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STEFANIE A. BRAND
Director

June 12, 2014

By Hand Delivery and Electronic Mail

Honorable Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
CN 350
Trenton, NJ 08625-0350

Re: I/M/O Comprehensive Energy Efficiency and Renewable Energy Resource
Analysis for Fiscal Years 2014-2017 Clean Energy Program
BPU Docket No. EO11050324V

I/M/O the Clean Energy Programs and Budget for the Fiscal Year 2015
BPU Docket No. QO14050489

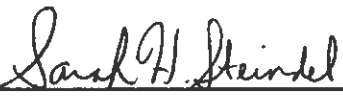
Dear Secretary Izzo:

Please accept this original and ten copies of as Comments submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in connection with the above-captioned matter. Copies of the comments are being provided to all parties on the e-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 it in our self-addressed stamped envelope. Thank you for your consideration and assistance.

Respectfully submitted,

STEFANIE A. BRAND
Director, Division of Rate Counsel

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**I/M/O Comprehensive Energy Efficiency and Renewable Energy
Resource Analysis for Fiscal Years 2014-2017 Clean Energy Program
BPU Docket No. EO11050324V**

and

**I/M/O the Clean Energy Programs and Budget for the Fiscal Year 2015
BPU Docket No. QO14050489**

Comments of the New Jersey Division of Rate Counsel

June 12, 2014

INTRODUCTION

The Division of Rate Counsel (“Rate Counsel”) would like to thank the Board of Public Utilities (“BPU” or “Board”) for the opportunity to present comments on the New Jersey Clean Energy Program (“NJCEP” or “CEP”) Fiscal Year 2015 (“FY15”) Straw Budget and proposed programs. The Board’s Notice in this matter dated May 23, 2014 (“Notice”) states that, due to the lack of a new program administrator and other factors, created challenges with regard to its ability of the Board’s Office of Clean Energy (“OCE” or “Staff”) to draft a three-year CRA straw proposal. Therefore, Staff proposes to extend the present NJCEP programs for another year. Notice, p. 2.

Staff has posted for comment an Excel workbook dated May 22, 2014, which summarizes Staff’s proposed FY15 funding levels by program, and an explanatory document dated May 23, 2014 entitled “Comprehensive Resource Analysis – Staff Straw Proposal New Jersey’s Clean Energy Program Proposed funding Levels FY15” (“Straw Proposal”).

The usual NJCEP annual budgeting process includes the submission of “compliance filings” by the Office of Clean Energy (“OCE”), the Board’s two contracted Market Managers, Honeywell and TRC, and the State’s electric and gas utilities, which administer the Comfort

Partners program. The compliance filings contain detailed descriptions of each of the NJCEP programs and details of the proposed budget allocations. The Board's Notice states that Staff is proposing at this time to extend the current compliance filings without revisions, and that revised compliance filings, which will include detailed breakdowns of Staff's proposed FY15 budget, will be forthcoming at a later date. Notice, p. 2.

Summary of the 2015 Straw Proposal

Staff proposes to collect approximately \$344.7 million from ratepayers during FY15. Straw Proposal, p. 37. Of that amount, about \$68.3 million is expected to be appropriated through the State budget process for State energy efficiency projects and utility costs,¹ and \$30 million is proposed to be allocated to supplement \$200 million in federal funding for an Energy Resiliency Bank ("ERB"). Straw Proposal, p. 24-24, 34-35. The remaining \$246.4 million, plus the estimated \$153.5 million in funds to be carried over from FY2014,² totaling approximately \$401.0 million, are proposed to be allocated among the Clean Energy programs administered by the Board.

Summary of Rate Counsel's Comments

Rate Counsel supports Staff's proposal to establish a budget for FY15 only and to defer a proposal for FY16 and FY17. Rate Counsel does, however, have some concerns about the proposed budget for FY15. Initially, Rate Counsel notes the incompleteness of the information provided for comment. Rate Counsel recognizes the impediments cited in the Notice which prevent the development of a comprehensive straw proposal with detailed line item breakdowns of program budgets at this time. Rate Counsel also recognizes the need to establish a FY15

¹ Since this amount is expected to be appropriated through the state budget process, it is not addressed in these comments.

