



State of New Jersey
DIVISION OF RATE COUNSEL
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CHRIS CHRISTIE
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STEFANIE A. BRAND
Director

February 22, 2013

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: Combined Heat and Power/Fuel Cell Working Group
January 31, 2013 Request for Comments**

Dear Secretary Izzo:

Enclosed please find an original and ten copies of the Comments submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in connection with the above-captioned matter. Copies of the comments are being provided to all parties on the e-service list 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.

Honorable Kristi Izzo, Secretary
February 22 , 2013
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Thank you for your consideration and assistance.

Respectfully submitted,

STEFANIE A. BRAND
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By:



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Combined Heat and Power / Fuel Cell Working Group:

January 31 2013 Request for Comments

Comments of the New Jersey

Division of Rate Counsel

February 22, 2013

The Division of Rate Counsel (“Rate Counsel”) would like to thank the Office of Clean Energy (“the OCE”) for the opportunity to respond to questions raised in a request for comments distributed to the Combined Heat and Power (“CHP”)/Fuel Cell (“FC”) working group (“Working Group”) via email on January 31, 2013. Meetings of the working group were held on December 18, 2012 and January 30, 2013 to elicit discussion on several issues, including whether potential storm response measures associated with CHP/FC can and should be encouraged by the CHP/FC programs. Via the email notice dated January 31, 2013, the OCE requested comments on seven specific items of discussion resulting from the working group meeting:

1. Definition for critical facilities to be included in the next CHP solicitation;
2. Solicitation Tiers;
3. Pipeline of CHP-FC projects;
4. Other State activity;
5. Standby Tariffs and Gas Tariffs;
6. Strategic or Long range plan; and
7. Budget.¹

Rate Counsel submits the following general comments, followed by comments specifically addressing items 1, 2, 6 and 7. Rate Counsel does not address items 3 through 5.²

¹ In the request for comments, “Budget” was listed as a second item number 6.

² Item number 3 seeks information on projects in the “pipeline” from CHP/FC developers. Item 4 states that BPU Staff will seek information on activity in other states and/or participate in an interstate work group on distributed generation. Item 5 reserves standby tariff rates to another proceeding, and seeks gas tariff information from the gas distribution companies.

I. General Comments

Rate Counsel recognizes the important steps that the Board is taking to identify and address storm response issues. See I/M/O the Board's Review of the Utilities' Response to Hurricane Irene, Docket No. EO11090543 (Board Order, 1/23/2013) ("Hurricane Irene Order"). The restoration-related actions required by the Hurricane Irene Order were not focused on increased black start, microgrid concepts, or additional back-up generation assets. Furthermore, the discussion of comments found under the "Circuit Outages" subsection of the "Underlying Infrastructure Issues" (pages 41-43) portion of the Hurricane Irene Order does not address the potential for increased resiliency from increased amounts of self-generation assets. The Board noted that additional actions might be required after its review of Hurricane Sandy. See Hurricane Irene Order, p. 43. However, until EDC responses to the Hurricane Irene Order are received, and additional assessment of Hurricane Sandy needs are completed, the role that increased CHP/FC could play is unclear.

The Working Group discussions have for the most part presumed that CHP/FC should be a part of a long range storm response strategy. However, to Rate Counsel's knowledge, the problems that are motivating the OCE to consider changing CHP incentives and program structures have not been clearly articulated or prioritized. The OCE should first step back and identify or define the problems associated with the current state of storm response strategies that are not otherwise being addressed, e.g. through implementation of the Board's directions to the utilities in Docket No. EO11090543. Secondly, the OCE should identify and prioritize potential solutions to those unaddressed problems based on clearly defined criteria including cost effectiveness and with consideration of whether these potential solutions merit funding from the CEP or other sources.³ It is premature to discuss incentives for integrating capabilities such as black start or microgrids into distributed generation applications until there is a clear picture of the needs that these capabilities could address, and until it has been determined that these capabilities are the most

³ As presented at the December 18, 2012 CHP-FC Working Group meeting, the CEEEP is conducting a cost benefit analysis ("CBA") to look at emergency response policy options, apparently in connection with the Board's direction to analyze specific areas that continue to raise concerns and impact restoration efforts. (See p. 2, Board's Order in Docket No. EO11090543, January 23, 2013) The CBA will provide useful information, however this analysis has not been completed.

efficient, effective use of limited resources to address those needs. The OCE should also consider the larger context in which its programs operate. Rate Counsel notes, for example, that PJM's black start program is a tariffed service under the PJM Open Access Transmission Tariff ("OATT") and that costs are allocated system-wide in accordance with the relevant tariff schedules. Any consideration of proposed New Jersey Clean Energy Program ("CEP") incentives for black start capability must fully appreciate the regional context in which black start service is purchased and deployed by PJM. Distributed generation may play a role in improving electric system resiliency; however, it appears that the OCE's work plan has defined the solution first, which could result in an ineffective use of ratepayer funds.

