

REDACTED

ANNUAL FINAL REPORT  
ON THE  
2016 BGS RSCP AND CIEP AUCTIONS

Presented to:

THE NEW JERSEY BOARD OF PUBLIC UTILITIES

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May 20, 2016

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## I. INTRODUCTION AND SUMMARY

Boston Pacific Company, Inc. (Boston Pacific) served as the Advisor to the New Jersey Board of Public Utilities (Board or BPU) for the Basic Generation Service (BGS) Auctions held in February 2016, as we have for the previous nine years.<sup>1</sup> 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>2</sup>

As the Board Advisor, we recommended that the Board certify the results of both the Residential Small Commercial Pricing (RSCP) and Commercial and Industrial Energy Pricing (CIEP) Auctions. Each Auction (a) was open, fair and transparent, (b) was sufficiently competitive, and (c) saw winning prices in line with market conditions. The Board certified the results of both Auctions on February 11, 2016. The most explicit evidence for the Board's certification decisions were the Post-Auction Checklists that we provided to the Board on February 11, 2016. These checklists, which are included in this report, 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 "Supplemental Checklists" which explained in detail our reasons for the yes/no answers to the 26 questions in the official RSCP and CIEP checklists for the BGS Auction. These Supplemental Checklists are included in this report as well. We believe that they show the

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<sup>1</sup> Boston Pacific has extensive hands-on experience monitoring many of the major full requirements solicitations throughout the country, including solicitations for the District of Columbia, Illinois, Maryland, New Jersey, Ohio, Delaware, and part of Pennsylvania. Additionally, we design and monitor unit-contingent procurement processes, which solicit bids for long-term contracts from individual power plants and other resources. Examples include our engagements in Hawaii, Maryland, Mississippi, Oklahoma, Oregon, and the Virgin Islands. Boston Pacific also has served as an Independent Board Advisor for the Southwest Power Pool Regional Transmission Organization since 2004.

<sup>2</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.

extensive depth and breadth of the analyses that underlie our work and the Board’s certification decisions.

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

The BGS RSCP product is a 3-year, fixed price, load-following product that supplies the majority of New Jersey’s residential and small commercial customers. Delivery for winning suppliers this year starts on June 1, 2016. RSCP suppliers provide what is called a “full-requirements” product, which means that the product includes nearly all of the components necessary for the Electric Distribution Companies (EDCs) to provide service to their ratepayers. Each RSCP supplier provides a fixed percentage of an EDC’s residential and small commercial load, whatever that amount turns out to be, as load varies over the course of the contract. This year the EDCs bid out roughly one-third of their RSCP supply needs; the rest will be served under contracts procured in the 2014 and 2015 BGS Auctions.

Boston Pacific recommended at the BPU meeting on February 11, 2016 that the Board certify the results of the BGS-RSCP Auction. Before getting into detail on our reasons for making this recommendation, it is constructive to step back and provide perspective to the Auction results.

**Auction Results**

Table One compares the prices of the new contracts to the prices of the expiring contracts. This comparison is the starting point for any discussion of rate impacts resulting from the Auction.

**Table One  
Winning RSCP Prices Compared to Expiring Contracts from 2013 Auction**

| EDC                           | 2016 Winning Price ¢/kWh | 2013 Winning Price ¢/kWh | % Change |
|-------------------------------|--------------------------|--------------------------|----------|
| Atlantic City Electric        | 8.214                    | 8.727                    | -5.88%   |
| Jersey Central Power & Light  | 7.485                    | 8.370                    | -10.57%  |
| Public Service Electric & Gas | 9.638                    | 9.218                    | 4.56%    |
| Rockland Electric Company     | 8.502                    | 9.258                    | -8.17%   |
| Tranche Weighted Average      | 8.715                    | 8.872                    | -1.77%   |

The winning prices for three of the four EDCs are substantially lower than those from the 2013 Auction. Winning prices for Atlantic City Electric (ACE), Jersey Central Power & Light (JCP&L) and Rockland Electric Company (RECO) are down 5.88 percent, 10.57 percent and 8.17 percent, respectively. The main factor contributing to these decreases is a decline in energy prices, driven by a decline in natural gas prices resulting from increased shale gas production.

In contrast, the winning price for Public Service Electric & Gas (PSE&G) is actually 4.56 percent more expensive than the expiring contracts from 2013. The main driver of this higher price is increased transmission service costs in PSE&G’s territory – BGS suppliers must cover this cost in their bids. PSE&G has seen its transmission rates increase by 95 percent since 2013, as it has included in transmission rates a number of large-scale projects.

Table Two compares this year’s winning prices to winning prices in last year’s Auction.

**Table Two**  
**Winning RSCP Prices Compared to 2015 Winning RSCP Prices**

| EDC                           | 2016 Winning Price ¢/kWh | 2015 Winning Price ¢/kWh | % Change |
|-------------------------------|--------------------------|--------------------------|----------|
| Atlantic City Electric        | 8.214                    | 8.606                    | -4.55%   |
| Jersey Central Power & Light  | 7.485                    | 8.042                    | -6.93%   |
| Public Service Electric & Gas | 9.638                    | 9.954                    | -3.17%   |
| Rockland Electric Company     | 8.502                    | 9.066                    | -6.22%   |

|                          |       |       |        |
|--------------------------|-------|-------|--------|
| Tranche Weighted Average | 8.715 | 9.102 | -4.25% |
|--------------------------|-------|-------|--------|

Compared to last year’s winning prices, winning bid prices for all EDCs decreased anywhere from 3.17 percent to 6.93 percent. [REDACTED]

Boston Pacific recommended that the Board certify the results of the BGS-RSCP Auction for three primary reasons: (a) the Auction was open, fair and transparent; (b) the Auction was sufficiently competitive; and (c) the winning prices were consistent with broader market conditions.

