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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Friday, October 18, 2019

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
Post Office Box 350
Trenton, New Jersey 08625

Via Mail and Email

Re: Exploration of Gas Capacity and Related Issues GO19070846

Dear Secretary:

Infinite Energy appreciates this opportunity to submit comments in the above-referenced matter.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Richard F. Paez
Manager, Regulatory Affairs
Infinite Energy, Inc. | Veteran Energy LLC
(352) 225-7558 | Regulatory@InfiniteEnergy.com

CC: by email, all parties of record

Case Mgmt
S. Peterson

Before the New Jersey Board of Public Utilities
IN THE MATTER OF THE EXPLORATION OF GAS CAPACITY AND RELATED ISSUES
Comments of Infinite Energy, Inc (dba Intelligent Energy)

Established in 1995, Infinite Energy is natural gas wholesaler and retailer serving customers throughout the southern and eastern United States. We have served the New Jersey retail market as a licensed Third Party Supplier (TPS) since 2004, and we applaud the New Jersey Board of Public Utilities (the Board) and its staff for initiating these proceedings (the Exploration) and providing this opportunity to submit comments.

To contextualize our comments, we observe that the success of any retail market is dependent on at least three complimentary pillars:

- Reliability, safety, and continuity of service:
  - The regulated Gas Distribution Companies (GDC) ensure the integrity of their local distribution systems;
  - The GDCs, market participants, and regulators work together to ensure sufficiency of capacity, supply, and peaking services;
- Equitable assignments of costs—fair tariffs, market design, and regulations ensure that:
  - Each customer and market participant is assigned the appropriate share of costs, including those of upstream assets, balancing, on-system storage, etc.
  - Benefits paid for by customers and market participants are appropriately assigned to the entities that paid for those benefits—as an immediate example, if any portion of capacity held by the GDCs have or continue to be paid for by a sales customer, that customer should receive a fair share of any credits derived from the release of that capacity;
- A corollary of the first and second pillars is that the GDC acts both as the monopoly market platform provider and as a gas supplier completing and participating in that market; thus:
  - Whenever and wherever possible, the GDC in its role as gas supplier should operate on the "market platform" exactly as any other market participant would, including paying any costs or enjoying any benefits that any other market participant would pay or enjoy, while the GDC in its role as market platform provider should take reasonable steps to ensure reliability and continuity of service in a manner that equitably distributes the costs across all customers and market participants.
  - The costs and benefits that accrue to each role should be kept separate to ensure that GDC sales customers neither suffer nor benefit at the expense of TPS customers, that TPS customers neither suffer nor benefit at the expense of GDC sales customers, and that customers switching from GDC sales to TPS service or vise-versa retain those benefits they have paid for.
  - All customers who pay GDC charges should equally benefit from their investments.

In short: costs should be unbundled fully, should follow causation, should not be duplicated unnecessarily, and should be paid equally by all who benefit from them. Just as importantly, those who pay or have paid for a cost should benefit equally from their investment.

The Board's Exploration raises questions along both the reliability and equitable cost axes. Out of respect for the Board's time, Infinite Energy will limit its comments to those issues which we believe we are positioned to provide the most useful insight.

Capacity Procurement – "Best of Class" Model

Infinite Energy respectfully points to the Atlanta Gas Light (AGL) retail market as a "best of class" model for capacity procurement in retail markets. AGL, the regulated GDC, determines its system-wide design day requirements, accounting for both on-system/peaking assets (propane, storage, interruptible customers, etc.) and upstream assets (pipeline capacity, storage, etc.), then secures those upstream assets under a Capacity Supply Plan (CSP) that is reviewed by TPSs, ratepayer advocates, and the Georgia Public Service Commission's staff prior to ultimate approval by the Commission itself. Each Capacity Supply Plan covers a three year period.

