Agenda Date: 5/29/13
Agenda Item: 2J

# STATE OF NEW JERSEY

**Board of Public Utilities**
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ENERGY

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| IN THE MATTER OF THE BOARD'S REVIEW OF UTILITY CONSOLIDATED BILLING AND PURCHASE OF RECEIVABLES PROGRAMS | ) | ORDER |
| | ) | DOCKET NO. EO13030236 |

**Parties of Record:**

**John L. Carley, Esq.,** Rockland Electric Company
**Robert Chilton, Executive Vice-President,** Gabel Associates
**John F. Stanziola,** South Jersey Gas Company
**Murray E. Bevan, Esq., Bevan, Mosca, Giuditta & Zarillo, P.C.,** on behalf of Retail Energy Supply Association ("RESA")
**Craig G. Goodman, President,** National Energy Marketers Association
**Ira G. Megdal, Esq., Cozen O'Connor,** on behalf of FirstEnergy Solutions Corp.
**Alexander C. Stern, Esq.,** Public Service Electric and Gas Company
**Lauren M. Lepkoski, Esq., FirstEnergy Service Company,** on behalf of Jersey Central Power and Light Company
**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel
**Anthony Cusati III,** Interstate Gas Supply, Inc. dba IGS Energy, and on behalf of New Jersey Gas & Electric
**Tracey Thayer, Esq.**, New Jersey Natural Gas Company
**Michael D'Angelo,** North American Power
**M. Patricia Keefe, Esq.,** Elizabethtown Gas Company
**Philip J. Passanante, Esq.**, Atlantic City Electric Company

BY THE BOARD:

## BACKGROUND:

Shortly after the passage of the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49,-98 ("EDECA"), the Board determined that customer account services[1] ("CAS") issues would be addressed through the formation of a CAS working group. The ultimate result of this process

[1] CAS is defined in N.J.S.A. 48:3-51 as "metering, billing or such other administrative activity associated with maintaining a customer account."

was a series of CAS settlements that were approved by the Board ("CAS Orders")[2]. Pursuant to the CAS Orders, all issues remain subject to re-evaluation.

Board Staff has been actively engaged in analyzing current rules and policies governing energy competition and "purchase of receivables" ("POR") in the State over the past two years. Through both a rulemaking and a working group process, stakeholders and Board Staff have had several opportunities to evaluate the appropriateness of modifications to the Board's existing Energy Competition Rules at N.J.A.C. 14:4 as well as prior policy actions taken in its CAS proceedings.

In response to issues raised through the rulemaking and/or working group processes, on January 7, 2011, Board Staff provided notice of the creation of a POR/Price to Compare ("PTC") working group seeking input from the local distribution companies, Third Party Suppliers ("TPS") and other interested parties on specific issues relating to POR/PTC. On February 8, 2011, Board Staff conducted an initial stakeholder meeting on POR/PTC issues. Representatives of TPSs, the Division of Rate Counsel ("Rate Counsel"), the gas distribution companies ("GDCs"), and the electric distribution companies ("EDCs") attended and participated. At this meeting, the local distribution companies were directed to provide further information which was subsequently provided on March 9, 2011.

After a meeting on March 15, 2011, and after reviewing the information provided in this matter, on April 25, 2011, Board Staff, in an effort to facilitate settlement discussions, circulated a document for feedback by the parties. The document included two parts: Preliminary POR Design, and POR Design Questions. The parties responded on or about May 11, 2011. In the interim, comments were filed on the pending rulemakings regarding the readoption of N.J.A.C. 14:4, the Board's energy competition rules.

## Current Utility Consolidated Billing / Purchase of Receivables Mechanisms:

Public Service Electric and Gas Company ("PSE&G"), Atlantic City Electric Company ("ACE"), Jersey Central Power and Light Company ("JCP&L"), Rockland Electric Company ("RECO"), South Jersey Gas Company ("SJG"), and New Jersey Natural Gas Company ("NJNG") currently offer utility consolidated billing ("UCB")[3]. SJG provides UCB with POR for its residential customers, and UCB without POR for its small to mid-sized commercial customers. That is, if the TPS does not dual bill or provide TPS consolidated billing, the utility provides consolidated bills to customers of New Jersey licensed electric and/or gas TPSs that include the TPS's supply charges as well as the utility's distribution charges. Elizabethtown Gas Company ("ETG") does not offer utility consolidated billing at this time. However, as discussed below, ETG is in the process of developing a UCB/POR program.

