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**Remarks of Stefanie A. Brand,
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Regarding A2966 and S1925 (Revises Certain Solar Renewable
Energy Programs and Requirements) Presented at the Assembly
Telecommunications and Utilities Committee Meeting on
June 7, 2012**

Good morning. My name is Stefanie Brand, I am the Director of the Division of Rate Counsel. I would like to thank Chairman Chivukula and members of the committee for the opportunity to testify today regarding A2966 and S1925, which revise certain solar renewable energy programs and requirements and provides for aggregating net metering of Class I renewable energy production on certain contiguous and non-contiguous properties owned by local government units and school districts.

The Division of Rate Counsel represents and protects the interest of all utility consumers—residential customers, small business customers, small and large industrial customers, schools,

libraries and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities seek changes in their rates and/or services. Rate Counsel also gives consumers a voice in setting energy, water and telecommunications policy that will affect the rendering of utility services well into the future.

First, I would like to commend Chairman Chivukula and the sponsors of S1925 for their efforts in trying to tackle this important issue of how to maintain our state's continued success in building a stable, healthy solar industry. To my mind, S1925 gets closer to a real solution than we have seen before. Does it give everyone everything that they want? No. If I were writing it, might I have changed a few things? Yes, and I will certainly explain where I think it can be improved. But the bottom line is that the only way to preserve New Jersey's solar industry is for everyone to compromise. As they say, "the perfect is the enemy of the good." If we all insist on getting everything we want, we will get nothing.

In considering all of the testimony you hear today, I ask that you keep in mind a few things:

First, our problem is one of success. When the BPU determined a few years ago to move the solar industry to a market-based system rather than one based on rebates, no one believed we would so soon be facing an over-supply. Despite what you might hear, this program is not a failure. It has simply succeeded beyond our original expectations. This is not something to regret, but rather something to celebrate.

Second, we need to remember that at some point the industry will have to survive without ratepayer subsidies. The idea was that ratepayers would help jump-start the market, not sustain it forever. Frankly, Rate Counsel believes that setting the Renewable Portfolio Standard (RPS) and Solar Alternative Compliance Payments (SACP) till 2028 goes out too far. The provisions that then provide for continuing subsidies further into the future appear to contemplate permanent ratepayer subsidies for this industry. But at a certain point, solar energy must become cost effective and solar developers must be able to recover their costs and earn a reasonable return from the energy generated by their systems, and payments made by their customers and other investors. The ratepayer subsidy will need to be phased out and the industry will have to stand on its own.

The industry should be able to accomplish this, as the cost of solar has been steadily decreasing along with the SREC prices. In the last ten years the retail cost of solar modules, which is about 35 to 40 percent of the total installed cost of a solar energy system, has been cut in half. In the last 12 months alone, the price of solar modules has fallen 28 percent. While we don't know today what will happen in the future, it is reasonable to expect that advances in technology will bring us some day to that ultimate goal of "grid parity" for solar. If that doesn't happen before 2028, then we need to seriously consider whether ratepayer subsidies should continue.

And we must reject this concept that everyone must be made whole. I have heard talk of the need for a "throttle," to somehow create a structure either through caps or segmentation, or other mechanisms to make sure that we don't end up long again or to make sure that some people, not others, survive if we do. I would argue that the RPS itself is the "throttle." It creates an assured level of demand for this industry. It's hard to think of any other industry that gets that. Other companies, such as those that will have to pay the over \$5 billion price tag that comes with this bill, would love to have an assured level of demand for their products, and the ability to get

the Legislature to increase that demand to make their businesses healthier. But they don't have that and must instead make their way in the market by operating more efficiently or making a better product. Even if you decide to provide some relief through this legislation, you should not hand this industry immunity from market forces or pick the winners or losers in the market. If any particular market segment is to be encouraged, the decision should be based not on size, but on policy – e.g. discouraging construction on farmland or other environmentally sensitive areas, or maximizing the potential to provide additional benefits, such as the remediation of Brownfields or property tax relief through savings for government entities.

You should also not set prices so as to guarantee a level of profit at the expense of ratepayers. From my many discussions with representatives of the solar industry, I have heard that with market stability and long-term contracts, developers can operate at a profit with SREC prices at \$250 or, some have even told me, as low as \$100. Because we don't really have access to the books of all of these unregulated companies, it's hard to know exactly what the right price is. However, if some companies can get by with a \$250 SREC, then the companies that are saying it has to be higher are either

inefficient, or padding their earnings at the expense of ratepayers. I therefore urge you to lower the SACP, which forms the ceiling for SREC prices, even lower than the \$350 included in S1925. An SACP starting at \$300 should be sufficient for efficient developers to earn a reasonable return while minimizing to the extent possible the ratepayer burden.

Under no circumstances should the SACP start at \$400. This would simply provide an unearned windfall for certain market participants. As we know, SRECS are selling at much lower than \$400. Although some might deny it, most BGS suppliers admit that they are including the SACP in their BGS bids to ensure that they do not bear the risk of falling SREC prices. Including an SACP so high above the SREC price will therefore add greatly to the ratepayer burden. In fact, because of the \$400 SACP starting point, the numbers in A2966 would not only wipe out any ratepayer savings, they would cause the program to be more expensive than the current statute. Instead of paying \$6.8 billion, ratepayers would have to shell out \$7.1 billion to the solar industry between now and 2028.

And please do not underestimate the ratepayer burden even under S1925. A cumulative cost of over \$5.5 billion is not

insignificant. The impact on costs and on jobs for the companies that must operate in non-subsidized markets will be great. If rising energy costs cause other businesses to close, you may lose more jobs through these subsidies than you will ever create in the solar industry. The burden on the ratepayer side of the equation and the jobs impact it will have, has to be part of the balance.

Finally, with respect to the municipal virtual net metering provisions of the bill, Rate Counsel believes that this could be a useful tool for municipalities. However, we do agree that they must be required to pay for their use of the utilities' distribution systems. They will inevitably need to use those systems at night and on cloudy days and other ratepayers should not be asked to make up the difference. In addition, we believe there should be significant constraints on the program to ensure that it is implemented for the benefit of public entities only. BPU oversight over such projects may be necessary to avoid abuse and to ensure its success.

I thank you very much for the opportunity to testify today. I am available to answer any questions.