

June 24, 2020

**VIA E-FILING**

Secretary Aida Camacho-Welch  
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***Re: Investigation of Resource Adequacy Alternatives***  
***Docket No. EO20030203***  
***Reply Comments of the Retail Energy Supply Association***

Dear Secretary Camacho-Welch:

On behalf of the Retail Energy Supply Association (“RESA”),<sup>1</sup> please accept these reply comments in response to the Board of Public Utilities’ (“Board’s or BPU’s”) March 27, 2020, solicitation of comments as part of its Resource Adequacy Alternatives Investigation (“RAAI”).

**THE FRR ALTERNATIVE IS ANTITHETICAL TO RETAIL COMPETITION:**

RESA strongly agrees with LS Power’s comments that “[t]he FRR Alternative is inconsistent with the legislative intent in passing the Electric Discount and Energy Competition Act (“EDECA”)....Clearly the New Jersey legislature appreciated the policy implications of utilizing PJM’s competitive wholesale market in order to provide superior benefits to customers, rather than relying on traditional rate making tools. The FRR alternative would revert back to those rate making tools by having some entity determine at what price resources will be locked in by technology type and cost, denying customers the benefits of a competitive procurement. EDECA

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<sup>1</sup> The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).

envisioned using wholesale competitive markets to achieve environmental goals, and as noted above, that is exactly what has occurred in PJM, and can continue to occur for New Jersey customers on a least cost basis.”<sup>2</sup>

Furthermore, RESA also strongly agrees with Calpine Retail Holdings’ comments that a single entity procuring capacity on behalf of third party suppliers (TPSs) under the FRR alternative is “antithetical to retail competition” and the” one-size-fits-all approach” that would be applied under FRR to the competitive retail electric market “would disrupt and harm multiple aspects of the retail market including operations, contracting, offerings and choices that are available to New Jersey customers”.<sup>3</sup>

### **THE FRR ALTERNATIVE WAS NOT INTENDED FOR NEW JERSEY:**

As NJLEUC, LS Power, and others pointed out in their comments, the FRR alternative was not intended for use by a deregulated state with competitive retail choice like New Jersey; rather FRR was designed to provide an opt-out mechanism for large vertically integrated utilities that own generation assets and are located in states without retail competition, such as American Electric Power Company (AEP) and Duke Energy, to encourage these utility monopolies to join the PJM capacity market. RESA provides the following language from FERC’s *Initial Order on PJM’s Reliability Pricing Model* (April 20, 2006) as helpful context to further support this position:

100. In the stakeholder discussions held prior to PJM’s August 31st Filing, AEP suggested that the demand curve feature of RPM discriminated against vertically integrated utilities whose state regulators have traditionally established capacity requirements for utilities within their states. In particular, AEP expressed concern that the demand curve feature would require AEP to procure more capacity than the 115 percent of peak load that its state regulators have traditionally required. Similarly, the Kentucky Commission suggests that capacity constructs must be better adapted to the needs of fully regulated states with vertically integrated utilities to take into account state-imposed obligations.<sup>108</sup> As a solution, AEP suggested at the June 16, 2005 technical conference that individual LSEs should be allowed to "opt-out" of the forward procurement auction by identifying – prior to

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<sup>2</sup> LS Power’s comments at 16-17.

<sup>3</sup> Calpine Retail Holdings’ comments at 7, 11.

the four-year-ahead auction – enough capacity resources to satisfy the traditional 115 percent state requirement.

101. In response to AEP’s suggestion, PJM included in the August 31st Filing draft business rules that could implement an alternative to RPM under which an LSE could provide its own long-term fixed resource requirement. Under these draft rules, an LSE electing this alternative would submit to PJM each year a capacity resource plan covering the next five years, including the RPM Delivery Year, designating the load to be covered, the unit-specific generation resources to cover the capacity requirement, and any transmission upgrades needed to ensure deliverability of the generation to the load. The LSE’s fixed capacity requirement would equal the IRM then in effect for the PJM region plus a specified additional margin. PJM argues that the additional margin is necessary to cover the uncertainty associated with forward commitment and to ensure that the LSE contributes equivalent capacity to the market as LSEs participating in RPM. PJM does not endorse this alternative and has not included it in the tariff sheets submitted with its filing. Indeed, PJM states that it recognizes the concerns of some stakeholders that this type of modification could undercut the objectives of RPM. However, PJM states, it has developed this alternative in a form that would permit its integration into RPM and that would provide sufficient protection for the market against potential market manipulation.

