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October 26, 2012

Via Overnight Delivery and Electronic Mail
Honorable Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: Staff Draft Straw Proposal NJCEP 2013 through 2016 Funding Level Now the NJCEP 2014 through 2017 Funding Level Comprehensive Energy Efficiency and Renewable Energy Resource Analysis August 22, 2012 BPU Docket No.: EO11050324V

Dear Secretary Izzo:

Enclosed please find an original and ten copies of comments submitted on behalf of the New Jersey Division of Rate Counsel in connection with the above-captioned matters. Copies of the comments are being provided to all parties by electronic mail and hard copies will be provided upon request to our office.

We are enclosing one additional copy of the comments. Please stamp and date the extra copy as "filed" and return it in our self-addressed stamped envelope.

Thank you for your consideration and assistance.

Respectfully submitted,

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Staff Draft Straw Proposal
NJCEP 2013 through 2016 Funding Level
Now the NJCEP 2014 through 2017 Funding Level
Comprehensive Energy Efficiency and
Renewable Energy Resource Analysis
August 21, 2012

BPU Docket No. EO11050324V

Comments of the New Jersey Division of Rate Counsel

October 26, 2012

INTRODUCTION AND SUMMARY

The Division of Rate Counsel ("Rate Counsel") would like to thank the Board of Public Utilities ("BPU") or ("Board") for the opportunity to present comments on the August 21, 2012 Staff Draft Straw Proposal ("Straw Proposal") for funding levels for the New Jersey Clean Energy Program ("NJCEP", "CEP") for the 2014 through 2017 budget years. The Straw Proposal was issued by Board Staff as part of the proceedings initiated by the Board in October 11 for the purpose of developing program funding levels and funding allocations for the Office of Clean Energy ("OCE") calendar years 2013 through 2016. I/M/O the Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for the 2013 – 2016 Clean Energy Program, BPU Dkt. No. EO11050324V, Order Establishing Procedural Schedule Issues to be Addressed (Oct. 7, 2011). As noted in the Straw Proposal, Board Staff has proposed that the current budget period, originally adopted for Calendar Year 2012, be extended through June 30, 2013 in order to coordinate the NJCEP budget year with the State's fiscal year. The Straw Proposal contains Board Staff's proposed funding levels for the four twelve-month periods ending June 30, 2014, June 30, 2015, June 30, 2016, June 30, 2017, referred to in the text of the Straw Proposal as the 2014 through 2017 budget years.[1]

In the Straw Proposal, Board Staff is proposing to collect in excess of $1.2 billion from ratepayers over a four-year period to fund OCE's energy efficiency ("EE") and renewable energy ("RE") programs and the costs to administer them, certain Economic Development Authority ("EDA") programs, State EE and RE projects, and State Energy Costs. The Straw Proposal purports to be the result of a "comprehensive energy efficiency and renewable energy resource analysis." Straw Proposal at 1. However, based on Rate Counsel's review, it is apparent that the analysis conducted to date has been inadequate.

A proposal of this size and scope should be the result of an ordered process that results in a budget specifically targeted to meeting the State's long-term energy savings and emissions goals. Instead of undertaking such a process, Staff has concluded, without the appropriate supporting analysis, that "the market potential for EE and RE exceeds the Board rate impact acceptance level," and has therefore proposed to collect amounts that apparently reflect, in OCE's judgment, the maximum acceptable impact on ratepayers. See Straw Proposal at 18, 26. The Straw Proposal does not quantify concrete goals such as annual energy savings and emissions targets, nor does it explain the specific programs it wishes to implement in order to advance such goals. Such details, according to the Straw Proposal, will be forthcoming at a later date. Straw Proposal at 26-27.

Moreover, in setting its proposed spending goals it is not apparent that OCE appropriately considered the programs and initiatives that provide support for the development of renewable

[1] Staff states at page 26 of the Straw Proposal that Tables19 through 22 reflect Staff's proposed funding levels for the NJCEP budget years now designated as 2014 through 2017. However, Tables 19 through 22 refer to budget years "NJCEP 2013" through "NJCEP 2016." In order to avoid confusion for readers who may wish to consult Staff's Tables with reference to Rate Counsel's Comments, these Comments will use the budget years as shown on the Tables, i.e., 2013 through 2016, when referring to the information shown on the Tables.

energy and energy efficiency outside of NJCEP budget. The Straw Proposal recognizes that New Jersey's ratepayers provide such support both directly through a variety of utility-run programs, and indirectly as a result of generation service providers' compliance with the Board's Renewable Portfolio Standards ("RPS"). However, it appears that OCE apparently has not considered the contributions of these programs to the State's EE and RE goals, or their considerable present and future costs to ratepayers. The Straw Proposal also fails to acknowledge the potential impact of the recently enacted legislation (the "SBC Law"), N.J.S.A. 48:3-60.3, which will allow commercial and industrial customers to receive credits against their Societal Benefit Charge ("SBC") contributions for the costs of certain EE projects. The funding proposals contained in the Straw Proposal appear to have been developed without regard to the effect of these other programs on the need for programs funded through the NJCEP budget, or their present and future impacts on ratepayers.

Further, the Straw Proposal includes some elements that would appear to undermine the State's energy goals. As explained further below, the Straw Proposal includes continued financial support for renewable energy that seems at odds with the objective of increasing reliance on market-based mechanisms. It also contemplates a rapid transition from subsidies to financing for energy efficiency projects despite indications that this could undermine the achievement of the State's energy efficiency goals.

Rate Counsel recognizes that the Board is in the process of retaining a new Program Administrator that would assist the Board in developing detailed programs and budgets. In order to provide a meaningful opportunity for public input, this proceeding should remain open until a properly supported proposal is available. The Straw Proposal is simply an inadequate basis for the Board to determine the funding levels and budget priorities that should prevail for the next four budget years.

Based on the limited analysis provided, Rate Counsel has identified a number of issues that should be addressed as detailed programs and budgets are developed. These issues are discussed below.

