



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF INCREASED SOLAR)
ALTERNATIVE COMPLIANCE PAYMENTS)
IMPACTING THE 2006 AND 2007 BASIC)
GENERATION SERVICE SUPPLIER MASTER)
AGREEMENTS)
DOCKET NO. EO11040215

Parties of Record:

Mally Becker, Esq., on behalf of Public Service Electric and Gas Company
Gregory Eisenstark, Esq., Morgan, Lewis & Bockius LLP, on behalf of Jersey Central Power & Light Company
Philip J. Passanante, Esq., on behalf of Atlantic City Electric Company
Margaret Comes, Esq., on behalf of Rockland Electric Company
Paul Flanagan, Esq., Litigation Manager, Division of Rate Counsel
Murray E. Bevan, Esq., Bevan, Mosca, Giuditta & Zarillo, P.C.¹
Adam Kaufman, Executive Director, Independent Energy Producers of New Jersey
David K Richter, Esq., on behalf of PSEG Energy Resources and Trade LLC

BY THE BOARD:

BACKGROUND/PROCEDURAL HISTORY

In the May 1, 2012 Order, in this Docket ("May 1 Order"), on remand from the decision of the New Jersey Supreme Court, In re Provision of Basic Generation Service for the Period Beginning June 1, 2008, 205 N.J. 339, (2011), and after an opportunity for comment, the New Jersey Board of Public Utilities ("Board") approved the pass-through to ratepayers of the costs of solar renewable energy certificates ("SRECs") above \$300 per MWh for SRECs suppliers were required to obtain to satisfy their obligations under the Board's renewable portfolio standards ("RPS") for energy provided (1) from June 1, 2008 through May 31, 2009 under the

¹ On behalf of Integry's Energy Services, Consolidated Edison Energy Inc., Energy America, LLC a wholly owned subsidiary of Direct Energy Services, LLC; Hess Corporation and DTE Energy Trading, Inc.

2006 basic generation service – fixed price (“BGS-FP”) contracts; and (2) from June 1, 2008 through May 31, 2010 under the 2007 BGS-FP contracts, provided that it can be shown that those costs were reasonably and prudently incurred.

In the May 1 Order, the Board also directed the Electric Distribution Companies (EDCs) to resubmit to the Board the cost recovery filing previously submitted in connection with the 2008 proceeding no later than July 1, 2012, with revisions if necessary to account for the fact that all of the 2006 and 2007 BGS contracts have now been fulfilled. The Board also directed that the filing provide a proposed rate recovery mechanism and a method for BGS suppliers to demonstrate that any incremental costs were reasonably and prudently incurred. As part of any rate recovery mechanism, BGS suppliers will be required to provide documentation justifying recovery, and the EDCs will be required to review and verify the costs requested to be recovered in rates and included in the filing. May 1 Order at 16.

To expedite the review of the above referenced filing, as authorized by N.J.S.A. 48:2-32, the Board designated President Hanna as the presiding officer, authorizing him to rule on all motions that arise during the proceedings and modify any schedules that may be set as necessary to secure just and expeditious determination of the issues. May 1 Order at 17.

In compliance with the Board's May 1 Order, on June 26, 2012, the EDCs made a joint filing proposing a mechanism for determining the cost of SRECs above the \$300 benchmark for BGS-FP contracts for the June 1, 2006 through May 31, 2009 supply period and for the June 1, 2007 through May 31, 2010 supply period, and a process to pass these costs through to ratepayers. The filing includes 1) a mechanism to determine if incremental SREC costs claimed by BGS-FP suppliers are reasonable and prudent, 2) a proposal to recover the subject costs from ratepayers, and 3) a methodology for reimbursing BGS suppliers.

President Hanna directed that a preliminary schedule be implemented for this proceeding to consider the EDCs' proposed mechanism for determining: 1) the reasonableness and prudence of the costs for SRECs above the \$300 benchmark which are incurred by BGS suppliers for BGS-FP contracts for the June 1, 2006 through May 31, 2009 supply period, and the June 1, 2007 through May 31, 2010 supply period, and 2) a process to pass these costs through to ratepayers. Further, to expedite the review of the EDCs' proposal, President Hanna also directed Staff to convene a stakeholder meeting (with additional meetings scheduled if required) for interested parties. President Hanna also indicated that as part of this stakeholders' meeting, the EDCs would explain their joint filing in this matter, as well as answer any questions. The EDCs should also be in a position to provide examples of how a BGS supplier would calculate the costs of SRECs above \$300 it is claiming it incurred and for which it is requesting recovery.

Board Staff then sponsored a series of meetings with representatives of the EDCs, the New Jersey Division of Rate Counsel (“Rate Counsel”) and other parties including Basic Generation Service (BGS) suppliers to explore the possibility of settlement. An initial settlement conference was held on August 17, 2012. A second settlement conference was held on August 30, 2012, and a subsequent telephone settlement conference took place on October 5, 2012. As a result of these discussions, the EDCs, Board Staff and Rate Counsel agreed to execute and submit the attached Stipulation of Settlement (“Settlement”).

STIPULATION OF SETTLEMENT

The Settlement includes: 1) a mechanism for suppliers to demonstrate that incremental costs were reasonably and prudently incurred; 2) a mechanism to recover the subject costs from ratepayers; and, 3) a methodology for reimbursing suppliers.

As an initial matter, payments to suppliers would only be calculated for SREC obligations resulting from the BGS-FP load served under the June 1, 2006 through May 31, 2009 and June 1, 2007 through May 31, 2010 supplier master agreements, referred to in the Settlement as "grandfathered" SREC obligations. The Settlement expressly prohibits reimbursement of brokers' fees and any interest associated with supplier expenditures.

The Settlement requires suppliers seeking reimbursement to provide information on the total number and cost of SREC purchases, the number of Solar Alternative Compliance Payments ("SACPs") paid, along with a statement of the RPS compliance requirements for Reporting Years 2009 and 2010, which will be used to develop the suppliers' cost of compliance. The portion of this cost that is above \$300/MWh becomes the maximum reimbursement for the supplier. After review of all supporting documentation, the total payment to the supplier would be calculated on a statewide basis, and then responsibility for that payment apportioned to each EDC based on the "grandfathered" load in the EDC's zone during the relevant period.

The methodology defined in the Settlement prevents BGS suppliers that sold SRECs that could have been used for RPS compliance from seeking full recovery based on payment of the SACP in lieu of using lower priced SRECs. If a BGS supplier purchased more SRECs than it required to satisfy its statewide RPS obligation, then the method proposed by the Settlement would reimburse the supplier for the difference between its average purchase price for SRECs and \$300/MWh (i.e., incremental SREC costs) for the amount "grandfathered," on an individual reporting year basis for Reporting Year 2009 and Reporting Year 2010.

The Settlement requires that suppliers document, and the EDCs confirm, the number of grandfathered SRECs. Board Staff and Rate Counsel will additionally have the opportunity to review documentation provided by suppliers seeking reimbursement. Specifically, each supplier will be required to submit documentation relating to its statewide SREC RPS requirements (total solar compliance requirements for each EDC). Documentation will consist of invoices, contracts or confirmations to document all SREC purchasing transactions by the supplier and its Third Party Supplier ("TPS") affiliates. Suppliers' documentation will be submitted to the EDCs and reviewed for accuracy by an independent consultant. The consultant's conclusions regarding supplier reimbursement will be included in a Verification Filing to be submitted by the EDCs for Board review and approval. Board Staff and Rate Counsel will have access to the suppliers' documentation upon submission of the Verification Filing, and the right to challenge transactions for any document deficiencies.

