



**NEW JERSEY BOARD OF PUBLIC UTILITIES
I/M/O THE PROVISION OF THE BASIC GENERATION SERVICE
PROCUREMENT PROCESS
DOCKET NO. ER12020150**

LEGISLATIVE-TYPE HEARINGS – MAY 4, 2012

**STATEMENT OF JAY L. KOOPER,
NEW JERSEY STATE CHAIRMAN, RETAIL ENERGY SUPPLY ASSOCIATION
DIRECTOR OF REGULATORY AFFAIRS, HESS CORPORATION**

Good morning. My name is Jay Kooper and I am the New Jersey State Chairman of the Retail Energy Supply Association (“RESA”) and the Director of Regulatory Affairs of Hess Corporation, which as you know is a New Jersey-based third-party supplier (“TPS”) of retail electricity and gas products to end-use customers in New Jersey. RESA is a 22-member group of established and diverse retail energy suppliers that provide innovative and value-added energy products to residential, commercial and industrial (“C&I”) customers in New Jersey and in retail markets throughout the PJM, New York, New England and Midwest regions and other competitive markets in North America.¹

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.

Today, and in the context of this latest review of the Basic Generation Service (“BGS”) procurement process, I come bearing both good news and bad news with respect to the current state of New Jersey’s retail electric market and the role of BGS in shaping it. First, the good news – over the past 2 years New Jersey has experienced significant growth with respect to the state’s retail electric market for customers of all sizes, be they residential, commercial or industrial. According to the Board, as of March 2012 the number of licensed TPSs operating in the State is substantial, ranging from 23 in the Rockland Electric service territory to 56 in the PSE&G service territory. These TPSs are offering customers of all sizes a variety of different innovative and value-added electric supply products – according to the 2011 Annual Baseline Assessment of Choice in Canada and United States (“ABACCUS”) review, there are at least 11 different residential product offerings in the PSE&G service territory where none existed just two short years ago.

And according to the March 2012 switching statistics on the Board’s BGS Auction webpage, shopping levels for BGS-CIEP customers remain extremely high, with 89.4% of the large industrial (1,000 kW peak demand and higher) load and 78.9% of the industrial and large commercial (750 to 1,000 kW peak demand) load taking service from a TPS. In addition, for customers below the current 750 kW BGS-CIEP threshold, the commercial switching numbers are growing, with 82.4% of the medium-sized commercial (500 to 750 kW) load and 48.4% of the small commercial (499 kW and lower) load taking service from a TPS. For residential customers, who had a zero switching rate just over two years ago, 13.9% of that group’s customer load is taking service from a TPS. By all three of these metrics – TPS market entry, variety of product offerings and level of customer switching – the current state of the New Jersey retail electric market is good.

Now, here is the bad news. Despite the current good state of New Jersey’s retail electric market, for BGS-FP customers this is not a retail market structure that is built to last. This is because of one fundamental economic principle inherent in any retail energy market – BGS or default service that is divorced from market-reflective prices and instead reliant on a highly artificial fixed price is an impenetrable barrier to sustaining a vibrant retail market structure.

In New Jersey, the current BGS-FP structure, based on a three-year blended average of the past three BGS auctions, is the most artificial fixed-price default service of restructured states in the Northeast, creating a “boom-bust” cycle of an artificially high or low default price. For the first decade of the New Jersey retail market, where the BGS-FP price was artificially lower than the market thanks to rising gas prices, New Jersey experienced a “bust” period where BGS-FP customers had little to no access to choice of the electric product and service they wanted. Over the past 2 ½ years in a climate of falling gas prices, the BGS-FP price has been artificially higher than the market, creating a “boom” period that has provided increased customer access to choice, but also susceptible to a reversal back to a “bust” period and with it the resurrection of the same barriers to choice that marked much of the first decade of New Jersey’s retail market. Thus, with respect to the 82.4% of the medium-sized (500 kW-750 kW) commercial customer load that has now switched, that switching figure will be upended when the BGS-FP structure inevitably reverts back to a “bust” period if no changes are made to the structure.

Compounding this problem, New Jersey has one of the highest hourly-priced (i.e., market reflective) default service thresholds among the restructured states with a 750-kW threshold where New York, Pennsylvania, Maryland, and Illinois have far lower hourly-price thresholds ranging from 101 to 600 kW. In addition, in all of these states – including states without an hourly-priced default service threshold such as Connecticut and Massachusetts – customers of all sizes have a far more market-reflective fixed-price default service than New Jersey’s three-year

blended average. Together these two factors create significant barriers to choice for substantially large and highly sophisticated customers in New Jersey where no such barriers exist for similar-sized and smaller-sized customers in neighboring states.

To put this into a real-world example, a 500 kW peak demand customer is about the size of a super big-box Wal-Mart store and a 300 kW customer is about the size of the Bloomingdales located in the Short Hills Mall. Both of these customers are indisputably sophisticated and substantial businesses who shop for electricity for their stores nationwide. Under the current BGS-FP structure, however, these customers have a highly artificial, three-year blended average default service price that is far less market reflective than those of similarly-sized Wal-Marts and Bloomingdales in neighboring states. Moreover, these customers have a far less market-reflective default service price – and with it, an unstable “boom-bust” retail market structure that limits consistent access to choice – than substantially smaller, stand-alone neighborhood dry cleaning establishments in neighboring states.

This is the problem RESA is trying to fix through proposal of the following mechanisms: (1) consistent with a path well-treaded by neighboring states, lowering the current BGS-CIEP threshold to 300 kW for the next BGS auction and establishing a “glide-path” to progressively lower the threshold in future auctions; (2) requiring interval meters for customers above 300 kW; and (3) transitioning in an orderly and progressive manner the laddered-3-year BGS-FP procurement structure to a system of more frequent procurements that currently exist in neighboring restructured states.

A core policy goal of the New Jersey Electric Discount and Energy Competition Act of 1999 (“EDECA”) was and remains the placement of greater reliance on competitive markets to deliver energy to consumers in greater variety and value than traditional regulated electric service. Improving New Jersey’s BGS structure to provide customers of all sizes with more

access to choice – not just in “boom” periods but for all periods – is completely consistent with EDECA and is the best method for ensuring that all customers are placed in the best position to determine for themselves the electric product that best fits their needs rather than be forced onto a BGS-FP that may or may not be at or below market prices. In the end, highly artificial default service prices serve only to protect customers from their ability to choose because of the barriers to choice they create. In the long run, these artificial prices also fail to protect customers from high prices as over time the default price catches up with, and at times exceeds, the market price. Thus, from both the customer perspective and the economic development perspective of creating business opportunities in New Jersey, RESA’s proposals will yield greater value and benefits for customers of all sizes as they have in neighboring states.

Conclusion

RESA appreciates the opportunity to testify before you today and looks forward to working with the Board and all stakeholders throughout this process. I will be happy to answer any questions you may have. RESA New Jersey counsel Murray Bevan will now discuss in more detail RESA’s positions with respect to interval metering, the full-requirements nature of the BGS structure, and the problems associated with removal of the Renewable Portfolio Standards obligations from BGS.