

NEW JERSEY



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August 15, 2002

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Ms. Zulima Farber, Chairperson
Deferred Balance Task Force
C/o Jess Melanson, Policy Advisor to Governor James E. McGreevey
PO Box 004
Trenton, New Jersey 08625

Re: Task Force Questions

Dear Ms Farber:

Please accept the following responses to the questions outlined in your August 8, 2002 correspondence concerning the Governor's Executive Order creating the Deferred Balance Task Force.

As you know, New Jersey Citizen Action is the state's largest, independent citizen watchdog organization, representing over 60,000 family members and 100 affiliated community, labor, tenant, senior citizen, faith-based, civic, civil rights and environmental organizations. NJCA has been an active participant in many utility proceedings including EDECA. From the outset, and as noted below, Citizen Action opposed the Whitman Administration's energy deregulation proposals. We continue to believe that energy resources should be regulated by the state and not subject to unpredictable market forces. The experience of the last three years only serves to bolster this belief.

We too share the Governor's concern that New Jersey consumers are treated fairly and that energy providers are held accountable. We look forward to assisting the Governor in the Task Force's deliberations to determine why these deferred balances have been amassed and how they should be addressed.

Please contact me at 732.246.4772 if I can provide you with any additional information.

Sincerely,


Staci A. Berger
Program Director

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NJCA is an affiliate of US Action, a national progressive coalition

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New Jersey Citizen Action's Responses to Questions from the Governor's Deferred Balance Task Force

- 1. Did you or your organization take a position on EDECA, and specifically on the issues relating to deferred balances, before the Act was passed?***

New Jersey Citizen Action, the state's largest citizen watchdog coalition, was one of three consumer groups that had intervener status in all of the stranded cost, rate unbundling and restructuring cases for all four of the investor owned utilities. We were also members of the BPU Negotiating Team that developed the original EDECA. From the outset, NJCA opposed the Whitman Administration's energy proposals, including the Rate-Flex Legislation and The Energy Master Plan, which proposed deregulating the generation portion of the electric industry. Our main concern, then and now, is the provision of this lifeline service to low and moderate-income residents in the State. We continue to believe that, given its importance to state residents and businesses, energy should be regulated by the state and not be subject to unpredictable market forces. NJCA repeatedly testified at regulatory and legislative hearings that residential ratepayers were seeking rate relief and that competition in the energy market was not a panacea for New Jersey's excessively high-energy rates. We advocated a 25% rollback in electric rates, collecting over 10,000 petition signatures from seniors and low-income residents supporting that position, and consistently opposed stranded cost recovery by incumbent utilities. NJCA was heavily involved in negotiating some of the compromise language in EDECA, notably around consumer protections.

- 2. Were there provisions relating to deferred balances that you or your organization opposed and/or believed should have been included in EDECA but were not?***

NJCA did not have a specific position regarding provisions for deferred balances. However, we strongly supported and continue to support overall rate caps, as the best way to achieve rate relief. To date the rate caps have been the one aspect of EDECA that has provided relief to consumers. We maintain that it is unfair to residential ratepayers, who never championed deregulation, to pay for the entire cost of the deferred balances. In 1998, NJCA submitted a proposal to the NJ Board of Public Utilities that would have created a program, whereby stranded cost and deferred balance payments would be used to purchase a newly created second stock for all of the incumbent utilities. This way, ratepayers would be able to control some portion of the decisions made by the utilities and get something concrete in return for the massive, billion-dollar bailout they have provided for utility companies.

- 3. What do you or your organization believe are the principal factors responsible for the accumulation of nearly \$1 billion in deferred balances?***

Without a thorough and deliberate review by the Board of Public Utilities, it is impossible to determine why the state's utilities have accumulated these deferred balances and the extent to which these costs have been reasonably incurred. Possible explanations may include utility management, market manipulation, individual factors related to the energy market and/or the current overall rate structure – shopping credit, MTC, NTC and SBC Charges. Other factors may include the failure of regulators to address changes in market conditions when they became apparent.

4. *Are there specific remedies that you or your organization support to address the issue of deferred balances?*

There are a number of potential remedies, again all of which should be vetted through a regulatory review process. These remedies could include the proposal outlined above, re-regulation of the energy industry in the face of New Jersey's failed foray into deregulation, and/or the securitization of deferred balances as a solution to one piece of a larger problem. Any review of deferred balances must lead to a determination of what portion of those balances, that are determined to be reasonable, are borne by ratepayers and what portion are borne by shareholders. Ratepayers alone should not bear the risks associated with deregulation and its consequences.

Any amortization of deferred balances should not result in ratepayers paying more than the original, reasonable balances incurred, i.e., ratepayers should not have to pay interest. This principal was followed in the Board's proceedings to determine the level of stranded cost recovery. In those cases, securitized stranded costs were ultimately negotiated by intervening parties such that the total costs to ratepayers, after interest payments, were not higher than the reasonable amounts determined by the Board.

5. *What are your organization's views on the process by which deferred balances should be investigated and heard by the Board of Public Utilities?*

NJCA believes that the Administration should review the entire restructuring experience in New Jersey rather than focus solely on deferred balances. Deferred balances are just one aspect of a larger problem. Both the current state and future of energy deregulation should be investigated through a full rate proceeding that requires evidentiary and public hearings. Under no circumstances should the utilities be allowed to amortize their deferred balances without an exhaustive review by the BPU and all interested parties.