102. In its post technical conference comments, AEP continues to argue for an option that would allow LSEs to avoid responsibility for the results of the forward procurement auction by procuring and identifying for PJM resources equal to the IRM in advance of the auction. AEP states that the long-term fixed resource requirement option should be available only for LSEs that commit to maintain that choice for a long period of time, perhaps 8 to 12 years.<sup>109</sup> AEP opposes PJM’s suggested requirement that this alternative require the participating LSE to procure an additional margin above the IRM, arguing that the added required margin would unnecessarily penalize participating LSEs.

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**Commission Determination - ii. Long-Term Fixed Resource Requirement**

110. We agree with AEP that LSEs and states should have the option of choosing an alternative to the forward procurement auction if they identify sufficient capacity to meet their loads, which capacity is physically deliverable and which is under contract to the LSE or under the LSE's ownership or control, in advance of the forward procurement auction. Further, LSEs choosing this option must commit to procure this capacity for an extended period of time. The forward procurement auction is intended to create market conditions that will elicit a reliable supply of capacity over the long term. We conclude that this objective would not be compromised by allowing individual LSEs to choose not to participate in the forward procurement auction – so long as the LSE is willing to commit to procure an adequate, reliable and pre-specified amount of capacity for an extended period.

111. However, to ensure that reliability is not compromised, an LSE must not be allowed to move in and out of the forward procurement auction from year to year.

An LSE must not be able to choose the long term fixed resource requirement option during periods of capacity surplus (when the RPM capacity requirement will exceed IRM) and then quickly return to the forward procurement auction without penalty during capacity shortages (when the RPM capacity requirement may be less than IRM). Such flexibility could allow an LSE to procure capacity quantities that, on average over time, was less than IRM and, thus, compromise reliability. We agree with AEP that an LSE that wishes to choose the long term fixed resource requirement option must commit to do so for an extended period. However, we require more information to determine the period of time LSEs must commit to using the long-term fixed resource requirement and whether LSEs choosing RPM should be required to commit to RPM for more than one year (and, if so, for how long). We also seek additional information to determine how to establish the level of deficiency charge needed to ensure compliance, and whether an LSE that fails to procure the full amount of capacity should be precluded thereafter from using the long term fixed resource requirement option. The staff technical conference will provide parties with the opportunity to discuss these issues.<sup>4</sup>

The fact that the FRR alternative was not intended for a deregulated state like New Jersey was also discussed by the Third Circuit in *New Jersey Board of Public Utilities v. FERC*, 744 F.3d 74 (3<sup>rd</sup> Cir. 2014), which noted, based on the arguments made by the Board, that “participating in the FRR option is an all-or-nothing proposition, and appeals as a practical matter only to large utilities that still follow the traditional, vertically integrated model.”<sup>5</sup> In this decision, which rejected the Board’s challenge to FERC’s order on MOPR and New Jersey’s LCAPP statute,<sup>6</sup> the Third Circuit went on to state:

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<sup>4</sup> *PJM Interconnection, LLC*, 115 FERC ¶ 61,079 (Docket Nos. EL05-148-000, ER05-1410-000) (April 20, 2006). See also Monitoring Analytics (PJM Independent Market Monitor), *Potential Impacts of the Creation of a ComEd FRR* (December 18, 2019), available at: [https://www.monitoringanalytics.com/reports/Reports/2019/IMM\\_Potential\\_Impacts\\_of\\_the\\_Creation\\_of\\_a\\_ComEd\\_FRR\\_20191218.pdf](https://www.monitoringanalytics.com/reports/Reports/2019/IMM_Potential_Impacts_of_the_Creation_of_a_ComEd_FRR_20191218.pdf) (“The American Electric Power Company, Inc. (AEP) created the first FRR service area based on the original RPM tariff rules adopted in 2007. AEP was a vertically integrated utility (transmission, generation and distribution assets) which participated in all the other PJM markets, but which, rather than participating in the PJM Capacity Market, received payment for generation capacity well in excess of capacity market prices, based on a cost of service model, under a regulatory arrangement with Ohio.... In the AEP case, AEP owned enough generation assets to meet its PJM defined UCAP obligation.”).

