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June 24, 2020

VIA ELECTRONIC MAIL

Honorable Aida Camacho-Welch, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350

**Re: In the Matter of the BPU Investigation of Resource Adequacy Alternatives--
Rate Counsel's Reply Comments
BPU Docket No.: EO20030203**

Dear Secretary Camacho-Welch:

Please accept for filing the enclosed reply comments being submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in accordance with the Request for Written Comments issued by the Staff of the Board of Public Utilities for comment on March 27, 2020 with subsequent Supplemental Notice extending the deadline for initial comments to comments to May 20, 2020 and the deadline for reply comments to June 24, 2020 . In accordance with the Supplemental Notice, these comments are being filed electronically with the Board's Secretary at board.secretary@bpu.nj.gov.

Please acknowledge receipt of these comments.

Honorable Aida Camacho-Welch, Secretary

June 24, 2020

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Thank you for your consideration and attention to this matter.

Respectfully submitted,

By: /s/ Stefanie A. Brand
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Enclosure

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In the Matter of the BPU Investigation of Resource Adequacy Alternatives

Rate Counsel's Reply Comments

BPU Docket No.: EO20030203

INTRODUCTION

Rate Counsel appreciates the opportunity to submit these reply comments on the important issues that the Board is investigating in this matter.

Many of the initial comments submitted by other parties echo Rate Counsel's initial comments that the alternatives under consideration by the Board could create more problems than they solve. Rate Counsel continues to urge the Board to proceed with caution. Some of the comments, however, advise the Board to pursue one or more of the options presented in the Board's request for comments. Rate Counsel will not attempt to respond to all of these comments individually, but will address several issues that are of particular concern.

REPLY COMMENTS

I. Proposals to implement the FRR Option

A. PSEG-Exelon proposal

PSEG and Exelon Generation Co., LLC ("Exelon") propose an "Integrated FRR Procurement" approach, under which initially a single New Jersey electric distribution company zone, apparently JCP&L,¹ would become an FRR entity. The proposal provides that, under the Board's direction, the FRR Entity would acquire capacity for its FRR Capacity Plan according to a "tiered" approach that gives preference to the New Jersey resources that receive state support

¹ While PSEG and Exelon do not specifically propose the JCP&L zone, the comments suggest that the selected zone should be large enough to accommodate resources likely to be affected by the MOPR, including offshore wind (p.16), thus excluding smaller zones Atlantic Electric and Rockland, and should not have locational constraints (p. 7), thus excluding PSE&G. The comments also propose avoiding concerns about market power and affiliate relations by selecting a zone in which the electric distribution company does not have affiliated generation (pp. 17-19), a constraint that excludes PSE&G and Atlantic Electric.

and could be affected by the MOPR, such as nuclear and offshore wind. Once the FRR Entity's portfolio approached 100% clean resources, a second New Jersey zone could become an FRR Entity.²

PSEG and Exelon propose that the cost of this approach would be spread across all New Jersey consumers. That is, all New Jersey consumers would pay RPM-based prices for capacity, and to the extent the FRR Entity's capacity cost is higher (largely or entirely due to its procurement of clean resources), this additional cost, incurred in support of state policy goals, would be spread across all New Jersey zones.

PSEG and Exelon suggest that the FRR Entity might enter into long-term contracts with resources, and that the procurement would be subject to price caps for each resource category.³ If the FRR Entity were unable to acquire sufficient clean resources under the capped prices, it would acquire additional gas-fired resources to complete the FRR Capacity Plan.⁴ They state that market power concerns would be lessened by selecting a single zone where the electric distribution company does not have affiliated generation, and by application of Board-approved price caps.⁵ The FRR Entity would presumably ensure that the clean resources needed to meet the state's policy goals become part of the FRR Entity's Capacity Plan, avoiding the negative impact of the new MOPR.

While this proposal appears on its surface to have some attractive properties (mitigating the impact of the MOPR, and avoiding the most serious affiliate relations and market power concerns), there are a number of reasons why it is unlikely to be a solution for New Jersey.

² PSEG/Exelon Initial Comments, pp. 7-8.

³ PSEG/Exelon Initial Comments, pp. 8, 19

⁴ PSEG/Exelon Initial Comments, p. 9.

⁵ PSEG/Exelon Initial Comments, p. 19.

