BPU NEWS RELEASE
NEW JERSEY BOARD OF PUBLIC UTILITIES

Chris Christie, Governor
Kim Guadagno, Lt. Governor

RICHARD S. MROZ, PRESIDENT
JOSEPH FIORDALISO, COMMISSIONER
MARY ANNA HOLDEN, COMMISSIONER
DIANNE SOLOMON, COMMISSIONER
UPENDRA CHIVUKULA, COMMISSIONER

For Immediate Release:
July 29, 2016

Contact:
Susanne LaFrankie
609-292-0701
Greg Reinert
609-777-3305

N.J. Board of Public Utilities Appeals the Federal Energy Regulatory Commission's Ruling on PJM's Capacity Performance Construct

TRENTON, N.J. – The New Jersey Board of Public Utilities (Board) today ratified the filing of a Notice of Appeal to the United States Court of Appeals for the D.C. Circuit. The Board challenges the decision of a divided Federal Energy Regulatory Commission (FERC) denying rehearing of PJM's Capacity Performance construct. FERC denied rehearing by a 2-1 vote, with Chairman Bay dissenting. A year ago, a divided FERC first approved PJM's Capacity Performance construct. The initial approval also included a noteworthy dissent from Chairman Bay.

"FERC has not examined whether approving the Capacity Performance construct makes financial sense for consumers," said Richard S. Mroz, President, New Jersey Board of Public Utilities.

In filing the appeal, the Board is joined by the American Public Power Association, the National Rural Electric Cooperative Association, and the Public Power Association of New Jersey.

The Capacity Performance construct is designed to acquire electric generation resource capacity to ensure electric reliability in the PJM region. In its Request for Rehearing, the Board contended that FERC's approval of the Capacity Performance construct was arbitrary and capricious. The Board's challenge was based, in part, on FERC's failure to adequately consider the costs and benefits associated with the construct and on a flawed penalty mechanism. The American Public Power Association and the National Rural Electric Cooperative Association also sought rehearing on similar grounds. Although FERC denied rehearing, Chairman Bay's dissent highlights the flaws in FERC's approval of the Capacity Performance construct, including reference to the Board's Request for Rehearing.

"The Board has been concerned and actively advocating before PJM and FERC since PJM began planning and designing its Capacity Performance construct when the issue first arose in response to the Polar Vortex that occurred in the winter of 2013-2014," said Mroz. "We as a Board will continue to advocate New Jersey's interest in this case and any others that impact upon ratepayers and the regulated utility companies."

The Request for Rehearing, co-authored by the Board and the Public Power Association of New Jersey and several other parties, is available here:
http://nj.gov/bpu/pdf/reports/CP_Rehearing_Brief.pdf .

FERC's non-unanimous denial of this request forms the basis for the Board's appeal.

###