<sup>5</sup> *NJ BPU v. FERC*, 744 F.3d at 84. See also *id.* at 102 n.27 (“Petitioners argue that, because it requires an LSE to demonstrate to PJM that it can use its self-supply to meet projected capacity obligations for an entire five-year period, and to forego the ability to buy or sell capacity in the PJM auctions during that time, the FRR option is a viable alternative only for large utilities that still follow the vertically integrated model.”).

<sup>6</sup> RESA agrees with LS Power’s comments (pages 13-14) that the LCAPP experience should be instructive to the Board in weighing the pros and cons of the FRR alternative.

Petitioners **New Jersey** and Maryland and the Load Petitioners all **provide convincing evidence, however, that the FRR is not a viable alternative for them.** FERC does not counter this evidence; rather the agency merely responds that it never indicated that the FRR would be a "desirable or appropriate" alternative for all states or LSEs. *See* FERC Br. 39-40. We agree with Petitioners that the agency has given short shrift to their arguments that the FRR is simply not a feasible alternative for them. But Petitioners provide no authority for the proposition that FERC is actually *required* to provide states and LSEs wishing to purchase or sell capacity in interstate commerce with an alternative to the Reliability Market. Absent such authority, we cannot hold that the lack of a feasible alternative that would allow states and LSEs to avoid having their capacity sell offers mitigated is fatal to FERC's Orders here.<sup>7</sup>

It is very surprising that the Board is now considering adopting the FRR alternative since it has already reviewed and analyzed "substantial evidence" that clearly establishes FRR is "not a realistic option for New Jersey", according to the arguments the Board itself submitted first to FERC and then to the Third Circuit during the proceedings in 2011 through 2014 regarding MOPR and LCAPP. The Board's Request for Rehearing, which was filed with FERC on May 12, 2011, stated: "The NJ BPU respectfully notes that the FRR alternative is a complicated and lengthy process for states that are restructured such as New Jersey.... Furthermore, like the Section 206 petition, there is a very real possibility that incumbent generators and even unwilling electric distribution companies will attempt to block pursuit of such a path through legal challenges."<sup>8</sup> And the Board's Proof Brief, which was filed with the Third Circuit on September 6, 2012, included the following argument:

V. THE FRR "OPT OUT" DOES NOT CURE FERC'S ORDERS....

.... FERC declined to address substantial evidence that FRR was not a realistic option for New Jersey. *See* R.213 (NJRC Rehearing), 82. That evidence showed that New Jersey FRR Entities seeking to secure capacity for the necessary five-year period would face unmitigated seller market power, *id.* at 81 and raised questions about whether FRR's "highly inflexible capacity procurement requirements and substantial penalties for non-compliance" were compatible with the needs of New Jersey or other states with restructured retail electric service markets. *Id.* at 84. FERC responded to these concerns by convening a technical conference to address, *inter alia*, whether FRR "is a viable option for those wishing

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<sup>7</sup> *Id.* at 102.

<sup>8</sup> *PJM Interconnection LLC*, FERC Docket Nos. ER11-2875-000, EL11-20-000.

to self-supply.” R.243 (Notice of Technical Conference), P1. Conference presentations and subsequent written comments raised a litany of concerns about FRR’s usability. See e.g., R.278 (Rehearing Order), PP189, 192 (discussing selected comments). FERC did not address the substance of these presentations, concluding instead that whether FRR was viable in a given situation was “an individual determination to be made by each state and distribution company.” Id. P100. Of course, that is exactly what New Jersey and Maryland have done: they have determined that neither FRR nor exclusive procurement through RPM adequately serves their citizens’ needs.<sup>9</sup>

