November 14, 2019

VIA ELECTRONIC MAIL

Secretary Aida Camacho-Welch
New Jersey Board of Public GSDs
44 South Clinton Avenue, 3rd Floor Suite 314
Post Office Box 350 Trenton, NJ 08625-0350

Re: IN THE MATTER OF THE EXPLORATION OF GAS CAPACITY AND RELATED ISSUES
DOCKET NO. GO19070846

Dear Secretary Camacho-Welch:

Please accept these reply comments of Marathon Energy ("Marathon") in response to the request for reply comments from the Board of Public Utilities ("Board") in the above referenced matter. Upon review of the comments submitted in this proceeding, our reply comments are directed at a number of statements made by New Jersey's natural gas distribution companies ("GDCs") concerning their future role in ensuring that there is sufficient gas capacity secured to reliably meet the prospective needs of New Jersey's natural gas customers. We restate our initial position that implementing a capacity release program similar to that enacted by other states should be studied and modified as appropriate to use as a model to meet New Jersey's current and future capacity needs. We also note that most, if not all, parties agree that the capacity market serving New Jersey's firm customer is tight and that in order to ensure

62-01 34th Avenue, Woodside, NY 11377 / P: 718.435.2200 /**mecny.com**
100 Elwood Davis Road, Syracuse, NY 13212 / P: 315.226.4477
302 Main Street, Paterson, NJ 07505 / P: 201.330.4400

reliability, new projects need to be developed. Where we part ways with the GDC's is related to whether they should be responsible for purchasing new capacity and how the rate impacts of acquiring new capacity should be handled. Some GDCs appear to propose some form of rate system that would assign the cost of new capacity to TPS's ("Third Party Suppliers") and their customers. The GDCs are silent as to whether they would follow the same approach for GDC customers who availed themselves of newer capacity. This would be unworkable, discriminatory and have a deleterious impact on competition in New Jersey.

DISCUSSION

1. The GDCs Unwillingness to Commit to Securing Capacity for TPS Customers is based on Erroneous Assumptions Concerning Duplication of Capacity Assets.

Public Service Electric and Gas ("PSE&G") argues that "Requiring the GDCs to secure incremental capacity to serve all TPS customer load, if TPSs already own capacity assets, could result in the duplication of capacity assets." This is erroneous, and in fact the reverse is true. The most reliable and efficient way to acquire upstream capacity to serve all of New Jersey's firm capacity is to have the GDCs acquire a single portfolio of capacity and release it to the TPSs on behalf of their customers. This is often referred to as a mandatory capacity release program. The releases would mirror a "slice of the system" and be performed in a non-discriminatory manner. Many of these arguments were made in our initial filing but we will summarize here. First, most TPS suppliers do not contract for upstream capacity assets on a long-term basis and instead enter into capacity lease

62-01 34th Avenue, Woodside, NY 11377 / P: 718.435.2200 /**mecny.com**
100 Elwood Davis Road, Syracuse, NY 13212 / P: 315.226.4477
302 Main Street, Paterson, NJ 07505 / P: 201.330.4400

agreements on a month to month basis or purchase gas at the city gate. Thus, there appears to be very little upstream capacity to duplicate. Any issue associated with duplicative capacity, assuming such capacity is material, can be discussed during the stakeholder process of making the transition to a mandatory capacity release model. Next, only the GDCs possess the aggregate fully diversified send out data to determine the peak day requirements for all firm customers and set a reasonable reserve margin. In addition, in order to avoid duplication of capacity and ensure a least cost mix only the GDCs can optimize the correct mix of baseload, storage and peaking suppliers using the fully diversified send out data as well as the distribution system pressure data. This would not be accomplished if each individual TPS performed its own studies or contracted to meet its own customers individual needs. The TPSs do not possess the system data and computer programs to identify the best place to inject gas into each GDCs' distribution system to maintain minimum system pressures. Only if the GDCs coordinate all of the above functions can the acquisition of upstream be designed to be reliable and at least cost. No market design is more efficient than having a single entity acquire capacity to ensure supply reliability. As we pointed out in our initial comments this approach is similar to how electric markets which are governed by an Independent System Operator (ISO) operates, where they set the reliability parameters and customers take their capacity with them regardless of whether they are with a EDC ("Electric Distribution Company") or TPS customers. Although potentially beyond the scope of this proceeding, it could also make sense for all the GDCs in New Jersey to work together to optimize their capacity across the state to avoid duplication of costs across GDCs.

62-01 34th Avenue, Woodside, NY 11377 / P: 718.435.2200 /**mecny.com**
100 Elwood Davis Road, Syracuse, NY 13212 / P: 315.226.4477
302 Main Street, Paterson, NJ 07505 / P: 201.330.4400

2. The Argument that having the GDCs contract to Meet the Capacity needs of New Jersey customers will Create an Unfair Cross Subsidization of TPS customers by GDC Customers is Unworkable and Without Merit.

