



Retail Energy Supply Association

**NEW JERSEY BOARD OF PUBLIC UTILITIES
I/M/O THE PROVISION OF THE BASIC GENERATION SERVICE
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LEGISLATIVE-STYLE HEARINGS – SEPTEMBER 21, 2012

**STATEMENT OF JAY L. KOOPER,
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Good morning. My name is Jay Kooper and I am the New Jersey State Chairman of the Retail Energy Supply Association (“RESA”) and the Director of Regulatory Affairs of Hess Corporation, which as you know is a New Jersey-based third-party supplier (“TPS”) of retail electricity and gas products to end-use customers in New Jersey. RESA is a 22-member group of established and diverse retail energy suppliers that provide innovative and value-added energy products to residential, commercial and industrial (“C&I”) customers in New Jersey and in retail markets throughout the PJM, New York, New England and Midwest regions and other competitive markets in North America.¹

¹ RESA’s members include: Champion Energy Services, LLC; ConEdison Solutions; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

When I last appeared before you on May 4, 2012 in the Board's comprehensive review of the Basic Generation Service ("BGS") procurement process, I provided a positive assessment of the current state of New Jersey's retail electric market and a pessimistic assessment of the future of this market absent change to the BGS procurement process. In its June 18, 2012 Order in that comprehensive review process, the Board took an important step towards fostering a more sustainable competitive retail marketplace for New Jersey's commercial and industrial customers by lowering the Commercial and Industrial Pricing ("CIEP") threshold from 750 kW to 500 kW. For customers below this expanded CIEP threshold, however, present opportunities in the retail market, absent change, may dissipate in the future under a non-market reflective default service pricing structure. It is for this reason I come bearing both good news and bad news with respect to the state of New Jersey's retail electric market and the role of BGS in shaping it now and in the future.

First, the good news – New Jersey has continued to experience positive growth with respect to the state's retail electric market for customers of all sizes. According to the Board, as of July 2012, the number of licensed TPSs operating in the State is substantial, and has increased since March 2012. And according to the Board's July 2012 switching statistics, shopping levels have also continued to increase. For BGS-CIEP customers, switching remains extremely high with 89% of the industrial (1,000 kW peak demand and higher) load, 85.9% of the large commercial (750 to 1,000 kW peak demand) load, and 82.4% of the medium-sized commercial (500 to 750 kW) load taking service from a TPS. For BGS-Fixed Price ("FP"), customer switching has continued to increase with 54.6% of the small commercial (499 kW and lower) and 16.5% of the residential load taking service from a TPS, where just 2 ½ years ago no switching was taking place at the residential level. By all three of these metrics – TPS market

entry, variety of product offerings and level of customer switching – the current state of the New Jersey retail electric market remains good.

Unfortunately, the future state of New Jersey’s retail electric market for BGS-FP customers, absent change, remains bleak. This is because of one fundamental and inescapable economic principle inherent in any competitive retail energy market – default service that is divorced from the underlying wholesale cost of electricity and does not contemporaneously reflect current market prices precludes the development of a robust sustainable competitive retail market.

In New Jersey, the current BGS-FP structure, based on a three-year blended average of the past three BGS auctions, is the least market-reflective fixed-price default service of the restructured states in the Northeast, creating a “boom-bust” cycle of default service rates that are either higher or lower than current market prices for extended periods of time. For the first decade of the retail market, where the BGS-FP price was artificially lower than the market thanks to rising gas prices, New Jersey experienced a “bust” period where BGS-FP customers had little to no access to choice of the electric product and service they wanted. Over the past 2 ½ years in a climate of falling gas prices, the BGS-FP price has been higher than the market, creating a “boom” period that has provided increased customer access to choice. Absent change to the way BGS is procured, today’s “boom” cycle that delivers the products and services designed to meet customers’ individual needs is susceptible to a reversal back to a “bust” period where these same customers who are growing accustomed to having a choice may be denied access to such choices . Thus, with respect to the 54.6% of the small commercial (499 kW and lower) customer load that has now switched, that switching figure could be upended if and when the market prices relative to BGS-FP rates result in a “bust” period if no changes are made to the current structure.

Putting this into a real-world example, a 400 kW customer in New Jersey – about the size of a Target store – not only has a risk of far fewer choices as compared to same-sized Target stores in neighboring states, but risks far less access to choice than smaller commercial customers in neighboring states such as neighborhood dry cleaners and even residential customers. This is because many other states in the region have already implemented a more frequent procurement schedule that provides greater pricing transparency to electric customers and more robust, sustainable access to a myriad of competitive product options. For example, Massachusetts has a semi-annual procurement of contracts with terms of no greater than one year for FP customers with peak demands below 200 kW. Maryland’s quarterly-priced default service applies to customers as small as 25 kW. Each Pennsylvania utility currently employs a blend short and medium of fixed-price contracts, including a percentage of spot market pricing, for FP customers.

To ensure customers of all sizes, not just BGS-CIEP customers, have consistent access to a choice of a broad range of product and service offerings from competitive suppliers, RESA recommends that the Board implement a gradual, orderly and structured transition of the BGS-FP structure that achieves the following two goals over time: (1) implement shorter-term supply contracts consistent with neighboring states’ procurement for FP customers; and (2) shortening the lag time between BGS procurement and delivery.

Under RESA’s recommendation, starting with the next BGS auction, the EDCs would supply one-third of the BGS-FP commercial customer load using 3-month contracts procured no more than 60 days prior to delivery, and supply one-third of the BGS-FP residential customer load using 12-month contracts procured no more than 60 days prior to delivery. The BGS-FP prices would then be adjusted quarterly for commercial customers and annually for residential customers for this portion of the BGS load. Over the following two years as the remaining two-

thirds of the BGS contracts currently in progress expire, they would be replaced with quarterly (commercial) or annual (residential) contracts until – at the end of this 3-year transition – 100% of the BGS load is served by either quarterly or annual contracts and BGS prices are reset on a concomitant quarterly or annual basis.

In making this recommendation, RESA is mindful of both the New Jersey Electric Discount and Energy Competition Act's core policy goal of placing greater reliance on competitive markets to deliver energy in greater variety and value than traditional regulated service, and the Board's historically cautious approach to injection of more market-reflective pricing into the BGS structure. RESA believes that its recommended approach for BGS-FP procurement is fully consistent with both policies. It improves New Jersey's BGS-FP structure – a structure that has been left unchanged in the decade since BGS was first implemented – to provide customers of all sizes with more access to choice – not just in “boom” periods but for all periods. It sets a 3-year transition period to more market-reflective fixed prices, gradual enough for customers to become more educated about choice and their options and gain ever increasing access to new competitive products and services. In the end, it removes what has stood as the largest significant barrier to more robust entry and long-term participation in New Jersey's retail electric market, over-reliance on long-term, highly artificial default service prices. The ultimate winners will be customers of all sizes in New Jersey, including residents, small business and medium-sized businesses which will benefit from more consistent access to value-added choice opportunities in New Jersey as envisioned by EDECA.

I appreciate the opportunity to testify before you today and look forward to working with the Board and all stakeholders throughout this process.