Board of Public Utilities
Trenton New Jersey
Solar Development Volatility
April 1, 2014

I would like to comment on the preliminary report published for the Board on this matter. The second paragraph of the Executive Summary states in part: " … In response to enhanced federal incentives, rapid decreases in solar installation costs and high prices in the New Jersey SREC market, the state saw a rapid increase in capacity additions during late 2011 and early 2012. …" Although all this contributed to a sharp rise in solar pv in the state, there are two additional factors that I never see mentioned. I feel both are large reasons "that led to SREC oversupply conditions."

At one time the state mandated that a system was allowed to be only 100K in size. This was then adjusted to be a maximum of 2 Meg in size. This size limitation then was eliminated. The next factor that added to the "over supply of SRECs" was the elimination of the requirement that SRECs were only earned with NET Metering installations. They were not eligible for Grid Direct installations.

The combination of these two factors created a flood of SRECs. The homeowner and business owner who purchased solar pv for all the right reasons that the State encouraged are left with purchasing at a high price – before equipment prices went down – and much lower SREC values. Although S1925 in July 2012 helped the situation, the public perception damage has been done.

In closing, I thank you for your time and interest in resolving some of the issues that have risen. Due to the expiration of the Federal Tax Credit of 30% in 2016, and the likely event of another trade tariff, the homeowner and commercial businesses will need the income from SRECs to justify the expense. A suggestion would be to create a classification for a SREC for power production plants that are not net-metered.

Sincerely,
Jim McAleer, President
Solar Electric NJ, LLC

flettexchange™
TRADE EVERYTHING™

Flett Exchange, LLC Comment on the Draft Report of Solar Market Development Volatility in New Jersey

April 10, 2014

Flett Exchange, LLC has operated a spot marketplace for New Jersey SRECs since 2007. It is an open and competitive Internet marketplace. Electric suppliers who need to purchase SRECs to comply with the New Jersey RPS can purchase SRECs from solar owners on our market. We have over 5,000 registered solar owners who sell on our market. Our market is open 24 hours a day 7 days a week. We publish our daily settlement price for SRECs on our website and have historical SREC prices going back to 2007. We also publish our current price to purchase SRECs on our website homepage for free for any interested party to gauge market value when selling to other parties. WWW.Flettexchange.com . Our comments below are derived from our experience of years of speaking to compliance buyers and homeowners, businesses, schools and investors who own solar in New Jersey.

The **Solar Market Development Volatility in New Jersey Report** was produced to satisfy a part of S-1925 passed in July of 2012. The law required the BPU to "complete a proceeding to investigate approaches to mitigate solar development volatility". Solar development volatility occurred to a large degree in 2011/2012. Solar developers and investors in New Jersey ignored the long term goals set out in the Renewable Portfolio Standard in New Jersey and proceeded to develop the next few years of solar in less than a year. It took a year and a half and new legislation to re-align the market. The Report outlines stakeholder identified volatility drivers. Most concerned stakeholders in New Jersey at any BPU solar proceeding are solar installers and solar salesmen. Not surprisingly the first 2 drivers listed blamed the SREC Price Volatility and the Long Term Planning and Contracting (lack of long term SREC contracts) The primary reasons for this burst in solar development volatility as we see it were:

1. Solar panel prices dropped significantly. Solar installers and solar salesman in New Jersey sold projects to homeowners and business and locked in prices. They then waited for months to a year to install the systems as their profit margins widened.
2. Solar installers and salesman misrepresented, ignored or were ignorant to the forward price curve of the SRECs when selling solar to their customers. Customers continued to pay higher prices to install solar believing that revenue streams would enable them to pay back the investment. (when spot SREC prices were $670 prices for SRECs 5 years forward were only $250 on the freely traded SREC market)
3. EDC programs shifted market risk away from solar developers and onto the ratepayer in New Jersey. Solar developers in New Jersey lobbied for and obtained EDC contracts well above forward pricing and above where any free market buyer would have purchased SREC contracts. The developers re-sold some of the projects to investors for significant profits. (to be fair some homeowners, schools and business that purchased solar arrays were told by their installers about the availability of the EDC contracts)

The Report outlines various ways to mitigate solar development volatility. Many of the suggestions entail shifting away from a freely traded SREC market. We do agree that the free market lends to

volatility however some volatility – overbuilding at times of lower prices – is beneficial towards reaching RPS goal quicker. It would be detrimental to curtain the free market.

Expansion of EDC programs:

Solar developers are pushing to expand the role of the EDC programs in New Jersey. The EDC programs already account for about 30% of all of the solar installed in New Jersey. The EDC programs shift the risk of overbuilding solar in New Jersey from developers to ratepayers in New Jersey. The EDC programs also eliminate the ratepayer from benefiting in decreasing costs of solar over the next 15 years. Every contract ever entered into since the inception of the EDC programs have resulted in losses for the ratepayers of New Jersey to date. Ratepayers will continue to pay for above-market contracts for the next 10 to 15 years. EDC programs are extremely expensive to the ratepayer as opposed to a free marketplace for SRECs

EDC programs have added to solar development volatility, not decreased it. During the last overbuilding phase in New Jersey solar projects with EDC contracts were very difficult to track. Market participants only had limited information on EDC projects from the BPU. They only knew what the total amount in MW that were awarded during each EDC solicitation. It is confidential as to what projects on the BPU pipeline had the fixed rate contract (along with the price), only the awardee, BPU, EDC and Rate Council were privy to the awards. As the solar market became overbuilt in New Jersey, SREC prices reacted correctly and dropped. However, solar projects with EDC contacts had no SREC price risk – it had been transferred to the ratepayer. Many developers with locked in EDC contracts held back the installation of their projects as long as possible as solar panel prices continued to drop. When the market was overbuilt projects with risk free EDC contracts continued to surface exacerbating the overbuilt situation.

Assignment of the RPS to EDC's

The RPS in New Jersey is the obligation of every electric supplier. Due to the large amount of suppliers there is a robust and competitive market amongst them to comply with the RPS in the most cost effective and efficient manner. Transferring the RPS from the many electric suppliers to the four EDC's in New Jersey would require eliminating the free market. It is impossible to have a competitive market with only 4 participants. Some solar developers in New Jersey want to transition to the EDC's to procure the RPS obligations in order to eliminate the free market and transition to an administratively or quasi-competitive (periodic SREC solicitations such as the EDC solicitations are competitive only in the context of the few participating at that particular time competing for the contract– not competitive in terms of the cost to provide solar) procurement for long term ratepayer subsidies.

The two policies above (expansion of EDC long term contracts and transition away from electric suppliers to EDCs for RPS compliance) weaken the free market of SRECs and solar development in New Jersey in order to potentially achieve the reduction in solar development volatility. These policies are detrimental to the ratepayer, current investors in solar in New Jersey, and future investors who may not obtain a long term contract that shifts risk to the ratepayer.

Due to the freely traded SREC market, New Jersey was able to surpass its RPS goals, while lowering costs to the ratepayer on the majority of the solar installed during the past few years. The SREC prices were

the leading signal that conveyed the true cost of solar in New Jersey while at the same time alerting market participants and legislators that costs were less and that the underlying law needed attention. S-1925 was the result. Short-term solar installation goals were more than doubled and SREC price ceilings were cut in half.

It is highly likely that the costs of solar in the next few years will continue to fall. Most of the hard-costs, those of the panels and labor, will most likely stabilize for a time while the soft costs, mostly financing, will see a significant drop. Green banks have been proliferating in other states and New Jersey may see its version in the next few years.

As these costs decrease we may once again see a significant increase in solar investment in New Jersey. Just like we have seen in the past, solar development may pick up the RPS may get overbuilt. If it does the solar development volatility will pick up. The State of New Jersey may see a second phase of reaching clean energy goals quicker and for less cost than originally feasible. Some market players label this as a "Crash". We believe that the prudent and most fair approach to both developers and the ratepayer is a freely traded SREC market absent of mandated fixed long term contracts on unwilling participants.

In conclusion we believe the fairest, most economical and quickest approach to reaching the RPS in New Jersey is to eliminate EDC long term contract programs and maintain the competitive SREC structure with electric suppliers obligated to comply with the RPS. We must resist developer pressure to shift SREC risk to the ratepayer before the next potential drop in solar costs due to reduction in solar soft costs. The reduction of development volatility as suggested by expansion of EDC programs and shifting of RPS obligations to EDCs at the expense of the free market and shifting risk to ratepayers is not the correct path to take in our opinion.

COMMENTS ON DRAFT SOLAR VOLATILITY REPORT

SUBMITTED BY KDC SOLAR LLC

The Solar Act of 2012 directed New Jersey's Board of Public Utilities (BPU) to "investigate approaches to mitigate solar development volatility." The Draft Solar Volatility Report (Report) was posted on the Clean Energy Program's website by the BPU on March 26, 2014. The New Jersey BPU has requested stakeholder comments on the Report, following a public presentation held on April 1, 2014.

KDC Solar (KDC) is pleased to provide the following comments for consideration.

Introduction

KDC Solar is a developer of large (1 MW+) dual benefit, net metered projects. A New Jersey based company; KDC has been active in the State since 2009, providing stably priced, renewable electricity to many of New Jersey's largest employers. Since its inception, KDC, keenly aware of evolving NJ solar policy has chosen to focus on projects which deliver multiple benefits. At KDC, we provide some of the largest companies in the State with the ability to remain in New Jersey by fixing costs of electricity over the long term, realizing significant savings for these companies, while delivering clean, renewable electricity to New Jersey, and helping the State efficiently reach its clean energy goals.

With the enactment of the Solar Advancement and Economic Opportunity Act in 2009, the solar market had many of its features codified. KDC has made significant investments in bringing large net metered projects to New Jersey companies under third party ownership structures, with all the benefits that ensue, and did so because of its confidence in a stable market structure that had been developing in New Jersey for nearly ten years.

In late 2010 the solar market started to see a trend with an unprecedented increase in the number of solar projects and capacity registering in the Solar Registration Program and in the PJM queue. A perfect storm of incentives existed in the market at this time, with declining panel prices, the Federal 1603 Grant Program and high SREC prices fueled by a shortage in the RPS market with a high SACP. The result was that more than twice the amount of capacity than required by the RPS was built. This kept the market in surplus, depressed SREC prices, and stifled continued market development and the corresponding economic activity that was creating new jobs in New Jersey.

The Solar Act of 2012 was the agreed upon intervention by a broad array of stakeholders. Enacted in July of 2012, the Solar Act had two key features that were intended to address the present SREC oversupply and the ability of large grid supply projects to repeatedly swamp the market, crowding out the net metered projects that were widely acknowledged to provide multiple benefits to multiple parties. To address the present SREC oversupply, the RPS demand schedule was pulled up significantly, allowing for the banked SRECs that had accumulated in the market due to the overbuild, to be absorbed over the next several years, while also allowing for additional capacity growth in the market. To address the threat of grid supply projects crowding out the net metered projects and disproportionately contributing to oversupply, the BPU was given broad authority to regulate grid supply projects. As previously mentioned, the BPU was also directed to deliver a report on investigating approaches to mitigate solar volatility so that the legislature would not be called in again to rescue the solar industry.

Discussion

Approaches discussed in the Report are evaluated by the authors according to the listed BPU evaluation criterion which include (1) the creation of a sustained orderly market; (2) minimization of ratepayer costs; (3) creation of a diverse marketplace open to all ratepayer classes; (4) market transformation leading to a reduction of required incentives; and (5) consistency with current legislative polices and structures.

We highlight two critical points to ensure prudent policy decisions when evaluating the various approaches listed in the draft report.

The Solar Act needs time:

It is important to note that the Solar Act's increased demand schedule has only been in the market for eleven months, since the beginning of EY14. ***The solar market is still in the process of adjusting to a new market framework,*** with a new demand curve and significant restrictions on grid supply projects. It would be imprudent as a matter of public policy to plan for any significant structural changes in solar market structure at this time in the market's evolution. Making changes in market structure every few years runs afoul of the first and fifth BPU criteria listed previously – creation of a sustained orderly market and consistency with current legislative policies and structures.