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

Our first reason for recommending acceptance of the results of the RSCP Auction is that the auction 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 provides maximum transparency. Also, all the rules of participation and conduct were fully explained and fairly applied by the Auction Manager, NERA Economic Consulting (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 Board Staff, were actively involved in the full range of pre-Auction tasks including, but not limited to, (a) the monitoring of bid information sessions, (b) the calculation of starting prices, and (c) the evaluation of Part 1 and Part 2 Applications. During the Auction itself, we 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.

As a new addition to our duties this year, Boston Pacific reviewed all of the calculations of rate and average bill impacts produced by each EDC. We began by reviewing each EDC rate impact spreadsheet to ensure that it produced proper calculations and was conceptually reasonable. We met with each EDC individually to discuss the operation of their spreadsheets and answer any questions that we had from our review. At the end of our review, we presented suggestions for changes aimed at clarifying the spreadsheets and making them accurate and conceptually consistent. Once winning prices were determined, we reviewed each EDC’s calculation of the respective impact on average bills to ensure it was correct.

### **Competitiveness**

Our second reason for recommending certification of the RSCP Auction results was that the Auction was sufficiently competitive. We assessed five indicators of competitiveness. First, we looked at the total number of bidders in the Auction. A large number of bidders is helpful because it increases the total supply bid in the Auction, pushing prices down. It also makes it harder for bidders to carry out any collusive schemes. This year there were 14 registered bidders [REDACTED] This is a healthy number of bidders for an auction of this size [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>3</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) 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]

Third, we looked at the number of winners. We like to see a large number of winners because it means that the Auction was competitive, with multiple parties pushing down the price at the end. Having a large number of winners also signals to other participants that no one party is dominating the Auction and that anyone can win, It also increases the likelihood of winning bidders returning in future years. This year there were 10 winners, as compared to nine last year and eight the year before that. Ten winners out of 14 bidders is a statistic that also 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 (DOJ) primarily uses a three-part standard for HHIs when judging the competitive effect of mergers and acquisitions. An HHI below 1,500 is a safe harbor of sorts because the market is said to be un-concentrated, meaning that the merger or acquisition does not make the exercise of market power more likely. An HHI between 1,500 and 2,500 is said to indicate moderate concentration. An HHI over 2,500 is said to indicate a highly concentrated market. FERC uses more conservative HHIs when analyzing mergers and acquisitions. FERC characterizes a market with an HHI below 1,000 as un-concentrated; HHIs between 1,000 and 1,800 indicate moderate concentration, and HHIs above 1,800 indicate a highly concentrated market.

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<sup>3</sup> Each tranche was sized to be about 100 MW of the peak load of each EDC. Because each EDC has a different peak load, tranches for each EDC equate to a different percentage of each EDC’s load.

Calculated with the market shares of just the winning suppliers for this year, the HHI was 1,722. This is similar to last year's HHI of 1,739, and is in the moderately concentrated range by DOJ standards and at the high end of the moderately concentrated range by the more conservative FERC standards. However, to include only winning bidders is a narrow focus for this exercise. A more appropriate focus would be to expand the market to include all 13 suppliers who will serve consumers from June 2016 to May 2017. These are the winners in the 2014 and 2015 auctions, as well as this 2016 Auction. The HHI in this case is 1,620. This compares to an HHI of suppliers serving customers from June 2015 through May 2016 of 1,683.

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

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

[REDACTED] We found no evidence of any collusive or anti-competitive actions.<sup>4</sup>

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

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

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

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<sup>4</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.



We created separate benchmark ranges for each utility. Each of the four winning prices

[REDACTED]

[REDACTED]. These results give us a great deal of confidence that winning prices were not only reflective of current market conditions, but a good deal considering those conditions.

[REDACTED]

As noted above, comparing this year's average winning price to last year's average winning price we can see that, on average, prices decreased 4.3 percent. Prices for each individual EDC decreased by 3.2 percent to 6.9 percent, due primarily to lower energy and congestion costs. Working against these factors was an increase in the cost of capacity and of meeting State RPS Requirements.

From a rate impact standpoint, as a starting point, we generally compare the winning prices in this Auction to the contracts that are being replaced. In this case that would be contracts from the 2013 BGS Auction. For all utilities except PSE&G, winning prices were lower than 2013 winning prices, ranging from 5.9 percent to 10.6 percent lower.

For PSE&G we saw a small increase of 4.6 percent. This increase was primarily due to an increase in transmission rates. The PSE&G transmission rate has increased by almost 95 percent, from \$115.85/MW-Day in the 2013 Auction to \$225.45/MW-Day in this Auction as the company has undertaken a number of large-scale projects over the last few years. Transmission costs now represent about the same share of PSE&G's RSCP price as do capacity costs. We estimate that transmission costs make up about 23 percent of PSE&G's 2016 BGS price on average.

**Bill Impact**

Table Four shows the estimated monthly bill impacts of the 2016 BGS-RSCP Auction as forecast by the EDCs for a residential customer with a monthly usage of 650 kWh.

**Table Four**  
**Forecast Residential Monthly Bill Impact from 2016 BGS-RSCP Auction**

| <b>EDC</b>                    | <b>% Change in Monthly Bill</b> |
|-------------------------------|---------------------------------|
| Atlantic City Electric        | 1.14%                           |
| Jersey Central Power & Light  | -1.20%                          |
| Public Service Electric & Gas | 3.50%                           |
| Rockland Electric Company     | 0.70%                           |

As a result of this year’s Auction, residential ratepayers of JCP&L will see an average bill decrease of a little over one percent, while the residential ratepayers of ACE and RECO will see about a one percent increase in their average monthly bills (1.14 and 0.7 percent, respectively). PSE&G’s residential ratepayers will see an average bill increase of 3.5 percent. These rate changes are primarily affected by the replacement of expiring contracts, procured in the 2013 BGS-RSCP Auction, with contracts procured in this Auction, though other factors have an effect as well. For example, companies with formula transmission rates (i.e., ACE and PSE&G) include in their bill calculations the cost of compensating suppliers for changes in the formula rate.