II. Comments on Specific Items

Item 1. Definition for critical facilities to be included in the next CHP solicitation

"critical facility" means any hospital, police station, fire station, water treatment plant, sewage treatment plant, public shelter, or correctional facility any commercial area of a municipality, a municipal center as identified by the chief elected official of the municipality, or any other facility or area identified by DEPE as critical.

What should be added to or deleted from the definition? Should we have a public and private critical facilities definition?

Rate Counsel suggests that whether it is appropriate to fund CHP/FC for a certain class of critical facilities, and which facilities would be included in that class, are questions that should be answered by a group with greater responsibility in disaster response (e.g., Office of Emergency Management, State Police, etc.) than is currently represented in the CHP/FC working group. Moreover, specific storm-related needs should be considered relative to ongoing efforts, and a range of potential solutions to those unaddressed problems should be identified and prioritized based on clearly defined criteria. The emphasis on "critical facilities" seems to be driven by the belief that CHP/FC will allow critical facilities to stay up and running during major outages. Rate Counsel maintains that CHP or FC may not be the most effective application for the many critical facilities, and thus limiting consideration of solutions to CHP or FC is not appropriate.

To the extent that distributed generation or CHP/FC may have a role in keeping critical facilities up and running, priority should be limited to facilities that have some kind of urgent necessity to keep running. The definition of “critical facility” put forth by OCE is too broad to be used to qualify CHP/FC projects for enhanced incentives. Specifically, including “any commercial area of a municipality” in the definition of critical facility would qualify a large portion of load in the state. The definition of “critical facility” should more strictly identify the infrastructure that is most critical in the face of weather-related or other crises.⁴

The definition of “critical facility” need not necessarily exclude all facilities that have poor economic potential for CHP and/or fuel cells. Nonetheless, the cost effectiveness of alternative solutions must be considered for all applications for incentives, including those for critical facilities.

Rate Counsel is not aware of the statutory, regulatory, or programmatic basis for creating separate definitions for public and private critical facilities.

Item 2. Solicitation Tiers

The discussion at the wg [sic] meeting was that the next solicitation might be tiered to address the public policy concerns include the following:

⁴ For example, in a study to identify and recommend the most opportune uses for CHP to enhance New York’s critical infrastructure resiliency, Energetics, Inc. employed the following criteria to determine a facility’s importance during an emergency: human impact (fatalities or injuries that would result if the critical asset is degraded or incapacitated); economic impact (the direct and indirect effects on the economy that could result if the critical asset is degraded or incapacitated); impact on public confidence or psychological consequences (the effect on public morale and confidence in national economic and political institutions if the critical asset is degraded or incapacitated); and impact on government continuity (the reduction in the ability of state and local governments to deliver minimum essential public services, ensure public health and safety, and carry out national security-related missions if the critical asset is degraded or incapacitated). Energetics Incorporated, Pace University Energy and Climate Center, and Energy and Environmental Analysis Inc. “The Contribution of CHP to Infrastructure Resiliency in New York State: Final Report.” Submitted to New York Energy Research and Development Authority. April 2009. Available at <http://www.energetics.com/resourcecenter/products/studies/Pages/CHP-Contribution-Infrastructure-NY.aspx>.

1. *CHP private critical facilities -communication center, data centers, supermarkets*
2. *CHP Public critical facilities -public hospitals, schools, municipal buildings*
3. *Additional incentive for blackstart*
4. *Additional incentive for microgrid*
5. *Additional incentive for renewable energy*

Please provide your comments on the above tiers and additional incentives for the next CHP solicitation. Please provide comments relative to the current solicitation on the EDA and CEP websites within the current incentive levels. If you are proposing an increase or additional incentives please justify the increase/additional incentives. Any unsubstantiated increases/additional will not be considered. Also provide any comments on the current solicitation to improve the process or the solicitation.

Additional incentives or set-asides for CHP/FC that fall within the OCE's proposed five tiers should not be put in place unless and until OCE has confirmed they would address a need that is not being covered elsewhere (e.g., by the Board's directions to the utilities in Docket No. EO11090543). Although Rate Counsel opposes the use of such tiers to set-aside incentives or as the basis for increased incentives at this time, additional comments on the five tiers are made below.

