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June 21, 2022

**Via Electronic Mail** [board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Secretary of the Board  
44 South Clinton Avenue, 1<sup>ST</sup> Floor  
P.O. Box 350  
Trenton, NJ 08625-0350

**Re: In the Matter Competitive Solar Incentive (“CSI”) Program  
Pursuant to P.L. 2021, C. 169  
BPU Docket No. QO21101186**

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 issued by the Board of Public Utilities (“Board”) in this matter on April 6, 2022. In accordance with the Notice, these comments are being filed electronically with the Board’s Secretary at [board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov).

**Please acknowledge receipt of these comments.**

Thank you for your consideration and attention to this matter.

Respectfully submitted,

Brian O. Lipman, Esq.  
Director, Division of Rate Counsel

By: */s/ Sarah H. Steindel*  
Sarah H. Steindel, Esq.  
Assistant Deputy Rate Counsel

SHS

Enclosure

cc: Kelly Mooij, BPU  
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**STAFF STRAW PROPOSAL:  
COMPETITIVE SOLICITATION INCENTIVE (CSI) PROGRAM  
DOCKET QO21101186**

**Written Comments  
New Jersey Division of Rate Counsel  
June 21, 2022**

The Division of Rate Counsel appreciates the opportunity to provide input to the Board of Public Utilities Staff (“Staff”) and its consultant Daymark Energy Advisors (“Daymark”) concerning their straw proposal (“Straw Proposal”) for the Competitive Solar Incentive (“CSI”) Program that is under development in accordance with the Clean Energy Act of 2018, P.L. 2018, c. 17 and the Solar Act of 2021, P.L. 2021, c. 169. Rate Counsel has participated in the various stakeholder meetings pertaining to this matter and is pleased to present additional written input in accordance with the Notice issued by the Board on April 11, 2022.

Rate Counsel is encouraged that the Board is moving forward on a program that will utilize competitive processes to incentivize solar development in the State. Over the years, Rate Counsel has advocated for competitive processes as tools to control the high costs of solar for New Jersey’s utility ratepayers. We strongly support the current effort to let the competitive market take the lead on determining what levels of subsidies are truly required to meet the State’s renewable energy goals. We are also hopeful that the competitive program will yield information that can inform the Board’s process of setting incentive levels in its Administratively Determined Incentive (“ADI”) Program.

At this time, Staff has requested input on some specific issues that have been identified by Daymark. In the comments below Rate Counsel provides input on the specific questions contained in the Board’s Notice, and certain other issues that were raised during meetings held. Rate Counsel looks forward to continued participation in this process.

**TOPIC: BID TRANCHES**

- 1. Please comment on the proposed definitions of the different tranches. Do they clearly indicate what types of projects will be eligible, especially for the Grid Supply on the Built Environment tranche and the Grid Supply on Contaminated Sites and Landfills tranche? Are any clarifications needed?**

**RATE COUNSEL COMMENTS:**

Rate Counsel supports the Straw Proposal’s tranche definitions. The Straw Proposal defines five tranches. Three of them recognize legislative preferences for specific types of projects, that is Tranche 2 – Grid Supply on the Built Environment, Tranche 3 – Grid Supply on the Built Environment, and Tranche 4 – Storage Paired with Grid Supply Solar. The other two categories, Tranche 1 – Basic Grid Supply and Tranche 4 – Net Metered Non-residential projects above 5 megawatts (“MW”), encompass all of the other types of projects that qualify for participation in the CSI program. These definitions comply with the Legislature’s directive to incentivize certain types of solar installation, but appear broad enough to create healthy participation levels that can lead to robust and competitive outcomes. Rate Counsel has always been opposed to excessive segmentation of the solar market. The proposed five tranches strike a good balance between the goals of incentivizing specific types of projects and creating broad competition to drive down prices. Rate Counsel encourages the Board to develop a final rule that uses the five tranches defined in the Straw Proposal

- 2. Are the types of projects included in each tranche appropriate to compete against each other? Why or why not?**

**RATE COUNSEL COMMENTS:**

Yes. As discussed above, Rate Counsel believes that the tranches strike a good balance between the goals of incentivizing specific types of projects in accordance with legislative preferences, and ensuring robust competition for ratepayer-funded incentive dollars. As an example, Tranche 2 encourages solar development on the built environment in accordance with

the legislative directive, while allowing competition among a wide range of potential sites such as rooftops and parking lots located at from a variety of commercial establishments, thus directing ratepayer dollars to the most economical of these potential sites.