By requiring documentation of SREC purchases from a supplier and its affiliated TPSs, the Settlement avoids "gaming the system," i.e., the proposed methodology avoids the risk that a supplier can attribute more costly SRECs to its BGS-FP obligation for reimbursement from New Jersey ratepayers while assigning less costly SRECs to the related TPS.

The Settlement provides for reimbursement of suppliers only after: (1) the EDCs receive Board approval of the recovery mechanism; (2) suppliers submit required documentation; (3) the

EDCs' jointly retained consultant reviews and verifies the supplier documentation, and the EDCs submit the results of the consultant's review to the Board; (4) the EDCs receive Board approval of the amount to pay suppliers; and, (5) the 45-day time periods to appeal the Orders approving the recovery mechanism and the payment amounts have passed.

In the monthly payment statement following the completion of the above conditions, each supplier will be paid in a single lump sum by each EDC where it supplied load during the relevant period. As mentioned above, no interest will be credited to the supplier for these incremental SREC payments. While suppliers will be paid in a single lump sum, the EDCs propose to recover the costs of reimbursement from ratepayers through the BGS reconciliation charge over multiple periods not to exceed six months, if needed to moderate the impact of this limited rate adjustment on BGS-FP ratepayers.²

DISCUSSION AND FINDINGS

Based upon the record and comments submitted in this matter, the Board **HEREBY FINDS** that the Settlement satisfies the requirements established in its May 1 Order, providing BGS suppliers with a mechanism to recover reasonable and prudently incurred costs incurred in the provision of BGS, and providing the EDCs with a rate recovery mechanism.

The Settlement limits BGS suppliers to reimbursement of actual, direct RPS compliance costs incurred in the provision of BGS, prohibiting recovery of brokers' fees or interest. The Board **HEREBY FINDS** that in limiting recovery to the actual, direct compliance costs, the Settlement balances the Board's goal of treating these suppliers fairly with the need to minimize the impact of this recovery on ratepayers. As stated above, the Settlement ensures BGS suppliers cannot revise their SREC portfolios to keep profitable SREC transactions, while seeking recovery for higher-cost SREC purchases. Furthermore, the Settlement also prevents a BGS supplier that sold SRECs that could have been used for RPS compliance from seeking full recovery if that supplier paid the SACP in lieu of using lower priced SRECs to satisfy the solar RPS obligation. In addition, the Board notes that BGS suppliers will be required to provide substantial documentation in a review process defined by the Settlement, which includes a review by an independent consultant with an opportunity for additional review by Board Staff and Rate Counsel, and offers additional safeguards to ratepayers that BGS supplier reimbursement will be limited solely to incremental SREC costs in excess of \$300/MWh.

Further, the Board believes that the Settlement benefits BGS suppliers by establishing a means to provide compensation in the form of a single lump sum payment, which will provide appropriate closure to this extended proceeding.

Furthermore, the Board **FINDS** that use of the BGS reconciliation charge as the means for the recovery in rates is appropriate, and as the Settlement permits that reimbursement from ratepayers will occur over multiple periods not to exceed six months, the Settlement moderates the impact of this limited rate adjustment on New Jersey's BGS-FP ratepayers.

The Board, after providing notice and an opportunity for comment, and having carefully reviewed the record to date in this proceeding and the Settlement, **HEREBY FINDS** that subject to the terms and conditions stated below, the Settlement is reasonable, in the public interest and

² However, if an EDC has a cap on the reconciliation charge, the length of the recovery period will be as long as necessary to ensure the full recovery.


in accordance with its May 1 Order. Accordingly, the Board HEREBY APPROVES the attached Settlement in its entirety.

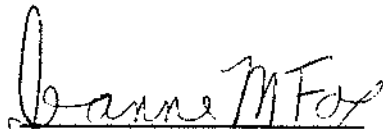
To implement the provisions of the Settlement, the Board HEREBY ORDERS that:

1. BGS-FP suppliers seeking reimbursement for incremental SREC costs shall complete and submit all forms and documentation as described in the Settlement within the timeframes provided;
2. The EDCs shall jointly retain a consultant to review and verify suppliers' documentation for reimbursement, and that the EDCs shall notify Rate Counsel and Board Staff of the consultant's selection prior to commencement of the review process;
3. The EDCs are authorized to recover the costs of the consultant, allocated according to BGS load share, through the BGS reconciliation charge, after notice and opportunity for review by Board Staff and Rate Counsel;
4. The EDCs are authorized to provide reimbursement to suppliers in a single payment after completion of the review process as described in the Settlement and Board approval; and
5. The EDCs are authorized to recover the Board approved supplier reimbursement through the BGS-FP reconciliation charge, after notice to Board Staff and Rate Counsel of the proposed recovery period which may be spread over multiple periods if needed to moderate the impact on customers.

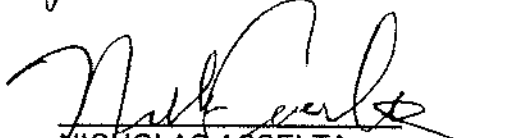
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BOARD OF PUBLIC UTILITIES
BY:

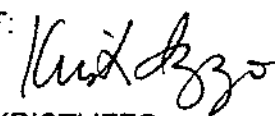

ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER

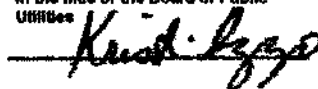

JOSEPH L. FIORDALISO
COMMISSIONER


NICHOLAS ASSELTA
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER

ATTEST: 
KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



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("SACP") IMPACTING THE 2006 AND 2007 BGS SUPPLIER MASTER AGREEMENTS
DOCKET NO. EO11040215
SERVICE LIST**

BPU

Kristi Izzo, Secretary
Board of Public Utilities
44 South Clinton Ave., 7th Floor
Trenton, NJ 08625
kristi.izzo@bpu.state.nj.us

Frank Perrotti
Board of Public Utilities
Division of Energy
44 South Clinton Ave., 7th Floor
Trenton, NJ 08625
frank.perrotti@bpu.state.nj.us

Jerome May, Director
Board of Public Utilities
Division of Energy
44 South Clinton Ave., 7th Floor
Trenton, NJ 08625
Jerome.may@bpu.state.nj.us

Mark Beyer, Chief Economist
Board of Public Utilities
44 South Clinton Ave., 7th Floor
Trenton, NJ 08625
mark.beyer@bpu.state.nj.us

Stacy Peterson
Board of Public Utilities
Division of Energy
44 South Clinton Ave., 7th Floor
Trenton, NJ 08625
stacy.peterson@bpu.state.nj.us

DAG

Babette Tenzer, DAG
NJ Dept. of Law & Public Safety
Division of Law
124 Halsey Street
PO Box 45029
Newark, NJ 07101
babette.tenzer@dol.lps.state.nj.us

DIVISION OF RATE COUNSEL

Stefanie A. Brand, Director
The Division of Rate Counsel
31 Clinton Street, 11th Floor
P.O. Box 46005
Newark, NJ 07101
sbrand@rpa.state.nj.us

Paul E. Flanagan, Litigation Manager
The Division of Rate Counsel
31 Clinton Street
11th Floor
PO Box 46005
Trenton, NJ 08625
pflanagan@rpa.state.nj.us

Ami Morita
The Division of Rate Counsel
Division of Rate Counsel
31 Clinton Street - 11th Floor
P.O. Box 46005
Newark, NJ 07101
amorita@rpa.state.nj.us

Diane Schulze
The Division of Rate Counsel
31 Clinton Street - 11th Floor
P.O. Box 46005
Newark, NJ 07101
dschulze@rpa.state.nj.us

PSE&G

Mally Becker, Esq.
Assistant General Regulatory Counsel
Law Department
80 Park Plaza, T-05
Newark, New Jersey 07102-4194
mally.becker@pseg.com

Tony Robinson
Public Service Electric & Gas Co.
80 Park Plaza, T-8
Newark, NJ 07101
Anthony.Robinson@pseg.com

ATLANTIC CITY ELECTRIC CO.