Several of the policy interventions investigated in this report are acknowledged by its' authors to represent significant changes to the exiting market framework. Specifically, instituting a supply-demand RPS curve, a BGS Tranche, Standard Offer Contracts, Assignment of the RPS obligation to the EDCs, Competitive Procurement and SREC Price floors are all radical departures from the existing market framework.

The early indications from the market data, where transparency of information is improving, are positive. The Solar Act seems to be having its intended effect in the market. Build rates are down, there is a steady state of solar applications into the SRP and SREC prices are stabilizing around the $150-170 range – a level that supports solar development today.

The State should give the Solar Act a reasonable period of time to have its intended effect in the market.

Ratepayers are best served through diversity in SREC contracting options:

Ratepayer protections are crucially important criteria as the burden of solar market development falls on their shoulders. In any market with uncertainty and risk, and especially in a market with a declining cost structure, risk is best mitigated through a portfolio approach. The New Jersey market has evolved, as cited in the Volatility Report with about one third of new capacity scheduled in EY14-16 for long term contracts and the balance which will trade in middle term (3-5 years) contracts and/or spot market trades. This diversity offers the best protection with regard to mitigation of ratepayer risk. Several of the proposed policy interventions would shift this risk and put 100% of the market into long term contracts, either through adoption of Standard Offer Contracts, Competitive Procurement and Shifting the RPS burden on the EDCs. **There is no compelling reason to shift ratepayer risk in this fashion. Doing so would be imprudent with respect to risk protection for the ratepayers.**

Three policy interventions for further consideration:

KDC supports the further study of the following three policy interventions in no particular order of priority; (i) green bank financing options; (ii) expansion and modification of EDC programs and (iii) changes to the RPS solar demand schedule enacted no earlier than EY2016 and affecting RPS demand schedule no earlier than EY2017.

The green bank financing options are considered complementary to the existing market structure, and creative approaches to increase the bankability of SRECs would be a welcome feature in the market, helping put downward pressure on the cost of capital.

The EDC programs have established themselves in the market, but they are not without issues. We encourage further exploration of these programs, including how these programs can be designed to be more user friendly, how these programs can accommodate larger net metered projects (greater than 2 MW); and whether these programs should cover more than one-third of the SREC market.

Finally, it is broadly acknowledged that the current solar RPS schedule may contribute to market volatility in the medium term, post 2016. After 2016, the market schedule begins to decline, and levels out to no growth in 2019-2021. After 2021, there may be a period of unpredictable and volatile solar development as installed systems lose their SREC eligibility, and new systems must be installed to make up for that lost capacity in the market.

Although the trajectory of RPS schedule is uneven, it is imperative that neither the BPU nor the legislature move in haste to adjust the schedule, even if there is broad consensus to do so. Putting an accelerated schedule in place too early, even if it doesn't take effect in the market until 2017, could unintentionally drive development today. As was mentioned by a stakeholder at the April 1st meeting, the timing of an intervention matters as much as the nature of the intervention itself with regard to realizing the intervention's intended consequence in the market.

We recommend that any change to the RPS demand schedule be made no earlier than calendar year 2016.

We appreciate the opportunity to provide these comments and will continue to be engaged as an active stakeholder in New Jersey's solar market.

IEPNJ
INDEPENDENT ENERGY PRODUCERS OF NEW JERSEY
ADAM KAUFMAN - EXECUTIVE DIRECTOR 609-530-1234

COMMENTS ON THE DRAFT SOLAR VOLATILITY REPORT

Submitted on behalf of the Independent Energy Producers of New Jersey (IEPNJ)

The Independent Energy Producers of New Jersey (IEPNJ) appreciates the opportunity to provide comments. The IEPNJ is a trade association that represents New Jersey's wholesale electric power generators.

IEPNJ members own approximately 80% of the electricity capacity in New Jersey. Members include companies that provide electricity for on-site use at New Jersey industrial and commercial facilities, as well as local and national corporations that sell electricity into the wholesale market for consumption by the state's utilities, which, in turn, sell that power to New Jersey homes and businesses. Since 1992, IEPNJ has worked productively with stakeholders, including the Board of Public Utilities (BPU), the Department of Environmental Protection (DEP), and the state legislature, to develop responsible environmental and energy policies.

The trade association and its members have been involved in New Jersey's electric market for over twenty years and in BGS issues since the creation of BGS in EDECA in 1999.

BACKGROUND: The BPU has requested that stakeholders provide comments to its Draft Solar Volatility Report issued on March 26, 2014. The IEPNJ, a long term stakeholder in New Jersey's energy market, appreciates the opportunity to provide the following comments.

From the perspective of the Suppliers upon whom the renewable portfolio standard (RPS) obligation rests, there has been much activity over the last several years, beginning in 2009 with the enactment of the Solar Energy Advancement and Fair Competition Act and more recently, with the enactment of the Solar Act of 2012.

The motivation for the Solar Act of 2012 is broadly understood as an attempt to bring solar renewable energy certificate (SREC) price stability, and lessen volatility, to the solar market which overbuilt by a factor of two, given an unanticipated confluence of incentives – a short SREC market, high SACP, the Federal 1603 grant program and a rapid decline in the price for solar modules. The Solar Act, the latest intervention in the marketplace, *just took effect in this current energy year, 2014 (EY14) which began on June 1, 2013.* EY14 is the first year the market was subject to the increased solar RPS

that was intended to absorb the oversupply of SRECs that has been banked over the last several years.

The Draft Solar Volatility Report puts forward a number of policy interventions to address solar market volatility. IEPNJ will offer general comments on continuing interventions in an evolving solar marketplace, and specific comments on assigning the RPS obligation to EDCs (or others).

CONTINUING INTERVENTIONS IN THE SOLAR MARKETPLACE

As previously noted, the most current intervention in the solar market was the enactment of the Solar Act of 2012. In the Solar Act, restrictions were put on large grid supply projects and the RPS schedule was changed to provide a significant increase in SREC demand in Energy Year 2014, which ends in several months. We are just beginning to realize and understand the effects of the Solar Act in the marketplace. From the Supplier's perspective, the Solar Act seems to be realizing its intended goal as SREC prices and solar installations have rebounded considerably. Therefore, we would recommend that the BPU give the Solar Act a reasonable amount of time to have its intended effect and not consider further interventions until and unless it can be determined that the market will be subject to significant volatility.

Several years from now, we acknowledge that given the shape of the RPS curve, there may be potential volatility in the face of an expiring ITC at the end of 2016, with a rush-to-build mentality that markets typically experience when faced with the end of an incentive. This ITC expiration will coincide in time with a declining growth RPS curve which begins in EY17. As highlighted in the Draft Report, the RPS curve can be a source of volatility. However, in a disciplined market, these factors can also provide an incentive to drive greater efficiency and competition among solar developers in the marketplace. With the passage of the Solar Act, the Legislature provided further accommodation over the near-term to what had become an overdeveloped solar market. Given the level of support already provided, it would be prudent to maintain the established RPS requirement and allow the market to deliver efficiencies to ratepayers as it reaches equilibrium.

ASSIGNING THE RPS OBLIGATION TO EDCs

One of the structural changes being considered is to assign the RPS obligation to EDCs. We consider this policy intervention to be a significant change to the current market structure. We do not see what is broken in the current market structure that would require such a significant (and harmful) change from the market structure that has been in place for over a decade.

More specifically, the issue of moving the obligation to the EDCs has been discussed and addressed in several previous BGS proceedings, including the current Docket No. ER13090861 "In the Matter of the Renewable Portfolio Standard ("RPS") as it Relates to

Basic Generation Service ("BGS"). Historically, every time this question is raised, the BPU has rejected the idea of moving the RPS obligation.

As part of the docketed matter referenced above, IEPNJ provided comments to the BPU on November 4, 2013.

The IEPNJ does not favor the transfer of the RPS obligation away from BGS or TPS. Maintaining the RPS obligation on BGS and TPS is both appropriate from a policy perspective, provides consistency and stability in what has been a volatile market, and is consistent with New Jersey's deregulation law (EDECA), which places this obligation on BGS and third party suppliers.

With respect to mitigating risks to ratepayers, a goal which should be of paramount importance to the BPU, active competition is the best protection, a protection that will be lost if the obligation is transferred to EDCs (or other entities) The BGS and TPS markets are highly competitive. Passing through costs that are excessive or unreasonable will fail in the face of competitive market pressures.

Suppliers are in the business of managing risk. The competitive pressure of the BGS auction places cost and risk management responsibilities on suppliers for the purchase of RECs, SRECs and, in fact, every other cost element in the power supply price (including energy costs, load following, ancillary services, profit, administration and fuel management) thereby protecting ratepayers.

Transferring the RPS responsibility to the EDCs, for example, requiring EDCs to purchase SRECs through long term contracting, would only transfer risk to ratepayers. It is appropriate for the BPU to continue to allow this competitive market to function as it has successfully in the past, and for the Suppliers to continue the SREC risk management expertise they have honed over the last decade.

The BPU has managed to strike an appropriate balance with its creation of the EDC solar programs that allow more than a third of the market to have access to mechanisms that aid solar development on a more state-wide level. Other participants in the market, including Suppliers, regularly enter into medium term contracts of 3-5 years, and a segment of the market continues to build on the more speculative spot market.

This balanced approach is working well for ratepayers, by diversifying risk in a market that sees a portfolio of contracting and development approaches.

In summary, with regard to moving the RPS obligation, it is widely accepted in regulatory practice and economic theory that regulation should remain vigilant, but not interfere, where there is an effective competitive market that determines prices. Historically, the Board has consistently found that there is active competition in the BGS market and that transferring the RPS obligation would be inefficient from an economic perspective. More broadly, with respect to additional market interventions under

consideration, keep in mind that the solar market is still in the process of finding equilibrium after overbuild and the Solar Act. The Solar Act must be given time to realize its intended goal of stabilizing the solar market, and all indications point to the fact that it is working.

Accordingly, IEPNJ recommends that the policy option of transferring the RPS obligation away from suppliers be one of the options that is not evaluated further in this matter; as it will needlessly transfer risk to ratepayers.

We appreciate the opportunity to offer these comments.

Jersey Central Power & Light
A FirstEnergy Company

300 Madison Avenue
P. O. Box 1911
Morristown, NJ 07962-1911

April 11, 2014

VIA EMAIL

publiccomments@njcleanenergy.com
B. Scott Hunter – Renewable Energy Program Administrator
John R. Teague, P.E., P.P. – Research Scientist-2
New Jersey Board of Public Utilities
Office of Clean Energy
44 S. Clinton Avenue, 7th floor
E. State Station Plaza, Bldg #3
P.O. Box 350
Trenton, NJ 08608-0350

Re: Draft Solar Development Volatility Report

Dear Mr. Hunter and Mr. Teague:

Please accept these comments on behalf of Jersey Central Power & Light Company ("JCP&L") and Rockland Electric Company ("RECO") (collectively, the "Joint EDCs") regarding the Board of Public Utilities Staff's ("Board"; "Staff") request for comments on the draft report "Solar Development Volatility in New Jersey" ("Draft Report"). Staff has indicated the Draft Report has been prepared as part of an ongoing proceeding to analyze approaches to mitigate solar development volatility as required by the Solar Act of 2012.[1] The Joint EDCs are pleased to submit the following comments to assist the Board in its analysis of this matter.

The Joint EDCs, along with the solar industry and other interested parties, have been active participants in the various stakeholder proceedings regarding solar development. The Joint EDCs support a market based approach for solar, and a reduction to the subsidies which are ultimately borne by ratepayers. The recently observed boom-bust cycles in the SREC markets have been the product of: 1) over-aggressive incentives, which precipitated an over-supply of SRECs and correspondingly depressed prices; and 2) previous regulatory and legislative efforts

[1] The Joint EDCs note that, while the Draft Report thanks several stakeholders for their input, the Joint EDCs were not asked to provide input to the Draft Report.

to mitigate the over-supply. Recent observations indicate some equilibrium in supply and demand and more rational SREC market prices.

