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Buying Gas and Electricity in 2011 for Community Associations

by Bill Cirkus

Deregulation

Deregulated gas has been available in New Jersey for over 15 years, and the competition between third party suppliers has been a factor in making our heating costs potentially more affordable than that provided by the public utilities. In recent years, the recession has also pushed prices down.

While deregulated electricity contracts have also been available in New Jersey since 2000, it has only made economic sense to purchase during the last few years. That is because there was not enough of a spread between the deregulated market price and the regulated Fixed Price offered by the public utility. The recession changed that and buying deregulated electricity now makes economic sense.

It is important to note that buying deregulated gas or electricity in NJ never puts the property in jeopardy of losing their energy source if the third party supplier goes out of business, public utilities are obligated to pick up the supply should the third party supplier stop for any reason. Understanding the gas and electricity

industries will prove helpful when thinking about buying a supply contract.

Gas

Gas supply is made up of three components:

1. The gas itself, referred to as Commodity
2. Basis, the delivery of the gas from the source (i.e. Gulf of Mexico) to the citygate (the point where the interstate pipeline connects with the local utility's distribution system)
3. Local Delivery, the delivery of the gas from the citygate to your facility.

If you purchase deregulated gas from a third party supplier, you purchase the Commodity and Basis from them, but still get the Local Delivery from the public utility. The Local Delivery is the regulated component. You can lock in a fixed price for Commodity and Basis for a specific time period of your choosing, for example for just the winter months. You can also lock in a Basis contract for a specific time period and float with the Commodity market. You can then lock the Commodity at a later

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Storage Fee Update by Vinay Navani, CPA, MBA, MST

Many associations have storage units which are rented to residents pursuant to a lease agreement and are not included in the monthly maintenance fee. Effective October 1, 2006, NJ enacted legislation which subjected to sales tax receipts from the furnishing of storage space by a person “engaged in the business of furnishing space for such storage.” In the Summer 2010 issue of the *Community Property Advisor*, we highlighted the fact that the New Jersey Division of Taxation had, in some cases, asserted that an association was engaged in the business of furnishing space for storage and therefore, the receipts from the storage unit rental were held to be subject to New Jersey sales tax.

The Division of Taxation has recently officially clarified their position on this matter to reflect a taxpayer friendly resolution. In most cases, CIRAs with storage units will not have to collect sales tax on the rental income from storage units. In the most recently

revised “Tax Note – Space for Storage,” the New Jersey Division of Taxation clarified that the phrase “ ‘...by a person engaged in the business of furnishing space for such storage’ means that the seller of the storage space is actually in the business of offering the space regularly to the public as a business activity.”

In addition, the Tax Note includes the following example: “For example, an apartment complex that only rents storage space to tenants is not in the business of renting storage space because the charges are incidental to the business of renting residential dwelling units; thus charges to a tenant to rent a storage unit in the apartment are not subject to tax. However, if any member of the public can rent space for storage at the apartment complex without being a tenant at the building, then the apartment is engaged in the business of furnishing storage space and the charge for the rental of storage space is subject to tax for both tenants

and non-tenants of the apartment building.”

While the example above refers to an apartment complex, a storage unit which is part of a condominium association or cooperative corporation should be treated in the same manner. Accordingly, unless the CIRA allows non residents to rent storage spaces, the CIRA should not be required to collect sales tax on rental income from storage units.

CIRAs which have remitted sales tax on rental income from storage units can request a refund using Form A-3730, Claim for Refund. The text of the Tax Note can be found here: <http://www.state.nj.us/treasury/taxation/spstorage.shtml>.

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CAI-NJ Names W&G Business Partner of the Year

On Thursday, March 3, 2011, the Community Associations Institute, New Jersey Chapter (CAI-NJ) honored Wilkin & Guttenplan as the Business Partner of the Year. The dinner,

which was held at the Renaissance Woodbridge Hotel in Iselin, New Jersey, honored CAI-NJ members for their outstanding service to the organization.



Pictured (l-r): Paul Santoriello (President, CAI-NJ), Gerald Giordano (Hillcrest Paving & Excavating, Inc. - Award Sponsor), A. Christopher Florio (Immediate Past President, CAI-NJ) and award recipients from Wilkin & Guttenplan (Ed Wilkin, Jules Frankel, Ed Guttenplan, Joe Chorba, Carol Koransky, Christine Hrycenko, Mohammed Salyani, David Schwartz)

Buying gas and electricity *(cont. from page 1)*

date for a single month, for a season or the entire contract term for which you locked in your Basis. The contract periods of the Commodity and Basis do not have to be the same, but if you sign a contract with a third party supplier, you are obligated to buy both from them for at least the length of the Basis contract.

