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September 5, 2023

Via Electronic Mail

Ms. Sherri L. Golden, Board Secretary
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**Re: I/M/O the Provision of Basic Generation Service (BGS) For the Period
Beginning June 1, 2024
BPU Docket No. ER23030124**

Dear Secretary Golden:

Please accept for filing a copy of the initial comments of the New Jersey Division of Rate Counsel ("Rate Counsel") pursuant to the Order issued by the Board in the above-referenced matter dated April 12, 2023. Consistent with the March 19, 2020 Order of the New Jersey Board of Public Utilities ("BPU" or the "Board") in *I/M/O the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations*, BPU Docket No. 20030254, copies of this comment letter are being filed with each person on the service list by electronic mail. No paper copies will follow. **Please acknowledge receipt of this comment letter.** Thank you for your consideration and attention to this matter.

**I/M/O the Provision of Basic Generation Service
(BGS) For the Period Beginning June 1, 2024
BPU Docket No. ER23030124
Initial Comments of the Division of Rate Counsel
September 5, 2023**

I. Introduction

Rate Counsel is pleased to provide these comments to the BPU pursuant to the 2024 BGS procedural schedule established by Board Order, dated April 12, 2023, in I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2024, BPU Docket No. ER23030124, (“2024 BGS Procedural Order”). In a joint filing (“Joint Filing”), dated June 30, 2023, the Electric Distribution Companies (the “EDCs”), specifically: Public Service Electric and Gas Company (“PSE&G”); Jersey Central Power and Light Company (“JCP&L”); Atlantic City Electric Company (“ACE”); and Rockland Electric Company (“RECO”), propose continuing certain temporary measures in the 2024 BGS process.¹ Specifically, the EDC’s proposals contain the following:²

- The EDCs request that the Board maintain its 2022 Board Order position stressing that any modification to the BGS rate structure be supported by facts.³
- The EDCs request in company specific addendums changes to the BGS rate structure relating to electric vehicle direct current fast charging (“DCFC”) stations.
- The EDCs request that the Board continue to incorporate Capacity Proxy Prices to the BGS-RSCP SMA for both the 2025/2026 delivery year (\$47.46) and the 2026/2027 delivery year (\$49.05);
- The EDCs propose to continue to conduct the 2024 BGS Auctions virtually from a remote setting consistent with the 2021, 2022 and 2023 BGS Auction.

¹ See Proposal for Basic Generation Service Requirements To Be Procured Effective June 1, 2024 (June 30, 2023) (“Joint Filing”).

² Id., p. 5.

³ See I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2022, BPU Docket No. ER21030631, ¶ 18 (November 17, 2021)(“2021 BGS Order”).

As a preliminary matter, Rate Counsel supports the notion that any changes to the approved BGS auction process be appropriately supported by fact. Additionally, as set forth more fully below, Rate Counsel recommends that the EDCs continue to collect and report data from DCFC stations from all the EDCs. Regarding the continued use of Capacity Proxy prices, Rate Counsel believes using a proxy price for the 2026/2027 delivery year is consistent with the EDCs' treatment of unknown capacity prices in last year's BGS auction, so long as the results of the capacity auction are still unknown five days prior to the auction. The EDCs' justification for using a capacity proxy price for the 2026/2027 delivery year currently scheduled for June 2024 is also consistent. Last, Rate Counsel supports the EDCs continuation of the virtual and remote auction format.

II. Discussion

a. DCFC Analysis

During the Board's 2022 BGS proceeding, Electrify America ("EA") recommended the adoption of a volumetric capacity rate for DCFC stations.⁴ Electrify America expressed concerns about the setting of the initial capacity tag for DCFC stations. At that time the Board declined to set a separate DCFC rate, directing the EDCs to collect "[electric vehicle ("EV")] charging data required to support the review and potential establishment of EV specific BGS rates" and to "file a proposal to address BGS rates for EV charging" within the EDCs' 2024 BGS proposal.⁵ In the Board's 2023 BGS proceeding, the Board directed that EDCs to "make a proposal regarding rate design for DCFC stations."⁶ In the current proceeding regarding the 2024 BGS process, the EDCs are proposing individualized pilot programs for DCFC summarized in the table below. With the exception of ACE, the EDCs are proposing optional enrollment in two year pilot programs (June 1, 2024 to May 31, 2026).

⁴ Electrify America. Initial Comments, BPU Docket No. ER21030631 (September 3, 2021).

⁵ In the Matter of the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2023, BPU Docket No. ER22030127 page 15 (November 9, 2022).

