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March 5, 2010

**Via Electronic Mail**

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

**Re: RTO/ISO Performance Metrics  
Docket No. AD10-5-000**

Dear Secretary Bose:

Attached for filing in the above-referenced matter are Comments in the RTO/ISO Performance Metrics on behalf of the New Jersey Division of Public Advocate, Division of Rate Counsel. Copies of these Comments are also being electronically served upon all parties on the Commission's service list for this proceeding.

Thank you for your attention to this matter. If you have any questions in reference to this filing, please contact me at (973) 648-2690.

Sincerely,

STEFANIE A. BRAND  
Acting Public Advocate &  
Director, Division of Rate Counsel

By: Henry M. Ogden  
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Assistant Deputy Public Advocate

HMO/sm  
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UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

RTO/ISO Performance Metrics

Docket No. AD10-5-000

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**COMMENTS ON RTO/ISO PERFORMANCE METRICS  
OF THE NEW JERSEY DIVISION OF RATE COUNSEL**

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Pursuant to the February 3, 2010 Notice Requesting Comments on RTO/ISO Performance Metrics in this proceeding (“Notice”), the New Jersey Department of the Public Advocate, Division of Rate Counsel (“NJ Rate Counsel”) respectively submits comments on the proposed ISO/RTO performance metrics that were attached to the Notice.

NJ Rate Counsel is the administrative agency charged under New Jersey Law with the general protection of the interests of utility ratepayers. *N.J.S.A. 52:27E-50 et seq.*

**SUMMARY**

NJ Rate Counsel commends the Commission for initiating this important effort to develop performance metrics for RTOs/ISOs. However, the proposed metrics are only a beginning to the process; considerably more development of the proposed metrics is required, and additional metrics are also needed for RTO/ISO performance to be effectively tracked.

As described further in these comments, NJ Rate Counsel recommends that the Commission define metrics that are specific, detailed and disaggregated, with appropriate benchmarks identified for each. NJ Rate Counsel also recommends that RTOs/ISOs be required to provide access to the data underlying the metrics, so stakeholders can perform their own

analyses of RTO/ISO performance, which may identify problems that are not evident from the data as presented by the RTO/ISO.

Many stakeholders have expressed concerns regarding RTO/ISO stakeholder processes: the time involved, whether the representation of various interests is balanced, and whether the interests of consumers are adequately reflected in RTO/ISO decision-making. NJ Rate Counsel recommends defining additional performance metrics pertaining to RTO/ISO stakeholder processes and governance, to measure stakeholder involvement and trends in this regard.

In Sections II and III below, NJ Rate Counsel provides general comments on the development of RTO/ISO performance metrics, and specific recommendations on just a few categories of metrics.

## **I. Background**

The Commission has encouraged formation of Regional Transmission Organizations (“RTOs”) as independent entities to manage regional transmission networks since the 1990s, when restructuring of the electric utility industry began in some regions of the United States. Seven RTOs have now been formed, serving over half of U.S. electricity demand, and some have taken on an increasing role in managing wholesale power markets within the territories they serve. However, industry participants have questioned whether restructuring and formation of RTOs have achieved their goals and the impact these changes may have had on the prices consumers pay. Concerns have been raised over RTO decisions about developing and operating markets for electricity and related services, and whether the costs of RTOs have outweighed the benefits.<sup>1</sup> While many stakeholders generally agree that RTOs have improved management of

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<sup>1</sup> *Electricity Restructuring: FERC Could Take Additional Steps to Analyze Regional Transmission Organizations’ Benefits and Performance* (“GAO Report”), p. 4.

the transmission grid, there is disagreement over whether RTO wholesale markets have benefited consumers.<sup>2</sup>

Such concerns led the Chairman and Ranking Member of the Senate Committee on Homeland Security and Government Affairs to request the U.S. Government Accountability Office (“GAO”) to perform a study, culminating in the September 2008 release of a report entitled *Electricity Restructuring: FERC Could Take Additional Steps to Analyze Regional Transmission Organizations’ Benefits and Performance* (“GAO Report”). The GAO is an independent, nonpartisan agency whose mission is to support Congress in meeting its constitutional responsibilities and to help improve the performance and ensure the accountability of the federal government for the benefit of the American people.<sup>3</sup>