² This amount reflects the subtraction of an expected \$49.1 million supplemental lapse from a \$202.6 million in funds expected to remain unexpended at the end of FY14.

budget early on, in order to provide some certainty to utility customers, contractors, and other participants in the CEP programs who rely on the budget for planning. Therefore, Rate Counsel submits these comments based on the available information, but reserves its rights to comment further and, if appropriate, seek modifications to the proposed budget and programs, as additional information becomes available. At this time, Rate Counsel has a number of general concerns and a few particular concerns about the Straw Proposal. Rate Counsel's concerns about specific aspects of the FY15 Straw Proposal are set forth below.

I. General Concerns

Rate Counsel wishes to note its continuing concern with the accuracy of OCE's budgeting process. As discussed in the sections below, the Straw Proposal includes proposed allocations for some programs that exceed the OCE's and the Market Managers' historical levels of expenditures. Program budgets should be based on realistic projections of program activities, and OCE should develop and propose a properly supported plan to expend the budgeted funds.

II. Energy Efficiency Budget and Programs

The proposed overall budget for FY15 EE programs shows a slight increase over the FY14 budget, from \$304.3 million in FY14 to \$307 million in FY15.³ While the proposed budget for Residential EE programs shows an increase, from \$91.5 million in FY14 to \$99.5 million in FY15, the proposed budget for C&I EE programs shows a decrease, from \$177.6 million in FY14 to \$172.5 million in FY15.

³ The proposed FY15 budget includes new FY15 funding and FY14 carryovers.

Marketing

While Staff recommends an increase in the overall EE marketing budget from approximately \$2.4 million to \$5 million in 2015, the proposed FY15 EE marketing budget is unchanged from FY14. Straw Proposal, p. 26. The residential EE and C&I EE marketing budgets for FY15 remain at \$1.309 million and \$1.075 million, respectively. This discrepancy between the amount recommended in Staff's Straw Proposal and the proposed budget was not explained. Rate Counsel concurs with Staff that the marketing budget should be increased. An increase in the marketing budget would facilitate such activities as market research, contractor and retailer education programs, promotions, website development, etc.

Rate Counsel also notes that the NJCEP Administration budget for Outreach and Education/Community Partner Grants was eliminated for FY15. Rate Counsel submits that funding for these outreach functions should be restored, particularly for outreach activities directed towards low-income customers and rebuilding communities devastated by Superstorm Sandy.

Comfort Partners and Low-Income Programs

The proposed FY15 budget reduces funding for the Comfort Partners program, from \$35.1 million in FY14 to \$35 million in FY15. Rate Counsel recommends that the Board should actively monitor the adequacy of the proposed FY15 Comfort Partners budget on an ongoing basis throughout FY15, taking into consideration such indices as billings in arrears, utility shut-off figures and other measures, and adjust the budget going forward on an "as-needed" basis.

Program Evaluation

Rate Counsel strongly supports Staff's recommendations regarding evaluation activities, as set forth in the Straw proposal. Straw Proposal, pp. 19-21. The proposed FY15 budget shows

a slight increase in the Program Evaluation budget, from \$2 million in FY14 to \$2.3 million in FY15. FY15 evaluation activities include a Baseline Study and a Portfolio Level Process Evaluation study, as well as Benchmarking and Metrics study. Straw Proposal, pp. 20-21.

III. Renewable Energy

The Straw Proposal includes a proposed budget of approximately \$18.7 million for Renewable Energy (“RE”) programs, consisting of \$9.6 million in “new funding,” plus a carryover from FY14 of approximately \$9.1 million. OCE should provide additional information to justify this proposed budget.

The \$18.7 million budget compares to actual estimated expenditure of less than \$6.3 million in FY2014, as shown on the spreadsheet entitled “Proposed FY15 Renewable Energy Program Budget” in the OCE’s Excel workbook dated May 22, 2014. The information provided to date does not adequately support a total budget of \$18.7 million.

The Straw Proposal addresses specifically only the proposed \$9.6 million in “new funding.” This amount is proposed to be allocated as follows:

- \$200,000 to fund consultants to review offshore wind applications,
- \$3.4 million for SREC program administration,
- \$3 million for biopower project solicitation,
- \$3 million for energy storage project solicitations.

Straw Proposal. p.32. The Straw Proposal does not adequately explain or justify these items.