Various provisions of the Solar Act of 2012 are facilitating greater stability, including the modifications to RPS requirements, reductions to the SACP values, and the limitations on large grid-connected projects. Noting the implementation of these programmatic changes, the Joint EDCs believe that additional regulatory or legislative provisions intended to curb solar market volatility may, instead, have the opposite impact of increasing volatility, largely due to the market uncertainty created by incessant policy or SREC program changes. In addition, the Board has only recently approved expansions or second phases of the EDCs' solar procurement programs that will undoubtedly have a market impact. The prudent course of action at this point is to simply afford the recent initiatives sufficient time to have effect, while continuing to monitor the solar market activity. Thus, the Joint EDCs endorse "Option 1: No Future Policy Intervention" as set forth in the April 1, 2014 presentation of the Board's consultants.

In addition to the above-stated general position, the Joint EDCs also offer comments on certain of the policy options discussed in the Draft Report; specifically the following:

- Section 3.2.1.1 Expand the EDC Programs;
- Section 3.2.2.2 Basic Generation Service Auction SREC Tranches;
- Section 3.2.2.3 Standard Offer Contracts with Interim Quantity Limits and Volume Responsive Pricing; and
- Section 3.2.2.4 Assignment of RPS to EDCs.

<u>Section 3.2.1.1 Expand the EDC Programs</u>

The Joint EDCs continue to manage a number of contracts to purchase SRECs under the initial SREC-Based Financing Program (SREC I) which was offered over the three-year period from 2009 through 2011. The majority of these contracts are for a 10-year term with a fixed price per SREC, and were entered into during the years of higher SREC prices through a competitive solicitation process. The purchased SRECs are sold via an auction process, with all program costs and expenses, netted against SREC sales proceeds, charged to ratepayers. SREC values have declined substantially since the contracts were executed, resulting in most SRECs being sold at "a loss" relative to purchase cost. Although the SREC I Program did provide a mechanism by which developers could obtain project financing, it came at a high cost to ratepayers.

At the Board's request, the Joint EDCs agreed to a second phase of this program which has been designated as "SREC II". This extension was approved in December 2013 and contract solicitation should begin during 2014. Because this program extension has not yet begun contract solicitation, it is premature to consider any further program extensions of this nature until results from the SREC II Programs are available. In addition, as the author of the draft states, "these programs can come at significant costs to ratepayers, who are passed the administrative costs of these initiatives." (Draft Report, at p. 42).

Section 3.2.2.2 Basic Generation Service Auction SREC Tranches

The Draft Report identifies a "policy option" of including tranches for long-term SREC contracts with the Board's Basic Generation Service ("BGS") auction. (Draft Report, at p. 50). This approach has been proposed several times over the last few years and the Board has rejected

such proposals. Most recently, in early 2012, the Board commenced a "process review" proceeding concerning the BGS auction process. In that matter, members of the solar industry recommended that the Board establish a separate procurement process for tranches of SRECs – virtually the same concept that now appears in Section 3.2.2.2 of the Draft Report. *See In the Matter of the Review of the Basic Generation Service Procurement Process*, Docket No. ER12020150 (Notice dated February 29, 2012). In that review proceeding, the EDCs filed comments with the Board explaining why this option should not be pursued:

> The EDCs dispute the implication that removal of SRECs from the BGS full requirement product would result in lower rates for ratepayers and respectfully urge the Board to reject SEIA's recommendation. In fact, the EDCs believe that executing long-term contracts for SRECs could lead to higher rates for customers. As noted by the Independent Energy Producers of New Jersey, "It is entirely unclear how the EDCs will secure better purchasing efficiencies than BGS suppliers", as "BGS suppliers have experience meeting RPS requirements in various States and have an eleven year head start in New Jersey." The market and customers benefit from the current structure of many buyers and sellers.
>
> The Board has considered and justifiably rejected in the past proposals to remove Renewable Energy Credit and SREC obligations from the BGS full requirements product. Instead, as discussed in response to Rate Counsel, the Board has consistently and wisely adopted a market-based approach to the RPS. Exelon Generation Company, LLC confirms in its Reply Comments that, under the existing market structure, suppliers are already taking advantage of many opportunities in the renewable energy market in New Jersey. They state that "renewable portfolio standards for retail and wholesale suppliers, such as those utilized in New Jersey's current market structure, provide the best method for encouraging investment in renewable resources." Consistent with legislation, TPSs and BGS suppliers are required to meet RPS requirements annually. Multiple SREC owners are required to compete against each other to sell to multiple TPSs and BGS suppliers, helping to create and sustain robust market supply and demand. The premise that the market is failing and must be supported through long-term contracts was also challenged by Commissioner Fiordaliso, who stated at the Hearing that: "But to say the market isn't working, I really can't agree with that. Because I think it may well just be a market trying to find itself as we continue to move and mature and try to find that way, if you will." (Transcript, p. 105, lines 4-9) Long-term SREC contracts as part of the BGS portfolio have the

> potential both to hinder further development of the solar market in New Jersey and to increase prices to ratepayers.
>
> Long-term regulated SREC contracts would create a concentrated, regulated demand by EDCs for SRECs, with a concomitant reduction or elimination of demand for SREC by BGS suppliers. The impact on market prices of a reduction in purchasers could well be an increase in SREC costs which, in turn, would raise the prices that TPSs would be required to pass along to their customers. It is also possible that BGS rates for a long-term solar tranche would be higher than the equivalent prices of SRECs in the current full requirement BGS product were only a limited number of solar vendors to compete to provide long-term SREC supply. As the Board and all market participants are well aware, SREC prices, which had tracked the Solar Alternative Compliance Payment ("SACP"), have dropped significantly as the market has responded to supply and demand, bringing benefits to ratepayers. Isolating the RPS obligation from the BGS product leads to a centralization of the demand and centralization means a diminished role for market forces with additional risks being transferred to ratepayers. As discussed in the context of Rate Counsel's suggestion that the Board remove the renewable attribute from the BGS product and SMA, SEIA's concept is built around the same fundamental flaw.
>
> In addition, as discussed above in connection with Rate Counsel's comments, SEIA ignores a critical role served by the BGS full requirements product. That product serves as a competitive benchmark and provides a background against which efficient retail competition can develop. A key element of the BGS full requirements product is that the BGS supplier must provide all the same services that a TPS provides. This means that when a customer compares TPS offers to the BGS price they are making a meaningful comparison and can make an efficient choice. Disaggregating the BGS product so that a portion is assembled by the EDCs, as opposed to the BGS Suppliers that operate under competitive discipline to provide the same product that TPSs must provide, would undermine the role of the BGS price as a competitive benchmark and undo a critical element of the BGS process and the competitive retail environment.

[EDC Final Comments dated May 18, 2012, BPU Docket No. ER12020150, at pp. 14-15].

In sum, the Joint EDCs continue to oppose including separate SREC tranches in the BGS auction because: (1) the approach would disrupt and potentially undermine the successful and established BGS auction process; (2) BGS providers already procure renewables, including SRECs, to satisfy their RPS obligation via the "full requirements" BGS contracts; and (3) there is

no demonstrated need for, nor benefit from, any policy modifications to the SREC market at this time, let alone such a drastic option as modifying the BGS auction.

Section 3.2.2.3 Standard Offer Contracts with Interim Quantity Limits and Volume Responsive Pricing

Although this policy suggestion contains provision for quantity limits and volume responsive pricing, it still represents a "feed-in" tariff approach that the Joint EDCs oppose. Standard offer contracts would move the State further away from a market based approach, impeding the continued development of a robust and self-supporting market that transitions from State and ratepayer-subsidized programs. During the formulation of the SREC I program, the Joint EDCs were opposed to standard offer contracts to underwrite solar projects, which is why the SREC I program uses a competitive solicitation process in order to obtain market-based results.

Section 3.2.2.4 Assignment of RPS to EDCs

The Board currently has an open docket where it has solicited comments regarding this issue in the context of the BGS Auction process. *See In the Matter of the Renewable Portfolio Standard as it Relates to Basic Generation Service*, BPU Docket No. ER13090861. The State's four EDCs have filed joint initial and reply comments in that matter on November 4, 2013 and December 2, 2014, respectively, copies of which are attached hereto and incorporated by reference herein. In sum, for the reasons set forth in the attached comments, the assignment of the RPS requirements to EDCs: (1) could lead to increased SREC market volatility; (2) could

erode the competitiveness of the New Jersey SREC market; (3) would shift additional risks to utility customers by removing the RPS obligation from the BGS auction; (4) would distort New Jersey's competitive electric retail market, since TPSs would still have to satisfy RPS requirements while BGS providers would not; (5) would disrupt existing EDC SREC procurement programs, which rely on the SREC sale revenues to fund a portion of the program costs; and (6) would be contrary to the Electric Discount and Energy Competition Act's preference for market-based approaches to renewable energy.

Conclusion

The Joint EDCs appreciate the opportunity to provide these comments and look forward to continuing to participate in the Board's stakeholder process. In addition, the Joint EDCs also request that they have the opportunity to respond to the positions of other participants.

Respectfully submitted,

Thomas R. Donadio
Jersey Central Power & Light Co.

Comments to the NJ BPU with Regard to Mitigation of Solar Volatility

Garden Solar, LLC is a developer of grid-connect PV solar projects, all the Garden Solar New Jersey projects, before and since the Solar Act of 2012, have been between 2 and 10 MW in size. Only one of its 10 grid-connect PV projects developed exceeded the 10 MW dc Solar Act cap size and it has since been reduced from its prior 12.5 MW dc size. This restricted project size was intentional from the beginning of the company in 2009, as it was understood that a balance between land use and the SREC market was required for this market to function properly. Five of Garden Solar developed PV projects in New Jersey are built and operational including four with a wholly owned unregulated affiliate of Con Edison. Four of the five projects built are less than 4 MW dc. Garden Solar primarily develops solar projects from conception to construction ready primarily with the intention to deliver such projects to experienced, utility operational entities such as Con Edison. The founding principal of Garden Solar is a career experienced central station power project developer of all types of generation technology, fossil fueled and renewable energy with previous large utility holding company subsidiaries and independent power producers both in the U.S. and global electricity markets.

New Jersey created the SREC market framework with an open demand and supply structure which, in hindsight, was flawed because the SACP that was extraordinarily high; resulting in potential windfall profits at the expense of ratepayers. This combined with the federal incentives of the American Recovery and Reinvestment Act of 2009, created a market frenzy for solar development in New Jersey. It was determined by the New Jersey legislature in 2012 that intervention in the market was required and the Solar Act of 2012 was enacted. The Act requires the NJ BPU to address the solar volatility issues of the New Jersey market.

The result of establishing an excessive SACP was a tremendous pipeline of potential grid supply projects, much of which was never likely to materialize for a number of reasons regarding permitting and interconnection issues of excessive sized facilities to distribution grids that were unable to accommodate such projects without interconnection costs that far exceeded the economics of the projects. Developers, many inexperienced in the development of energy projects, rushed in to stake a claim in this SREC frenzied market and the reality is that many of the projects were unlikely from the start. The perception of this project pipeline created an SREC market crash, where the market was unable to discern the reality of these projects achieving completion. However; this SREC market issue was not only the result of grid connect projects entering the market. Net-meter PPA projects created their own problems for themselves as many believed the stratospheric spot market SREC prices would sustain and entered into PPA contracts for in some cases zero electricity cost or perhaps 2 to 4 cents per kWhr in one of the most expensive electricity markets in the country, as they believed the excessive SREC prices would persist and they could offer these give away power contracts and the ratepayer of New Jersey would subsidize their profits. This situation occurred not only in private sector commercial agreements but with municipal financed structures creating another threat of public sector financial failure for which the state could not afford its renewable energy sector to be the cause of such market failures. The market participants then lobbied various elements of the New Jersey political environment

to prop up the SREC market for them because they had entered into uneconomic contractual structures and needed higher SRECs, i.e. higher ratepayer subsidies to sustain the projects, and their companies and maintain employment of people in the solar industry.