Joseph F. Janocha, Manager,
Regulatory Affairs
Atlantic City Electric Co. - 63ML38
5100 Harding Highway
Atlantic Regional Office
Mays Landing, NJ 08330
joseph.janocha@pepcoholdings.com

Gregory R. Marquis
Pepco Holdings, Inc.
701 Ninth Street NW
Washington, DC 20068-0001
gmarquis@pepco.com

Philip J. Passanante,
Assistant General Counsel
Atlantic City Electric Co. - 89KS42
800 King Street, 5th Floor
PO Box 231
Wilmington, DE 19899-0231
philip.passanante@pepcoholdings.com

JCP&L

Kevin Connelly
First Energy
300 Madison Avenue
Morristown, NJ 07960
kconnelly@firstenergycorp.com

Marc B. Lasky, Esq.
Morgan, Lewis & Bockius LLP
89 Headquarters Plaza North
Suite 1419
Morristown, NJ 07960
mlasky@morganlewis.com

Greg Eisenstark
Morgan, Lewis & Bockius LLP
89 Headquarters Plaza North
Suite 1419
Morristown, NJ 07960
geisenstark@morganlewis.com

Sally J Cheong
First Energy
300 Madison Avenue
P. O. Box 1911
Morristown, NJ 07962-1911
scheong@firstenergycorp.com

ROCKLAND

John L. Carley, Esq.
Consolidated Edison Co. of NY
Law Dept., Room 1815-S
4 Irving Place
New York, NY 10003
carleyj@coned.com

James C. Meyer, Esq.
Riker, Danzig, Scherer, Hyland &
Perretti
Headquarters Plaza
One Speedwell Avenue
Morristown, NJ 07962
jmeyer@riker.com

William A. Atzl, Jr.
Rockland Electric Company
4 Irving Place - 2nd Floor SE
New York, NY 10003
atzlw@coned.com

Margaret Comes, Esq.,
Consolidated Edison Co. of NY
Law Dept, Room 1815-S
4 Irving Place
New York, NY 10003
comesm@coned.com

NERA

Gene Meehan
NERA Economic Consulting
1255 23rd St. NW
Washington, DC 20037
Gene.Meehan@NERA.com

Chantale LaCasse
NERA Economic Consulting
1255 23rd St. NW
Washington, DC 20037
Chantale.LaCasse@NERA.com

Third Party Suppliers

Murray E. Bevin, Esq.
Bevan, Mosca, Giuditta & Zarillo, P.C.
776 Mountain Blvd.
Suite 202
Watchung, NJ 07069
mbevan@bmgzlaw.com

**IN THE MATTER OF INCREASED SOLAR ALTERNATIVE COMPLIANCE PAYMENTS
("SACP") IMPACTING THE 2006 AND 2007 BGS SUPPLIER MASTER AGREEMENTS
DOCKET NO. E011040215
SERVICE LIST**

SueAnne I. Harrel
Pepco Energy Services
39 Crestview Drive
Asset Mgmt Group
Clinton, NJ 08809
sharrel@pepcoenergy.com

Dale Kanterman, VP
Eastern Energy Services
4 Ridge Road
Southampton, NJ 08088-3505
assist@easterenergyservices.com

Jay Kooper
Hess Corporation
One Hess Plaza
Woodbridge, NJ 07095
jkooper@hess.com

Dana Swieson
EPEX
717 Constitution Drive
Suite 110
Exton, PA 19341
Dana.swieson@epex.ec

Marc A. Hanks
Senior Manager, Government &
Regulatory Affairs
Direct Energy Services, LLC
Marc.Hanks@directenergy.com

Mark S. Kumm
Pepco Energy Services, Inc.
1300 N. 17th, Suite 1600
Arlington, VA 22209
[mkumm@m@pepcoenergy.com](mailto:mikum@m@pepcoenergy.com)

Stacey Rantala
National Energy Marketers Association
3333 K Street, N.W., Suite 110
Washington, D.C. 20007
srantala@energymarketers.com

David B. Applebaum
Director, Regulatory Affairs
NextEra Energy Resources, LLC
21 Pardee Place
Ewing, New Jersey 08628
david.applebaum@nexteraenergy.com

David Gil
Manager, Regulatory Affairs
NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, Florida 33408
david.gil@nexteraenergy.com

Kathleen Maher
Constellation NewEnergy
810 Seventh Avenue, Suite 400
New York, NY 10019-5818
kathleen.maher@constellation.com

Bob Blake
VP Elec. Operations & Regulatory
Affairs
MXenergy
10010 Junction Dr, Suite 104S
Annapolis Junction, MD 20701
rblake@mxenergy.com

NJLEUC

Paul F. Forshay, Partner
SUTHERLAND
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2415
paul.forshay@sutherland.com

Steven S. Goldenberg, NJLEUC, Esq.
Fox Rothschild LLP
Princeton Corporate Center
997 Lenox Drive, BLDG. 3
Lawrenceville, NJ 08648-2311
SGoldenberg@foxrothschild.com

SUPPLIERS

Steven Gabel - IEPNJ
Gabel Associates
417 Denison Street
Highland Park, NJ 08904
steven@gabelassociates.com

James Laskey, Esq. - IEPNJ
Norris McLaughlin & Marcus
721 Route 202-206
Bridgewater, NJ 08807
jlaskey@mmmlaw.com

Mark Baird, Director, Regulatory Affairs
RRI Energy, Inc.
7642 West 450 North
Sharpsville, IN 46068
mbaird@rrienergy.com

Raymond Depiilo
PSEG Energy Resources & Trade
80 Park Plaza, T-19
P.O. Box 570
Newark, NJ 07101
raymond.depiilo@pseg.com

Shawn P. Leyden, Esq.
PSEG Energy Resources & Trade
80 Park Plaza, T-19
P. O. Box 570
Newark, NJ 07101
shawn.leyden@pseg.com

David K Richter, Esq.
PSEG
Regulatory Department
80 Park Plaza, T-5C
P. O. Box 570
Newark, NJ 07101
david.richter@pseg.com

Ken Gfroerer
RRI Energy
RR1 Box 246
Stahlstown, PA 15687

Craig S. Blume
Director, Power Marketing
UGI Energy Services / UGI
Development Company
One Meridian Boulevard, Suite 2C01
Wyomissing, PA 19610
cblume@ugies.com

Robert O'Connell,
VP & Compliance Manager
J.P. Morgan Ventures Energy Corp.
1033 Squires Drive
West Chester, PA, 19382
robert.oconnell@jpmorgan.com

Deborah Hart, Vice President
Morgan Stanley Capital Group
2000 Westchester Avenue
Trading Floor
Purchase, NY 10577
deborah.hart@morganstanley.com

George R. Henderson
PSEG Energy Resources & Trade
80 Park Plaza, T-19
P.O. Box 570
Newark, NJ 07101
george.henderson@pseg.com

Marcia Hissong, Director, Contract
Administration/Counsel
DTE Energy Trading, Inc.
414 South Main Street
Suite 200
Ann Arbor, MI 48104
hissongm@dteenergy.com

Don Hubschman
American Electric Power
155 W. Nationwide Blvd.
Columbus, OH 43215
dmhubschman@aep.com

Roberta Konicki
Sempra Energy Trading
2500 City West Blvd.
Suite 1800
Houston, TX 77042
roberta.konicki@rbssempra.com