The proposal to budget \$200,000 to review offshore wind applications is seemingly inconsistent with the statement that “[t]hese funds are expected to be reimbursed through application fees.” Id. The Board has in the past required offshore wind applicants to fund BPU’s consultant. There is no reason to charge ratepayer for this cost. If no net expenditure is expected, this item should be budgeted at \$0.

The proposed \$3.4 million allocation for SREC Registration Program administration is not explained. Neither the Straw Proposal nor the Excel workbook contains supporting detail for this amount. The Excel spreadsheet entitled "Proposed Renewable Energy Program Budget by Program Manager" indicates that about \$17.8 million of the total budget is allocated to Honeywell, with the remaining \$0.8 million allocated to OCE. The further detail for the "Honeywell Detailed Budget" shows its entire \$17.8 million allocation as related to the Renewable Energy Incentive Program ("REIP") with \$1.4 million allocated to "Administration, IT and Program Development," \$14.5 million allocated to "Rebates, Grants and Other Direct Incentives," and \$1.9 million allocated to "Rebate Processing, Inspection and Other Quality Control" for that program. The information shown for the "OCE FY15 Detailed RE Program Budget" shows its allocated \$0.8 million allocated among "Evaluation and Related Research" concerning Offshore Wind, and Rebates, and "Grants and Other Direct Incentives" for Grid Connected projects and for the Edison Innovation Clean Energy Fund. Based on this information, it is impossible even to identify the budget allocation(s) for the SREC Registration Program, much less determine whether the proposed \$3.4 million allocation, which appears to be in addition to the OCE administration budget, is reasonable or consistent with past experience.

With regard to the proposed Biopower program, as noted in the Straw Proposal a solicitation intended to offer the \$2.5 million in incentives budgeted for FY2014 was issued in February 2014. Straw Proposal, p. 30. OCE's website indicates that responses have been received, but no incentives have been awarded to date. With regard to Energy Storage, the \$2.5 million budgeted for Energy Storage incentives in FY14 will not be expended in FY14. As noted in the Straw Proposal, Staff is still in the process of developing a proposal for the first competitive solicitation for incentives for electricity storage project. Straw Proposal, p. 31. Until

more information is available, it is uncertain whether the either the proposed \$3 million allocation for Biopower incentives or the \$3 million allocation for Energy Storage is reasonable.

Additionally, the Straw Proposal does not explain the need for collecting an additional \$9.6 million from ratepayers for the above items, when there is an estimated \$9.1 million carryover from FY2014. While some of this amount could be intended to cover the \$9.3 million in “estimated commitments,” recent experience suggests that actual expenditures to cover commitments are likely to be much lower. See Straw Proposal, p. 32. Further information should be provided to explain the need for additional collections from ratepayers.

In the absence of additional details on OCE’s plans for spending both the \$9.6 million in “new funding” and the \$8.4 million carryover from FY14, Rate Counsel has concerns about the reasonableness of the proposed RE program budget. Rate Counsel reserves its rights to suggest modifications to the RE budget as additional information becomes available.

IV. Combined Heat And Power (“CHP”) And Fuel Cells

For the Combined Heat and Power (“CHP”) and Fuel Cells program, Staff is proposing to carry over approximately \$15.4 million in unexpended funds from FY14 and allocate and additional \$25 million in “New FY15 Funding,” for a total budget of about \$40.4 million. Additionally, a portion of the \$3 million in “new funding” proposed to be allocated to biomass projects, as well as a portion of the \$8.4 million proposed to be carried over from the FY14 for the REIP program, could be used to support renewable fueled CHP and fuel cells. Finally, as Staff notes in the Straw Proposal, a portion of the ERB with \$230 million in combined federal and SBC funding, will provide additional support for CHP and fuel cells at critical public facilities. Straw Proposal, p. 24-25, 28.