Whereas, the grid connect projects are blamed for crashing the SREC market because there was a huge pipeline of projects, many which would never achieve fruition, the net-meter market was willing to let the New Jersey ratepayer completely subsidize their transactions with give-away PPA contracts. In reality the grid connect sector projects offer the best benefit to the NJ ratepayer requiring the lowest SREC prices (on a 100% equity valuation basis) and spreading the benefits of solar to all ratepayers by connecting to the distribution grid selling wholesale energy to the system where solar acts as a price taker and displaces the marginal generator costs on the PJM system. Solar on the grid peak shaves the highest cost generators on the system at the hourly locational marginal price (LMP). Whereas, the large net-meter projects particularly, benefit from highly leveraged PPA structures and excessive SREC subsidies which results in a form of corporate subsidies paid for by the ratepayers of New Jersey. These highly levered PPA net-meter projects which have now benefited from a propped up SREC market generate excessive internal rates of return for the reasonable expected returns of PV solar. PV solar assets represent perhaps the lowest risk profile of any power generation asset type and yet these type projects generate excessive market returns in such an SREC supported net-meter market. These large net-meter commercial transactions now threaten the current New Jersey SREC market as they remain unrestrained whereas the grid supply sector has been reined in with project size caps, MW market caps and other forms regulatory oversight and controls. The commercial net-meter market clearly advocates a status quo with regard to actions on solar market volatility.

Similarly the EDC programs which seek to put to work investor owned utility corporate capital for guaranteed rates of return in financing solar projects enjoy questionably high returns in the current interest rate environment. These programs are subsidized by the New Jersey ratepayer. These programs which offer long term SREC contracts are restricted to net-meter projects which already enjoy the ability of financing their projects on the credit of long term PPA contracts and again this enables these projects to offer well below market electricity prices to corporate and commercial customers via projects subsidized by SRECs and the New Jersey ratepayer.

In addressing the aspect of mitigation of solar volatility, clearly some elements of the market would like the structure left alone as it provides an open market for excessive profit such as in large scale net-meter projects. Whereas, under the current legislation there is no path for any more grid supply projects but that which was determined via the Solar Act's subsection q and subsection s (deferred projects). There is no future path currently under the Solar Act to allow for grid supply projects, other than landfills and brownfield sites (subsection t under interim rules) many of which have significant issues in which to complete a project both from an economic and regulatory standpoint. Financing such grid connect projects in a PJM wholesale market and merchant SREC market is very difficult. Although there are some SREC market contract opportunities for short term structures (often referred to as mini-perms as you are unable to amortize the debt fully under such structures) the projects are very challenged to obtain debt finance facilities, which unless some type of corporate back leverage is utilized combined with full utilization of the investment tax credits upon commercial operations these projects

are economically challenged to compete for equity capital. The challenges also exist for the farmland grid connect sector, albeit at perhaps lower long term operational costs and risks depending on site conditions.

These challenges of financing projects are significantly mitigated in the PPA net-meter market of solar which are able to utilize debt structure facilities based the credit of the PPA host party of the facility. These projects are earning excessive returns with leveraged PPA structures and higher than required New Jersey SRECs for such projects. The economics of these projects is largely driven by the cost to lease the facilities for the solar installation, similar to a farmland solar project leasing or purchasing land for the solar facilities, but in the case of the net-meter project the host is receiving discounted electricity and solar lease revenue. The host is highly incentivized to provide a reasonable lease rate on the roof or land in exchange for significant electric savings in the PPA structure. This is not the same business relationship between the grid supply project and the lessor or seller whom is not receiving electric sales benefits as the grid supply project is selling the facility output to the electric wholesale market.

The New Jersey market framework has clearly come out of balance at the expense of the New Jersey ratepayer. The current Solar Act legislation has for the most part closed on the grid-supply part of the market going forward that offers the greatest benefit to the ratepayer of New Jersey and the current framework continues to subsidize elements of the market that do not share the benefits and enjoy excessive market profits at the expense of the New Jersey ratepayer. It is suggested that although making further regulatory changes to the market may cause further market participation issues that it is in the best interest of the New Jersey ratepayers to do so with regard to creating a viable path for grid connect solar projects that provide the best benefit to the New Jersey ratepayer requiring lower SREC prices on a 100% equity valuation basis of projects.

It would be suggested that New Jersey implement some type of solar carve-out by sector classification within its RPS legislative mandate perhaps similar to that which was implemented on Long Island under FIT I and FIT II. Although it is unlikely that New Jersey would want to replicate a program such as FIT I as that may well be perceived as an excessive price structure it could utilize the solar carve-out aspects to that market. Similarly it may want to utilize the market mechanism of the reverse auction process of FIT II, although that can result in uneconomic projects. The implications of federal investment tax credit upon solar reducing from 30% to 10% may well have significant market implications with regard to the prices required for projects to be economic under such structures. Another mitigating measure would be to take elements of the Massachusetts market to establish underlying minimum SREC market supports. Given the significant future uncertainty with regard to ongoing federal legislation supporting solar and renewable energy overall and the expected though uncertain path of solar installation costs, New Jersey needs to have carve-out mechanisms that are offered into the marketplace in a context that results in achieving its RPS goals across the spectrum of grid supply, large commercial net-meter, small net-meter and residential net-meter consumers. This likely means making some significant adjustment to the current New Jersey SREC market in terms of carve-outs by sector, reduced SACPs in line with costs of installation but also with market floors to sustain a market that will attract capital investment. Overall the structure should be optimized in the best interest of the New Jersey ratepayer.

State of New Jersey
DIVISION OF RATE COUNSEL
140 EAST FRONT STREET, 4TH FL
P. O. BOX 003
TRENTON, NEW JERSEY 08625

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

STEFANIE A. BRAND
Director

April 11, 2014

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
CN 350
Trenton, NJ 08625-0350

Re: **In the Matter of the Implementation of L. 2012, c. 24, N.J.S.A. 48:3-87(d)(3)(b) - A Proceeding to Investigate Approaches to Mitigate Solar Development Volatility, BPU Docket No. EO12090860V – OCE Request for Comments on Draft Solar Development Volatility Report**

Dear Secretary Izzo:

Please accept this original and ten copies of as Comments submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in connection with the above-captioned matter. Copies of the comments are being provided to all parties on the e-service list by electronic mail and hard copies will be provided upon request to our office.

We are enclosing one additional copy of the comments. Please stamp and date the extra copy as "filed" and return it in our self-addressed stamped envelope.

Thank you for your consideration and assistance.

Respectfully submitted,

STEFANIE A. BRAND
Director, Division of Rate Counsel

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

SHS/sm

c: OCE@bpu.state.nj.us
publiccomments@njcleanenergy.com
Elizabeth Ackerman, BPU
Michael Winka, BPU
Elizabeth Teng, BPU
B. Scott Hunter, BPU
Jerome May, BPU
Tricia Caliguire, Esq., BPU
Rachel Boylan, Esq., BPU
Babette Tenzer, DAG

In the Matter of the Implementation of L. 2012, c. 24, N.J.S.A. 48:3-87(d)(3)(b)
A Proceeding to Investigate Approaches to Mitigate Solar Development Volatility, BPU Docket No. EO12090860V
OCE Request for Comments On Draft Solar Development Volatility Report

Comments of the New Jersey Division of Rate Counsel

April 11, 2014

INTRODUCTION

The New Jersey Division of Rate Counsel ("Rate Counsel") appreciates the opportunity to provide comments to the Board of Public Utilities ("BPU" or "Board") Office of Clean Energy ("OCE") concerning the draft report on Solar Development Volatility ("Draft Report") dated March 2014 and issued by OCE on March 26, 2014.

The Draft Report was prepared as part of the proceedings convened by the BPU in accordance with a provision of the Solar Energy Act of 2012, P.L. 2012, c. 24 ('SEA"), that required the Board to investigate approaches to mitigate solar development volatility in New Jersey. As provided in the SEA:

> No more than 24 months following the date of enactment of P.L. 2012, c.24, the board shall complete a proceeding to investigate approaches to mitigate solar development volatility and prepare and submit, pursuant to section 2 of P.L. 1991, c.164 (C.52:14-19.1), a report to the Legislature, detailing its findings and recommendations. As part of the proceeding, the board shall evaluate other techniques used nationally and internationally.

N.J.S.A. 48:3-87(d)(3)(b). The SEA was enacted on July 23, 2012 and the Board's report to the Legislature accordingly is due on July 23, 2014.

Pursuant to an earlier request from OCE, Rate Counsel and other stakeholders submitted comments in this proceeding on or about July 1, 2013. On March 19, 2014 OCE issued a notice that the Draft Report would be made available to stakeholders on March 26, 2014. The Notice further stated that a public presentation would take place on April 1, 2014, and that written

comments would be accepted through April 11, 2014. The Draft Report was posted on OCE's website on March 26, 2014 and circulated by e-mail to OCE's Renewable Energy Committee listserv the following day. At the April 1, 2014 public meeting OCE and its consultants disclosed as part of a PowerPoint presentation (the "April 1 PowerPoint") that four "Tentative Potential NJ Policy Options" were under consideration. *April 1 PowerPoint,* Slides 47-60. The April 1 PowerPoint was circulated by e-mail to members of the Board's Renewable Energy Committee on April 2, 2014, but to date has not been posted on OCE's website.

Rate Counsel is submitting these comments in accordance with the April 11, 2014 deadline established in OCE's notice. However, Rate Counsel emphasizes the short time provided to review the Draft Report and the April 1 PowerPoint. Further, as noted by a stakeholder at the April 1, 2014 public meeting, there has been no clear statement of the Board's policy objectives with regard to the further development of the State's solar energy market. Specifically, the Board has not made clear whether its primary objective is meeting the State's solar Renewable Portfolio Standard ("RPS")in a way that its least costly and most beneficial to ratepayers, or whether the Board's priority is providing financial support to particular segments of the solar industry. For these reasons, the comments that follow are necessarily preliminary.

Rate Counsel respectfully suggests that an additional opportunity for comment would be appropriate following the issuance of a more complete report, including recommended policy objectives and specific draft recommendations to the Legislature. Rate Counsel further reserves its right to supplement these comments based on further developments that may occur prior to the Board's submission of the final report to the Legislature.

RATE COUNSEL COMMENTS

In its comments filed in this matter on July 1, 2013, Rate Counsel presented a detailed analysis of the history and current status of New Jersey's solar development market and an analysis of whether or not there is a need to implement measures to mitigate volatility in that market. In summary, Rate Counsel's earlier comments showed the following:

- The SEA requirement for a report to the Legislature was intended to address solar development volatility, i.e., dramatic variations in the number of installations of solar facilities, rather than volatility in Solar Renewable Energy Certificate ("SREC") prices. *Rate Counsel July 2013 Comments*, p. 12-13.
- New Jersey's solar development market is not unusually volatile based on objective measures, and is no more volatile than other energy-related markets. *Id.*, p. 12-23.
- While a supply-demand mismatch developed in Energy Year 2012, this was the result of many years of financial support by ratepayers, as well as exogenous factors including the great economic recession of 2008, falling costs of solar components due to oversupply in the global solar module market, and generous federal tax credits. This mismatch, and the subsequent fall in SREC market prices, are not indicative of a fundamentally volatile market. *Id.*, p. 5-8, 14-18.
- The Board, and, more recently, the Legislature through the SEA, have already taken steps to address the recent supply-demand mismatch. The SEA reflects a compromise between the interests of the solar industry and ratepayers. The SEA aimed to "rebalance" the market by increasing the solar RPS requirements for Energy Years 2014 through 2023, and allowing SRECs to be "banked" for five years. Ratepayers benefit from reduction in the RPS requirements after year 2023, and long-term reductions in Solar Alternative

Compliance Payments ("SACPs"), which function as a ceiling on the cost of RPS compliance. *Id.*, p. 8-10.

