

**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**

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

**INTRODUCTION**

The Retail Energy Supply Association (“RESA”)<sup>1</sup> respectfully submits these initial 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 is a broad and diverse group of retail energy suppliers that share a common vision that competitive retail energy markets deliver more efficient, customer-oriented outcomes than do fully regulated markets. RESA members offer retail electric service to commercial, industrial and residential customers in New Jersey, throughout PJM, and in other competitive markets across North America. RESA is committed to working with all stakeholders throughout this BGS proceeding to promote a robust and sustainable competitive retail energy market for commercial, industrial, and residential customers.

As an active participant in all prior BGS proceedings in New Jersey, as well as energy procurement proceedings in various other states, RESA believes that the Board can best promote New Jersey’s energy-related objectives through policies aimed at promoting sustainable retail energy competition. Promoting retail competition is important because a competitive marketplace provides customers with a considerable choice of energy products and services. In a competitive marketplace, customers can obtain and assess information about the broad spectrum of innovative and tailored energy products and services that are offered by third party suppliers (“TPSs”). They can then compare these value-added products and services with those offered by

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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.

other TPSs, as well as BGS Supply, and choose the combination that best meets their particular needs.

By recently reducing the Commercial and Industrial Pricing (“CIEP”) threshold from 750 kW to 500 kW,<sup>2</sup> the Board took an important step forward in fostering a more sustainable competitive retail marketplace for New Jersey’s commercial and industrial customers. Now all customers with 500 kW or greater peak load are assured continued access to the innovative energy products and services offered by myriad energy providers. This, in turn, will encourage TPSs to seek greater cost efficiencies and diversity in their supply of energy products and services as they challenge each other for business in New Jersey.

While recognizing the significance of the Board’s reduction of the BGS-CIEP threshold to customers using over 500 kW, RESA encourages the Board to take additional steps to promote competition. Specifically, RESA recommends that the Board adopt the following two mechanisms: 1) hold more frequent procurements that occur closer to the time of delivery with shorter contract terms than the current laddered three-year contracts for BGS-FP customers; and 2) lower the BGS-CIEP threshold even further to 300 kW beginning in Energy Year (“EY”) 2015.

## **FIXED PRICE PROCUREMENT**

RESA recommends that the Board take the next step toward transitioning to a more robust sustainable competitive retail market by implementing more frequent procurements of shorter term products held closer to the delivery date, rather than extending the current BGS-FP procurement structure. Such a transition will result in more market reflective default service pricing, which will benefit customers by ensuring them continued access to a variety of innovative energy products tailored to meet their individual needs.

Under the current BGS-FP structure, customers pay for electricity based on a three-year weighted average, which can be significantly higher or lower than current market prices for extended periods of time. This procurement strategy serves as a barrier to sustainable retail competition. If default service prices diverge from current market prices for an extended period of time (either up or down), retail suppliers are likely to view that market as presenting only intermittent opportunities to attract customers, and customers are denied access to a diversity of value-added products and services that meet their individual needs, including 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. This lack of vibrant customer choice may not seem like a

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<sup>2</sup> *In the Matter of the Review of the Basic Generation Service Procurement Process*, Dkt. No. ER12020150, Decision and Order, June 18, 2012.

significant problem when default prices are low compared to the market price, but it will be a problem when default prices are high compared to the market price and those same customers have few or no competitive options to lower their electricity costs or to experience other benefits from the competitive marketplace. One of the proven ways to ensure customers have consistent access to a broad range of product and service offerings from competitive suppliers is to price default service in a manner that avoids a sustained divergence from underlying wholesale market prices. This can be achieved by ensuring default service prices are more market reflective through the procurement of shorter term supply contract and by ensuring that the lag time between procurement and delivery is as short as possible. The longer the lag between energy procurement and delivery, the more likely the default BGS-FP service price is to diverge from current market prices at the time of delivery.