One of the main points of the GAO Report was that, while the FERC believes its policy of forming RTOs has provided numerous benefits, the FERC had not collected data or performed a study to evaluate whether this is true. The GAO Report noted that the FERC had prospectively estimated that formation of ISOs/RTOs would provide billions of dollars in consumer benefits, but has not re-examined that estimate based on actual performance.<sup>4</sup> Nor has the FERC evaluated whether similar benefits could have been achieved using other mechanisms. In addition, the GAO Report noted that the FERC had expected creation of RTOs to lead to “lighter regulation” by the FERC<sup>5</sup>, but this too has not been evaluated based on the experience to date.

The GAO Report further noted that FERC was not collecting information that would allow it to track RTO performance and identify and address any problems that might arise with

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<sup>2</sup> *Id.* at p. 7.

<sup>3</sup> GAO Mission Statement, available at <http://www.gao.gov/about/index.html>.

<sup>4</sup> GAO Report, p. 55.

<sup>5</sup> *Id.* at p. 61.

respect to the performance.<sup>6</sup> The GAO Report acknowledged that a wide range of data is available on RTOs and their markets, but found that the available data is not intended to be used to assess RTO benefits. The GAO Report also found that the available data is not comprehensive and lacks standardization, and does not allow comparing industry performance in regions served by RTOs to industry performance in regions where RTOs have not been formed. The GAO also observed that the available data does not address the extent to which RTOs have achieved the full range of benefits expected from their formation, and FERC had not synthesized the data in a way that would allow Congress and the public to assess RTO performance.

In light of these findings, GAO recommended that the FERC define metrics for evaluating and comparing the performance of RTOs/ISOs, noting three potential benefits of such data<sup>7</sup>:

1. To **encourage better performance**; RTOs (which are not for profit enterprises that lack profit incentives for better performance) might strive to be leaders, or at least not laggards, on each performance measure.
2. To **identify potential areas for improvement**; if necessary, the FERC and stakeholders could apply pressure on RTOs whose performance was below average in certain areas.
3. To **better understand whether and to what extent RTOs and their markets have provided benefits to the industry and to consumers**; this would help the FERC evaluate the success of its policies in this regard, identify areas where its RTO policies could be improved, and decide whether or not to encourage the creation of additional RTOs, or to adjust the scope of RTO functions.

The Notice begins a process in response to the GAO Report's observations and recommendations. The FERC intends to define metrics for ISO/RTOs in the instant proceeding,

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<sup>6</sup> *Id.* at p. 56.

<sup>7</sup> *Id.* at p. 57.

and to address metrics for evaluating utility performance in non-ISO/RTO regions in the coming years.<sup>8</sup>

Page one of the Notice requests comments on “whether the proposed performance metrics will effectively track the performance of ISO/RTO operations and markets.” NJ Rate Counsel commends the FERC in initiating this important proceeding, and believes the proposed metrics encompass key areas of RTO performance. However, the proposed metrics require considerably more development in order to effectively track the performance of ISO/RTO operations and markets. NJ Rate Counsel provides the following comments to assist the Commission in further developing RTO/ISO performance metrics.

Section II, which follows, provides general recommendations regarding the nature of the necessary performance metrics. Section III provides recommendations on specific metrics in several areas that NJ Rate Counsel considers of particular importance.

## **II. General Comments and Recommendations on RTO/ISO Performance Metrics**

### **A. Metrics for Evaluating the Performance of RTOs/ISOs.**

1. **Function-based Metrics.** The performance metrics should *focus on specific RTO functions* (or groups of related RTO functions). This will allow an evaluation of which functions the RTO is performing well, thus providing benefits, and which functions the RTO may not be performing well, thus providing few benefits. This evaluation may uncover changes that are needed. In particular, RTOs manage transmission grids; operate wholesale markets for energy, ancillary services, congestion, capacity and other services; and fulfill forecasting and planning functions, among other functions that merit regular evaluation.

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<sup>8</sup> Federal Energy Regulatory Commission, The Strategic Plan FY 2009-2014, October, 2009, p. 13.

