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**Remarks of Stefanie A. Brand,
Director of the N.J. Division of Rate Counsel,
Regarding S2651 (Establishes Alternative Energy Portfolio Standard and
Certificate Program; Provides Financial Incentives for Certain Standby
Generation) and S2700 (Expands State’s Energy Efficiency and Renewable
Energy Requirements), Presented at the Senate Environment and Energy
Committee Meeting
June 3, 2013**

Good morning. My name is Stefanie Brand. I am the Director of the Division of Rate Counsel. I would like to thank Chairman Smith and Members of the Senate Environment and Energy Committee for the opportunity to testify today regarding S2651 and S2700. Rate Counsel has concerns regarding both of these bills and urges the Committee to hold the bills for the time being so that further discussion may be had regarding the goals we are trying to achieve and how best to meet them.

The Division of Rate Counsel represents and protects the interest of all utility consumers—residential customers, small business customers, small and large industrial customers, schools, libraries and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities seek changes in their rates or services. Rate Counsel also gives consumers a voice in setting energy, water and telecommunications policy that will affect the rendering of utility services well into the future.

S2651 establishes an “alternative energy” portfolio standard and an alternative energy certificate program. The proposed legislation would require the Board of Public

Utilities to establish a standard requiring that a minimum percentage of electricity sold in the State be from “qualified alternative energy facilities.” These facilities include combined heat and power (“CHP”) facilities and facilities that use fuel cell technology. The proposed legislation provides for compliance with the standard through an alternative energy certificate program, or through a schedule of alternative energy compliance payments, which must exceed the market value of alternative energy certificates.

S2700 expands the definition of Class I and Class II renewable energy. New Class I energy includes “approved alternative sustainable technologies,” that are DEP-approved and “reduce greenhouse gas emission on a net basis.” This definition could also include CHP facilities and certain fuel cell technologies. The definition allows ratepayer subsidies for such technologies even if they rely on fossil fuels as their fuel source, as long as they only use a “de minimus” amount of fossil fuels. A second new category added to Class I renewable energy in the bill includes “industrial by-product technologies.” This includes any electricity generated through the use of a by-product from an industrial process, specifically using exhaust gases and manufacturing by-products of any kind. Such energy would be considered “Class I renewable” even if the industrial process were fueled entirely by a carbon-producing fossil fuel. In addition, the expanded definition of Class II renewable energy would define as renewable “micro-combined heat and power generating equipment” that could be operated using entirely carbon dioxide producing fossil fuels.

Rate Counsel has significant concerns with both bills. First, it is important to remember that a portfolio standard and certificate program uses ratepayer subsidies to

promote technologies that are not cost effective in the traditional sense. The idea is that the subsidies will help “jump-start” the markets for technologies that the State, as a policy matter, seeks to encourage. Ratepayer subsidies should not be granted for technologies that are currently cost-effective and should be discontinued when a technology has advanced to the point where it is cost-effective. At that point, the positive benefits of the technology should be sufficient to encourage its use. Otherwise the subsidies may be counter-productive, serving as a disincentive to efficient operation and technological development. As some of the technologies included in this legislation should already be cost-effective without subsidies, they should not benefit from further ratepayer funding.

Rate Counsel also objects to allowing such subsidies for technologies that are carbon-producing. Even if a technology provides “net” carbon savings, it is not appropriate to subsidize every potentially beneficial technology given the extraordinary demand on ratepayer funds. Class I renewable energy that is net metered not only benefits from renewable energy credits, it is also exempt from certain charges such as the Societal Benefits Charge (SBC). The more exemptions we grant from the SBC, the greater the burden on the State’s other utility customers, who will have to make up the difference to ensure that the clean energy programs remain adequately funded.

Portfolio standards and certificate programs are not necessary or appropriate for every green technology. In fact, they tend to be expensive, opaque, and complicated. Measurement and verification are difficult, and the public ends up not really knowing how much they are spending to support technologies that should be sustainable with private funding. If the State seeks to encourage these technologies, there are less

complicated and more transparent ways to do so. Before a portfolio standard is imposed for these new technologies, an assessment should be made of whether they need to be subsidized, whether they should be subsidized, and whether a portfolio standard is the best means to reach our policy goals. Although we currently have two bills and a BPU proceeding looking at how to encourage CHP, that assessment has not yet been done.

It is important to remember that every portfolio standard and certificate program raises rates. Like the renewable energy portfolio standards, this program could involve significant costs to ratepayers. This is especially true in the early years of the program, before supply catches up with demand for alternative energy certificates. New Jersey already has the ninth highest electricity prices in the country. Many ratepayers must choose between energy and other necessities such as food and medication. We should not embark on another ratepayer-funded program without a careful evaluation of the costs and benefits.

With respect to the energy efficiency portfolio standard (EEPS) provisions included in S2700, Rate Counsel continues to believe that this is not the best means to promote energy efficiency. Rate Counsel is a strong supporter of energy efficiency and has supported a variety of programs, including those sponsored by the Office of Clean Energy and the utilities, to encourage energy efficiency. The difficulty with the proposal in S2700 is one of measurement and verification. Determining how an EEPS would work is not a simple task nor is it clear that an EEPS is the best way to promote energy efficiency. It is extremely difficult to measure and verify energy savings achieved through an EEPS. For example, if a customer agrees to turn out the lights whenever they leave the room or only use their washing machine at night, do they get a

certificate? What if they run the dishwasher every night half-full to avoid running it during the day? How do you measure those savings or verify that they have occurred? I recognize that the bill only requires the BPU to consider these questions and while we have no objection to a healthy dialogue on the subject, this is an additional area where Rate Counsel does not believe a portfolio standard is the best means to achieve our goals.

Rate Counsel urges the Committee to continue the dialogue but not vote these bills out of Committee today. We need a greater understanding of what our goals are and how best to achieve them before we embark on complicated portfolio standards that increase customer rates and reduce transparency. There may be other, simpler and cheaper ways to encourage the technologies we seek to encourage. Until we know that we have fully examined those options, we should not proceed with either of these bills.

Thank you for the opportunity to testify. I am available to answer any questions.