- No additional steps are needed at this time. Further interventions in the solar development market would upset the careful balance of interests reflected in the SEA, and would undermine two important BPU policies, namely facilitating competitive renewable energy markets and reducing regulatory uncertainty. *Id*, p. 8-12, 36-37.

As noted in Rate Counsel's earlier comments, while market stability is certainly important the Board should avoid "rushing too quickly to adopt changes in policy in the mistaken desire to promote market stability." *Rate Counsel July 2013 Comments*, p. 37. Such changes can themselves be destabilizing because market participants will lose confidence in the Board's willingness to allow the competitive forces of supply and demand run their course. *Id.* Rate Counsel therefore recommended that the Board maintain its current course and refrain from any further attempts to actively manage the market. *Id.*, p. 37-38.

The Draft Report confirms many elements of Rate Counsel's earlier analysis. Initially, the Draft Report agrees with Rate Counsel that, based on the plain language of the SEA, the proper focus is the stability of the solar development market, not SREC prices. *Draft Report*, p. 15. The Draft Report affirms that the solar development "boom" that occurred during Energy Year 2012 was largely the result of falling prices for solar components and enhanced federal incentives. *Draft Report*, p. 11, 16. The Draft Report also confirms that New Jersey maintains an active solar development market notwithstanding falling SREC prices. Specifically, the Draft Report notes that, despite recent reductions in the level of solar installations since Energy Year 2012, New Jersey still ranked fifth among the States in capacity installed in 2013. *Id.*, p. 10. Further, multi-month moving averages have remained consistently above 10 megawatts per

month over the past several years. *Id.*, p. 15. The Draft Report also recognizes the mitigating impact of the SEA. *Id.*, p. 15.

The discussion at pages 31-32, of the Draft Report expresses concern about potential future volatility as existing solar facilities lose their eligibility to generate SRECs after 15 years. Figure 16, appearing at page 32, shows another potential solar development "boom" peaking in 2027, as new facilities are built to replace existing facilities with expiring SREC eligibility. However, as recognized in the report itself, New Jersey law now permits SRECs to be "banked" for five years. *Draft Report,* p. 32. This should allow developers to anticipate the need for capacity additions to replace the facilities that will lose their SREC eligibility, thus "effectively smoothing out the buildout required to meet this erratic demand profile." *Id.* Thus, Figure 16 overstates the potential for solar development volatility in the future.

The April 1 PowerPoint includes further support for Rate Counsel's analysis and recommendations. Slide 18 notes the consensus view among stakeholders that SREC prices have stabilized since the enactment of the SEA. This is an indication that the SEA is performing its intended objective of "soaking up" excess supply. Slide 19 notes comments by some stakeholders that market transparency has improved.

As noted above, the April 1 PowerPoint presents four "Tentative Potential NJ Policy Options." The first option is "No Future Policy Intervention." *April 1 PowerPoint,* Slides 49-51. For the reasons stated above and in Rate Counsel's earlier comments, Rate Counsel supports this option. The presentation correctly states the reasons for this option: it "[e]nhances regulatory certainty," recognizes that the SEA "has reduced potential solar market development volatility," will protect "existing system owners and market stakeholders ... from regulatory change," and "[a]cknowledges [the] perspective of many stakeholders." *April 1 PowerPoint*, Slide 50.

Rate Counsel opposes the other three options. Initially, as noted by a stakeholder at the April 1, 2014 public meeting, there has been no analysis of the costs of the second, third and fourth options. The costs to ratepayers of implementing these options may render them economically unjustified, even if they offer some benefits.

The second option, entitled "Policy Intervention with Complementary Policies," could include expansion of the electric distribution companies' ("EDCs") existing solar financing program, and implementation of a "green bank" to finance solar projects. *April 1 PowerPoint*, Slide 52. Both of these suggested policies would stimulate additional project development, thus undermining the SEA's objective of mitigating oversupply. Both also would provide unneeded financial incentives, contrary to the important policy objective of increasing reliance on competitive markets.

The third option, entitled "Moderate Intervention Within Current Market Framework," would involve implementation of a "supply-responsive demand curve" with or without an SREC price floor. *April 1 PowerPoint*, Slide 55. Under this approach, the RPS would be subject to modification in response to changes in SREC prices. *Draft Report,* p. 47. This approach would be completely counterproductive. It would create regulatory uncertainty, as market participants would be unable to predict future RPS requirements. An SREC floor price would exacerbate any oversupply, by providing incentives to build more facilities than the market can support.

The fourth option, entitled "Implement Quantity Incentive," would involve dismantling the current market structure and converting to a system wherein a central procurement entity or entities would procure SRECs through a competitive process, or by means of a "standard offer contract with volume-based price." *April 1 PowerPoint*, Slide 58. As noted in the April 1 Power Point, this option would be "disruptive to existing business models" and would pose significant

implementation challenges. *Id.,* Slide 60. The "standard offer" model is particularly problematic. Under this model, the procurement entity would offer solar developers long-term fixed-price contracts at administratively determined prices, which would vary based on market conditions. *Draft Report,* p. 52-53. This model would create regulatory uncertainty, and, because prices would not be competitively set, could expose ratepayers to higher-than-necessary SREC prices over the long term.

In another proceeding, the Board is considering the feasibility of removing the RPS obligation from electric generation service providers and transferring that obligation to the EDCs. I/M/O the Renewable Portfolio Standard ("RPS") as it Relates to Basic Generation Service, BPU Docket No. ER13090861. In comments filed in that matter on November 4, 2013, ("Nov. 4 Comments") Rate Counsel expressed the view that this approach holds promise for reducing the cost of RPS compliance. *Nov. 4 Comments,* p. 1-2. However, those same comments noted that implementation would involve administrative changes and costs for the EDCs, which would have to take on new responsibilities. *Id.* Further, there would be other implementation challenges including the mechanics of accommodating existing long-term contracts. *Id.* p. 3. Rate Counsel supports continued investigation of this approach, but notes that implementation, if feasible, will require significant regulatory changes.

CONCLUSION

For the reasons stated above and in Rate Counsel's earlier comments, there should be no further intervention in the solar development market at this time. Rate Counsel supports continued exploration of the possibility of transferring the RPS obligation to the EDCs, but notes that this is an option for the longer term. Rate Counsel reserves its right to comment further, as appropriate, at a future date.

Alexander C. Stern
Associate General Regulatory Counsel

Law Department
80 Park Plaza, T5G, Newark, NJ 07102
tel: 973.430.5754 fax:973.430.5983
Alexander.Stern@PSEG.com

PSEG Services Corporation

April 11, 2014

BY ELECTRONIC DELIVERY

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350
publiccomments@njcleanenergy.com

Re: **BPU Staff Request for Public Comment and Status of Proceeding to Investigate Approaches to Mitigate Solar Development Volatility**

Dear Secretary Izzo,

Please accept the following written comments on behalf of PSEG Energy Resources & Trade LLC ("PSEG ER&T") regarding Board Staff's request for comments on the discussion draft of a report prepared for the Rutgers Center for Energy, Economic, and Environmental Policy ("CEEP") on Solar Development Volatility in New Jersey.

PSEG ER&T commends the New Jersey Legislature for the passage of the Solar Act of 2012 (the "Act"), and for Board Staff's continued determination to make New Jersey a leader in solar development. As a significant market participant, PSEG ER&T has been very supportive and appreciative of the Board's stewardship of the New Jersey Renewable Portfolio Standard ("RPS") over the past decade, and it congratulates the Board on its success in achieving more than 1,245 MW of installed solar capacity to date.

PSEG ER&T recognizes that Board Staff was charged with conducting an investigation on approaches to mitigate solar development volatility and evaluate various alternative techniques for solar development, pursuant to N.J.S.A. 48:3-87(d)(3)(b). PSEG ER&T appreciates the thoughtful discussion draft prepared by Meister Consultants Group, Inc. and Sustainable Energy Advantage, LLC as a means to fulfill this requirement.

By way of background, PSEG ER&T would like to acknowledge market developments since the passage of the Act. Although the long term demand for New Jersey Solar Renewable Energy Certificates ("SRECs") was uncertain for much of 2012, solar development and SREC prices have since rebounded considerably.

Notably, monthly solar capacity installations have increased steadily since dipping to a low in September 2013 and similarly, the number and total capacity of solar installations in 2013 Q4 increased from levels observed in 2013 Q3. Continuing this trend, January 2014's build rate exceeded 17 MW and monthly installations exceeded 44 MW in February 2014. These development trends were largely supported by SREC prices that traded within a narrow range between $120-150/SREC throughout most of 2013. The recent jump in SREC prices to approximately $180/SREC that occurred from January 3, 2014 provides further support to enable continued growth in solar installations throughout the State.

The Board should take pride in the fact that its policies have been successful in this regard and should continue to deliver environmental and economic benefits to the State of New Jersey. Stated another way, solar development is responding to the increased requirements of the Act, and the state continues to move forward in meeting its solar RPS goals. And as the solar industry in New Jersey continues to mature, the Board should continue to expect to see additional technical advancements along with increased competition and efficiency among solar developers in the marketplace, which ultimately should lower costs to ratepayers.

PSEG ER&T believes that considering all of the recent significant legislative and market developments, maintaining a stable regulatory environment by limiting any additional regulatory or legislative changes to the solar program would further lower volatility, build greater confidence in the market, and benefit ratepayers.

In addition to this general assessment, PSEG ER&T would like to make one specific recommendation related to the timing of the release of the Office of Clean Energy's ("OCE") monthly solar installation report. Currently the OCE distributes this information via its listserv to the renewable energy committee members either on, or in the days leading up to the monthly REC committee meeting. As this information can dramatically impact SREC market prices, we recommend that on a monthly basis the OCE commit to announcing a firm date and time when this information will be made available. In this way, PSEG ER&T believes that the Board would achieve greater market transparency by ensuring that solar development statistics are reported to all market participants simultaneously.

Finally, PSEG ER&T would also note that one of the draft report's policy options references the potential for assigning the RPS obligation to EDCs. However, this issue has been the subject of a separate comprehensive Board proceeding in BPU Docket No. ER13090861 and is properly handled in that matter. As PSEG ER&T noted in its November 4, 2013 comments in that proceeding, although the proposal to remove the RPS requirement from BGS could result in more customers staying on BGS, PSEG ER&T does not believe such a change would be consistent with the Electric Discount and Energy Competition Act ("EDECA") or in the best interests of New Jersey or its ratepayers. Additionally, transferring this obligation may be legally and logistically unworkable through the current BGS auction format, leading to confusion and inconsistency among how EDCs acquire these renewable energy attributes and recover

their costs from ratepayers. PSEG ER&T would refer the Board to its comments submitted to the BPU on November 4, 2013 for further significant concerns with this option.

PSEG ER&T appreciates this opportunity to provide comments, and looks forward to continuing to work with Board Staff in its efforts to achieve New Jersey's Energy Master Plan goals.

Respectfully submitted,

By: *Alexander C. Stern*

Alexander C. Stern
PSEG Services Corporation
80 Park Plaza, T5G
Newark, NJ 07102
(973) 430-5754
Alexander.Stern@pseg.com

COMMENTS OF CONSTELLATION NEWENERGY, INC., AND EXELON GENERATION COMPANY, LLC REGARDING THE DRAFT SOLAR DEVELOPMENT VOLATILITY REPORT

I. INTRODUCTION

On March 26, 2014 a draft report on Solar Development Volatility in New Jersey ("Draft Report") was posted to the New Jersey Board of Public Utilities' ("Board") and the New Jersey Clean Energy Program's websites. Pursuant to the April 2, 2014 communication from the New Jersey Office of Clean Energy ("OCE"), Constellation NewEnergy, Inc. ("CNE") and Exelon Generation Company, LLC ("ExGen") (collectively, "Constellation") appreciate the opportunity to submit their Comments on the Draft Report. While Constellation does not address every issue raised in the Draft Report, we advise generally against any proposal that would: require the electric distribution companies ("EDCs") to procure long term contracts for renewable resources; procure outside of the State's basic generation service ("BGS") auction ("BGS Auction") full requirements product those products required to meet New Jersey's Renewable Portfolio Standard ("RPS") – including, but not limited to, Solar RPS requirements – on behalf of BGS customers; and/or implement a supply-responsive demand formula or other structure that would create more complexity and difficulty in predicting and meeting RPS requirements.