Another factor affecting the bill change comes out of a decision made by the BPU last year. Last year’s Auction presented challenges due to actions undertaken by PJM. In response to the 2014 Polar Vortex and Winter Storms, PJM proposed to acquire a new capacity product - known as Capacity Performance – that featured higher performance standards and stricter penalties for non-performance than traditional capacity. Problematic for the 2015 Auction, and for other default service procurements, was the fact that PJM wished to acquire Capacity Performance for years in which the capacity price had already been established by PJM’s RPM Auction. Bidders use these prices to price their offers in the BGS Auction and would be responsible for any change in capacity prices. PJM’s actions caused bidders to restrict their participation in default service procurements in other PJM states. Because of this, the BPU approved a supplement to the SMAs which will automatically pass through any capacity price changes as a result of PJM’s actions – so RSCP supply contracts from last year and the 2014 Auction are both eligible to recoup these additional costs.

PJM has since re-set the price of capacity by conducting what it calls “Transition Auctions” for the June 2016 through May 2018 period. The additional costs resulting from these Auctions, which will begin to accrue in June 2016 and are included in the calculations in Table Four above, work out to roughly another \$2 per month for an average usage of 650 kWh. Without this cost, the average bill impacts would have ranged from a 3.4 percent decrease to a 1.2 percent increase.

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

The BGS CIEP product is a one-year, load following, full requirements product for larger commercial and industrial customers. Each CIEP supplier provides a fixed percentage of an EDC’s commercial and industrial load, whatever that amount turns out to be, as load varies over the contract period, which runs from June 1, 2016 through May 31, 2017. Each year the EDCs bid out 100 percent of their CIEP supply needs.

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

**Fairness and Transparency**

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

**Competitiveness**

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

- First, there were eight registered bidders [REDACTED]
- Second, the excess quantity offered was good [REDACTED]

[REDACTED]

- Third, six of the eight bidders were winners in the Auction. This is one more winner than last year.
- Fourth, the HHI using the market shares of just the winning bidders was 2,365, [REDACTED]  
[REDACTED]  
[REDACTED]
- Fifth, we, along with our Auction Theory Expert, [REDACTED]  
[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 RSCP price. Winning bidders in the CIEP Auction provide a similar full requirements product but are paid the spot market price for providing energy, \$6/MWh for providing ancillary services, and a standby fee of \$0.15/MWh. The price 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]

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

[REDACTED]

[REDACTED]

[REDACTED]

**C. LONG-TERM COMPETITIVENESS**

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

[REDACTED]

[REDACTED]

[REDACTED TABLE]

[REDACTED]

[REDACTED]

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

[REDACTED]

[REDACTED]

[REDACTED]


[REDACTED]

[REDACTED TABLE]

[REDACTED] we can make at least four observations. [REDACTED]

[REDACTED]

Both of those metrics indicate a very competitive process. Second, the Auction continues to attract new bidders [REDACTED]. This is a good sign of the transparency of the Auction process. Third, [REDACTED]



In terms of who is supplying the BGS-RSCP product, we looked at trends in RSCP winners. Figure One displays how much load each supplier served for each energy year (i.e., June-May period) from 2009-2010 to 2016-2017.<sup>5</sup> Each column in Figure One is organized from the bottom up from 2009'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.

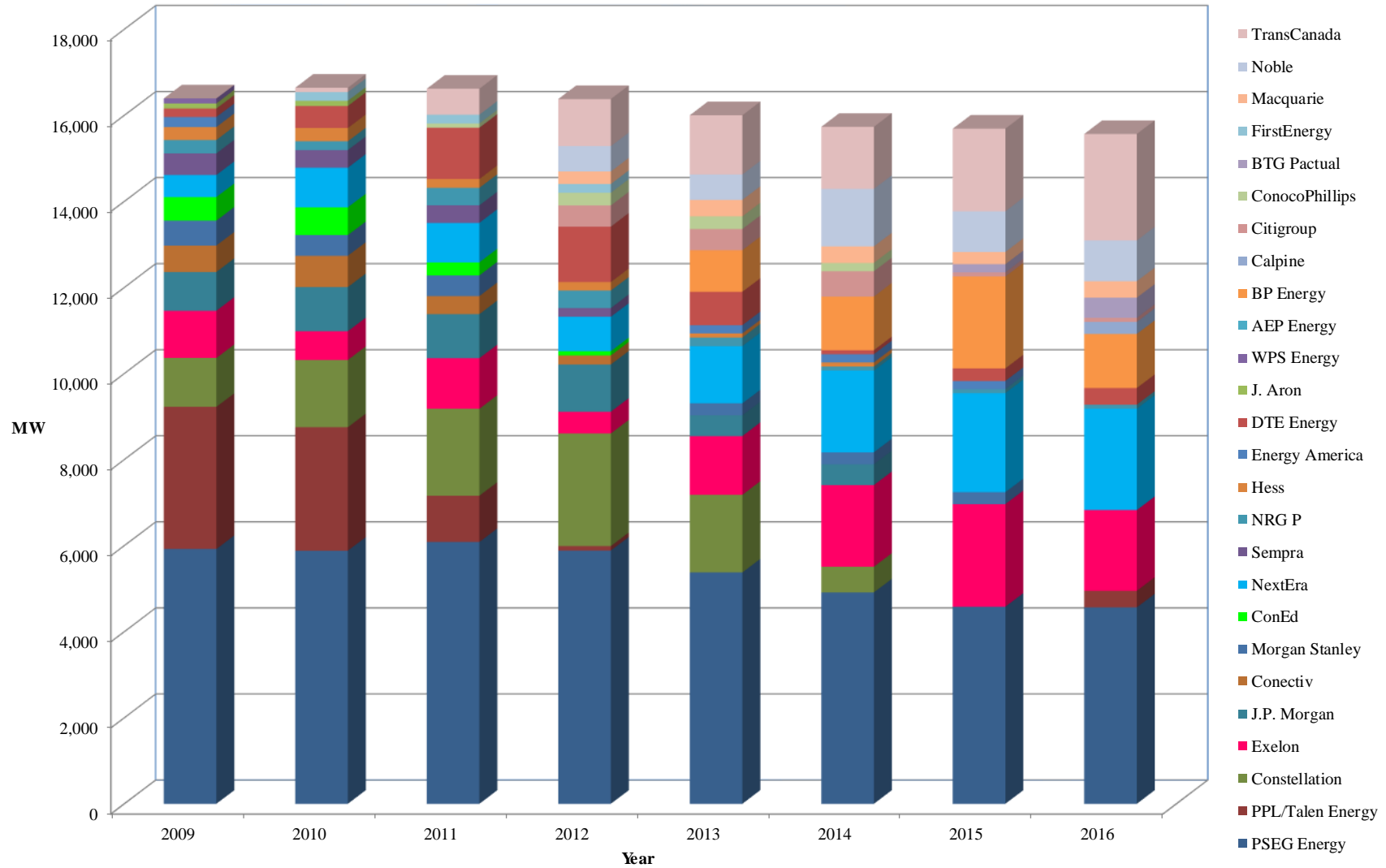
From this figure we see that 25 different suppliers have provided (or will provide) supply to RSCP ratepayers over the period 2009-2010 to 2016-2017.<sup>6</sup> For the 2016-17 year, 13 suppliers will provide RSCP service. PSE&G Energy Resources and Trade has been the largest supplier over that period, 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 EnergyPlus (now Talen Energy Services) served an average of 15 percent of supply between 2009 and 2011; this percentage decreased to zero, until this upcoming June- May period, when Talen will serve 2.5 percent of load. TransCanada now will serve about 16 percent of the RSCP supply; in 2010 they served less than 1 percent. Similarly, BP Energy was not a supplier in 2009 through 2012, but now will provide 8 percent of next year's RSCP load. All this is indicative of a very competitive process.

