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VIA ELECTRONIC AND REGULAR MAIL

Michael Winka
Senior Policy Advisor for Smart Grid
President's Office
44 South Clinton Avenue, 9th Floor
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Trenton, NJ 08625-0350
OCE@bpu.state.nj.us

Re: RESA's Comments on the Combined Heat and Power Portfolio Standard Straw Proposal

Dear Mr. Winka:

On behalf of the Retail Energy Supply Association's ("RESA's")[1] Third Party Suppliers ("TPSs") of natural gas, we submit these comments regarding the Combined Heat and Power ("CHP") Long Term Financing Mechanism Straw Proposal ("Proposal") issued by the Board of Public Utilities ("Board") on April 15, 2013. RESA members offer retail electric and natural gas service to commercial, industrial and residential customers in New Jersey, throughout PJM and in other competitive markets across North America. For the reasons described in detail below, RESA recommends that the Board modify the Proposal to enable TPSs to have the same opportunities as the Gas Distribution Companies ("GDCs") to supply natural gas to the CHP projects supported under the Proposal.

[1] RESA's members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Hess Corporation; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG, Inc.; PPL EnergyPlus, LLC; 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.

As a threshold matter, RESA would like to commend Board staff for recognizing all of the portfolio standards that energy suppliers are currently obligated to meet in New Jersey and for proffering a Proposal that does not foist yet another obligation upon them. Unlike other programs administered by the Board, such as the solar and offshore wind portfolio standards, this Proposal does not require suppliers to procure energy efficiency measures in order to meet the Energy Efficiency Portfolio Standard ("EEPS") set forth in the Proposal. Rather, the Proposal sets forth the superior approach of requiring the Electric Distribution Companies ("EDCs") and GDCs to meet the EEPs by providing upfront financing to CHP projects as loans supported by their rate base.

Moreover, RESA appreciates that, unlike with past portfolio standard requirements, this Proposal does not discriminate against TPSs by requiring them to break existing supply contracts to meet the new portfolio standard, while exempting utility suppliers from the same requirements. Nor does it require TPSs to purchase Renewable Energy Credits ("RECs") in excess of their load which was the case with previous programs. In this manner, the Proposal is competitively neutral and promotes the core policy of the Electric Discount and Energy Competition Act ("EDECA") to "place greater reliance on competitive markets, where such markets exist, to deliver energy services to consumers in greater variety and at lower cost than traditional public utility service." N.J.S.A. 48:3-43,. N.J.S.A. 48:3-43, *et. seq.*

While RESA appreciates that the Proposal's procurement requirements do not discriminate against TPSs, RESA believes that the Proposal could be anti-competitive in another significant respect: it does not require that TPSs have the same opportunity as the GDCs to supply natural gas to the CHP projects supported by the Proposal. Rather, it gives the GDCs the exclusive opportunity to sell natural gas to those CHP projects they finance under the Proposal even though both customers of GDCs and TPSs are financing these CHP projects through their base rates. Even if the GDCs do not require the CHP projects to use their gas supply as a condition to receiving financing (which it appears they can do under the Proposal), they will have an advantage over third party natural gas suppliers insofar as they have an existing relationship and detailed knowledge about the timing and details of various CHP projects. To avoid this unfair advantage, RESA believes that the Proposal should ensure that TPSs have the same opportunity as the GDCs to sell gas to the CHP projects receiving financing under this Proposal. Otherwise, both those customers of GDCs and TPSs are financing the CHP projects through their base rates, while only GDCs are reaping the benefits of increased gas sales.

It is no secret that CHP projects are very attractive to natural gas customers and that this Proposal provides a significant opportunity for natural gas suppliers to increase sales. In accordance with EDECA, the Board should enable all natural gas suppliers, including the GDCs, to have the same market opportunity to compete for these sales. By modifying the Proposal to

require that TPSs have the same opportunity to compete to sell gas to these CHP projects funded through the Proposal, the Board will support EDECA and enable CHP customers to benefit from myriad choices regarding their gas supply. Specifically, these customers will be able to access innovative and tailored energy products and services that are offered by TPSs. They can then compare these value-added products and services with those offered by other TPSs, as well as the GDCs, and choose the combination that best meets their particular needs.

RESA appreciates the opportunity to comment regarding this important matter and looks forward to working with Board staff and all stakeholders in this proceeding to craft a Proposal that promotes both energy efficiency and a competitive natural gas market. Please do not hesitate to contact me should you have any questions or concerns.

Respectfully submitted,

Murray E. Bevan