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October 7, 2024

**Via Electronic Mail**

Ms. Sherri L. Golden, Board Secretary  
**New Jersey Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> floor  
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**Re: I/M/O the Provision of Basic Generation Service (BGS) For the Period  
Beginning June 1, 2025  
BPU Docket No. ER24030191**

Dear Secretary Golden:

Please accept for filing a copy of the final comments of the New Jersey Division of Rate Counsel ("Rate Counsel") pursuant to the Order issued by the Board in the above-referenced matter dated April 17, 2024. Consistent with the March 19, 2020 Order of the New Jersey Board of Public Utilities ("BPU" or the "Board") in *I/M/O the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations*, BPU Docket No. 20030254, copies of this comment letter are being filed with each person on the service list by electronic mail. No paper copies will follow. **Please acknowledge receipt of this comment letter.** Thank you for your consideration and attention to this matter.

**I/M/O the Provision of Basic Generation Service  
(BGS) For the Period Beginning June 1, 2025  
BPU Docket No. ER24030191  
Final Comments of the Division of Rate Counsel  
October 7, 2024**

**I. Introduction**

Rate Counsel is pleased to provide these final comments to the BPU pursuant to the 2025 BGS procedural schedule established by Board Order, dated April 17, 2024, in I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2025, BPU Docket No. ER2403091, (“2025 BGS Procedural Order”).<sup>1</sup> In a joint filing (“Joint Filing”), dated July 1, 2024, the Electric Distribution Companies (the “EDCs”), specifically: Public Service Electric and Gas Company (“PSE&G”); Jersey Central Power and Light Company (“JCP&L”); Atlantic City Electric Company (“ACE”); and Rockland Electric Company (“RECO”), proposed continuing certain temporary measures in the 2025 BGS process.<sup>2</sup>

In our initial written comments, Rate Counsel commented on the EDCs’ ongoing DCFC pilot programs, the Capacity Proxy Price, and conducting the BGS auction remotely.<sup>3</sup> Rate Counsel appreciates the data provided by the EDCs on their respective DCFC pilot programs and Rate Counsel believes additional information is warranted. Specifically, Rate Counsel believes the EDCs should include information on station utilization with the semi-annual reports required by the Board’s November 17, 2023 BGS Order and the stipulations for each EDC’s EV program.<sup>4</sup> Rate Counsel also notes that the Board’s November 17, 2023 BGS Order requires the EDCs to provide quarterly reports that include information related to pilot program

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<sup>1</sup> I/M/O the Provision of Basic Generation Service for the Period Beginning June 1, 2025, BPU Docket No. ER23030191, Order dated April 17, 2024 (“April 17, 2024 BGS Order”).

<sup>2</sup> I/M/O the Provision of Basic Generation Service for the Period Beginning June 1, 2025, Proposal for Basic Generation Service Requirements To Be Procured Effective June 1, 2025 (July 1, 2024), BPU Docket No. ER23030191 (“Joint Filing”).

<sup>3</sup> I/M/O the Provision of Basic Generation Service for the Period Beginning June 1, 2025, Initial Comments of the Division of Rate Counsel, September 4, 2024, BPU Docket No. ER23030191 (“Rate Counsel Initial Comments”).

<sup>4</sup> I/M/O the Provision of Basic Generation Service for the Period Beginning June 1, 2024, BPU Docket No. 23030124, Order dated November 17, 2023, (“November 17, 2023 BGS Order”) at 21 and 22.

participation, calculated pilot program rates, and associated costs.<sup>5</sup> While the pilot programs started on June 1, 2024, only ACE has filed a quarterly report.<sup>6</sup> Rate Counsel recommends that the Board require the EDCs to continue to collect and report DCFC station data that will assist in the development of the appropriate rate design and cost recovery mechanism for the EDCs. Rate Counsel notes that low participation in DCFC pilot programs may indicate that additional subsidies through BGS rates may not be needed in the DCFC market as originally advocated by stakeholders.<sup>7</sup> Rate Counsel continues to have concerns about the lack of evidence that these ratepayer-funded incentives are in fact needed for further expansion of EV charging infrastructure.

In addition to providing updates on their DCFC pilot programs, the EDCs requested that they be allowed to continue to use Capacity Proxy Prices for the 2026/2027 and 2027/2028 delivery years.<sup>8</sup> The EDCs propose to change the methodology for calculating the proxy price equal to the base residual auction results for the 2025/2026 delivery year, because the Final Zonal Net Load Price for that delivery year exceeded the 2024/2025 delivery year price by more than 50%. Rate Counsel does not object to the EDCs' continued use of a Capacity Proxy Price for the 2026/2027 and 2027/2028 delivery years, or the change in methodology, so long as the results of the capacity auction are still unknown five business days prior to the BGS auction.