In theory, all third party suppliers provide the same Commodity cost, assuming that you are comparing like time periods, and the quote was given on the same day. Basis can vary from supplier to supplier, depending on their markup, but should be close. From my perspective, the choice of which third party supplier to choose is more driven by service, accessibility and quality of advice provided, rather than price, which should have minimal differences.

If you revert back to the public utility you are not required to stay with them for a certain period of time. If you purchase from a third party supplier, you'll generally get two gas bills, one from the third party supplier and one from the public utility.



Electricity

Electric supply, like gas, is made up of 3 components:

1. Generation
2. Transmission, the delivery of the electricity on the high-tension lines
3. Local Delivery, the delivery of the electricity along the local distribution network of the utility (i.e, the poles and wires we see down the street).

If you purchase deregulated electric from a third party supplier, you purchase the Generation and Transmission from them, but still get the Local Delivery from the public utility. The Local Delivery is the regulated component.

Electricity contracts function a little differently than gas as the commodity is not as discoverable and there are other price components such as capacity, ancillary services, independent system operator fees etc.. The price from a third party supplier will vary building by building based on the demand and usage of the facility. You can lock in a price with a third party supplier for a set time period, typically one or two years, or float with the market. When you get a quote from a third party supplier, be sure to determine if the price per kilowatt hour includes the 7% NJ sales tax, so that all of your quotes are comparable. Not all suppliers include it in their quote. When comparing quotes, it is also important to make sure that you are comparing like time periods and the quotes are given on the same day or two, as the prices change regularly. Some third party suppliers do their own billing, while others

offer a consolidated bill in which their charge is included on the bill you receive from the public utility. PSE&G includes a "price to compare" on their bill.

Guarantee of Savings?

Buying deregulated gas is not a guarantee that you will save money over what you would have paid to the public utility had you purchased regulated gas from them. For the most part, the public utility supply price changes each month based on market conditions. Whether or not your fixed price from a third party supplier is lower than the price from the utility will depend on when you decide to lock-in, the term of your agreement, and supply and demand conditions. It also depends on what is happening in the world where petroleum is either being pumped out of the ground or refined. Unrest in the Middle East or a hurricane in the Gulf of Mexico can each cause the market price to go up. I generally do not like to go into the winter

News from the Firm

Employee Anniversaries

5 Years

Avery Quayle

Appointments, Committees, Presentations, Publications...

Wilkin & Guttenplan was the highest-ranked accounting firm in NJBiz' 2011 "Best Places to Work in New Jersey."

Congratulations to Kaitlin Murphy on passing the CPA exam. Way to go!

Wilkin & Guttenplan's staff participated in New Jersey Society of CPAs' 1st Annual Young CPAs Kickball Tournament where they helped gather gifts for the Valerie Fund.

On April 28, 2011, Wilkin & Guttenplan presented a webinar on "Co-op Concerns: Emerging Issues." Were you unable to attend? Check out a recording of the webinar (as well as others that the firm has done) on the firm's website: www.wgcpas.com/cira/index.html

Dan Manning authored an article, "A CPA Firm's Plan for Going Paperless," in the May 2011 issue of *New Jersey Business*.



Buying Gas and Electricity *(cont. from page 3)*

without a gas contract, since that is when demand is highest. If I'm locked into a contract, I'm unaffected by those factors. There have been a few years in which I locked in at what I thought was a very good price, only to have a mild January and February. In those cases, the public utility turned out to be the less expensive option, but there was no way to predict that. For the rest of those years, we have been able to save our associations substantial energy dollars.

There is a lot less risk of paying more than the utility with electric since the utility rates for Fixed Price customers are essentially set for one year at a time, as of June of each year.

While there are no guarantees of savings, buying a deregulated gas or electricity contract with a locked in price does provide stability and predictability of the energy costs, which eliminates the budget surprise for at least that line item. However, there is a pretty good chance that if the board decides on a

fixed or floating contract for electricity, they will save money over the public utility rates. In regards to a gas contract, we recommend that the board look for guidance from someone familiar with the gas market, be it their management company, a consultant or a knowledgeable board member. Ultimately, each board has to make the decision on whether that is worth it or not.

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This publication is prepared quarterly by Wilkin & Guttenplan, P.C. For further information or for complimentary copies or subscriptions, you may contact Avery Quayle at 732-846-3000 or aquayle@wgcpas.com.

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Upcoming Issues

- Allocating Federal Taxes to the Replacement Fund
- Taxes – The W&G Way
- The Difference Between Internally Generated Financial Statements and Audited Financial Statements