

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

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

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**Docket No. ER12020150**

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

**INTRODUCTION**

The Retail Energy Supply Association (“RESA”)<sup>1</sup> respectfully submits these initial 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.

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 regulated utility providers. RESA members offer retail electric service to commercial and industrial 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.

RESA is highly encouraged that the Board has decided to take an in-depth look at the BGS procurement process for the first time since 2006, and believes this examination will lead to substantial changes in the way the procurement process is structured. As stated in its comments and testimony with regard to the 2012 BGS Auction, RESA supported the Division of Rate Counsel’s (“Rate Counsel’s”) request in that same proceeding that the Board institute a separate proceeding to review the BGS procurement process and consider modifications that would lead

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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; 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.

to a better, more competitive auction.<sup>2</sup> Furthermore, RESA agreed (and continues to agree) that the objective of such a proceeding is to “review the procurement process 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.”<sup>3</sup>

As an active participant in all prior BGS proceedings in New Jersey, as well as energy procurement proceedings in various other states, RESA has gained valuable insight into how the Board can achieve these goals of greater value for New Jersey customers and support for New Jersey’s energy and environmental objectives, namely through policies aimed at promoting retail energy competition. Promoting retail competition is so important because a competitive marketplace provides customers with a considerable choice of energy products and services, which encourages 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 TPS’s. 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.

The greater availability of energy efficiency and conservation programs that customers could avail themselves of through a competitive marketplace would support the Administration’s goals as stated in the 2011 Energy Master Plan (“EMP”):

The best way to lower individual energy bills and collective energy rates is to use less energy... Reducing energy costs through conservation and EE lessens the cost of doing business and enhances economic development. As collective energy use is lowered, New Jersey should realize a return on investment in the form of reduced energy bills.

EMP, p. 111-112

In order to foster a competitive marketplace and the concomitant economic and environmental benefits accruing from it, RESA has developed a roadmap for re-designing the procurement process through the following mechanisms: 1) lower the BGS-Commercial and Industrial Pricing (“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

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<sup>2</sup> See *I/M/O The Provision of Basic Generation Service for the Period Beginning June 1, 2012*, BPU Docket EO11040250, Sept. 2, 2011.

<sup>3</sup> *Id.* at p.2.

Jersey's Electric Distribution Companies ("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- Fixed Price ("FP") customers.

## **LOWER CIEP THRESHOLD**

RESA has long advocated and numerous studies have shown<sup>4</sup> that the most effective way to promote customer choice is to avail more customers of interval meter technology, which shows them their actual energy consumption and the associated cost of it on an hourly or real-time basis. The opportunity to monitor their energy consumption in this manner is so valuable to customers because it better informs them as to which energy products and services best fit their needs on many fronts, including price risk tolerance, environmental objectives and interest in particular energy conservation and efficiency programs.<sup>5</sup> The advantages afforded by interval meters may be especially pertinent for customers using 300 kW or greater, because, as relatively large commercial and industrial businesses, they 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.

Real-time pricing provides these CIEP customers with the price signals and incentives they need to take advantage of various energy products and services offered by different energy providers. There is vigorous retail competition for the CIEP customers, providing them with a variety of products, services and suppliers from which to choose. For example, a CIEP Customer may decide that price stability is the most important feature in any energy supply arrangement it enters into and choose an energy supplier that it believes best provides such stability. Or, a CIEP Customer may decide it is most interested in participating in energy efficiency and conservation programs and choose a TPS which enables it to employ demand-side management strategies to reduce its energy costs, especially with regard to the high incremental costs of energy during peak demand times.<sup>6</sup>

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<sup>4</sup> See, e.g., Rutgers University's Center for Energy, Economic and Environmental Policy, *Assessment of Customer Response to Real Time Pricing, Task 1: Literature Search* (June 30, 2005); and *Assessment of Customer Response to Real Time Pricing, Task 2: Wholesale Market Monitoring of New Jersey and PJM* (September 13, 2005); The Brattle Group, *Quantifying Demand Response Benefits in PJM* (January 29, 2007); and Capitol Hill Research Center, *Retail Electric Competition in New York: Benefits for the Present, Promise for the Future* (May 1, 2007).