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<sup>5</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 bidders who have always bid under the same parent company, such as: Coral Power merging into its parent company Shell, Florida Power & Light launching its energy trading subsidiary, NextEra, and PPL EnergyPlus changing its name to Talen Energy Marketing, LLC.

<sup>6</sup> Note that WPS and Energy America won tranches in the 2007 BGS Auction and therefore were contracted to supply load in 2007 through 2009. J Aron won tranches in the 2008 Auction and was contracted to supply load in the 2008 to 2010 period.

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





## D. 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 the needs of New Jersey's ratepayers.

### Rate Model Review

During this year we conducted a comprehensive review of the models used by the New Jersey EDCs to create customer rates resulting from the BGS Auction. We believe that this review was very beneficial for the BGS process. Our review resulted in rate models that were more conceptually coherent and helped assure the accuracy of the post-auction calculations of average bill impact and rate changes. Going forward we would recommend that we continue to review and audit the rate models and average bill calculations to assure accuracy and conceptual coherence.

### Affiliate Actions

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] we would still recommend that the EDCs and the Auction Manager review their communications protocols prior to the conduct of the next BGS auction to ensure that no information that could benefit the bidding affiliate is accidentally disclosed.

## II. THE NEW JERSEY 2016 BGS-RSCP AUCTION

**A. POST-AUCTION CHECKLIST**



**ATTACHMENT B  
DOCKET NO. ER15040482**

**POST-AUCTION CHECKLIST  
FOR THE NEW JERSEY 2016 BGS-RSCP AUCTION**

Prepared by: Boston Pacific Company, Inc.

Auction began with the opening of Round 1 at 8:55 am on Monday, Feb. 8, 2016

Auction finished with the close of Round 18 at 11:45 am on Tuesday, Feb. 9, 2016

|                    | 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     | 54  | NA   | NA   |
| Eligibility ratio  |  | NA   | NA   |
| PSE&G load cap     | 13  | NA   | NA   |
| JCP&L load cap     | 8   | NA   | NA   |
| ACE load cap       | 3   | NA   | NA   |
| RECO load cap      | 1   | NA   | NA   |
| Statewide load cap | 20  | NA   | NA   |

**ATTACHMENT B**  
**DOCKET NO. ER15040482**

**Post-Auction Checklist for the New Jersey 2016 BGS-RSCP Auction**

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

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

|  | <b>PSE&amp;G</b> | <b>JCP&amp;L</b> | <b>ACE</b> | <b>RECO</b> | <b>Total</b> |
|--|------------------|------------------|------------|-------------|--------------|
| BGS-RSCP peak load share (MW)  | 2,691.81         | 1,545.70         | 674.32     | 100.98      | 5,012.81     |
| Total tranches needed  | 28               | 18               | 7          | 1           | 54           |
| Starting tranche target in auction                                       | 28               | 18               | 7          | 1           | 54           |
| Final tranche target in auction  | 28               | 18               | 7          | 1           | 54           |
| Tranche size (%)   | 1.18             | 1.89             | 4.55       | 25.00       |              |
| Tranche size (approximate MW)  | 96.14            | 85.87            | 96.33      | 100.98      |              |
| Starting EDC load caps (# tranches)                                      | 13               | 8                | 3          | 1           | --           |
| Starting statewide load cap (#tranches)                                  | --               | --               | --         | --          | 20           |
| Final EDC load caps (# tranches)   | 13               | 8                | 3          | 1           | --           |
| Final statewide load cap (#tranches)                                     | --               | --               | --         | --          | 20           |
| Quantity procured (# tranches)   | 28               | 18               | 7          | 1           | 54           |
| Quantity procured (% BGS-RSCP load)                                      | 100%             | 100%             | 100%       | 100%        | 100%         |
| # Winning bidders  | 6                | 7                | 4          | 1           | 10           |
| Maximum # of tranches procured from any one bidder                       | 12               | 7                | 3          | 1           | 15           |
| Minimum and maximum starting prices prior to indicative bids (cents/kWh) |                  |                  |            |             | 18.5<br>13.0 |
| Starting price at start of auction (cents/kWh) *                         |                  |                  |            |             |              |
| Final auction price (cents/kWh) **                                       | 9.638            | 7.485            | 8.214      | 8.502       | 8.715        |

