<u>Comments of the Division of the Ratepayer Advocate</u>
<u>on the Proposed Green Power Choice Program Design version 1.0</u>
<u>February 18, 2005</u>

The Division of the Ratepayer Advocate ("Ratepayer Advocate") has previously expressed its reluctance to see Clean Energy Program ("CEP") funds supporting the baseline costs of the Green Power Choice ("GPC") program rather than revenues from program participants including the Green Power Marketers ("GPMs"), the electric distribution companies ("EDCs") and/or participating customers. However, our office recognizes that the Board of Public Utilities ("BPU") has already approved a $3 million budget for costs of the GPC in the CEP budget for 2005. The proposed program design version 1.0 framed by the Office of Clean Energy ("OCE") also envisions such use of CEP funds. The BPU has also decided to allow the EDCs deferred accounting for their reasonable and incremental program implementation costs. These EDC costs are subject to review by the BPU at a later point in time and may be eligible for recovery through the Societal Benefits Charge.

If the GPC program is to be so funded, then the program design should include features to control program costs that are supported by all ratepayers. We suggest five approaches that may help to manage program costs:

1. On page 19 of the proposed program design document, there is reference to incentives to EDCs for success in marketing the GPC program over and above some minimum performance benchmarks. Extensive baseline responsibilities of the utilities in informing customers of the program and facilitating their enrolling and billing are outlined in the draft proposal. This extensive EDC role provides the GPMs with a powerful platform for marketing. Our office believes that the GPMs are the entities that should spearhead the marketing effort, for they will directly profit. Utility incentives would add to underlying program costs for all ratepayers. We suspect the utilities will find the GPC program popular with customers, as utilities elsewhere have, so that offering extra profit to them to promote it may be redundant as well as costly. The GPC program of Portland General Electric ("PGE") is cited in the draft proposal as an outstanding success --we have learned that it now has over 33,000 participants-- yet PGE does not receive incentives for marketing success. The EDCs do not receive incentives for other programs in the CEP. The Ratepayer Advocate does not see any need to provide incentives to the EDCs for the GPC program. We oppose incentives to the EDCs as an unnecessary additional expense. Also, it is premature to consider this type of added expense before we have seen whether the program is meeting a reasonable set of goals or not.

2. The GPC program draft proposal envisions a single uniform *statewide* program, partly on the grounds that this will "reduce marketing costs and enhance ease of marketability." It is not clear that this premise is necessarily correct. Indeed, it is a bit at odds with the idea that the individual EDCs are encouraged to market actively and to forge a link between their corporate identities and those of the GPMs. PGE's outstandingly successful GPC is relevant here as well. That program is not part of a uniform statewide program. Rather, PGE's program is a utility-specific offering that is aggressively marketed. Nationally,

almost all GPC programs are utility-specific. Another consideration is timing. Based on the statements of New Jersey's EDCs, some will be ready to operate the GPC program sooner than others. In fact, Appendix H to the draft proposal seems to anticipate different roll-out dates. GPC program roll-outs should not be delayed until all EDCs are ready. New Jersey is a large market with distinct regions. It may be less administratively burdensome and more cost-effective to encourage the utility that is ready first to roll out the GPC program first, and the others can follow until all four EDCs have implemented the program.

3. As remarked in the Ratepayer Advocate's earlier comments to the Renewable Energy Subcommittee, if the approach is to have all customers pay for program costs out of CEP funds, then it is fairer as well as simpler to open the GPC program to customers regardless of their electric supplier, so that customers with a Third Party Supplier ("TPS") could also enroll in the GPC program. If the GPC program is opened up in this manner, as was apparently envisioned by the Governor's Renewable Energy Task Force, the steps of ascertaining whether a customer has a TPS -- or is going to leave Basic Generation Service ("BGS"), or is going to return to it-- can be eliminated from the administrative protocol for determining eligibility. A more open GPC program should be easier to administer and market. However, if opening the program to customers with a TPS creates additional difficulty and cost to the EDC billing system, then the EDCs should make this clear in the working group process.

4. The OCE should require the EDCs to report their reasonable and incremental current and cumulative GPC costs to the Clean Energy Council as well as the OCE on a quarterly basis. This reporting should begin immediately. In this manner, the parties can monitor the ongoing deferred costs as well as the relation of these costs to actual customer levels of participation. The maximum program cost per GPC program participant should be capped, so that the program runs less risk of becoming unduly expensive, as some utilities fear it may. GPC programs are already in existence in other areas of the country, some of which were discussed in the working group advising the OCE in this matter. A cost cap should be crafted from the extensive information base that is already available.