First, the proposal to have the FRR Entity contract for all of the New Jersey resources subject to MOPR, and then spread the cost of the FRR Capacity Plan across all New Jersey consumers, is likely to be attacked as a market-distorting attempt to evade the MOPR. A capacity portfolio that assigns all of the State's resources that would otherwise be subject to the MOPR to a single EDC would be difficult to justify for any other reason. This, along with the cost sharing mechanism, would be strong evidence that the FRR's capacity resources were being acquired for the benefit of the state as a whole, not just the JCP&L zone. The PSEG-Exelon proposal is similar to a "partial FRR" approach that has not been allowed, because it would allow FRR Entities to evade the MOPR and would cause the very price suppression that the MOPR is intended to prevent. PJM has not hesitated to change its rules when it determines that the MOPR is threatened. See, NJBPU v. FERC, 744 F.3d 74 (3d Cir. 2014). It is very likely that capacity sellers would bring a challenge and PJM would again change the MOPR and FRR rules should New Jersey attempt to evade the MOPR as PSEG and Exelon propose.

Second, the Board-set price caps for the environmental attributes of different resource categories (offshore wind, nuclear, solar, etc.) would be key parameters. If set too low, the FRR Entity might not be able to attract commitments from the desired resources and could end up acquiring gas-fired resources instead, failing to help meet state environmental goals. If the price caps are set too high, the FRR Entity could end up contracting for costly resources at prices that may also reflect exercise of market power over a long term. The costs of these resources are uncertain and some are declining over time, so it would be difficult to determine what the "right" price would be for either short-term or longer-term commitments.

Third, long-term contracts are always problematic, and always carry risk that consumers will be locked in to paying above-market prices for an extended period of time. PSEG and

Exelon do not suggest a term for these long-term contracts, so it is unknown whether they are considering 5-year, 20-year, or even longer contracts. The risk of consumers paying excessive prices under long-term contracts could be mitigated to some extent by risk-sharing pricing formulas that adjust over time to partially reflect changes in resource costs and market conditions, but it could be difficult to reach agreement with resources on such pricing rules, which could also be complex to design.

The proposal put forth by PSEG and Exelon, therefore, is unlikely to be a solution to the concerns the Board seeks to address. The proposal is unlikely to escape a negative response from PJM and FERC as it is a clear effort to simply avoid the recent MOPR decisions, and it may not effectively avoid the market power and pricing concerns raised by Rate Counsel and others. It also may commit New Jersey ratepayers to potentially expensive long-term contracts, an issue the Board, the EDCs, and ratepayers have seen before.

PSEG and Exelon also criticize the IMM's report estimating the impact of FRR on capacity costs for New Jersey consumers.⁶ They suggest that the IMM overstates the impact of FRR by assuming the FRR Entity could pay prices based on Net CONE (which they believe is too high), and assuming future prices under RPM could be similar to prices in recent auctions (which they believe is too low). One fact all parties can agree on, however, is that no one knows what future capacity prices will be. That said, PSEG and Exelon, as generators most likely to benefit from a New Jersey FRR, have an interest in a prediction of lower future capacity prices, while the IMM, as an independent market monitor has no interest in future prices other than to ensure that they are reached fairly. Moreover, PSEG and Exelon do not address Rate Counsel's main concern: the IMM's showing that ownership of generation in New Jersey is highly

⁶ PSEG/Exelon Initial Comments, pp. 6-7.

concentrated and an FRR Entity would likely pay prices that reflect the exercise of market power.⁷

B. State Power Authority

Some of the initial comments suggest that implementing the FRR option through a State Power Authority would result in savings that would offset the potential additional costs of this approach. These include AGVP Advisors,⁸ and the Natural Resources Defense Council (“NRDC”) and the Sierra Club.⁹ As Rate Counsel stated in its initial comments, while a State Power Authority would have some theoretical benefits it is not an option that could be implemented quickly or cheaply.

This approach would require legislation, and the creation of a new state agency. At the outset, there would be significant issues to resolve as to the scope of the new agency’s responsibilities. Would it be formed solely to assist in procuring capacity resources to meet the unforced capacity obligations of a New Jersey FRR, or would it be charged with re-regulating electric supply and assuming ownership of electric supply resources? Under the first of these alternatives, the new agency would face the same market power issues that are discussed in the preceding section, and it is unclear what benefits would justify the creation of a new State agency.

A State Power Authority with the responsibility for electric supply would be a considerable undertaking. An agency with the resources to undertake responsibility for the electric supply to the State would have to be created. The agency would need procurement,

⁷ PSEG and Exelon state at page 6 of their initial comments that they are offering only “a few preliminary observations” and that they will address the IMM’s analysis in detail in their reply comments. Rate Counsel reserves its right to respond to any new issues raised in the reply comments.