In their recent RAAI comments, Rate Counsel references this anti-FRR position that it and the Board argued during the 2011 FERC proceeding that led to the Third Circuit case: **“This is not the first time the notion that New Jersey might use the FRR alternative has arisen.** In an order issued April 12, 2011, FERC accepted changes to the RPM MOPR that were opposed by New Jersey, and suggested New Jersey could pursue state policy initiatives while satisfying the state’s capacity obligations through the FRR alternative. **At that time, the Division of Rate Counsel explained that the FRR alternative was not in fact a viable option for New Jersey,** primarily due to the substantial market power that a New Jersey FRR entity would face in attempting to build an FRR Capacity Plan, among other barriers....**Nothing has substantially changed since that time** – New Jersey remains in the same constrained zone (Eastern MAAC), and the capacity serving the state remains highly concentrated and largely owned by affiliates of the electric distribution companies.”<sup>10</sup>

#### **THE FRR ALTERNATIVE WILL RESULT IN SERIOUS MARKET POWER ISSUES:**

RESA shares the strong concerns of several other stakeholders (including Rate Counsel, New Jersey Large Energy Users Coalition, LS Power, Direct Energy, Calpine Retail, and PJM Power Providers Group (P3)) regarding the serious distortion of market power that will likely result if New Jersey adopts the FRR alternative. Exiting the PJM market will result in a loss of

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<sup>9</sup> Proof Brief of Petitioners New Jersey Board of Utilities and New Jersey Division of Rate. Counsel filed with the Third Circuit (Docket No. 11-4245) on September 6, 2012, at 32-34 (emphasis added), available on [www.pacer.gov](http://www.pacer.gov)

<sup>10</sup> Rate Counsel’s RAAI comments at 17 (citing May 12, 2011 Affidavit of James F. Wilson, attached as Exhibit 1) (emphasis added).

regional competition and market oversight mechanisms that are currently preventing the exercise of excessive market power in New Jersey and will lead to significantly increased electricity prices in New Jersey. These market power concerns will be compounded by utility affiliate issues due to the necessity of bilateral contract negotiations by utilities to procure capacity on behalf of everyone including TPSs under the FRR alternative. Both PSE&G and Exelon own utilities in New Jersey and would be contracting for capacity within their own corporate families (their affiliates who own generation assets) to satisfy the MIRR requirements within the LDAs under the FRR alternative. As Rate Counsel explained: “The high concentration of capacity ownership in Eastern MAAC was quantified recently in a filing by PSE&G at FERC. According to the filing, (specifically PSE&G and affiliates control over 20% of the capacity in Eastern MAAC; together with Exelon and affiliates, the two entities control a third of the capacity.”<sup>11</sup>

RESA also agrees with the comments of NJLEUC that elaborate upon these market power and affiliates issues as follows:

The existence of market power wielded by certain generators like PSEG and the likelihood that the market power would be leveraged to substantially increase capacity costs in New Jersey are addressed at length in the May 13, 2020 Report by the PJM Independent Market Monitor entitled “Potential Impacts of the Creation of New Jersey FRRs” (“IMM Report”). **The IMM Report describes the two leading “screens” by which market concentration is measured—the same indicators used by the IMM and State in the PSEG/Exelon merger proceeding to quantify the combined companies’ potential market power and, ultimately, to justify rejection of the merger.** The first screen, the Herfindahl-Hirschman Index (“HHI”), determines a supplier’s market share by comparing the supplier’s output with the total supply available from all suppliers within a given market. The HHI assigns values in a numerical range that categorizes markets as “unconcentrated” if the value is below 1000, “moderately concentrated” if the value is between 1000 and 1800, and “highly concentrated” if the value is greater than 1800. Table 4 of the IMM Report reveals that the PSEG FRR (HHI of 5562) and NJ FRR (HHI of 2445) are highly concentrated and that the JCPL FRR (1572) is moderately concentrated, ostensibly because, unlike PSEG, JCPL divested its generation fleet as part of industry restructuring. These results are consistent with the IMM’s consistent finding in a long line of annual “State of the Market Reports” that market power is “endemic” in the PJM capacity market and that the potential for the exercise of market power is high.

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<sup>11</sup> Rate Counsel’s RAAI comments at 18.

