

**I/M/O the Provision of Basic Generation Service  
(BGS) For the Period Beginning June 1, 2012  
BPU Docket No. ER12060485**

**Initial Comments of the Division of Rate Counsel**

**August 31, 2012**

***I. Introduction***

The Division of Rate Counsel (“Rate Counsel”) is pleased to provide these comments to the Board of Public Utilities (the “Board” or “BPU”) pursuant to the 2013 BGS procedural schedule established by Board Order dated June 18, 2012 in *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2013* (“2013 BGS Procedural Order”).

In the 2013 BGS Procedural Order, the Board directed the EDCs to address three issues decided by the Board in *I/M/O the Review of the Basic Generation Service Procurement Process*, BPU Docket No. ER12020150, June 1, 2012, (the “BGS Review Order”). In these comments, Rate Counsel will address two of these issues:

1. the lowering of the CIEP threshold to those customers with a peak load share of at least 500kw beginning June 1, 2013; and
2. directing the EDCs to install interval meters for all BGS eligible customers with a peak load share of 500kw and above by June 1, 2013.

Rate Counsel did not take a position on the third issue cited by the Board - TransCanada’s comments about the length of the decision process between when a supplier makes a non-retractable offer and when that offer is accepted - and will not address that issue in these comments. In addition, Rate Counsel will address the Board’s earlier directive regarding the review of BGS Administrative Expenses as set out in *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1,*

2012, BPU Docket No. EO11040250, November 11, 2011 (“*2012 BGS Decision and Order*”).

## ***II. Discussion***

### **a. Lowering the CIEP Threshold**

In the BGS Review Order, the Board adopted the proposal of the Retail Energy Supply Association (“RESA”), finding it was appropriate to “gradually expand the CIEP class” to include commercial and industrial customers with a peak load between 500kw and 750kw. The Board reasoned that exposing these customers to real-time pricing would “allow these customers to make more informed decisions to shop, conserve, become more efficient, or even curtail or shift load usage at times of peak demand.” *BGS Review Order, page 11*. The Board tacitly acknowledged that this change could result in higher costs for these customers but posited that “the net rate impact will be minimal and can be effectively mitigated by these commercial and industrial customers through a combination of energy efficiency, shopping, demand response, and conservation.” *Id.*

Rate Counsel recommends that in this 2013 BGS proceeding the Board should reject the “glide path” proposed by RESA and hold the CIEP threshold at 500kw. Rate Counsel continues to have concerns about the wisdom of forcing mid-sized customers into the BGS-CIEP class in order to bolster competition, especially when these mid-sized customers already have the option to shop or to be served under BGS-CIEP. Rate Counsel submits that further lowering the CIEP threshold only serves to force customers onto an hourly price structure, customers who are unable to deal effectively with hourly prices and who have therefore chosen to remain as BGS-FP customers. Small business owners are in the best position to determine for themselves whether it makes economic

sense to switch to a third party supplier and certainly many have chosen to do so. The Board should not force these customers to make decisions that are not economically reasonable.

Indeed, as indicated by recent statistics, Commercial and Industrial (“C&I”) customers are taking advantage of these products without being forced into the BGS-CIEP class. For example, the June 2012 New Jersey Electric Switching Statistics posted on the Board’s web site show that 82.2 percent of the C&I load between 500 kw and 750 kw has switched while 54.0 percent of the C&I load less than 500 kw has switched. Presumably, customers are switching to take advantage - when it is to their advantage - of the various products offered by the suppliers competing in the New Jersey energy marketplace. Pushing smaller C&I customers who have made the business decision not to switch onto hourly electric prices only limits customers’ choices.

As noted at the legislative-type hearings on September 10, 2009, Ms. Sarah Bluhm, representing the New Jersey Business and Industry Association (“NJBIA”), spoke on behalf of the very entities that would be most affected by the mandatory lowering of the CIEP threshold. Ms. Bluhm discussed the hardships created by the current economic climate and the increased interest in controlling energy costs as a result of this difficult economy. Ms. Bluhm urged the Board not to lower the CIEP threshold to force customers to shop but rather to focus its efforts on education and technical assistance for these mid-sized companies. Rate Counsel agrees with this recommendation.