I. RENEWABLE ENERGY PROPOSAL

Rate Counsel has the following concerns with OCE's 2014-2017 renewable energy budget proposals:

- OCE's proposal continues its past process of collecting funds without adequate spending plans, a practice that has resulted in a continuing pattern of large carryovers and re-allocations.
- The proposals appear at odds with the objectives of Board's policy goals of relying more on renewable energy markets (i.e., REC and SREC) and market-based approaches, and less on rebates and administratively determined programs, to support renewable energy.
- The proposals would increase the burden of ratepayer financial support for renewable energy without appropriately recognizing the already significant degree of financial support already provided by ratepayers, particularly for solar energy.
- OCE's proposal fails to provide a basic level of transparency regarding specific, program by program, funding over the budget's horizon.
- OCE's proposal fails to provide sufficient cost-effectiveness details as laid out by the New Jersey Energy Master Plan ("EMP").

These concerns are discussed in more detail below.

A. Continuation of Flawed Budgeting Approach.

OCE's renewable energy funding proposals amount to little more than a wish list of monetary support with little to no analytic support to justify burdening ratepayers with further renewable energy financing obligations. New Jersey has been able to meet its overall RPS requirements and has seen significant in-state solar energy development. Nonetheless, OCE is proposing to collect $20 million annually for renewable energy incentives and financing, with no clear details on how the money would be spent.

Rate Counsel has expressed its concerns about this type of budgeting process on numerous occasions.[2] OCE's past budgeting practices have consistently resulted in large amounts of carry-over dollars from year to year, and re-allocations of those carry-overs to either existing or new initiatives, with little analytic nor rate impact support. Rate Counsel has argued repeatedly that unspent CEP budget amounts (carry-overs) should be refunded to ratepayers, but OCE has instead reincorporated such funds in the budget for the following year.

As an example, Table 1 below shows that, in 2011, over 13 percent of Board approved financing was carried over into 2012. The Customer On-Site Renewable Energy ("CORE") program, in particular, has been plagued by incredible levels of carry-over dollars. The CORE program dates back to a period prior to the implementation of the Renewable Energy Incentive Program ('REIP"), and is the "legacy" method by which renewable energy projects received direct financial support. The CORE program, however, has been closed to new participants since 2008 to reflect the Board's new policy goal of moving larger renewable energy projects

[2] I/M/O the Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for 2010-2011: 2011 Programs and Budgets Compliance Filings: Transitions within the Clean Energy Program, BPU Docket No. EO07030203; Rate Counsel Comments on the Proposed Renewable Energy Program Budget for 2010-2011 (Nov. 17, 2010); and I/M/O Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for 2009-2012: 2011 Programs and Budgets: Proposed Changes to CORE and REIP Extension Policy and Proposal for Large Energy Users Pilot Incentive Program, BPU Docket Nos.: EO07030203 and EO10110865, Comments of the New Jersey Division of Rate Counsel (May 27, 2011).

towards greater reliance on the market-based support provided through revenues available to project owners by the sale of RECs and SRECs. The transition in "winding-down" the CORE program has been going on for over four years, and there are still considerable dollars in carry-over funding ($4.15 million) that should be returned to ratepayers immediately.[3]

Table 1: Historical Renewable Energy Carry-Over, Program Year 2011.

Programs	NJBPU Approved 2011 Budget	Carry-Over into 2012	Percentage of Budget Carried-Over
Customer On-Site Renewable Energy	$22,623,674	$5,333,862	23.58%
Clean Power Choice	$68,400	$4,236	6.19%
Offshore Wind	$10,870,253	$418,634	3.85%
Renewable Energy Program: Grid Connected	$11,282,832	$360,000	3.19%
Renewable Energy Incentive Program	$41,612,455	$6,042,211	14.52%
Edison Innovation Clean Energy Fund (formerly CST)	$3,655,277	$159,206	4.36%
SUB-TOTAL Renewables	***$90,112,891***	***$12,318,148***	**13.67%**

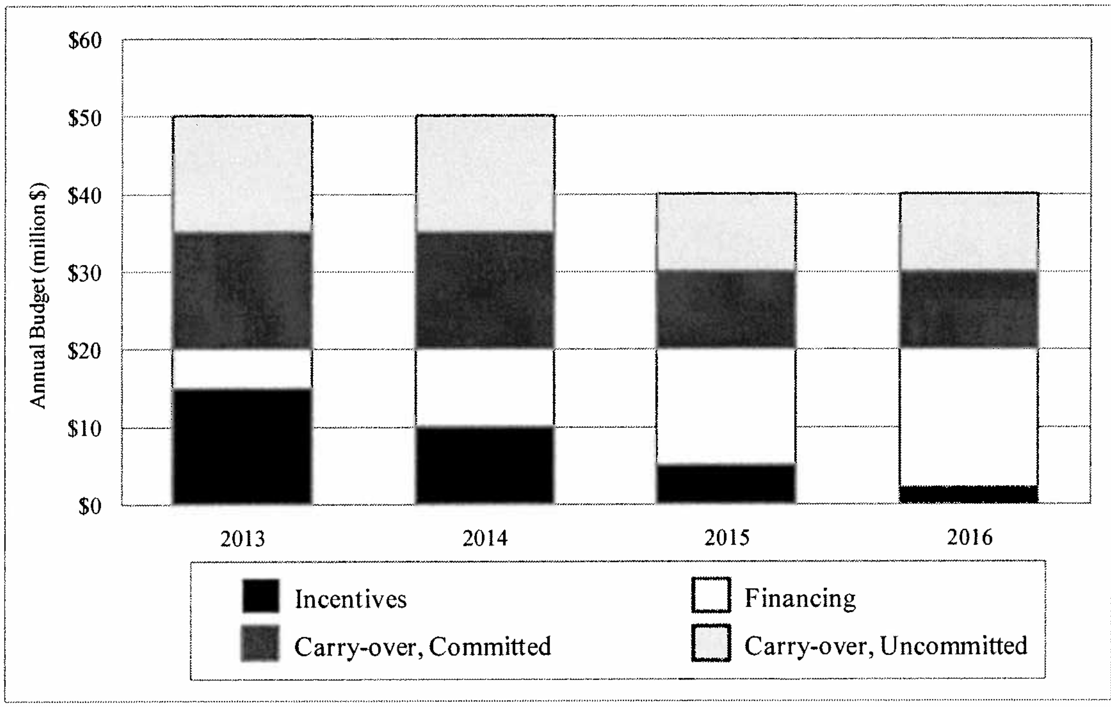
More recently, OCE's renewable energy budget was reduced by as much as $38.6 million to accommodate legislative appropriations, without compromising the State's ability to meet its RPS goals or continue with significant in-state solar development. Clearly, OCE has proven that it can achieve the same project outcomes with fewer ratepayer resources. The current proposal should reflect this ability.