The second market power screen, the “three pivotal supplier test” is considered the more precise measure of structural market power because pivotal suppliers having the ability to exert market power may exist even in markets determined by the HHI to be unconcentrated. The pivotal supplier test focuses on the relationship between demand and the ownership structure of supply available to meet the demand. A supplier is deemed “pivotal” if the capacity of the supplier’s generation facility is needed to meet the demand for capacity. Table 5 of the IMM Report shows that all suppliers in the New Jersey, PSEG and JCPL FRR zones fail the pivotal supplier test. This is problematic given the IMM’s further finding that the total capacity in New Jersey is not sufficient to meet the FRR obligations in each zone, meaning that the State would be compelled to procure capacity from resources both within and outside New Jersey. Within New Jersey, PSEG clearly holds the largest portfolio of generation assets, all of which would likely have to be tapped to satisfy the FRR load requirements. In these circumstances, PSEG would be deemed pivotal because the State and FRR entities would have no alternative other than to negotiate a capacity supply arrangement with an empowered PSEG, without any of the competitive and bid constraints, independent oversight or ratepayer protection rules that are part of the RPM auction. The PSEG and PS North LDAs have historically exhibited particularly concentrated ownership of generation, with PSEG at times controlling up to 90% of the generation within the LDAs, generation that would have to be tapped to satisfy any FRR capacity plan for these LDAs.<sup>12</sup>

**ACHIEVEMENT OF NEW JERSEY’S ENERGY EFFICIENCY AND CLEAN ENERGY GOALS WILL LIKELY BE MUCH MORE CHALLENGING UNDER FRR:**

RESA agrees with the concerns of Direct Energy that investments in energy efficiency and peak demand reduction measures will likely be discouraged by the excess capacity purchases that would be required to satisfy PJM’s UCAP requirements under the FRR alternative because of the difficulty of predicting peak load 8 years in advance and the required 5 year capacity resource commitments. RESA also agrees with the following concerns raised by the Advanced Energy Management Alliance:

AEMA has concerns about the success of EE and DR programs in FRR areas. Based on experience, AEMA members have observed that within FRR territory it can be more administratively difficult for customers to participate in these programs, due to the need to operate under a separate retail tariff and utility program in addition to meeting PJM capacity performance requirements. In FRR areas, third-party

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<sup>12</sup> NJLEUC comments at 12-13.



suppliers and end-use customers experience a level of uncertainty as to when growth may be capped by administratively set caps to the level of penetration, which can impede efforts to incentivize growth. In addition, AEMA members have heard from their existing customers that some of the large energy consumers who greatly benefit from participating in PJM load management program might resolve to look to relocate where it is feasible to relocate so they are not blocked from continuing to benefit from capacity revenues since they are willing to provide valuable peak demand reductions not only at its site or in its local service territory but also in a manner that helps wholesale RTO-wide system conditions, if the need arises.<sup>13</sup>

Furthermore, as RESA and others noted in their initial comments, the FRR alternative is likely to significantly hinder retail competition. Taking that point a step further, RESA agrees with the American Council on Renewable Energy (ACORE) that decreased retail competition will stifle the growth of renewable energy in New Jersey:

Retail competition may also provide greater access to renewable energy. Wind and solar energy have grown in Texas to the point where it is the top wind state and 4th ranked state in solar energy. The Texas PUC review of retail competition noted, “The matured competitive market offers a variety of products to customers. As of September 2018, plans are available that offer 100 percent renewable electricity, time-of-use pricing such as free electricity on the weekends, and prepaid plans that allow customers to better budget. Contract terms vary from one month to as long as 60 months.” One could argue that vertically integrated utilities with wholesale competition and integrated resource plans can also achieve renewable energy growth, but retail markets are likely to deliver to consumers the specific products that they desire in a competitive manner.<sup>14</sup>

RESA encourages the Board to cautiously and thoroughly evaluate how the FRR alternative may impact its June 10, 2020, order on energy efficiency (EE) and peak demand reduction (PDR) programs. In the EE order the Board adopted “Staff’s recommendations related to EE as a resource in PJM” and ordered that:

a utility submit a proposal, for the utility or a designated third party identified in the utility’s proposal, to register and bid the MW Bid Target Reduction values into

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<sup>13</sup> AEMA comments at 12.