**3. Is a maximum land area of 10% “Associated disturbed areas” for Grid Supply on Contaminated Sites and Landfills appropriate? Why or why not?**

RATE COUNSEL COMMENTS:

Rate Counsel has no information to dispute the basis for the proposed 10 percent maximum, which appears reasonable on its face. Rate Counsel recommends that (a) Board Staff not change this value without meaningful information that proves a differing percentage is more reasonable and (b) Board Staff continue to monitor this percentage through projects that are approved through the CSI process. The Board should solicit information from relevant bidders to develop quantifiable information that will help the Board determine what percentage is reasonable.

**4. What reforms would be most helpful to enabling public entities to participate in the CSI Program? Would bid process support or formalized bidding assistance be of use to public entities?**

RATE COUNSEL COMMENTS:

Rate Counsel has no first-hand information that identifies barriers to public sector participation in solar development. However, it seems reasonable to expect that providing some type of bid support would be helpful to public sector projects and would provide Board Staff with further insights into the challenges that public sector installations face. Rate Counsel supports providing bid support to public entities but recommends these be restricted to state and local government units and they do not reach into other non-profit or other comparable entities.

- 5. The Straw Proposal does not currently envision differentiating between net metered projects based on location (that is, no special consideration for net metered projects on contaminated land, for example, or for rooftop as opposed to ground-mounted net metered projects). Please comment.**

RATE COUNSEL COMMENTS:

Rate Counsel supports the proposal to establish a single tranche for net metered projects that qualify for the CSI Program. A single segment will result in more robust competition. Carving out segments for higher-cost installation types would reduce competition and inevitably result in higher costs for ratepayers.

As recognized in the Straw Proposal, net metering provides an additional source of revenues, which should reduce the need for subsidies in the form of Solar Renewable Energy Certificates II (“SREC-IIs”). The Board should design the solicitation process so this is the case, including considering net metering revenues when determining the confidential price cap that is used to evaluate bids from net metered projects. Rate Counsel strongly supports the use of bid price caps for all tranches and will discuss this in more detail in our comments on that section.

**TOPIC: STORAGE**

- 6. Please comment on the proposed structure of the storage bid and incentive.**

RATE COUNSEL COMMENTS:

Rate Counsel supports the proposed structure for solar projects coupled with storage. The Straw Proposal would require participants in this tranche to provide a two-part bid: a solar-only SREC-II price and a storage adder price. The two-part bids will help provide price discovery on the specific level of financial support that is required for a storage facility that is proposed as part of a broader solar project. Further, the separate proposals would allow the “core” solar project to receive an SREC-II award in the appropriate tranche (Tranche 1, 2 or 3) even if the Board were to reject the bid for the storage component. This feature would prevent a

viable solar project from losing out in one of the other proposed tranches. This could prove to be particularly helpful in specialized tranches (Tranches 2 and 3) that could have less robust participation in the early years of the CSI Program.

- 7. Will the proposed storage adder tranche opportunity change bidding behavior? If so, how?**

RATE COUNSEL COMMENTS:

Rate Counsel has no opinion on this question.

- 8. Net metered projects are currently not recommended to be able to compete for the storage adder. Please comment.**

RATE COUNSEL COMMENTS:

Rate Counsel supports the proposal to exclude net metered projects from participation in the coupled solar/storage incentive. Net metered projects are unique in their form of financial support due to their receipt of an additional revenue source, and at this time, should not be included in the storage tranche. Further, at this time, there is no strong empirical evidence to suggest that the Board would be missing a significant, low-cost storage opportunity by excluding net metered projects at this time.

- 9. Do you anticipate within the next five years, adding storage to a project will reduce the overall SREC-II support needed rather than increase it?**

RATE COUNSEL COMMENTS:

Rate Counsel has no opinion on this question.