⁶ Id.

| | Overview | Program Term | Enrollment | Rates | Cost Recovery |
|-------|---|--|---|--|---|
| PSE&G | PSE&G proposes a two-year DCFC BGS Rate pilot program, using a cents per kWh charge for both capacity and transmission costs (“average kWh DCFC Charge”). | June 1, 2024 to May 31, 2026, terminating automatically unless renewed or otherwise modified by the Board. | Enrollment is optional and only available only to individually metered DCFC charging stations. | Capacity Rates DCFC RSCP, CIEP kWh capacity rates will be the BGS-RSCP, BGS-CIEP capacity price in \$/kW-month converted to a \$/kWh charge using an average load factor based upon the latest available capacity obligation and historic (prior 12 months’) energy use for all PSE&G DCFC station customers. | PSE&G proposes to recover implementation costs with a \$0.01/kWh contingency cost charge. If enrollment is too low to cover DCFC pilot program costs, PSE&G will end pilot program and seek recovery of prudently-incurred program costs. |
| JCP&L | JCP&L proposes an optional alternative BGS CIEP Capacity Charge for CIEP customers operating DCFC EV charging stations. | June 1, 2024 to May 31, 2025, JCP&L may modify or terminate in future BGS year. | Enrollment is optional for BGS CIEP customers (proposal does not specify individual metered DCFC charging stations). | DCFC CIEP kWh capacity rates will be derived from the BGS-CIEP capacity price. | JCP&L proposes to recover DCFC implementation costs through BGS CIEP Reconciliation Charge from all BGS CIEP customers. |
| ACE | ACE proposes a monthly general service Secondary Electric Vehicle Charging (MGS-SEVC) customers on a \$/kWh basis. | June 1, 2024 to May 31, 2026, does not specify whether renewing. | ACE proposing EDC customers commit to entire pilot period and enroll all DCFC locations. Excludes net metering customers. | MGS_SEVC charge (\$/kWh) will replace the existing demand (kW)-based customer charge used for the billing of both transmission and capacity costs. | ACE proposes to recover DCFC pilot program costs through BGS reconciliation charge filings. If insufficient enrollment, ACE will seek recovery of prudently-incurred program costs. |
| RECO | RECO proposes an incentive up to 75% of the BGS-CIEP capacity charge, capped at \$12,600 per DCFC Plug for eligible customers. | June 1, 2024 to May 31, 2026, (assumed RECO referring to BGS-years). | RECO does not define eligible customers beyond those subject to the BGS-CIEP rate. | RECO notes an upcoming company-wide transition to a new customer billing system prevents implementation of any rate design changes. | RECO would recover incentive costs through the BGS-CIEP reconciliation charge. |

Sources: PSE&G specific addendum, pages 29-33; JCP&L specific addendum, pages 27-28; ACE specific addendum, pages 21-23; RECO specific addendum, page 29.

The EDCs, with the exception of RECO (which proposes an incentive program in lieu of \$/kWh charges for DCFC EV charging stations) are proposing to recover DCFC program costs through reconciliation charges, separately tracking implementation and operating costs. The EDCs propose, with the exception of RECO, to derive \$/kWh capacity charges from the \$/kW-

month capacity charge, with PSE&G providing the most detail for how charges will be calculated. Some of the EDC proposals include separate recovery for transmission related components.

Rate Counsel supports ACE's stated goal of its DCFC proposal which is to, among other things, "minimize subsidization [and] promote cost causation" Similarly, PSE&G's DCFC proposal is designed to contain the costs of delivering incentives to the enrolled EV installations. Conversely, RECO and JCP&L propose to recover their respective incentives through the BGS-CIEP reconciliation charge from all BGS CIEP customers. In this proceeding, Rate Counsel does not object to creating a separate DCFC rate at this time. However, Rate Counsel does not agree that the RECO and JCP&L proposed programs should be recovering the costs of implementing and administering the DCFC EV costs from all BGS CIEP customers. RECO and JCP&L are proposing to subsidize the costs of their DCFC incentive programs from BGS CIEP customers that may not own or use an electric vehicle, and therefore derive no benefit from the incentive but still may see increased BGS rates.

Additionally, Rate Counsel recommends that the EDCs continue to collect information from DCFC stations in EDC EV programs and DCFC stations owned by third parties. The Joint Filing does not specify the data on which the incentive programs are being based. At this time, Rate Counsel repeats its comment from earlier BGS proceedings regarding DCFC EV charging that continued and expanded collection and public reporting of DCFC station data from the individual EDCs is needed. Neither EA, nor any other DCFC charging company, has provided evidence to the Board that these ratepayer-funded incentives are in fact needed for further expansion of EV charging infrastructure.

