



State of New Jersey  
DEPARTMENT OF THE PUBLIC ADVOCATE  
DIVISION OF RATE COUNSEL  
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September 27, 2007

**Via Hand Delivery**

Kristi Izzo, Secretary  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Re: I/M/O the Provision of Basic Generation Service-  
Implementation of a Demand Response Program  
BPU Dkt. No. EO07050351

Dear Secretary Izzo:

This letter is being submitted by the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") to the Board of Public Utilities ("BPU" or the "Board") pursuant to a letter to the Board dated September 21, 2007, in which the Demand Response Working Group ("DRWG") requested an extension of time within which to present its recommendations to the Board regarding a proposed New Jersey specific demand response program.

The DRWG letter advises the Board that the group has discussed a demand response pilot program which "piggybacks" on an existing PJM demand response program with an added incentive, or "Premium Payment" for New Jersey participants.

As noted in the September 21 letter, “the group has begun to discuss the details of an appropriate Premium Payment and how it may be derived and funded.”

Rate Counsel is concerned that at this juncture in the development of a demand response program, and specifically with the beginning of the group’s discussion on how the Premium Payment will be determined, that the DRWG may come up with a proposal that does not conform to the Board’s directive in the Secretary’s Letter dated June 14, 2007 that the Demand Response procurement should be of a competitive nature. Rate Counsel submits that before additional time is spent developing the appropriate “Premium Payment,” additional guidance from the Board may be helpful.

As you are aware, the Demand Response Pilot Procurement Process and Program Guidelines set forth in the attachment to the Board’s Secretary Letter provide:

Procurement Format: the procurement format shall be of a **competitive nature** designed to ensure that the maximum number of Demand Response providers are able to participate (i.e., through an RFP or descending clock auction as proposed by some of the Demand Response providers who submitted comments.); (emphasis in original)

The Program Guidelines go on to specify that the working group should develop the appropriate contract to be used between the EDCs and the “Demand Response Providers who have won the right to provide demand response through the competitive solicitation process.”

Based on the Secretary’s letter, Rate Counsel has recommended that the DRWG consider an RFP procurement process, in which the Premium Payment is determined on the basis of competitive bids. Rate Counsel believes that with the proposed use of an existing PJM Demand Response program with little, if any, change in the program

design, that an RFP process can be undertaken and completed in sufficient time to start a demand response program in 2008.

Other members of the DRWG have proposed that the "Premium Payment" be set administratively, by the members of the working group which includes parties likely to provide the demand response. Rate Counsel submits that this is not the competitive process envisioned by the Board and set forth in the Secretary's letter.

Rate Counsel requests that the Board clarify at this time whether the proposed "Premium Payment" should be determined through a competitive process or whether the "Premium Payment" for the demand response pilot program should be set administratively by the DRWG.

Thank you for your consideration of this matter.

Respectfully submitted,

RONALD K. CHEN  
PUBLIC ADVOCATE OF NEW JERSEY

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