<sup>14</sup> ACORE Report at page 5, attached to their comments (footnotes omitted).

the PJM BRA under the guidelines set out by Staff. Should a utility or its third-party provider decide not to bid each year's MW Bid Target Reduction into the PJM markets, or in a utility's compliance filing lieu of the EE as a Resource requirement, the Board FURTHER ORDERS that the utility submit sufficient documentation explaining the reasons why it is economically infeasible to do so. This evaluation shall cover considerations such as the effects of PJM's MOPR and PJM's resulting compliance filings, PJM's rules for EE in the RPM, and the expected revenue from that participation.<sup>15</sup>

If New Jersey adopts the FRR alternative, this aspect of the Board's EE order will need to be amended because generators in FRR territories or states that choose the FRR option face restrictions on the amount of capacity (including energy efficiency) that they may sell in PJM's RPM auctions. Moreover, as set forth in PJM's Manual for Energy Efficiency Measurement & Verification: "FRR deficiency penalties may result if a reduction in the unforced capacity value of the EE Resource causes the FRR Entity to no longer have sufficient unforced capacity committed in its FRR Capacity Plan to meet its Final Unforced Capacity Obligation for the Delivery Year."<sup>16</sup>

#### **MODIFICATION OF THE BGS CONSTRUCT:**

While RESA agrees generally with Rate Counsel's objection to modifying the BGS construct, RESA disagrees with Rate Counsel's assertions that the BGS construct should not be modified because it will drive more customers to seek out third party suppliers. Rate Counsel's argument in this regard is not good for the customers Rate Counsel represents and is completely contrary to the intent of EDECA, which was to create a competitive retail energy market in New Jersey and to have BGS available only as a last resort option. An increase in customers leaving BGS to seek out third party suppliers would further the statutory objective of retail choice.

Moreover, Rate Counsel's comments regarding BGS are peppered with statements which misleadingly imply that third party suppliers in New Jersey are rogue actors without any regulatory oversight. However, in reality, TPSs are regulated by consumer protection laws and regulations

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<sup>15</sup> NJ BPU, ORDER DIRECTING THE UTILITIES TO ESTABLISH ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION PROGRAMS (June 10, 2020) at 40-41, available at: <https://www.bpu.state.nj.us/bpu/pdf/boardorders/2020/20200610/6-10-20-8D.pdf>.

<sup>16</sup> PJM Manual 18B at 23, available at: <https://pjm.com/~media/documents/manuals/m18b.ashx>.

by the BPU and the Division of Consumer Affairs. It is only the rates charged by TPSs that the Board does not regulate because such rates are instead kept under control by competitive market forces.<sup>17</sup> For example, the Board oversees licensing of all TPSs and regulates the language in TPS contracts and the sales and marketing practices of TPSs, and the Board has the power to levy steep fines against TPSs who violate their licensing requirements and/or consumer protection standards. The Division of Consumer Affairs also regulates TPSs by handling energy slamming complaints and other retail energy consumer protection issues.

As RESA noted in its Initial Comments, we have been critical of many aspects of New Jersey's BGS default services option. RESA's criticisms of the design of BGS were amplified by a grading of the BGS Auction done by ACORE. In its Report, which was submitted with its comments in this proceeding, ACORE reviewed ten key indices of default service including market reflective pricing, unbiased initial customer placement, and non-discriminatory rates design and gave BGS a failing grade on six of the ten indices.<sup>18</sup>

RESA encourages the Board to consider that if the FRR alternative is adopted, New Jersey will need to decide whether to continue requiring BGS to be a bundled product (i.e., providing energy, capacity, and transmission) that would all be procured according to the FRR schedule requirements or to carve out the energy and transmission procurements to stay on the existing BGS auction schedule.

**OTHER AVENUES THAT RESA BELIEVES THE BOARD SHOULD CONSIDER:**

RESA agrees with AEMA's comments recommending that "BPU staff proceed cautiously with any significant changes to its resource adequacy construct until it has time to evaluate the impacts of the new MOPR policy on the next BRA. Based on the latest analyses, most renewable resources are likely to clear the market through the unit-specific exemption process, which allows resources to demonstrate that their actual costs are below the administratively-set, class-average

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<sup>17</sup> See N.J.S.A. § 48:3-56 (a) ("the board shall not regulate, fix, or prescribe the rates, tolls, charges, rate structures, rate base or cost of service of competitive services").

<sup>18</sup> ACORE Report at page 19, attached to their comments.