## **TOPIC: PROJECT QUALIFICATION AND MATURITY**

- 10. Please comment on PJM queue position as a pre-qualification requirement and the implications of PJM reform. If PJM queue position were not a requirement, what alternatives should the Board consider?**

### **RATE COUNSEL COMMENTS:**

Rate Counsel supports the Straw Proposal's maturity requirements to participate in the CSI Program. For grid supply projects, the Straw Proposal seeks stakeholder input on two options. The first option, termed the "base case" would include PJM queue position as a requirement for grid supply projects, thus limiting participation in the grid supply tranches to projects already in the PJM queue. The second option, termed the "alternative," would involve development of other measures of project readiness.

Rate Counsel supports the "base case" option. The PJM queue provides a neutral, objective, and independent way of evaluating project maturity, particularly for larger scale projects. Rate Counsel recognizes the uncertainty and challenges that arise with using the PJM process given its current reform efforts. While this reform process creates a situation that is less than ideal, queue position will still work as a good indicator and screen for project viability.

Initially, Rate Counsel recommends that any position in the PJM queue be deemed a sufficient indication of maturity. Rate Counsel makes this recommendation because, at the present time, it is difficult to identify a specific stage within the PJM queue that is indicative of a viable project. Under the current interconnection process, many projects that enter the queue are at an early stage of development and are speculative. The reform process seeks to address interconnection requests in a more expedited fashion and prioritize requests based on the likelihood they will be completed. When the reform process is complete, it should provide benchmarks that can be used as measures of maturity for grid supply projects.

Rate Counsel has no suggested alternatives to PJM queue position to measure maturity for grid supply projects as the PJM reform process unfolds. However, Rate Counsel does suggest that if the Board decides to adopt an alternative approach, this method be used on a temporary basis until the current uncertainties in the PJM interconnection process are resolved. Ultimately, a reformed PJM interconnection process will serve as the best measure of project maturity for the CSI program.

- 11. Under the proposed Base Case pre-qualification requirements, and given PJM's proposed queue reforms, the first CSI solicitation would be limited to projects already in the PJM queue. Staff requests input on how to interpret available information about the number and overall MW capacity of solar projects in the PJM queue. Is there any reason to expect higher or lower levels of attrition than were seen in the 2013-2019 period?**

RATE COUNSEL COMMENTS:

Rate Counsel supports the analysis provided by Daymark in the Straw Proposal that examined projects currently in the PJM queue. Rate Counsel has no specific information to offer on these numbers but does offer some observations. First, the CSI Program will be an attractive opportunity for solar projects that are currently planned for development in New Jersey. Further, the opening of the ADI Program to registrations in August 2021, and the expected opening of the CSI Program later this year, will remove a considerable amount of uncertainty about New Jersey solar development. These two facts should help remove regulatory uncertainty for projects in the PJM queue from a general perspective. Second, these currently queued projects will likely find participation in the CSI Program beneficial. Projects that choose to participate in the process and receive winning bids, will have a very high likelihood of development given the fact that they will have a long-term contract or regulatory commitment that will provide an assured revenue stream.



The CSI Program should create greater financial certainty for solar projects than existed in past New Jersey solar programs. Uncertainties created by the PJM reform process should be offset by the more favorable aspects of the CSI Program design. Thus, projects that prequalify based on their position in the current PJM queue could see lower, not higher attrition, than has been the experience under past programs.

**12. At what stage in the PJM queue process do projects typically secure project funding?**

RATE COUNSEL COMMENTS:

At the present time it is difficult to specify a stage in the PJM queue process when projects typically secure funding. Most projects that enter into the interconnection queue, have not completed their financing arrangements. At the other extreme, projects that have an advanced position in the queue are likely to have financing. However, it is important to recognize that projects with financing in place are likely already committed to serving various loads and customers and likely are not likely to participate in the CSI Program.

As discussed in Rate Counsel's response to Question 10 above, given the current status of the PJM interconnection process, Rate Counsel is recommending that all projects with a position in the PJM queue be deemed to meet the maturity requirements for the CSI Program.

**13. Do PJM's proposed changes to the interconnection process change the relevant considerations around project queue positions? If so, how?**

RATE COUNSEL COMMENTS:

Based upon Rate Counsel's understanding of the overall goals of the reform process, the relevant considerations should not change. As discussed in Rate Counsel's response to Question 10, the reform process should enhance the Board's ability to tie maturity requirements for grid supply projects to position in the PJM queue.