Gregory K. Lawrence, Esq.
McDermott, Will & Emery
600 13th Street, NW
Washington, DC 20002
glawrence@mw.com

Leonard Navitsky
PPM Energy
3301 Cherokee Street
Emmaus, PA 18049
leonard.navitsky@berdrolausa.co

Glenn Riepl
AEP Energy Services
1 Riverside Plaza
14th Floor
Columbus, OH 43215-2373
gfriep@aep.com

Maria Robinson
Con Edison Energy Solutions
701 Westchester Avenue
Suite 201 West
White Plains, NY 10604
robinsonm@conedenergy.com

**IN THE MATTER OF INCREASED SOLAR ALTERNATIVE COMPLIANCE PAYMENTS
("SACP") IMPACTING THE 2006 AND 2007 BGS SUPPLIER MASTER AGREEMENTS
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SERVICE LIST**

Jean-Paul St. Germain
Sempra Energy Trading
58 Commerce Road
Stamford, CT 06902
jean-paul.st.germain@rbssempra

Howard O. Thompson - BGS
Russo Tumulty Nester Thompson
Kelly, LLP
240 Cedar Knolls Road
Suite 306
Cedar Knolls, NJ 07927
hthompson@russotumulty.com

Sharon Weber
PPL Energy Plus
2 North 9th Street TW 20
Allentown, PA 18101
sjweber@pphweb.com

Stephen Wemple
Con Edison Energy
701 Westchester Avenue
Suite 201 West
White Plains, NY 10604
wemple@conedenergy.com

Glen Thomas
The P³ Group
GT Power Group LLC
1060 First Avenue
Suite 400
King of Prussia, PA 19406
GTHOMAS@GTPOWERGROUP.COM

Divesh Gupta
Senior Counsel
Constellation Energy
111 Market Place, Suite 500
Baltimore, Maryland 21202
divesh.gupta@constellation.com

Tom Hoatson
LS Power Development, LLC
2 Tower Center
East Brunswick, NJ 08816
thoatson@lspower.com

Gary Ferenz
Connectiv Energy Supply, Inc.
PO Box 6066, MS 92DC69
Newark, DE 19714
gary.ferenz@connectiv.com

Kelley Gabbard
Connectiv Energy Supply, Inc.
PO Box 6066, MS 92DC69
Newark, DE 19714
kelley.gabbard@connectiv.com

John Citrolo
Connectiv Energy Supply, Inc.
PO Box 6066, MS 92DC69
Newark, DE 19714
john.citrolo@connectiv.com

Terence Russell
RRI Energy, Inc
1000 Main Street, 2178B
Houston, Texas 77002
trussell@rrienergy.com

Grace S. Kurdian
McCARTER & ENGLISH, LLP
245 Park Avenue, 27th floor
New York, NY 10167
gkurdian@mccarter.com

Adam Kaufman
Executive Director
Independent Energy Producers of NJ
Five Vaughn Drive, Suite 101
Princeton, NJ 08540
akaufman@epanj.com

Deborah M. Franco, Counsel
TransCanada Power Marketing Ltd.
Garden City Center
100 Quentin Roosevelt Boulevard
Garden City, New York 11530-4850
DFranco@CullenandDykman.com

Gregory K. Lawrence
Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, NY 10281
greg.lawrence@cwtf.com

Victoria M. Lauterbach
Cadwalader, Wickersham & Taft LLP
700 Sixth Street, N.W.
Washington, DC 20001
tory.lauterbach@cwtf.com

OTHER PARTIES

Sara Bluhm
NJBIA
102 West State Street
Trenton, NJ 08608-1199
sbluhm@njbia.org

John Holub
NJ Retail Merchants Assoc.
332 West State Street
Trenton, NJ 08618
john@njrma.org

Judy Misoyianis, Administrator
New Jersey Retail Merchants Assoc.
332 West State Street
Trenton, NJ 08618
judy.njrma@verizon.net

Holly Minogue
Gabel Associates
Energy, Environmental, and Public
Utility Consulting
417 Denison Street
Highland Park, NJ 08904
holly.minogue@gabelassociates.com

Larry Spielvogel, PE
L. G. Spielvogel, Inc.
21506 Valley Forge Circle
King of Prussia, PA 19406-1137
spielvogel@comcast.net

Robert Macksoud, Jr, CEP
Director Energy Procurement
EnergySolve
One Executive Dr, Suite 401
Somerset, NJ 08873
rmacksoud@energysolve.com

Jim Torpey
Director Market Development
SunPower Corporation
700 S Clinton St
Trenton NJ 08611
jim.torpey@sunpowercorp.com

Lyle Rawlings
Mid-Atlantic Solar Energy Industries
Association
Rutgers EcoComplex, Suite 208-B
1200 Florence-Columbus Road,
Bordentown, NJ 08505
lrawlings@mseia.net

Katie Bolcar
Mid-Atlantic Director
Solar Energy Industries Association
575 7th Street, NW, Suite 400,
Washington DC 20005
kbolcar@seia.org

Bruce H. Burcat, Esq.
Executive Director
Mid-Atlantic Renewable Energy Coalition
208 Stonegate Way
Camden, DE 19934
bburcat@marec.us

Craig R. Roach
Boston Pacific Company, Inc
1100 New York Avenue, NW
Suite 490 east
Washington, DC 2005
croach@bostonpacific.com

Frank Mossburg
Boston Pacific Company, Inc
1100 New York Avenue, NW
Suite 490 east
Washington, DC 2005
fmossburg@bostonpacific.com

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE PETITION OF) STIPULATION
ALTERNATIVE COMPLIANCE PAYMENTS) OF SETTLEMENT
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APPEARANCES:

Mally Becker, on behalf of Public Service Electric and Gas Company
Gregory Eisenstark, Morgan, Lewis & Bockius LLP, on behalf of Jersey Central Power & Light Company
Philip J. Passanante, on behalf of Atlantic City Electric Company
Margaret Comes, on behalf of Rockland Electric Company
Paul Flanagan, Litigation Manager, **Felicia Thomas-Friel**, Deputy Rate Counsel, **Ami Morita**, Deputy Rate Counsel, and **Kurt Lewandowski**, Assistant Deputy Rate Counsel, Division of Rate Counsel
Alex Moreau and T. David Wand, Deputy Attorneys General, for the Staff of the New Jersey Board of Public Utilities (Jeffrey S. Chiesa, Attorney General of New Jersey)

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

It is hereby AGREED, as of the 22nd day of October 2012, by and between Public Service Electric and Gas Company, Jersey Central Power & Light Company, Atlantic City Electric Company, Rockland Electric Company, Staff of the New Jersey Board of Public Utilities (the "Board" or "BPU"), the Division of Rate Counsel ("Rate Counsel"), (collectively referred to in this document as the "Parties") to execute this Stipulation of Settlement (the "Settlement") in the above-captioned proceeding.

BACKGROUND

1. In a May 1, 2012 Order, the Board approved the pass-through to ratepayers of the cost of certain Solar Renewable Energy Certificates (“SRECs”) and Solar Alternative Compliance Payments (“SACP”) above a \$300 per megawatt-hour threshold for Basic Generation Service-Fixed Price (“BGS-FP”) contracts covering the June 1, 2006 through May 31, 2009 and the June 1, 2007 through May 31, 2010 supply periods. Decision, *I/M/O Increased Solar Alternative Compliance Payments (“SACP”) Impacting the 2006 and 2007 BGS Supplier Master Agreements*, BPU Docket No. EO11040215 (May 1, 2012) (the “May 2012 Order”).