This argument is alluded to by certain GDCs. For example, South Jersey Gas Company ("South Jersey") correctly argues that the cost of incremental capacity will be higher than pipeline rates for the legacy system. It goes on to argue that if the Board determines that if GDCs should be responsible to purchase upstream capacity for both GDC and TPS customers it must ensure that the costs associated with the incremental capacity to support TPS customers will be borne by these customers to prevent any unfair cross subsidization between GDC and TPS customers. The practical impact is that TPS customers would pay higher prices. They are silent as to whether they would apply the same treatment to GDC customers. This argument must be dismissed for several reasons. First, it assumes that, over time, TPS customers and GDC customers are two distinct classes of customers. Everyone knows that TPS customers can return to GDC BGSS service after their contracts expire and vice versa. Thus, there is no bright line between the two groups of customers. In addition, it ignores the fact that both GDC and TPS customers are served by the same distribution system. We know of no case in general where GDCs have a different set of distribution rates for new and old customers. Nor are we aware that such a ratemaking mechanism exists for New Jersey gas customers. Since, to be nondiscriminatory, this ratemaking allocation

62-01 34th Avenue, Woodside, NY 11377 / P: 718.435.2200 /**mecny.com**
100 Elwood Davis Road, Syracuse, NY 13212 / P: 315.226.4477
302 Main Street, Paterson, NJ 07505 / P: 201.330.4400

scheme should be equally applied to the cost of GDC BGSS service it raises these questions.

- Would a GDC have a separate distribution rate for a customer who has a 20-year-old service line vs. a brand new one?

- Is the GDC itself going to have two separate upstream capacity cost allocations for new and old customers?

    - We ask: what capacity charges does a customer pay who received commodity service from the GDC for 20 years, recently switches to a TPS but then returns to BGSS service three years from now?

Second, the GDC's argument ignores the overall efficiencies that would be afforded by the GDC contracting for a single mix of supplies as would be the case under a mandatory capacity release model. It is correct that the issue of rolled in vs. incremental pricing is addressed by Federal Energy Regulatory Commission ("FERC") on a wholesale level. However, at the FERC level, incremental pricing applies only to a few shippers when setting rates for a given interstate project and not to GDC retail customers. There is no precedent to apply incremental pricing in a State regulated retail market especially when there is freedom of movement between the regulated and unregulated suppliers.

Last, assigning separate higher incremental capacity costs to TPS customers would simply cause the migration of customers to GDCs and would not solve the problem of contracting for the appropriate least cost reliable mix of supplies. In

62-01 34th Avenue, Woodside, NY 11377 / P: 718.435.2200 /**mecny.com**
100 Elwood Davis Road, Syracuse, NY 13212 / P: 315.226.4477
302 Main Street, Paterson, NJ 07505 / P: 201.330.4400

fact, this could result in a death spiral for TPSs. The only fair and logical way to move forward is to implement a program based on the concept of portable capacity similar to that which is in place for the electric market in New Jersey.

3. South Jersey's Alternative Approach to the Capacity Market is Flawed

South Jersey offers two alternatives to move forward. These are watered down and less efficient versions of a mandatory capacity release program. First, South Jersey recommends that TPSs that currently serve commercial and industrial (C&I) customers continue to use the capacity they currently use to serve these customers in a manner that would be grandfathered under a capacity program that would be managed by the GDC. This could make some sense if TPS's held long term capacity. Many do not for good reason. Since most TPS providers do not enter into long term contracts with their customers they enter into short term capacity release agreements or purchase gas at the city gate to serve their customers. At most, customers contracts last for three years and customers are free to return to the GDC or pick another supplier. Given this reality it is too risky for TPS's to enter into long term upstream capacity deals. In any event, the issue of how to deal with existing long-term capacity held by TPS providers can be discussed as part of a transition to a mandatory capacity release program. An even more pressing issue is ensuring that the necessary term and financial commitments are made to support the construction of new upstream capacity for New Jersey. As PSEG points out, 15-year commitments are often needed to support new projects. As

62-01 34th Avenue, Woodside, NY 11377 / P: 718.435.2200 /**mecny.com**
100 Elwood Davis Road, Syracuse, NY 13212 / P: 315.226.4477
302 Main Street, Paterson, NJ 07505 / P: 201.330.4400

already argued, due to customer migration, TPS's are unable to make this long-term commitment. Compounding this problem is the fact that most TPS's would be unable to satisfy the financial guarantees required by project developers. Thus, the only real practical solution is to have the GDCs be responsible for acquiring new firm upstream capacity.

In the alternative South Jersey proposes that the Board could require that the TPS's afford the GDCs the opportunity to take a permanent release of all of some of their upstream capacity to serve TPS customers in each GDCs service territory. Again, to the extent we understand this alternative, the issue of what to do with existing long-term capacity serving New Jersey should be discussed as part of a transition to a mandatory capacity release program.

CONCLUSION

In conclusion Marathon believes any stakeholder process initiated to examine the upstream capacity needs of the New Jersey market should focus on the implementation of a mandatory capacity release program. The program would be administered by the GDCs on a nondiscriminatory basis by releasing a slice of the system to TPSs based on their customer contribution to system design needs.

Very truly yours,

Frank Perrotti

Frank Perrotti

Director Regulatory and Compliance

62-01 34th Avenue, Woodside, NY 11377 / P: 718.435.2200 /**mecny.com**
100 Elwood Davis Road, Syracuse, NY 13212 / P: 315.226.4477
302 Main Street, Paterson, NJ 07505 / P: 201.330.4400

62-01 34th Avenue, Woodside, NY 11377 / P: 718.435.2200 /**mecny.com**
100 Elwood Davis Road, Syracuse, NY 13212 / P: 315.226.4477
302 Main Street, Paterson, NJ 07505 / P: 201.330.4400