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VIA EMAIL ONLY

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue – 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
board.secretary@bpu.nj.gov

**RE: IN THE MATTER OF THE PROVISION OF BASIC GENERATION SERVICE
FOR THE PERIOD BEGINNING JUNE 1, 2021
BPU DOCKET NO. ER20030190**

Dear Secretary Camacho-Welch:

On behalf of our client, the Retail Energy Supply Association (“RESA”), enclosed please find RESA’s Reply Comments on the Basic Generation Service (“BGS”) filings for the Period Beginning June 1, 2021.

Respectfully submitted,



Murray E. Bevan

Enclosure

cc: Service List

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE PROVISION OF)
BASIC GENERATION SERVICE FOR) DOCKET NO. ER20030190
THE PERIOD BEGINNING JUNE 1, 2021)**

**COMMENTS ON BEHALF OF
THE RETAIL ENERGY SUPPLY ASSOCIATION (RESA)**

The Retail Energy Supply Association (“RESA”) appreciates this opportunity to comment on the Basic Generation Service (“BGS”) filings for the Period Beginning June 1, 2021 (“BGS 2021”).¹ RESA opposes the EDCs’ joint proposal to change the BGS process and Section 15.9 of the Supplier Master Agreement (“SMA”) to transfer responsibility of transmission payments from the BGS suppliers to the EDCs because the proposal only applies to the BGS customers rather than being offered in a uniform, competitively neutral manner to customers of both Third Party Suppliers (“TPS”) and BGS suppliers.

RESA agrees with the following alternative proposal set forth in Direct Energy’s comments:

[S]hould the New Jersey Board of Public Utilities (“NJBPU”) adopt the state’s Electric Distribution Companies’ (“EDC’s”) proposal to remove transmission from the Basic Generation Service (“BGS”) product, it should also authorize Third Party Suppliers (“TPS”) to remove the transmission component from their rates. The NJBPU should further require the EDC’s to collect all transmission costs from all customers via a separate line item either on the supply or distribution side of the house.

For the past five years RESA has consistently argued in favor of moving transmission costs into an EDC wires charge for both BGS and TPS. As the EDCs accurately noted in their BGS 2021 proposal, in 2015 RESA took the position that the EDCs would be best suited to handle charges related to Network Integration Transmission Service (also called “NITS”), PJM Transmission

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

Enhancement Charges (“TECs”), and Reliability Must Run (“RMR”) and that such charges should be accounted for by the EDCs through a reconcilable and nonbypassable charge.² RESA took a similar position in the 2016 BGS proceeding,³ but the EDCs opposed RESA on the issue⁴ and the Board ultimately supported the EDCs’ position that transmission costs should not be moved into an EDC wires charge. Specifically, the Board stated that maintaining the full requirements nature of the BGS product was a reasonable means of compensating BGS suppliers for un-hedgeable costs.⁵ This of course ignores the fact retail suppliers have these same un-hedgeable costs which could be handled in a competitively neutral fashion by moving transmission as well as NITS and TECs into an EDC wires charge.

Clearly, what has changed in the upcoming 2021 BGS Auction year is an increased risk on both TPS and BGS suppliers associated with FERC delays in approvals for payment of transmission-related costs. The EDCs’ concerns over risk premiums being included in the BGS bids as a result of these FERC delays are also true for TPSs competing in New Jersey energy supply marketplace. TPSs have the same un-hedgeable costs as BGS suppliers, which could be handled in a competitively neutral fashion by moving both BGS and TPS transmission costs into the EDC wires charge.

The consequences of only granting transmission cost relief to BGS customers is to place TPS customers at a further pricing disadvantage compared to BGS customers. RESA agrees with

² RESA Initial Comments at 4, *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2015*, BPU Docket No. ER14040370.

³ RESA Initial Comments at 5, *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2016*, BPU Docket No. ER15040482.

