulas for calculating the price decrements and the conditions used to change from Regime One to Regime Two and to Regime Three. [REDACTED]

**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]

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

**QUESTION 15:**

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

**ANSWER 15: No.**

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

**QUESTION 16:**

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

**ANSWER 16: Yes.**

**AUCTION WEEK CRITERIA**

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

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

**QUESTION 17:**

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

**ANSWER 17: No.**

In general, NERA's changes to the decrement formulas this year made the Auction proceed smoothly [REDACTED]

The 2014 CIEP Auction ended after 31 rounds, which compares to 18 rounds last year and 30 the year before. [REDACTED]

Each bidder is permitted 1 recess request and 2 extension requests during the Auction. The Auction also includes 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 Boston Pacific believed were legitimate?**

**ANSWER 18: No.**

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

**QUESTION 19:**

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

**ANSWER 19: Yes.**

Speaking broadly, the New Jersey Auction is structured to be fair and transparent. The two key features in this regard are (a) the precisely defined product being solicited and (b) the price-only evaluation. These 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 BPU, the BGS Auction had several mechanisms in place to ensure a fair and transparent process.

All interested parties were given ample opportunity to comment on the 2014 BGS process. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2013. Furthermore, interested parties were also invited to file initial comments and final comments by August 30, 2013 and September 27, 2013, respectively. The Board also held a legislative-type hearing on September 19, 2013.

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. This FAQ section ensured that all bidders had equal access to information provided to any one bidder.

The Auction Manager consulted with Boston Pacific and BPU Staff concerning Part 1 and 2 Applications.



An additional factor boosting the competitiveness of the Auction is that this is the 13<sup>th</sup> 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 BPU. 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 solicits supply for 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. [REDACTED]

[REDACTED] This excess in offers is important because it is the excess which keeps the price decreasing round-by-round to the benefit of New Jersey consumers.

[REDACTED] 5 won the right to serve some portion of the New Jersey consumer need in the CIEP Auction. With respect to market share of each winner, some

background on standards is useful. Having a minimum of three suppliers is sometimes set as a standard of competitiveness. The BGS Auction rules assures this by limiting to one-third (15 tranches out of 45 total tranches needed) the portion of statewide consumer need that can be won by any single supplier.

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

Among the 5 winners in the CIEP Auction, [REDACTED]

The Herfindahl-Hirschman Index (HHI) is a measure of competitiveness closely related to market shares. Again, some background on the HHI standard is useful. The U.S. Department of Justice has a three-part standard for HHIs when judging the competitive effect of mergers and acquisitions. 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 2,504. This puts the HHI for the CIEP Auction just into the highly 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]

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

[REDACTED]

**QUESTION 23:**

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

**ANSWER 23: Yes.**

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

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

[REDACTED]

In addition, Boston Pacific 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, Boston Pacific attempted to develop an expectation of the final Auction prices [REDACTED]

Bidders who win the right to serve CIEP load must provide a full requirements product (i.e. energy, capacity, ancillary services, Renewable Portfolio Standard (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 RPS. Bidders are paid the PJM spot energy price to cover the energy portion of the service.

[REDACTED]

[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.**