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STEFANIE A. BRAND
Director

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Via Hand Delivery

Ms. Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd floor, Suite 314
Trenton, New Jersey 08625-0350

Re: I/M/O the Provision of Basic Generation Service (BGS) For the Period Beginning
June 1, 2019
BPU Docket No. ER18040356

Dear Secretary Camacho-Welch:

This letter is being submitted on behalf of the Division of Rate Counsel ("Rate Counsel") to the Board of Public Utilities (the "Board" or "BPU") pursuant to the 2019 BGS procedural schedule established by Board Order dated April 25, 2018 in *I/M/O the Provision of Basic Generation Service (BGS) for the Period Beginning June 1, 2019* ("2019 BGS Procedural Order"), as modified by the Board Secretary's letter dated July 27, 2018. A copy of this letter will also be sent to the email list server used by the Board for these BGS filings.

We have also enclosed one additional copy of this letter. Please stamp and date the copy as filed and return to our courier. Thank you for your consideration and attention to this matter.

CMS
ENERGY
Legal
DAG
S. Peterson, Energy

On June 29, 2018, Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric and Gas Company and Rockland Electric Company (collectively, "the EDCs") submitted a joint proposal to continue the previously approved statewide auction process for the procurement of a portion of the supply of basic generation service for the period commencing June 1, 2019. In this current filing, the EDCs have maintained all material aspects of the prior year's proposal with respect to product, auction format, rate design and competitive safeguards.

On September 5, 2018, Rate Counsel filed Initial Comments responding to the EDC's proposal to continue the procurement of BGS service through the statewide auction process. In those comments, Rate Counsel noted that since 2002, the BGS Auction has, each year, successfully procured several billion dollars of electric supply for New Jersey's basic generation service customers and supported the EDC's proposal to continue the current BGS auction process. Rate Counsel commended the Board for making it a priority to establish a competitive process that ensures sufficient bidder participation in the BGS Auction with the goal of achieving the lowest possible rate for New Jersey BGS customers. At this time, Rate Counsel has no additional comments on the EDC's 2018 proposal for the procurement of BGS service.

Also on September 5, 2018, initial comments were filed by Exelon Generation Company, LLC ("Exelon") and Hartree Partners, LP ("Hartee"). In those comments, the two BGS suppliers recommend that the firm transmission rate component be removed from the BGS auction clearing price arguing that these "non-market related costs" should be allocated to the EDCs, "the parties best able to carry such costs." The suppliers claimed that without this change "higher risk premiums and lower supplier participation rates" would result. The BGS suppliers

argued that under the current process, suppliers are “exposed to financing costs on the mismatch between the PJM payable and potential utility payments.”

In Rate Counsel’s comments at the legislative hearing, Rate Counsel asserted that the letters filed by Exelon and Hartree did not provide the necessary information for the Board to sufficiently analyze this issue or to understand its cause. Neither Exelon nor Hartree appeared at the legislative hearing and therefore the parties were not given the opportunity to further discuss this issue. In addition, the EDCs did not comment on this issue at the legislative hearing. Thus, the Board and the auction participants do not have enough information to make this significant change.

Additional comments were offered at the legislative hearing on September 28, 2018 by the Independent Energy Producers of New Jersey (“IEPNJ”) and Direct Energy Business, LLC, Direct Energy Business Marketing, LLC, Direct Energy Services, LLC, Gateway Energy Services Corporation, and RJR Retail Services Company (collectively ‘Direct Energy.’)

IEPNJ is a trade association representing New Jersey’s wholesale electric power generators. While supportive of the BGS Auction process, IEPNJ expressed concerns regarding the recently enacted Clean Energy Act. The Act raised the solar renewable portfolio (RPS) requirement for energy year 2020 (June 1, 2019 – May 31, 2020) as well as the following two energy years included in the upcoming BGS Auction. Current BGS supply contracts, which continue into energy year 2020 and energy year 2021 (June 1, 2020 – May 31, 2021), are exempt from the new solar RPS requirement. The statutory language directs that non-exempt suppliers will be allocated a share of the solar RPS requirement not applied to the exempt BGS suppliers. IEPNJ argues that the additional allocation of the solar RPS to non-exempt suppliers introduces

uncertainty regarding the specific solar RPS obligation assumed by bidders in the upcoming BGS Auction. IEPNJ concludes that it is essential that bidders in the BGS Auction receive clarity regarding specific solar RPS percentage obligations prior to the upcoming BGS Auction.

Further, IEPNJ notes that the Clean Energy Act increases the Class 1 RPS percentages ranging from 21% beginning in January 2020 up to 35% by January 1, 2025. IEPNJ similarly seeks clarity regarding the Class 1 RPS obligation for BGS Suppliers in energy years 2020, 2021, and 2022.

Rate Counsel agrees with IEPNJ that bidders should be advised of their RPS obligations prior to the start of the BGS Auction. According to IEPNJ, without this information BGS bidders will address the resulting uncertainty by including a risk premium in their bids leading to higher BGS prices. Rate Counsel notes that the Board has, in the past recognized that a successful BGS procurement requires that the “rules and details are specified and implemented correctly.”¹ Rate Counsel agrees that providing BGS Suppliers specific information regarding their RPS compliance obligations is a necessary detail that should be provided by the Board to ensure a competitive procurement producing the lowest possible BGS prices.

Direct Energy sought to bring to the Board’s attention the issue of the EDCs’ allocation of BGS costs to electric distribution rates rather than collecting these costs through BGS rates. Direct Energy describes such “indirect costs” as “costs related to the executive function, accounting and finance function, the regulatory function and almost any other function outside of costs that are strictly related to the ‘poles and wires’ part of the distribution business.” Direct Energy argues that the failure of the EDCs to allocate these costs to BGS gives the EDCs “an

¹ I/M/O the Provision of Basic Generation Service (BGS) For The Period Beginning June 1, 2018, Decision and Order, p.11 (Nov.21, 2017).

undisputable anti-competitive cost advantage when serving retail electric customers and leads to several problems for customers.” Direct Energy proposes that the Board should direct the EDCs to identify “a reasonable portion of business costs for reallocation . . . to the default service side of the business.”

Rate Counsel believes that the issue of the allocation of indirect costs is an issue more properly raised in the BGS audit proceeding rather than this BGS Auction proceeding. Rate Counsel has for many years expressed concern regarding BGS administrative cost and has, in the past, recommended a Board audit of the BGS administrative costs that are included in BGS rates. The Board adopted this recommendation and the audit report was released for comment on August 29, 2018. Direct Energy’s comments more properly belong in the Board’s on-going audit proceeding.

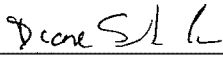
In addition, with regard to the Board’s audit of BGS administrative costs, Rate Counsel has not yet been provided with an unredacted copy of the audit report. Without this information, Rate Counsel is unable to fully review and comment on the report. Rate Counsel looks forward to reviewing the unredacted report and providing the Board with our comments on the audit report.

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Rate Counsel thanks the Board for this opportunity to file final comments on the BGS
Auction process.

Respectfully submitted,

STEFANIE A. BRAND
DIRECTOR, DIVISION OF RATE COUNSEL

By: 
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Assistant Deputy Rate Counsel

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c: Service List (via e-mail distribution list only)