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CASE MANAGEMENT
2019 OCT
BOARD OF PUBLIC UTILITIES
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October 22, 2019

VIA EMAIL AND REGULAR MAIL

Secretary Aida Camacho
State of New Jersey
Board of Public Utilities
44 S. Clinton Ave.
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OCT 28 2019
BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Re: I/M/O The Matter of the Exploration of Gas Capacity and Related Issues
Docket No. GO19070846

Dear Secretary Camacho:

Enclosed please find Direct Energy, LP's Comments in the above referenced proceeding. If you have any questions or comments regarding the enclosed please do not hesitate to contact me.

Respectfully submitted,

Murray E. Bevan

S. Petersen
cms

State of New Jersey
Board of Public Utilities

In The Matter Of The Exploration Of Gas Capacity And Related Issues

Docket No. GO19070846

Comments of Direct Energy and Centrica Business Solutions

Direct Energy and Centrica Business Solutions ("Direct Energy" or "CBS") respectfully submit these comments to the Board of Public Utilities ("Board") in the above-referenced matter. Direct Energy is one of the largest retail power and gas suppliers and energy services companies in North America and is a licensed third-party supplier ("TPS" or "supplier") in New Jersey, serving approximately 120,000 customers. Direct Energy operates in all 50 states, the District of Columbia, and four Canadian provinces. We are proud to have nearly 4 million customer relationships, more than any other competitive retail supplier in North America. Our parent company, UK-based Centrica, plc (formerly known as British Gas), is a Global Fortune 500 company. As part of a large, diverse company that spans the globe, Direct Energy is committed to meaningful customer satisfaction and providing customers with a suite of different products and services to meet their energy needs.

Direct Energy commends the Board for opening this docket to explore whether sufficient gas capacity exists to meet customer need, whether there is excess capacity that should be released to enhance energy competition, and related issues. Importantly, the regulatory framework for New Jersey's competitive gas market was established by Board Order Approving Basic Gas Supply Service ("BGSS") Price Structure in Docket GX01050304 on January 6, 2003, and the market structure has been virtually unchanged ever since. Meanwhile, gas transportation and storage capacity markets have changed dramatically since the Board established its regulatory framework for New Jersey's competitive gas market. The result is a fundamentally flawed retail gas market design in New Jersey that provides material competitive advantages for gas distribution companies ("GDCs"), lacks transparency into system planning and supply costs, and prevents consumers from from being able to honestly access differences in residential rates for gas supply.

While the capacity procurement issues raised in the Notice provide an important opportunity for the Board and its Staff to better understand the inherent barriers to competition that exist in New Jersey, Direct Energy believes that a full review of New Jersey's gas market design is long overdue. Direct Energy encourages the Board to review the best practices of states like Ohio and New York to develop a capacity release program that enables competition by maintaining flexibility, enhancing transparency, and increasing efficiency in order to maximize benefits for all New Jersey customers. Ultimately, a non-discriminatory capacity release program that makes capacity available in proportion to each supplier's share of peak load will provide a level playing field that enhances system reliability and supports a vibrant competitive market that benefits TPS and BGSS customers alike.

DIRECT ENERGY RESPONSES TO STAFF QUESTIONS

2. TPS Capacity Procurement:

a. Do the TPSs have sufficient firm capacity secured to meet their design day forecasts for the customers that they serve in New Jersey for the next five years?

Third Party Suppliers do not know what their load will be five years into the future, and therefore, they do not secure capacity to meet their customers' needs for that timeframe. Instead, suppliers plan to meet the needs of their customers for the period that those customers are under contract. TPSs often have multi-year contracts, but they rarely have contracts for a term of five years or more.

b. If the TPSs do not secure firm capacity for a five-year period, how many years in advance do they secure firm capacity

Direct Energy has substantial firm capacity to meet the needs of its New Jersey customers for the term of their contracts. While Direct Energy has considerable firm capacity commitments to supply multi-year customer contracts, we have very few customers in New Jersey that have committed to five years of service. As our customer profile evolves, Direct Energy is able to make appropriate adjustments to our firm capacity in the secondary market to ensure that we have sufficient firm capacity to meet our customers' needs going forward.

c. What is the weighted average cost of the transportation and storage capacity that the TPSs have secured?

Direct Energy does not have a weighted average cost of transportation and storage capacity that is comparable to the GDCs and their affiliates. A TPS's transportation and storage capacity costs are comprised of the cost of the physical service plus the cost of financial instruments. Unlike, GDCs that calculate and share their weighted average cost for ratemaking purposes to obtain near-certain cost recovery through Board-established rates, TPSs must rely on market forces to recover any financial commitments made for capacity. Consequently, Direct Energy does not make a comparable calculation to the weighted average cost of transportation and storage capacity.

d. What assumptions have the TPSs made and reflected in their forecasts about those customers?

