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**Remarks of Stefanie A. Brand,
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Regarding A1383 (Amends Renewable Energy Definitions), Presented at
the Assembly Telecommunications and Utilities Committee Meeting on
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Good afternoon. 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 A1383, which amends the definitions in P.L.1999, c.23 concerning renewable energy.

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.

Rate Counsel urges the Committee not to release this bill from Committee today. The proposed legislation would make fundamental changes in the definitions of Class I and Class II renewable energy. Both categories would be expanded, for the first time, to provide ratepayer subsidies, in the form of

renewable energy certificates, for energy produced in whole or in part by carbon-dioxide producing fossil fuels. This is a significant step that should not be taken without a full understanding of the implications. Further, the newly-classified Class I facilities could qualify for net metering, which exempts them in part from certain charges, such as the SBC. As these facilities should be cost-effective without subsidies, it is unclear why they should benefit from the exemptions that were designed to encourage truly renewable resources. These exemptions could also add to the burden of the State's other utility customers, who will have to make up the difference to ensure that the clean energy programs remain adequately funded.

The proposed legislation would add three new broadly defined categories of facilities that would be considered as producing "Class I renewable energy." One such category, "approved alternative sustainable technologies," encompasses any DEP-approved technology that "reduces greenhouse gas emission on a net basis" and does not use a fossil fuel as its "primary fuel source." The exact scope of the definition is not clear, but, even though the specific language regarding "plasma gasification" has been deleted, the definition would appear to allow waste-to-energy technologies, such as plasma gasification, that can be very large facilities that might be feasible without ratepayer subsidies. The definition also encompasses facilities fueled in part, even if not "primarily," by fossil fuels.

A second category, "industrial by-product technologies," includes any electricity generated through the use of a by-product from an industrial process,

specifically using exhaust gases and manufacturing by-products of any kind. Such energy would be considered “Class I renewable” even if the industrial process were fueled entirely by a carbon-producing fossil fuel.

Finally, biomass, currently limited to methane produced by digesting organic waste, would be expanded to include “wood, wood-derived fuel, or other materials separated from the solid waste stream.” Facilities using such fuels as their “primary fuel” would be considered “Class I” facilities. While the exact scope of this definition is again not very clear, it appears intended to allow waste-to-energy facilities, which could be fueled in part by fossil fuels, to be deemed as producing “Class I renewable energy.”

The newly defined Class I facilities would produce Class I renewable energy certificates (“RECS”) and could qualify for financial incentives using funding set aside for Class I renewable energy projects. For New Jersey’s ratepayers, however, the greatest impact would result from the fact these facilities could qualify for net metering. The end users of electricity from these facilities could avoid paying electric distribution charges and surcharges, including the SBC, leaving the remaining ratepayers to pick up the bill.

We have often discussed in this room - as recently as last week- the fact that New Jersey ratepayers are very forward thinking people and are in fact willing to provide reasonable funding to assist in the development of renewable resources. In this bill, however, we are moving toward something very new and very different. We are asking ratepayers to subsidize large, carbon-producing technologies, some of which may be feasible without subsidies, and some of

which may be prohibitively expensive. While Rate Counsel has not objected to the BPU's current programs that provide some clean energy funding support for CHP, this bill increases those subsidies substantially. These projects should provide greater benefits than they cost for the large entities that will build them. Asking ratepayers to subsidize them further goes too far.

The expanded definition of Class II renewable energy is also problematic. This definition would define as renewable 'micro-combined heat and power generating equipment' that could be operated using entirely carbon dioxide producing fossil fuels. While Class II facilities do not enjoy the same benefits as Class I facilities, I must point out that the definition included in the bill of "micro-CHP" is extremely difficult to understand even for those of us who do this for a living. That definition should be revised so that the regulated public can understand it.

Finally, as I have testified here many times before, the bill's provisions establishing an Energy Efficiency Portfolio Standard (EEPS) for electricity and gas should not be adopted. EDECA currently allows (but does not require) the BPU to consider whether to establish an EEPS through the normal rulemaking process. If the BPU is to consider an EEPS, it should not do so through an expedited process as contemplated in the bill. Establishing an EEPS in a deregulated state such as New Jersey is extremely complicated, as utilities are positioned to conduct EE programs while third-party suppliers have the obligation to meet demand under our system. Determining how such an EEPS would work is not a simple task nor is it clear that an EEPS is the best way to promote

energy efficiency. It is extremely difficult to measure and verify energy savings achieved through an EEPS. No one has been able to figure out how to do it. If a customer agrees to turn out the lights whenever they leave the room or only use their washing machine at night, do they get a certificate? How do you measure those savings or verify that they have occurred?

Also, the bill would fundamentally re-define EE to include load management and peak-shifting measures, which change the timing of, but do not necessarily reduce, energy usage. These measures have traditionally been paid for through the savings achieved or the capacity benefits recognized by PJM, rather than through a system of tradable RECS. The bill also adds the “industrial by-product technologies,” discussed above, which are energy producing, not energy saving, technologies.

Based on the above, Rate Counsel strongly urges that this bill not be released from Committee until further discussion can be had regarding its financial and other implications. The bill would fundamentally alter the definitions of renewable energy in EDECA, and could place substantial burdens on New Jersey’s ratepayers. .

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