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Remarks of Stefanie A. Brand, Director, Division of Rate Counsel, Regarding A4226 (Limits eligibility for solar renewable energy certificates; changes certain conditions related to solar renewable portfolio standards requirements), Presented at the Assembly Telecommunications and Utilities Committee Meeting January 5, 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 Assembly Telecommunications and Utilities Committee for the opportunity to testify today regarding A4226 (Limits eligibility for solar renewable energy certificates; changes certain conditions related to solar renewable portfolio standards requirements). I will also address in these comments some aspects of Senate Bill 2371, which addresses many of the same issues.

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 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.

In a nutshell, Rate Counsel's position is that neither of these bills should be released from Committee today. There is too much work still to do to determine whether there is a problem to be solved here or whether the market will correct itself. If there is a problem, we still don't have

a clear understanding of its extent or scope, or even what the best way is to address it. The stakes here are very high both for the industry and for ratepayers and we do not need to rush to implement a cure that may be worse than the disease. That said, if the Committee is inclined to pass something, A4226, with some amendments, would be far preferable to S2371. It at least attempts to moderate the acceleration of the Renewable Portfolio Standard (RPS) and allow ratepayers to retain a fair portion of the benefit that comes with reducing the Solar Alternative Compliance Payment (SACP).

I think it is important to start by talking about how we got here. There is no doubt that New Jersey has sponsored a very ambitious solar program and that ratepayers have and will continue to pay a significant subsidy to foster a vibrant solar industry in this state. A decision was made by the Legislature and implemented by the BPU to foster a market-based program that would hopefully spur innovation and the development of solar technology that would bring the cost of solar to grid parity with other sources of energy. The idea was to use ratepayer funds to develop that market. Non-market based mechanisms such as feed-in tariffs were rejected in favor of a market-based approach. The idea was to create a market with only those ratepayer funds that were truly needed and eventually take off the proverbial training wheels and let the market ride on its own.

The market approach involved establishing a tradable asset on top of the electricity generated by a solar project which would bridge the delta between the cost of a solar project and the value of the electricity it generates. Demand was created by establishing a Renewable Portfolio Standard (RPS) that suppliers of electricity would need to meet. Efforts were made to promote private financing by establishing programs that required utilities to offer long-term

contracts to purchase SRECs, and by setting attractive prices through the establishment of a high Solar Alternative Compliance Payment (SACP), which serves as a ceiling on SREC prices.

These programs, combined with some federal solar incentives, have worked to "jump start" the solar market beyond anyone's expectations. With SRECs trading in the $600-$700 range, we created a gold rush. Solar projects were being built at a wild pace and with SREC prices so much higher than necessary there was money to be made everywhere. You can't drive up the Turnpike or go to Home Depot without hearing or seeing ads for "Free solar" with "no money down."

The problem is that it is not free. It's just being paid for by someone else. The cost to ratepayers of meeting the RPS through 2026 as it currently stands is about $6 billion net present value. Despite this high price tag, Rate Counsel supported these programs and I believe that ratepayers in general would support using public funds to jump start a solar industry in this state. The problem is that the gold rush has led to over-building that caused the SREC prices to drop. We don't know if they will stay low, whether they will come back up, or where they really need to be to sustain this industry. We know it's not at $600-$700, it's probably more like $200-$400, and since the drop in prices the market has been creeping up so that it's now in the lower part of that range.

The solar industry, however, is pushing for legislation that would vastly accelerate the RPS in order to maintain their build rate. No one knows exactly how many projects are out there or how much over the RPS we will be. But the bills, particularly S2371, vastly increase the RPS to make sure that everyone gets the profit they hoped for. We've suddenly gone from a market structure that needs stability to attract financing to an administrative structure that will change as necessary to the benefit of the developers who have over-built. We have gone from ratepayers

subsidizing this private industry in order to get it jump started, to sustaining their build rate for the next 20 years. This was not the deal.

Before we move in this direction, I urge you to really understand what you are doing. There are a lot of numbers out there, so I will just use an example to give you an idea of what we are talking about. The cost to ratepayers using the original version of S2371 – which maintained the current SACP but accelerated the RPS by one year, would be nearly $7 billion – an increase for ratepayers of $1 billion. Greater accelerations, such as those included in some drafts, would cost even more.

Both bills, however, do contemplate a reduction in the SACP. This will bring a significant positive impact for ratepayers. If the SACP were reduced to the average of the SACP used in other states with comparable programs, without any acceleration of the RPS, ratepayers could save as much as $3 billion over the next 15 years. While the SACP becomes less important if we continue to meet the RPS each year, it still creates the price ceiling, and has been used by BGS suppliers to calculate their exposure in preparing their BGS bids. So it has a tangible effect on the prices we pay.

Both bills contemplate off-setting the high cost of accelerating the RPS with the savings from reducing the SACP. The difference is that A4226 attempts to share the savings, by implementing a shorter-term acceleration of the RPS and taking the amount off the out years, while implementing an immediate reduction in the SACP. The numbers in A4226 would leave ratepayers with approximately $1 billion of the potential $3 billion savings. Other scenarios, including some in revised versions of S2371, allow solar developers to keep most of the savings from reducing the SACP, using it to allow even greater long-term increases in the RPS.