In sum, concerns expressed during the BGS review process regarding the prudence of maintaining the 750kw CIEP threshold are even more compelling for

customers below the 500kw threshold. As noted during the review process, “the division of customers between BGS-FP and BGS-CIEP reflects customers’ relative ability to understand and manage price risk, as well as the cost to the customer and the utility of implementing and responding to such a system.”<sup>1</sup> The three year term and the fixed price nature of the BGS-FP product provide stability to smaller C&I customers unable to effectively manage energy market risk. Rate Counsel submits that there is no particular benefit to be gained by forcing additional customers onto hourly pricing when these customers can voluntarily switch to BGS-CIEP. Accordingly, Rate Counsel recommends that no further changes be made to the threshold volume for BGS-FP service until a clear customer benefit has been shown.

**b. Interval Meters**

Also in the BGS Review Order, the Board agreed with RESA that the Electric Distribution Companies (the EDCs) should install interval meters for all customers above the BGS-CIEP threshold who do not have an interval meter along with “any data management improvements necessary to enable these customers to be transitioned to the CIEP class by no later than June 1, 2013.” *BGS Review Order, page 12*. The Board directed that the costs associated with interval meter installation “shall be determined in the context of the EDCs’ next rate case.” *Id.* To date, the parties have not yet received any cost data from the EDCs relating to the installation of these interval meters nor has it been determined who will pay for these costs. Rate Counsel submits that the Board

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<sup>1</sup> In The Matter Of The Review Of The Basic Generation Service Procurement Process, BPU Docket No. ER12030150, Reply Comments on behalf of the Electric Distribution Companies, page 12, April 20, 2012.

should not further lower the CIEP threshold without the benefit of a detailed interval meter implementation cost/benefit analysis and review.

During the BGS Review proceeding, RESA suggested that the higher costs of these meters “will be recovered many times over as customers are able to take advantage of the cost savings afforded to them through the added ability to monitor and respond to real time pricing.”<sup>2</sup> RESA has not provided even the most basic cost-benefit analysis to support this argument that the interval meters would pay for themselves through energy savings.

Accordingly, the Board should direct that such a cost/benefit analysis be performed before further reductions in the CIEP threshold are ordered. The Board should direct the EDCs to provide a full accounting on the costs incurred in installing the interval meters and implementing necessary software upgrades for customers over 500kw. In addition, the EDCs should provide any additional costs associated with the conversion to interval meters, such as any stranded costs, for which the EDCs intend to seek recovery from ratepayers. The Board should further direct RESA and other interested parties to provide support for the claim that cost savings resulting from switching these customers from BGS-FP to BGS-CIEP would be significant and would outweigh the cost to ratepayers of implementing this move.

**c. BGS Administrative Expenses**

In last year’s BGS proceeding, the Board adopted Rate Counsel’s recommendation that BGS administrative expenses claimed by the EDCs and charged to BGS customers should undergo additional review. *2012 BGS Decision and Order, page*

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<sup>2</sup> In The Matter Of The Review Of The Basic Generation Service Procurement Process, BPU Docket No. ER12030150, Initial Comments of the Retail Energy Supply Association, March 30, 2012. p. 6.

11. The Board decided that this review should be undertaken in the context of a base rate case and accordingly, directed Board staff “to examine, as an additional area, the administrative expenses that are being charged to ratepayers relating to BGS in each of the EDC’s next base rate case.” *Id.*

Rate Counsel undertook such a review of the BGS administrative expenses in the base rate case filed by Atlantic City Electric (“ACE”) on August 5, 2011. I/M/O the Petition of Atlantic City Electric Company for Approval of Amendments to its Tariff to Provide for an Increase in Rates and Charges for Electric Service pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 48:2-21.1 and for Other Appropriate Relief, BPU Docket No. ER11080469 (“ACE 2011 base rate case”). In the course of this review, Rate Counsel learned that at least one utility is charging internal labor costs through the BGS administration charge. Rate Counsel believes this is inappropriate and could result in double-recovery. Rate Counsel, therefore, recommends that the Board direct the EDCs not to include utility internal labor costs in the BGS administrative charge collected through tranche fees from BGS suppliers. Instead, these costs should be recovered in base rates to insure that there is no double counting of the utility’s internal labor costs.