\* 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. ER15040482**

**Post-Auction Checklist for the New Jersey 2016 BGS-RSCP Auction**

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

| <b>Question</b> |  | <b>Comments</b>     |
|-----------------|--|---------------------|
| 1               | <b>BP's recommendation as to whether the Board should certify the RSCP auction results?</b>  | <b>Yes, certify</b> |
| 2               | Did bidders have sufficient information to prepare for the RSCP auction?   | Yes                 |
| 3               | Was the information generally provided to bidders in accordance with the published timetable? Was the timetable updated appropriately as needed?   | Yes                 |
| 4               | Were there any issues and questions left unresolved prior to the RSCP auction that created material uncertainty for bidders?   | No                  |
| 5               | From what BP could observe, were there any procedural problems or errors with the RSCP auction, including the electronic bidding process, the back-up bidding process, and communications between bidders and the Auction Manager? | No                  |
| 6               | From what 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 RSCP auction system or with its associated communications systems?   | No                  |
| 8               | Were there any unanticipated delays during the RSCP auction?   | No                  |
| 9               | Did unanticipated delays appear to adversely affect bidding in the RSCP auction? What adverse effects did 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 RSCP 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 RSCP auction?             | Yes             |
| 13 | From what BP could observe, were the protocols followed for decisions regarding changes in RSCP auction parameters (e.g., volume, load caps, bid decrements)?                 | Yes             |
| 14 | Were the calculations (e.g., for bid decrements or bidder eligibility) produced by the RSCP auction software double-checked or reproduced off-line by the Auction Manager?    | Yes             |
| 15 | Was there evidence of confusion or misunderstanding on the part of bidders that delayed or impaired the auction?  | No              |
| 16 | From what 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 RSCP auction carried out in an acceptably fair and transparent manner?  | Yes             |
| 20 | Was there evidence of non-productive “gaming” on the part of bidders?   | No              |
| 21 | Was there any evidence of collusion or improper coordination among bidders?   | No              |
| 22 | Was there any evidence of a breakdown in competition in the RSCP auction?   | No              |
| 23 | Was information made public appropriately? From what BP could observe, was sensitive information treated appropriately?   | Yes             |
| 24 | Does the RSCP auction appear to have generated a result that is consistent with competitive bidding, market-determined prices, and efficient allocation of the BGS-RSCP load? | Yes             |

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



**B. BOSTON PACIFIC SUPPLEMENTAL CHECKLIST**

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

**QUESTION 1:**

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

**ANSWER 1:** Yes, certify.

**CRITERIA:**

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

Yes.

**QUESTION 2:**

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

**ANSWER 2:** Yes.

**PRE-AUCTION CRITERIA**

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

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

There were three Pre-Bid Information Sessions: the first on October 2, 2015 and the second on December 4, 2015, both in-person in Philadelphia. The third was held January 26, 2016 and took place as a webcast that morning. Because the third session was a webinar, meaning that bidder confidentiality was maintained, NERA was able to conduct just one session, as opposed to having to hold separate sessions for RSCP and CIEP bidders as it has done in the past.

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 was for Registered Bidders only.

Two companies attended the first information session and three companies attended the second information session. In total, four companies showed interest in the RSCP and/or CIEP Auction by attending one of the first two bidder information sessions. This compares to 10 companies attending one of the first two sessions last year. [REDACTED]

[REDACTED] RSCP bidders attended the third bidder information session this year, as compared to [REDACTED]. This high turnout is likely due to the fact that this was an

online webinar, and did not require bidders to travel. 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 February 3, 2016, 158 questions had been asked by bidders since August 10, 2015, the first day FAQs were posted. All of these questions were answered in a timely fashion by NERA. The topics of questions included: (a) Applications, (b) Association and Confidential Information Rules, (c) Auction Rules, (d) BGS Supplier Master Agreement, and specifically section 15.9, (e) Credit, (f) Data, (g) Payments and Rates, and (h) pre-auction security. NERA provided responses to all of these questions, which seemed to satisfy bidders.

Starting on January 22, 2016, the Auction Manager sent answers to questions received regularly to Registered Bidders via email. Boston Pacific reviewed these FAQs as well.

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

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

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

NERA also maintained a "data room" on their website, which contained data that was updated monthly and additional data that was updated less frequently. NERA provided descriptions of both types of data. This data room helped bidders prepare their bids. Examples of the data posted here included (a) load data, which was updated monthly for each EDC and covered the period up to October 2015 or later, and (b) switching statistics that showed the percentage of load and number of customers that have switched to third party suppliers. Any revisions made to the data were marked on their website.

NERA also posted models which translated potential winning prices for each EDC into customer rates. Per BPU directive, Boston Pacific met with each EDC to go over their rate sheet and make suggestions for improvement. We audited each sheet posted on the

website to ensure it was correct and double-checked the EDCs calculation of rate impacts from the actual Auction.

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

Yes, before the Trial Auction, [REDACTED]

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

Please see answer to 2b.

**f. Were bidders given an opportunity to provide proposals and comments concerning the 2016 Auction Process?**

Yes. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2015. Interested parties were also invited to file initial comments and final comments by September 4, 2015 and October 2, 2015, respectively. The Board also held a legislative-type hearing on September 28, 2015.

**QUESTION 3:**

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

**ANSWER 3:** Yes.

**PRE-AUCTION CRITERIA**

**a. Was the timeline followed?**

Yes.

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

No.

**QUESTION 4:**

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

**ANSWER 4: No.**

**PRE-AUCTION CRITERIA**

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

Yes, please see answer to 2b.

