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Director

March 24, 2011

Via Electronic Mail and Hand Delivery

Ms. Kristi Izzo
Secretary of the Board
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Re: I/M/O the Long-Term Capacity Agreement Pilot Program ("LCAPP")
BPU Docket No. EO11010026

Dear Secretary Izzo:

Pursuant to the Board Order dated February 10, 2011 ("Board Order") in the above captioned matter enclosed please find an original and ten (10) copies of the Division of Rate Counsel's ("Rate Counsel") Comments to the LCAPP Agent's *Report on the Long Term Capacity Agreement Pilot Program* dated March 21, 2011. These comments have also been submitted via email to the LCAPP agent at agent@lcapp.com.

We enclose one additional copy. Please date stamp the extra copy as "filed" and return it to the courier. Thank you for your consideration and attention to this matter.

COMMENTS ON AGENT REPORT

On March 21, 2011, Levitan & Associates, Inc (LAI) serving as the Board's Agent for the Long-Term Capacity Agreement Pilot Program(LCAPP) submitted its report concerning the LCAPP process to date, the award of SOCA contracts, its evaluation and selection process and anticipated customer and societal benefits. With the caveat that the LCAPP process is still in the early stages, Rate Counsel is very encouraged by the tangible progress that has been made to date. We applaud the effort of the Board Staff and LAI. Given the very short amount of time available for review of the Agent's report, our comments should be considered preliminary and Rate Counsel may supplement these comments at a later date.

Rate Counsel is in general agreement with most aspects of the Agent's report, with an important caveat that we have not had the opportunity to review any of the bids submitted, nor does the report identify the specific SOCA pricing for the selected projects. We understand such information is to be held confidential at the present time. Instead, the report provides pricing and customer impact information on the winning SOCA projects largely in aggregate form. For that reason, Rate Counsel cannot comment on the individual specific bid evaluation results and project rankings.

Despite this limitation, we note that the LCAPP process appears at this stage to have met its objective of fostering the construction of approximately 2,000 MW of modern gas-fired combined cycle capacity in the region. If completed, this will foster the goals identified in the LCAPP legislation, -- a financial hedge on the cost of capacity; customer savings (particularly in

the energy market); economic development/ fiscal benefits (since all three new projects are to be sited in New Jersey); enhanced reliability from 2,000 MW of physical new capacity that likely would not otherwise have been built; and environmental benefits from displacement of other “dirtier” sources of electric generation in the region. The addition of these new generation sources (if constructed) will also enhance the competitiveness of power supply markets by creating market entry.

There are two notable observations from the LAI analysis. The first is that over the 15 year SOCA contract lives, the RPM credit will fully offset the SOCA payments to the three generators. This demonstrates that, at least on an expectational basis and given LAI’s assumptions that the SOCAs will function as a financial capacity hedge for both the developers and consumers—not as a “subsidy” as had been incorrectly characterized. The financial hedge is clearly needed to facilitate project development.

Beyond the capacity hedge, LAI estimates energy market savings (which appears to be at least in part reduced congestion costs) of roughly \$1.8 billion, net present value, for New Jersey customers. As mentioned there are a range of other benefits beyond customer electric bill savings. Rate Counsel would note the following concerning those benefits:

- LAI’s modeling conservatively assumes that certain major PJM west-to-east transmission projects will be completed. At the present time, the future status of both the PATH and MAPP projects are uncertain. They may be delayed by many years or not completed at all within the time period of the SOCAs. If this occurs,

the capacity and energy benefits of the three projects could be even greater than LAI has modeled.

- The LAI modeling generally assumes capacity adequacy in the region. While such an assumption may not be unreasonable, it should be noted that the three projects help provide a reliability “cushion” or “insurance policy”.
- We appreciate the fact that the report provides detailed data on air emission benefits from the three projects. Notably, this will include greenhouse gas emission savings over time. If anything, we believe this aspect of the report merits further emphasis.
- Based on an initial review, it appears that the report did not quantify benefits in the ancillary services markets for consumers. While quantification of those benefits may not be practical at this time, this additional potential benefit should be noted.

Thank you for your consideration and attention to this matter.

Respectfully submitted,

STEFANIE A. BRAND
DIRECTOR, DIVISION OF RATE COUNSEL

By: s/ Diane Schulze
Diane Schulze
Assistant Deputy Rate Counsel

C: President Lee A. Solomon, Board of Public Utilities (*via UPS overnight*)
Commissioner Jeanne M. Fox (*via hand delivery*)
Commissioner Joseph L. Fiordaliso (*via hand delivery*)
Commissioner Nicholas Asselta (*via hand delivery*)