Under the terms of the effective CSP, AGL releases capacity and other assets to each TPS on its system based on a pro-rata share, by volume. The costs for this capacity are assessed to each TPS on a monthly basis to pass through to its customers. As each TPS's market share shrinks or expands, so does its share of the assets; should a TPS leave the market or a customer switch from one supplier to another, the assets follow the customers. Each customer pays for its share of the assets, and those assets are in turn used by the customer's supplier to ensure gas is transported to AGL's citygates on behalf of the customers. This system is elegant, effective, and efficient:

- Because the capacity is instantly recallable, there is no risk to AGL's systems or to any of the customers—should a TPS fail to meet its obligations, AGL is positioned to recall the capacity and initiate whatever actions necessary to ensure gas supply is met.
- Each entity subject to gas delivery obligations is required to post collateral proportional to its market share, ensuring that AGL and the ratepayers are secure while assigning equitable costs to each supplier based on the size of its business.
- Because one (rate-regulated) entity is securing the primary firm capacity needed to serve the entire market, ratepayers, market participants, and regulators can be assured that:
    - Transparent, well-reviewed decisions are made, and all parties (TPSs and the utility) are operating in harmony to ensure that sufficient capacity is secured to ensure reliability for all customers without excess.
    - There is no inappropriate bundling or inefficient duplication of costs, and
    - An unavoidable cost is equitably socialized across the entire customer base without any group accruing a benefit at the expense of any other group.
- Because upstream assets are secured by the utility and assigned to each supplier based on the supplier's current market share, customers may switch suppliers, and suppliers may enter and leave the market, without this crucial element of reliability being compromised.
- Transparency and market stability foster competition and efficiency, leading to lower costs for consumers and innovations not seen in partially-restructured markets.

- Customers choosing to take sales service from AGL's affiliate[1] do not pay more or less for these key assets than any other customer, nor do they receive any more or less benefits than any other customer. Put another way, the "pro-rata share" model ensures that no entity (the utility or its affiliate) can ration "choice capacity" (that capacity which is most cost effective or which allows for the transportation of the most cost effective gas) while forcing other suppliers to use less cost effective assets—everyone gets an equal share of all assets, and thus an equal playing field is ensured.

We believe a similar system implemented in New Jersey would be the most effective, efficient, and reliable option for New Jersey ratepayers.

Capacity Procurement – "All For One and One For All"

We respectfully observe that distinguishing "sufficient firm capacity" between a NJ GDC and the TPSs serving customers on the GDC's system paints an incomplete picture:

1. The concept of sufficient firm capacity is only appropriately applied to the system as a whole; even if the GDC and the TPSs have, separately but in aggregate, sufficient capacity to serve design day needs, if the necessary capacity to serve the entire system is not recallable, then an otherwise avoidable shortfall becomes possible.
2. If a GDC has more firm capacity than necessary to serve its sales customers but insufficient firm capacity to serve its entire system, then several questions arise:
    a. Who is paying for that excess capacity?
    b. Who is profiting from that excess capacity?
3. If a TPS leaves the market and the GDC's excess capacity is insufficient to cover the gap, the entire system will be affected by the shortfall—what contingency plans are in place to ensure reliable service for all customers of the GDC, including sales customers, transportation customers, and TPSs?

Aside from reliability, there is a concern that the current system has created an inequity in the New Jersey natural gas market. It is not clear to us that the costs of the upstream assets held by the GDCs are being borne exclusively by the GDC sales customers, or if such a design is even possible.

It is clear that the profits associated with excess capacity and other "off-system" activities are being largely assigned as credits to the GDC's basic gas supply costs. This is a serious concern, as the costs may be borne by transportation customers, either through their delivery charges (meaning that transportation customers are paying their fair share of the assets but receiving none of the benefits) or during periods of time when they were under sales service (meaning that each transportation customer at some point has contributed some share of the assets but, to the extent that they are now transportation customers, are not receiving their share of the benefits). Ratepayers deserve assurance that the costs they pay follow the costs they incur, and that any benefits accruing to services they paid for follow them no matter what entity supplies their commodity.

[1] AGL itself does not provide sales service to any customer on its system.

Following is a brief summary of the records Infinite Energy has been able to identify indicating that at least some costs are being assigned without the benefits following.