2. The May 2012 Order further directed Public Service Electric and Gas Company, Jersey Central Power & Light Company, Atlantic City Electric Company, and Rockland Electric Company (collectively, the “EDCs”) to submit to the Board for approval by July 1, 2012, the proposed rate recovery mechanism intended to reimburse only suppliers with BGS-FP Supplier Master Agreements (“SMAs”) for 2006-9 and 2007-10 for the period June 1, 2008 through May 31, 2009 (“Reporting Year 2009”) and the period June 1, 2009 through May 31, 2010 (“Reporting Year 2010”) (collectively, “Suppliers”) for these incremental costs, including a method for Suppliers to demonstrate that these costs were reasonably and prudently incurred.

3. In compliance with the May 2012 Order, the EDCs, on June 26, 2012, submitted a methodology for qualifying SREC/SACP costs in excess of \$300 per MWh and proposed a rate recovery mechanism for costs associated with paying Suppliers for these incremental SREC/SACP costs (the “Reimbursement Proposal”). The Reimbursement Proposal included: (a) a mechanism for Suppliers to demonstrate that incremental costs were reasonably and

prudently incurred; (b) a mechanism to recover the subject costs from ratepayers; and (c) a methodology for reimbursing Suppliers.

4. The Reimbursement Proposal uses Suppliers' information on the total number and cost of SREC purchases, the number of SACPs, along with Renewable Portfolio Standard ("RPS") compliance requirements for Reporting Years 2009 and 2010, to develop the Suppliers' reasonable and prudent cost of compliance. The portion of this cost that is above \$300/MWh becomes the reimbursement for the Supplier. The total payment to the Supplier would be calculated on a statewide basis and then apportioned to each EDC based on the grandfathered load in the EDC's zone.

5. As described by the Reimbursement Proposal, payments to Suppliers would only be calculated for SREC obligations deemed to be grandfathered. The Reimbursement Proposal defined the term "grandfathered SREC obligations" as referring to the SREC obligations that result from the BGS-FP load served under the June 1, 2006 through May 31, 2009 and June 1, 2007 through May 31, 2010 SMAs. Non-grandfathered SRECs will refer to the SREC obligations that result from the BGS-FP load served under the June 1 2008 through May 31, 2011 SMAs and any Commercial and Industrial Energy ("CIEP") load. Suppliers will document and the EDCs will confirm the number of grandfathered SRECs.

6. The Reimbursement Proposal advocates recovery of amounts payable to Suppliers through the BGS-FP reconciliation charge, with the option to spread the impact over multiple periods, if necessary to moderate customer billing impacts.

7. The Reimbursement Proposal also proposes that Suppliers be paid after the following conditions were met: (a) the EDCs receive Board approval of the recovery mechanism; (b) the

Suppliers submit required documentation; (c) the EDCs jointly review and verify Supplier documentation and submit the results of their review to Rate Counsel and the Board; (d) the EDCs receive Board approval of the amount to pay Suppliers; and (e) the 45-day time periods to appeal the Orders approving the recovery mechanism and the payment amounts have run.

8. On August 17, 2012, the Parties held an initial settlement conference. A second settlement conference was held on August 30, 2012, and a subsequent telephone settlement conference was held on October 5, 2012. Following said settlement conferences and settlement telephone conferences, the Parties agreed to submit this Settlement, the terms of which are set forth below.

Specifically, the Parties hereby STIPULATE AND AGREE to the following:

9. The Parties have reviewed the Reimbursement Proposal and agree that its terms, as modified by this settlement, are consistent with the Board's May 2012 Order and provide a reasonable mechanism for Suppliers to demonstrate that incremental costs were reasonably and prudently incurred, a reasonable mechanism to recover the subject costs from ratepayers, and a reasonable methodology for reimbursing Suppliers.

10. The Parties request that the Board approve in its entirety the methodology for Suppliers to define incremental SREC costs eligible for recovery as set forth in Attachment 1 of the Reimbursement Proposal ("Determination of Incremental SREC Costs"). The Reimbursement Proposal is attached and incorporated by reference into this Settlement.

11. The Parties request that the Board require Suppliers seeking reimbursement for incremental SREC/SACP costs above \$300/MWh to submit to the EDCs documentation defined

in Attachment 1 of the Reimbursement Proposal and as follows: Each Supplier will be required to submit documentation relating to its statewide Solar RPS requirements (total solar compliance requirements for each EDC). Documentation will consist of invoices, contracts or confirmations and proof(s) of payment to document all SREC purchasing transactions by the Supplier and its Third Party Supplier ("TPS") affiliates. All SREC purchase transactions cover any and all SRECs purchased that were eligible to be used for RPS compliance in Reporting Years 2009 and 2010 (including SRECs purchased during the two month "true-up" window, i.e., June and July 2009 and 2010, respectively). As noted herein, "affiliates" are defined for purposes of this Settlement and the Supplier Affidavit (Attachment 2 of the Reimbursement Proposal) as TPS affiliates of a Supplier.

12. The Parties recommend that the Board direct each Supplier seeking reimbursement pursuant to this Settlement to submit the two completed input templates provided as Attachment 3 in the (attached) Reimbursement Proposal, an additional Summary Documentation template provided in Attachment 4, along with invoices, contracts or confirmations covering all New Jersey SREC purchases eligible for use for RPS compliance in Reporting Years 2009 and 2010. The Summary Documentation Data template will be used to ensure provision of all necessary SREC transaction data. As noted in the Summary Documentation Data template, suppliers will provide cost data to identify the net cost without broker fees in these documents. Finally, Suppliers will submit a completed, sworn affidavit stating that all data submitted is accurate and complete in the form of affidavit that is included as Attachment 2 of the Reimbursement Proposal. Suppliers shall submit this information to each of the four EDCs. Any Supplier

requesting reimbursement must submit all documentation to all EDCs within 30 days of the effective date of a Board Order approving this Settlement.

13. The Parties recommend that the Board direct the EDCs to retain an independent consultant chosen by the EDCs to jointly review and verify Supplier documentation. The EDCs will submit the results of the consultant's review (the "Verification Filing") to the Board no later than 75 days after the effective date of a Board Order approving this Settlement. The cost for the consultant will be allocated using the BGS load share for each and recovered through each EDC's BGS reconciliation charge. The EDCs will notify Rate Counsel and Staff of their consultant selection prior to the initiation of the review and verification process.

14. The Verification Filing shall request issuance of a Board Order authorizing a) each EDC's recovery of incremental SREC costs for Reporting Year 2009 and Reporting Year 2010 in excess of \$300/MWh, as set forth in Attachment 1, and b) disbursement to individual Suppliers who have satisfied the documentation requirements defined in this Settlement.

15. The Parties stipulate that, following the Verification Filing, Board Staff and Rate Counsel have the right to review the documentation provided by the Suppliers to the EDCs to verify the accuracy of the statements or computations presented in the Verification Filing. Documentation of SREC transactions provided by Suppliers shall be considered confidential market-sensitive data and will be made available to Board Staff and Rate Counsel pursuant to a signed confidentiality agreement.

16. The Parties agree that Board Staff and/or Rate Counsel shall notify the EDCs and individual Suppliers of alleged document deficiency/ies prior to the lapse of 30 days from the date of electronic receipt of the Verification Filing, and any objection made thereafter shall be

deemed waived. Such objection shall clearly define the transaction(s) for which documentation is alleged to be deficient.

17. If Board Staff and/or Rate Counsel raise an objection to recovery based on concerns regarding one or more individual Suppliers' documentation, Suppliers notified of such document deficiency(ies) shall have 15 days in which to cure. If the Supplier(s) is/are unable to cure the deficiency(ies), the recovery to be granted shall be reduced by the disputed amount and reflected in a revised Verification Filing.

