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May 3, 2013

VIA HAND DELIVERY AND ELECTRONIC MAIL

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

**Re: I/M/O the Act Concerning the Imposition of Standby Charges Upon
Distributed Generation Customers Pursuant to N.J.S.A. 48:2-21 et seq.
BPU Docket No. GO12070600**

Dear Secretary Izzo:

Please accept for filing an original and ten copies of the comments of the Division of Rate Counsel ("Rate Counsel") concerning the compliance filings submitted in this matter by the four New Jersey electric distribution companies ("EDCs") pursuant to the Board's July 18, 2012 order in this proceedings and the Board Staff's recent request for comments. A copy of these comments is being electronically sent to rule.comments@bpu.state.nj.us pursuant to the Board's Notice issued in this matter. We are enclosing one additional copy. Please date stamp the copy as "filed" and return it to the courier. Thank you for your consideration and attention to this matter.

BACKGROUND

On January 17, 2012, Governor Christie signed a bill into law that has been codified as N.J.S.A. 48:2-21.37 – 48:2-21.40, which has become known as the "Standby Charge Law." As the name implies, the Standby Charge Law concerns the imposition by an EDC of "standby charges" on "distributed generators." Standby service for a distributed generation customer, as defined by the Standby Charge Law, is an EDC making "energy available to the distributed

generation facility during a [customer-owned] facility power outage.”¹ That is, a distributed generation customer does not normally rely on its local EDC for all of its service, except during periods when the distributed generation customer’s facilities are not able to meet all of the customer’s own electric needs. During such times, the local EDC provides electric service to the customer. Thus, the EDC “stands by” with sufficient transmission and distribution capacity ready to serve the electric needs of its distributed generation customers.

The Standby Charge Law defines “distributed generation” as “energy generated from a district energy system or a combined head and power facility as that term is defined in [N.J.S.A. 48:3-51], the simultaneous production in one facility of electric power and other forms of useful energy such as heating or process steam, and energy generated from other forms of clean energy efficient electric generation systems.”²

The Standby Charge Law requires two things of the Board: (1) Within 120 days of the effective date of the law, the Board shall “conduct a study to determine the effects of distributed generation upon energy supply and demand and determine whether distributed generation contributes to any cost savings for electric public utilities”;³ and (2) within 180 days of the effective date, the Board shall “establish criteria for fixing rates associated with the assessment and imposition of standby charges, and shall require electric public utilities to file tariff rates with the board in accordance with such criteria.”⁴

In its order dated July 18, 2012, the Board referenced a “limited study” that was conducted pursuant to the Standby Charge Law. That Order recites that Board Staff previously had conducted a limited study by sending discovery requests to each of the four EDCs on April 13, 2012, requesting each “to provide its analysis with respect to the effects of distributed generation upon energy supply and demand, and whether distributed generation contributes to any cost savings for the EDC that would support establishing discounted standby charges for distributed generators.”⁵ Rate Counsel has not yet seen the EDCs’ responses to those or

¹ N.J.S.A. 48:2-21.37.

² N.J.S.A. 48:2-21.37.

³ N.J.S.A. 48:2-21.38.

⁴ N.J.S.A. 48:2-21.39(a).

⁵ In the Matter of the Act Concerning the Imposition of Standby Charges Upon Distributed Generation Customers Pursuant to N.J.S.A. 48:2-21 et seq., BPU Docket No. GO12070600, Board Order dated July 18, 2012, page 2.

subsequent Board Staff discovery requests; nor has Rate Counsel seen a report on that limited study conducted by Board Staff. Ultimately, however, the Board concluded from the limited study by Board Staff that more information is needed and that the process should be opened to distributed generators and other interested parties, including Rate Counsel.⁶ Accordingly, the Board directed each of the four EDCs, by November 1, 2012:

to make a filing with all supporting documentation either proposing to continue the current standby service/tariff and rate design structure but extending it to include Distributed Generators as defined in the Standby Charge or to modify such standby service/tariff and rate design structure by proposing a new standby service for Distributed Generators as defined in the Standby Charge Law.⁷

Specifically, the Board directed each EDC to address and provide supporting analyses and documentation concerning the following five issues:

- (1) Proposed standby service or provisions with rates that are available to Distributed Generators as defined in the Standby Charge Law.
- (2) Standby service, rates and rate design shall consider the operating performance of the Distributor (sic) Generators as defined in the Standby Charge Law during peak electric demand periods, as well as the design of demand charges that could provide incentives to Distributed Generators to shift usage away from peak electric demand periods.
- (3) Standby rates and rate design for Distributed Generators must be based on cost causation principles that address both the incremental costs and the overall costs to provide distribution service to these Distributed Generators.
- (4) Standby service, rates and rate design shall ensure equity between Distributed Generators and other public utility customers.
- (5) Standby service for Distributed Generators shall consider cost savings to EDCs resulting from distributed generation, and any other benefits associated with distributed generation, including, but not limited to, any increase in energy efficiency and any associated decrease in demand for electric power from the electric grid.⁸

⁶ Id. page 4.

