



January 6, 2012

VIA HAND DELIVERY

Hon. Stephen M. Sweeney
Senate President
State House
P.O. Box 99
Trenton, NJ 08625

Hon. Sheila Y. Oliver
Assembly Speaker
State House
P.O. Box 98
Trenton, NJ 08625

Re: Senate Bill 2371 – Opposition of Retail Energy Supply Association

Dear President Sweeney and Speaker Oliver:

I am writing on behalf of the Retail Energy Supply Association (“RESA”)¹ to set forth RESA’s opposition to S-2371, which is scheduled for consideration by the full Senate and Assembly on Monday, January 9, 2012. Enactment of this legislation would have a devastating impact on the retail supply market, our customers, and the economy of the State of New Jersey. RESA has been actively working with the legislature for the past two years in an attempt to rectify the competitive disadvantage created by the Solar Energy Advancement and Fair Competition Act (“SEAFCA”). Unfortunately, rather than curing these competitive inequities, this bill exacerbates those inequities in at least two ways: by creating an ineffective method for moving back to a percentage based requirement for solar renewable portfolio standards, and by

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 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.

failing to grandfather existing retail supplier contracts, therefore requiring retail suppliers to purchase more than twice the current amount of solar renewable energy credits (“SRECs”).

The Percentage Based Requirement is Administratively Confusing

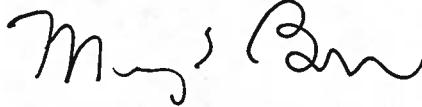
While RESA appreciates that an attempt was made to move the current fixed gigawatt hour solar RPS requirement back to a fixed percentage based requirement, the language in S-2371 creates an administrative nightmare for the Board of Public Utilities and retail suppliers alike. Consistent with the Energy Master Plan, RESA proposed modifications to both the Senate and Assembly sponsors which would require a return to a fixed percentage system for setting the retail suppliers’ solar purchase obligation. S-2371 does not require that the Board establish a fixed percentage based requirement. Instead, S-2371 only requires that the Board ensure that a percentage of the kilowatt hours sold in this state be purchased from solar electric power generators in New Jersey. This does little, if anything, to alleviate the current regulatory “guessing game” for retail suppliers. For Energy Year 2011, retail suppliers had to wait until fifteen months *after* the energy year began to finally find out their solar obligation for the year. This problem was exacerbated by provisions in SEAFCA which grandfather existing Basic Generation Service (“BGS”) providers’ contracts, forcing retail suppliers to singlehandedly carry the increase in the solar RPS, passed only two years ago, and shoulder the additional obligation that should have been equally imposed on BGS providers. This new percentage language does not help retail suppliers, or any other interested parties, in any manner.

Existing Retail Supply Contracts are Not Grandfathered from the Increased Solar RPS While Our Competitors Contracts Are Grandfathered

Rather than protect existing retail supply customer contract from a monumental increase in the solar RPS (more than *doubling* the solar RPS obligation for EY 2013, which begins on June 1, 2012), this legislation repeats the same follies as SEAFCA and increases the solar RPS without grandfathering existing retail supply contracts. The legislation once again exempts existing BGS provider contracts and leaves retail supply to pick up the increased solar RPS on their own. The fundamental unfairness of this scheme is obvious, and RESA is disappointed that the mistakes of SEAFCA have not been rectified and are instead being continued. Retail suppliers were forced to pay tens of millions of dollars more than their share of the solar RPS due to this inequitable distribution of solar RPS requirements, and this legislation will force those tens of millions of dollars in excess costs for retail suppliers and their New Jersey customers into the hundreds of millions of dollars in additional, unfair costs. Moreover, the bill contains a provision allowing for another increase in the solar RPS, triggered by excess SRECs and low SREC costs over a period of three years, again exempting existing BGS provider contracts from the increase and forcing retail suppliers to carry any additional increases in the solar RPS. In short, this legislation provides no end to the continuing competitive disadvantage created by SEAFCA, and perpetuates a regime wherein retail suppliers and their customers are consistently forced to bear the brunt of changes to the State’s solar RPS requirements.

This legislation unfairly raises retail supply costs and forces retail suppliers to raise the electric rates of their New Jersey customers, who already pay some of the highest electricity costs in the nation. Some estimates indicate that this bill will cost billions of additional dollars in electric costs for struggling New Jersey ratepayers. Due to the alarming and obvious consequences of this bill, RESA urges you to oppose S-2371.

Respectfully submitted,



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Dated: January 6, 2012

cc: All members of the State Senate
All Members of the General Assembly