18. The Parties urge the Board to direct each EDC to provide reimbursement to Suppliers where they had grandfathered load in a single lump sum in the monthly payment statement following the completion of the above conditions. Furthermore, the Parties agree that no interest shall be credited on behalf of the Supplier for these incremental SREC payments.

19. The Parties recommend that the Board direct the EDCs to recover the Board-approved amounts payable to Suppliers through the BGS-FP reconciliation charge, with the option to spread the impact over multiple periods up to six months, if necessary, to moderate customer billing impacts. However, if an EDC has a cap on the reconciliation charge, the length of the recovery period will be as long as necessary to ensure the full recovery.

20. The undersigned agree that this Settlement contains mutually balancing and interdependent provisions and is intended to be accepted and approved in its entirety. In the event any particular aspect of this Settlement is not accepted and approved by the Board, this Settlement shall be null and void, and the parties shall be placed in the same position that they were in immediately prior to its execution.

21. The undersigned Parties further HEREBY AGREE that this Settlement has been made exclusively for the purpose of this proceeding and that this Settlement, in total or specific item, is in no way binding upon them in any other proceeding, except to enforce the terms of this Settlement.

ATLANTIC CITY ELECTRIC COMPANY

By: 

Philip J. Passanante, Esq.
Associate General Counsel

Dated: October 22, 2012

JERSEY CENTRAL POWER AND LIGHT COMPANY

By: _____

Gregory Eisenstark, Esq.
Morgan, Lewis & Bockius LLP

Dated: October __, 2012

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

BY: _____

Mally Becker, Esq.
Assistant General Regulatory Counsel
PSEG Services Corporation

Dated: October __, 2012


21. The undersigned Parties further HEREBY AGREE that this Settlement has been made exclusively for the purpose of this proceeding and that this Settlement, in total or specific item, is in no way binding upon them in any other proceeding, except to enforce the terms of this Settlement.

ATLANTIC CITY ELECTRIC COMPANY

By: _____
Philip J. Passanante, Esq.
Associate General Counsel

Dated: October __, 2012

JERSEY CENTRAL POWER AND LIGHT COMPANY

By: 

Gregory Eisenstark, Esq.
Morgan, Lewis & Bockius LLP

Dated: October ²²__, 2012

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

BY: _____
Mally Becker, Esq.
Assistant General Regulatory Counsel
PSEG Services Corporation

Dated: October __, 2012

21. The undersigned Parties further HEREBY AGREE that this Settlement has been made exclusively for the purpose of this proceeding and that this Settlement, in total or specific item, is in no way binding upon them in any other proceeding, except to enforce the terms of this Settlement.

ATLANTIC CITY ELECTRIC COMPANY

By: _____
Philip J. Passanante, Esq.
Associate General Counsel

Dated: October __, 2012

JERSEY CENTRAL POWER AND LIGHT COMPANY

By: _____
Gregory Eisenstark, Esq.
Morgan, Lewis & Bockius LLP

Dated: October __, 2012

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

BY: Mally Becker
Mally Becker, Esq.
Assistant General Regulatory Counsel
PSEG Services Corporation

Dated: October 22, 2012

ROCKLAND ELECTRIC COMPANY

By: Margaret Comes
Margaret Comes, Esq.
Senior Attorney
Consolidated Edison Co. of NY

Dated: October 15, 2012

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

BY: _____
Alex Moreau, Esq.
Deputy Attorney General
Attorney for the Staff of the
New Jersey Board of Public Utilities

Dated: October __, 2012

DIVISION OF RATE COUNSEL
STEFANIE A. BRAND, DIRECTOR

By: _____
Kurt Lewandowski, Esq.
Assistant Deputy Rate Counsel

Dated: October __, 2012

ROCKLAND ELECTRIC COMPANY

By: _____
Margaret Comes, Esq.
Senior Attorney
Consolidated Edison Co. of NY

Dated: October __, 2012

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for the Staff of the New Jersey
Board of Public Utilities

By: 
Alex Moreau
Deputy Attorney General

Dated: October 23, 2012

DIVISION OF RATE COUNSEL
STEFANIE A. BRAND, DIRECTOR

By: _____
Kurt Lewandowski, Esq.
Assistant Deputy Rate Counsel

Dated: October __, 2012

ROCKLAND ELECTRIC COMPANY

By: _____
Margaret Comes, Esq.
Senior Attorney
Consolidated Edison Co. of NY

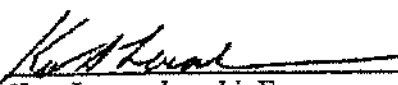
Dated: October __, 2012

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

BY: _____
Alex Moreau, Esq.
Deputy Attorney General
Attorney for the Staff of the
New Jersey Board of Public Utilities

Dated: October __, 2012

DIVISION OF RATE COUNSEL
STEFANIE A. BRAND, DIRECTOR

By: 
Kurt Lewandowski, Esq.
Assistant Deputy Rate Counsel

Dated: October 28 2012

Mally Becker
Assistant General Regulatory Counsel

Law Department
PSEG Services Corporation
80 Park Plaza - 15, Newark, New Jersey 07102-4194
973-430-7380 fax: 973-430-5983
email: mally_becker@pseg.com



VIA OVERNIGHT MAIL & ELECTRONIC MAIL

June 26, 2012

In the Matter of Increased Solar
Alternative Compliance Payments
Impacting the 2006 and 2007
BGS Supplier Master Agreements

Docket No. EO11040215

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

Dear Secretary Izzo:

On behalf of itself and the other New Jersey electric distribution companies, Jersey Central Power & Light Company, Atlantic City Electric Company, and Rockland Electric Company (collectively, the EDCs), Public Service Electric and Gas Company (PSE&G) is submitting to the Board of Public Utilities (the Board) this joint filing in compliance with the Order dated May 1, 2012 in the above-captioned matter (the May 1, 2012 Order).¹

In the May 1, 2012 Order, the Board approved the pass-through to ratepayers of the cost of Solar Renewable Energy Certificates (SRECs) above a \$300 per megawatt-hour threshold for BGS-FP contracts covering the June 1, 2006 through May 31, 2009, and the June 1, 2007 through May 31, 2010 supply periods. The Board further directed the EDCs to submit to the Board for approval the proposed rate recovery mechanism for these incremental costs, including a method for Basic Generation Service (BGS) Suppliers to demonstrate that these costs were reasonably and prudently incurred.

¹ Decision and Order, I/M/O Increased Solar Alternative Compliance Payments ("SACP") Impacting the 2006 and 2007 BGS Supplier Master Agreements, Dkt. No. EO11040215 (NJBPUB May 1, 2012) (the May 1, 2012 Order).

The methodology described in the Attachments defines a proposed mechanism for determining the cost for SRECs above the \$300 benchmark for BGS-FP contracts for the June 1, 2006 through May 31, 2009 supply period and the June 1, 2007 through May 31, 2010 supply period. The Attachments also set forth a proposed cost recovery mechanism.

Kindly return a copy of this compliance filing stamped as "filed" to the undersigned in the self-addressed, prepaid envelope provided herewith.

Respectfully submitted,

*Original signed by
Mally Becker, Esq.*

Attachments

cc: Service List (Electronic)

Attachment 1

In compliance with the May 1, 2012 Order, the EDCs submit the following methodology for qualifying SREC costs in excess of \$300 per MWh and proposed rate recovery mechanism for costs associated with paying BGS-FP suppliers ("Suppliers") for these incremental SREC costs.