The Straw Proposal does not reflect prior budget trends and continues OCE's practice of effectively "over-billing" ratepayers for clean energy support. For each of the four proposed budget years 2013 through 2016 (now referred to as 2014 through 2017), the OCE estimates that

[3] I/M/O the Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for 2010-2011: 2011 Programs and Budgets Compliance Filings: Transitions within the Clean Energy Program, BPU Docket No. EO07030203; Rate Counsel Comments on the Proposed Renewable Energy Program Budget for 2010-2011 (Nov. 17, 2010).

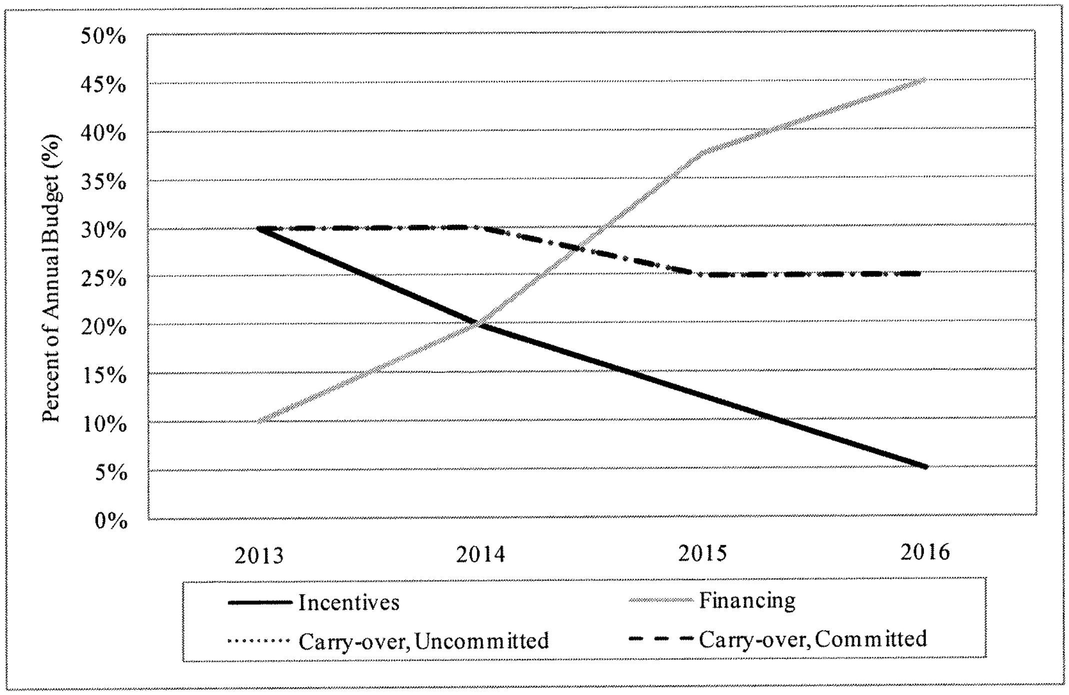
on average 27.5 percent of funds budgeted to the renewable energy program will be carried over in an uncommitted fashion to subsequent years. (See Figure 2 below) Over the four year budget horizon this uncommitted carry-over is estimated by the OCE to be $50 million.

Figure 1: Annual Renewable Energy Budgets, 2013 - 2016[4]



[4] Budget years as designated in Tables 19 through 22 of the Straw Proposal. See footnote 1 above.

Figure 2: Annual Renewable Energy Budget as Percentage of Total, 2013 – 2016[5]



Rate Counsel has stated in past comments, and continues to maintain, that the best approach to develop the CEP budget is to establish funding levels that are based upon firm analyses and reasonable levels of support. This will minimize over-collections and the need for mid-course corrections. To the extent that additional dollars materialize, Rate Counsel maintains these funds should be refunded to ratepayers and not re-allocated to new ideas that may also not be based upon any firm market analyses or firmly established policy need. The Straw Proposal would continue the historical "collect now-plan later" approach. OCE's ambiguously-defined budget would do nothing to end the process of carrying over large balances to facilitate new spending and program priorities as they reveal themselves, without proper analysis or public input.

[5] Budget years as designated in Tables 19 through 22 of the Straw Proposal. See footnote 1 above.

B. Inconsistency with Objective of Increased Reliance on Market-Based Mechanisms.

In Docket No. EO06100744, concerning the Board's Renewable Portfolio Standards, the Board recognized the need to reduce reliance on rebates to promote renewable energy development, particularly solar energy. The Board, instead, moved in the direction of promoting renewable energy development through the use of market-based mechanisms including placing greater reliance on REC and SREC revenues for renewable energy project support.[6] The Board's motives in transitioning to market-based mechanisms have been clear: (1) a successful renewable energy sector depends on the availability of stable incentive payments above market prices; and (2) rebate-type incentives are not sustainable in the long-term.[7]

Rate Counsel has supported OCE's proposals, and the Board's approval, of past CEP budgets that have consistently reduced the share of overall CEP funding associated with renewable energy. Yet, while those funding commitment levels have decreased, OCE continues to propose that considerable ongoing commitments to renewable energy be supported. The currently proposed renewable energy component of the Straw Proposal contemplates $20 million in additional annual funding for renewable energy "incentives" and "financing." Taking account of the carryovers that are likely to occur, the actual renewable energy budgets may be substantially higher. It is simply bad policy for the OCE to continue collecting substantial funds for its own renewable energy programs in light of the Board's past decisions to increase reliance on clean energy markets (RECs, SRECs) for project support. Increased use of rebates to assist in renewable energy development only serves to undermine and create instability in those markets.

