NEW JERSEY SENATE
SENATE ENVIRONMENT AND ENERGY COMMITTEE
SENATE BILL 1925
SOLAR LEGISLATION
COMMITTEE HEARING – MAY 17, 2012

TESTIMONY OF JAY L. KOOPER ON BEHALF OF THE RETAIL ENERGY SUPPLY ASSOCIATION

Good morning Chairman Smith and members of the Committee. My name is Jay Kooper, and I am the Director of Regulatory Affairs for Hess Corporation ("Hess"), which as you know is a Fortune 100 company and a licensed and active retail electricity supplier based in Woodbridge, New Jersey that serves customers throughout the Mid-Atlantic and Northeast regions. I am also the New Jersey Chairman of the Retail Energy Supply Association ("RESA"), a 22-member group of established and diverse retail electric power suppliers that provide innovative and value-added energy products to residential, commercial and industrial customers in New Jersey and in retail markets throughout the PJM, New York and New England regions and other competitive markets in North America.[1] Thank you for the opportunity to appear before you today on behalf of RESA to discuss Senate Bill 1925.

[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.

RESA is deeply appreciative that Senator Smith and members of this Committee have engaged RESA in the process of developing this legislation and have addressed some of RESA's concerns related to earlier drafts of the legislation, and RESA looks forward to further working together to ensure that this legislation achieves its intended outcome without harming retail suppliers. RESA is particularly pleased that, unlike the Solar Energy Advancement and Fair Competition Act ("SEAFCA") enacted in 2010, S-1925 attempts to exempt *both* retail suppliers and wholesale providers from meeting the increased solar RPS with regard to existing BGS contracts. Under SEAFCA, retail suppliers were forced to pay tens of millions of dollars more than their share of the solar RPS due to the inequitable distribution of solar RPS requirements between retail suppliers and wholesale providers. Thus, SEAFCA created a competitive disadvantage wherein only retail suppliers and their customers were forced to bear the brunt of changes to the State's solar RPS requirements, a significant shortcoming that this legislation hopefully will not repeat.

While we believe S-1925 is intended to exempt all existing supply contracts, there remain ambiguities in this draft of the legislation which could be interpreted to once again unfairly require TPSs to shoulder the increased cost of new solar RPS requirements. If it is the intent of this legislation to protect existing TPS contracts from an increase in the solar RPS, we request that the legislation be further clarified to explicitly exempt supplier contracts from increases. We also believe that the language in the current bill creating an automatic 20% increase in the solar RPS will once again disrupt the competitive balance between BGS providers and TPSs, as BGS sprovider contracts would be exempted from this increase and TPSs would be, once again, unfairly required to purchase more SRECs than their BGS provider counterparts. We are hopeful that this legislation will provide stability for the solar market and avoid the necessity for future increases to the solar RPS.

RESA is concerned that any new contracts executed after enactment of this legislation and before EY 2016 will have to meet the significantly higher RPS requirement on their own. In other words, any new contracts must effectively include the portion of the increased solar RPS requirements which would have otherwise fallen on suppliers with existing contracts, which may have the effect of tripling the SREC requirement for customers executing new contracts. Not only does this pose a major deterrent for suppliers seeking to enter new contracts, but it also creates a major administrative burden for Board of Public Utilities ("Board") staff and suppliers alike, who must calculate the exempt load portion that has been foisted upon new contracts. Accordingly, RESA believes that S-1925 should be amended to provide that any increase in the solar RPS should not be effective until EY 2016.

Delaying an increase in the solar RPS to EY 2016 provides two main advantages to the current draft of the legislation. First of all, it provides immediate price support to the solar industry, since SRECS are bankable for up to three years, i.e., until EY 2016. Second, it avoids the need to include a grandfathering provision for existing contracts, which can -- and has, under SEAFCA -- led to confusion and difficulty among Board staff and suppliers required to comply with the increased SREC requirements for new contracts, especially with regard to accounting for the exempt load. Accordingly, the legislation should be amended to defer any increase until EY 2016.

RESA would like to thank the members of this Committee, its Staff and the bill's sponsors for providing us with the opportunity to address our concerns and incorporating our suggestions to ensure that Senate Bill 1925 achieves its intended outcome without disrupting the competitive balance of a robust retail electric market that is currently providing significant choice, savings and value to New Jersey residents and businesses. I will be happy to answer any questions you may have.