BGS-FP's exclusive reliance on three-year fixed price contracts is also an impediment to implementing important regulatory and statutory changes to New Jersey's energy policies. In nearly every proceeding that impacts pricing in the BGS auction, such as the Solar Transition proceeding which was recently decided by the Board,<sup>3</sup> BGS-FP suppliers have argued for such changes to take effect no less than three years from the date of enactment in order for their contracts to be exempted from the increased costs resulting from the change. While RESA agrees that existing contracts, including both wholesale BGS contracts and retail TPS contracts, should be protected from regulatory and legislative changes, the fact is that longer-term BGS contracts can frustrate the realization of certain regulatory and legislative goals because those contracts remain exempted from certain changes for the length of the contract. Thus, Board actions are often delayed in achieving their desired effect and, more often than not, cause TPSs to incur additional costs due to cost-shifting of exempted BGS-FP contracts.

To overcome these negative effects of the current BGS-FP procurement structure and promote development of a sustainable, competitive retail market in New Jersey, RESA recommends that, beginning with next year's auction, the Board direct the EDCs to procure supply to serve one-third of the load using three-month contracts procured no more than 60 days prior to delivery for all commercial-FP customers. The BGS prices for these commercial customers would then be adjusted quarterly to reflect the prices achieved in those quarterly procurements. For residential-FP customers, RESA recommends the Board direct the EDCs to procure supply to serve one-third of the load using 12-month contracts procured no more than 60 days prior to delivery, with concomitant annual adjustments to the BGS prices. For the first year starting in EY 2014, the new quarterly (commercial) and yearly (residential) pricing structure would make up approximately one-third of the price for the commercial load and approximately one-third of the price for the residential load, respectively. The remaining two-thirds would have already been procured in prior auctions, and, therefore, two-thirds of the June, 2013 price is known today. Each year as the existing FP contracts expire, they would be replaced by either

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<sup>3</sup> *In the Matter of the Review of Utility Supported Solar Programs*, Dkt. No. EO 11050311V, Order, May 23, 2012.

quarterly (commercial) or annual (residential) contracts until 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. The transition to more market reflective default service prices would be fully phased in over three years, as detailed in the charts attached in **Appendix A**. Thus, the transition to more market reflective default service prices for customers would be gradual and allow customers to become more educated about choice and their options, and to gain ever increasing access to new products and services offered by new suppliers that are able to enter and remain in the market.

Many other states in the region have already implemented a more frequent procurement schedule in order to provide greater pricing transparency to energy consumers. 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 uses a unique blend of fixed price contracts of varying lengths with some utilities including a percentage of spot market supply to ensure more market-reflective pricing. Although the contract lengths vary among utilities in Pennsylvania, no Pennsylvania EDC relies exclusively on such long-term fixed price contracts as New Jersey's BGS-FP model. Similarly, New York's default service below hourly-priced thresholds is a blended portfolio of spot market prices and a series of short-term and medium-term contracts, most of which do not exceed one-year.

## **CIEP THRESHOLD**

RESA appreciates the Board's recent reduction of the BGS-CIEP threshold to 500 kW, which provides more customers with the opportunity to monitor their actual energy consumption and the associated cost of it on an hourly or real-time basis through interval meter technology. With truly market-reflective default service pricing, these customers will now experience robust sustainable competition and are assured ongoing access to a profusion of products and services from which they can choose based on their unique needs.

Although RESA recognizes the significance of the reduction of the CIEP threshold to 500 kW, RESA believes that the threshold should be reduced even further to require all customers using 300 kW and above to be on BGS-CIEP pricing beginning in EY 2015. 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 incentivize them to conserve energy, shift consumption patterns, or explore energy efficient or renewable alternatives. Moreover, without sustained access to competition, these customers only have intermittent opportunities to realize the benefits of all of the innovative products and services that a competitive market can

deliver. Therefore, RESA recommends that the Board further reduce the BGS-CIEP threshold to 300 kW and provide these customers with ongoing access to a robust sustainable competitive retail market.

Even accounting for the Board's reduction in the CIEP threshold to 500 kW, New Jersey has not kept pace with other states in lowering the CIEP threshold. For instance, the New York Public Service Commission has ordered mandatory hourly pricing for NYSEG customers 300 kW and higher, National Grid customers 250 kW and higher by 2013, Central Hudson customers 300 kW and higher, and Rochester Gas & Electric customers 300 kW and higher. Pennsylvania has established mandates for Duquesne Power & Light's default service to switch customers using 300 kW and higher to hourly-pricing.<sup>4</sup> Illinois now requires Commonwealth Edison to provide hourly-priced default service to customers using 100 kW and higher while Ameren-IL sets the threshold at 150 kW. Finally, Massachusetts mandates quarterly priced default service for its medium and large commercial and industrial customers using over 200 kW.