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[6] In the Matter of the Renewable Energy Portfolio Standards – Alternative Compliance Payments and Solar Alternative Compliance Payments, BPU Docket No. EO06100744 Decision and Order Regarding Solar Electric Generation at 2 (Dec. 6, 2007).

[7] In the Matter of the Verified Petition of Jersey Central Power & Light Company Concerning a Proposal for an SREC-Based Financing Program Under N.J.S.A. 48:3-98.1, BPU Docket No.EO12080750, Order Designating Commissioner at 2 (Oct. 4, 2012).

C. Failure to Recognize Increasing Ratepayer Burden of Supporting Renewable Energy Outside of the NJCEP Budget.

OCE's current CEP budget proposal layers additional renewable energy financial obligations without appropriately recognizing the substantial ratepayer support given to renewable energy by means other than the NJCEP budget. Ratepayers are already providing substantial support through utility and utility-sponsored programs including: the Solar Loan I and II programs (PSE&G), the Solar 4 All program (PSE&G), and the SREC-Based Financing Programs (RECO, ACE, JCP&L). Additionally, there have been a number of additional proposals to extend or expand these existing utility programs including a proposal to extend the SREC-Based Financing Programs and PSE&G's Solar Loan and Solar 4 All programs.

In addition to the costs of programs that are recovered through specific surcharges in utility rates, ratepayers support renewable energy development in other ways. The costs of RPS compliance are reflected in the costs of basic generation service ("BGS") or electric generation service provided by non utility suppliers. The costs of net metering credits are absorbed by other ratepayers through higher rates for distribution service and higher SBC rates. The system upgrades needed to accommodate increasing levels of renewable generation on State's electric transmission and distribution system may also be reflected in other ratepayers' rates for distribution service. The Straw Proposal contains some information on these burdens, which, based on the limited information provided by OCE, already cost the State's ratepayers hundreds of millions of dollar annually. Straw Proposal at 20-24. However, the Straw Proposal does not contain any meaningful analysis of the impact of these costs on the appropriate level of additional support to be provided through the NJCEP budget. In light of the substantial burden already being placed on New Jersey ratepayers, and the fact that these other programs have ensured that the State will meet its solar RPS requirements for the next several years, Rate

Counsel does not support the OCE's recommendations to continue large ratepayer financial commitments in the OCE budget to support renewable energy.

D. Failure to Recognize Changing Market Conditions for Non-Solar and Solar Renewables.

The OCE's current CEP budget proposes to add an additional $20 million for RE incentives and financing for each of the four budget years addressed in the proposal. The OCE in Renewable Energy Committee meetings has provided little information on exactly what or how those dollars would be used other than to generally note that these new funds will be used to promote non-solar Class I renewables such as wind and biomass, as well as the administration of the SREC program. Yet such proposals do not adequately consider what can be reasonably expected in today's clean energy markets. It is highly unlikely that New Jersey's non-solar Class I RPS requirements will be met with a significant share of in-state, biomass or on-shore wind given past reporting trends.[8]

All New Jersey renewable energy projects must compete with a wide range of other renewable resources across the entire PJM market area. The price of PJM-sourced Class I RECs, over the past several years, has been driven in large part by lower-cost Midwestern wind energy. Thus, New Jersey on-shore wind and biomass resources must compete against much larger resources that are able to take advantage of scope, scale, and the ability to leverage other subsidized resources, such as bulk transmission lines, that are used to move this power into the Northeast. In the specific case of on-shore wind energy, New Jersey simply lacks the large scale

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[8] See, for instance, Tables 6 and 7, as well as Appendices 4 and 5, of OCE's 2010 Draft Annual Report on New Jersey's Renewable Portfolio Standard Rules. These tables and charts, collectively, show that the majority of New Jersey's Class I REC requirements were met by out-of-state wind and landfill gas resources. Biomass, while sourced from New Jersey, was an exceptionally small component of the overall Class I REC retirements. OCE has provided no evidence in its draft budget proposal regarding how or why these past RE capacity development trends will change under the proposed CEP budget.

potential found in other States. Continued funding of projects with limited potential to succeed in New Jersey would be neither efficient nor equitable to ratepayers.

Rate Counsel's conclusions are reinforced by the Board's recently-commissioned renewable energy market assessment performed by Navigant Consulting, Inc. ("Navigant"), which found only 132 MWs of technical potential for on-shore wind generation,[9] an amount approximately the average size of a single utility-scale wind generation project in the Midwest. It should be further noted that this finding by Navigant does not incorporate any economic limitations such as cost-effectiveness, meaning that New Jersey's real potential is probably far less than the technical potential reported by Navigant. It is doubtful that any New Jersey on-shore wind or biomass resource would be able to compete in the current renewable energy markets without substantial ongoing subsidies that are far higher than prices secured in today's REC market.

The OCE's proposal also ignores the changing conditions of the SREC market. As shown in Table 2 below, Rate Counsel estimates that New Jersey will have an oversupply of solar energy and SRECs for at least the next five years, or the entire horizon of the proposed budget.

[9] Market Assessment Services to Characterize the Opportunities for Renewable Energy, Presentation to the Renewable Energy Committee, October 9, 2012, page 9.

Table 2: New Jersey Solar Generation Forecast

Energy Year	NJCEP Solar Generation Forecast Item	Low	Medium	High
2012	OCE Projected SREC Availability (MWh)	641,900	641,900	641,900
	NJ Solar RPS Requirement (MWh)	442,000	442,000	442,000
	Percentage of RPS Requirement	**145.23%**	**145.23%**	**145.23%**
2013	OCE Projected SREC Availability (MWh)	1,255,600	1,291,100	1,355,200
	NJ Solar RPS Requirement (MWh)	596,000	596,000	596,000
	Percentage of RPS Requirement	**210.67%**	**216.63%**	**227.38%**
2014	OCE Projected SREC Availability (MWh)	1,819,300	1,974,700	2,177,300
	NJ Solar RPS Requirement (MWh)	1,726,615	1,726,615	1,726,615
	Percentage of RPS Requirement	**105.37%**	**114.37%**	**126.10%**
2015	OCE Projected SREC Availability (MWh)	2,299,600	2,667,400	3,054,800
	NJ Solar RPS Requirement (MWh)	2,093,566	2,093,566	2,093,566
	Percentage of RPS Requirement	**109.84%**	**127.41%**	**145.91%**
2016	OCE Projected SREC Availability (MWh)	2,681,300	3,355,800	3,975,200
	NJ Solar RPS Requirement (MWh)	2,383,652	2,383,652	2,383,652
	Percentage of RPS Requirement	**112.49%**	**140.78%**	**166.77%**

There is simply no justification for expending additional incentives to promote further solar (such as continuing CORE commitments) and other Class I renewable generation when the market is experiencing such an oversupply of these resources. Further incentives as proposed by the OCE will only serve to destabilize REC and SREC prices for current renewable generation owners, an occurrence directly in contradiction to one of the stated goals of the recently passed Solar Act.