II. CONSTELLATION COMMENTS

A. New Jersey Should Refrain from any Proposal to Require EDCs to Procure Renewable Resources Pursuant to Long Term Contracts.

In response to the Draft Report's options regarding the use of long term contracts with EDCs for renewable resource generation – whether through "the current EDC contracting programs," "long-term SREC tranches through the BGS [A]uction," or otherwise – Constellation believes that such long term contracts are not necessary to encourage investment in renewable

technologies, and may in fact be detrimental to consumers. RPS provisions for retail and wholesale suppliers, such as those utilized in New Jersey's current market structure, provide the best method for encouraging investment in renewable resources. Under existing market structures, and without the need for mandating long term renewable generation contracts, Constellation itself has entered into several long term agreements for renewable generation which have helped to develop renewable resources. For instance, the following renewable energy projects are representative of those developed by CNE under its own long-term contracts:

- **Toys"R"Us Distribution Center in Flanders, New Jersey**: CNE completed construction of a 5.38 MW on-site solar installation under a 20-year power purchase agreement;
- **Vineland Municipal Electric Utility in Vineland, New Jersey**: CNE completed construction of a 6.5 MW on-site solar installation under a 25-year power purchase agreement; and
- **Middle Township Board of Education in Middle Township, New Jersey**: CNE completed construction of 1.5 MW of on-site solar installations under a 15-year power purchase agreement.

Of note, CNE has extended to residential customers in New Jersey (as well as Maryland, New York, Massachusetts, Ohio and Pennsylvania) the opportunity to enter into long term lease agreements to support solar generation construction at consumers' homes.

In addition, given that the legislature, OCE and the Board are all considering means by which to stabilize the oversupply in New Jersey's solar market, it is clear that the current market structures used in New Jersey already provide adequate incentives to market participants to invest in and encourage development of renewable resources.

Finally, Constellation cautions against locking consumers into supporting new assets for long terms that in the long run may become obsolete and inefficient. Competitive forces provide the lever that leads market participants to become innovative. In this day and age, this innovation translates into technological enhancements at a significantly rapid pace. What may be state-of-the-art operations for a renewable resource technology today may be very inefficient five years from now. Obligating consumers, and not suppliers, to absorb that inefficiency (and taking the incentives out of the market) may not lead to more efficient pricing for customers.

B. New Jersey Should Refrain from Any Proposal to Require EDCs to Procure Outside of the BGS Auction Full Requirements Product Those Products Required to Meet New Jersey's RPS on Behalf of BGS Customers.

In response to any of the Draft Report's policy options that support removing some or all of the RPS requirements from the full requirements BGS Auction products, Constellation states that such policies have potential to both harm the well-developed, stable and competitively-priced BGS product, as well as hinder continued successful growth of renewable generation that has been spurred by the State of New Jersey to date. One important benefit of including RPS obligations in products offered by both BGS providers and Third Party Suppliers is that these providers and suppliers retain individual experts who understand and follow not only electric energy and other commodity markets, but also ancillary services, capacity and *renewable* products markets; they are able to manage their portfolios of all of these products effectively and efficiently even as load requirements vary hour-to-hour over the course of a supply contract. A diverse pool of providers and suppliers provides the most cost-effective method for managing of RPS obligations.

In addition, it is important to keep in mind that, as EDCs' loads vary, the RPS obligations that apply to that load also, in turn, vary. Through the current products offered in New Jersey, the EDCs require providers and suppliers to provide the EDCs' renewable product requirements

– nothing more and nothing less. The EDCs are not required to correctly and exactly predict how much they will need, and the EDCs avoid the risk of having to sell excess purchases or buy products late-in-time to cover shortages. Having the EDCs manage the entirety of their RPS obligations will eliminate these important benefits. Moreover, to the extent the EDCs instead offer through a "BGS-like" procurement a load-following RPS-only product to meet their needs, they may not receive a level of interest and competition that will help to keep costs competitive.

C. New Jersey Should Refrain from Implementing a Structure Based on a Supply-Responsive Demand Formula or Other Means Which Create More Difficulty in Predicting and Meeting Solar Requirements.

Finally, Constellation cautions against adopting a supply-responsive demand formula or other such mechanism which creates less transparency for predicting and, in turn, meeting solar requirements in the future. These types of structures may have the effect of stifling and/or increasing costs for fixed price offerings by Third Party Suppliers in the marketplace, as well as increasing costs for New Jersey EDCs' fixed price BGS products. Retail and wholesale suppliers under these types of structures perceive significant risks that solar obligations will change over the course of a fixed price contract, and have little ability to predict and hedge those unknown obligations subject to some sort of dynamic formula. Clear and transparent targets, coupled with a long term commitment by the State to the existing structure better serves New Jersey's clean energy goals in the most efficient manner, to the benefit of New Jersey's consumers.

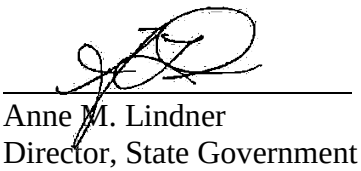
III. CONCLUSION

Constellation appreciates this opportunity to submit its Comments and is convinced that maintenance of the current RPS structure with obligations met through the BGS Auction process and by Third Party Suppliers will ensure that New Jersey's electric customers have the best

access to competitive markets, while maintaining New Jersey's leadership in pursuing clean energy goals for the State and its consumers.

Respectfully Submitted,

Divesh Gupta, Esq.
Asst. General Counsel
100 Constellation Way, Suite 500C
Baltimore, Maryland 21202
(410) 470-3158
divesh.gupta@constellation.com



Anne M. Lindner
Director, State Government Affairs
100 Constellation Way, Suite 600C
Baltimore, Maryland 21202
(410) 470-4540
anne.lindner@constellation.com

On Behalf of Constellation NewEnergy, Inc and Exelon Generation Company, LLC

Dated: April 11, 2014

Comments of the Solar Energy Industries Association
on the Draft Solar Development Volatility Report
Docket No. EO12090860V
April 11, 2014

The Solar Energy Industries Association (SEIA) appreciates the opportunity to comment on the draft report on Solar Development Volatility in New Jersey. SEIA's main recommendation is that the final report include a more robust exploration of the impact that the current SREC requirement schedule has or may have on market development volatility and an evaluation of the characteristics of an SREC requirement schedule that would minimize its role as a driver of development volatility.

New Jersey has been a pioneer in solar market development and has seen great success in enabling the deployment of over 1GW of solar in the state. This success has fostered a local solar workforce of approximately 6,500 people – the third largest solar workforce in the nation. New Jersey has also benefited by the development of new in-state generation; in 2013, 100% of its new in-state electrical generation was from solar PV.

It has been SEIA's long-held position that intervention by policymakers in the solar market should only occur under one of three conditions: persistent and extreme under or oversupply of SRECs; failure of the competitive market to address market segments targeted by policy makers; or to correct a market failure. The New Jersey Board of Public Utilities (BPU) and New Jersey legislature have both taken care to study the market and take action when one of these three conditions occur, while balancing the potential negative effects in the market caused by regulatory uncertainty. In 2008 and 2012, the BPU acted to address a market failure – the lack of long-term SREC contracts in the market – through the EDC SREC finance programs. The BPU also instituted the PSE&G Solar4All program – in 2008 in part as a reaction to a undersupply of SRECs in the market at that time, and in 2012 to address a market segment targeted by policy makers but not currently sufficiently developed by the competitive market – namely development on brownfields and landfills. In response to broad consensus of an extreme and persistent oversupply of SRECs, the New Jersey legislature took action in the form of the Solar Act of 2012 to return the market to balance.

With this report, SEIA applauds the BPU and legislature for taking another detailed look at the market and the drivers of development volatility. The report does a good job of capturing the conversation to date amongst stakeholders in New Jersey about the definition of volatility and the various policy directions discussed, while offering pros and cons of each action.

The report is a step towards fulfilling the legislative requirement for the Board to "complete a proceeding to investigate approaches to mitigate solar development volatility and prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14- 19.1), a report to the Legislature, detailing its findings and recommendations." As such, it is appropriate for the report to explore policies that would require legislative action to achieve. It does so in many instances.

The report highlights two aspects of the demand curve that act as a source of market development volatility – the vertical nature of the demand curve and various features of the SREC compliance schedule established under the Solar Act of 2012. In its discussion of policy options, the report includes an option to address this first driver but it overlooks including an option to change the shape of the demand curve as a way to remove it as a source of development volatility.

The SREC requirement schedule is a fundamental element in the solar market. As the report highlights on pages 30 thru 33, the current schedule sets the market up for future volatility. The schedule suggests a legislatively mandated market contraction between 2015 and 2019. After 2019, the small incremental annual increases in demand (less than 100MW/yr, before taking into account incremental additions required to replace PV systems for which their 15-yr SREC eligibility has expired) make the market more vulnerable to oversupply.

SEIA strongly recommends that the final report contain an expanded discussion of the impacts of the current SREC requirement schedule on market development volatility as well as including as one of the four policy options explored further in the final report a change to the schedule. A discussion of this policy option could examine market growth profiles in other states (both SREC and non-SREC states) as well examining the characteristics of a requirement schedule that would minimize development volatility.

At the April 1st stakeholder meeting on the draft report, the consultants expressed discomfort in suggesting changes to the requirement schedule because they did not want to suggest solar targets for the state of New Jersey. The discussion of this policy option could stop short of suggesting actual numbers but rather identify what characteristics of a requirement schedule would make it a less likely contributor to market development volatility. It could also include a discussion of what point(s) in time the shape of the requirement schedule has an increased likelihood of driving volatility.

The Solar Act of 2012 required the BPU to report to the legislature on ways to mitigate solar development volatility. It is clearly within the purview of the legislature to address this fundamental aspect of the solar market – the SREC requirement schedule. In our view, a report to the legislature that does not include a treatment of this policy option would be incomplete.

Thank you for your consideration of SEIA's recommendations. Please reach out to us if we can be of any assistance on this matter.

Sincerely,

Katie Bolcar Rever
Director, State Affairs
krever@seia.org

Mally Becker
Assistant General Regulatory Counsel

Law Department
PSEG Services Corporation
80 Park Plaza – T5, Newark, New Jersey 07102-4194
973-430-7380 fax: 973-430-5983
email: mally.becker@pseg.com

April 11, 2014

BY ELECTRONIC AND OVERNIGHT DELIVERY

Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350
publiccomments@njcleanenergy.com

Re: In the Matter of the Implementation of L.2012, c. 24, N.J.S.A. 48:3-87 (d)(3)(b) – A Proceeding to Investigate Approaches to Mitigate Solar Development Volatility, BPU Docket No. EO12090860V

Dear Secretary Izzo,

Please accept the following written comments on behalf of Public Service Electric and Gas Company ("PSE&G" or the "Company") in response to a Notice issued by the Board of Public Utilities ("BPU") on March 18, 2014 requesting comments on a draft report entitled "Solar Development Volatility in New Jersey" (the "Discussion Draft").

As an initial matter, PSE&G lauds the New Jersey Legislature for its passage of the Solar Act of 2012 (the "Act"), legislation that is intended to reduce solar market volatility, and the Company commends the Board of Public Utilities ("BPU" or "Board") for its implementation of the Act.

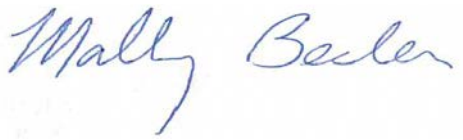
PSE&G notes that the Discussion Draft describes various options for solar market rule changes but does not, as of yet, include recommendations for implementation. Thus, PSE&G respectfully requests that the BPU provide interested stakeholders with the opportunity to submit additional comments at a later date if a subsequent draft of the Discussion Draft incorporates such recommendations for implementation of new solar market rules or policies.