⁷ Id. page 4.

⁸ Id. pages 4-5.

RESPONSES FROM THE EDCs

On or about November 1, 2012, each EDC filed a response to the requests contained in the Board's July 18, 2012 order in this matter. Following is a brief summary of the EDCs' responses.

Atlantic City Electric Company ("ACE")

ACE's comments contend that "the current terms and conditions and rate structure in Rider STB are appropriate for application to distributed generation ("DG") facilities. The Company therefore proposes no changes to existing Tariff Rider STB are necessary at this time in order to accommodate DG facilities."⁹ No further analyses or documentation were provided.

Jersey Central Power & Light Company ("JCP&L")

JCP&L's comments included a proposed standby rate for DG customers, which it labeled, "Rider STB-DG." This rate, if accepted, would be available to DG customers with DG output capability of 250 kW or greater. JCP&L's comments also provided a brief response to each of the five issues that the Board requested each utility to address in its comments, summarized by Rate Counsel as follows:

- Issue (1): Proposed Rider STB-DG specifies the eligibility requirements for standby service under the rider.
- Issues (2): The proposed charge under Rider STB-DG is based on billing demand. This rate design, according to JCP&L, would incorporate existing incentives for customers to shift usage away from peak periods.
- Issues (3),(4): Proposed charges under Rider STB-DG would be the same as demand and energy charges for all other customers, ensuring that cost causation principles are maintained and to prevent cross-subsidization of DG customers by other customers.

⁹ Letter from ACE to Board Secretary Izzo signed by Philip J. Passanante, dated November 5, 2012.

Issue (5): JCP&L maintains that DG will not contribute to any cost savings for JCP&L. In fact, JCP&L commented that certain types of DG facilities can increase costs because additional infrastructure may be needed to support the DG's facilities.¹⁰

JCP&L also commented that stakeholder meetings may be useful to clear up issues surrounding DG and standby rates that the Company believes are "vague and subject to different interpretations."¹¹

Rockland Electric Company

Rockland submitted proposed revisions to its SC No. 2 and No. 7 tariff schedules to provide standby service to its DG customers under both these tariffs. Rockland's current rate schedule SC No. 7 contains a \$1.55 per kW standby charge, based on its past cost of service and load studies. Prospectively, if approved, standby service will also be provided under SC No. 2 and will be made available to DG customers under either SC No. 2 or SC No. 7, using the same \$1.55 per kW billing demand rate. Rockland's comments describe how standby billing demands will be determined. Like ACE, Rockland did not specifically comment on the five issues identified in the Board's July 18, 2012 order.

Public Service Electric & Gas ("PSE&G")

PSE&G's comments proposed new tariff provisions within its existing Rate Schedules GLP (General Lighting and Power Service), LPL (Large Power and Lighting Service), and HTS (High Tension Service) that apply to customers with self-generation units. PSE&G's comments specifically addressed each of the five issues identified in the Board's July 18, 2012 order, summarized by Rate Counsel as follows:

Issue (1): Standby service provisions have been added to Rate Schedules GLP, LPL, and HTS for self-generation customers with a combined net kW output rating equal to or greater than 50% of the customer's annual peak demand.

Issue (2): PSE&G comments that its proposed demand charges provide incentives to DG customers to minimize charges by minimizing or eliminating consumption of

¹⁰ Letter from JCP&L to Board Secretary Izzo signed by Gregory Eisenstark, dated November 1, 2012.

¹¹ Id. page 3.

electricity purchased from the Company. PSE&G comments that its cost of serving standby customers is the same as that for full service customers.

Issue (3): PSE&G maintains that its standby charges are cost-based and that those charges treat DG customers no differently than the other customers on the respective rate schedules in terms of recovering costs associated while serving them at their full peak loads.

Issue (4): PSE&G comments that the “correct” rate design should make the EDC’s (and ratepayers) indifferent to whether the customer used DG or the electric grid as the source of its energy. PSE&G contends that its proposed standby demand charges accomplish this function.

Issue (5): Similar to JCP&L’s comments, PSE&G contends that distributed generation service will not result in meaningful distribution and transmission cost savings for EDCs and that such service may increase connection fees to distributed generation customers. Moreover, the intermittent nature of service provided to DG customers may create a variety of operational challenges to the EDCs.