Direct Energy does not make assumptions about its customers. Rather, we deal with known contract terms and are nimble enough to adjust to ever changing customer profiles and market conditions.

e. Have the TPSs been securing firm capacity for their firm transportation customers?

Direct Energy generally secures firm capacity to meet its firm transportation obligations.

f. Through what other means have the TPSs met their customers' requirements (e.g., delivered gas, capacity release, peak day supplies)?

Direct Energy will use sources such as its own capacity under contract, third-party capacity, and spot purchases to meet its obligations to customers. However, it is important to note that New Jersey markets are significantly constrained because the GDCs have fully subscribed the capacity of key pipelines, so TPSs are often unable to obtain competitively priced capacity or any capacity at all in certain locations.

3. Does sufficient pipeline capacity exist within the New Jersey market to satisfy the total customers' requirements currently served by both TPSs and GDCs? Can additional incremental pipeline capacity be obtained to meet the forecasted customer requirements over the next five years? Would this capacity be more expensive than the current capacity?

TPSs are not in a position to answer these questions because they have generally been prohibited from participating in gas system planning and BGSS proceedings, and thereby have been denied access to the information necessary to address these critical questions. As a result, GDCs and their regulators are the only ones in a position to understand GDC system flows and gas requirements.

Direct Energy is interested in, and believes that New Jersey would benefit from, its participation in gas system planning and BGSS proceedings. Until such proceedings are open to all stakeholders, GDCs are the only entities capable of planning for the long-term needs of New Jersey consumers because they are the only entities with access to information about the load profiles of all customers on the system. Accordingly, GDCs should be responsible for acquiring sufficient capacity to meet the requirements of all New Jersey customers, and that capacity should be released to suppliers in proportion to their market share.

4. If the GDCs were made responsible for securing the incremental capacity for the transportation customers, what would be the costs involved and how should they be allocated? What would be the impact of those costs on BGSS customers?

Again, TPSs do not have access to the information necessary to address the costs of securing the incremental capacity for transportation customers would be or how those costs would impact BGSS customers. Incremental capacity costs, however, should be aggregated and applied to all New Jersey customers (whether TPS or BGSS) and allocated on a proportional basis either in the BGSS rate or in the cost of capacity released to TPSs.

Importantly, the capacity that is held by GDCs was originally obtained for ***all*** New Jersey customers. While some customers have remained with the GDC and others have elected TPS supply, all New Jersey customers are entitled to the transportation capacity necessary to meet their energy needs. A long-term New Jersey gas customer who has elected to be served by a TPS has more of an entitlement to system capacity than a new customer that is added to BGSS. The gas system was developed to meet the needs of all customers, and it was paid for by aggregating costs and allocating them to all customers in accordance with equitable cost sharing principles. System costs have never been tracked and assigned on a marginal basis to new customers as they come on to the system. Doing so for incremental capacity for transportation customers is discriminatory and undermines a competitively neutral market for gas supply.

5. If some of the TPSs have secured long term capacity for their customers, how would an allocation of capacity costs from the GDCs affect them? Would the GDCs be in a position where they would be buying capacity from the TPSs if the GDCs were required to secure capacity for transportation customers?

Because TPSs generally only obtain the capacity for their customers under contract, this is a short-term issue that should not prevent the Board from implementing much needed reforms. TPSs could transfer their capacity to GDCs or retain the capacity for their customers until their contracts expire. If a TPS retains its capacity, then it wouldn't be entitled to released capacity for that quantity as long as the contract is in effect.

6. What rates have the TPSs charged residential customers over the past three years? How does this compare to what these residential customers would have paid for their natural gas supply if they had been served by their GDC? Did these residential customers save money? Should the TPSs be required to report pricing information to the Board and publicly disclose their prices on a monthly basis?

Due to competitive market conditions and anti-trust concerns, Direct Energy is unable to provide specific information about its pricing and rates in this proceeding. There are processes established in other states, such as Illinois, where weighted average residential rates are provided to regulators under strict confidentiality rules. Direct Energy would support reforms that enable annual reporting of weighted average rates so long as the information is afforded confidential status.

Nevertheless, TPS and GDC prices cannot be compared on an apples-to-apples basis under the current market design, which is inherently flawed and dramatically favors GDCs. For example, each year in the middle of the winter heating season, months after the BGSS planning process, GDCs issue hundreds of millions of dollars in credits to consumers. This practice undermines the competitive market and prevents TPSs from competing on equal terms. While some GDCs have expressed an interest in exploring a resolution to this issue, Board rules would have to be reformed to allow for a meaningful solution. Until the Board undertakes a full review of the design of its competitive gas market, including the gas capacity at issue here, TPS and GDC prices are simply not comparable.

Thank you for your consideration on these important issues and should there be any questions, please do not hesitate to contact me at 732-259-0233 or at Robert.Gibbs@directenergy.com.

Very truly yours,

/s/ Robert L. Gibbs

Robert L. Gibbs
Director, Corporate & Regulatory Affairs