STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MATTER 14-01299
PSEG LONG ISLAND'S UTILITY 2.0 LONG RANGE PLAN

COMMENTS OF THE RETAIL ENERGY SUPPLY ASSOCIATION

I. PRELIMINARY STATEMENT

A. ***Introduction***

In accordance with the *Notice of Comments Sought Concerning PSEG Long Island's Utility 2.0 Revised Long Range Plan*, issued on September 30, 2014 ("Notice"), the Retail Energy Supply Association (RESA)[1] submits these comments with respect to the revised *PSEG Long Island's Utility 2.0 Revised Long Range Plan Update Document*, dated October 6, 2014 ("Plan").[2]

B. ***Overview***

The Commission previously stated that the purpose of the new Vision was to promote a customer centric approach that relied upon competitive markets to provide consumers with choice, innovative products and to meet the identified energy needs of consumers. The Plan filed

[1]RESA's members include: AEP Energy, Inc.; Champion Energy Services, LLC; Consolidated Edison Solutions, Inc.; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. dba IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG Energy, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. The comments expressed in this filing represent only those of RESA as an organization and not necessarily the views of each particular RESA member.

[2] The revised filing by PSEG included a cover letter dated October 6, 2014; a Proposal Concerning Utility 2.0 Investments and Associated Amendments to the Operating Services Agreement; and the Utility 2.0 Long Range Plan Prepared for Long Island Power Authority, October 6, 2914. Unless otherwise noted all references in these comments are to the Utility 2.0 Long Range Plan dated October 6, 2014, which is cited as "Plan, p. __".

by PSEG Long Island, LLC ("PSEG"), however, departs from this approach and recommends additional command and control programs dependent entirely upon the utility, where the distribution utility rather than markets and customers will control all critical aspects of the energy infrastructure.

II. COMMENTS OF RESA

A. The Plan Fails To Conform To the Vision Adopted By The Commission

The Commission, in setting out the goals associated with the transformation of the electric distribution industry, initially stated that its new Vision is designed to transform the regulation of electric distribution utilities by establishing and articulating "core policy outcomes intended to better align the role and operations of utilities to enable market and customer-driven change". Commission Chair Audrey Zibelman expanded and amplified on this theme by noting.[3]

> The actions we have taken today demonstrates that our overarching policy is to ensure reliable access to electric power at just and reasonable rates by stimulating market innovation and economic investment in an environmentally sound manner, said Commission Chair Audrey Zibelman. We can no longer afford to think of energy efficiency and clean energy resources as peripheral elements of the electric system. Rather, the time has come to manage the capabilities of new customer-based technologies as a core, clean source of value to customers and the electric grid.

In the *Order Instituting Proceeding*[4], The Commission declared that it was initiating a proceeding to consider a substantial transformation of electric utility practices to improve system efficiency, empower customer choice, and encourage greater penetration of clean generation and efficiency technologies. To accomplish this vision, the Commission underscored that it would

[3] Press Release, p. 1.
[4] Case 14-M-0101 – Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, *Order Instituting Proceeding* (issued April 25, 2014) at page 5.

"consider fundamental changes in the manner in which utilities provide service," which would entail "a reconsideration of the utility business model, including the relationships among utilities and customers, bulk markets, and regulators". This new business model was to include the following critical elements:

> The Report describes a new business model for energy service providers in which distributed energy resources (DER) become a primary tool in the planning and operation of electricity systems, and in which customers are empowered to optimize their priorities with respect to reliability, cost, and sustainability. Under this vision, the utility functions as a Distributed System Platform Provider (DSPP), actively managing and coordinating distributed resources and providing a market in which customers are able to optimize their priorities while providing, and being compensated for, system benefits.[5]

The transformative and market based elements of the new Commission Vision was further articulated and amplified in the *Developing The REV Market In New York: DPS Staff Straw Proposal On Track One Issues* dated August 22, 2014[6] ("Straw Proposal"), wherein Staff provided its assessment of the ultimate goals of this proceeding.