- 14. Do developers expect to use state-jurisdictional interconnection processes or distribution-level interconnections to avoid the PJM queue? How should maturity requirements be developed for such projects? Are there other factors that the Board should consider?**

RATE COUNSEL COMMENTS:

Rate Counsel has no opinion to offer except for the fact that the Board should recognize that these types of projects could arise. If so, it will likely expand the potential set of available CSI Program participants thereby reducing some of the concerns associated with the current PJM interconnection reform.

- 15. Please comment on the proposed pre-qualification requirements other than interconnection queue position.**

RATE COUNSEL COMMENTS:

Rate Counsel has no additional comments on this topic.

- 16. The ADI Program requires that projects submit a Post Construction Certification Package prior to their registration expiration. Is this practice appropriate for the CSI Program?**

RATE COUNSEL COMMENTS:

Yes. A post construction certification package can help verify that a winning bid has met its completion and COD requirements.

- 17. Please comment on the proposed bid application fee. Should Staff consider capping this fee, or including provisions for returning the fee? Why or why not?**

RATE COUNSEL COMMENTS:

Rate Counsel supports the proposed bid application fee in the Straw Proposal. Rate Counsel does not support capping this fee nor should the process include provisions that would allow for returning the fee to any bidders. Excluding both practices (no caps, no return allowances) will help make the process meaningful and will cut down on speculative projects. Further, the application fee of \$1,000 per MW in the Straw Proposal is at the lower end of state fees surveyed in the Straw Proposal, so excluding both of these practices should not be

financially burdensome to New Jersey solar developers. Lastly, the fees collected will help to cover CSI Program administrative costs.

**18. Currently, Staff is not recommending per bidder award limits or project size limits. Should such limits be included? Why or why not?**

RATE COUNSEL COMMENTS:

Staff should consider the limiting the number of awards to a single bidder within a tranche in a given solicitation, particularly in the two specialized tranches for projects sited on the built environment and on contaminated sites or landfills. In the absence of such limits, there is the potential for a single developer to submit multiple bids that dominate a solicitation within an individual tranche, thus creating an appearance of a greater level of competition than is actually the case. Further, these limits will help assure that no individual developers receive a disproportionate share of CSI financial support. The Board has a precedent for using such limitations in Long-Term SREC Contracting programs implemented by Atlantic City Electric Company (“ACE”), Jersey Central Power & Light Company (“JCP&L”) and Rockland Electric Company (“RECO”).

**19. What is the approximate size range of projects likely to be bid?**

RATE COUNSEL COMMENTS:

Outside of the queue examination provided in the Straw Proposal, Rate Counsel has no other information, as to the likely sizes of projects that may participate in the CSI Program.

**20. Would developers bid multiple projects on the same land? Should the Board allow developers to submit multiple mutually exclusive bids?**

RATE COUNSEL COMMENTS:

It may be the case that, if allowed, developers could have interest in submitting differing bids for projects located on the same land. Rate Counsel is not opposed to developers submitting multiple mutually exclusive bids. However, as explained in Rate Counsel’s response to Question

18 above, the Board may wish to consider developer caps on a per-solicitation and total-program basis, particularly in the two specialized tranches, in order to facilitate competition and reduce the potential for ratepayer financial support to be concentrated with any specific individual developer.

**TOPIC: AUCTION PROCEDURE**

- 21. Please comment on the proposal to conduct solicitations for all tranches in a single procurement.**

RATE COUNSEL COMMENTS:

Rate Counsel supports this proposal. A single solicitation should promote administrative efficiency, and would facilitate transfers of capacity across tranches, as discussed in Rate Counsel's response to Question 24 below.

- 22. Are the proposed MW capacity targets for solar development appropriate for each tranche? Why or why not?**

RATE COUNSEL COMMENTS:

Rate Counsel supports the proposed levels but cautions that the target capacities for the specialized tranches may be aggressive. It could be the case, particularly in the early solicitations, and particularly in the current supply chain/inflationary environment, that these projects may not materialize at the capacity levels anticipated in the Straw Proposal. Rate Counsel does not recommend Board Staff reduce these levels, but instead, develop a contingency plan in case there are undersubscribed levels in either or both of the two specialized tranches. Rate Counsel recommends Board Staff develop a plan that does not involve "rolling over" underutilized capacities to future solicitations. See Rate Counsels response to Question 24 below for one potential approach.

