

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

**In the Matter of the Review of
The Basic Generation Service
Procurement Process**

Docket No. ER12020150

Reply Comments of the Retail Energy Supply Association

The Retail Energy Supply Association (“RESA”)¹ respectfully submits these reply comments in the above-referenced proceeding addressing the Basic Generation Service (“BGS”) “procurement process, policy issues directly related thereto and issues that are of particular interest to the Board of Public Utilities (“Board”) that warrant individual consideration outside of the yearly BGS review process,” as directed by Board notice issued on February 29, 2012. These reply comments will respond to other stakeholder’s initial comments in this proceeding.

RESA has been fully supportive of the Division of Rate Counsel’s (“Rate Counsel’s”) call for a separate proceeding to analyze the procurement process and consider modifications that would lead to a better, more competitive auction, because, contrary to what the Electric Distribution Companies (“EDCs”) expressed in their initial comments, RESA is not “satisfied” with the current BGS procurement process and believes that it can be substantially improved upon. Nor does RESA believe, as the Independent Energy Producers of New Jersey (“IEPNJ”) expressed in their comments, that “it is clear that the current BGS procurement process has been successful...and the Board should not make any changes.” Rather, RESA believes that in order to better meet IEPNJ’s stated objective of bringing “the benefits of competition to all power customers,” substantial changes are warranted to the BGS procurement process.

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.

The current BGS procurement process stifles competition by imposing such a high BGS-Commercial and Industrial Pricing (CIEP) threshold of 750 kW and maintaining the laddered-three-year contracts used in the BGS-Fixed Price ("FP") auction. Were the Board to impose a BGS-CIEP threshold of 300 kW, require interval meters necessary to support that threshold and require more frequent procurements in the BGS-FP auction, such as RESA has advocated in its comments,² RESA believes that the competitive marketplace would be greatly enhanced. The more competitive marketplace resulting from RESA's proposals would benefit customers by providing them with a considerable choice of energy products and services, which in turn would encourage third party suppliers ("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. 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 TPSs. They can then compare these value-added products and services with those offered by other TPSs, as well as BGS Supply, and choose the combination that best meets their particular needs. Thus, policies aimed at promoting competition, namely those proposed by RESA in its initial comments, should be incorporated into the BGS procurement process.

While RESA has supported Rate Counsel's request for this proceeding and agrees with Rate Counsel that changes are necessary "to ensure that the New Jersey ratepayers are receiving the best possible deal for energy purchases and that New Jersey's energy policies are fully reflected in the BGS procurement process," RESA takes issue with two of Rate Counsel's specific proposals. First of all, RESA does not support transferring the obligation to procure renewable energy to meet the state's Renewable Portfolio Standard ("RPS") from BGS Suppliers to the EDCs. As a cost of supplying BGS service, procurement of renewable energy should be reflected in BGS prices through supplier bid. RESA believes that transferring this obligation may be legally and logistically unworkable through the current BGS auction format, leading to confusion and inconsistency among how EDCs acquired these renewable energy attributes and recovered their cost from ratepayers. In addition, the implementation of Rate Counsel's proposal could place TPSs at a further competitive pricing disadvantage to BGS. Furthermore, the suggestion by some solar developers and Rate Counsel that renewables development is enhanced by longer term contracts falls flat in the context of a robust, over-developed solar market in New Jersey.

² In its initial comments, RESA specifically proposed that the procurement process be redesigned through the following mechanisms: 1) lower the BGS-CIEP threshold to 300 kW for the next BGS auction and establish a "glide-path" to progressively lower the threshold even further in future auctions; 2) to the extent that interval meters are not available for customers using more than 300 kW, require that that New Jersey's EDCs install them prior to the next BGS auction; and 3) hold more frequent procurements that occur closer to the time of delivery with shorter, more market-reflective terms than the current laddered three-year contracts for BGS- FP customers.

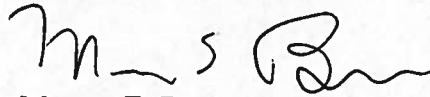
In addition to disagreeing with Rate Counsel's proposal to require the EDCs to assume the obligation of purchasing renewable energy to satisfy the RPS,³ RESA does not support maintaining any of the current laddered three-year contracts used in the BGS-FP auction, and especially does not agree that any of these contracts should be made even longer. In the current structure, where the price of default supply is divorced from the real cost at the time of its use, customers are blocked from the same robust choices as customers on BGS-CIEP pricing, due to barriers to TPSs' market entry. The boom-bust inherent to three-year rolling contracts where BGS-FP customers pay artificially low or high prices for electricity based on a three-year blended average effectively prices TPSs out of the market in years when BGS-FP pricing is artificially below market prices. As such, energy customers in New Jersey lose out on the myriad of value-added products and services that are available to customers on BGS-CIEP through robust competition, including costs savings, budget certainty, electricity from renewable energy sources, airline miles or other attributes of value. Thus, while it is true that TPSs stand to benefit from more frequent, shorter-term auctions as Rate Counsel suggests in its initial comments, it is also true that customers benefit from more choices that would be created in a market with more frequent procurements that occur closer to the time of delivery.

BGS-FP's blended portfolio approach also impedes the implementation of 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, 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. Thus, beneficial Board actions are often delayed in achieving their desired effect and, more often than not, cause TPSs to incur additional costs due to SREC cost-shifting of exempted BGS-FP contracts. Accordingly, RESA believes that the BGS procurement process should be modified to incorporate more frequent, shorter-term BGS-FP contracts, as RESA detailed in its initial comments.

In conclusion, RESA is encouraged that the Board has taken this opportunity to examine the BGS procurement process, and believes it has set forth an effective roadmap for achieving concrete improvements that are economically and environmentally superior to the status quo for New Jersey electric customers. Moreover, RESA believe that its recommendations herein support the 2011 EMP and will ensure the goals Rate Counsel hoped to achieve through this proceeding, namely that "New Jersey ratepayers are receiving the best possible deal for energy purchases and that New Jersey's energy policies are fully reflected in the BGS procurement process."

³ Similarly to Rate Counsel, SEIA also urged the Board remove the BGS Suppliers' obligation to procure renewable energy attributes in the auction, a proposal which RESA rejects on the same grounds as Rate Counsel's proposal.

Respectfully submitted,



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