State of New Jersey
Board of Public Utilities

In the Matter of the Provision of
Basic Generation Service for
The Period Beginning June 1, 2015

Docket No. ER13050378

Final Comments of the Retail Energy Supply Association

INTRODUCTION

The Retail Energy Supply Association ("RESA") [1] respectfully submits these final comments ("Final 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, 2015.

In its Initial Comments, RESA recommended that the Board modify the BGS process by: (1) re-classifying the BGS-Fixed Price ("FP") product to reflect that it fluctuates and is not, in fact, a true "fixed price" product; (2) requiring New Jersey's Electric Distribution Companies ("EDCs") to utilize quarterly, forward-looking reconciliation charges to provide customers with more price transparency; (3) requiring the EDCs to account for certain PJM-imposed costs as part of a nonbypassable charge that is assessed to all customers, including customers of Third Party Suppliers ("TPSs"); (4) lowering the BGS-Commercial and Industrial Pricing ("CIEP") threshold to 400 kW beginning in Energy Year ("EY") 2016 and the BGS-CIEP threshold to 100 kW beginning in EY 2018; (5) to the extent that interval meters are not available for customers using more than 400 kW, requiring that EDCs install them prior to EY 2016; and (6) holding 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 these Final Comments, RESA will address certain arguments made by other parties to this proceeding in both written comments and testimony at the legislative-style hearing on September 30, 2014. In particular, RESA will demonstrate why the Board should: (1) require the

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[1] RESA's members include: AEP Energy, Inc.; Champion Energy Services, LLC; Consolidated Edison Solutions, Inc.; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. dba IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG Energy, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. The comments expressed in this filing represent only those of RESA as an organization and not necessarily the views of each particular RESA member.

EDCs to assess certain PJM-related charges on all customers as a nonbypassable charge, (2) lower the CIEP threshold; and (3) alter the BGS-FP three-year laddered contract structure.

I. EDC Pass-Through of Certain PJM Charges.

In its Initial Comments, RESA argued that the EDCs should be required to assess PJM-imposed "non-market based" charges, including charges related to Network Integration Transmission Service ("NITS"), Transmission Enhancement Charges ("TECs") and Reliability Must Run ("RMR") charges, on TPS customers as reconcilable and nonbypassable charges. Such a requirement would align how these charges are assessed on TPS customers with how they are assessed on BGS customers, who currently account for these PJM cost components as a reconcilable and nonbypassable charge. Under the status quo, BGS Suppliers have a significant competitive advantage over TPSs who have to predict these non-market based costs and account for them in their product offerings to customers before they are incurred, resulting in risk premiums and higher overall prices than their customers otherwise would pay.

Significantly, at the legislative-style hearing, Rate Counsel acknowledged that there is an "uneven playing field" and a "mismatch" between how TPS and BGS customers are treated with regard to these PJM-imposed non-market based charges. However, Rate Counsel stated that it did not agree with RESA's proposed solution to require the EDCs to pass-through these charges to both TPS and BGS customers after they are actually incurred. Rather, Rate Counsel asserted that, similar to how TPSs currently account for these charges, BGS Suppliers should be required to account for these charges in their BGS auction bids with no subsequent recovery from BGS customers.

RESA believes that the status quo results in significant inequities between TPS and BGS customers and therefore stands by its original proposal to require the EDCs to assess PJM-imposed "non-market based" costs on all customers as a reconcilable and nonbypassable charge. As RESA argued in its Initial Comments and at the hearing, unlike the market-based costs of their products which TPSs appropriately manage, the non-market based charges lack price transparency and are not easily hedged, leading to significant risk premiums. It is RESA's view that it is better for TPS and BGS customers alike to be charged the actual cost of these charges after they are incurred than a suppliers' best prediction of what these costs may actually entail. RESA, therefore, believes that these cost components are best suited for the EDCs to handle as reconcilable and nonbypassable charges on customers.

With regard to the Interim Capacity Proposal, introduced by PJM on August 20, 2014, RESA agrees with The Independent Energy Producers of New Jersey ("IEPNJ") and Nextera Energy Power Marketing, LLC that it is a major re-design of PJM's RPM model in the interim years from EY 2016 to EY 2018 which could impact existing retail contracts as well as pricing in the next BGS auction. The Proposal has the potential to impose significant costs on TPS and BGS suppliers alike given that in this specific instance, the changes could result in higher

capacity costs in the interim period that would otherwise have been set by previous capacity auctions. It is important to note that under normal circumstances, RESA believes that capacity charges, as a generation component, should be the responsibility of both BGS suppliers and TPS. It is only under the specific and unique terms of The Interim Capacity Proposal that may impose increased costs in the interim years that were otherwise priced through the market-based RPM auctions that RESA seeks a mechanism to protect existing contracts for all customers. As more details regarding the Proposal become available later this month, RESA would urge the Board to carefully consider this new cost component and apply these costs in a competitively neutral manner. RESA reserves the right to comment on the details of this Proposal should the Board provide such opportunity.