⁸ AGVP Advisors Initial Comments, p. 1.

⁹ NRDC/Sierra Club Initial Comments, p. 18

portfolio management, load forecasting, and energy and capacity market expertise to manage the procurement of sufficient resources to meet the state's energy and capacity requirements.

Initially, the agency would have to manage the transition from the current market structure.

Current contractual obligations involving BGS providers and competitive suppliers would have to be unwound. The agency would need to weigh the costs and benefits of acquiring and developing generation facilities that would be owned by the State, or contracting with private generation owners. Moreover, any bonding needed to implement the transition and to carry out the agency's continuing responsibilities would require approval of the voters in a general election. N. J. Const., Art. III, Sec. 2, Para. 3(b).

The risks inherent in this approach also need to be considered. Under New Jersey's current market structure, the risks of generation ownership, and many of the risks of electric supply, rest with private entities. A State Power Authority with electric supply obligations would place some or all of these risks back on the shoulders of New Jersey's ratepayers and taxpayers. At best, a State Power Authority would require considerable time, effort and resources to implement. At worst, it could increase the already high electricity costs for New Jersey's residents and businesses.

II. Proposals to Implement a Carbon Price

Several commenters highlight the importance of an appropriate carbon price that would internalize the cost of carbon emissions.¹⁰ Rate Counsel concurs that there should be a carbon price, but that the process for establishing an appropriate carbon price for the state should be

¹⁰ Monitoring Analytics Initial Comments, p. 17; Institute for Policy Integrity at New York School of Law Initial Comments, pp. 18-20; Natural Gas Supply Ass'n, Initial Comments p. 2; NRDC/Sierra Club Initial Comments, pp. 34-35; Ørsted Initial Comments, pp. 8-9; PSEG/Exelon Initial Comments, p. 1; Vistra Initial Comments, p.1; Vitol Initial Comments, pp. 5-6; Electric Power Supply Ass'n, Initial Comments, p. 12-13; Advanced Energy Companies, Initial Comments, pp. 27-29.

undertaken in its own separate process and in conjunction with other states in the region. Carbon pricing will need to be an economy-wide endeavor that addresses the transportation, electricity, and thermal sectors. While the Board has purview over regulated utilities within the state, a New Jersey carbon price needs to include other segments of the New Jersey economy that should be involved in the process. Rate Counsel recommends that the Board work together with other state agencies to develop a comprehensive statewide process to investigate appropriate, effective, and fair carbon pricing for the state.

It is also important that carbon pricing be implemented over a broad geographic area, not just for one or a few states. When adjacent regions have different carbon pricing approaches, this can lead to unintended and undesirable distortions at the seams, with one region's carbon pricing policies affecting plant dispatch, emissions, and costs in adjacent regions. Such "leakage" can be difficult to mitigate, as analysis by PJM has shown.¹¹

Should New Jersey regulate carbon emissions on its own without the cooperation of neighboring states, then there is a real concern about leakage. Businesses in New Jersey subject to a state specific carbon price may move to neighboring states that may have lower or no carbon price. A higher carbon price in New Jersey could make carbon-producing resources less expensive in other states, thus encouraging users in those states to buy the carbon-producing resources that would be priced out of the market in New Jersey. The issue of leakage could result in additional economic hardship for the state, and may result in increased emissions contrary to the goal of the carbon price.

¹¹ See, for instance, PJM, [Expanded Results of PJM Study of Carbon Pricing & Potential Leakage Mitigation Mechanisms](https://www.pjm.com/-/media/committees-groups/task-forces/cpstf/2020/20200519/20200519-item-03b-and-03c-pjm-study-results-higher-carbon-price-and-rto-scenarios.ashx), Carbon Pricing Senior Task Force May 19, 2020, slides 13-20 (explaining the emissions and costs impacts between a carbon pricing sub-region and adjacent regions without carbon pricing, under different leakage mitigation approaches), available at <https://www.pjm.com/-/media/committees-groups/task-forces/cpstf/2020/20200519/20200519-item-03b-and-03c-pjm-study-results-higher-carbon-price-and-rto-scenarios.ashx>

III. Proposed Modifications to BGS Structure

A. Impact of PJM Second Compliance Filing

As the Board considers modifying the BGS process to meet the state's clean energy objectives, we highlight a recent development that occurred after Rate Counsel's initial comments were filed on May 20, 2020. On June 1, 2020, PJM filed a second compliance filing before FERC regarding the December 19, 2019 MOPR Order. In its second compliance filing PJM stated:

PJM proposes revised Tariff language that will allow for the continuation of normal commercial activity associated with state default service auctions while safeguarding against any state default service auctions that would distort the competitiveness of the BRA by, among other things, creating an undue preference for a particular resource or type of resource in a manner that would support the entry or retention of uneconomic resources.¹²

PJM then noted in an accompanying footnote that the rule would not accommodate default service auctions such as the District of Columbia's, since the District of Columbia includes a requirement to procure renewable resources beyond the Renewable Portfolio Standard for the District of Columbia.¹³ While New Jersey's BGS Auction would likely not be considered a state subsidy under PJM's compliance filing, the language regarding the District of Columbia's auction suggests that any changes to the current BGS structure to support clean energy resources could result in the application of the MOPR to the BGS Auction. The threat of being subject to MOPR or significant changes to the BGS structure could have the effect of deterring potential bidders from participating in future BGS auctions, which may in turn raise prices for BGS customers. Remaining bidders may also increase their bids to factor in the administrative

¹² PJM Second Compliance Filing Concerning Application of the Minimum Offer Price Rule. Dockets EL16-49, ER18-1314, and EL 18-178. June 1, 2020, p. 16.

¹³ Id., p. 16 note 51.

process of complying with the MOPR process. As PJM and FERC continue with the process of finalizing the MOPR, the Board should proceed slowly and cautiously in its consideration of any modifications to the BGS process, including portfolio management and the creation of a State Power Authority. In light of PJM's June 1, 2020 compliance filing, the Board should wait until the rule is finalized to see if the BGS auction process can even be modified without running afoul of the MOPR.

Rate Counsel reiterates its initial comment that the intent of the BGS process was to provide default service through a competitive market while minimizing market volatility for customers uninterested or unable to sign up with third party suppliers. BGS was not intended to provide a means to meet the state's clean energy objectives. Changing the purpose of the BGS Auction to meet new goals could undermine the achievement of its original goals to lower energy prices for New Jersey ratepayers through the opportunities available in the competitive wholesale marketplace

B. Portfolio Manager

On the issue of a portfolio manager, Rate Counsel has two concerns. First, the portfolio manager may be viewed as a state subsidy by FERC, since one of the stated goals is to use the portfolio manager to facilitate long-term contracts for new renewables. Second, the portfolio manager may require additional resources from the state without necessarily providing an advantage over the competitive market construct.

On the first issue, Rate Counsel notes that the Independent Energy Producers of New Jersey ("IEPNJ") commented that the portfolio manager being contemplated by the Board could include the designation of select tranches based on clean energy emissions standards.¹⁴ IEPNJ

¹⁴ IEPNJ Initial Comments, p. 10.

then goes to say that such an option would require an FRR approach.¹⁵ Ultimately, IEPNJ concludes that its clean energy tranche concept would be considered a state subsidy and that the portfolio manager may not outperform a vibrant competitive market.¹⁶ Atlantic City Electric Company (“ACE”) notes that the current BGS structure avoids the use of long-term power purchase agreements.¹⁷ However, Rate Counsel believes that a portfolio manager would probably require long-term power purchase agreements to meet the state’s clean energy objectives, thus eliminating this benefit.

On the second issue, as ACE observed, the current BGS process already brings “the full gamut of supply strategies to bear on managing the supply portfolio.”¹⁸ This transfers the onus of managing risk onto the suppliers who price that risk into their bids. Similarly, Calpine notes that the BGS auction process has more transparency than having a portfolio manager to manage the default service procurement.¹⁹ IEPNJ notes also that the Board would be relying on the ability of a portfolio manager to consistently outperform the competitive market.²⁰

Rate Counsel agrees with the above comments and notes that the portfolio manager being contemplated by the Board in this proceeding is not the same in role or function as that recommended by Rate Counsel in its 2010 BGS Comments. As the Board recognized, the objective of the 2010 proposal was to provide BGS customers with a balanced BGS supply portfolio that included long-term contracts along with the shorter-term procurements from the auction process.²¹ Here, the Board is considering a portfolio manager to manage all of New

¹⁵ Id.

¹⁶ Id., p. 11.

¹⁷ Id., p. 2.

¹⁸ ACE Initial Comments, p. 2.

¹⁹ Calpine Initial Comments, p. 9

²⁰ Calpine Initial Comments, p. 11.

