



**NEW JERSEY BOARD OF PUBLIC UTILITIES
I/M/O BOARD'S INVESTIGATION OF CAPACITY
PROCUREMENT AND TRANSMISSION PLANNING
DOCKET NO. EO11050309**

HEARING – JUNE 17, 2011

**THE RETAIL ENERGY SUPPLY ASSOCIATION
INITIAL COMMENTS**

The Retail Energy Supply Association¹ (“RESA”) welcomes the opportunity to provide comments in this proceeding and supports the focus of the Board of Public Utilities (“BPU”) on ensuring reliable electricity service and adequate generation supply to the homes, schools, hospitals, and businesses of New Jersey. RESA member companies, who are licensed third-party suppliers (“TPSs”) in New Jersey, provide customers with robust choices of both commodity-related services like fixed and market-price indexed products and green-related products such as renewable energy, demand response programs, energy efficiency and carbon reduction.

As a preliminary matter, RESA would like to suggest that the BPU conduct a thorough analysis as to whether a reliability or resource adequacy issue currently exists, and if so, over what period of time and under what specific circumstances. RESA believes that the BPU will be most effective in protecting reliable electric service for New Jersey customers if it first gains a comprehensive understanding of the specific problems that need to be addressed. If a resource

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; MXenergy; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant Energy Northeast LLC 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.

adequacy issue is determined to exist, then RESA respectfully urges that the recommendations which result from the BPU's efforts be structured in a manner that provides choice to New Jersey's customers, while continuing to foster the state's retail electricity market and maintain existing market efficiencies realized through competition, principles of cost causation, and the appropriate allocation of risk away from New Jersey customers and onto investors.

The promise of a robust retail electricity marketplace envisioned in the Electric Discount and Energy Competition Act ("EDECA"), has begun to be realized in recent years. A progressively increasing amount of residential, commercial and industrial consumers are taking advantage of competitive energy rates offered by retail suppliers, according to New Jersey's most recent switching statistics published in April, 2011.² Competitive markets bring choice and innovation to customers, as well as a vast array of pricing alternatives that enable customers to determine the product that is best suited to their individual needs. In order for the retail electricity market to continue to bring value to New Jersey customers, resource adequacy policies must recover costs of capacity from market participants in an equitable manner that does not threaten the ability of customers to choose their retail generation services provider. While RESA takes no position as to whether the current capacity market overseen by PJM is fulfilling its intended purpose, it is important to note that the mechanisms to allocate and recover the costs associated with the current model are transparent and equitable to market participants. The current model supports retail competition by allocating the costs of capacity to all load serving entities in an even-handed manner. Accordingly, any BPU program to procure additional generation capacity should be structured in a way that does not threaten the continued viability of the competitive retail market or restrict customers' ability to choose from a broad spectrum of innovative and tailored energy products and services provided by TPSs.

As the BPU contemplates its next steps, RESA would like to ask the BPU to continue to protect New Jersey customers from unreasonable monetary risks, to promote regional market-based solutions to the State's energy needs, and to encourage and implement policies that will enhance retail competition. RESA also asks that the BPU preserve the bedrock competitive market principle that investors, and not ratepayers, should bear the risks associated with the construction and operation of new generation. In addition, RESA offers its belief that New

² The New Jersey Electric Switching Statistics spreadsheet posted on the BPU's website provides that a total of 8.5% electrical accounts, representing 36.4% of load, have switched to a TPS as of April, 2011. This includes 7% of residential accounts, 17.8 % of commercial and industrial accounts less than 500 kW, 49.4% of commercial and industrial accounts between 500-750 kW, 80% of commercial and industrial accounts between 750-1000 kW and 73.4% of commercial and industrial accounts over 1000 kW.

Jersey's long-term public interest is best served by a properly-designed and transparent market structure that relies upon unsubsidized, competing supply resources to meet consumer demands. This approach not only appropriately protects New Jersey's families and businesses from the risks of generation development and its associated monetary costs, but also enables consumers to avail themselves of the reduced costs and increased efficiency that competition provides.

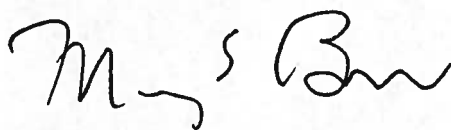
RESA would also like to ask the BPU to be mindful that any resource adequacy solutions that require an intervention in the market through subsidies or purchase mandates on load serving entities, by definition, would require some or all New Jersey customers to incur the increased, above-market costs of that subsidy. In a restructured competitive market, such as the one in place in New Jersey, it may be difficult to implement a cost recovery mechanism that efficiently and fairly assesses the cost of that subsidy across customer classes. Proper competitive retail market design requires that all costs associated with energy, capacity and related services be fully bypassable for customers that leave BGS to take service from a TPS. In other words, customers should be empowered to choose their generation supply, rather than having supply of a specific type or from a mandated specific source. A regulatory intervention to support additional capacity procurement that obligates a TPS to obtain generation from a specific source at a specific price presents serious cost recovery problems that must be considered. Such a regulatory intervention presents a serious risk of future stranded costs for those that remain on BGS service. If the costs of mandated capacity purchases are only reflected in the bypassable rates for BGS service provided by the utilities and market prices are below the cost of the mandated capacity purchases, then customers have an obvious incentive to switch away from BGS service to avoid those costs. This will create a downward spiral that drives up costs for those customers remaining on BGS service. RESA is gravely concerned such a cost recovery structure could lead to policies aimed at limiting retail choice in order to ensure that customers are held captive to pay for the costs of such capacity purchases.

Employing a non-bypassable charge that requires all customers to pay for the subsidy regardless of the customer's chosen supplier raises its own set of concerns and issues. Such a charge represents a departure from competitive retail market principles of cost causation, and establishes a mandate that all customers must pay for certain generation facilities even if they are not purchasing their supply from the utility. Shopping customers would, in a sense be required to pay for generation twice — once to their utility through the non-bypassable charge, for which they receive no direct energy supply, and once to their retail supplier of choice.

Regardless of which cost recovery mechanism the BPU might adopt, RESA recommends that New Jersey carefully examine whether there is a need for new generation to meet anticipated demand before implementing regulatory interventions. If the BPU does move forward, issues relating to cost recovery — how much, how recovered, and from whom — will be critical issues with each option presenting its own set of concerns. It is imperative that the costs of any new resource adequacy policies adopted by the state are fairly allocated to load serving entities in a manner that neither threatens the ongoing sustainability of the competitive retail market nor undoes the many benefits that New Jersey customers have gained through the emergence of retail choice.

In conclusion, retail competition is already bringing the benefits that EDECA envisioned for commercial and industrial customers and has begun to take hold for residential and small commercial customers as well. RESA encourages the BPU to structure any program designed to ensure reliability and adequate supply for the state in a fair, transparent, prospective, and predictable manner that protects New Jersey customers from the risks associated with generation development. RESA further encourages the BPU to leverage regional wholesale market and competitive retail market solutions to ensure reliable service that also fosters the innovation and customized value afforded to New Jersey by customer choice. RESA appreciates the opportunity to testify regarding this important matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Murray E. Bevan". The signature is fluid and cursive, with the first name "Murray" and last name "Bevan" clearly distinguishable.

Murray E. Bevan
Bevan, Mosca, Giuditta & Zarillo, P.C.
Counsel for the Retail Energy Supply Association
222 Mount Airy Road
Suite 200
Basking Ridge, NJ 07920
(908) 753-8300
mbevan@bmgzlaw.com

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