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[2] The CAS stipulations were approved by Board Orders, In the Matter of the Electric Discount and Energy Competition Act of 1999 Customer Account Services Proceeding, Docket No. EX99090676, dated as follows: New Jersey Natural Gas Co. - December 6, 2000; Public Service Electric & Gas Co., Jersey Central Power & Light Co., Atlantic City Electric Co. - December 22, 2000 and February 2, 2011; Rockland Electric Co. - May 9, 2001; Elizabethtown Gas Co. - May 6, 2002; Generic, June 24, 2004.

[3] Under UCB, the EDC or GDC provides a bill to the customer that includes charges related to distribution services provided by the utility and charges related to the purchase of commodity (gas or electricity) by the customer from a TPS.

When a utility provides utility consolidated billing with POR, the utility assumes the TPS's account receivables associated with the bill; that is, the utility pays the TPS for the supply portion of the bill regardless of when, or how much, the customer pays. The gas utility companies providing consolidated billing may currently cease providing consolidated billing and drop the customer to dual billing if the customer's account is more than 120 days in arrears. The electric utility companies currently are permitted to cease providing consolidated billing and drop the customer to dual billing if the customer's account is more than 60 days in arrears. Once a TPS customer is reverted to dual billing, the TPS is responsible for its own account receivables associated with supply charges to the customer, and the utility will not offer utility consolidated billing to this customer for a 12-month period.

**Staff's February 25, 2013 UCB/POR Proposal**

Based upon extensive review and analysis of the information that Board Staff received from the participants in the working group and the collaborative discussions with the participants, Board Staff developed a proposal to modify the current UCB/POR mechanisms, as described above, whereby the utility providing consolidated billing assumes or purchases the account receivables of the non-billing TPS. On February 25, 2013, Board Staff posted its UCB/POR proposal and a Notice of Opportunity to Comment on the Board's website. Board Staff e-mailed links to these documents to the working group participants. The notice notified the working group participants and other interested stakeholders that Board Staff had developed a UCB/POR proposal and that Board Staff intended to present this proposal to the Board, and the notice invited comment on the proposal. Board Staff's February 25, 2013 UCB/POR proposal is attached to this Order as Attachment A ("Staff's UCB/POR Proposal").

**Stakeholder Comments**

On March 11, 2013, comments were filed by RECO, Gabel Associates ("GA"), SJG, the Retail Energy Supply Association ("RESA"), the National Energy Marketers Association ("NEM"), FirstEnergy Solutions Corp., PSE&G, JCP&L, New Jersey Division of Rate Counsel ("Rate Counsel"), and NJNG, and jointly by IGS Energy ("IGS") and New Jersey Gas & Electric ("NJG&E"). On March 18, 2013 reply comments were filed by North American Power, RESA, NEM, and JCP&L. The following is a summary of the comments submitted.

**Summary of Stakeholder Comments**

**Distribution Companies**

**Rockland Electric Company**

RECO asserts that the arrearage reporting requirements that were presented in Staff's UCB/POR Proposal should not apply to utilities that do not drop customers from UCB/POR to dual billing. RECO does not drop customers to dual billing and does not provide arrearage information to TPSs and has received no complaints regarding this. Therefore, RECO argues that the arrearage reporting requirement should not apply to it. RECO states that the right to establish or increase fees or charges for UCB or POR should be reserved to accommodate unforeseen future legislative, regulatory or industry changes.

**Public Service Electric and Gas Company**

Overall PSE&G supports Staff's UCB/POR Proposal; however, PSE&G recommends that modifications be made with respect to the following issues: 1) Customer Eligibility – 12 Month Restriction; 2) Drop to Dual Bills – 45 day notice to TPS; and 3) Discount Factors/Consolidated Billing Fees. PSE&G also asserts that in the absence of a settlement, the Board's findings and determinations must be accompanied by "reasonable support in the evidence."