This is not a fair deal. Ratepayers are already spending enormous amounts to foster the solar industry. We are not backing out of our part of the deal. We should not be asked to give all of the benefit of the reduced SACP to solar developers to bail them out of their addiction to high-priced SRECs. These developers have already benefitted from the high prices that existed till last summer. They should not be permitted to appropriate the savings ratepayers would see from the reduced SACP.

You may hear that a substantial increase in the RPS is necessary to preserve the jobs that this industry provides. However, the fact is that a substantial increase in the RPS may cost more jobs than it saves. In the analysis accompanying the Energy Master Plan (EMP), the Rutgers Center for Energy, Environmental and Economic policy (CEEEP) found that New Jersey's solar industry provides a "slightly positive" economic impact when the negative impacts of the increase in electricity costs is taken into account along with the jobs created. If the RPS is accelerated – and the obligation to meet the increased RPS falls on one year's worth of residential BGS contracts and new commercial and industrial contracts as the bills provide - the negative price effects will increase. This may make the positive economic impact even smaller or non-existent. In addition, spending this much on solar means there is less to spend on everything else, such as wind, infrastructure improvements, etc. Rutgers found that the cost per job created by the existing RPS was about $250,000 for 2012. It may be that the programs we are displacing would have created more jobs at a lower cost.

I therefore urge that until we have a true sense of what is needed and what the impacts of these changes will be, that we not rush to implement an expensive "fix" that could end up damaging this industry and potentially the state's economy.

As noted above, if anything passes out of the committee today, the RPS and SACP numbers in A4226 at least attempt to balance the interest of ratepayers and developers. However, I would propose that some amendments be considered before that bill moves out of committee. I urge the following:

- Deletion of the provision that provides that any shortfall in meeting the RPS be added to the RPS three years later. If there is a shortfall, ratepayers will have already paid a premium to meet that year's RPS. This provision would compound the problem.
- Deletion of the changes to the provision that adds 20% to the RPS if we exceed it for more than 2 years. The current three year average provides sufficient time to address the issue if these events come to pass and ensures that the current glut in the market does not trigger the 20% adder right away.
- Consideration should be given to returning the RPS to percentages, as that will assist the third party suppliers and BGS suppliers in anticipating their obligation and will allow us to take full credit for the savings achieved by our energy efficiency programs.
- Deletion of the provision allowing the Board to increase the SACP if the federal tax credit is not renewed in 2015. I am not sure why the two would be linked. Even if they are in some way why should New Jersey ratepayers make the developers whole for changes to the federal tax laws?
- With respect to the long-term contracting programs, Rate Counsel would support some extension of the programs in which the utilities agree to purchase SRECS through a long-term contract and resell them through competitive auctions. We do not support continued investment of the utilities' own funds as those programs require payment of the utilities' return, which is certainly not needed in an over-built market. We also do not favor strict

carve–outs for certain market segments, and strongly urge deletion of the language that calls for monthly auctions. It is simply not possible to conduct the auctions, have the results reviewed by the auction manager, the utilities and rate counsel, and then be approved by the Board in one month. They are currently done quarterly and that is already a tight schedule.

- Rate Counsel would support deleting the threshold for BPU review of grid connected projects. Net metered and customer generated solar would not need to be reviewed, but grid connected projects should be. It is a reasonable protection to avoid over-building and potential dangers to the distribution system and our environment.
- Rate Counsel also urges that the definition of "on-site generation facility" not be amended to make "easements" and "thoroughfares" etc. plural. The issue is how far afield we should go without BPU oversight and I think allowing one easement or thoroughfare between a solar facility and the customer it serves is already a liberal interpretation of "contiguous." We have to be careful not to allow mini- unregulated utilities out there.
- Just a few final words about provisions in S2371 that are not included in A4226. Rate Counsel does not support exempting grid-connected projects from BPU review simply because they are on landfills or quarries. Although consistency with the EMP may make their approval easier and swifter, review of those projects for other reasons is important. Rate Counsel is also concerned about the grandfathering provisions of the statute. There are a substantial number of projects that would meet the grandfathering definition. While those projects should be able to go forward, there is no entitlement to ratepayer subsidies and allowing so many projects to avoid review may not be beneficial.

In closing, please don't forget the tangible impact the decisions you make today will have on people's lives. Rate Counsel has no desire to destroy the industry ratepayers have already spent so much to build. However, their resources are not unlimited. Recent census data shows that nearly half of Americans are living at or near poverty. For New Jersey ratepayers 27% of their bill goes to ratepayer subsidies for government programs. While ratepayers may remain willing to contribute to creating programs like New Jersey's stellar solar program, it is simply unfair to ask them to sustain it for the long-term. The industry has to sustain itself at some point, and that needs to be an important part of your decision today.

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