E. <u>Failure to Evaluate Cost-Effectiveness.</u>

Within New Jersey's 2011 Energy Master Plan ("2011 EMP"), there are numerous references to promoting cost-effectiveness in renewable energy programs. Specifically, the 2011 EMP states the following:

> "One of New Jersey's most important policy goals is to moderate the electricity rates paid by consumers. For most businesses in New Jersey, energy costs are the second largest overhead item, behind labor-related expenses. (…) The State must reconsider all social policies that add to the cost of energy and must review, restructure, and reformulate the way the State promotes and subsidizes both traditional and renewable energy."[10]

The OCE's renewable energy proposal provides no evaluations of the cost-effectiveness of its proposals, providing only limited information on purported benefits from electric and natural gas savings, and electricity demand reductions. Rate Counsel asserts that the 2011 EMP is clear in its direction to executive agencies to assess the cost-effectiveness of any proposed renewable energy program, a policy directive the OCE has clearly ignored.

F. Failure to Provide Basic Levels of Transparency.

The OCE's CEP funding proposals are entirely devoid of any details regarding program-specific renewable energy goals and targets, and how those goals and targets make meaningful and cost-effective contributions to EMP goals. In addition to overall lack of detail mentioned in the above sections, the OCE has provided virtually no information on how it would spend the funds allocated to RE financing. The Straw Proposal allocates $22 million to renewable energy financing over four years, yet the OCE has not specified which renewable energy programs will benefit from this allocation and why those particular allocations are cost-effective and consistent with the EMP. Rate Counsel asserts that any meaningful analysis of the OCE's proposed budget would require an assessment of the effects to each individual program and how those proposed funding allocations represent a cost-effective method of meeting the New Jersey's EMP goals.

[10] 2011 New Jersey Energy Master Plan, December 6, 2011, page 86 (emphasis added).

II. ENERGY EFFICIENCY PROPOSALS

The Straw Proposal provides summary information on the CEP funding levels, expenditures, goals, actual participants and actual energy savings of the programs from 2001 through 2012. Also provided are overall budgets and rate impacts for utility EE programs. In Tables 19 to 22, the Straw Proposal projects funding levels for the CEP for 2014 to 2017. The OCE proposes total annual new funding levels for EE of $216.5 million in 2013, $201.5 million in 2014, and $182.5 million in each of the years 2015 and 2016. Comparatively, this is a reversal of the annual increases in budget levels from the 2009 through 2012 CRA funding levels, shown in Table 3 below.

Table 3: CRA Funding Levels for EE, 2009-2012 and Proposed, 2013-2016

	2009	2010	2011	2012	2013	2014	2015	2016
EE	176.5	208.0	260.0	325.0	216.5	201.5	182.5	182.5

Source: Board Order dated September 30, 2008 in Docket No. EO07030203, page 57; and Straw Proposal, Tables 19 through 22.

Consistent with the proposed decline in budget, the Straw Proposal would lead to a decrease in the overall CEP funding level and in ratepayer impacts over the four years.

Regarding funding allocations, the Straw Proposal recommends a funding split for electric and natural gas EE programs of 70% and 30% respectively, basically seeking to maintain the current 69% electric and 31% gas funding split. By sector, the Straw Proposal recommends gradually increasing residential funding as a percent of total funding over the four years.

The Straw Proposal also proposes a rapid shift from rebates to financing over four years. Financing would comprise 20.3% of the 2014 EE budget, and would increase to 66.0% of the EE budget in 2017.

Rate Counsel has a number of concerns with the Straw Proposal for EE, as explained below.

A. Budgeting Process Flaws

The budgeting process should first identify and quantify EMP goals such as annual MWH and therm savings targets. These are among the most important, high-level drivers that will inform annual and longer-term budgets. The budget process should include review and analysis of annual resource potential estimates, as well as savings expected from programs outside of the CEP (i.e., utility EE RGGI-funded programs and SBC Credit Program). The final proposed CEP budgets should reflect an underlying consistency across program origins (CEP, RGGI, SBC Credit) and program savings estimates, and recognize the contributions these programs can make towards meeting EMP goals. The budgeting process proposed by the OCE in the Straw Proposal does not follow these steps and is, therefore, significantly flawed.

As summarized in the Straw Proposal, the EE, demand response ("DR") and combined heat and power ("CHP") goals of the 2011 EMP include:

- Reduce electric consumption by 2020 to below 80,000 GWh (approximately 17% reduction);
- 3,624 MW of DR – 17% reduction; and
- 1,500 MW of CHP.[11]

[11] Straw Proposal, p. 12.

The OCE states that assisting New Jersey customers in achieving the EMP goals in the most efficient and cost effective manner is the major objective of the Straw Proposal for the CEP 2014-2017 funding levels. Straw Proposal, page 12. Rate Counsel agrees that the CRA process should adopt the EMP goals as a central premise, consistent with previous CRA cycles.[12]

However, despite stating that the EMP goals are central to its objective, the Straw Proposal does little more than acknowledge them. The Straw Proposal fails to demonstrate or mention how it would achieve the EMP energy use and emission reduction goals for 2020. At the most basic level, the Straw Proposal neither establishes baseline energy usage and corresponding emissions levels against which progress toward the electric consumption and demand response goals could be measured, nor does it set out any baseline for CHP capacity. Rather, proposed funding levels and associated energy savings summarized in Tables 19 to 22 of the Straw Proposal show a disconcerting drop in annual energy savings and emission reductions as the budget for financing grows and the budget for rebates shrinks from 2014 to 2017.[13] Based on these figures, Rate Counsel has serious concerns about whether the proposed funding levels and EE delivery strategies (i.e., increasing level of financing) have any reasonable likelihood of achieving the EMP goals.