Specifically, PSE&G agrees that consolidated billing should be used to collect only commodity charges for TPSs. Further, PSE&G states that only undisputed charges by customers be remitted to TPSs, consistent with N.J.A.C. 14:3-7.6. With respect to Staff's proposed modification to the 12 month dual billing restriction, PSE&G argues that customers can still shop under dual billing. If the TPS drops the customer, that is not a shopping issue but rather a TPS business decision not to offer billing services. PSE&G believes that Staff's proposal to allow customers who have been dropped to dual billing to re-participate in UCB/POR once the customer has made payments that bring the relevant account to the point where it is not 90 or more days in arrears, will result in a "ping pong" effect where customers are switched back and forth between the utility and the TPS based upon the customer's arrearage level. PSE&G suggests that the current 12 month restriction be modified to 9 months.

PSE&G does not oppose Staff's proposal that the minimum number of days that an electric customer's account must be in arrears before an EDC providing consolidated billing to the customer may drop the customer to dual billing be increased from 60 days to 120 days. However, PSE&G opposes Staff's proposal that utilities be required to notify the appropriate TPS, via Electronic Data Interchange ("EDI") of the utility's intension to drop a customer to dual billing at least 45 days prior to the drop. PSE&G believes that the current 15 day notice requirement provides the appropriate balance and should remain. PSE&G asserts that to increase the notice requirement to 45 days in effect increases the number of days when the drop to dual billing occurs from 120 days to not less than 180 days.

PSE&G supports Staff's proposal for a monthly arrearage report, and urges the Board to apply that same requirement consistently to all EDCs and GDCs. Although PSE&G currently provides arrearage reports more frequently than once a month, it finds that its current practice is burdensome.

PSE&G believes that there should be consistency in the allowance of discount factors and/or consolidated billing fees that EDCs and GDCs may impose upon TPSs. PSE&G contends that the CAS order permitted the GDCs to discount the payment to TPSs and/or charge TPSs UCB fees for agreeing to increase, from 60 to 120 days, the minimum number of days that a customer's account must be in arrears before the customer's account can be dropped from UCB/POR to dual billing. PSE&G believes that if the EDCs are now prohibited from dropping a customer to dual billing if the customer's account is not 120 or more days in arrears, then EDCs should be able to discount payments to TPSs and/or charge TPSs UCB fees.

**Jersey Central Power and Light Company**

JCP&L focuses on two main recommendations in Staff's UCB/POR Proposal, 1) the requirement that the EDCs provide the TPSs with monthly arrearage reports and 2) the elimination of the one year dual billing restriction, whereby a utility can refuse to offer UCB/POR to a customer if the customer has been dropped from UCB/POR to dual billing within the past 12 months as a result of arrearages in the customer's account. JCP&L argues that the arrearage reports would require additional ongoing administrative support and cost to track this information. Moreover, JCP&L contends that the modifications proposed by Staff could potentially lead to an increase in uncollectibles. Accordingly, JCP&L urges the Board to provide adequate time to implement Staff's UBC/POR Proposal and full and timely recovery of costs.

**South Jersey Gas Company**

SJG agrees with Staff's proposal to extend the UCB/POR program to include the GSG and GSG-LV rate schedules, as long as the company is permitted to implement a fee that compensates SJG for the costs and expenses incurred as a result of providing this service. SJG opposes Staff's proposal to eliminate the one year dual billing restriction which allows a utility to refuse to offer UCB/POR to a customer if the customer has been dropped from UCB/POR to dual billing within the past 12 months as a result of arrearages in the customer's account. If the one year dual billing restriction is eliminated, SJG recommends that the customer be denied UCB/POR until the customer's credit worthiness returns to an acceptable level. SJG opposes Staff's proposal that utilities be required to notify the appropriate TPS via EDI of the utility's intention to drop a customer to dual billing at least 45 days prior to the drop. SJG recommends that the notice be reduced from 45 days to 15 days.

SJG states that it is in the process of overhauling and upgrading its customer information system ("CIS"), and asks that any change to its arrearage reporting not take effect prior to March 1, 2014 when it estimates that the revised CIS will be operational. Moreover, SJG objects to Staff's proposal for monthly customer arrearage reports and suggests that the company be permitted to provide such reports as customers approach arrearages of 120 days.

