State of New Jersey
DIVISION OF RATE COUNSEL
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PHIL MURPHY
Governor

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Lt. Governor

STEFANIE A. BRAND
Director

January 16, 2020

By Hand Delivery and Electronic Mail
Honorable Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

Re: Comments of the New Jersey Division of Rate Counsel on the Staff Straw Proposal on Defining the Clean Energy Act of 2018's Statutory Cost Caps

Dear Secretary Camacho-Welch:

Please accept for filing the enclosed original and ten (10) copies of comments being submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in connection with the above-referenced matter. Copies of Rate Counsel's comments are being provided to all parties on the service list by electronic mail and hard copies will be provided upon request to our office.

We are enclosing one additional copy of the comments. **Please stamp and date the extra copy as "filed" and return to our courier.**

Thank you for our consideration and attention to this matter.

Respectfully submitted,

STEFANIE A. BRAND
Director, Division of Rate Counsel

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Enclosure

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STATE OF NEW JERSEY

BEFORE THE BOARD OF PUBLIC UTILITIES

In re: Staff Straw Proposal on Defining the Clean Energy Act of 2018's Statutory Cost Caps	)))

COMMENTS OF THE NEW JERSEY DIVISON OF RATE COUNSEL ON THE STAFF STRAW PROPOSAL ON DEFINING THE CLEAN ENERGY ACT OF 2018's STATUTORY COST CAPS

January 16, 2020

1. Introduction

The Division of Rate Counsel ("Rate Counsel") thanks the Board of Public Utilities ("Board" or "BPU") for the opportunity to provide comments on Staff's Straw Proposal to define the statutory cost caps ("cost caps") in the Clean Energy Act (P.L.2018, c.17) ("CEA"), which will guide the Board in its development of the solar market in New Jersey. The CEA directs the Board to transition the solar market away from current solar financing methods based on the use of Solar Renewable Energy Credits ("SRECs") to a new program that will continue the efficient and orderly development of solar energy generation. In addition, the CEA established a cost cap on the total cost that ratepayers are required to pay for Class I renewable energy requirements. Thus, as part of its adoption of the solar Transition Incentive program ("TI Program") on December 6, 2019, the Board directed Staff to "initiate a proceeding on the calculation of the cost cap, and to report back to the Board regarding the recommendations and outcomes of said proceeding[.]"

On January 6, 2020 the Board issued a Notice scheduling a stakeholder meeting on January 15, 2020, and soliciting written comments to consider three subject areas: (1) whether the Board should adopt a multi-year approach to compliance with Cost Cap; (2) how the Cost Caps should be determined and implemented; and (3) how the Legacy SREC program should be reformed to ensure a robust solar market while conforming to the statutory limitations on cost. Comments related to the first subject area are due on or before January 16, 2020 and comments related to the second and third objective are due on or before January 31, 2020. These comments address the questions issued for the first objective, which appear under the heading "Treatment of Cost Cap 'Headroom' in the Clean Energy Act" in the Board's Notice.

Treatment of Cost Cap "Headroom" in the Clean Energy Act

1. **Should the Board adopt a true-up banking methodology so that any expenditures above or below the Cost Cap in one Energy Year are carried forward to a subsequent year?**

Rate Counsel does not object to the use of a true-up mechanism to reconcile actual expenditures to the cost caps established in the CEA. Rate Counsel acknowledges that a true-up mechanism will be needed as a practical matter because actual expenditure will not be known until after the end of each energy year. However, the true-up mechanism should be administered within reasonable limits to maintain consistency with the intent of the CEA.

The CEA is clear in its definition of pre-determined, annual rate caps on Class I renewable energy costs. Also, the CEA clearly identifies cost cap percentages for specific energy years. For instance, the legislation provides that costs "shall not exceed nine percent of the total paid for electricity by all customers in the State for energy year 2019, energy year 2020, and energy year 2021, respectively...." N.J.S.A. 48:3-87 (emphasis supplied) The CEA says nothing about averaging across the EY2019 to EY2021 time period. It clearly limits the annual renewable energy costs in each energy year "respectively" – not "comprehensively" nor "collectively." The CEA reinforces this definition for later years by noting that renewable energy costs "shall not exceed seven percent of the total paid for electricity by all customers in the State in any energy year thereafter." Id. (emphasis supplied).

Accordingly, the Board should design and implement the solar transition with the objective of remaining within the cost caps for each energy year. The true-up mechanism should be used only as an administrative mechanism to provide for the inevitable variances between planned and actual expenditures.

2. Would allowing for banking between Energy Years affect the total ratepayer impact?

If used as described in Rate Counsel's response to Question 1 above, the impacts on total ratepayer impacts should be minimal.

3. Should the Board consider averaging costs over a period in order to more accurately reflect total compliance costs, while smoothing transient effects? How would such an average be constructed?

Averaging these costs across multiple years is inconsistent with the CEA. For the reasons explained in Rate Counsel's response to Question 1 above, the Board should not plan to spend in excess of the statutory cap for any energy year.

4. Should the Board adopt a true-up banking mechanism that can utilize unspent headroom from previous years as well as anticipated/projected headroom from future years?

For the reasons explained in Rate Counsel's response to Question 1 above, the Board should not design and implement the solar transition based on the planned transfer of "headroom" among energy years. The goal should be to administer the Program consistent with the caps, utilizing a true up mechanism at the end of each year to address any minor variations between energy years.

5. How should the accounting for such transfers be done?

See Rate Counsel's response to Questions 1, 2, 3, and 4 above.