<sup>5</sup> The 2011 EMP discusses the economic and environmental benefits that interval meters have already had by encouraging customers to participate in energy efficiency and conservation programs, as well as the potential for interval meters to produce even more of these benefits as the technology continues to develop. EMP, p. 126

<sup>6</sup> To this end, the 2011 EMP cited rewarding energy efficiency and energy conservation as one of its five "overarching goals," because:

To avail more customers of real-time pricing and the ample benefits it provides, RESA believes that the Board should reduce the CIEP threshold to 300 kilowatts (“kW”) immediately, as well as establish a “glide-path” approach to further lower the CIEP threshold in upcoming years. The reduction from the current threshold of 750 kW to 300 kW would add many more customers who are currently subject to fixed pricing to hourly priced service. As it is structured, BGS-FP service is simply not market-reflective and sends the wrong price signals to customers, namely that electricity costs are fixed for substantial periods of time, and BGS-FP customers lack a clear incentive to conserve energy, shift consumption patterns or explore energy efficient or renewable alternatives.

While the Board has acknowledged the advantages afforded by real-time pricing in previous BGS auction proceedings,<sup>7</sup> it has not kept pace with other states in lowering the CIEP threshold, even accounting for the Board’s recent reduction to 750 kW, which became effective in Energy Year (“EY”) 2011. For instance, in 2009 the New York Public Service Commission ordered Orange & Rockland Utilities to expand its mandatory hourly pricing default service from 1,000 kW to 500 kW; by 2013, Orange & Rockland must expand its mandatory hourly pricing to 300 kW. The New York Public Service Commission has also 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 by 2012, RG&E customers 300 kW and higher by 2012 and Con Edison customers 500 kW and higher.

Other jurisdictions have also benefited from the flexibility provided by real-time pricing. Maryland imposes a statewide mandatory hourly-priced default service for customers using 600

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One of the best ways to lower individual energy bills and collective energy rates is to use less energy. Reducing energy costs through conservation, energy efficiency, and demand response programs lowers the cost of doing business in the State, enhances economic development, and advances the State’s environmental goals.

EMP, p.1.

<sup>7</sup> “The Board continues to believe that accurate market pricing reduces the possibility for inter- and intra-class subsidies, appropriately encourages customers to consider conservation and renewable energy alternatives, promotes load management and generally gives customers more control over their energy costs.” *I/M/O the Provision of Basic Generation Service for Year Two of the Post-Transition Period – CIEP Customer Class*, Dkt. No. EO03050394, Decision and Order, December 23, 2003, at 2. Variations on this theme can be found in *I/M/O the Provision of Basic Generation Service for Year Three of the Post-Transition Period*, Dkt. No. EO040288, Decision and Order, December 1, 2004, at 11; *I/M/O the Provision of Basic Generation Service for the Period Beginning June 1, 2006*, Dkt. No. EO05040317, Decision and Order, December 8, 2005, at 15; *I/M/O the Provision of Basic Generation Service for the Period Beginning June 1, 2007*, Dkt. No. EO06020119, Decision and Order, December 22, 2006, at 9; and *I/M/O the Provision of Basic Generation Service for the Period Beginning June 1, 2008*, Dkt. No. ER07060379, Decision and Order, January 25, 2008, at 12.

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 and for its other providers to shift downward to 500 or 400 kW and higher. Illinois now requires Commonwealth Edison (*a member of PJM*) to provide hourly-priced default service to customers using 101 kW and higher while Ameren-IL sets the threshold at 150 kW. Connecticut subscribes to a statewide mandate for quarterly priced default service for customers using 500 kW and higher. Finally, Massachusetts mandates quarterly priced default service for its medium and large commercial and industrial customers using over 200 kW. Attached to these comments as "Appendix A" is a summary comparison of dynamic pricing in New Jersey and neighboring states with restructured electricity markets.

This move towards expanding real-time pricing in other states confirms that lowering CIEP thresholds is a progressive step in enhancing the benefits for ratepayers. The energy customers in New Jersey are similar to, or, in the case of many national corporations, the same as the energy consumers served in these other jurisdictions with lower CIEP thresholds. Unless New Jersey lowers its CIEP threshold to be more reflective of regional trends, these customers will continue to be harmed by not being denied access to the benefits afforded by real-time pricing in managing their energy usage.

RESA believes that the best approach to expand the use of real-time pricing is to lower the BGS-CIEP threshold to 300 kW effective for the next BGS auction, and establish a "glide-path" for future incremental reductions based on the most current market data and information available. To this end, RESA recommends that the Board seek feedback on the CIEP threshold during the BGS auction proceeding each year in order to receive stakeholder input through comments and legislative-type hearings. Through these proceedings, the Board can garner information, inclusive of up-to-date market data, to make an informed decision on a future lowering of the CIEP threshold that is gradual, orderly and structured to enable a greater number of customers to access the value-added products and services provided by competitive retail suppliers.