**b. Were bidder questions asked after January 21, 2016 directly responded to by NERA?**

Yes, questions continued to be asked by Registered Bidders after January 21, 2016 and NERA provided answers to these questions directly to bidders via email. These answers were distributed regularly beginning on January 22, 2016. Bidders did not indicate any concerns with the answers provided by NERA. Also, please see answer to 2b.

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

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

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

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

Please see answer to 2e.

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

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

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

Yes, before bidders were registered, NERA conducted extensive marketing efforts in order to maximize bidder participation. Maximum bidder participation is important since the supply offered in excess of need is what drives Auction prices to “tick down” (i.e. decrease) from round to round.

NERA conducted direct marketing with potential bidding companies through an email distribution list and phone calls. The list of contacts was developed from existing contact lists and from participants that registered for information on the BGS Auction website. This outreach effort began prior to the first information session. NERA also advertised the opportunity in several industry publications from November 11, 2015 through the Part 1 deadline of December 15, 2015.

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]

**QUESTION 5:**

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

**ANSWER 5: No.**

**AUCTION WEEK CRITERIA**

- a. Was protocol followed for the RSCP Auction?**

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

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

No, there were no 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 26, 2016, 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 phone-based backup bidding systems by submitting backup bids and creating situations to test NERA's bidder notification protocols. [REDACTED]

For the second Trial Auction, held on January 28, 2016, 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. 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 significant software problems.

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

Yes. [REDACTED]  
 [REDACTED] Further, Registered Bidders also had the opportunity to practice the back-up bid procedure during the Trial Auction for Registered Bidders on January 28, 2016.

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

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

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

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

Yes [REDACTED]. In addition, bidders were given an automatic extension after round one.

**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 10, 2015. The Part 2 Application deadline was on January 13, 2016 by which time there were a total of 156 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. [REDACTED]

**AUCTION WEEK CRITERIA**

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

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

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

Yes, please see the answer to 5d.

**QUESTION 7:**

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

**ANSWER 7: No.**

**AUCTION WEEK CRITERIA**

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



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

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

No, all bids were successfully received by NERA.

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

No, NERA did not indicate any material technical issues.

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

During the RSCP auction one bidder experienced technical difficulties. [REDACTED]

**QUESTION 8:**

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

**ANSWER 8: No.**

**QUESTION 9:**

**Did unanticipated delays appear to adversely affect bidding in the RSCP Auction? What adverse effects did 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 RSCP Auction process?**

**ANSWER 11: No.**

To our knowledge, there were no security breaches.

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

[REDACTED]

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

[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 RSCP 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 RSCP Auction parameters (e.g., volume, load caps, bid decrements)?**

**ANSWER 13: Yes.**

**PRE-AUCTION CRITERIA**

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

No, there were only minor changes to decrement formulas. NERA adjusted the decrement formula to change the timing in the switch from Regime 1 to Regime 2 prices.

**AUCTION WEEK CRITERIA**

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



Boston Pacific independently calculated the bid decrements for each round. The Auction Rules prescribe three different regimes of formulas for calculating the price decrements. Boston Pacific also validated NERA's decisions to switch from Regime 1 to Regime 2 and Regime 2 to Regime 3.

**QUESTION 14:**

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

**ANSWER 14: Yes.**



**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 FAQs and 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. The 2016 RSCP Auction ended after 18 rounds, which compares to 17 rounds last year and 16 the year before.

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

[REDACTED] there was no indication from bidders that they felt unduly rushed. [REDACTED]

Note that bidders were able to test the Auction software during the Trial Auction for Registered Bidders, and therefore were comfortable with it during the actual Auction.

**QUESTION 18:**

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

**ANSWER 18: No.**

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

**QUESTION 19:**

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

**ANSWER 19: Yes.**

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

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

All interested parties were given ample opportunity to comment on the 2016 BGS process. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2015. Furthermore, interested parties were also invited to file initial comments and final comments by September 4, 2015 and October 9, 2015, respectively. The Board also held a legislative-type hearing on September 28, 2015.

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

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

The Auction Manager consulted with 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 15<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 Board. The Auction software ensured that bidders received the correct information.

**QUESTION 20:**

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

**QUESTION 21:**

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

**QUESTION 22:**

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

**ANSWER 20: No.**

**ANSWER 21: No.**

**ANSWER 22: No.**

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

Both structural and behavioral indicators give support for the specific answers provided to all three of these questions as well as support to the broader finding that the BGS Auction was competitive. Among the structural indicators were the number of bidders, the number of winners, the market 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]

Having returning bidders speaks well to the transparency and ease of entry for the BGS process. [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 ratepayers.

[REDACTED] 10 actually won the right to serve some portion of the New Jersey RSCP load. In addition, [REDACTED] won supply.

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 10 winners in the RSCP Auction, 

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

For the RSCP Auction, using the winning shares as market shares, the HHI is 1,722. This puts the HHI for the RSCP Auction in the moderately concentrated range. This is similar to last year's HHI of 1,739. 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 13 suppliers who will serve consumers in 2016-2017; these are the winners in 2014 and 2015, as well as in this 2016 Auction. The HHI in this case would be 1,620. This compares to an HHI of suppliers who served customers for 2015-2016 of 1,683.



A final method that is also employed by FERC in antitrust evaluations examines the HHI of a market when the price is within 5% of the final market price. This so-called “Delivered Price Test” gives a sense of what suppliers would have participated at a price level roughly consistent with market prices.

