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BOARD OF PUBLIC UTILITIES
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Kristi Izzo
Secretary of the Board
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December 18, 2013

The Honorable Laura Sanders
Acting Director and Chief Administrative Law Judge
The Office of Administrative Law
Post Office Box 049
Trenton, New Jersey 08625-0049

Re: Docket Nos. BPU EO11010026, OAL PUC 08022-12 and OAL PUC 12918-12 –
In the Matter of the Long Term Capacity Agreement Pilot Program

Dear Judge Sanders:

On October 23, 2013, the Superior Court of New Jersey, Appellate Division issued a sua sponte order dismissing, without prejudice, the consolidated appeals under docket numbers A-4467-10T3 and A-5192-10T3. In addition, the court also dismissed without prejudice, the "pending matters currently on remand with the New Jersey Board of Public Utilities [("Board")]" Therefore, the matters addressed by Administrative Law Judge ("ALJ") Mumtaz Bari-Brown in her Initial Decision,¹ will not have a practical effect on the consolidated appeals and are now moot.

Although the Board previously requested, and was granted, an extension to issue a final decision until December 26, 2013, the Appellate Division's intervening sua sponte order likewise renders moot any final decision issued pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.6. Accordingly, no further action will be taken by the Board nor shall ALJ Bari-Brown's Initial Decision be "deemed adopted" following expiration of the 45-day extension for a final decision.

Please find enclosed a copy of the Appellate Division order referenced above. Please consider this letter and the attached order as notice of the matter's dismissal for the benefit of your agency's recordkeeping. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kristi Izzo".

Kristi Izzo
Secretary of the Board

/ac

c: The Hon. Mumtaz Bari-Brown, ALJ
Service List

¹ Under OAL Docket Nos. PUC 08022-12 & PUC 12918-12

IN THE MATTER OF THE LONG-TERM CAPACITY AGREEMENT PILOT PROGRAM
("LCAPP")
APPELLATE DOCKET NO. A-004467-10T3 and A-005192-10T3
DOCKET NO. EO11010026

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SUA SPONTE ORDER

I/M/O THE LONG-TERM
CAPACITY AGREEMENT PILOT
PROGRAM

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-004467-10T3
DOCKET NO. A-005192-10T3
JUDGE(S): CARMEN MESSANO

THIS MATTER HAVING BEEN DULY PRESENTED TO THE COURT ON ITS OWN MOTION AND THE PARTIES HAVING APPEARED BEFORE THE HON. PHILIP S. CARCHMAN (retired and temporarily assigned on recall) FOR A CASE MANAGEMENT CONFERENCE VIA CONFERENCE CALL ON OCTOBER 17, 2013, AND FOR GOOD CAUSE SHOWN;

And it appearing that the appeals are from a final decision of the New Jersey Board of Public Utilities (the "BPU" or "Board") accepting and adopting the recommendation of the Agent of the Long Term Capacity Agreement Pilot Program ("LCAPP");

And it further appearing that the United States District Court of the District of New Jersey has issued a Memorandum and Interim Order dated October 11, 2013 (Case 3:11-cv-00745-PGS-DEA, PPL Energyplus, LLC et al. V. Robert M. Hanna, in his official capacity as President of the New Jersey Board of Public Utilities, et al.,) determining that the Long Term Capacity Agreement Pilot Program Act ("LCAPP") is preempted by the Federal Power Act and in violation of the Supremacy Clause of the United States Constitution, and is therefore null and void;

And it further appearing that there are remand proceedings presently pending before the New Jersey Board of Public Utilities ("BPU" or "Board") (Docket No. E011010026) pursuant to Appellate Division Order dated April 17, 2013;

IT IS, ON THIS 22nd DAY OF OCTOBER, 2013, HEREBY ORDERED THAT:

These consolidated appeals, along with the pending matters currently on remand with the New Jersey Board of Public Utilities, are dismissed without prejudice subject to the parties exercising their appellate rights in the Federal Courts.

FOR THE COURT



Carmen Messano, P.J.A.D.

E011010026 STATEWIDE

(Electronically Submitted)