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**COMMENTS OF THE NEW JERSEY DEPARTMENT OF THE PUBLIC ADVOCATE
DIVISION OF RATE COUNSEL
TO THE PROPOSED AMENDMENTS TO
N.J.A.C. 14:4-1.2, 14:8-2.1 TO 8-2.3, 2.8 TO 2.11
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BEFORE THE NEW JERSEY BOARD OF PUBLIC UTILITIES**

Introduction

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 its proposed revisions to the solar energy component of its Renewable Portfolio Standards (“RPS”) rule.

Rate Counsel has been an active participant in this process since its inception. Our office has filed numerous comments, reply comments and supplemental comments on the various issues under debate for the better part of the last two years. In addition, Rate Counsel has prepared, and submitted the results of our own rate impact analyses on a number of market design proposals that have been considered in this proceeding. As the Board is aware, Rate Counsel strongly supports a market design for solar energy that creates regulatory certainty. Doing so ensures that the Board’s solar energy goals will be successful, and achieved at lower overall costs to ratepayers.

Many of the comments Rate Counsel has filed to date have expressed concern that the market designs being developed for solar energy were not moving far enough in the direction of creating greater regulatory certainty to reduce risk and overall ratepayer costs. While Rate Counsel continues to have concerns about the current proposed market design for solar energy, it is our position that this framework may be useful if it operates in tandem with some form of longer-term certainty through what is commonly referred to as “securitization.”

Rate Counsel was encouraged with the direction set by the Board’s December 6, 2007 Order directing the Office of Clean Energy (“OCE”) to initiate a proceeding to explore securitization and long-term contracting issues. Rate Counsel has been further encouraged, and highly appreciates the leadership that Commissioner Fiordaliso has brought to this issue. Over the past several months, stakeholders have come together to forge a workable proposal for securitization. Rate Counsel hopes the Board will embrace these continued efforts and will express its support

for moving forward with the securitization process in any Order issued in conjunction with the final approved rule in this matter.

Our comments here, however, focus on only two particular areas raised by the proposed rule: rate and capacity caps; and the expansion of SREC eligibility for non-net metered systems.

Rate and Capacity Caps

Rate Counsel strongly supports the Board's proposal for developing both rate and capacity caps for the solar portion of the RPS. A rate cap, or circuit breaker, has been a repeated policy theme for Rate Counsel since the inception of the RPS. Such a mechanism provides ratepayer protection without jeopardizing the development of solar energy since "freezing" capacity development levels is not the same as eliminating (or even reducing) the overall solar energy goals. A rate cap is a necessary ratepayer protection that must be included in the Board's RPS rules. Rate Counsel reiterates its support of the proposal as offered in the existing rule.

The discussion of the proposed rule appropriately notes that currently, solar energy derives its financial support from a variety of sources. Rate Counsel strongly supports the proposal that all of these sources of financial support need to be considered as a "cost" in the calculation of the rate impacts for solar energy. We also agree with the principle that double counting should be avoided whenever possible.

However, Rate Counsel has some concerns that the currently proposed language may not be completely adequate for covering the costs of programs (or other forms of financial support) that are not present today, but could be approved by the Board in the future. Rate Counsel would suggest a small revision in the language of the Definitions section (14:8-2.2), starting at subsection (i). Rate Counsel proposes one change in subsection (4) as underscored and edited below:

- (i) The total amount of financial assistance for solar electric generation paid from (1) the societal benefits charge established under N.J.S.A. 48:3-60, (2) the retail margin on certain hourly-priced and larger non-residential customers pursuant to the Board's continuing regulation of Basic Generation Service pursuant to N.J.S.A. 48:3-51 and 57, (3) other monies appropriated for such purposes, and (4) cost recovery for renewable energy programs approved by the Board under N.J.S.A. 48:3-98.1, or approved by any other Board Order, and ~~which~~ is paid from any source other than (1), (2), or (3) above.

Rate Counsel also strongly supports the Board's proposal to include a capacity (megawatt) cap on solar installations under the proposed rule. The existing rule, and discussion in this proceeding, has treated the Board's goal as a hard-cap and the rule should be strengthened (as proposed) to reflect this hard cap. Solar energy, now and at least in the near future, is an above-market cost energy alternative. While there may be important public policy benefits of promoting solar energy at its current level, no information in the record has been presented that would support allowing upward flexibility in the given solar set-aside. In fact, Rate Counsel has repeatedly argued that the rate impacts of the development of solar energy are already quite

considerable and we do not support allowing these development levels to increase beyond their current targets. To do so would further burden ratepayers with a higher level of costs than are necessary.

Expansion of SREC Eligibility

Rate Counsel supports the Board's proposal to expand SREC eligibility to larger, non-net metered grid-connected solar energy installations. Rate Counsel believes that larger systems have an important role to play in supporting the Board's clean energy and renewable energy goals. These larger systems have lower unit costs thereby creating potential financial benefits for ratepayers relative to smaller systems. Rate Counsel believes that including large systems in a portfolio of various sized solar installations, as proposed by the Board, will be beneficial to ratepayers.