MOPR floors. This means that the actual impacts of the MOPR are likely to be quite limited, particularly in the short run.... AEMA requests the BPU consider at the forefront of other alternatives waiting to propose changes to its resource adequacy construct until time allows to see whether PJM's replacement rate under approval on compliance currently in practice will result in capacity market results that interfere with New Jersey's generation deployment goals...."<sup>19</sup>

Furthermore, RESA echoes AEMA's recommendation that the Board should first pursue "engaging in a stakeholder process at PJM to explore both capacity and energy market reforms that will better situate the resource mix to account for both reliability and emission reduction needs" and that "there is still the opportunity to pursue PJM market design changes that could better recognize the operating characteristics and value of clean energy resources, including their environmental attributes".<sup>20</sup>

RESA also agrees with the comments of Electric Power Supply Association (EPSA) which "urge the Board to formally ask PJM to consider the adopting a market design similar to ISO New England's Competitive Auctions with Sponsored Policy Resources ("CASPR") to the PJM region. Early engagement and leadership from the Board will ensure New Jersey's needs are adequately considered in the development of any new market designs."<sup>21</sup> EPSA explains CASPR in its comments as follows:

The following four design criteria utilized for CASPR are useful for adapting the design to PJM: 1) competitive capacity pricing, 2) accommodation of the entry of new sponsored policy resources into the [Forward Capacity Market] over time, 3) avoidance of cost shifts, and 4) a transparent, market-based approach.<sup>26</sup> The goal of CASPR is to allow new state-supported resources (e.g., offshore wind) the opportunity to enter the market by taking the place of older resources willing to permanently exit the market. CASPR is a way to manage the entry and exit of resources via a market-based construct, taking the decision of which types of resources will enter as given (in the near-term). These issues are extremely contentious and have divided stakeholders. Any workable path forward will require stakeholders to strike an appropriate balance between competing objectives that are often in tension. In its transmittal letter to FERC, ISO New England indicated that

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<sup>19</sup> AEMA comments at 16.

<sup>20</sup> *Id.* at 16-17.

<sup>21</sup> EPSA comments at 9.

there “exists no perfect solution.”<sup>27</sup> However, CASPR generally achieved widespread support from key stakeholder sectors.<sup>28</sup> Not only does CASPR provide an example of a workable proposal that can achieve some level of consensus across a diverse group of stakeholders, it shows a willingness from FERC to consider, and, in this case, accept a proposal that attempts to accommodate the states while preserving the integrity of the capacity market. Importantly, given that CASPR has been approved by FERC, a similar mechanism in PJM could be a just and reasonable means to manage the tensions between state mandates and functioning of the wholesale electricity market.<sup>29</sup> At a high level, CASPR is a substitution auction that enables state mandated resources to match up with and obtain the capacity obligation of an existing competitive resource, in exchange for the existing resource permanently leaving the market. As PJM has maintained reserve margins in excess of the target installed reserve margins, pairing the entry of state preferred resources with an equal amount of existing resource retirements could provide the dual benefit of managing resource entry and exit while maintaining competitive price signals. A CASPR-like design in PJM need not look identical to CASPR in ISO New England. Indeed, the two regions have a significantly different mix of resources, with many more resources potentially eligible to permanently retire in PJM. According to the PJM IMM, there are already 5,294 MW of planned retirements through 2024, the majority of which are coal-fired resources.<sup>30</sup> To increase the effectiveness of CASPR in PJM, additional design changes to expand the pool of existing resources that could commit to retire to allow state supported resources to participate without being subject to the MOPR should be considered. Importantly, while CASPR could serve the near-term needs of the states (e.g., offshore wind integration), it should not be viewed as a long-term mechanism to achieve states’ increasingly aggressive carbon emission reduction goals. We encourage New Jersey and other PJM states to consider additional changes to incorporate the negative externality (e.g., carbon emissions) into the market so that all resources can compete to reduce carbon emissions and maintain grid reliability at the lowest cost to consumers.<sup>22</sup>

RESA looks forward to continued participation in this Resource Adequacy Alternatives Investigation. Please do not hesitate to contact me with any questions. Thank you.

Very truly yours,



Murray E. Bevan

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<sup>22</sup> *Id.* at 9-11.