Elizabethtown Gas

- Prior to its purchase by South Jersey Industries, Elizabethtown retained Sequent as its asset manager[2].
    - Sequent would pay Elizabethtown an annual fee for the right to act as its Asset Manager and Elizabethtown would credit the entire fee to the BGSS.
    - Fee consists of a minimum fixed annual payment and a sharing of the capacity release credits, off-system sales margins, physical dispatch optimization and storage arbitrage margins that Sequent is able to obtain.
    - Infinite Energy believes, but has not had the opportunity to confirm, that similar provisions govern the asset management now provided for Elizabethtown by South Jersey Resources.

New Jersey Natural Gas

- Off-System Sales and Capacity Release (OSS-CR) program[3]
    - Allows New Jersey Natural Gas to sell bundled gas supply and off-system capacity to third parties in the market area where New Jersey Natural Gas has firm transportation and storage assets or capacity that New Jersey Natural Gas may not need to serve the needs of its firm on-system customers.
    - Margins generated by off-system sales and released firm capacity are shared 85% credited to BGSS and 15% to New Jersey Natural Gas shareholders.
- Storage Incentive (SI) program
    - Uses financial hedges to establish a benchmark cost for storage injections against which actual injections costs are measured for April–October injection season. Difference between the benchmark and actual cost, gain or loss is shared 80% to BGSS and 20% to New Jersey Natural Gas shareholders.
- "...gross margin-sharing BGSS incentive programs, which include off-system sales, capacity release and storage incentives.... [New Jersey Natural Gas] shares the utility gross margin earned from these incentive programs with customers and shareowners, following formula authorized by the [Board]." The gross margin from these incentive programs was $12.5, $13.7, and $15 million for fiscal years 2018, 2017, and 2016, respectively. [4]

South Jersey Gas GR18060609 BGSS docket[5]

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[2] https://www.state.nj.us/bpu/pdf/boardorders/2014/20140319/3-19-14-2F.pdf
[3] https://www.nj.gov/bpu/pdf/boardorders/2015/20151021/10-15-15-2G.pdf
[4] http://investor.njresources.com/static-files/c97d482a-c0d0-428b-ad5a-2272855ef562
http://investor.njresources.com/static-files/20d98f9e-eb4c-4b73-bc90-4b895da93098
https://www.njng.com/regulatory/pdf/NJNG%202019%20BGSS%20filing.pdf
[5] https://www.state.nj.us/bpu/pdf/boardorders/2019/20190508/5-8-19-2C%20revised.pdf

- BGSS was credited the sum of $390K which represented the penalty of the single interruptible customer that failed to comply with a Dec 2017 interruption notification.
- South Jersey Gas will make future decisions as to whether a gas supply transaction will be structured as a capacity release or an off-system sale on a case-to-case basis, and will undertake reasonable efforts to maximize the credit to the periodic BGSS.
- South Jersey Gas shall modify its current effective margin sharing mechanism, 85% BGSS/15% SJG to 93% BGSS/7% to SJG, for all capacity releases in its 2019-2020 and 2020-2021 BGSS years.

PSEG

- BGSS Commodity Charge Filing[6]
  - BGSS Contribution and Credit Offsets: this schedule provides monthly data showing the derivation of all BGSS cost offsets, including interruptible margins, off-system sales & capacity release transactions, pipeline refunds and other credits..... These total contribution amounts serve as a credit against the total gas costs for the residential customers and are used to set the initial BGSS rate.
  - Summary of Capacity Releases/Off-System Sales (slide 160-161)

Year	BGSS-RSG OSS Revenue	BGSS-RSG OSS Cost	BGSS-RSG OSS Margins
2012	$155,052,637	$102,869,794	$52,182,843
2013	$240,938,997	$120,566,928	$120,372,069
2014	$327,717,529	$143,452,710	$184,264,819
2015	$197,662,767	$61,941,827	$135,720,940
2016	$145,423,895	$86,729,138	$58,694,758
2017	$156,240,095	$96,425,765	$59,814,330
2018	$194,555,168	$124,011,106	$65,540,294
2019 (through 04/19)	$42,803,572	$31,229,567	$11,574,005

