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March 5, 2021

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-Work Session 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 Notice of Work Session ("Notice") issued by the Board of Public Utilities ("Board") in this matter on January 21, 2021. In accordance with the Notice of Work Session, 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 February 19, 2021 Work Session in this matter. As stated in the Notice, the Work Session was convened virtually via "webinar" in order to explore an Integrated Clean Capacity Market ("ICCM") framework for incorporating the New Jersey's clean energy goals into a possible resource adequacy solution. The ICCM concept was outlined in a paper, prepared by Board Staff and its consultants at The Brattle Group ("Brattle") that was Attachment A to the Notice and in a presentation by a representative of Brattle during the Work Session.

Under the ICCM approach, there would be an auction for Clean Energy Attribute Credits ("CEACs"), held simultaneously with an auction for the traditional capacity service required by PJM for resource adequacy. Clean energy resources would offer CEACs into the ICCM, and states and other entities would specify the quantity of CEACs they wished to procure through the ICCM. Although the ICCM concept is an interesting one, Rate Counsel is concerned that this proposal would only be a partial solution to the changes needed; that the ICCM solution would have some serious shortcomings; that it would be very difficult to reach stakeholder agreement around the details of the approach; and that ultimately, if implemented, it might not succeed in its limited purpose. These concerns are discussed in more detail below. In addition, Rate Counsel has some general recommendations for the Board's further deliberations on resource adequacy alternatives.

RATE COUNSEL COMMENTS

I. Rate Counsel's Concerns about the ICCM Proposal.

A. An ICCM would be a partial solution.

The ICCM would be implemented by one or more states that elect to opt out of the PJM capacity market by electing the Fixed Resource Requirement (“FRR”) option, or through PJM. The state or group of states would then use the ICCM to acquire the capacity for the FRR Capacity Plan, and simultaneously acquire CEACs from willing sellers. The ICCM mechanism might be enhanced to address additional resource adequacy needs such as adequate flexible resources to integrate large amounts of renewables, or fuel security, however, the details of such changes are not part of the proposal at this time. Transmission needs caused by auction solutions, and the allocation of transmission costs, would also have to be addressed. Thus, the ICCM proposal focuses on procuring clean energy resources and capacity for resource adequacy, but does not address other changes that will be necessary to accomplish a clean energy transition. Developing the additional necessary enhancements would require additional processes. If the ICCM is implemented through PJM, the enhancements would have to go through a PJM stakeholder process.

B. Shortcomings of an ICCM.

The proposal is for an auction of a homogeneous CEAC product, or perhaps a few different products, within the ICCM. However, clean energy can be provided by diverse resource types that can have very different attributes that may be important to State policymakers. Onshore wind and solar in various locations implicate transmission needs and equity concerns, among other differences. Offshore wind and nuclear facilities have very different qualities that may affect a State's willingness to pay for these resources. Future emerging resource types, such as

energy from ocean currents or waves, would also qualify, and would likely implicate other attributes that distinguish them from other providers of CEACs. The various differences among different resource types, and among different projects in different locations of any resource type, would not be considered in auctions that acquire a homogeneous CEAC product. Thus, in requiring a homogeneous product in order to select projects through a price-based auction, the approach necessarily ignores many externalities (the differences in attributes that are not priced).

Alternatively, if multiple CEAC products are defined around different resources types and/or locations or attributes, the fragmented auctions may not be competitive, and the potential advantages of the proposal relative to state procurements for these resource types become questionable. Also, the implementation of auctions with multiple CEAC products, capacity, varying contract commitments, and possibly flexible products, is likely to present practical challenges.

An initial challenge in creating the ICCM would be determining the geographic scope of the market. While the ICCM could be implemented through PJM, this likely would involve an extended stakeholder process, with no guarantee of success, and some states might choose to not participate in the CEAC element. As an alternative, New Jersey, alone or in cooperation with one or more other states, could elect the FRR option and incorporate clean energy policies in their resource procurement mechanisms. However, as explained in detail in Rate Counsel's May 20, 2020 comments in this matter,¹ there would be serious legal and practical difficulties in implementing an FRR option in New Jersey. Since an FRR would be inconsistent with the structure of New Jersey's electric generation market under the Electric Discount and Energy

¹ In the Matter of BPU Investigation of Resource Adequacy Alternatives, BPU Dkt. No. EO20030203, Rate Counsel Response to Staff Request for Written Comments (May 20, 2020) (Rate Counsel's May 2020 Comments").

Competition Act of 1999 (“EDECA”), N.J.S.A. 48:3-49 et seq., legislation would be needed to implement an FRR in New Jersey.² Substantial effort would be needed to establish the State administrative structure needed to implement this option.³ Market power issues would need to be addressed.⁴ The State and participating load serving entities would face challenges due to the complexity and inflexibility of the requirements for the FRR option, and the current uncertain regulatory and market environment.⁵ Pursuing the FRR option with other states would only multiply these challenges.

C. It would be very difficult to reach stakeholder agreement around ICCM details.

The actual design of the ICCM would involve further challenges. To note a few market design issues that are likely to be difficult and controversial:

- The need to define one or more homogeneous products to be auctioned, which ultimately groups some resource types together and separates others, creating winners and losers.
- The likely adoption of the “dynamic” aspect where differences in marginal carbon abatement of resources of different types and locations are recognized in the CEAC product definition;⁶ this would also be complex and divisive.
- The proposal that new resources could receive 7- to 12-year price commitments will be challenged as discriminatory, and it would also raise thorny cost allocation issues.