Further, while Rate Counsel does not object to the EDCs' continuation of the remote auction process proposal and declining to renew the sub-lease when it expires at the end of January 2025, Rate Counsel believes that Board approval of a remote auction should be conditioned on it finding that the integrity of the auction process can be maintained under this process.

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<sup>5</sup> November 17, 2023 BGS Order at 22.

<sup>6</sup> I/M/O the Provision of Basic Generation Service for the Period Beginning June 1, 2024, BPU Dkt. No. 23030124, (ACE) Pilot Program Quarterly Report, July 1, 2024 ("ACE Pilot Program Quarterly Report").

<sup>7</sup> Rate Counsel Initial Comments at 6.

<sup>8</sup> Joint Filing at 10, Table 1.

RESA provided initial comments on the 2025 BGS, with a letter of support from NRG. RESA raises an issue with PSE&G's BGS time of use ("TOU") rate proposal.<sup>9</sup> Rate Counsel understands that PSE&G's BGS TOU proposal is intended to coincide with PSE&G's proposed distribution TOU rate in its currently pending base rate case.<sup>10</sup>

RESA argues TPSs are at a competitive disadvantage in offering TOU rates relative to PSE&G because TPSs lack equal access to AMI meter data.<sup>11</sup> Rate Counsel notes the Board currently has two ongoing proceedings addressing data transparency and access to AMI meter data in Docket Nos. EO20110716<sup>12</sup> and EX24090717,<sup>13</sup> which would be a more appropriate forum to evaluate the issues raised by RESA. In the AMI data transparency docket, Rate Counsel has consistently advocated in favor of customer ownership of their AMI data as well as convenient methods for customers to share that data. Specifically, Rate Counsel has supported cost effective standards, such as the Green Button Connect My Data standard, that allow customers to easily share their AMI meter data with third parties, such as TPSs.<sup>14</sup> Should the Board choose to implement this standard, RESA's concerns about access to AMI meter data should be alleviated.

Last, RESA argues the Board should amend its rules to allow TPSs to pass through capacity cost increases to their customers on fixed price contracts since BGS providers are permitted to do so.<sup>15</sup> Rate Counsel notes the Board has made clear that "[n]owhere does EDECA say that the pricing of BGS needs to meet the same requirements as TPS pricing."<sup>16</sup> Additionally, TPSs are in control of the terms of the contracts they offer and can offer customers

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<sup>9</sup> I/M/O the Provision of Basic Generation Service for the Period Beginning June 1, 2025, Comments on Behalf of the Retail Energy Supply Association (RESA), Sept. 4, 2024, BPU Dkt. No. ER23030191 ("RESA Initial Comments").

<sup>10</sup> RESA Initial Comments.

<sup>11</sup> RESA Initial Comments at 2.

<sup>12</sup> I/M/O Advanced Metering Infrastructure (AMI) Data Transparency, Privacy & Billing, BPU Dkt. No. EO20110716.

<sup>13</sup> I/M/O A Rulemaking Proceeding to Establish AMI Data Access Standards, BPU Dkt. No. EX24090717.

<sup>14</sup> See e.g., Rate Counsel Comments, BPU Dkt. No. EO20110716, dated Oct. 7, 2021, at p. 8-9.

<sup>15</sup> RESA Initial Comments at 2.

<sup>16</sup> I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2015, BPU Dkt. No. ER14040370, Order dated Nov. 24, 2014, at p. 11.

variable priced contracts that account for increases in capacity prices. Further, TPSs participate in the PJM stakeholder process which provides them with notice of changes in the capacity market that affect prices. TPSs are sophisticated financial entities capable of factoring in capacity price fluctuations into their contracts and RESA has not demonstrated a need to shift the risk of price fluctuations from these entities to their customers with a fixed price contract.

## **II. Conclusion**

Based on the foregoing and its September 4 Initial Comments, Rate Counsel recommends continuing and expanding the collection of information from the respective DCFC pilot programs, continuing the use of a Capacity Proxy Price so long as capacity auction results remain unknown five business days prior to the BGS auction, and continuing to conduct the BGS auction remotely so long as the Board finds the integrity of the auction can be maintained. Further, Rate Counsel notes the Board currently has two ongoing proceedings addressing data transparency and access to AMI meter data in Docket Nos. EO20110716 and EX24090717, which would be a more appropriate forum to evaluate the issues raised by RESA. Finally, Rate Counsel recommends that the Board reject RESA's proposal to amend the Board's rules to allow TPSs to pass through capacity cost increases to their customers on fixed price contracts. Rate Counsel thanks the Board for this opportunity to provide the Final Comments and looks forward to working with all parties throughout this BGS proceeding.

Respectfully submitted,

BRIAN O. LIPMAN, DIRECTOR  
DIVISION OF RATE COUNSEL

By: /s/ Robert Glover  
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