**23. Is the storage tranche appropriately sized in the proposal? Why or why not?**

RATE COUNSEL COMMENTS:

Rate Counsel has no opinion on sizing of the proposed storage tranche.

**24. The proposed tranche evaluation order (see Discussion: The order of tranche evaluation and provisions for projects to compete in multiple tranches on page 37) is preferential towards the procurement tranches for Grid Supply on the Built Environment and Grid Supply on Contaminated Sites and Landfills, even if procurement in these categories is above the initial targets. Please comment on this approach.**

RATE COUNSEL COMMENTS:

The Straw Proposal seeks stakeholder input on two potential methods for ordering the evaluation of tranches and making provision for project to compete in multiple tranches. Under “Method 1,” all grid supply projects, (Basic Grid Supply, Grid Supply on the Built Environment, Grid Supply on Contaminated Sites and Landfills) would be evaluated in an initial evaluation. Projects awarded SREC-IIs in this round would be removed from consideration in the specialized tranches for Grid Supply on the Built Environment and Grid Supply on Contaminated Sites and Landfills. Thus, higher-cost projects in the two specialized tranches would be able to qualify for separate evaluations for these two tranches. Under “Method 2,” Projects qualifying for the two specialized tranches would be evaluated first, then all non-selected projects from those two tranches would be considered in the Basic Grid Supply tranche.

As discussed in the Straw Proposal, both approaches have advantages and disadvantages. Rate Counsel emphasizes that, under either option, it is important for the Board to use confidential price caps. Rate Counsel strongly recommends the Board use of a bid price cap as an evaluation requirement for each CSI tranche. There is strong past precedent for using such price caps in solar evaluations, particularly in the Long-Term SREC Contracting processes used for several years by ACE, JCP&L, and RECO.

Rate Counsel has some concerns that the tranche targets included in the Straw Proposal may be aggressive and recommends the Board consider what options it may have should one or both of the two specialized tranches go unfilled. One possible approach would be a variation of “Method 2.” Under this variation of “Method 2,” the specialized tranche bids would be considered first, with a confidential rate cap for each tranche. If a specialized tranche is undersubscribed, due to low participation, or bids being rejected for being above the confidential price cap, the remaining capacity could be shifted to the Basic Grid Supply tranche. That category’s capacity, with the other underutilized capacity, could then be selected to meet the overall 300 MW per year goal. Rate Counsel believes it is unlikely that the Basic Grid Supply tranche will be undersubscribed. Reaching into this category to make up shortfalls in the one or both of the specialized tranches will prevent repeated rollovers from year to year, as occurred with the specialized tranches in the ACE, JCP&L and RECO Long-Term SREC Contracting programs.

**TOPIC: AUCTION PRICE RESULT**

**25. Please comment on the proposed adoption of a pay-as-bid auction price.**

**RATE COUNSEL COMMENTS:**

The Straw Proposal identifies two methods for setting auction clearing prices: (a) setting prices at an overall market clearing price where all bids are paid the price of the last selected resource or (b) a “pay as you bid” method of setting prices. Rate Counsel strongly supports the pay as you bid approach for a number of reasons.

First, this is an approach that was used successfully by the Board for several years in the ACE, JCP&L and RECO Long-Term SREC Contracting programs. An auction-style market clearing price would be a departure from this proven market design and Rate Counsel is concerned

that this deviation could result in unintended consequences. The regulatory and financial risks of any such unintended consequences would be borne primarily by ratepayers.

Second, Rate Counsel concurs with the concerns expressed in the Straw Proposal that there could be low participation in some tranches, particularly in the early solicitation rounds. As a result, some tranches could see overall results dominated by one high bid, resulting in high costs for ratepayers.

Third, there is no need to establish a single market clearing price comparable to those set in a Basic Generation Service (“BGS”) auction or day-ahead market. These markets utilize market-clearing price structures in large part to incentivize capacity development, since high prices tend to embed capacity premiums, signaling the need for additional capacity. The CSI Program has a specified level of capacity that is targeted each and every year and there is no need to incentivize the development of additional capacity beyond those targeted levels.

