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Director

September 28, 2012

**Via UPS Overnight Delivery And Electronic Mail**

Kristi Izzo, Secretary  
New Jersey Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton NJ 08625-0350

Re: In the Matter of the Provision of Basic Generation Service  
for the Period Beginning June 1, 2013  
BPU Docket No. ER12060485

Dear Secretary Izzo:

Enclosed for filing please find an original and ten copies of the Division of Rate Counsel's Final Comments for the 2013 Basic Generation Service ("BGS") proceeding. These comments are being submitted pursuant to the Board of Public Utilities' June 18, 2012 Decision and Order in this matter. These comments will also be circulated electronically to the email list server used by the Board for these BGS filings.

We have also enclosed one additional copy of the materials transmitted. Please stamp and date the copy as "filed" and return in the enclosed self-addressed stamped envelope. 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: Service List (via electronic e-mail distribution list)

**I/M/O the Provision of Basic Generation Service  
(BGS) For the Period Beginning June 1, 2013  
BPU Docket No. ER12060485**

**Final Comments of the Division of Rate Counsel**

**September 28, 2012**

***I. Introduction***

The Division of Rate Counsel (“Rate Counsel”) is pleased to provide these comments to the Board of Public Utilities (the “Board” or “BPU”) pursuant to the 2013 BGS procedural schedule established by Board Order dated June 18, 2012 in *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2013* (“2013 BGS Procedural Order”).

In this second round of comments, Rate Counsel will respond to the proposals of the Retail Energy Supply Association (“RESA”) that the Board should further lower the BGS-CIEP threshold to 300kW from the current 750kW and that the Board should abandon the laddered three-year BGS-FP contracts in favor of more frequent procurement of shorter-term contracts.

***II. Discussion***

Rate Counsel discussed at length in our Initial Comments and in our Comments at the Legislative hearing RESA’s proposal that the Board further limit the number of customers eligible to receive BGS-FP service. In our previous comments, Rate Counsel discussed our concerns regarding the wisdom of forcing mid-sized customers into the BGS-CIEP class in order to bolster competition, especially when those mid-sized customers already have the option to shop or to be served under BGS-CIEP. These concerns were echoed by the EDCs at the legislative hearing. For example, when

President Hanna asked the EDCs if decreases in the CIEP threshold caused disruptions, Kevin Connelly, testifying for JCP&L, noted that while there had been no problems with the 750kw and above customers, as the CIEP threshold is lowered, different customers are affected. Mr. Connelly testified that the lowering of the CIEP threshold to 500kw will affect smaller customers, such as schools and medical facilities. These customers will require additional education on the switch to time-of-use rates and the various energy options available. As the lower threshold is still being implemented, the full extent of its impact is not yet known. Rate Counsel urges the Board not to reduce the threshold further until the impact of lowering it to 500kw customers is clear, and the impact of further reductions can be analyzed.

Rate Counsel has also questioned whether any benefit achieved by switching customers to BGS-CIEP time-of-use pricing is outweighed by the costs associated with this switch. In addition to increased utility resources needed to educate smaller customers on time-of-use pricing and third party supplier options, the cost of interval meters must also be considered. At the September 21, 2012 hearing, both Mr. Connelly and Mr. Robinson for PSE&G testified that the installation cost associated with the new interval meters was about \$1400 per meter. It is not clear exactly what is included in the \$1400, for example, we do not know if this estimate includes potential stranded costs or costs associated with necessary software upgrades. Undeniably, this estimate is much higher than was suggested prior to the Board's decision to lower the CIEP threshold to 500kw. At the BGS Review legislative hearing on May 4, 2012, the EDCs estimated the cost of the meter at \$500, with an "all in" price close to \$1,000. T27:L10, *I/M/O the*

*Review of the Basic Generation Service Procurement Process*, BPU Docket No. ER12020150, June 1, 2012.

Rate Counsel urges the Board to direct that a cost/benefit analysis be performed before further reductions in the CIEP threshold are ordered. The EDCs should provide the Board and Rate Counsel with a full accounting of the costs incurred to install the interval meters and implement necessary software upgrades for customers over 500kw. The EDCs should also provide information regarding any additional costs associated with the conversion to interval meters, such as any stranded costs, for which the EDCs intend to seek recovery from ratepayers. RESA and other interested parties should provide support for the claim that cost savings resulting from switching these customers from BGS-FP to BGS-CIEP would be significant and would outweigh the cost to ratepayers of implementing this move.

Rate Counsel would also like to comment briefly on RESA's recommendation that the BGS-FP three-year laddered contract procurement process be replaced with a more frequent BGS procurement process of shorter term contracts. As discussed in our initial comments, RESA's recommendation that supply for BGS-FP commercial customers be procured through three-month contracts and supply for residential BGS-FP customers be procured through 12-month contracts should be rejected by the Board.

The current BGS-FP service offers customers mitigation of the risk of price volatility through the use of three-year laddering and fixed price offerings throughout the term of the contract. The three-year term provides stability to smaller commercial and industrial customers unable to engage in, or uninterested in, managing the risk that arises from price volatility. There has been no evidence in this proceeding that commercial and

industrial BGS-FP customers are able to, or want to, manage the volatility of quarterly price swings. Indeed, RESA's representatives admitted at the hearing that one of the reasons they support such a change is so that their members could then offer products that would mitigate such volatility. It is not in the public interest to force these risks onto ratepayers so that they may simply turn around and pay suppliers to eliminate these risks.

Similarly, there has been no evidence to suggest that residential customers would benefit from the implementation of annual contracts. Indeed, stable, predictable, and affordable prices for essential electricity service are particularly important for seniors and low-income customers. Such customers cannot respond to significant changes in the price for electricity because they only use a relatively small amount of electricity and they rely on fixed incomes that require careful budgeting to meet their needs for housing, food, medicine, and utility services.

In sum, Rate Counsel believes that it is essential that the process for procuring Basic Generation Service is managed with the concerns of customers foremost in everyone's mind. The process must be administered to assure affordable and stable electricity prices for residential customers. The goal must be the lowest price for BGS-FP supply with reasonable price stability over the term of the procurement plan for this service. The driving force for making any change to the current BGS procurement process should flow from an analysis that demonstrates that a proposed change will result in lower prices for BGS customers. RESA's proposals for a lower CIEP threshold and for more frequent, shorter term FP contracts do not meet this standard and should be rejected by the Board.

Finally, in our initial comments, Rate Counsel recommended that the Board direct the EDCs not to include utility internal labor costs in the BGS administrative charge collected through tranche fees from BGS suppliers. Instead, these costs should be recovered in base rates to insure that there is no double counting of the utility's internal labor costs. Notably, the EDCs did not oppose this proposal at the legislative hearing. Accordingly, Rate Counsel urges the Board to direct the EDCs to exclude utility internal labor costs from the BGS administrative charge.

### ***III. Conclusion***

All these years after the passage of the Electric Discount and Energy Competition Act ("EDECA"), imposing changes to the BGS procurement process that negatively affect customers in order to subsidize competitive markets is simply not acceptable. EDECA was enacted not to foster competition for the sake of competition, but to foster competition for the purpose of lowering customers' rates. We cannot forget that New Jersey still has the seventh highest residential electricity rates in the country. We cannot lose our focus on trying to lower that number. The goal at the time EDECA was enacted was to lower energy prices through competition. This must remain the goal today.