2. **Specific, Detailed, Disaggregated Metrics.** Performance metrics should be *specific, detailed and disaggregated*. The proposed metrics were stated only in the most general terms, and suggest broad categories and aggregated metrics. Metrics that include many different elements averaged together (for example, administrative costs) may conceal, behind generally good performance, one or two elements that are out of line and merit attention. In addition, aggregations may combine some elements that are directly comparable across RTOs and others that would have to be adjusted to be comparable, for instance, for RTO market size.
3. **Benchmarks.** For every performance metric, there should be a *standard of comparison* or evaluation. To do otherwise would mean that the metric has no direct purpose. For some of the proposed metrics, it is not clear what standard or benchmark would be applied to determine whether the metric indicated adequate performance (for instance, under “Reliability”, metric D.1, the number of transmission facilities approved for reliability purposes, or metric D.3, the number of reliability and economic transmission planning studies completed). For some metrics, the standard is clear (i.e., – load forecast accuracy; forecasts are compared to actual values, and larger deviations raise questions), whereas other metrics invite comparison.
4. **Availability of Raw, Disaggregated Data.** Reporting entities should be required to *provide the raw, disaggregated data underlying the performance metrics on their web sites*, to allow stakeholders to perform their own analyses and comparisons of RTO performance of specific functions. As noted above, if the data is aggregated, or the benchmark for comparison is not well chosen, a metric may fail to reveal an existing problem; stakeholders may be able to drill down into the details, and to identify more appropriate benchmarks, resulting in a more meaningful assessment of performance.

5. **Identification of Beneficiaries.** The performance metrics should be defined to allow identification of which RTO stakeholders *benefit from RTO policy changes* and whether the policy changes are increasing costs or reducing profits for other groups of stakeholders. For example, the capacity mechanisms some RTOs have recently implemented have resulted in existing generating plants receiving substantial additional payments while providing approximately the same services as before the mechanisms were put in place.<sup>9</sup>

6. **Additional Requirements Where Performance Less Than Satisfactory.** NJ Rate Counsel also recommends that the Commission clarify that, whenever a reporting entity files a performance metric that suggests less than satisfactory performance, the reporting entity is to *provide an explanation and evaluation of the performance, and propose steps* the entity could take, or is already taking, to achieve improved performance in the future.

7. **Cost-Benefit Analyses of Major Decisions.** RTOs/ISOs take the lead on various major decisions, such as construction of new transmission lines, or implementation of fundamental changes in market design. The extent to which these decisions are supported by cost-benefit analyses to identify whether the recommendations are in the public interest varies. Performance metrics should also evaluate the extent to which RTO/ISO decisions and actions are supported by up-to-date cost-benefit analyses.

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<sup>9</sup> For example, as noted in the GAO Report (p. 43), numerous PJM stakeholders filed a complaint in 2008 alleging that PJM's recently-implemented capacity market had produced excessively high prices and did not deliver commensurate benefits. *Maryland Public Service Commission, et al, v. PJM Interconnection, L.L.C.*, FERC Docket No. EL08-67-000.



## **B. Metrics for RTO/ISO Stakeholder Processes and Governance**

NJ Rate Counsel believes performance metrics are needed in one additional, very important area that is not reflected in the list of proposed metrics. Metrics can also play an important role in helping the Commission evaluate the effectiveness of RTO governance, particularly stakeholder processes and the RTO decision-making that those processes are designed to inform. NJ Rate Counsel also provides more specific recommendations in this regard in Section III which follows.

The GAO Report noted that while RTOs solicit input from their stakeholders, RTO markets and operations are complex and the stakeholder processes are resource-intensive. Many stakeholders told GAO they believe their level of participation in RTO stakeholder processes determines their influence on RTO decisions, and that some types of stakeholders lack the resources and expertise to participate effectively in these processes.<sup>10</sup> In the FERC's recent Technical Conference on RTO/ISO Responsiveness, consumer representatives expressed concerns that supply-side interests (owners of generation and transmission assets), whose bottom lines are affected by RTO decisions, have far greater resources to invest in stakeholder processes than demand-side interests.<sup>11</sup> The GAO Report also noted that many stakeholders feel that RTOs defer more to certain stakeholders than others, noting in particular the transmission owners whose participation in RTOs is voluntary.