[REDACTED]

[REDACTED]

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

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

**ANSWER 24: Yes.**

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



| 2016 BGS Auction           |                 |                          |   |     |      |
|----------------------------|-----------------|--------------------------|---|-----|------|
| Product                    | Tranches Filled | Final Price (cents/k Wh) | Price Expectation Range (cents/k Wh) <sup>1</sup> |     |      |
|                            |                 |                          | Average   | Low | High |
| PSE&G                      | 28              | 9.638                    | [REDACTED]  |     |      |
| JCP&L                      | 18              | 7.485                    |   |     |      |
| ACE                        | 7               | 8.214                    |   |     |      |
| RECO                       | 1               | 8.502                    |   |     |      |
| <b>Total</b>               | 54              |                          |   |     |      |
| <b>Average<sup>2</sup></b> |                 | 8.715                    |   |     |      |



Comparing this year’s average winning price to last year’s average winning price we can see that, on average, prices decreased 4.3%. Prices for each individual EDC decreased by 3.2% to 6.9% due to lower energy and congestion costs. Working against these factors was an increase in the cost of capacity and of meeting State Renewable Portfolio Standard (RPS) Requirements.

From a rate impact standpoint, as a starting point, we generally compare the winning prices in this Auction to the contracts that are being replaced. In this case that would be contracts from the 2013 BGS Auction. For all utilities except PSE&G, winning prices were lower than 2013 winning prices, ranging from a 5.9% to 10.6% lower. For PSE&G we saw a small increase of 4.6%. This increase was primarily due to an increase in

transmission rates. The PSE&G transmission rate has increased from \$115.85/MW-Day in the 2013 Auction to \$225.45/MW-Day in this Auction as the company has undertaken a number of large-scale projects over the last few years.

**QUESTION 25:**

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

**ANSWER 25: No.**

No, please see the answer to 24. [REDACTED]

**QUESTION 26:**

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

**ANSWER 26: No.**

### III. THE NEW JERSEY 2016 BGS-CIEP AUCTION

**A. POST-AUCTION CHECKLIST**

**ATTACHMENT B  
DOCKET NO. ER15040482**



**POST-AUCTION CHECKLIST FOR THE NEW JERSEY  
2016 BGS-CIEP AUCTION**

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Prepared by: Boston Pacific Company, Inc.

Auction began with the opening of Round 1 at 8:25 am On Friday, February 5, 2016

Auction finished with the close of Round 22 at 5:40 pm on Friday, February 5, 2016

|                    | 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 | 21  | 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. ER15040482

## Post-Auction Checklist for the New Jersey 2016 BGS-CIEP Auction

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

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

|  | PSE&G    | JCP&L  | ACE    | RECO   | Total      |
|--|----------|--------|--------|--------|------------|
| BGS-CIEP peak load share (MW)  | 1,978.57 | 990.31 | 351.30 | 55.10  | 3,375.28   |
| Total tranches needed  | 26       | 13     | 5      | 1      | 45         |
| Starting tranche target in auction                                       | 26       | 13     | 5      | 1      | 45         |
| Final tranche target in auction  | 26       | 13     | 5      | 1      | 45         |
| Tranche size (%)   | 3.85     | 7.69   | 20.00  | 100.00 |            |
| Tranche size (approximate MW)  | 76.10    | 76.18  | 70.26  | 55.10  |            |
| Starting load cap (# tranches)   | --       | --     | --     | --     | 21         |
| Final load cap (# tranches)  | --       | --     | --     | --     | 21         |
| Quantity procured (# tranches)   | 26       | 13     | 5      | 1      | 45         |
| Quantity procured (% BGS-CIEP load)                                      | 100%     | 100%   | 100%   | 100%   | 100%       |
| # Winning bidders  | 4        | 4      | 4      | 1      | 6          |
| Maximum # of tranches procured from any one bidder                       | 8        | 5      | 2      | 1      | 14         |
| Minimum and maximum starting prices prior to indicative bids (\$/MW-day) |          |        |        |        | 550<br>400 |
| Starting price at start of auction (\$/MW-day)*                          |          |        |        |        |            |
| Final auction price (\$/MW-day)**  | 335.33   | 259.24 | 258.61 | 277.50 | 303.54     |

\* 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. ER15040482**

**Post-Auction Checklist for the New Jersey 2016 BGS-CIEP Auction**

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

|    | <b>Question</b>  | <b>Comments</b> |
|----|--|-----------------|
| 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 2, 2015 and the second on December 4, 2015, both in-person in Philadelphia. The third was scheduled for January 26, 2016 and took place as a webcast that morning.

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 was for Registered Bidders only. Because the third session was a webcast, meaning that bidder confidentiality was maintained, NERA was able to conduct just one session, as opposed to having to hold separate sessions for RSCP and CIEP bidders as it has done in the past.

Note that 2 companies attended the first information session and 3 companies attended the second information session. In total, 4 companies showed interest in the RSCP and/or CIEP 2016 Auction by attending one of the first two bidder information sessions. This compares to 10 companies attending one of the first two sessions last year. [REDACTED] attended the third bidder information session. This high turnout is likely due to the fact that this was an online webcast, and did not require bidders to travel. 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 February 3, 2016, 158 questions had been asked by bidders since August 10, 2015, the first day FAQs were posted. All of these questions were answered in a timely fashion by NERA. The topics of questions included: (a) Applications, (b) Association and Confidential Information Rules, (c) Auction Rules, (d) BGS Supplier Master Agreement, and specifically section 15.9, (e) Credit, (f) Data, (g) Payments and Rates, and (h) pre-auction security. NERA provided responses to all of these questions, which seemed to satisfy bidders.

Starting on January 22, 2015, the Auction Manager sent answers to questions received regularly to Registered Bidders via email. Boston Pacific reviewed these FAQs as well.

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

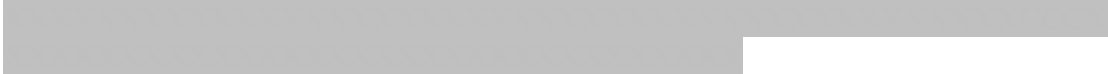
Yes, the BGS Auction website provided required data for bidders to prepare for the Auction.

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

NERA also maintained a “data room” on their website, which contained data that was updated monthly and additional data that was updated less frequently. NERA provided descriptions of both types of data. This data room helped bidders prepare their bids. Examples of the data posted here included (a) load data, which was updated monthly for each EDC and covered up to at least October 2015, and (b) switching statistics that showed the percentage of load and number of customers that have switched to third party suppliers. Any revisions made to the data were marked on the website.