Rate Counsel recommends that the Board reconsider the DCFC EV charging programs after additional utilization data is collected and analyzed to consider whether make-ready investments more closely coordinated with third-parties, particularly in the transportation sector might not yield better results for ratepayers.⁷ Recent estimates of cumulative investment in EV charging infrastructure between 2017 and 2023 across the United States, top out at \$12.7 billion by the private sector, \$6 billion by the federal government, and \$1.6 billion by state governments as of March 2023.⁸

b. Delay in PJM Base Residual Auction and Capacity Proxy Price

Normally, the capacity prices for the three-year delivery period starting on June 1 of a given year would be known at the time of the BGS auction to be held that year, which typically happens in February of the same year. However, over the past four years, the PJM capacity auctions have been beset by delays and interruptions.⁹ As noted in our comments for the last three years, FERC originally ordered PJM not to hold the capacity auction for the 2022-2023 delivery year in August 2019.¹⁰ On September 27, 2019, PJM announced that it would suspend all auction activities and deadlines for the 2022/23 and 2023/24 Delivery Years.¹¹ These

⁷ NJ.com, More than 200 additional electric car chargers coming to Turnpike, Parkway in \$25 million deal (April 26, 2023), <https://www.nj.com/news/2023/04/more-than-200-additional-electric-car-chargers-coming-to-turnpike-parkway-in-25m-deal.html>

⁸ Atlas Public Policy, Investment in Publicly Accessible EV Charging Infrastructure in the United States (2023), page 23. <https://atlaspolicy.com/wp-content/uploads/2023/05/Investment-in-Publicly-Accessible-EV-Charging.pdf>. New York Times, G.M. and Other Automakers Will Build 30,000 Electric Vehicle Chargers, July 26, 2023. BMW Group, General Motors, Honda, Hyundai, Kia, Mercedes-Benz Group and Stellantis announce plans to initially invest at least \$1 billion in a joint venture that will build 30,000 charging ports on major highways and other locations in the United States and Canada, nearly doubling the existing networks of about 36,000 fast chargers. <https://shorturl.at/flBCY>

⁹ SP Global Market Intelligency, PJM capacity auction results reflect transition to lower emitting generation mix (June 21, 2022), <https://www.spglobal.com/marketintelligence/en/news-insights/blog/insight-weekly-august-22-2023>, noting the 2023/2024 delivery year auction was originally scheduled for May 2020, but was delayed for two years as PJM sought to resolve FERC challenges to the its application of a minimum offer price rule (MOPR).

¹⁰ Calpine Corporation, et al. v. PJM Interconnection LLC, 168 F.E.R.C. ¶ 61,051 (2019).

¹¹ See <https://www.pjm.com/-/media/markets-ops/rpm/rpm-auction-info/2023-2024/2023-2024-pjm-message->

auctions were to have occurred in May 2020 and May 2021. On November 12, 2020, FERC issued an Order in Dockets EL19-58-002 and EL19-58-003 that permitted PJM to restart the capacity market auction process.¹² In June 2022, PJM held the base residual auction for the 2023/24 Delivery Year. PJM originally planned to hold the auction for the 2024/2025 Delivery Year in December 2022 and the auction for the 2025/2026 Delivery Year in June 2023.

On April 11, 2023, PJM filed with FERC to revise the schedule for the capacity auctions for 2025/2026 Delivery Year through the 2028/2029 Delivery Year. On June 9, 2023 FERC issued an order accepting a revised auction schedule proposed by PJM, delaying the base residual auctions for the second (2025/2026) and third (2026/2027) Delivery Years.¹³

The EDCs have argued that potential BGS-RSCP suppliers may include risk premiums into their bids or choose not to participate altogether if the capacity proxy price is not known prior to auction.¹⁴ To address this concern, the EDCs propose to extend the Capacity Proxy Price to the BGS-RSCP SMA to include currently unknown BRA auction prices for the 2025/2026 (\$47.46) and 2026/2027 (\$49.05) delivery years since those auctions have not yet occurred.¹⁵ The EDCs propose utilizing the Capacity Proxy Price if the BRA results are not known at least five business days prior to the EDCs BGS-RSCP Auction.

Based on the current capacity auction schedule approved by FERC, it appears that EDCs will continue to propose utilization of the Capacity Proxy Price in BGS proceedings for some time.