5. Consolidated billing is desirable where an individual EDC finds that it would be reasonably economical to incorporate a customer bill line for GPC. The context for considering the consolidated billing option should be the overall requirements of a restructured electric industry with unbundled products listed in the EDCs' bills. What a restructured environment with customer choice ideally requires is flexible EDC billing systems that can accommodate a variety of products. To the extent this has not been achieved as part of the overall restructuring process, it is asking much of the CEP to support the costs of restructuring billing systems, whether for the limited purpose of accommodating only GPC, or for the more general purpose of creating flexibility for multiple products --some of which may not even be currently under discussion. We urge the BPU to consider a more flexible approach to billing with respect to the specific task of promoting GPC. The EDCs have warned of considerable additional program costs due to billing system changes. The Ratepayer Advocate requests the BPU to consider modifying the proposal so that all GPC billing be done separately by the GPMs rather

than through EDC consolidated billing in order to mitigate the possible pass-through of EDC costs to all ratepayers. Although the working group has already begun its effort on utility billing system changes, the Ratepayer Advocate urges the BPU to leave open the possibility that all GPC billing be done separately by the GPMs, so that EDC program costs will be kept to the lowest possible amount.

Many GPC program details remain to be worked out by the OCE with the advice of the working group. The Ratepayer Advocate will address other specific issues in the course of this process. Our office has other concerns regarding the draft proposal as follows.

- The draft proposal also calls for the OCE to create a customer call center and clearinghouse for the GPC program, but it is not clear if these costs are to be funded by the $3 million CEP budget for this program or if these costs could be funded through the deferred costs of the EDCs. Presumably, all efforts by the OCE for this program would be funded entirely from the $3 million CEP budget. The BPU should make this clear in any order approving the GPC program.

- The draft proposal envisions a separate GPC website. The cost for a separate website is also not clear. The Ratepayer Advocate requests that the BPU investigate whether it is more cost-effective simply to add GPC program information to the existing CEP website rather than create a brand new website solely for the GPC program.

- Page 8 of the draft proposal outlines some of the baseline services to be provided by the EDCs. It is not yet clear which of these types of activities the EDCs are already performing for the TPSs in New Jersey. As the BPU has already recognized, only incremental EDC costs should be included in the deferred accounts. Page 10 of the draft proposal mentions the requirement that a TPS customer cannot sign up for GPC, but a TPS that receives GPM certification can participate in the GPC. The TPS would continue to bill its supply customers through the existing EDC billing system. This demonstrates that at least some of the EDC activities needed for the GPC program are already being performed by the EDCs for customers of a TPS. The EDCs should be required to specify how the GPC implementation costs differ from any TPS activities already being performed.

- Page 10 of the draft proposal also states that GPM certifications would be valid for one year, but page 9 of the draft proposal requires GPMs to commit to a minimum two-year participation in the GPC program. It is not clear how the program would enforce a two-year participation minimum if the GPM fails to apply for certification in the second year. The final program design should address this apparent inconsistency.

- Page 10 of the draft proposal also contains an incorrect URL for the BPU website. The current URL for the BPU website should be substituted.

- Page 13 of the draft proposal seems to indicate that commercial and industrial BGS customers can participate in GPC and choose as much or as little renewable energy as they want, subject to billing system constraints. However, other sections of the draft proposal state that at least in the first year, customers will be limited to renewable energy for 100% of their electric usage. There is no apparent reason for differing treatment between residential and commercial/industrial BGS customers concerning the amount of renewable energy they may purchase in the GPC program. If this is not the intent of the draft proposal, then the final program design should make it clear that residential and commercial and industrial customers will be able to participate in the GPC on the same terms. If the draft proposal intends to treat residential customers differently than commercial and industrial customers, then the factual basis for such a distinction should be discussed thoroughly in the working group.

- The draft proposal also discusses on page 13 the GPC product verification and certification process. It mentions the possibility of the GPM obtaining product verification and certification through an independent third party entity and the possibility that the BPU's current regulations may be revised to address these GPC concerns. The draft is not clear how this process will be designed and implemented. Additional specificity should be included in the final program design.

- Page 17 of the draft proposal describes a possible "automated seamless moves system" for the GPC program that would allow GPC customers to stay in the program even when they have moved from one location to another. The draft states that this system may affect other TPS programs or EDC services and indicates that developing such a system may be significantly costly. It is also clear that such a system would be applicable to a TPS customer who is not participating in GPC. Such generally applicable costs also demonstrate that some proposed GPC implementation activities apply to customers who do not wish to participate in the GPC program. It may be better policy to consider generally applicable activities and costs in some other proceeding concerning electric retail choice programs rather than try to design and implement them solely for the GPC program.

Finally, there is an additional issue on which we would sound a strong cautionary note. Ease of customer enrollment is important in GPC. Indeed, customers should be able to apply for GPC through relevant websites, as well as the sign-up cards inserted into customer bills that are mentioned in the draft proposal. However, the section of the draft proposal on "Customer Account Information" envisions possible changes to existing New Jersey regulations governing EDC privacy procedures. With respect to this issue, the Ratepayer Advocate believes it is appropriate and proper that the burden of ascertaining customer account numbers should fall on the GPMs. We do not see any need to change existing customer privacy protections in order to facilitate GPC marketing. Any changes to BPU regulations would also include an extensive notice and comment period as required by the Administrative Procedures Act. Any unnecessary changes to existing BPU regulations should be avoided so as not to add delay to the eventual program implementation.