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

Yes, before the Trial Auction, [REDACTED]



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

No.

**f. Were bidders given an opportunity to provide proposals and comments concerning the 2016 Auction Process?**

Yes. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2015. Interested parties were also invited to file initial comments and final comments by September 4, 2015 and October 9, 2015, respectively. The Board also held a legislative-type hearing on September 28, 2015.

After reviewing all comments from the EDCs and other interested parties, the Board approved the Joint EDC Proposal for the 2016 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.

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

No, there were no adjustments to this schedule.

**QUESTION 4:**

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

**ANSWER 4: No.**

**PRE-AUCTION CRITERIA**

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

Yes, please see answer to 2b.

**b. Were bidder questions asked starting on or about January 21, 2016 directly responded to by NERA?**

Yes, questions continued to be asked by Registered Bidders after January 21, 2016 and NERA provided answers to these questions directly to bidders via email. These answers were distributed regularly beginning on January 22, 2016. Bidders did not indicate any concerns with the answers provided by NERA. Also, please see answer to 2b.

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

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

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

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

Please see answer to 2e.

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

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

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

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

NERA conducted direct marketing with potential bidding companies through an email distribution list and phone calls. The list of contacts was developed from existing contact lists and from participants that registered for information on the BGS Auction website. NERA also advertised the bidding opportunity in several industry publications from November 11, 2015 through the Part 1 deadline of December 15, 2015.

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



- [REDACTED]
- g. From Boston Pacific’s observation, were there any pre-qualification requirements which directly prevented bidder participation?**
- [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 26, 2016, 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 phone-based backup bidding systems by submitting backup bids and creating situations to test NERA’s bidder notification protocols. [REDACTED]

For the second Trial Auction, held on January 28, 2016, 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. 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,

[REDACTED]

Further, Registered Bidders also had the opportunity to practice the back-up bid procedure during the Trial Auction for Registered Bidders on January 28, 2016.

**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. There were no extensions requested by bidders.

**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 10, 2015. The Part 2 Application deadline was on January 13, 2016 by which time there were a total of 156 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. [REDACTED]

**AUCTION WEEK CRITERIA**

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

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

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

Yes, please see the answer to 5d.

**QUESTION 7:**

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

**ANSWER 7: No.**

**AUCTION WEEK CRITERIA**

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

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

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

No, all bids were successfully received by NERA.

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

No, NERA did not indicate any material technical issues.

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

No, please see 5f.

**QUESTION 8:**

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

**ANSWER 8: No.**

**QUESTION 9:**

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

**ANSWER 9: No.**

**QUESTION 10:**

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

**ANSWER 10: Yes.**

**AUCTION WEEK CRITERIA**

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

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

**QUESTION 11:**

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

**ANSWER 11: No.**

To our knowledge, there were no security breaches.

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

[REDACTED]

Boston Pacific reviewed communications between NERA and bidders.

[REDACTED]

**QUESTION 12:**

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

**ANSWER 12: Yes.**

**AUCTION WEEK CRITERIA**

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

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

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

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

**QUESTION 13:**

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

**ANSWER 13: Yes.**

**PRE-AUCTION CRITERIA**

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

NERA made small adjustments to the decrement coefficients for ACE and PSE&G to ensure smooth price declines during the Auction.

**AUCTION WEEK CRITERIA**

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

█ Boston Pacific independently calculated the bid decrements for each round and found no errors in NERA's application of the decrement formulas.

**QUESTION 14:**

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

**ANSWER 14: Yes.**

█

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

**QUESTION 15:**

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

**ANSWER 15: No.**

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

**QUESTION 16:**

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

**ANSWER 16: Yes.**

**AUCTION WEEK CRITERIA**

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

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

**QUESTION 17:**

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

**ANSWER 17: No.**

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

The 2016 CIEP Auction ended after 22 rounds, which compares to 27 rounds last year. [REDACTED]

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

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

Note that bidders were able to test the Auction software during the Trial Auction for Registered Bidders, and therefore were comfortable with it during the actual Auction.

**QUESTION 18:**

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

**ANSWER 18: No.**

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

**QUESTION 19:**

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

**ANSWER 19: Yes.**

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

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

All interested parties were given ample opportunity to comment on the 2016 BGS process. In its Procedural Order, the Board invited all interested parties to file procurement proposals by July 1, 2015. Furthermore, interested parties were also invited to file initial comments and final comments by September 4, 2015 and October 9, 2015, respectively. The Board also held a legislative-type hearing on September 28, 2015.

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

Bidder information sessions were held by the Auction Manager to educate potential bidders on the Auction process. They provided an opportunity for questions to be asked



in a public forum. Any questions asked pertaining to the Auction were posted on the BGS Auction website as FAQs. These FAQs ensured that all bidders had equal access to information provided to any one bidder.

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

An additional factor boosting the competitiveness of the Auction is that this is the 15<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 Board. The Auction software ensured that bidders received the correct information.

**QUESTION 20:**

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

**QUESTION 21:**

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

**QUESTION 22:**

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

**ANSWER 20: No.**

**ANSWER 21: No.**

**ANSWER 22: No.**

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

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

[REDACTED]  
 [REDACTED] This is a good number of bidders. [REDACTED]  
 [REDACTED]

[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 ratepayers.

[REDACTED] 6 won the right to serve some portion of the New Jersey consumer need in the CIEP Auction.

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

Among the 6 winners in the CIEP Auction, 3 had a market share over 20% (ConocoPhillips, DTE, and Exelon won 29%, 20%, and 31%, respectively). The other 3 winners had a market share below 20%.

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

For the CIEP Auction, using the winning shares as market shares, the HHI is 2,365. This puts the HHI for the CIEP Auction at the high end of the moderately 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]

[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, 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]

[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.**