²¹ See, I/M/O the Provision of Basic Generation Service for the Period Beginning June 1, 2011, BPU Dkt. No. ER10040287, Decision and Order at 6 (Dec. 6, 2010).

Jersey energy procurement, with the objective of meeting the State’s clean energy standard. The structure and purpose of the portfolio management approach being considered by the Board today thus differs substantially from Rate Counsel’s 2010 proposal.

Direct Energy and Centrica Business Solutions commented that the portfolio manager could provide benefits including “greater insight” and improved information and transparency with regard to clean energy related bidding requirements.²² Rate Counsel does not believe there is a need to create another state entity or contract with another entity just to provide additional insights into the BGS auction.

C. Other Modifications to BGS

The PJM Power Providers Group (“P3”) recommends that the BGS process could be reformed to change the current RPS to a “carbon neutral” portfolio standard that could be satisfied with renewables, nuclear generation (subject to a cap) and fossil generation combined with carbon offsets.²³ This would represent a substantial change to state policy that is beyond the scope of this proceeding and would require legislation. Further, P3 suggested this approach as a way to modify the BGS process without triggering the application of the MOPR.²⁴ As noted above, PJM’s June 1, 2020 compliance filing suggests that the BGS auction as it is currently configured would not trigger MOPR and that changes to the current BGS process intended to support clean energy would be risky.

American Council on Renewable Energy (“ACORE”) and NRG Energy (“NRG”) have made proposals to eliminate BGS as a default service and restructure it to require, or provide customers with strong incentives, to purchase their electric supply from competitive suppliers.

²² Direct Energy Initial Comments, p. 6.

²³ P3 Initial Comments, pp. 5-7.

²⁴ P3 Initial Comments, p. 4.

The ACORE and NRG proposals appear to be based on the assumption that making BGS unavailable or less attractive to customers would encourage them to enter into long-term contracts with competitive suppliers, and that this would enhance consumer demand for clean energy alternatives.²⁵ Neither ACORE nor NRG has offered any substantial evidence that this approach would be more effective or less costly to consumers than the current RPS approach.

Further, ACORE and NRG are proposing a fundamental change in the nature and purpose of BGS that is beyond the scope of the issues being considered by the Board in this investigation. In the electric restructuring Orders that followed the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (“EDECA”), the Board determined that BGS would be maintained as an option for New Jersey’s electricity users. While the EDCs were relieved of the obligation to provide BGS after the 3-year period that was mandated in EDECA, the Board determined that BGS would continue as an option, to be supplied by providers selected in a bidding process. See, e.g. See, e.g. I/M/O Public Service Electric and Gas Co, Unbundling, Stranded Costs and Restructuring Filings, 1999 NJ PUC Lexis 11, at *299-*300 (1999). These were lengthy proceedings that included numerous parties having an interest in the structure of New Jersey’s electricity markets.

Further, in its annual BGS proceedings, the Board has considered and rejected proposals to change the three-year BGS auction procurement mechanism, finding that it provides a “valuable hedge” to customers. The Board has acknowledged that the multi-year rolling average price means competition is more difficult when energy prices are high, and easier when energy prices are low. Nonetheless, the Board has definitively found that the procurement of electricity for shorter periods than the current BGS format would likely only increase prices for customers

²⁵ ACORE Initial Comments, attached Wind Solar Alliance report, pp. 9-11; NRG Initial Comments, pp. 4-14.

without increasing retail competition significantly.²⁶ Further, “the benefits to customer rates and rate stability associated with the staggered three-year rolling procurement process outweigh the alleged benefits” of a shorter-term product. Id. (emphasis added).²⁷

The changes proposed by ACORE and NRG would significantly alter the Board’s well-established policies instituted since the enactment of EDECA. The proper forum to consider such a significant and fundamental change to BGS would be a rulemaking or other generic proceeding in which all interested stakeholders could participate after receiving proper notice and a meaningful opportunity to comment.²⁸ The ACORE and NRG proposals should not be addressed in this proceeding.

IV. Other Proposals

NRG Energy, Inc. proposes consideration of the Forward Clean Energy Market (“FCEM”) proposal developed by The Brattle Group.²⁹ This proposal was first developed for a New England stakeholder process, but ultimately did not advance. The FCEM proposal would essentially expand RPM with an additional auction to acquire environmental attributes (“clean

²⁶ See IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2007, BPU Dkt. No. EOO6020119 at 7 (Dec. 22, 2006).