For the EE programs, the goals for this CRA process should be stated in terms of energy savings and emissions reductions (both in physical units – GWh and MW - and as a percent of baseline forecasts) for each of the planning years 2014-2017. These savings projections should also be clearly presented for each major delivery mechanism (incentives and financing vehicles).

[12] E.g., per the April 27, 2007 Order initiating the third CRA process, "the 2009 through 2012 funding levels must support and implement the goals and strategies of the Draft EMP." See I/M/O Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for 2009-2012 Clean Energy Program, BPU Docket No. EO07030203 (Order, 9/30/08), page 5.

[13] The OCE apparently expects no or very low savings associated with financing mechanisms over the short term.

For CHP, the goals should be stated in MW, but also provide expected energy production. The recommended funding levels should be directly related to fulfillment of the EMP goals.

Instead of basing its analysis and proposal on goals, the OCE apparently determined the acceptable ratepayer impact and then sought to calculate the savings that can be achieved from the funding level consistent with those ratepayer impacts.[14] Both the discussion of how the proposed funding levels for 2014 through 2017 in Tables 19 through 22 were developed, and Tables 19 to 22 themselves, lack any mention of attaining the EMP goals.[15] The OCE's approach -- of first establishing spending levels -- is contrary to proper budgeting practice, and likely to be ineffective in advancing the State's EE goals.

B. Other Factors

The Straw Proposal did not mention such pertinent factors as a recently released market potential assessment, utility EE programs, the SBC Credit Program, and comprehensive rate and bill impacts, among others. These factors are discussed more fully below.

1. EE Market Potential Assessment

A review of energy efficiency resource potential is a critical component for setting annual savings targets in order to meet the long-term EMP goals. The results of the recently released EnerNOC Energy Efficiency Market Potential Assessment ("EnerNOC EE Market Potential Assessment") should be used as an input to the recommended funding levels, and the extent to which the results of this assessment support the level of investment suggested in the Straw

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[14] See Straw Proposal, pp. 18 and 26.

[15] "The proposed funding levels for 2014 through 2017 in Tables 19 through 22 were estimated based on the prior three 4-year funding levels, the rate impact and the energy savings for both electric and natural gas and the energy generation [from] both renewables and combined heat and power (CHP)." Straw Proposal p. 26.

Proposal should be clearly documented.[16] The Straw proposal contains no analysis of the results of the EnerNOC market potential study.

2. Expected Savings from Utility EE Programs and the SBC Credit Program

The previous CRA Order states that "the funding for the [Draft EMP] initiatives and goals (including DR, CHP, EE and RE) must be developed in a coordinated and integrated manner, particularly in the delivery, marketing, education, and communication of these specific programs and incentive measures."[17] Rate Counsel agrees with this concept and further notes that there is nothing in EDECA that limits the Board to considering CEP energy savings and emissions impacts when it sets CEP funding levels. Rate Counsel further notes that EDECA does not limit the Board in considering savings from other initiatives, including both utility EE program savings and SBC Credit Program savings.

Currently, CEP programs are augmented by utility-based EE programs. Total energy savings goals for the CEP should consider reasonable expectations about future utility contributions, which are not likely to be zero over the planning horizon. If the OCE lacks information from the utilities about their plans for future programs, OCE should create a small number of scenarios projecting utility EE programs' contribution toward state energy savings and emissions reduction goals. Rate Counsel maintains that it is imprudent not to assume any savings from other programs, given that ratepayers are funding these programs through various rate clauses. Considering the CEP in isolation yields an incomplete basis for EE planning, especially since many of the utility programs are directly linked with CEP incentives by design.

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[16] EnerNOC EE Market Potential Assessment, dated 10/17/12.

[17] See I/M/O Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for 2009-2012 Clean Energy Program, BPU Docket No. EO07030203 (Order, 9/30/08), page 5.

Further, the Straw Proposal completely fails to consider the SBC Credit Program.[18] In addition to impacting cash flow for the CEP, the SBC Credit Program will produce energy savings and could affect the distribution of EE program benefits across sectors, which should be considered in the overall development of goals for the CEP. The current assumption of no savings from the SBC Credit Programs toward the EMP goals is not a sound premise for state energy planning. As with utility programs, the OCE should construct a small number of scenarios for the SBC Credit Program's energy savings contribution to state goals and cash flow impacts.

3. <u>Rate and Bill Impacts</u>

Given that rate and bill impacts are a useful criteria to determine budgeting, a more comprehensive rate and bill impact assessment should be conducted as part of the CRA process. This rate and bill analysis should encompass CEP and utility programs as well as the new SBC Credit Program, for use as a factor to set annual budgets. The Straw Proposal provides information on the historical bill impacts of the utility EE programs, but does not attempt to quantify or consider, the future rate impact of these programs or the SBC Credit Program. Given the recent stakeholder process initiated by the OCE to implement the SBC Credit program, it would be reasonable for the BPU to revisit the budgeting process for the CRA in the near future.

4. <u>Realistic Spending Levels, Cost-Benefit Analyses, and Energy Prices</u>

After reviewing the budget-setting process discussed above (i.e., determining annual savings targets and budgets based on (a) the EMP goals, (b) the maximum achievable resource potential per year, (c) the expected non-CEP program impacts, and (d) rate and bill impacts), the CRA should also include other key factors such as the CEP's ability to fully spend the entire

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[18] <u>N.J.S.A.</u> 48:3-60.3.

budget and the cost-effectiveness of individual CEP programs. The inability of the CEP or the Market Managers to spend the entire annual budget and increase savings should be evaluated and reflected in annual budget setting while considering new strategies to resolve this issue. The Applied Energy Group in its recent evaluation report on the CEP programs ("AEG Evaluation Report") noted that "[t]he NJCEP has been hindered by a lack of long term planning and stability in the marketplace."[19] The historical pattern of overcollections appears likely to be repeated if the OCE does not identify and remedy the reasons for its past inability to expend budgeted funds. Almost all of the budget should be spent each year, and the OCE should propose a properly developed and supported plan to do so.