² Rate Counsel’s May 2020 Comments at 9-12.

³ Rate Counsel’s May 2020 Comments at 13-15, 32-34.

⁴ Rate Counsel’s May 2020 Comments at 15-18.

⁵ Rate Counsel’s May 20, 2020 Comments at 18-23.

⁶ ICCM Presentation slide 24 (“Consider: CEAC accreditation tied to carbon abatement value”); see also The Brattle Group, *How States, Cities and Customers Can Harness Competitive Markets to Meet Ambitious Carbon Goals*, prepared for NRG, September 2019 (“FCEM-2019”), pp. 34-38 section H.1 (recommending “Dynamic” Clean Energy Attribute Credits Awarded in Proportion to Delivered Carbon Abatement”), available at <https://www.brattle.com/news-and-knowledge/publications/how-states-cities-and-customers-can-harness-competitive-markets-to-meet-ambitious-carbon-goals-through-a-forward-market-for-clean-energy-attributes-expanded-report>.

- New and existing resources will have differing cost structures and differing incentives in formulating their offer prices, and this may result in inefficient auction solutions.
- There could be windfalls to existing clean resources if the auctions clear at prices far above their current revenue streams; transitional provisions may be needed to mitigate the consumer cost impacts.

The above are just a few examples of the market design challenges that would be involved in creating an ICCM. The stakeholder process might end like so many PJM stakeholder processes around its RPM capacity market, with no consensus on the path forward or preferred market design approach.

D. If implemented, ICCM ultimately might not succeed in acquiring clean resources.

Perhaps of greatest concern is the possibility (and perhaps likelihood) that, if the proposal can be designed and implemented, buyers and sellers might not find much common ground and the ICCM might not clear very many new clean resources. Offers to sell and buy CEACs would be voluntary. Buyers (the state, and/or load-serving entities pursuing state policy) would submit sloped price-quantity “demand curves” to acquire CEACs of one or more type.

However, if the ICCM does not meet state targets, New Jersey always has the option to pursue additional procurements of zero carbon resources. Accordingly, the prices the state would likely pay in such procurements serves as an “opportunity cost” that may be reflected in the CEAC offer demand curves. For example, if such procurements would offer 20-year Power Purchase Agreements (“PPAs”), the prices sellers would seek for such PPAs, and the state would likely ultimately pay, would guide the formation of ICCM demand bids. On the supply side, sellers would be offering to provide CEACs (or perhaps integrated offers for CEACs and RPM

capacity), with potentially a 7- or 12-year price lock.⁷ Sellers would also receive energy and ancillary services revenues; however, these would be highly uncertain and may be heavily discounted in forming offers. Accordingly, sellers might seek to recover nearly all of their construction costs during the 7- or 12-year price lock period, which could lead to substantially higher offer prices than they would seek in a procurement that offers a 20-year PPA. If this is the case, buyers' bids influenced by 20-year PPA prices may be lower than sellers' asking prices that reflect the risks they face and much shorter price guarantee periods, and the auction supply and demand curves could clear very low quantities that fail to meet state goals.

II. Rate Counsel Recommendations.

The Board Staff/Brattle paper attached to the Board's Notice states at page 1 that "[t]he ICCM will position our market as the regional, national, and global leader on how to rapidly and reliably decarbonize the grid at the lowest possible cost." In light of the many open design questions and concerns about whether and how the proposal would work, Rate Counsel continues to recommend that the Board proceed cautiously in considering this and the other approaches under consideration.

During the February 19, 2021 work session, the Board's Chief Counsel stated that Staff will be issuing a report late in the first quarter or early in the second quarter of 2021. According to the Chief Counsel, the report will contain two sections discussing respectively the FRR and clean energy market options, and a third section modeling the impact of different options. Rate Counsel suggests that the Board consider in some detail a broad range of options for meeting the

⁷ ICCM Proposal slide 7.

objectives of this proceeding, and hold additional workshops as necessary to ensure adequate coverage of all reasonable options.

In particular, the Board should address in detail “hybrid” approaches, in which there is an organized long-term market to procure additions to the resource mix (including new clean energy resources, flexible resources, and other needed additions) under long-term contracts, while energy and ancillary services markets continue to evolve to accommodate the increased penetration of variable renewable energy resources.⁸ To be able to address such approaches may require an additional workshop or workshops. Some version of a hybrid approach, building on the Board’s experience with procurements, could be a relatively practical and achievable way forward.

In addition, Rate Counsel recommends that the Board consider developing a tool, building on the analysis underlying the Energy Master Plan, that could be used to 1) evaluate how well different future resource mixes meet state policy and other goals and requirements such as decarbonization, resource adequacy, and flexibility, while also 2) evaluating how well different future resource mixes reflect other priorities such as cost minimization and equity.

⁸ See, e.g. presentation of Paul Joskow at the December 16-17, 2020 virtual workshop on “Market Design for the Clean Energy Transition: Advancing Long-Term Approaches, available at: https://www.rff.org/documents/2774/joskow_rff_presentation-12-16.pdf. Other presentations and papers from the workshop are available at: <https://www.rff.org/events/workshops/market-design-for-the-clean-energy-transition-advancing-long-term-approaches/>.

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With such a tool, the Board could then evaluate whether and to what extent the various paths forward are likely to move the state toward a preferred resource mix.

Respectfully submitted,

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