The EDCs' proposed methodology, as described below, includes: 1) a mechanism for Suppliers to demonstrate that incremental costs were reasonably and prudently incurred; 2) a mechanism to recover the subject costs from ratepayers; and, 3) a methodology for reimbursing Suppliers.

Determination of Incremental SREC Costs

The EDCs have proposed a mechanism intended to reimburse only the Suppliers with FP Supplier Master Agreements ("SMAs") for 2006-9 and 2007-10 for the period June 1, 2008 through May 31, 2009 ("Reporting Year 2009") and the period June 1, 2009 through May 31, 2010 ("Reporting Year 2010") for incremental SREC costs above \$300/MWh.

This mechanism uses Suppliers' information on the total number and cost of SREC purchases, along with RPS compliance requirements for Reporting Years 2009 and 2010, to develop the Suppliers "reasonable and prudent" cost of compliance. The portion of this cost that is above \$300/MWh becomes the reimbursement for the BGS supplier. The total payment to the Supplier will be calculated on a statewide basis and then apportioned to each EDC based on the grandfathered load in the EDC's zone.

In other words, if a BGS Supplier purchased more SRECs than it required to serve its statewide RPS obligation, then this method would reimburse the Supplier for the difference between its average purchase price for SRECs and \$300/MWh (i.e., incremental SREC costs) for the amount grandfathered on an individual reporting year basis for Reporting Year 2009 and Reporting Year 2010.

If a BGS Supplier purchased fewer SRECs than it required to serve its statewide RPS obligation, then this method would reimburse the Supplier for the difference between \$300/MWh and the average purchase price of the SRECs it purchased, plus the difference between \$300 and the Solar Alternative Compliance Payment (SACP) payment for the remaining number of SRECs needed for compliance, multiplied by the percentage share of the RPS obligation that is grandfathered.

By calculating the Suppliers' costs based upon an average of its aggregate SREC purchases statewide (i.e., for those BGS Suppliers winning tranches in multiple EDC service territories), the EDCs eliminate the need to allocate the cost of individual SRECs among EDC service territories.

Payments to suppliers will only be calculated for SREC obligations deemed to be grandfathered. For the purpose of this document, the term "grandfathered SREC obligations" refers to the SREC obligations that result from the BGS-FP load served under the June 1, 2006 - May 31, 2009 and June 1, 2007 - May 31, 2010 Supplier Master Agreements (SMAs). Non-grandfathered SRECs will refer to the SREC obligations that result from the BGS-FP load served under the June 1 2008 – May 31, 2011 SMAs and any CIEP load. The EDCs will confirm the number of grandfathered SRECs.

Each Supplier will be required to submit documentation relating to its statewide SREC RPS requirements (total solar compliance requirements for each EDC). Documentation will consist of invoices, contracts or confirmations to document all SREC purchasing transactions by the Supplier and its affiliates. All SREC purchase transactions cover any and all SRECs purchased that were eligible to be used for RPS compliance in Reporting Years 2009 and 2010 (including SRECs purchased during the two month "true-up" window).

A template (one for each Reporting Year) is attached for the Supplier to use to provide the required data for Reporting Year 2009 compliance and for Reporting Year 2010 compliance. The Supplier will provide the total cost and total number of SRECs purchased that could be used for SREC compliance in each Reporting Year. All costs provided should be exclusive of broker fees. Additional data covering the amount of SRECs required for compliance in each Reporting Year and the portion of those SRECs that were covering grandfathered load shall be provided. The 2009 and 2010 annual renewable portfolio standard compliance report (the "RPS report") contains the total SREC obligations of the Suppliers so it is not necessary to calculate that information; however, the Supplier will need to separate out the number of SRECs needed for the grandfathered and non-grandfathered portions of the load. The completed template will be input into a spreadsheet to perform the calculation of the Supplier's refund as detailed below.

As stated above, the total payment to the Supplier will be calculated on a statewide basis and later apportioned to each EDC based on the grandfathered load in the EDC's zone. The Supplier will complete the data input form in Attachment 3 for each Reporting Year. The EDCs will provide Suppliers with a spreadsheet that they will use to complete the calculation using the inputs from Attachment 3.

The EDCs will calculate the total amount due to a Supplier for each Reporting Year using the following methodology (see Attachment 4 for the actual formulas used):

- 1) First the Supplier's total cost is calculated for all of the solar RPS compliance needs for all EDC zones for each Reporting Year (2009 and 2010).
 - a. If the Supplier purchased more SRECs than were needed for RPS compliance, the cost is calculated as the average cost per SREC times the number of SRECs needed for compliance.
 - b. If the Supplier did not purchase enough SRECs for RPS compliance, the total cost is calculated as the cost of all SRECs purchased plus the cost of any SACP payments needed for compliance.
- 2) The second step is to calculate the maximum cost the Supplier would have had to pay for compliance if the SACP had remained at \$300.
 - a. The number of SRECs needed for compliance times \$300.
- 3) The third step is to subtract the result of #2 from #1 above and multiply the result by the percent share of the compliance SRECs that were grandfathered. This results in the total payment due the Supplier.

Once the total Supplier refund has been calculated, the EDCs will apportion the payment across the EDCs based on the percent of the grandfathered load in each EDC's zone.

Supplier Responsibility

Each Supplier will submit the two completed input templates along with invoices, contracts or confirmations covering all New Jersey SREC purchases eligible for use for RPS compliance in Reporting Years 2009 and 2010. Data will also be provided to identify and remove the broker fees that may be included in these documents. The Supplier will also supply a completed, sworn affidavit stating that all data submitted is accurate and complete. This information will be sent to the four EDCs. Any Supplier requesting relief must submit all documentation to all EDCs by August 27, 2012. The form of this affidavit is included as Attachment 2 and the input data templates are in Attachment 3.

Accounting and Cost Recovery Mechanism

The EDCs propose to recover the Board-approved amounts payable to Suppliers through the BGS-FP reconciliation charge, with the option to spread the impact over multiple periods if necessary to moderate customer billing impacts.

Supplier Payment Mechanism

Suppliers will be paid after the following conditions are met: (1) the EDCs receive Board approval of the recovery mechanism; (2) Suppliers submit required documentation; (3) EDCs jointly review and verify Supplier documentation and submit the results of their review to the Board; (4) the EDCs receive Board approval of the amount to pay Suppliers; and, (5) the 45-day time periods to appeal the Orders approving the recovery mechanism and the payment amounts have been completed. In the monthly payment statement following the completion of the above conditions, each Supplier will be paid in a single lump sum by each EDC where they had grandfathered load. No interest will be credited on behalf of the Supplier for these incremental SREC payments.

Attachment 2

AFFIDAVIT

I, [signatory], an [authorized officer] of [BGS Supplier] “[BGS Supplier”], declare that BGS Supplier has submitted documentation with this affidavit to [EDC] with respect to all solar renewable energy certificate (“SRECs”) purchased for [BGS Supplier] and its affiliates for the Reporting Year [June 1, 2008 through May 31, 2009] [June 1, 2009 through May 31, 2010]. All reported purchase transactions were at arms- length terms.

Based on the purchase information available, [BGS Supplier] has calculated the total cost of any and all SRECs purchased that could have been used to satisfy the RPS requirements during the subject energy year for all arms-length SREC buy transactions for itself and its affiliates is \$[_____] net of any broker costs.

For purposes of this affidavit the term “affiliate” means any entity controlling or controlled by or under common control with [BGS Supplier]. For purposes of this affidavit, a party controls an entity directly if the party holds a majority of shares, majority voting power, a majority of common directors, can appoint a majority of directors, or if the party in fact controls the entity’s affairs through some other means. A party controls an entity indirectly if the party controls another entity that controls the entity in question (or through a longer line of control; e.g., if the party controls another entity that controls an entity that controls the entity in question, etc.). The terms “controlling” and “controlled” have meanings correlative with the foregoing.