SJG currently charges TPSs a UCB and receivable fee for residential UCB/POR customers of $.075 and $.90 respectively. However, as a result of SJG's review of these charges as part of the POR Working Group, South Jersey believes that discounting payments to TPSs using a uniform discount rate for all customer classes that is based upon historical uncollectible accounts data is a fairer and more equitable approach. Further, SJG believes that it should not be limited to implementing these charges in a base rate case.

**New Jersey Natural Gas Company**

NJNG concurs with Staff's proposal. NJNG does not drop customers to dual billing. Therefore, most of Staff's proposal does not apply to the company.

**Third Party Suppliers**

**Interstate Gas Supply Energy and New Jersey Gas and Electric**

IGS & NJG&E claim that POR with recourse was a common feature in early UCB programs when it was unclear to some whether there was significantly higher risk in supplier receivables versus utility receivables. They claim that if suppliers had to eventually collect on receivables, they would institute credit checks which would deny the benefits of choice to many consumers with less than perfect creditworthiness. They assert that utilities have an inherent advantage in collecting receivables because of their sole ability to terminate a customer's service for non-payment, subject to appropriate consumer protection procedures.

IGS & NJG&E believe that dropping a customer to dual billing causes problems for suppliers that lack billing capability because they will have to drop the customer altogether. They argue that using the existing utility billing, credit and collections systems reduces duplication and avoids the additional costs of parallel TPS systems. They state that the utility has the right to terminate service for non-payment, and therefore, is in the best position to collect older receivables.

**National Energy Marketers Association**

NEM compliments Staff for its thorough review of POR issues and appreciates that Staff's proposal undertakes to improve upon the utilities' current POR by: 1) extending the period before which a utility may switch a customer from UCB to dual billing, 2) allowing consumers to participate if they are not 90 days or more in arrears, and 3) requiring utilities to provide timely arrearage reports to suppliers. Although NEM finds Staff's proposal to extend the time for UCB for delinquent accounts to 120 days an improvement, NEM urges the Board to eliminate both the "recourse" and "drop to dual billing" conditions in New Jersey's UCB program.

NEM believes that a recourse and dual billing requirement is fundamentally inconsistent with a properly functioning, non-discriminatory, low cost and successful POR program. Moreover, NEM believes that dual billing will result in added costs, and discrimination consequences to low income and payment challenged consumers because they will be prevented from shopping for energy options that can better help them budget their energy needs. NEM argues that under a recourse POR, as customers are switched from UCB to dual billing, suppliers will return non-paying consumers back to the utility to avoid bad debt expense and the cost of dual billings. Because the utility is allowed to terminate service for nonpayment, the consumers are incentivized to make payments. Under dual billing, the TPS is not allowed to shut a customer off, thus NEM believes that the customer has no incentive to pay the bill. NEM also states that a recourse and dual billing POR program will impose unnecessary and duplicative costs associated with maintaining multiple and duplicative sets of books. Therefore, NEM prefers a non-recourse POR program whereby suppliers will be charged a discount rate that compensates utilities that have unbundled their uncollectible accounts expense.

NEM urges the Board to support Staff's proposal for timely arrearage reports should the Board retain either the recourse or the dual billing requirements of its current POR program. NEM also prefers PSE&G's currently weekly e-mailed arrearage report which groups the arrearage data into categories of 30-60 days, 61-90 days, 91-120 days and greater than 120 days.

**First Energy Solutions**

While FES concludes that Staff's UCB/POR Proposal is a step in the right direction, FES proposes two modifications. First FES does not support any drop to dual billing, and second, budget billing should be implemented. FES's chief complaint is that not all suppliers have billing systems and customers with arrearages should not be prevented from shopping. FES argues that these are the customers who benefit the most from shopping. Moreover, FES contends that suppliers will build into their prices, the risk that customers will be dropped to dual billing, which will decrease the potential savings for customers.

FES argues that dropping customers from the POR program to dual billing shifts the uncollectibles risk to the TPS, while EDCs receive recovery of uncollectible costs from ratepayers. FES states that this inequity is further apparent because EDCs can disconnect customers for non-payment while TPSs cannot. FES states that the six states it operates within