⁴ In its November 16, 2015 BGS order the Board summarized the EDCs’ position as follows:

[T]he EDCs assert that shifting all transmission responsibility to the EDCs is a step backward, not forward. BGS was founded on the simple principle that the BGS provider was to be the Load Serving Entity (“LSE”) with responsibility for all PJM-mandated functions. Doing so provides full parity and competitive neutrality with TPSs, and embodies the letter and spirit of the Electric Discount and Energy Competition Act (“EDECA”). In the past, arguments have been made that certain functions that in the EDCs’ view are appropriately handled by the LSEs should be placed back on the EDCs. This is a view that has been and should continue to be rejected. The Board should reject RESA’s request to shift transmission cost responsibility from BGS providers to the EDCs. (EDCs’ Final Comments at 12 -13).”

Decision and Order at 34-35, *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2016*, BPU Docket No. ER15040482 (November 16, 2015).

⁵ See Decision and Order at 49, *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2016*, BPU Docket No. ER15040482 (November 16, 2015).

Direct Energy's argument that the EDCs' proposal will create an artificial look and feel of the Price to Compare (PTC). In their Initial Comments Rate Counsel also recognized there were potential issues with the current Price to Compare (PTC) process by moving transmission costs into a wires charge for only the BGS product.

According to the Board's own website, the Price to Compare "represents the portion of the utility bill that will be replaced by the charges of a Third Party Supplier if a customer switches to a third party supplier".⁶ The Board's website further explains the Price to Compare as follows:

On an electric utility bill, the Price to Compare is the average cost per kilowatt-hour (kWh) for electric generation and **transmission**. The Price to Compare includes energy, capacity, **transmission**, ancillary services, line losses, state sales tax, etc. The Price to Compare also includes a reconciliation of costs. The Price to Compare will generally change seasonally on June 1st and October 1st of each year to reflect changes to the energy, capacity, and ancillary service costs components. **However, it will also change from time to time to reflect Federal Energy Regulatory Commission approved changes to the transmission cost component, changes to the reconciliation cost component and other approved changes...**If a customer can find a TPS to sell electric supply for a price that is less than their electric utility's Price to Compare and/or sell them gas supply for a price that is less than their gas utility's Price to Compare, then that customer *may* be able to save money on his or her utility bill.⁷

The EDCs propose that the resulting lack of parity between BGS and TPS in the Price to Compare could be solved by continuing to include the transmission costs on the supply-side of the bill for both BGS and TPS.⁸ This idea fails to address the far larger problem with the EDC's proposal that TPSs will need to continue charging their customers a risk premium to attempt to hedge against the delayed reimbursement of transmission payments while the BGS suppliers will no longer face such a risk and would result in prices being artificially lower than the TPS prices. Decisions that drive down BGS pricing as compared to TPS pricing would cause more customers to opt for the default BGS option. This completely contradicts the intent of EDECA, including its mandate to "place greater reliance on competitive markets, where such markets exist, to deliver energy services to consumers in greater variety and at lower cost...."⁹ Moreover, the Legislature

⁶ <https://nj.gov/njpowerswitch/shop/compare/>

⁷ *Id.* (emphasis added).

⁸ See slide 5 of NERA-EDC panel presentation at BGS 2021 Hearing (September 11, 2020).

⁹ N.J.S.A. § 48:3-50(a)(2).

expressed a clear intent in EDECA that BGS would serve as only a temporary transition measure until retail electricity choice could be fully implemented in New Jersey.¹⁰ Clearly, the Legislature's intent in establishing the BGS product was to allow customers to have a default basic service option if those customers choose to not shop for competitive TPS products. EDECA requires that: "Power procured for basic generation service by an electric public utility shall be purchased, at prices **consistent with market conditions.**"¹¹ The EDCs' proposal is not at all consistent with market conditions. Competitive market customer should not be penalized as the Board attempts to address the impact of FERC pricing delays.

Any fears that the TPS suppliers would take advantage of their respective transmission costs being moved into an EDC wires charge are completely unfounded. In order to continue to compete effectively in a competitive energy supply market TPSs would need to pass along the transmission costs reduction to their customers. If the TPSs continue to charge customers more for electricity supply, those customers would simply migrate back to the BGS product. EDECA was enacted with the expectation that the competitive retail market could regulate itself as customer behavior will send suppliers the correct price signals.

The pricing distortion between TPS and BGS customers that will result from adopting the EDCs' proposal will be a particularly serious problem for the government energy aggregation market in New Jersey. The government energy aggregation market has delivered value to many municipalities and counties in recent years. Municipal and county aggregation RFPs usually require the TPS bidding on an aggregation to offer a price that is lower than the BGS rate.¹² Both

¹⁰ See N.J.S.A. § 48:3-57(a)(1).