II. Lower CIEP Threshold

In its Initial Comments, RESA asked the Board to lower the CIEP threshold to 400 kW in EY 2016 and to 100 kW in EY 2018. Rate Counsel, on the other hand, asserted its "concerns about the wisdom of forcing mid-sized customers into the BGS-CIEP class in order to bolster competition"[2] and recommended that the Board not make any further reductions to the BGS-CIEP threshold. Rate Counsel essentially repeated these sentiments at the legislative-style hearing. Similarly, NERA and the EDCs testified that lowering the CIEP threshold to 400 kW would not lead to more customer switching as current BGS-FP customers between 400 kW and 500 KW were unprepared for BGS-CIEP and would simply rely on the "spot market" for their electricity needs. As a result, reducing the threshold would result in "no benefit," according to the EDCs.

What Rate Counsel and the EDCs continuously fail to recognize, however, is that in New Jersey's current energy market, customers using 100 kW or greater—let alone 400 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 incent them to conserve energy, shift consumption patterns, or explore energy efficient alternatives. As a consequence, these customers miss out on the benefits of a more competitive marketplace, namely a greater choice of electric products and services that best fit their needs, including products that take into account costs savings, price stability and other valuable attributes.

In addition to not accounting for the benefits accruing to these customers who would be placed on mandatory real-time pricing, Rate Counsel also fails to recognize that reducing the BGS-CIEP threshold may benefit another class of customers it purports to protect—BGS-FP customers—by reducing BGS-FP auction prices. Specifically, wholesale suppliers worry about migration risk with respect to customers not subject to mandatory BGS-CIEP pricing and likely

[2] *See* Initial Comments of the Division of Rate Counsel, filed in this Docket on September 3, 2014, page 4.

factor such risk into their price offerings. With three year BGS-FP commitments, there is the real possibility that sometime during the three-year term, market prices could suddenly rise above the BGS price and customers would rapidly swarm back to BGS service. Reducing the threshold to 400 kW in EY 2016 and to 100 kW in EY 2018 reduces the migration risk, at least for customers above these thresholds.

Curiously, after offering the (flawed) foregone conclusion that the CIEP threshold should not be reduced, Rate Counsel suggests that there is not enough evidence to determine whether the Board's previous CIEP threshold reduction has benefitted those impacted by the reduction. Rate Counsel, therefore, suggests that the Board "investigate the impact of this decision" and "direct the EDCs to solicit specific information from customers about the impact of the lower CIEP threshold on customers' bills and customer reaction to the change."[3] Although RESA believes that there is already ample evidence from other states and New Jersey itself to support the notion that a lower CIEP threshold benefits customers, RESA would support a more thorough review process if the Board found that it was a worthwhile investment of its time and resources. RESA is confident that the results of such a formal proceeding will indicate that further reductions of the CIEP threshold are warranted.

III. More Frequent Procurements

In its Initial Comments, RESA argued that the Board should require the EDCs to 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. Unlike in prior BGS proceedings, Rate Counsel did not address the functionality of the BGS-FP three-year laddered contract structure in its Initial Comments, although it did generally express support for the current structure at the hearing. IEPNJ likewise recommended that the Board maintain the current three-year BGS auction structure in its Comments based upon its contention that the three-year term "addresses the appropriate goal of protecting consumers from price volatility in the energy markets."[4] This argument is misguided, however, because it both underestimates customer sophistication in this day and age, and wrongly assumes that more frequent procurements will lead to negative consequences for BGS-FP customers.

Instead, RESA encourages the Board to promote more market-reflective pricing for BGS-FP customers by replacing three-year laddered contracts with contracts that represent more frequent procurements held closer to the date of delivery. The current BGS structure has resulted in customers paying more than they should have over the last few years for electric supply, because customers have had to account for higher costs related to market conditions that occurred in the past that are completely divorced from the current environment of low natural gas prices and reduced electricity demand than if the Board used a shorter term procurement

[3] *Id.* at 5.

[4] *See* Initial Comments of IEPNJ, filed in this Docket on September 3, 2014, page 2.

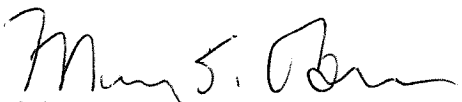
system. By shifting to more frequent procurements for BGS-FP customers of shorter term products, the Board will enable these customers to fully realize the full benefits of more market reflective pricing.

Furthermore, under the current BGS-FP structure, customers pay artificially low or high prices for electricity based on a three-year blended average. In years when BGS-FP pricing is artificially below market prices, TPSs are effectively priced out of the market. Even in years when BGS-FP pricing is artificially above market prices, TPSs are still reluctant to enter the marketplace due to the boom-bust nature of the BGS-FP structure. In either case, energy customers in New Jersey have fewer choices and miss out on the depth and breadth of products and services that are available to customers on BGS-CIEP, including costs savings, price stability, electricity from renewable energy sources, or other value-added services. Therefore, holding more frequent procurements, closer to the delivery date, will improve the status quo for the State's electric customers.

CONCLUSION

For the foregoing reasons, as well as the reasons stated in its Initial Comments, RESA proposes that the Board require the EDCs to assess PJM-imposed "non-market based" charges on TPS customers as reconcilable and nonbypassable charges. RESA further recommends that the Board reduce the CIEP threshold to require all customers using 400 kW and above to be on BGS-CIEP pricing beginning in EY 2016 and to require all customers using 100 kW and above to be on BGS-CIEP pricing by 2018, as well as introduce quarterly pricing for commercial BGS-FP customers and annual pricing for residential BGS-FP customers.

Respectfully submitted,



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