While Rate Counsel is generally supportive of CHP, it has concerns about this proposed funding level. Although this proposed budget represents a reduction from the \$65.6 million budgeted amount for FY14,⁴ it remains significantly higher than past expenditures for the CHP-Fuels Cell program. As noted in Rate Counsel's April 26, 2013 comments on the FY14 budget, in 2012 the Small CHP program was only able to issue rebates of a little over \$2 million in 2012, and the first solicitation for the Large CHP program received only \$11 million in applications. Rate Counsel Comment on Revised Straw Proposal, BPU Docket No. EO11050503V, p. 23 (Apr. 26, 2013). A second Large CHP solicitation in early 2013 had received only one application as of mid-April 2013. *Id.* For FY14, the Straw Proposal notes that only \$1.1 million was expended and \$5.2 million was committed for CHP and fuel cells as of the end of January 2014. Straw Proposal, p. 28. The table entitled "Proposed FY15 Energy Efficiency and CHP Program Budget" shows estimated expenditures of only \$3.5 million through the end of FY14, out of the \$65.6 million originally budgeted for this program in the FY14 budget.

The Straw Proposal states that Staff anticipates an influx of new applications when applicants found ineligible for ERB funding decide to seek funding through from the NJCEP. Straw Proposal, p. 28. However, as noted in the April 26, 2013 comment cited above, the historical trend of insufficient interest in this program predates Superstorm Sandy and the potential availability of federal funding to support CHP and fuel cell projects. It remains unclear whether unsuccessful applicants for ERB funding will have an interest in the NJCEP programs.

Rate Counsel urges further review of the reasons for this program's past failures to expend available funds before additional funds are budgeted for CHP. OCE's ongoing and

⁴ The Straw Proposal cites a FY14 budgeted amount of approximately \$38 million. Straw Proposal, p. 28, Excel spreadsheet entitled "Proposed FY15 Energy Efficiency and CHP Program Budget." However, the originally budgeted amount was \$65,632,249.55. The approximately \$38 million cited in the Straw Proposal was the result of a budget reduction approved in the Board's FY14 budget true-up Order. *I/M/O The Clean Energy Programs and Budget for Fiscal Year 2014 – Revised FY14 Programs and True Up Budget*, p. 7 (Dec. 19, 2013)

planned program evaluations may provide valuable insights into changes that could be made to attract more applicants to this program.

V. Energy Resiliency Bank

As noted in the Introduction above, the Straw Proposal includes an allocation of \$30 million to the ERB to supplement \$200 million in federal funding for Superstorm Sandy rebuilding and recovery. As explained in the Straw Proposal, the ERB will be used to support “resilient EE and projects at critical infrastructure, public facilities, non-for-profit hospitals” and other critical facilities.” These projects could include a variety of technologies including CHP with blackstart capability, solar PV with dynamic inverters, energy storage, and micro-grids. , The Straw Proposal states that the SBC funds will be limited to “projects that contain a qualifying EE or RE component.” Straw Proposal, p. 24.

Rate Counsel supports OCE’s efforts to work with other State agencies to leverage federal funds to rebuild the State’s critical facilities. NJCEP Program guidelines and criteria should be developed to assure that the SBC funds are spent on projects that are consistent with NJCEP program goals. In this regard, Rate Counsel notes that the FY14 NJCEP budget included similar proposal to allocate \$30 million to the New Jersey Environmental Infrastructure Trust (“NJEIT”) to provide state matching funds for federal funds for the rebuilding of infrastructure in the aftermath of Superstorm Sandy. See Office of Clean Energy 2nd Revised CRA Straw Proposal Proposed Funding Levels FY14-FY17, p. 56 (June 3, 2013). In the FY14 budget, these funds were to be used “to fund energy efficient upgrades and CHP/Fuel Cell projects for critical, water-related infrastructure projects.” Id. The current proposal would allow funds to be targeted to a wider variety of facilities and technologies. Eligibility criteria and other program rules

should be carefully developed to assure that SBC funds are used to promote the energy efficiency and renewable energy goals contemplated under EDECA.

Rate Counsel notes also that the \$30 million allocated to the NJEIT was not expended for that purpose in FY2014. See I/M/O the Clean Energy Programs and Budget for Fiscal Year 2014 – Revised FY14 Programs and True Up Budget, p. 5-7 (Dec. 19, 2013).⁵ It is also important to develop a plan to assure that the \$30 million to be allocated to the ERB is fully expended in FY15.

⁵ As shown in the table entitled Revised FY14 Funding Levels on page 6 and Revised FY14 Energy Efficiency and CHP-FC Program Budget on page 7 of the Board Order, the \$30 million allocated to the NJEIT was one of the “Line Item Transfers/Funding Adjustments” made to fund \$161,855,255 in funds appropriated from the Clean Energy under P.L. 2013, c. 77.