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**COMMENTS OF THE NEW JERSEY DEPARTMENT OF THE PUBLIC ADVOCATE
DIVISION OF RATE COUNSEL CONCERNING
POTENTIAL CHANGES TO THE RENEWABLE PORTFOLIO STANDARD
REGARDING SOLAR ENERGY RPS REQUIREMENTS, SOLAR
INTERCONNECTION REQUIREMENTS, SREC REGISTRATION, AND SOLAR
METERING REQUIREMENTS**

BEFORE THE NEW JERSEY BOARD OF PUBLIC UTILITIES

DATED: October 15, 2009

The New Jersey Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") would like to thank the Board of Public Utilities ("BPU" or "the Board") for the opportunity to comment on the proposed changes to its rules governing New Jersey's Renewable Portfolio Standards ("RPS").

On September 30, 2009, the Board issued a Request for Public Comment on draft revisions to the current RPS Rule (N.J.A.C. 14:8-2). Rate Counsel supports the revisions included in the draft rule and offers the following comments mostly based on requests for additional clarification in the proposed rule.

Proposed Changes to Section 14:8-2.3(g) (Amount of Renewable Energy Required, Table C and Subsection 1 and 2)

Rate Counsel initially has a language suggestion and then our comments on these proposed changes follow. The language suggestion is to add five words in the beginning of the second full sentence in Section 14:8-2.3, just after Table B. The existing sentence begins: "At least 30 days prior to each BGS auction held after May 31, 2013...." Rate Counsel suggests: "At least 30 days prior to each BGS auction held **for power to be delivered** after May 31, 2013...." (Rate Counsel suggestion in bold).

The proposed revisions to this section of the RPS Rule would change the forward looking solar energy requirements within the RPS from a percentage requirement to an absolute generation-based (level) requirement (MWh requirement). This is an important change in the rule stimulated, in large part, by the recommendations included in the Energy Master Plan ("EMP"). While Rate Counsel supports the goals of the EMP, we are concerned about setting absolute MWh goals for solar energy for a variety of reasons.

Setting solar energy goals on an absolute (MWh) basis, as opposed to relative (percentage) basis, eliminates the ability of the RPS to absorb the risks associated with structural changes in the New Jersey economy and its energy markets. Relative, or percentage based goals require developers to adapt to changes in these markets since the size of the solar energy market will expand and contract with overall market changes. On the other hand, fixed solar energy requirements will not move with increases or decreases in overall state generation requirements.

As solar energy is the most expensive commercially-available renewable energy resource available in today's energy market, setting absolute solar generation goals could result in considerable (and unanticipated) rate impacts particularly if the cost of solar energy is not decreasing at a pace comparable to the decreases in electricity sales. This makes the circuit breaker mechanism outlined in sub-section (j) of this section of the RPS Rule even more important. Rate Counsel strongly urges that, in addition to the circuit breaker, periodic review of the rate impact of the fixed solar RPS be undertaken to ensure that the impacts are not severe.

Proposed Changes to Section 14:8-2.3(j) (Amount of Renewable Energy Required, Circuit Breaker Mechanism)

Rate Counsel notes that what constitutes "solar incentives" is not defined clearly in either this sub-section of the rule or the earlier definitions section (Section 14:8-2.2). Rate Counsel recommends that "solar incentives" be more clearly defined and offers this suggestion:

"Solar incentives include the cost of all ratepayer-supported mechanisms that are included directly or indirectly through rates that include: CORE-based, or other SBC-funded rebates; utility-sponsored programs as approved pursuant to RGGI legislation (*N.J.S.A. 48:3-98.1*); and SREC payments, the prices of which shall be based upon those reported by the Office of Clean Energy."

Proposed Changes to Section 14:8-2.13 (Solar Registration Requirement)

Rate Counsel supports firm reporting requirements that have been proposed by the OCE in sub-section (e) of the RPS Rule. Rate Counsel recommends, however, that sub-section 5 requiring "cost information and other data to enable Board staff to monitor and evaluate Board programs" be clarified and provide additional detail. Rate Counsel recommends, as a starting point, that projects be required to provide the same information (where applicable) that was surveyed for the SREC Pilot program evaluation report submitted to parties for comment on June 1, 2009.¹

¹Rate Counsel provided comments on this SREC Pilot Evaluation Report on September 15, 2009.

Sub-section (l) highlights the final documentation requirements and Rate Counsel recommends that some form of certification-requirement regarding information accuracy on the installed project be included and acknowledged in the rule.

Rate Counsel recommends that information provided pursuant to proposed sub-section (m) be consistent with what was provided in registration (sub-section (e)) and that the submitters note any changes from the prior information submission and the reasons for those changes.

Proposed Changes to Section 14:8-4.3 (Net Metering for Class I Renewable Energy Systems)

This change proposed for the Net meter general provisions, annualized period selection, eliminates the 2 MW cap on the capacity of the customer-generator's facility, but retains a capacity limit on annual generation based on the amount of electricity provided to the customer on an annualized basis. Rate Counsel has previously supported the elimination of the MW cap on net-metered renewable generating capacity and continues to do so. Rate Counsel notes that the retained annual consumption limit will help reduce the need for distribution system upgrades that could otherwise be needed to accommodate renewable generation.

Thank you again for the opportunity to provide these comments.

Very truly yours,

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