In addition, cost-benefit analyses should also be considered in directing the annual program budgets to ensure that programs are likely to achieve the greatest savings at lowest cost to ratepayers, while avoiding cream skimming and lost opportunities. Otherwise, programs may not be prioritized in an effective way and there may be large amounts of waste due to free-ridership and improperly designed programs.

Finally, the CRA should be based on realistic assessments of future energy costs in order to measure savings. The cost of saved electricity for incentive/rebate programs in the Straw Proposal is unrealistically increasing over the planning time period (assuming that 69% of the funding is allocated to electricity savings measures as indicated on page 36 of the Straw Proposal). For example, the cost per first year savings for the CEP electric programs starts at \$0.26 per kWh annual savings in 2013 to \$2.60/kWh per annual savings in 2015.[20]

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[19] AEG 2012, Evaluation of New Jersey's Clean Energy Programs, page 5.
[20] The cost of saved electricity in the first year is \$0.32/kWh according to AEG's 2012 study, page 10.

C. Financing

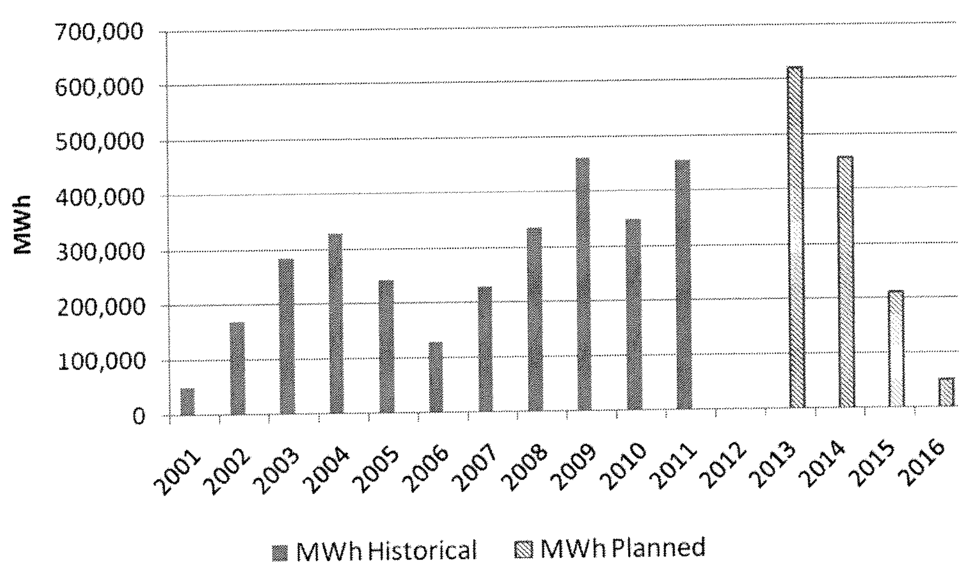
The CRA Straw Proposal recommends that financing comprise 20.3% of the 2013/2014 EE budget and increase to 66.0% by 2016/2017. The Straw Proposal seems to adopt the flawed premise that a transition to financing is a primary goal. Rate Counsel maintains that financing mechanisms, if properly structured and implemented, can serve as a means to achieve a portion of the EMP's EE goals, but such mechanisms are not an end unto themselves. If not implemented properly, they can undermine the achievement the State's energy savings and emissions goals. OCE is proposing a rapid shift to financing during the 2014-2017 planning horizon, with insufficient attention to the potential for undermining the effectiveness of the State's existing EE programs. Further, the overall portion allocated to financing is likely too high to be effective for many customers. Finally, the details of how a revolving fund or other financing-based mechanism would operate needs to be better developed.

While properly designed and executed loan programs can play a role in overcoming constraints in the availability of capital to achieve deeper, more widespread development of EE resources when accompanied with rebate programs and/or other efforts such as technical assistance, it is also important to recognize that (a) rebates help customers overcome simple payback hurdles that persist even with loans; and (b) loans may be unnecessary or ineffective for limited-scale product purchases such as efficient light bulbs and refrigerators, as they unnecessarily complicate the transaction. Moreover, government-sponsored loan programs have had difficulty gaining traction, covering their own costs, and realizing significant energy savings.[21]

[21] Report of the Clean Energy Funding Work Group, October 10, 2011, pp. 47, 53.

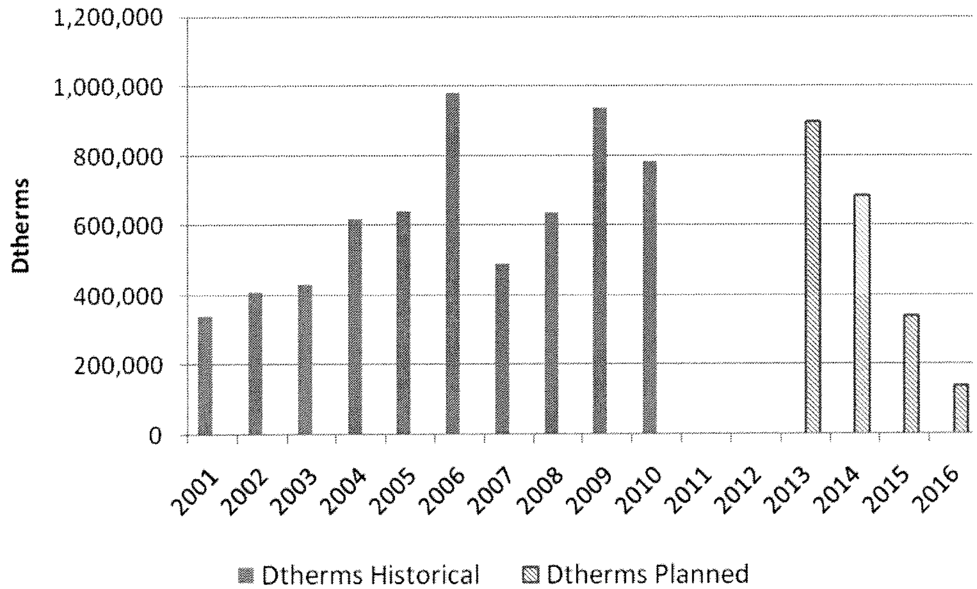
The energy savings forecasts shown in Tables 19-22 of the Straw Proposal appear to validate the above concerns. As shown in these tables, OCE is forecasting a very large reduction in energy savings (97%) over the four year period as presented in Figures 3 and 4 below.

