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October 2, 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 Post-Technical Conference Comments
BPU Docket No.: EO20030203**

Dear Secretary Camacho-Welch:

Please accept for filing these comments being submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in accordance with the Supplemental Notice of Technical Conference issued by the Board of Public Utilities ("Board") in this matter on August 20, 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.

INTRODUCTION

Rate Counsel appreciates the opportunity to submit these comments following the Board's September 18, 2020 Technical Conference on Resource Adequacy Alternatives. Throughout this proceeding, Rate Counsel has urged the Board to proceed with caution in considering options to facilitate the attainment of New Jersey's clean energy goals in light of the recent Federal Energy Regulatory Commission ("FERC") Orders expanding the scope of PJM's Minimum Offer Price Rule ("MOPR"). The discussions at the Technical Conference confirmed that the issues before the Board are complex. The Board should carefully consider the costs and benefits of the Fixed Resource Requirement ("FRR") option and other possible responses to the FERC Orders. Before committing to any changes, the Board should assure that they will not create more problems than they solve. Rate Counsel's comments on specific issues raised at the Technical Conference are discussed below.

I. The Board May Explore the FRR Option, but Should Not Commit to This Option Without a Proper Review of the Costs and Benefits and Specific Information on a Proposed FRR Portfolio.

As Rate Counsel's Litigation Manager, Brian Lipman, observed in his presentation at the Technical Conference, while an FRR option could allow the State to compensate more subsidized resources for their contributions to the State's capacity requirements, there are a number of reasons to proceed cautiously. There are significant market power issues that could drive up prices. The rules for FRRs are complicated and are subject to changes, exposing the FRR entity and ratepayers to the risk of significant penalties. The State would be committed for

a minimum of five years in a rapidly-changing market. (Conference replay at 1:26:32 to 1:27:94.)¹

In her presentation Silwia Bialek, Ph.D of the New York University Institute for Policy Integrity emphasized that there is not a single FRR option. Procurement can be more or less centralized. Capacity can be procured over terms as short as one year, up to the life of the asset. Capacity can be procured separately, or in combination with environmental assets. In addition, New Jersey would have to decide the geographic scope of the FRR entity or entities. The costs and benefits of an FRR option can be addressed only in the context of a specific FRR design. (Conference Replay at 49:26 to 55:06; Bialek slide presentation “FRR Options for New Jersey.”) The Board should not proceed with an FRR option unless it has been demonstrated that a specific FRR design will produce benefits that justify the costs and risks.

As an additional safeguard, if the Board proceeds with an FRR option, it should reserve authority for final approval of an FRR portfolio. The Board should require the FRR entity to obtain Board approval before entering into binding agreements for capacity resources. The FRR entity should be required to demonstrate the costs that would be incurred under the FRR Plan, in the form of agreements that specify prices or pricing rules for capacity resources.

Rate Counsel urges the Board to reject suggestions that the Board needs to rush its consideration of the FRR option. The Board should move deliberately to consider this and other options, but the risks are too great for the Board to act without a careful analysis of costs and benefits.

¹ The conference replay and the presenters’ slides are available at:
<https://www.bpu.state.nj.us/bpu/about/divisions/ferc/resourceadequacy.html>

Since a key element in this evaluation will be the costs of continued participation in the PJM capacity auctions, any process to evaluate an FRR alternative should take into consideration the results of at least the next two PJM capacity auctions. As numerous parties noted during the technical conference, the 2022/2023 and 2023/2024 capacity auctions have been suspended. PJM has not finalized a schedule to resume those two capacity auctions. Any exploration of an FRR alternative should take into account the results of those two auctions.

With regard to the FRR option, Rate Counsel notes that Lathrop Craig of PSEG Power Ventures stated that PSEG and Exelon Generation Co., LLC (“Exelon”) intend to present a new FRR proposal in the post-Technical Conference comments. Mr. Craig of PSEG presented a brief summary of this proposal, which would involve “RPM derivative pricing.” Mr. Craig asserted that this proposal, unlike the proposal presented by PSEG and Exelon in their initial comments in this matter, could be implemented without legislative changes. (Conference Replay at 1:05:17 to 1:09:42.) The brief summary presented at the Technical Conference did not include sufficient detail for Rate Counsel to address the merits of this proposal, or the assertion that it would not require new legislation. If PSEG and Exelon present a detailed proposal in their post-Technical Conference comments, the Board should provide an opportunity for Rate Counsel and other stakeholders to respond.

II. Rate Counsel Should Pursue Regional Approaches at PJM.

In his presentation at the Technical Conference, Frederic S. “Stu” Bresler, PJM’s Senior Vice President – Market Services expressed PJM’s willingness to work with New Jersey and other states to develop a resource adequacy structure that fosters clean energy objectives. As he

explained, competitive markets could be developed as a tool to advance states' clean energy policies at reasonable costs. (Conference Replay at 2:44:37 to 2:45:22 & 3:37:45 to 3:38:30.)

As Mr. Bresler noted, PJM's existing markets provide substantial benefits including properly allocating risks among generation developers and other stakeholders, providing incentives for investment and innovation, and allowing buyers to realize the benefits of the increased competition provided by a regional market. (Conference Replay at 3:38:31 to 3:41:11.) To put this into context, the PJM capacity market for the 2020/2021 Delivery Year was \$7 billion in transactions among participants encompassing 184,575 MW of installed capacity. Monitoring Analytics, LLC, State of the Market Report for PJM, at 34, 248 (Aug.13, 2020).

Concurrently with its exploration of other approaches, the Board should actively explore market-based solutions at PJM. The Board should seek out other PJM states with similar interests, and collaborate with them to advocate for market structure that will support New Jersey's clean energy policies.

CONCLUSION

Rate Counsel continues to urge the Board to exercise caution as it explores possible responses to the recent FERC Orders. While FRR and other options may be explored, the Board should carefully consider the costs and benefits of such options before entering into any long term commitments on behalf of the State and its ratepayers. The Board should also actively

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pursue PJM's invitation to engage in collaborative efforts to develop a market structure that will harness the power of a regional market to support New Jersey's clean energy goals.

Respectfully submitted,

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