



Agenda Date: 2/17/23
Agenda Item: 2B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE VERIFIED PETITION OF)
NRG ENERGY INC. FOR A GENERIC PROCEEDING)
TO ADDRESS COMPETITIVE GAS SUPPLY ISSUES)
RELATIVE TO THIRD PARTY SUPPLIERS)

DECISION AND ORDER
DOCKET NO. GO22110704

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Murray E. Bevan, Esq., Counsel to NRG Energy, Inc., Bevan, Mosca & Giuditta, P.C.
Matthew M. Weissman, Esq., General State Regulatory Counsel, Public Service Electric and Gas Company
Andrew Dembia, Esq., New Jersey Natural Gas Company
Deborah M. Franco, Esq., VP Rates, Regulatory & Sustainability, SJL Utilities

BY THE BOARD:

On November 22, 2022, NRG Energy Inc. (“NRG”) filed a petition with the New Jersey Board of Public Utilities (“Board” or “BPU”) pursuant to N.J.A.C. 14:1-1 et seq., asking the Board to convene a generic proceeding to address gas supply issues relevant to third party suppliers (“TPS”) (“November 2022 Petition”).

Background

In the November 2022 Petition, NRG stated that its retail brands maintain one (1) of the largest combined competitive retail energy portfolios in the country. NRG owns numerous licensed TPSs that are actively serving natural gas and electricity customers across New Jersey.

NRG asserted that the Board should commence a generic Basic Gas Supply Service (“BGSS”) proceeding due to: 1) the significant passage of time (19 years) since the Board established the BGSS structure and procedures; 2) lack of competition generated by the BGSS structure and BGSS procedures in place since 2003; and 3) lack of transparency and scrutiny caused by the historic denial of TPSs’ requests to intervene or participate in BGSS proceedings. NRG noted that including TPSs in BGSS proceedings would bring greater transparency and scrutiny to the process that will best serve New Jersey gas supply customers.

NRG proffered that, in the January 6, 2003 Order approving the BGSS price structure, the Board expressly “reserve[d] the right to revisit and/or modify its decision in this matter at any time upon

notice to the parties should circumstances so warrant.”¹ NRG further noted that the Board also tacitly recognized its own ability, and need, to revisit the BGSS structure and procedures “in a generic proceeding including all of the gas utilities as well as other interested parties” when it denied NRG’s motion to intervene in PSE&G’s BGSS proceeding.² Therefore, NRG requested that the BPU initiate such a generic BGSS proceeding.

NRG specifically stated that it is concerned about the gas distribution companies’ (“GDCs”) ability to self-implement decreases in their BGSS rates absent BPU or New Jersey Division of Rate Counsel review. NRG argued that, historically, the GDCs implement these decreases without notification to the TPSs, brokers, aggregators, or other participants in the State’s retail gas supply market. According to NRG, the GDCs often implement rate decreases in the form of bill credits in the winter months wherein GDCs sell greater gas volumes, incentivizing customers to either migrate from TPSs to GDCs or avoid TPS service.

Finally, NRG identified its concern that, because the Board has historically denied its intervention in BGSS proceedings involving increases to the GDCs’ balancing charges, it is without a voice in matters setting these charges that directly affect their customers and cannot scrutinize how the GDCs calculate their balancing charges.

DISCUSSIONS AND FINDINGS

The Board reviewed the November 2022 Petition in its entirety and carefully considered the issues raised therein. Based upon the amount of time that has passed since establishment of the BGSS structure and procedures, the Board believes it is appropriate to review the current BGSS structure and procedures and related competitive issues. As such, the Board **HEREBY OPENS** a stakeholder proceeding and **HEREBY DIRECTS** Board Staff (“Staff”) to open a new docket, notify all affected parties, and post notice of this proceeding on the Board’s website. Through the course of the stakeholder proceeding, the specific issues that should be examined in the new docket will be identified. The Board **FURTHER DIRECTS** Staff to provide to the Board for its consideration, a list of issues that the stakeholders recommend be examined in the new docket along with Staff’s recommendations regarding which issues should be examined.

Accordingly, the Board **HEREBY DIRECTS** Staff to close the instant proceeding in Docket No. GO22110704.

¹ In re the Provision of Basic Gas Supply Service Pursuant to the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et. seq., Order Approving BGSS Price Structure at 10-11, BPU Docket No. GX01050304, Order dated January 6, 2003 (“January 2003 Order”).

² In re the Petition of Public Service Electric and Gas Company’s 2021/2022 Annual BGSS Commodity Charge Filing for Its Residential Gas Customers Under Its Periodic Pricing Mechanism and for Changes In Its Balancing Charge, Decision and Order Approving Stipulation For Provisional Rates at 6, BPU Docket No. GR21060878, Order dated November 17, 2021.

The effective date of this Board Order is February 24, 2023.

DATED: February 17, 2023

BOARD OF PUBLIC UTILITIES
BY:





JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER




ROBERT M. GORDON
COMMISSIONER



DR. ZENON CHRISTODOULOU
COMMISSIONER

ATTEST:



CARMEN D. DIAZ
ACTING SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities.

IN THE MATTER OF THE VERIFIED PETITION OF NRG ENERGY INC. FOR A GENERIC
PROCEEDING TO ADDRESS COMPETITIVE GAS SUPPLY ISSUES RELATIVE TO THIRD PARTY
SUPPLIERS

DOCKET NO. GO22110704

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