As proposed by the OCE, Tiers 1 and 2 both involve critical facilities. It is not clear why the OCE is proposing to create separate tiers for public and private critical facilities. In addition, specific facility types listed in Tiers 1 and 2 appear to be restrictive when compared to the definition of "critical facilities" suggested in item 1.

CHP/fuel cells and enhancements to those systems for black start and microgrid applications (corresponding to Tiers 3 and 4) may have a place in improving electric system resiliency, however, the determination of specific storm-related needs and measures should be the outcome of an analysis of the most efficient, effective use of limited resources to address those needs. Absent such a study, Rate Counsel does not agree that incentives for CHP or fuel cells should be increased at this time. If such a study finds that the contemplated CHP/FC enhancements are

beneficial for increasing energy system resiliency, the specific increase should: (1) be based on a finding that additional incentives are necessary to support the development of these enhancements; and (2) consider the incremental costs and benefits of these enhancements.

Rate Counsel notes that it is not clear whether renewable resources would contribute toward energy system resiliency. Before considering a set aside or adder for renewable fueled CHP or fuel cells, the OCE should present its case demonstrating that reliability or other resiliency benefits are likely to accrue from their increased implementation.

Item 6. Strategic or Long range plan

The BPU will, after the award and transition of the new NJCEP Program Administrator develop and finalize a 4-year strategic plan for EE and RE. This will include the coordination of the utility programs over the same term. CHP-FC will be a component of that Clean Energy 4-year plan. If you have comments on what and how the CHP-FC component should be developed please feel free to submit. However, this task is not currently the number one priority. The number one priority for the work group is to assist in development of the 2014 CHP budget and the 2014 CHP solicitation.

See comments in the following section, 7.

Item 7. Budget

The 2012/2013 budget is (rounded to the nearest \$100K):

- 1. \$17M with current commitments of \$5.247M plus TRC admin cost through the end of the budget year for the small CHP-FC program.*
- 2. \$36.970M with current commitments of \$11.1M plus EDA admin cost through the end of the budget year and the \$25M second round CHP-FC solicitation.*
- 3. \$23.1M with current commitments of \$2.432M plus Honeywell admin cost through the end of the budget year. This program funds incentives for wind, biomass and renewably fueled CHP.*

The current straw proposed funding levels for 2014 through 2017 were: \$325M, \$325M, \$300M, \$300M.

Based on these funding levels and annual budget please provide comments on the proposed budgets for 2014. Also provide comments for the funding level for 2015 through 2017. As noted above provide your documents amounts for the budgets.

With regards to the delineated question above, Rate Counsel believes that it is premature to discuss issues, and specific funding levels, for the 2015-2017 clean energy budget. To date, the OCE has not prepared a full straw man proposal. This makes it difficult to put any perspective on (1) the amount of CHP funding that should be dedicated to this resource, and (2) the nature of how any funding should be distributed to CHP projects. Without a full budget reflecting all of the OCE's funding proposals, it is impossible to evaluate how CHP should be prioritized. Stakeholders require a full budget proposal in order to understand how other priorities would be affected by allocating funding to CHP.

Further, Rate Counsel is concerned about moving forward on any CHP funding initiatives when a complete study of the economics and potential rate impacts of CHP, and the potential role that CHP can have in system restoration and resiliency, has not been provided. Rate Counsel urges OCE to abstain from making any CHP-related clean energy funding recommendations, or reaching any CHP-related policy conclusions, until such a study has been completed by the CEEEP and comments and inputs from other interested parties on this study, have been provided.

III. Conclusion

Rate Counsel looks forward to continued participation in the Working Group but finds that the OCE should first step back and identify or define the problems associated with the current state of storm response strategies. Only then should the OCE identify and prioritize potential solutions to the identified problems. Further, if there is a need to encourage measures such as distributed generation with black start capability and microgrids the Board should also consider mechanisms other than incentives and set-asides. With regard to the OCE's specific requests for comments, Rate Counsel's comments are summarized as follows:

Item (1): The definition of "critical facilities" should be informed by a process that includes input from a group with greater responsibility for disaster preparedness (e.g., Office of

Emergency Management, State Police, etc.), and should be limited to facilities that have an urgent need to continue operating following a disaster.

Item (2): The suggested solicitation tiers for CHP and fuel cells should not be implemented at this time, without further studies or supporting information.

Items (6) and (7): The proposal for allocating funds to CHP and fuel cells should be considered in the context of a complete budget proposal reflecting all of the OCE's funding priorities. Further, CHP and fuel cell funding initiatives should be based on a complete study of the economics and rate impacts of such initiatives.