## **REQUIRE INTERVAL METERS FOR CUSTOMERS ABOVE 300 kW**

In conjunction with lowering the BGS-CIEP threshold to 300 kW effective at the next BGS auction, RESA also believes that the Board must require the EDCs to implement the installation of interval meters for all customers above this threshold who do not currently have them. As was acknowledged during the last BGS proceeding, many customers using more than 300 kW do not currently have access to interval meter technology. Accordingly, these customers have no means to gauge their energy use or respond to the price signals associated with it. Requiring the applicable EDC to install interval meters for customers using more than 300 kW, will avail them of the opportunity to actively monitor and respond to the cost of their electricity on a real-time or hourly basis, which for the reasons detailed above, provides a myriad of value-

added energy products and services to New Jersey customers to enable them to better manage their energy consumption and costs.

Due to their widespread availability, the EDCs should have no trouble acquiring interval meters for customers using more than 300 kW, nor is installation a lengthy or particularly cumbersome process, especially since the EDCs have already installed interval meters for some large customers. Moreover, the higher cost of these meters as compared to conventional utility meters, will be recovered many times over as customers are able to take advantage of the cost savings afforded to them through the added ability to monitor and respond to real-time pricing. Indeed, all ratepayers would access the economic benefits related to installation of interval meters for customers above 300 kW, as overall peak demand would be reduced. Finally, if the Board were to lower the CIEP threshold (as it should), without requiring interval meters for all customers above 300 kW, then only some of these customers would be afforded the opportunity to best evaluate which value-added products and services, including costs savings, price stability, electricity from renewable energy sources, airline miles or other attributes of value, best fit their needs. This inequity would not only be discriminatory towards those customers above 300 kW that do not have interval meters, but would also be unfair to all New Jersey ratepayers who would miss out on the economic and environmental benefits accruing from a reduction in peak demand. Therefore, the Board should require the EDCs to install interval meters for all customers above 300 kW by the next BGS auction.

## **PROVIDE MORE FREQUENT FIXED PRICE PROCUREMENT**

Coincident with lowering the CIEP threshold and requiring interval meters be made available for all customers using over 300 kW, RESA also recommends that the Board further develop and expand New Jersey's competitive energy marketplace by implementing transitional steps towards requiring more frequent procurements held closer to the delivery date, of shorter term products, rather than continuing the laddered-three-year contracts used in the BGS-FP auction. An auction system comprised of more frequent procurements would result in more market reflective default service pricing because it would minimize the time over which the default price can diverge from actual market prices.

Conversely, in a structure where default supply is divorced from real-time prices—such as the current BGS-FP structure—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, price stability, electricity from renewable energy sources, airline miles or other attributes of value.

BGS-FP's blended portfolio approach 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 should soon be resolved by the Board,<sup>8</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. 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 cost-shifting of exempted BGS-FP contracts.

In RESA's view, the retail price distortions created by a blended BGS portfolio have insidiously delayed the development of a sustainable, competitive market in New Jersey. RESA therefore proposes that, beginning with next year's auction, the Board introduce quarterly pricing for CIEP fixed-price customers over 100 kW and annual pricing for residential and small commercial customers. For the first year starting in EY 2013, the new quarterly and yearly pricing structure would make up one-third of the price for the CIEP load and one-third of the price for the residential and small commercial 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. The pricing structure would be adjusted quarterly for CIEP customers and annually for residential and small commercial customers, until it was fully phased in over three years. Thus, the impact on customers would be gradual. Attached to these comments as "Appendix B" is two charts demonstrating how quarterly pricing would be phased in for customers using between 100-300 kW, and how annual pricing would be phased in for customers using less than 100 kW.

As with a lower CIEP threshold, many other states in the region have already implemented a more frequent procurement schedule, thereby providing 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 fixed-price default service for customers with peak demands below 200 kW. Maryland's quarterly priced default service applies to customers as small as 25 kW, and customers below 25 kW receive a default service price based on procurements held every six months containing a portfolio mix of contracts with terms no greater than two years.

Other neighboring states also apply a more frequent procurement schedule. Pennsylvania, for instance, uses a blended portfolio structure of spot market prices (10%), one-year fixed-price contracts (45%) and two-year fixed-price contracts (45%) for commercial and

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<sup>8</sup> On March 23, 2012, the Solar Transition Working Group, in which RESA was an active participant, was dismissed, and Office of Clean Energy Staff will now prepare recommendations to present to the Board. RESA argued throughout the working group process that any changes to energy providers' RPS requirements should not be reflected until at least three years after implementation, and is hopeful this will be reflected in the proposal presented to the Board.

industrial customers below the hourly-price thresholds. 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. Attached to these comments as "Appendix C" is a summary outline of how other states apply hourly and fixed-price default service.