Furthermore, the Discussion Draft lists and describes as an option removal of the Renewable Portfolio Standard ("RPS") obligation from the Basic Generation Service ("BGS") full requirements product. PSE&G notes that this issue is the subject of a current Board Staff inquiry that was initiated on October 7, 2013, with all stakeholders having had an opportunity to provide comments. *I/M/O the Renewable Portfolio Standard as it Relates to Basic Generation Service*, BPU Docket No. ER13090861. Indeed, the Electric Distribution Companies, as well as other parties to the above-referenced BPU proceeding, explained why removing the BGS RPS obligation from BGS suppliers could lead to additional SREC market volatility. See attached.

Because this matter is pending, PSE&G urges the Board to retain consideration of this matter in the BPU proceeding that is well underway and to remove consideration of this issue from the discussion draft in order to avoid confusion

PSE&G thanks the Board for the opportunity to review and provide comments on the Discussion Draft and looks forward to working with all stakeholders in this proceeding.

Respectfully submitted,



Attachments

Mally Becker
Assistant General Regulatory Counsel

Public Service Electric and Gas Company
80 Park Plaza - T8C, Newark, New Jersey 07102-4194
973-430-7380 fax: 973-648-5983
email: mally.becker@pseg.com

PSEG Services Corporation

November 4, 2013

VIA ELECTRONIC MAIL & OVERNIGHT MAIL

In the Matter of the Renewable Portfolio Standard ("RPS")
as it Relates to Basic Generation Service ("BGS")
Docket No. ER13090861

Kristi Izzo
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Dear Secretary Izzo:

Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric and Gas Company, and Rockland Electric Company respectfully submit an original and 10 copies of their initial responses to questions posed by Staff of the Board of Public Utilities regarding the possibility of removing the Renewable Portfolio Standard obligation from the Basic Generation Service full requirements product.

Please contact me if you have any questions regarding this matter.

Very truly yours,

Mally Becker

Attachment

C BGS E-Service List (Electronic Only)

In the Matter of the Renewable Portfolio Standard
As it Relates to Basic Generation Service
BPU Docket No. ER13090861

INITIAL RESPONSES OF THE
ELECTRIC DISTRIBUTION COMPANIES

November 4, 2013

Atlantic City Electric Company, Jersey Central Power & Light Company, Public Service Electric and Gas Company, and Rockland Electric Company (collectively, the "EDCs") are pleased to provide the Board of Public Utilities ("Board" or "BPU") with the following responses to questions posed by Board Staff on October 7, 2013, to assist in exploring the possibility of removing the Renewable Portfolio Standard ("RPS") obligation from the Basic Generation Service ("BGS") full requirements product.

Background: The Current BGS/RPS Landscape

The EDCs are responsible for RPS compliance associated with BGS load (N.J.S.A. 48:3-87(d)) and fulfill that responsibility contractually through the BGS suppliers. Third party suppliers ("TPSs") are responsible for RPS compliance for load that they serve. Id. As with energy, capacity, transmission and ancillary services, the Board-approved BGS Supplier Master Agreements obligate BGS suppliers to meet the RPS as part of the full requirements BGS supply product. BGS suppliers provide the EDCs with the renewable energy certificates ("RECs") necessary for RPS compliance in the PJM Generator Attribute Tracking System, and the EDCs validate the RECs and assemble the required annual compliance report and submit it to the Board.

Under the current, market-based system, each supplier, whether a TPS or a BGS supplier, compiles a portfolio of power supply as well as a portfolio of RECs.[1] The costs to suppliers of their power supply and REC portfolio are incorporated into their respective prices. The full requirements BGS product places the REC portfolio acquisition and REC price risk management function in the hands of the competitive entities that can most efficiently carry out these tasks. As the EDCs have argued consistently in past BGS proceedings, the full requirements product is designed so that BGS suppliers are incentivized to aggressively seek the most cost-effective pricing for all aspects of BGS supply, including RECs and SRECs, through the competitive market in order to be designated a BGS supplier through the annual competitive BGS auction process.

EDC Responses to Staff Questions:

1. Describe the potential benefits and/or risks of removing the RPS obligation from the BGS full requirement product.

The EDCs believe that removal of the RPS obligation from the full requirements BGS product has the potential to:

- create regulatory uncertainty, potentially hindering growth of or destabilizing pricing in the State's solar generation market;
- move New Jersey's SREC market away from a competitive market-priced model;
- shift additional risk to BGS customers;
- threaten the growth of the State's retail energy market; and
- add the EDCs' administrative costs of procuring and managing RECs to customer bills.

[1] For purposes of these comments, the EDCs references to RECs incorporate Solar RECs (or "SRECs"), Class 1 RECs, and Class 2 RECs.

Furthermore, removing the RPS obligation from the BGS full requirements product would not create a demonstrable benefit to BGS customers, but it would weaken one of the strongest features of the New Jersey BGS procurement process – a full requirements product that obligates competitive entities to assemble all components of BGS supply at an all-in price. The EDCs urge the Board to maintain the full requirements nature of the BGS product, which has and will continue to serve as an effective benchmark for retail competition in the State.

Absent significant credible evidence that customers would benefit, which does not exist here, the BPU should not move forward in exploring this potential change to the BGS full requirements product. BGS suppliers are responsible for serving a percentage of an EDC's load, whatever that load may be at any given point in time, and customers bear only the responsibility to pay for the RECs associated with the electric BGS supply they use. Transferring responsibility for BGS RPS compliance to the EDCs, for the reasons stated above, can only result in increased risk to ratepayers.

In sum, and as discussed below, the EDCs agree with the 2012 comments of the Retail Energy Supply Association ("RESA"), opposing a proposal to transfer the RPS obligation from BGS suppliers to the EDCs. RESA stated:

> As a cost of supplying BGS service, procurement of renewable energy should be reflected in BGS prices through supplier bid ... [T]ransferring this obligation may be legally and logistically unworkable through the current BGS auction format, leading to confusion and inconsistency among how EDCs acquire these renewable energy attributes and recover[sic] their cost from ratepayers. In addition, the implementation of [this] … proposal could place TPSs at a further competitive price disadvantage to BGS. Furthermore, the suggestion … that renewables development is enhanced by longer term contracts falls flat in the context of a robust, over-developed solar market in New Jersey.[2]

[2] Reply Comments of RESARESA, *I/M/O the Review of the BGS Procurement Process*, Dkt. No. ER12020150 (April 20, 2012) at p. 2.

1A. Removing the BGS RPS Obligation from BGS Suppliers Could Lead to Additional SREC Market Volatility

SREC prices have dropped substantially over the past two years, indicating that solar generation is being built to meet the State's goals and that the SREC market is working as intended. The Solar Energy Act of 2012 (the Act) has assisted in stabilizing the SREC market, and the EDCs urge caution in making substantive regulatory changes that would create regulatory uncertainty and could threaten the new SREC market stability the Act is achieving. As the Division of Rate Counsel ("Rate Counsel") emphasized just three months ago in its Comments on Solar Market Volatility:

> … ratepayers are seeing the benefits of the financial support they have provided for the Board's and the State's solar energy policies: installations are up, the solar RPS is being met, and the cost of solar compliance (i.e., SRECs) is down. Now is not the time to effectively pull the rug out, and change the rules of the game. In solar energy development that would raise the cost, and actually increase "volatility" in solar energy markets …
>
> Current proposals to change the existing market design moves away from the Board's prior goals of creating regulatory certainty, and will likely lead to unanticipated consequences that could [lead] to greater, not less, market volatility.
>
> … The very functionality of a compliance market hinges on the ability of market participants to have rational expectations for the balance of supply and demand into the future.

Comments Rate Counsel, *I/M/O Implementation of L. 2012, c. 24, N.J.S.A. 48:3-87(d)(3)(b)*, Dkt. No. EO12090860V (July 1, 2013) at pp. 3-4, 12.

The EDCs agree with Rate Counsel in this regard. And make no mistake: for the reasons described below, removal of the RPS obligation from the BGS full requirements product would constitute the type of material structural change to the existing SREC market that Rate Counsel opposed so recently.

1B. Removing the RPS Compliance Obligation from BGS Suppliers Could Erode the Competitiveness of the New Jersey SREC Market

Making EDCs responsible for procuring BGS RECs would weaken, rather than promote, a competitive SREC marketplace in New Jersey. Moreover, such a change would contravene the clear intent of the Electric Discount and Energy Competition Act ("EDECA") by abandoning the Board-approved BGS process of using the competitive marketplace to allow BGS suppliers and TPSs to procure and price SRECs.[3]

A decision to make EDCs responsible for the BGS RPS obligation would alter the current SREC market by eliminating a substantial number of purchasers. For example, in Energy Year ("EY") 2013, such a decision would have removed the 17 BGS suppliers as buyers of approximately 50% of the total SRECs needed for overall statewide RPS compliance. This structural change would, instead, create a market in which one purchaser – the EDCs -- had the obligation to purchase all of the States' required BGS compliance SRECs. This could limit the variety of terms available to SREC sellers and result a situation where administrative decisions and not market forces formed a large portion of the SREC marketplace. Economists hold that successful competitive markets are ones with many buyers and many sellers.

A decision to remove the RPS obligation from BGS suppliers would also require the Board to determine whether and how EDCs could utilize the SRECs they generate and/or own for RPS compliance purposes. If EDCs were permitted to use their SRECs to satisfy the RPS requirement, the Board would need to establish an administratively-set price for EDC-generated SRECs. The establishment of an administratively-set price for these EDC-generated SRECs, in turn, could have some impact on the market price of New Jersey SRECs. As stated above, the

[3] In EDECA, the Legislature found and declared that, "it is the policy of the State, consistent with other important policy objectives, to rely upon competitive markets, where such markets exist, to deliver energy services to consumers …." N.J.S.A. 48:3-50 (a)(2).

result would be a move away from reliance on competitive markets to set SREC prices, just as that market is working to decrease and stabilize certificate prices.

On the other hand, a BPU decision prohibiting EDCs from using the SRECs they own for RPS compliance would also negatively impact the competitiveness of New Jersey's SREC market. Under this scenario, EDC-owned SRECs would be sold into a market with fewer eligible purchasers. EDCs and TPSs would compete for SRECs generated by non-EDC entities, but only TPSs would be eligible to purchase EDC-owned SRECs. Under this scenario, the EDCs anticipate upward pressure on prices for non-EDC owned/generated SRECs, which would be subject to greater demand, and, potentially, downward pressure on prices for EDC-owned SRECs, which would have value to fewer purchasers.

Clearly, either option moves New Jersey away from its current market based competitive regime with market priced RECs included in both BGS and TPS supply.

1C. Removing the RPS Obligation from the BGS Product Shifts Risks to Customers

Through the Board-approved Supplier Master Agreements, BGS suppliers currently accept the risk that the actual supply and RECs they need to serve BGS load will differ from forecasted load. BGS CIEP and FP suppliers "win" the right to serve one or more tranches, which represent a percentage of total load and NOT a specific volume of megawatts. In other words, the RPS compliance obligation they accept as part of the Supplier Master Agreement requires BGS Suppliers to "true up" their REC purchases near the end of the energy year but prohibits them from passing any additional costs along to BGS customers. Thus, under the current BGS structure, BGS customers do not directly bear the costs if a BGS supplier has

purchased more or fewer RECs than required to serve its tranches; nor do customers bear the market risks of REC and SREC price changes during the term of the BGS supplier's service.[4]

By removing the RPS obligation from BGS and requiring EDCs to purchase RECs, the BPU would shift risks associated with REC purchases from BGS suppliers to customers and, for the first time, create a potential risk that EDCs and ratepayers would be liable for REC volume and price risk, as described below.

If the EDCs were required to purchase RECs required for BGS RFP compliance, the EDCs would likely propose to purchase a specific volume of RECs based on load forecasts early in each EY.[5] However, this creates a risk that the EDCs would under- or over-purchase SRECs based on the difference between forecasted and actual load.