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¹² FERC. Order on Compliance. Dockets EL19-58-002 and EL19-58-003, November 12, 2020. Available at <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=15658712>

¹³ FERC, Order Accepting Tariff Revisions, Subject to Condition, and Granting Waiver Request, Docket No. ER23-1609-000 (June 9, 2023) PJM cited “a potential mismatch between when new resources will go into service and when segments of the existing generation fleet retire, along with expected load growth, PJM’s ability to maintain resource adequacy during the near-term energy transition is threatened.”

¹⁴ Joint Filing at pages 2 and 11.

¹⁵ Joint Filing at page 12, Table 1 Proposed Capacity Proxy Prices.

In its June 9, 2023 order, FERC postponed the auction for the 2025/2026 delivery year, scheduled for June 14, 2023 to June 2024, adjusting each subsequent auction to every six months until May 2026, by such time presumably PJM will have rectified current market issues with PJM’s forthcoming capacity market enhancement filing(s).

| Delivery Year | Illustrative BRA Schedule | Incremental Auctions Scheduled | Incremental Auctions Cancelled |
|--|---------------------------|--------------------------------|--------------------------------|
| 2025/2026 | June 2024 | 3rd | 1st and 2nd |
| 2026/2027 | December 2024 | 3rd | 1st and 2nd |
| 2027/2028 | June 2025 | 2nd and 3rd | 1st |
| 2028/2029 | December 2025 | 2nd and 3rd | 1st |
| 2029/2030 (back on Tariff schedule) | May 2026 | 1st, 2nd, and 3rd | none |

FERC order, pages 3-4.

Since the revised PJM auction schedule delays the 2025/2026 delivery year auction to June 2024 and the 2026/2027 delivery year auction to December 2024 it appears use of the Capacity Proxy Price will be an element of the 2024 BGS proposal and subsequent proposals.

Notwithstanding the lack of evidence supporting the EDCs’ claim that bidders will employ risk premiums, Rate Counsel does not object to the extension of the capacity price proxy for the 2026/27 delivery year given that the results of the auction will be available in December 2024, well after the February 2024 auction date. With regard to the 2025/2026 delivery year, Rate Counsel believes that absent significant delays, the five business days advanced notice of the BRA is sufficient for bidders seeking to participate in the 2024 BGS-RSCP auction. Accordingly, Rate Counsel supports the EDCs’ five-day trigger for canceling the Capacity Proxy Price for the 2025/2026 delivery year.

c. Remote Auction

Due to the continued COVID-19 public health crisis and restrictions on public gatherings, last year's auction was held remotely. In this year's proceeding, the EDCs recommend continuing the practice of holding the auction remotely for the 2024 BGS auctions.¹⁶ The EDCs note that the protocols for the remote auction are already in place from last year. In last year's proceeding, the Board approved EDCs' request to take the necessary steps to close and/or sublet the physical BGS space. The EDCs indicated that the average cost of maintaining the physical BGS office space through January 2025 on average will be \$72,273 per year and the projected sublet rent is \$67,000 per year. The EDCs note that the space has been sub-leased through January 2025. Rate Counsel does not object to the EDCs' continuation of the remote auction process proposal, so long as, the Board finds that the integrity of the auction process can be maintained.

III. Conclusion

Based on the foregoing, Rate Counsel believes there is insufficient data to justify a separate DCFC rate. Also, based on the current and future level of investment from the federal and state government, as well as, private investment from the transportation sector in this area, finding a need for a BGS rate incentive is premature. That said, Rate Counsel does not object to the PSE&G and ACE proposals, it recommends that any incentive rate treatment be temporary and the RECO and JCP&L proposals be amended to avoid subsidization from non-DCFC station customers. The Board should also instruct the EDCs to continue to collect information from DCFC stations and provide updated findings in its next BGS proposal. Additionally, Rate Counsel does not object to the EDCs' proposal to include a proxy capacity price for the

¹⁶ Joint Filing at page 4.

2026/2027 capacity auction that is scheduled for December 2024. Rate Counsel anticipates that absent a significant scheduling delay, the results of the 2025/2026 BRA auction results should be available to potential bidders well before the five day window proposed by the EDCs. Finally, Rate Counsel does not object with the EDCs' proposal to conduct the February 2024 auction remotely and for the EDCs to take the necessary steps to limit costs associated with the BGS physical office space while the BGS auctions are being conducted remotely.

Rate Counsel thanks the Board for this opportunity to provide Initial Comments and looks forward to working with all parties throughout this BGS proceeding.

Respectfully submitted,

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