## **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

Respectfully submitted,

*/s/ Murray E. Bevan*

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Exhibits attached.

**APPENDIX A**  
**COMPARISON OF DYNAMIC PRICING IN NEW JERSEY AND NEIGHBORING STATES WITH RESTRUCTURED ELECTRIC MARKETS**

**New Jersey**

- **Customers on Commercial & Industrial Energy Pricing (“CIEP”)**
  - 2003 = Applied to customers 1,500 kW and higher
  - 2005 = Expanded to customers 1,250 kW and higher
  - 2008 = Expanded to customers 1,000 kW and higher
  - 2011 = Expanded to customers 750 kW and higher

**New York**

- **Customers on Mandatory Hourly-Priced Default Service**
  - Con Edison = Customers 500 kW and higher
  - Orange & Rockland = Customers 300 kW and higher by 2013
  - NYSEG = Customers 300 kW and higher
  - National Grid = Customers 250 kW and higher by 2013
  - Central Hudson = Customers 300 kW and higher
  - RG&E = Customers 300 kW and higher by 2012

**Pennsylvania**

- **Customers on Mandatory Hourly-Priced Default Service**
  - Duquesne = Customers 300 kW and higher
  - PPL = Customers 500 kW and higher
  - PECO = Customers 500 kW and higher
  - West Penn Power = Customers 500 kW and higher
  - Met-Ed/Penelec = Customers 400 kW and higher

**Maryland**

- **Customers on Mandatory Hourly-Priced Default Service**
  - Statewide = Customers 600 kW and higher

**Illinois**

- **Customers on Mandatory Hourly-Priced Default Service**
  - Commonwealth Edison = Customers 101 kW and higher
  - Ameren = Customers 150 kW and higher

## APPENDIX B

### EXAMPLE OF HOW QUARTERLY AND ANNUAL PRICING WOULD BE PHASED IN FOR DIFFERENT CUSTOMER CLASSES

Chart A illustrates how the BGS procurement process may be phased in as described above for non-residential customers between 100 and 300 kW in size. Chart B illustrates how the BGS procurement process may be phased in as described above for non-residential customers between less than 100 kW in size alongside 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
<b>Chart A: BGS-FP Non- Residential Customers &gt; 100kW but &lt;300kW</b>	Pre-Existing 2 year (≈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)
	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 (≈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)								

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
<b>Chart B: BGS-FP Residential Customers and non- residential customers &lt; 100 kW</b>	Pre-Existing 2 year (≈1/3 of load)								New Annual Purchase (100% of load)			
	Pre-Existing 1 year (≈1/3 of load)				New Annual Purchase (≈2/3 of load)							
	New Annual Purchase (≈1/3 of load)											

## APPENDIX C

### **COMPARISON OF BGS – FP IN NEW JERSEY AND DEFAULT SERVICE IN NEIGHBORING STATES WITH RESTRUCTURED ELECTRIC MARKETS**

#### New Jersey

- **BGS – FP Default Service**
  - Applies To: Customers with peak demands below 750 kW
  - Structure: Portfolio of 1-year, 2-year and 3-year fixed prices from annual procurement of one-third of the BGS load

#### New York

- **Default Service Below Hourly-Priced Thresholds**
  - Applies To: Customers with peak demands below a range of 250 kW to 500 kW (depending on service territory and timing of hourly-price implementation in 2012 and 2013 calendar years)
  - Structure: Blended portfolio of spot market prices and a series of short-term and medium-term contracts, most of which do not exceed one year.

#### Pennsylvania

- **Default Service For C&I Customers Below The Hourly-Price Thresholds**
  - Applies To: Customers with peak demands below a range of 300 to 500 kW (depending on service territory)
  - Structure: Blended portfolio of spot market prices (10%), 1-year fixed-price contracts (45%), and 2-year fixed-price contracts (45%)

## **Maryland**

- **Quarterly-Priced Default Service**
  - Applies To: Customers 25 kW – 599 kW (Statewide)
  - Structure: Portfolio of 3-month fixed-price contracts
- **Portfolio-Based Default Service**
  - Applies To: Customers below 25 kW (Statewide)
  - Structure: Customers receive a Default Service price based on procurements held every six months containing a portfolio mix of contracts with terms no greater than 2 years

## **Massachusetts**

- **Quarterly-Priced Default Service**
  - Applies To: Customers with peak demands of 200 kW and higher
  - Structure: Portfolio of 3-month fixed-price contracts
- **Portfolio-Based Default Service – Current**
  - Applies To: Customers with peak demands below 200 kW
  - Structure: Semi-Annual Procurement of contracts with terms of no greater than 1 year