> The Commission's April 2014 Order Instituting Proceeding proposes a platform to transform New York's electric industry, for both regulated and non-regulated participants, with the objective of creating market-based, sustainable products and services that drive an increasingly efficient, clean, reliable, and customer-oriented industry. Under the customer-oriented regulatory reform envisioned here, a wide range of distributed energy resources will be coordinated to manage load, optimize system operations, and enable clean distributed power generation. Markets and tariffs will empower customers to optimize their energy usage and reduce electric bills, while stimulating innovation and new products that will further enhance customer opportunities. [7]

Staff further concluded:

> Staff finds that the central vision of REV - increasing the use and coordination of DER through markets operated through a DSP – is achievable and offers substantial customer benefits.[8]

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[5] Id., p. 5
[6] Case 14-M-0101- Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, *The REV Market In New York: DPS Staff Straw Proposal On Track One Issues* dated August 22, 2014 ("Straw Proposal").
[7] Straw Proposal, p. 1.
[8] *Id*., p. 4.

It is thus clear that the Commission is desirous of effecting a fundamental and transformative change in the manner by which utilities provide service, wherein there is enhanced reliance upon competitive markets to undergird a customer oriented industry. In this environment the goal would be to maximize the level of choice available to consumers for value-added services such as DER and other forms of similar products with the customer rather than making the distribution utility the locus of decision making and center of control.

The Plan submitted by PSEG fails to meet the goals and Vision established and enunciated by the Commission. It is neither transformative nor representative of a fundamental change in the manner by which LIPA provides service; it in fact expands upon preexisting LIPA command and control programs that reinforce the established utility centric paradigm; and it fails entirely to animate the market forces that would develop customer-centric energy choices and behaviors.

1. <u>The PSEG Plan</u>

The PSEG updated Plan as well as the original Plan filed on July 1, 2014 primarily incorporate a series of programs that are neither innovative nor focused on developing market options and customer choice. Instead, they merely reflect existing programmatic efforts that have been used for the past decade at least and which are controlled by and centered on the position of the utility rather than markets or the customer. In other words rather than animating markets and customer control, the Plan further ensconces the position of LIPA as the controlling entity. This clear and unvarnished effort to buttress the controlling authority of the utility rather than rely on customers and markets is easily discerned by reviewing the specific programs contained in the Plan.[9]

[9] Plan, p. 5.

The costliest effort involves the "Direct Load Control Program Modernization and Expansion", which as described by PSEG is designed to enhance the existing direct load control program with modern technology and increase customer participation. This will be controlled by the utility which will "procure a contractor to deliver load control capability from central air conditioning and pool pumps." This process would entail PSEG issuing an RFP and thereby determine which vendor is allowed to participate and what projects will be eligible.[10] It is clear that rather than focusing on market forces and customer initiated choices, PSEG will invoke an old –fashioned utility guided RFP structure that determines and controls all aspects of the program.

A similar approach will be applied to the "Residential Home Energy Management" program under which PSEG would provide energy use benchmarking data to customers via six mailings per year. PSEG proposes to issue an RFP seeking a turn-key provider for this program. The provider will send reports to enrolled customers to enhance the visibility of their consumption data and improve management of their energy use. The mailing may include historic use of the customer and benchmarks based on home square footage, types of appliances and equipment in the home, and other attributes.[11] As is evident, the utility will control the program and structure via the use on an RFP. Once again a top down utility centric approach is being used.

The Plan includes a number of rebate or installation types of programs whereby the LIPA will dole out rebates or actually install measures for customers that take some action or install certain measures deemed acceptable by the utility. This approach is applicable to the following programs: Far-Rockaway-Universal Access; Combined Heat & Power; Targeted Solar PV

[10] Plan, p. 5, 11.
[11] Plan, p. 12.