As evidenced by this trend in New Jersey and other states, truly market-reflective default service pricing achieved through a progressive reduction in the CIEP threshold will lead to the robust sustainable competitive retail markets envisioned in the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 *et seq.*. Moreover, such a reduction is good policy, affording an ever greater number of customers ongoing access to a variety of value-added products and services provided by competitive retail suppliers. Accordingly, RESA believes that Board should lower the BGS-CIEP threshold to 300 kW effective in EY 2015.

## CONCLUSION

RESA believes that the current blended portfolio approach applicable to BGS-FP customers hampers Board action and impedes the development of sustainable retail competition, thus denying consumers ongoing access to the broad array of products and services designed to meet their individual needs that only competitive retail suppliers can deliver. Thus, RESA proposes that, beginning with next year's auction, the Board introduce quarterly pricing for commercial fixed-price customers and annual pricing for residential customers with concomitant adjustments to the BGS prices and that these procurements occur no more than 60 days prior to delivery.

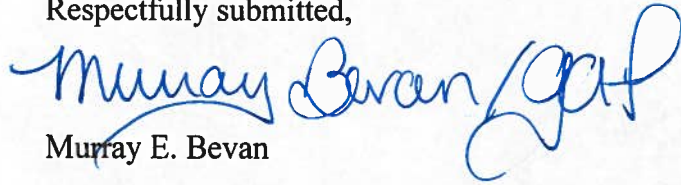
In addition, while RESA applauds the Board for recently reducing the CIEP threshold to 500 kW beginning in EY 2014, RESA encourages the Board to further reduce the threshold to 300 kW. Such a decrease will afford even more customers the opportunity to evaluate energy

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<sup>4</sup> In addition to Duquesne Power & Light, PPL has proposed hourly priced service for all default service customers larger than 100 kW in its next default service procurement period beginning June 1, 2015. *Petition of PPL Electric Utilities Corporation for Approval of its Default Service Plan*, Docket No. P-2012-2302074...

products and services that best fit their needs, including price risk tolerance, environmental objectives and interest in particular energy conservation and efficiency programs.

Respectfully submitted,



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**APPENDIX A**

**Chart A:**  
**BGS-FP**  
**Non-Residential Customers**  
**< 500KW**

Quarter:	Jun13-Aug13	Sep13-Nov13	Dec13-Feb14	Mar14-May14	Jun14-Aug14	Sep14-Nov14	Dec14-Feb15	Mar15-May15	Jun15-Aug15	Sep15-Nov15	Dec15-Feb16	Mar16-May16
	Pre-Existing 2 year (=1/3 of load)											
	Pre-Existing 1 year (=1/3 of load)			New Quarterly Purchase (=2/3 of load)			New Quarterly Purchase (=2/3 of load)			New Quarterly Purchase (=2/3 of load)		
	New Quarterly Purchase (=1/3 of load)	New Quarterly Purchase (=1/3 of load)	New Quarterly Purchase (=1/3 of load)	New Quarterly Purchase (=1/3 of load)	New Quarterly Purchase (=1/3 of load)	New Quarterly Purchase (=1/3 of load)	New Quarterly Purchase (=1/3 of load)	New Quarterly Purchase (=1/3 of load)	New Quarterly Purchase (100% of load)	New Quarterly Purchase (100% of load)	New Quarterly Purchase (100% of load)	New Quarterly Purchase (100% of load)

**Chart B:**  
**BGS-FP**  
**Residential Customers**

Quarter:	Jun13-Aug13	Sep13-Nov13	Dec13-Feb14	Mar14-May14	Jun14-Aug14	Sep14-Nov14	Dec14-Feb15	Mar15-May15	Jun15-Aug15	Sep15-Nov15	Dec15-Feb16	Mar16-May16
	Pre-Existing 2 year (=1/3 of load)											
	Pre-Existing 1 year (=1/3 of load)						New Annual Purchase (=2/3 of load)					
	New Annual Purchase (=1/3 of load)											
	New Annual Purchase (100% of load)											