Figure 3. New Jersey CEP Historical and Projected Annual Energy Savings (MWh)[22]



[22] Developed based on historical savings data in the Excel File titled "2001-2011 Program results(2).xls" distributed along with the Straw Proposal and projected savings data provided in the Straw Proposal.

Figure 4. New Jersey CEP Historical and Projected Annual Energy Savings (Dtherms)[23]



The majority of savings expected to result from EE programs are associated with rebate programs (i.e., the rows labeled "Incentives" in Tables 19 through 22), and no savings are provided for financing programs (the rows labeled "Financing"). The notes to Tables 19 through 22 provide some assumptions on financing, including that the analysis "assumed that new financing programs linked with existing incentive programs do not produce additional savings, generation or participants", and "assumed stand alone financing programs without rebates produce savings but at a reduced rate." See Straw Proposal, pp. 28, 30, 32, and 34. The observation by the OCE about savings from stand alone financing programs seems to imply that some savings should be attributable to financing within the planning period, and yet none appear in 2017. Thus, it is not entirely clear if the total savings include savings from financing. If the projected savings represent the total savings, this would appear indicative of an expectation that the transition to financing will adversely affect the cost-effective rebate programs that the CEP

[23] Developed based on historical savings data in the Excel File titled "2001-2011 Program results(2).xls" distributed along with the Straw Proposal and projected savings data provided in the Straw Proposal.

has helped to foster. Thus, the proposed shift to financing-based programs may lead to a large decline in the ratepayer benefits associated with the EE programs and may result in the state spending additional money in the future to re-build the energy efficiency industry infrastructure.

It is Rate Counsel's position that more analysis is needed to assure that the transition to financing does not compromise the achievement of the State's energy savings and emissions reductions goals. Before eliminating large portions of the CEP budget for rebate-based programs, OCE should undertake a more transparent and comprehensive analysis of financing mechanisms, and more clearly define the details of a financing-based mechanism. Also, any and all potential coordination between CEP and utility-based financing programs (including off-bill vs. on-bill financing mechanisms) must be carefully examined in order to ensure that programs are as cost-effective and attractive as possible to potential participants. Further, loan-based programs should be rolled out incrementally in order to allow for "lessons learned" to be incorporated as the transition proceeds.

Finally, Rate Counsel supports retaining the current model based on the direct provision of services for the low income program. In the absence of the SBC-funded program, many low income customers would not elect to take action to increase the energy efficiency of their dwellings. The Straw Proposal appears to assume that low income EE programs will continue to offer direct assistance. However, the CRA should state clearly this objective to assure that the State's most vulnerable residents continue to share in the benefits of energy efficiency.

D. Offering Peak Savings into the PJM Market

Energy savings may be transformed into a valuable by-product through participation in PJM markets. The CEP should offer eligible EE program peak savings into the PJM RPM Capacity Market as a means to offset the cost of CEP programs.[24] This is a key potential supplemental funding source which is ignored by the Straw Proposal: participation in the PJM RPM capacity market through peak MW savings offerings into the Base Residual Auction ("BRA") and incremental auctions. The CEP Straw Proposal should include a comprehensive plan to participate in the PJM RPM capacity market to both attain partial funding for EE programs, and to allow New Jersey's EE resource efforts to be formally included in PJM's planning analyses.

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[24] PJM, the Regional Transmission Organization coordinating the flow of wholesale electricity in the region encompassing New Jersey, operates a market for electric capacity to serve electric customer load known as the Reliability Pricing Model ("RPM"). PJM's RPM capacity market is the construct used by PJM to ensure that all load has sufficient electrical capacity to maintain reliability. RPM prices serve as the regional indicator of capacity costs for all load. The RPM has a 3-year forward horizon, with a one-year term capacity market structure that allows eligible peak energy saving programs (such as EE or demand response programs) to meet capacity obligations. PJM pays qualifying EE or DR providers for verified capacity based on the clearing prices in the RPM market. See www.pjm.com.

III. EDA PROPOSAL

The Straw Proposal includes the following proposed funding levels for Economic Development Authority ("EDA") programs:

Table 4: EDA Proposed Funding Levels 2013-2016 ($000,000)

	2013	2014	2015	2016
Incentives	5.0	5.0	5.0	3.0
Financing	20.0	25.0	40.0	36.0
Total	25.0	30.0	45.0	39.0

Source: Straw Proposal, Tables 19-22.

However, the Straw Proposal lacks any explanation of or support for these proposed funding levels. Thus, Rate Counsel is unable to comment on whether the proposed spending levels are reasonable. Rate Counsel does, however, wish to note the potential for these proposed funding amounts to result in budget carryovers.

As Rate Counsel noted in its Comments filed on September 12, 2012 concerning the CEP 2012-2013 budget, as of June 30, 2012 the EDA spent or committed only $6,792,650 out of the approximately $108 million originally budgeted for calendar year 2012. This pace of spending would not appear to justify annual budgets ranging from $25 million to $45 million.

CONCLUSIONS

As discussed above, the Straw Proposal is lacking the fundamental details and analytic support that are necessary to evaluate whether this proposal will promote the State's energy goals in a manner that is cost-effective and just and reasonable to ratepayers. OCE should develop revised, better supported, proposal for budget years 2014-2017 with the assistance of the new Program Administrator, and the revised proposal should be made available for evaluation and comment by interested stakeholders. OCE is proposing to establish the amounts to be collected from New Jersey's ratepayers for the next four years. This should be done based on proposals that clearly defines OCE's goals and priorities and clearly explain and documents the basis for the proposed funding levels and budget allocations.