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<sup>10</sup> GAO Report pp. 31-34.

<sup>11</sup> Oral Comments of Dr. John A. Anderson, President, Electricity Consumers Resource Council (ELCON), p. 2; Statement of Jed M. Nosal to Support Oral Testimony, p. 2, both statements presented at the FERC Technical Conference on RTO/ISO Responsiveness, Docket Nos. ER09-1048 et al, February 4, 2010. One example of a stakeholder process in which participation was not very balanced: In the most recent PJM Planning Committee meeting for which attendance data is available through the published minutes, there were 37 attendees (plus two FERC Staff) participating in the meeting in person or over the telephone, of which 30 were Generation Owners, Other Suppliers, or entities with Large or Medium generation holdings, according to PJM's classifications. The other seven participants represented state commissions (2), public power entities (3), investor-owned electric distribution company (1) and an equipment supplier (1).

Stakeholders also expressed concern that RTOs do not adequately consider the cost impacts of their decisions and policies.<sup>12</sup> The GAO Report noted that stakeholders have expressed concern that RTOs overemphasize ensuring reliability without placing adequate emphasis on assessing the implications of their decisions on consumer prices, noting, as examples, decisions regarding new transmission lines, or whether to create markets for services in lieu of charging cost-based rates.<sup>13</sup>

Performance metrics addressing the stakeholder process and RTO decision-making would provide the factual background to evaluate these concerns and to identify whether progress is being made in this area.

### **III. Comments and Recommendations on Specific Performance Metrics**

In this section, NJ Rate Counsel provides more specific comments on a few areas of particular concern. The development of a reasonably comprehensive set of performance metrics for RTOs/ISOs and their functions and markets, designed with the characteristics described in Section II above in mind, would clearly be a substantial undertaking requiring significant time and resources. NJ Rate Counsel has not attempted to provide this in these comments. A second, and much more detailed, document of proposed performance metrics will be needed, to form the basis for a second round of comment to more fully develop the proposed metrics.

The categories of performance metrics identified in the Notice are shown in Table 1. NJ Rate Counsel recommends organizing and identifying the metrics by function. For example, the first category, “Reliability”, does not pertain to a specific function or category of functions, and in fact this title might seem to perpetuate one of the concerns identified in the GAO Report and

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<sup>12</sup> McCullar Statement, p. 5; Remarks of Randy Rismiller on Behalf of the Illinois Commerce Commission, FERC Technical Conference on RTO/ISO Responsiveness, Docket Nos. ER09-1048 et al, February 4, 2010, p. 3.

noted earlier in these comments – that RTOs/ISOs may overly emphasize reliability and not always balance reliability with its cost. NJ Rate Counsel suggests replacing the Reliability category with two categories: Operations and Planning.

<b>Table 1: Categories of Performance Metrics Proposed By FERC Staff</b> (from Notice Requesting Comments on RTO/ISO Performance Metrics, February 3, 2010)	
<p><b>Section 1: Performance Metrics</b>  <i>("common performance metric topics on which all ISOs/RTOs will report")</i></p> <p><u>Reliability:</u></p> <ul style="list-style-type: none"> <li>A. National or Regional Reliability Standards Compliance</li> <li>B. Dispatch Reliability</li> <li>C. Operational Planning – Load Forecast Accuracy</li> <li>D. Long-Term Reliability Planning – Transmission</li> <li>E. Long-Term Reliability Planning – Generation</li> <li>F. Transmission Outage Coordination</li> </ul> <p><u>Markets:</u></p> <ul style="list-style-type: none"> <li>A. Market Pricing</li> <li>B. Generator Availability</li> <li>C. Congestion Management</li> <li>D. Demand Response</li> <li>E. Renewables</li> </ul> <p><u>Organizational Effectiveness:</u></p> <ul style="list-style-type: none"> <li>A. Administrative Costs</li> <li>B. Customer Satisfaction</li> <li>C. Billing Controls</li> </ul>	<p><b>Section 2: Additional Information</b>  <i>("informative... but not as indicative of measuring ISO/RTO performance")</i></p> <p><u>Additional Information:</u></p> <ul style="list-style-type: none"> <li>A. Infrastructure Investment – Interconnection and Transmission Process Metrics</li> <li>B. Special Protection Schemes (SPSs)</li> <li>C. Wind forecasting accuracy</li> <li>D. Unscheduled flows</li> <li>E. System Lambda</li> <li>F. Fuel Diversity</li> <li>G. Energy Market Price Convergence</li> <li>H. Backup Facility</li> </ul> <p><b>Section 3: ISO/RTO Specific Key Initiatives</b>  <i>("allow each ISO/RTO to highlight organization-specific initiatives or key focus areas")</i></p>

