



May 20, 2020

Via E-Mail Only

Aida Camacho-Welch, Secretary
Board of Public Utilities
State of New Jersey
44 South Clinton Avenue
Trenton, New Jersey 08625-0350

RE: Docket No. EO20030203 – In the Matter of BPU Investigation of Resource Adequacy Alternatives

Dear Secretary Camacho-Welch:

NextEra Energy Resources, LLC (“NEER”)¹ is pleased to submit these initial comments pursuant to the Supplemental Notice for Written Comments issued by the New Jersey Board of Public Utilities’ (“NJBP” or “the Board”) in the above-referenced proceeding.

NEER commends the NJBP’s thoughtful approach to considering potential responses to the Federal Energy Regulatory Commission’s (“FERC”) recent decision to mitigate capacity offers for certain resources through a Minimum Offer Price Rule (“MOPR”) (FERC Dockets EL16-49-000, EL18-178-000).² In developing its response to the FERC MOPR Order, the Board should carefully examine the actual impacts of the resulting MOPR Order. Specifically, the Board’s response to the FERC MOPR Order should avoid adversely impacting the state’s successful BGS programs, Renewable Portfolio Standard (“RPS”), and other policies supporting New Jersey’s goal of 100 percent clean energy supply by 2050.

¹ NEER, through its affiliates, is the world's largest generator of renewable energy from the wind and sun and a world leader in the development of battery storage. NEER’s strategic focus is centered on the development, construction, and operation of long-term contracted assets throughout the U.S. and Canada, including renewable generation facilities, natural gas pipelines, and battery storage projects. With approximately 21,900 MW of total net generating capacity as of December 31, 2019, NEER is one of the largest wholesale generators of electric power in the U.S., with approximately 21,240 MW of net generating capacity across 37 states, and 520 MW of net generating capacity in 4 Canadian provinces. In New Jersey, NEER, through its affiliates, is a developer, owner, and operator of renewable energy resources, as well as a long-standing participant in the state’s Basic Generation Service (“BGS”) and competitive retail supply programs. As a result, NEER has a direct interest in promoting New Jersey’s clean energy economy and fostering the development of renewable resources that help the State achieve its progressive clean energy goals.

² *Calpine et al. v. PJM Interconnection*, 169 FERC ¶ 61,239 (December 19, 2019), pending rehearing by Order dated February 18, 2020. The Board has held that the MOPR Order “establishes a dramatically expanded MOPR with the intent of limiting the transition to a clean energy future. Docket No. EO20030203 – In the Matter of BPU Investigation of Resource Adequacy Alternatives, “Order Initiating Proceeding” (March 27, 2020) at 1.

The Board Should Retain New Jersey's Successful BGS Structure

Vibrant competition among electric suppliers, as exemplified through New Jersey's successful BGS auction program and its successful third-party electric retail market, provides cost-effective energy that the state's electric consumers have consistently enjoyed for nearly twenty years. The competitive BGS program has maintained stable prices for New Jersey consumers through fluctuating energy market cycles, evolving capacity market procurement mechanisms, and the transition to New Jersey's clean energy future. The size and composition of the BGS auction, combined with its highly competitive landscape, drives participants in the BGS auction process to appropriately manage risks and minimize costs. Thus, any response by the Board to the FERC MOPR Order, including changes to the manner that New Jersey procures capacity for electric consumers, should preserve the existing competitive nature of the BGS process.

Currently, the BGS auction is the mechanism utilized to provide default service to electric customers that have chosen not to select a third-party supplier under retail choice. With respect to residential and small commercial customers, the BGS-RSCP program procures fixed-price electricity annually for one-third of the anticipated load for three-year terms on a rolling basis. The BGS-RSCP rates paid by residential and small commercial customers are then determined by the weighted average of the clearing price of each procurement. Accordingly, the BGS-RSCP program provides a neutral flattening of prices.

The BGS-CIEP auctions serve full requirements large commercial and industrial customers. These auctions provide commercial and industrial customers wholesale electric spot prices and capacity for a one-year term. However, over time, the majority of larger commercial and industrial customers have migrated to third-party supply contracts to avoid the inherent volatility in spot prices.

The BGS auctions typically have many competitive bidders seeking to provide energy, capacity, and ancillary services with RPS products bundled into BGS service. Each supplier must risk-manage their three-year offers, thereby insulating default service residential and small commercial customers from market volatility. This competitive process protects these customers from potential price spikes, while also providing customers an opportunity to pursue other contracts from third-party suppliers. Thus, BGS bidders are competing against both other bidders and third-party suppliers for customers.

New Jersey's clean energy policies are embedded in, and promoted by, the BGS auction process. Under New Jersey law, at least 50 percent of energy consumption must be met from renewable sources by 2030. Thus, renewable resources constitute an ever-increasing portion of the participants in the BGS auction process. In addition, BGS suppliers must comply with New Jersey's RPS requirements by securing RECs necessary to comply with statutorily mandated portion of load served. BGS suppliers competing in the BGS auctions must include these renewable obligations within their full requirement contract offers. As such, in addition to providing customer protection from price spikes, the BGS process is a significant tool utilized to

assist New Jersey in achieving its clean energy goals while providing important cost protection for customers.

Thus, as the Board evaluates and contemplates its response to the MOPR Order, NEER respectfully requests that the key elements of the BGS process should be retained, including:

- A highly competitive procurement of requirements service in a bundled product;
- Retention of no product carve-outs (*i.e.*, all suppliers compete over the full range of default power supply). In particular, customers benefit from the competitive acquisition of energy, ancillary services and RECs, which requires suppliers to have discipline in their management of price and volume risk;
- Continue multi-year contract terms which provide rate stability to customers; and,
- Continue RPS requirements in BGS auction products. These requirements drive revenues to renewable resources while also providing competitive downward pressure on REC prices.

The Board Should Retain New Jersey's Successful Third-Party Market-Based Electric Supply Model

Third-party electric retail supply is also a successful and essential component of New Jersey's market-based electric service paradigm. As discussed above, a large portion of New Jersey's commercial and industrial customers avoid potentially volatile spot prices associated with BGS-CIEP rates by entering into contracts with third-party suppliers.

These bilateral contracts support the development of renewables in the same way as BGS program (*i.e.*, compliance with New Jersey's RPS and REC requirements). Moreover, these bilateral contracts frequently include customer or provider-specific terms and requirements. Accordingly, commitments are made by both third-party suppliers and retail customers in order to fulfill the obligations set forth in the respective bilateral agreements. In recognition of such commitments, in order to avoid adversely impacting these negotiated bilateral agreements, NEER respectfully requests that the Board grandfather existing bilateral agreements as part of any response to the FERC MOPR Order.

Lastly, in the event the Board determines that an alternative resource adequacy process is the required outcome of this proceeding, NEER recommends that the Board implement a realistic transition period to permit meaningful participation in the PJM capacity market, as well as the BGS process.

Conclusion

The participation of competitive suppliers in the BGS Auction process has resulted in stable electric prices while also supporting New Jersey's clean energy goals through the RPS structure. As set forth above, in order to foster a competitive environment for electric suppliers that continues

to produce benefits for New Jersey consumers in a manner consistent with the State's clean energy goals, the Board's response to the FERC MOPR Order should avoid adversely impacting the state's successful BGS programs, RPS, and other policies supporting the goal of 100 percent clean energy supply by 2050.

Respectfully,



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