Expansion - Customer Sited; and Geothermal and Heating and Cooling.[12] In connection with the "Targeted Energy Conservation Program for Hospitals", PSEG will actually install the energy retrofits.[13]

Interestingly, the Plan reverts to a traditional utility centric model where PSEG Long Island would invest in and earn a return on various energy infrastructure projects that could otherwise be financed by the competitive markets, or, in the alternative, by lower cost tax-exempt debt issued by LIPA. For the "Targeted Solar PV Expansion-Utility Scale", PSEG Long Island "would invest in utility scale solar PV projects (over 200 kW in size) and enter into a long term Power Purchase Agreement with the Authority to provide energy, capacity, and renewable energy credits from such solar systems.[14] Similarly under the "South Fork Infrastructure Deferment - Battery Storage and Microgrid" program it is represented PSEG Long Island "would own and operate a battery storage system on the South Fork" and "earn a regulated return on the net $15 million, paid in monthly installments by the Authority for ten years to cover the above cost plus rate of return." Consequently, there is not even a pretense of relying upon market forces to address these needs.

In summary, the actual programs codified in the revised Plan make no serious effort to provide customers with broad options for new and innovative services or help undergird or promote a robust market of third party providers that can enhance the innovation offerings available to customers. All that is presented is a retrenchment into a utility centric model by which it is the utility rather than customers that controls the entire process. This goes contrary to the retail energy Vision adopted by the Commission as noted above and if followed will actually move in a counterproductive direction

[12] Plan, p. 5
[13] Plan, p. 5, 18
[14] Plan, p. 5, 16.

2. LIPA Has Failed To Adequately Support Competitive Choice

In the revised Plan, there is no mention let alone substantive proposal to stimulate choices for consumers or help spur the development of a dynamic market filled with third party independent vendors and participating consumers. However, in the original Plan filed on July 1, 2014, PSEG as part of what it labelled as a "Long Term Vision" noted that developing "…a market for third party providers is important…" and that customers "will benefit from broad options for innovative services."[15]

In connection with the role of ESCOs, the following observation was made by PSEG.

> Energy service companies ("ESCOs") and other third party providers will expand from retail supply offerings to more value added and demand side offerings as customers demand these services. Many customers facing the new and complicated responsibility of managing energy consumption data may seek consultation with third parties that can provide consultation, directly manage end use, or otherwise monetize the value of energy savings. A robust market of third party providers will enhance the innovation offerings available to customers. [16]

RESA strongly concurs with the view that "robust market of third party providers will enhance the innovation offerings available to customers", but the purported representation that PSEG/LIPA will seek to develop a market of third party providers offering energy services and products to customers is highly unpersuasive.

The Plan itself provides no particular programmatic approach to animate retail markets and customer choice and in fact relegates the role of market forces generally and ESCOs to some unspecified future under the rubric of PSEG's long term vision. Thus, from a real practical perspective, except for some rhetorical flushes, the Plan accomplishes very little in connection with promoting customer choice and, as a result, will fail to develop the level of dynamic customer behavior that the Commission's Vision is counting on.

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[15] July 1, 2014 Plan, p. 4-2
[16] Id., p. 4-4

Moreover, based upon LIPA's dubious implementation and operation of the LI Choice retail access program, it is fairly clear that ESCOs and the Commission should have little confidence that the outcome of this Utility 2.0 effort will be much different than the lack of success of LI Choice.

The Commission for more than a decade has championed the provision of robust competitive choice to retail electric consumers throughout the State and within all utility service territories subject to its jurisdiction. As a result of this policy, a significant portion of the State's electric load and retail electric consumers are now provided commodity service by a plethora of ESCOs vigorously competing with one another to win the consumer's business.

The "LI Choice" Program ("Program") program was originally designed and intended to introduce competitive choice in the provision of electric commodity service in Long Island, including the ability for customers to choose both between competitive suppliers and different product offerings. In practice however, the Program offers little in the way of choices for Long Island consumers and lags far behind the successes that have been achieved in the rest of the State resulting from Commission policies.