#### **TOPIC: SREC-II PAYMENT STRUCTURE**

**26. Please comment on the relative advantages and disadvantages of Indexed SREC-II versus Fixed SREC-II.**

**RATE COUNSEL COMMENTS:**

The Straw Proposal seeks stakeholder input on two options for establishing the value of SREC-IIs. Under the first option, the participants would bid for an SREC-II value that would be a fixed amount per MW-hour of solar generation. Under the second option, referred to in the Straw Proposal as “indexed RECs,” the developer would bid a price representing the total per MW-hour revenue sought by the developer. The value of the SREC-II would vary depending on energy and capacity prices.

Rate Counsel strongly opposes indexed SREC-II payments. First, indexing the SREC-II values would insulate solar developers from market risks that are borne by other electric

generation providers, and transfer those risks to ratepayers. Second, indexed SREC-II values would represent a significant change in Board SREC pricing policy that has tended to require solar developers to assume market related risks. Third, and on a related issue, indexed SREC-II remove a valuable benefit of supporting solar energy, that is, increased competition in the energy and capacity markets. One of the claimed benefits of solar is that ratepayers benefits from the lower energy and capacity prices that result from the participation of new solar generation in the PJM markets. The indexing approach would remove this benefit since SREC-II prices would vary inversely with changes in energy and capacity prices.

There do not appear to be any offsetting benefits for ratepayers other than the speculative claim that developers will bid lower prices due to the decreased risks to them. While Daymark has performed an analysis and concluded that ratepayers would more likely be better off with indexed SREC-IIs, Daymark acknowledges that the analysis assumes a relatively static market, and that market changes could increase the risks of indexed SREC-IIs. Further, the model used by Daymark to perform the analysis has not been provided to stakeholders, and Rate Counsel is therefore unable to confirm the validity of Daymark's results.

**27. Please comment on the risk to ratepayers for Indexed RECs related to longer term price volatility in the Energy and Capacity markets.**

RATE COUNSEL COMMENTS:

As noted above in Rate Counsel's response to Question 26, ratepayers will be required to assume market risks associated with an indexed SREC-II approach. Over time, as more incremental generation resource development is centered among renewable energy, it is likely that spot energy markets will see price decreases, not price increases. For this reason, Rate Counsel believes that indexed SREC-II values would more likely be adjusted upward than downward. Further, SREC-II price volatility will be directly correlated with commodity price



volatility: greater levels of commodity price volatility will likely lead to greater SREC-II price volatility.

- 28. Please comment on the risk to ratepayers for Indexed RECs related to market structure evolution in the Energy and Capacity markets.**

RATE COUNSEL COMMENTS:

See the response to Question 27 above.

- 29. Please comment on the proposed qualification life of fifteen years.**

RATE COUNSEL COMMENTS:

Rate Counsel supports a 15-year qualification life since this is consistent with past Board policies and solar market designs.

**TOPIC: PROCUREMENT FREQUENCY**

- 30. Please comment on the proposed annual procurement.**

RATE COUNSEL COMMENTS:

Rate Counsel supports an annual process. This is more frequent than the 18-month maximum time between solicitations included in legislation but is still reasonable from an administrative perspective. Given that capital budgeting projects are often done on annual basis, an annual process should suffice in meeting the State's solar development goals.

- 31. How much time should there be between the Board authorizing the CSI program, and the first procurement?**

RATE COUNSEL COMMENTS:

Rate Counsel has no specific opinion or recommendation on this topic.

- 32. How many months between notification of the results of one year's procurement and the due date for bid pre-qualification for the next procurement would be optimal?**

RATE COUNSEL COMMENTS:

Rate Counsel has no specific opinion or recommendation on this topic.

- 33. Would it be beneficial to “time” the procurement with regards to the PJM queue?  
If yes, how?**

RATE COUNSEL COMMENTS:

Rate Counsel has no specific opinion or recommendation on this topic.

- 34. How much time should there be between the Board authorizing the CSI program and the first procurement?**

RATE COUNSEL COMMENTS:

Rate Counsel has no specific opinion or recommendation on this topic. (Note this question is a duplicate of Question 31.)