For purposes of this affidavit, an "arms-length" transaction is one with terms similar to those expected to be found in similar transactions between unaffiliated entities bargaining freely in an open market.

As an authorized officer of [BGS Supplier], I declare that the above statements are true and correct to the best of my knowledge, information and belief.

Date: _____

Name: _____
Title: _____

Sworn to and subscribed before me
this _____ day of _____, _____.

[Name]

Attachment3

2008/2009 Reporting Year input sheet

SREC Rebate Calculator Input Data Sheet 2008/2009 Reporting Year	
	Enter Data
Supplier Name	ABC Company
Data from 2008/2009 compliance filings is included in A, B, C, D, E, F and G:	
A Total SRECs required for BGS Supplier's compliance in the 2008/2009 energy year	0
B Number of required SRECs from the 6/1/2008-5/31/2011 and CIEP contracts (not grandfathered)	0
C Number of required SRECs from the 6/1/2006-5/31/2009 and 6/1/2007-5/31/2010 BGS contracts (grandfathered)	0
D Number of required Grandfathered SRECs in PSE&G's Zone	0
E Number of required Grandfathered SRECs in ACE's Zone	0
F Number of required Grandfathered SRECs in JCP&L's Zone	0
G Number of required Grandfathered SRECs in RECO's Zone	0
Data from Supplier Purchases	
H Total number of SRECs purchased by BGS supplier or affiliate that could be used for the 2008/2009 energy year	0
I Total cost of "H" above excluding broker fees	\$ 0

2009/2010 Reporting Year input sheet

SREC Rebate Calculator Input Data Sheet 2009/2010 Reporting Year	
	Enter Data
Supplier Name	ABC Company
Data from 2009/2010 compliance filings is included in A, B, C, D, E, F and G:	
A Total SRECs required for BGS Supplier's compliance in the 2009/2010 energy year	0
B Number of required SRECs from the 6/1/2008-5/31/2011 and 6/1/2009-5/31/2012 and CIEP contracts (not grandfathered)	0
C Number of required SRECs from the 6/1/2007-5/31/2010 BGS contract (grandfathered)	0
D Number of required Grandfathered SRECs in PSE&G's Zone	0
E Number of required Grandfathered SRECs in ACE's Zone	0
F Number of required Grandfathered SRECs in JCP&L's Zone	0
G Number of required Grandfathered SRECs in RECO's Zone	0
Data from Supplier Purchases	
H Total number of SRECs purchased by BGS supplier or affiliate that could be used for the 2009/2010 energy year	0
I Total cost of "H" above excluding broker fees	\$ -

Attachment 4
Inputs and Formulas Included in the Spreadsheet

SREC Rebate Calculator Input Data Sheet 2008/2009 Reporting Year		Enter Data
Supplier Name		ABC Company
Data from 2008/2009 compliance filings is included in A, B, C, D, E, F and G:		
A	Total SRECs required for BGS Supplier's compliance in the 2008/2009 energy year	0
B	Number of required SRECs from the 6/1/2008-5/31/2011 and CIEP contracts (not grandfathered)	0
C	Number of required SRECs from the 6/1/2006-5/31/2009 and 6/1/2007-5/31/2010 BGS contracts (grandfathered)	0
D	Number of required Grandfathered SRECs in PSE&G's Zone	0
E	Number of required Grandfathered SRECs in ACE's Zone	0
F	Number of required Grandfathered SRECs in JCP&L's Zone	0
G	Number of required Grandfathered SRECs in RECO's Zone	0
Data from Supplier Purchases		
H	Total number of SRECs purchased by BGS supplier or affiliate that could be used for the 2008/2009 energy year	0
I	Total cost of "H" above excluding broker fees	\$ 0

CALCULATIONS			
Other Needed Variables			
J	Maximum value supplier should pay for a Grandfathered SREC	\$	300
K	2008/2009 SACP payment	\$	711
Calculations			
L	Percent of Compliance SRECs Grandfathered		0%
M	Calculation of Total Payment to Supplier	\$	-
	Payment for PSE&G zone	\$	-
	Payment for ACE zone	\$	-
	Payment for JCP&L zone	\$	-
	Payment for RECO zone	\$	-

Formulas:
Percent of Compliance SRECs Grandfathered: C/A
Calculation of Total Payment to Supplier: L* (IF A > = H, then I+(A-H)*K-A*J, else I/H*A-A*J)
Calculation of payment to PSE&G zone: IF M > 0, then D/C*M, else 0

SREC Rebate Calculator Input Data Sheet 2008/2009 Reporting Year

Enter Data

Supplier Name

ABC Company

Data from 2008/2009 compliance filings included in A, B, C, D, E, F and G:

A Total SRECs required for BGS Supplier's compliance in the 2008/2009 energy year

100

B Number of required SRECs from the 6/1/2008-5/31/2011 and CIEP contracts (not grandfathered)

90

C Number of required SRECs from the 6/1/2006-5/31/2009 and 6/1/2007-5/31/2010 BGS contracts (grandfathered)

10

D Number of required Grandfathered SRECs in PSE&G's Zone

5

E Number of required Grandfathered SRECs in ACE's Zone

5

F Number of required Grandfathered SRECs in JCP&L's Zone

0

G Number of required Grandfathered SRECs in RECO's Zone

0

Data from Supplier Purchases

H Total number of SRECs purchased by BGS supplier or affiliate that could be used for the 2008/2009 energy year

50

I Total cost of "H" above excluding broker fees

\$ 20,000

SREC Rebate Calculator Input Data Sheet 2009/2010 Reporting Year

Enter Data

Supplier Name
ABC Company

Data from 2009/2010 compliance filings included in A, B, C, D, E, F and G:

A Total SRECs required for BGS Supplier's compliance in the 2009/2010 energy year

100

B Number of required SRECs from the 6/1/2008-5/31/2011 and 6/1/2009-5/31/2012 and CIEP contracts (not grandfathered)

90

C Number of required SRECs from the 6/1/2007-5/31/2010 BGS contract (grandfathered)

10

D Number of required Grandfathered SRECs in PSE&G's Zone

5

E Number of required Grandfathered SRECs in ACE's Zone

5

F Number of required Grandfathered SRECs in JCP&L's Zone

0

G Number of required Grandfathered SRECs in RECO's Zone

0

Data from Supplier Purchases

H Total number of SRECs purchased by BGS supplier or affiliate that could be used for the 2009/2010 energy year

50

I Total cost of "H" above excluding broker fees

\$ 20,000

Summary Documentation Data

Supplier Name:

Instructions:

- Please add as many lines as necessary to cover all purchase, self supply or affiliate transfer transactions
- If one contract covers multiple transactions please list each transaction separately
- In Column A, include a contract or transaction identification number that is referenced in the supporting data
- In Column F, indicate how the self-supply SREC transfer was priced out (market value, book value, cost to generate, other)
- If you select other in Column F please explain in Column K (Additional Comments)
- In Column I, Net Purchased Cost also includes Self-Supply cost

A	B	C	D	E	F	G	H	I	J=I/H	K
Transaction or Contract Number or Identifier	Applicable Reporting Year for SREC (2009 or 2010)	Counterparty (SREC Seller)	Is Counterparty Affiliated w/ BGS Supplier? (Y/N)	Purchase or Self-supply (P/S)	If Self-Supply: Costing Method	Date of Transaction	SREC Quantity Delivered	Net Purchase Cost (excluding Broker Fees) \$	Net Per Unit Cost, \$/SREC	Additional Comment / Explanation