- Audit of Relationships and Transactions Between PSEG and its Affiliates[7]
  - Affiliate PSEG ER&T: if surplus pipeline capacity is available, ER&T makes off-system wholesale sales and shares the resulting margins with BGSS customers. If pipeline capacity remains after satisfying BGSS requirements and off-system sales opportunities, ER&T uses the surplus capacity to provide "generation gas" to PS Power's New Jersey generating stations.
  - Commodity and Capacity Release: Capacity release (making unneeded firm capacity available on a term basis to TPSs) deals were completed on seven pipelines.

[6] https://nj.pseg.com/aboutpseg/regulatorypage/-/media/74458998328E4739ABF5D7DE4E9D485C.ashx
[7] https://www.nj.gov/bpu/pdf/auditpdfs/PSEG%20Final%20Report%20-%20Public%20Version%20-%20Jan%202012.pdf

- Duration of the capacity release ranged from 1–3287 days; in the past 5 years, PSEG ER&T has executed 166 capacity releases, totaling 4,560,915 MMBtu/day, with nearly 55% of volume released at max rate.

The New Jersey Rate Payer Advocate had stated[8] that "Margin sharing may be anti-competitive in the new competitive environment because it does not create a level playing field with TPSs."

- "...the utilities' gas supply rates currently reflect credits for margins on a variety of transactions engaged in by the utilities to maximize the value of their interstate pipeline transportation and storage capacity during times when the capacity is not needed to serve their firm gas supply customers.....The utilities release capacity at times when it is not needed, or use the capacity to make on-system or off-system sales. Under existing margin sharing mechanisms, most of these margins are credited the utilities' firm sales customers. These margins are available to the utilities largely due to their control of both the capacity used to provide gas supply service and their distribution assets."
- "In order to promote a viable competitive marketplace, the existing incentive mechanisms should be reviewed and modified as necessary so that they encourage utilities to make excess capacity available to other market participants, rather than retaining it so that they can profit from capacity releases and off-system sales."
- New Jersey Rate Payer Advocate comments regarding PSEG[9]
  - PSEG was seeking to transfer its entire gas supply portfolio to an unregulated affiliate; capacity would be maintained for the benefit of BGSS.
  - PSEG's customers, who have paid for this capacity through their rate over the years, should have the opportunity to continue to have access to the benefits of this capacity.
  - PSEG would continue to collect its share of margins (15%) derived from off-system sales.
  - A Board review of this transfer to an unregulated affiliate must also consider whether ratepayers should be required to continue to guarantee full cost recovery through a requirements contact and whether PSEG's proposal might operate to restrict the development of a fully competitive gas supply marketplace. At the least, there should be a sharing of the benefits with ratepayers who have paid for the asset throughout the years in rates.

Infinite Energy believes that before any rational comparison between TPS and GDC gas supply rates can be made, a full reckoning of the "credits" applied to GDC BGSS rates must be made. To ensure that all ratepayers are subject to fair and reasonable regulated rates and that all shopping customers benefit from the full and equitable competitive market, it is imperative that the parties to this proceeding verify that every customer paying the cost of an asset receive a full share, and that every customer receiving the benefit of an asset pay their fair share. If the full cost of the assets is covered in unavoidable delivery charges, then all customers are entitled to equal shares of the credits; if any

[8] https://www.state.nj.us/rpa/gen-fnl.PDF
[9] https://www.state.nj.us/rpa/pseg-fnl.PDF

portion of the cost of the assets is covered by BGSS charges, then those customers who paid into the BGSS during a given month are entitled to equal shares of the credits associated with that month.

Most immediately, however, Infinite Energy believes that all New Jersey natural gas market participants—GDCs, TPSs, and customers—as well as the Board, Ratepayer Advocate, and others, must join together to ensure that sufficient capacity and supply are secured to ensure safe and reliable service to the citizens and businesses of New Jersey.

On behalf of Infinite Energy and our New Jersey customers,

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