The following comments address some of the topics proposed by Commission Staff and also propose some additional topics of performance metrics.

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<sup>13</sup> GAO Report p. 34.

**Section 1: Performance Metrics; Category: Reliability**

- A. National/Regional Reliability Standards Compliance – no comments at this time
- B. Dispatch Reliability – no comments at this time
- C. Operational Planning – Load Forecast Accuracy – no comments at this time; this metric is understood to pertain to relatively short-term load forecasts of a week or less; comments on long-term peak load forecasting are included below under “Long-Term Reliability Planning – Generation”.
- D. Long-Term Reliability Planning – Transmission

NJ Rate Counsel has no comments at this time on metrics for transmission planning. However, see the comments on Cost Benefit Analyses in Section II above, and comments on metrics regarding stakeholder processes, below.

- E. Long-Term Reliability Planning – Generation

NJ Rate Counsel has comments in two areas under this category.

**1. Metrics for Long-Term Peak Load Forecasting:**

Because long-term peak load forecasts are an important input into transmission and generation planning, including some RTO’s capacity markets, metrics should be defined for such forecasts, in addition to metrics for the near-term load forecasts used in operational planning.

RTOs/ISOs that prepare long-term peak load forecasts should report their load forecasts for three historical years and the next five delivery years. For each delivery year, the RTO/ISO should report, as applicable:

- The most recent forecast and prior three forecasts.
- The actual and weather-normalized actual peaks (past delivery years).

- The load forecast error (or change), measured as the difference between the most recent forecast and the weather-normalized actual peak (for prior years) or previous forecast (for future years).

The RTO/ISO should report this information at the RTO level and for each internal Zone for which the RTO separately forecasts peak loads and plans transmission and generation.

This information would assist the Commission and stakeholders in assessing the accuracy of these forecasts and any trends with respect to forecast accuracy.

## **2. Metrics for Resource Adequacy: Planning Capacity to Meet Peak Load**

RTOs/ISOs should report their actual reserve margins compared to planned reserve margins, as proposed by Commission Staff. However, more detail regarding capacity planning and resource adequacy would be valuable. RTOs/ISOs should report, for three historical years and the next five delivery years:

- The most recent capacity requirement or target reserve margin, in MW, installed capacity reserve margin, and unforced capacity reserve margin terms;
- The actual reserve margin (past years) or forecast actual reserve margin (future years), in the same terms;
- The amount of capacity already contracted for the delivery year, for all years for which this is applicable, in the same terms.

RTO/s ISOs should discuss the reasons for any substantial deviations between target reserves and actual or contracted reserves, whether high or low.

RTOs/ISOs should report this detail at the RTO level and for every constrained zone for which a local source requirement is established and enforced.

The Commission should attempt to impose some standardization on metrics for capacity requirements and reserve margins, as, at present, RTOs/ISOs utilize different assumptions in making such calculations.<sup>14</sup>

F. Transmission Outage Coordination – no comments at this time

### **Section 1: Performance Metrics; Category: Markets**

A. Market Pricing

Metrics should be defined and focused to identify any problems that may exist with respect to market pricing. To that end, metrics should focus on deviations and differences that raise questions; broad averages are unlikely to be informative. For instance, metrics should focus on instances of high prices that appear to differ sharply from marginal cost, and instances where prices in some of the RTO/ISO's markets appear to have been out of equilibrium relative to other markets (e.g., energy and ancillary services, or day-ahead and real-time markets).