Subsequent to the EDCs’ November 2012 filings, the Board Staff issued a “Notice of Working Group Meeting on Standby Rates Proceeding” (“Notice”) wherein the Board Staff invited Rate Counsel and other interested parties to participate in a working group meeting on May 17, 2013 to discuss various issues surrounding standby rates for DG customers. The Notice also invited input in the form of comments on the EDCs’ November 2012 standby rate filings. Following are Rate Counsel’s limited comments on the EDCs’ filings and on the working group process in general.

RATE COUNSEL’S ANALYSIS

Rate Counsel is pleased to participate in the Standby Rates Working Group. We understand the goal of the Working Group is to arrive at a clear policy so that the Board can implement fair, non-discriminatory and logical standby rates for DG customers. Rate Counsel believes that in order to achieve this goal all stakeholders must exchange their views. Thus, Rate Counsel supports Board Staff’s efforts to reach out to other interested parties, including DG customers themselves, to receive their input in formulating an important Board policy.

Rate Counsel was not asked to participate in Board Staff's "limited study" that formed the basis for the Board's July 18, 2012 Order. Nor has Rate Counsel seen the results of that study or been afforded the opportunity to review the EDCs' responses to Board Staff's earlier data requests. Thus, Rate Counsel cannot comment on Board Staff's conclusions as set forth in the July 18, 2012 order or the adequacy of the EDCs' discovery and informal responses to Staff. Based on the EDCs' November 2012 filings, however, it is clear that more information and analyses are necessary before the Board can accept and implement the EDCs' proposed tariff provisions and proposed rates.

The Standby Charge Law, at N.J.S.A. 48:2-21.39, requires the Board to establish criteria for fixing rates for standby charges applicable to DG customers. Once again, the EDCs' November 2012 filings do not squarely address this requirement. PSE&G and JCP&L at least attempted to address the five issues that were identified in the Board's July 18, 2012 order relating to this section of the Standby Charge Law. But none of the EDCs clearly identified specific criteria for the Board to follow when establishing standby charges for DG customers. For example, ACE's filing consisted solely of a conclusory statement that its current terms and conditions and rate structure for standby service are appropriate for DG customers without ever explaining what those terms, conditions, and rates are or how they were originally derived, or addressing any of the factors set forth at N.J.S.A. 48:2-21.39. Without a complete understanding of what went into the development of ACE's existing standby service rates, and their interaction with the factors listed in the Standby Charge Law, the Board cannot fairly conclude that such terms, conditions, and charges are appropriate for DG customers. Similarly, Rockland concluded, in summary fashion, that its existing \$1.55 per kW charge for standby service is appropriate for DG customers as well. Rockland claims that the rate was "based on past cost of service and load study indications."¹² Again, without knowledge of past cost of service and load study indications that Rockland references, but does not provide, the Board cannot fairly determine the reasonableness of the \$1.55 per kW rate that Rockland proposed for standby service to DG customers. The definition of "distributed generation," at N.J.S.A. 48:2-21.37, is potentially quite broad and requires clarification; for example, whether it includes solar photovoltaic systems. Staff also should consider whether to limit the applicability of standby

¹² Rockland Electric Company's letter to Board Secretary Izzo signed by William A. Atzl, Jr. dated November 1, 2012, page 2.

charges by the potential output of a DG system. JCP&L, for example, would limit its standby rates to DG customers with DG output capability of 250 kW or greater.

It appears to Rate Counsel that the EDCs are “putting the cart in front of the horse” in an attempt to obtain swift Board approval for their proposed standby charges. Rather, Board Staff should proceed in a more logical, step-wise fashion that follows the directives of the Standby Charge Law. First, the study required in N.J.S.A. 48:2-21.37 must be completed. Thereafter, the Board must establish specific criteria for fixing rates for standby service, pursuant to N.J.S.A. 48:2-21.38. In establishing the criteria, the Board will require more information from the EDCs and from DG customers along the lines of the questions set forth in Board Staff’s Working Group Meeting Notice in this matter. Once the data and information have been gathered and analyzed, specific criteria for fixing standby rates can be established. Following that, the individual tariff proposals by each EDC can be analyzed to determine if they meet the Board’s established criteria, as required by the Standby Charge Law. The Board may wish to consider whether uniformity in service offering and rate treatment between the is necessary or desirable in order to place standby charges for DG customers on a level playing field across the entire State.

Once again, the Division of Rate Counsel if pleased to participate in the Working Group and stands ready to assist in the process. We look forward to working with the EDCs, the Board Staff, distributed generation customers, and all other interested parties in establishing fair rates for standby service to distributed generation customers.

Respectfully submitted,

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