²⁷ See also IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2008, BPU Dkt. No. ER07060379 at 6 (Jan. 25, 2008), IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2009, BPU Dkt. No. ER08050310 at 8 (Jan. 20, 2009); IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2011, BPU Dkt. No. ER10040287 at 8 (Dec. 6, 2010); IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2013, BPU Dkt. No. ER12060485 at 7-8 (Nov. 11, 2013), IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2014, BPU Dkt. No. ER13050378 at 8 (Nov. 22, 2013); IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2015, BPU Dkt. No. ER14040370 at 7 (Nov. 24, 2015); IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2016, BPU Dkt. No. ER15040482 at 7 (Nov. 16, 2015), IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2017, BPU Dkt. No. ER16040337 at 6 (Oct. 31, 2016); IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2018, BPU Dkt. No. ER17040335 at 7 (Nov. 21, 2017); IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2019, BPU Dkt. No. ER18040356 at 7 (Nov. 19, 2018); IMO Provision of Energy Basic Generation Service for the Period Beginning June 1, 2020, BPU Dkt. No. ER19040428 at 7 (Nov. 13, 2019).

²⁸ See In re Provision of Basic Generation Service for the Period Beginning June 1, 2008, 205 N.J. 339, 360 (2011).

²⁹ NRG Initial Comments, pp. 15-26, citing to How States, Cities and Customers Can Harness Competitive Markets to Meet Ambitious Carbon Goals Through a Forward Market for Clean Energy Attributes, The Brattle Group (prepared for NRG), September 2019.

energy attribute credits”) on a three-year forward basis. There are a number of problems with this approach. For example, to be able to use an auction, the FCEM proposal requires defining a standard, homogeneous “product” to be acquired in the auction, with associated performance requirements, but the various types of clean resources are in fact very different and valued differently. The product definition would be very controversial and ultimately at least somewhat discriminatory and inefficient.³⁰ The approach would also require that the Board define a “demand curve,” i.e., the maximum prices for various quantities of the environmental attributes. This would raise the same issues as the maximum prices under the PSEG/Exelon FRR proposal. There are many other details that would have to be determined and would be controversial, so implementing an FCEM could take a long time.

The Electric Power Supply Association (“EPSA”) suggests consideration of New England’s CASPR approach (an acronym for Competitive Auctions with Sponsored Policy Resources).³¹ Under the CASPR approach, MOPRed resources are given a chance to acquire capacity commitments after the forward capacity auction if there are existing resources that cleared in the auction, but are willing to retire. An additional “substitution auction” is then held, and the existing, retiring resources can be replaced by MOPRed resources.

CASPR is an extremely complex mechanism that was extraordinarily difficult to design and negotiate, and ultimately has been ineffective. In the most recent ISO New England capacity auction, CASPR had no impact at all -- no resources cleared through the CASPR mechanism.³²

³⁰ For further explanation of the problems with such approaches, see Wilson, James F., Reply Affidavit on Behalf of Natural Resources Defense Council, Sustainable FERC Project, Sierra Club, New Yorkers for Clean Power, Environmental Advocates of New York, and Vote Solar, January 31, 2020 in New York Public Service Commission Case No. 19-E-0530, pp. 6-13.

³¹ EPSA Initial Comments, pp. 9-11.

³² See ISO New England press release February 5, 2020, New England’s Forward Capacity Auction Closes with Adequate Power System Resources for 2023-2024, p. 1 (“No capacity supply obligations were traded this year under auction rules that allow existing resources interested in retiring to trade their obligations with new state-sponsored

Contrary to EPSA’s claim that the proposal “achieved widespread support,”³³ it was ultimately the only proposal to be advanced in the New England stakeholder process, so stakeholders had no alternative than to support it.³⁴ There is no reason to believe such a mechanism would be any easier or less controversial to design and implement, or any more effective in operation, in PJM.

CONCLUSION

The alternatives under consideration by the Board in response to the recent series of FERC Orders regarding “state subsidized resources” involve substantial costs and risks for the State’s electricity users. For the reasons explained above and in Rate Counsel’s initial comments, in this matter, the Board should proceed slowly and cautiously as it considers these alternatives.

resources that did not clear in the primary auction.”) available at https://www.iso-ne.com/static-assets/documents/2020/02/20200205_pr_fca14_initial_results.pdf.

³³ EPSA Initial Comments, p. 10.

³⁴ For additional critique of the CASPR approach see Wilson, James F., Reply Affidavit in Support of the Reply Comments of Clean Energy and Consumer Advocates, November 6, 2018 in FERC Docket No. EL18-178, pp. 30-33.