LIPA implemented the Program with the aim of offering retail access over three phases. Initially, as of August 1999, 400 MW of load was made available for competitive choice. Thereafter, in May 2000, another 800 MW was released for competition and in February 2002, retail access was at least formally opened to all customers on the LIPA system. In addition, LIPA issued corresponding tariff changes, developed various agreements with ESCOs and established operating standards for ESCOs and participating customers. Although the Program at least on paper has been in existence for almost 15 years, in reality the Program has remained moribund without any material impact in the LIPA service territory. This outcome is particularly surprising in that Zone K, Long Island has historically been one of the highest cost locational based wholesale market zones and subject to substantial electric price volatility over the past decade. If anything, a consumer should have had an incentive to exercise choice rather the poor market design and associated infrastructure did not support consumer needs.

Currently, based on the LIPA website there are only seven ESCOs authorized to operate in LIPA and it is our understanding that there has been a relatively insignificant level of migration of load to independent ESCOs. And with respect to small customers, retail access is basically non-existent. Thus, in more than 15 years there has been virtually no progress in bringing retail access to the LIPA consumer.

In contrast, during the same period under the Commission's policy initiatives, retail access has grown markedly throughout the rest of the State. Currently, there are 214 ESCOs deemed eligible to provide electricity in New York State.[17] And as of June 2014, approximately 56.1% of the total electric load throughout the State outside of LIPA has migrated to ESCOs.[18] A greater contrast cannot be imagined.

In addition to the Commission's successful implementation of retail choice beyond Long Island – in terms of level of customer switching, ability to attract robust ESCO participation throughout New York and the breadth and depth of product offerings available to customers, the strong potential for choice in the LIPA service territory can be gleaned by reviewing the growth in retail access for gas consumers. In the counties of Nassau and Suffolk and the community of Far Rockaway in Queens, electricity is supplied by LIPA. However, natural gas is provided by KeySpan-Long Island which is subject to the jurisdiction of the Commission and has actively

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[17] CASE 12-M-0476 – Retail Markets Proceeding, *Order Taking Actions to Improve the Residential and Small Nonresidential Retail Access Markets* (issued February 25, 2014) at p. 5.

[18]http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/4759ecee7586f24b85257687006f396e/$FILE/Electric%20Migration_6.2013.pdf

pursued retail access for its consumers. As of April 2012, 70.6% of gas load delivered by KeySpan LI is supplied by ESCOs.[19] Interestingly, this exceeds the statewide level of electric migration. In addition there are approximately 60 ESCOs active in the residential gas market[20] and 61 ESCOS active in the commercial market.[21] The results achieved in KeySpan-Long Island highlight the extent to which retail access can grow in the Long Island community, and which it has failed to do so under LIPA.

This actual historical pattern unadorned by wishful thinking or platitudes underscores that LIPA does not have, to say the least, an enviable track record with respect to supporting retail choice, competitive markets or any market based activity that deviates from the utility centric model. Accordingly, absent Commission intervention it is highly unlikely that a robust market of third party providers offering energy services and products to customers will ever develop in the LIPA service territory and, as a result, LIPA will not be able to mitigate, the amount of capital-intensive utility investment associated with the "business as usual" case that the Commission's Vision seeks to avoid.

In this context it is necessary to emphasize the importance of the Commission properly and consistently aligning the vision, goals and programmatic measures goals established in Case 14-M-0101 with those applied by LIPA. What is good for the rest of the State will generally be equally applicable on Long Island. If this approach is not followed, the inevitable result will be the creation of an irregular atomized regulatory "patchwork" quilt that will create confusion and inefficiency. .

[19]http://www3.dps.ny.gov/W/PSCWeb.nsf/96f0fec0b45a3c6485257688006a701a/4759ecee7586f24b85257687006f396e/$FILE/Gas%20Migration%20Report%204.12.pdf
[20] https://www1.nationalgridus.com/ResidentialSupplierList
[21] https://www1.nationalgridus.com/CommercialSupplierList

III. CONCLUSION

RESA appreciates the opportunity to submit these comments and assist the Commission in its efforts to address the needs and concerns of ratepayers.

Respectfully submitted,

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