B. Generator Availability – no comments at this time

C. Congestion Management – no comments at this time

D. Demand Response – no comments at this time

E. Renewables – no comments at this time

**F. Markets – (proposed new metric) Generation Cost Recovery**

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<sup>14</sup> See, for example, Memorandum from Wayne Cost to ISO-NE Power Supply Planning Committee, *Comparison of ISO New England's ICR with New York State Reliability Council's IRM*, March 5, 2009 (showing that NYISO's Installed Reserve Margin of 16.2% is roughly comparable to ISO-NE's Installed Capacity Requirement of 9.9%, once numerous differences are taken into account). [http://www.nysrc.org/pdf/MeetingMaterial/ECMeetingMaterial/ECAgenda120/Comparison\\_of\\_IRM\\_ICR\\_2009.pdf](http://www.nysrc.org/pdf/MeetingMaterial/ECMeetingMaterial/ECAgenda120/Comparison_of_IRM_ICR_2009.pdf).

Metrics should be included that call for estimates of generation cost recovery across all markets, by type of generation. Where the metrics suggest that some types of generation are recovering substantially more than going-forward costs, the RTO/ISO should discuss the reasons its markets are collectively providing the level of recovery.

Where RTOs/ISOs operate administrative mechanisms designed to provide additional revenues under circumstances where it is believed that otherwise, certain costs would not be recovered (for instance, RTO capacity markets, or payments for frequently mitigated units), the RTO/ISO should provide an analysis of price formation and cost recovery under such mechanisms.

### **Section 1: Performance Metrics: Category: Organizational Effectiveness**

#### **A. Administrative Costs**

As described in Section II of these comments, to be useful, administrative cost metrics must be defined on a disaggregated basis. Some costs are not directly comparable across RTOs due to differences in size, functions, capacity mix, or other reasons.

#### **B. Customer Satisfaction**

Customer satisfaction should be assessed and reported by major functional area (e.g., operations, transmission planning, generation planning, and various markets). Customer satisfaction in each functional area should be reported by customer group. For instance, PJM classifies its customers into five Sectors, and also identifies, for each entity, whether it is a small, medium, or large generation owner, and whether it owns transmission. This detail should be reflected in the customer satisfaction metrics, to identify whether satisfaction or dissatisfaction is more common among certain types of customers.

#### **C. Billing Controls – no comments at this time**

#### **D. Organizational Effectiveness – (proposed new metric) Involvement in Stakeholder Processes**

RTOs/ISOs should report the level of effort stakeholders are investing in the various RTO/ISO committees and stakeholder processes. This information would measure the extent to which the RTO/ISO stakeholder processes were very time-consuming, and it would indicate whether there is improvement over time in that regard. This metric should also be reported by customer type or stakeholder group. This would show whether participation is reasonably balanced across the various interests, or whether some types of customers have been over- or under-represented in some stakeholder processes.

The metric should show total person-hours in stakeholder meetings, by committee/stakeholder process and customer type. For at least some RTOs/ISOs, stakeholders register online for meetings and identify their sectors, so this information is automatically collected and would not be burdensome to report.

#### **Section 2: Additional Information**

- A. Infrastructure Investment – Interconnection and Transmission Process Metrics – no comments at this time
- B. Special Protection Schemes (SPSs) – no comments at this time
- C. Wind forecasting accuracy – no comments at this time
- D. Unscheduled flows – no comments at this time
- E. System Lambda – no comments at this time
- F. Fuel Diversity – no comments at this time
- G. Energy Market Price Convergence – see above comments under Markets - Pricing
- H. Backup Facility – no comments at this time

**Section 3: ISO/RTO Specific Key Initiatives** – no comments at this time



**CONCLUSION**

The New Jersey Division of Rate Counsel respectfully requests that the Commission consider these comments and incorporate these recommendations in its Order.

Respectfully submitted,

STEFANIE A. BRAND

Acting Public Advocate and

Director, Rate Counsel

By: *Henry M. Ogden*\_\_\_\_\_

Henry M. Ogden, Esq.

Assistant Deputy Public Advocate

Dated: March 5, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Newark, NJ this 5th day of March, 2010.

By: s/ Henry M. Ogden

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