

**State of New Jersey  
Board of Public Utilities**

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**In the Matter of the Provision of  
Basic Generation Service for  
The Period Beginning June 1, 2013**

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**Docket No. ER12060485**

**Final Comments of the Retail Energy Supply Association**

**INTRODUCTION**

The Retail Energy Supply Association (“RESA”)<sup>1</sup> respectfully submits these final comments (“Final Comments”) to the Board of Public Utilities (“Board”) in the above-referenced proceeding addressing the structure of Basic Generation Service (“BGS”) for the period beginning June 1, 2013.

RESA, an active participant in this BGS proceeding, offered both comprehensive initial comments, as well as detailed testimony at the Board’s legislative-style hearing before President Hanna and Board Staff on September 21, 2012. Accordingly, in these Final Comments, RESA will not rehash the arguments for its two main recommendations that the Board modify the BGS process by: (1) requiring more frequent procurements with shorter, more market-reflective terms than the current laddered three-year contracts for current BGS-Fixed Price (“FP”) customers; and (2) lowering the BGS-Commercial and Industrial Energy Pricing (“CIEP”) to 300 kW. Rather, RESA will address arguments made by the Division of Rate Counsel (“Rate Counsel”) against RESA’s positions.

Rate Counsel, in both its Initial Comments and testimony, takes aim at RESA’s recommendation that the Board implement more frequent procurements for all BGS-FP customers. For commercial and industrial customers, Rate Counsel’s main argument is that “there has been no evidence in this proceeding that [these] customers are able to, or want to, manage the volatility of quarterly price swings.”<sup>2</sup> To the contrary, RESA has presented ample

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<sup>1</sup> 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.

<sup>2</sup> See Comments of Stefanie A. Brand, Director of the Division of Rate Counsel at a Legislative-Type Hearing Before the Board of Public Utilities, September 21, 2012 (“Brand Testimony”), page 4.

evidence demonstrating that commercial and industrial customers with peak demands above 300 kW are capable of and benefitted by mandatory quarterly pricing. For instance, as RESA testified at the legislative-type hearing, a 400 kW customer in New Jersey is about the size of a Target store,<sup>3</sup> not a mom and pop shop as Rate Counsel would have the Board believe.<sup>4</sup> Not only do such customers have the necessary sophistication and skills to manage quarterly pricing, but many are already doing so in neighboring states, including Maryland and Pennsylvania. Indeed, the Pennsylvania Public Utility Commission (“PUC”) issued the attached Secretary’s Letter on September 27, 2012, which provides that the PUC will issue a Tentative Order placing all commercial and industrial customers above 100 kW, on hourly pricing where metering capabilities or load profiling permit such pricing. Where metering capabilities or load profiling do not support hourly pricing, the PUC will recommend that customers above 100 kW be placed on quarterly-priced default service.

Rate Counsel’s main argument against moving residential BGS-FP customers to yearly pricing is that “there has been no evidence to suggest that residential customers would benefit from the implementation of annual contracts.”<sup>5</sup> However, in both its Initial Comments and testimony presented at the legislative-style hearing, RESA thoroughly explained both the problem with the status quo, i.e., the “boom-bust cycle” which serves as a barrier to sustainable retail competition, as well as the benefits more frequent procurements would confer on residential customers. These benefits include access to a diversity of value-added products and services that meet individual customer needs, such as costs savings, price stability, the ability to fix or float various proportions of their energy and/or certain cost-components of the supply and over various terms, as well as electricity from renewable energy sources or other attributes of value.

In addition to arguing against RESA’s proposal that BGS hold more frequent procurements, closer to the date of delivery, Rate Counsel takes issue with RESA’s proposal to lower the CIEP threshold to 300 kW. Specifically, Rate Counsel argues that the Board should not “force” these “small business owners” to be served under BGS-CIEP.<sup>6</sup> What Rate Counsel continuously fails to recognize, however, is that customers between 300 kW and 500 kW are not “small business owners,” but large, sophisticated enterprises. Customers using 300 kW or greater have the necessary expertise and personnel to strategically monitor their energy consumption and make informed decisions about which value-added products and services best fit their particular business needs. However, when these customers are on BGS-FP service, they do not receive the price signals necessary to incent them to conserve energy, shift consumption

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<sup>3</sup> See Statement of Jay L. Kooper offered at the legislative-style hearing on Sept. 21, 2012, page 3.

<sup>4</sup> See Brand Testimony, page 2.

<sup>5</sup> See Brand Testimony, page 4.

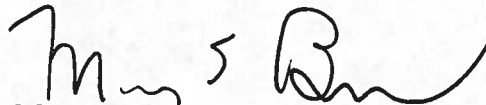
<sup>6</sup> See Brand Testimony, page 2. See also Rate Counsel’s Initial Comments, page 2.

patterns, or explore energy efficient or renewable alternatives. Thus, lowering the CIEP threshold to 300 kW should address a further concern raised by Rate Counsel, namely that:

New Jersey has the seventh highest residential electricity rates in the country. We cannot lose our focus on trying to lower that number. The goal at the time EDECA was enacted was to lower energy prices through competition. This must remain the goal today.<sup>7</sup>

RESA's two main recommendations raised in this proceeding will precisely address this concern by enabling increased customer access to choice through lowered barriers to competition consistent with the express purpose and stated policy of EDECA. For the foregoing reasons, as well as the reasons stated in its Initial Comments and testimony at the legislative-style hearing, RESA proposes that the Board introduce quarterly pricing for commercial BGS-FP customers and annual pricing for residential BGS-FP customers, as well as a further reduction in the CIEP threshold to 300 kW.

Respectfully submitted,



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<sup>7</sup> See Brand Testimony, page 5.