¹¹ N.J.S.A. § 48:3-57(a)(1) (emphasis added).

¹² See NJ Power Switch – Government Energy Aggregation, <https://nj.gov/njpowerswitch/gea/> ("The Government Energy Aggregation Act of 2003 (L. 2003, c. 24, "GEA Act"), authorizes municipalities and/or counties of New Jersey to establish a Government Energy Aggregation (GEA) program. A GEA program allows municipalities, working alone or in a group, to aggregate the energy requirements of residential, commercial and municipal customer accounts so that the participating customers can purchase electric supply and /or gas supply from Third Party Suppliers (TPSs) at prices lower than the average utility price, with the possibility of added benefits such as higher renewable energy content."); see also N.J.S.A. § 48:3-92(b):

The award of a contract for a government energy aggregation program shall be based on the most advantageous proposal, price and other factors considered. The governing body shall only award a contract for service to residential customers where the rate is the same as or lower than the price of basic generation service pursuant to section 9 of P.L. 1999, c. 23 (C. 48:3-57), plus the pro-rata value of the cost of compliance with the renewable energy portfolio standards imposed pursuant to this act derived from a non-utility generation contract with an electric public utility and transferred

existing contracts and future competitive bids will be affected by adoption of the EDCs' proposal. The government aggregation market and the cost saving to residents and businesses in municipalities and counties could grind to a halt.

The potential for increased transmission costs to all New Jersey customers could easily be addressed by the Board by transferring the responsibility for transmission payment to the EDCs for both TPS and BGS customers. Ohio has successfully implemented this approach in a competitively neutral manner for both retail supply and default supply customers in all of its electric utility service territories.¹³

RESA would urge the Board to grant the same relief to TPS customers which has been proposed by the EDCs for BGS supply; specifically, to transfer responsibility for transmission payments from the TPS suppliers to the EDCs. In the alternative, should the Board determine that it is constrained by the BGS procedural format from granting such relief to TPS customers the Board should immediately move to establish a separate proceeding to address transferring TPS transmission costs to the EDCs. In addition, RESA has long sought a meaningful Price to Compare that allows all customers to compare TPS and BGS pricing. Should the Board go forward with the one-sided proposal to move only BGS transmission costs into an EDC wires charge the Board should quickly institute a Price to Compare proceeding to address needed modifications to the Price to Compare requirements so it can become a useful tool for all customers when shopping for electric supply service.

by the electric public utility to a supplier of basic generation service or basic gas supply service pursuant to section 10 of P.L. 1999, c. 23 (C. 48:3-58), as determined by the board. The governing body may award a contract for electric generation service where the rate is higher than the price of basic generation service as determined by the board pursuant to section 9 of P.L. 1999, c. 23, plus the pro-rata value of the cost of compliance with the renewable energy portfolio standards imposed pursuant to this act derived from a non-utility generation contract with an electric public utility and transferred by the electric public utility to a supplier of basic generation service, provided that the award is for electricity the percentage of which that is derived from verifiable Class I or Class II renewable energy as defined pursuant to section 3 of P.L. 1999, c. 23 (C. 48:3-51) is greater than the percentage of Class I and Class II renewable energy required pursuant to subsection d. of section 38 of P.L. 1999, c. 23 (C. 48:3-87), and that the customers are informed, in a manner determined by the board secretary, that such a higher rate is under consideration by the governing body.

¹³ See In the Matter of the Application of Ohio Power Co. for Auth. to Establish A Standard Serv. Offer Pursuant to R.C. 4928.143, in the Form of an Elec. Sec. Plan. in the Matter of the Application of Ohio Power Co. for Approval of Certain Accounting Auth., No. 13-2385-EL-SSO, 2015 WL 3930529, at *57 (F.E.D.A.P.J.P. Feb. 25, 2015); Energy Choice Ohio, <http://energychoice.ohio.gov/ApplesToApplesComparision.aspx?Category=Electric&TerritoryId=2&RateCode=1> (“Your distribution and transmission rates are determined through your local utility company.”).