If the forecast overestimated actual load, then EDCs would presumably be required to use best efforts to sell the RECs into a radically changed market where only TPSs are seeking to purchase these commodities. Conversely, if load forecasts underestimated actual load, then EDCs would be required to "cover" by purchasing RECs near the end of the EY, when prices for these commodities are generally higher or by paying the SACP. In either case, there's a risk that EDCs and BGS customers pay an increased price.

Transferring the BGS REC obligation to EDCs creates market price risk, as well as "volume risk," particularly if long-term contracts were to be used to procure RECs. The EDCs note that long term contracts do not always guarantee least cost supply particularly in a declining cost industry such as solar, which has been borne out by recent SREC pricing trends. Thus,

[4] While BGS suppliers may include some risk premium in their bids to reflect this uncertainty, they remain constrained by the competitive pressure of the BGS auction to minimize that premium.

[5] The EDCs are well aware that they could wait to purchase RECs until close to the end of the Energy Year, when actual load served is known or can more reliably be estimated. However, it is the EDCs' collective observation that the price of SRECs rises at the EY deadline approaches.

depending on the duration of the SREC contracts EDCs may be obligated to execute, this obligation could result in the risk of out-of-the-money long-term contracts and higher costs to BGS customers.

1D. Removing the RPS Obligation from BGS Would Distort New Jersey's Competitive Retail Market

Placing responsibility for RPS compliance on the EDCs, rather than on BGS suppliers, is also likely to harm New Jersey's retail supply market. The BPU has gone to great lengths to assure that, consistent with the requirements of EDECA, the retail price for BGS is "market-based." TPSs compete against the BGS price and are able to gain customers to the extent that they can offer a better price and/or product than that being provided through the BGS tariff or by their TPS competitors.

Currently, both the BGS price and the prices offered by TPSs reflect the cost of RPS compliance. If a change were made to take RPS compliance responsibility away from BGS suppliers and place that responsibility on the EDCs through some administratively-overseen process, TPSs and BGS suppliers would no longer be on equal footing.[6] TPSs would still be responsible for RPS compliance and for compiling their own renewable energy portfolios subject to market forces, while BGS suppliers would not. This mismatch of costs and responsibilities between the two would distort the retail market. Finally, the EDCs question the ease with which residential and small commercial retail customers would be able to compare BGS supply pricing and TPS offers in an apples (BGS without REC pricing) to oranges (TPS offers with REC pricing) retail energy world.

[6] As described below, the EDCs believe there are strong legal arguments against making the EDCs responsible for the entire RPS compliance obligation for both BGS suppliers and TPSs.

If the BPU authorized the EDCs to utilize their SRECs and the Board established a price for that commodity, the administratively-set SREC price could also impact TPSs' ability to compete against the BGS and REC products.

2. Is the price transparency created by the separation of the RPS from the BGS procurement process still needed now that (a) the SACP has been reduced drastically, and (b) the market prices for SRECs are much lower than the SACP?

Please see the EDCs' response to Question 1. In addition, the BPU's Office of Clean Energy ("OCE") provides monthly data reports summarizing the sale price of SRECs and providing price transparency to all interested parties, including the EDCs, regulators and the market. *See* http://www.njcleanenergy.com/renewable-energy/project-activity-reports/srec-pricing/srec-pricing and http://www.njcleanenergy.com/renewable-energy/project-activity-reports/srec-pricing/srec-pricing/archive. As a result, the EDCs do not believe additional Board action is needed to provide SREC price transparency, which is already a feature of the OCE website. In addition, the EDCs believe that separating the RPS responsibility from BGS would, for the reasons discussed above, disturb the current competitive REC market and create less transparency.

3. To what extent have BGS suppliers contracted for RECs on a long-term basis?

The EDCs do not have knowledge of BGS supplier REC supply arrangements.

4. Are there legal, regulatory or other impediments to transferring RPS responsibility for BGS load to New Jersey's Electric Distribution Companies (EDCs)? Please address any issues relating to mandatory terms for contacts, cost recovery, the prudency of an EDC's actions in meeting the RPS obligations in a process separate from the BGS procurement, including the possibility for over- or under-procurement and the costs?

Please see the EDCs' response to Question 1. In addition, as cited above, the New Jersey Legislature found and declared in EDECA "it is the policy of the State, consistent with other important policy objectives, to rely upon competitive markets, where such markets exist, to

deliver energy services to consumers …." N.J.S.A. 48:3-50 (a)(2). As a result, the transfer of the RPS obligation from all suppliers to the four EDCs undercuts EDECA because: a) it would most likely require establishment of an administratively-set price for at least some utility-owned RECs, which would, in turn, influence pricing in the remaining competitive REC market; and b) materially reduce the number of purchasers in the market, creating an uneven playing field between EDCs and TPSs.

5. How would the current EDCs' programs, which generate or finance the generation of SRECs and then sell those SRECs, be impacted if the RPS obligations were to be moved back from BGS suppliers to the EDCs? Without BGS bidders needing these SRECs what is the risk that the EDCs fail to sell off their SRECs at competitive prices?

Please see the EDCs' response to Question 1 above. Furthermore, if the Board authorized EDCs to use their own SRECs for RPS compliance, the Board would need to take into consideration the potential impact of this decision on revenue requirements associated with the EDCs' current BPU-approved SREC programs, including the SREC contracts, loans, EDC SREC auctions, and the cost-recovery mechanisms for the EDC SREC programs. The proceeds from these Board-approved programs are currently used to reduce those programs' net revenue requirements to the benefit of ratepayers. The EDCs will not speculate as to whether removing the RPS obligation from BGS would result in any offsetting savings. However, a change in RPS compliance requirements that eliminated or reduced EDC SREC program proceeds would presumably result in an increase in customer rates.

In addition, the EDCs emphasize that they believe there is a great risk that the EDCs would fail to sell off their SRECs at competitive prices were the BPU to prohibit the use of EDC-owned RECs to satisfy BGS RPS requirements.

6. What is the risk of the EDCs not being able to meet 100% of their RPS requirements through an auction due to low turnout? Please explain your answer.

The EDCs believe there is a risk that they would be unable to satisfy the State's SREC RPS requirement if the EDCs were required to purchase only non-EDC-owned SRECs. The EDCs note that, in lieu of SREC purchases, they would be required to make Solar Alternative Compliance Payments to satisfy the RPS compliance obligation, which could result in additional costs to BGS customers.

7. In the event that an EDC RPS procurement process is created to satisfy the RPS obligation for BGS load, what, if any, caps should be placed on participation in such an RPS procurement to maintain a competitive balance? Would caps or other limits on participation be feasible, given potential concerns about total levels of competition? Please explain.

As explained in response to Question 1 above, the current competitive marketplace for RECs with many buyers and many sellers has no need of caps to limit participation. The transformation of the current competitive market into one with only one buyer (the EDCs) for the majority of the RECs would indeed tend to lead to the need for administratively set caps, prices and other non-market administrative constraints.

8. Would transferring the RPS responsibility from BGS suppliers back to the EDCs affect the competitive electric energy retail choice market in New Jersey?

Please see the EDCs' response to Question 1 above. In addition, since the adoption of EDECA, the BPU has steadily and resolutely introduced market-based approaches and incentives to promote the growth of renewable energy in the State and has decreased reliance on centralized "administrative" type programs. Letting the market operate, by continuing to provide each supplier with both the obligation and the flexibility to compile its own portfolio to meet the RPS, is consistent with the Board's approach with regard to renewable energy programs. Moreover, putting these responsibilities in the hands of individual market participants subject to competitive

pressures assures compliance with State-mandated renewable energy portfolio requirements at the lowest cost to consumers. In contrast, taking that obligation and flexibility away from individual market participants and placing RPS compliance responsibilities solely on the EDCs in a "centralized" and regulated manner, presumably subject to administrative oversight, moves the State in the opposite direction from the BPU's current path.

The responsibility for RPS compliance for BGS should remain as contemplated in both EDECA and the current rules. That is, each BGS supplier should continue to be responsible for procuring the necessary RECs in the most cost-effective manner, subject to market forces, to comply with the RPS.

9. Are there legal, regulatory or other impediments to transferring RPS responsibility for Third Party Suppliers' load to the EDCs? Please explain.

Please see the EDCs' response to Question 4. Furthermore, there is no legal basis for a Board decision that would require the EDCs to assume responsibility for RECs required to satisfy the State's RPS for load served by TPSs. In fact, EDECA expressly requires TPSs to satisfy the State's RPS and no component of that law authorizes EDCs to accept the RPS obligation on their behalf. N.J.S.A. 48:3-87(d). This section of EDECA mandates that a specified percentage of kilowatt hours sold in this State: "…by each electric power supplier and each BGS provider be from Class I or Class II renewable energy sources …." Transferring RPS responsibility for TPSs' load to the EDCs would be in direct contradiction to EDECA.

10. If otherwise permissible, should transferring the RPS responsibility from BGS suppliers to the EDCs move New Jersey away from a competitive market with many buyers and sellers for pricing RECs and SRECs? What impact would this have on REC and SREC pricing?

See the EDCs' responses to Questions 1 and 8.

11. Would the EDCs incur additional administrative costs to procure and manage the SREC/REC portfolio? Please explain.

Yes, the EDCs would incur additional administrative costs to procure, manage and exercise appropriate oversight over the SREC/REC portfolio. In addition, the EDCs would need to consider engaging the services of a consulting firm to procure and manage the required REC portfolio. At present, BGS suppliers bear that responsibility. It is also likely that the EDCs will experience negative credit cost impacts if long-term contracts are part of a purchasing plan.

Mally Becker
Assistant General Regulatory Counsel

Law Department
PSEG Services Corporation
80 Park Plaza – T5, Newark, New Jersey 07102-4194
973-430-7380 fax: 973-430-5983
email: mally.becker@pseg.com

December 2, 2013

In the Matter of the Renewable Portfolio Standard
As it Relates to Basic Generation Service

BPU Docket No. ER13090861

VIA ELECTRONIC & OVERNIGHT MAIL

Kristi Izzo
Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

Dear Secretary Izzo:

Please accept for filing in letter form an original and ten (10) copies of Final Remarks in the above-captioned proceeding on behalf of Atlantic City Electric Company ("ACE"), Jersey Central Power & Light Company ("JCP&L"), Public Service Electric and Gas Company ("PSE&G"), and Rockland Electric Company ("RECO") (collectively, the "Electric Distribution Companies" or "EDCs"). In addition, the EDCs incorporate their Initial Remarks herein by reference.

Questions issued by Staff of the New Jersey Board of Public Utilities ("Board" or "BPU") regarding the risks and benefits of removing the Renewable Portfolio Standard

("RPS") obligation from Basic Generation Service ("BGS") elicited input from the EDCs as well as a broad range of market participants, ranging from BGS Suppliers and Third Party Suppliers ("TPSs") to industry associations and a firm specializing in Solar Renewable Energy Certificate ("SREC") transactions.[1]

It is no surprise that the Initial Remarks reflected the diverse positions held by these parties. For the reasons discussed below, however, the Board should conclude that the current competitive RPS procurement structure continues to best serve the needs of New Jersey's ratepayers and that no change to that structure is warranted.

First, the Board-approved RPS procurement structure already supports robust SREC competition. On balance, the Initial Remarks strongly suggest that existing New Jersey laws and BPU regulations strike the right balance between the twin goals of maintaining BGS rates as low as possible consistent with market conditions and encouraging development of a vibrant competitive solar industry. No party has demonstrated that a change in RPS obligations is needed to readjust this balance.

The EDCs find it telling that, despite assertions to the contrary, actual market participants – both SREC buyers and sellers -- confirm that they execute long-term SREC agreements to purchase the attributes needed to comply with New Jersey's RPS obligation. *See* Initial Remarks of Exelon Generation Company, LLC ("Exelon"), at pp.4-

[1] The EDCs will not address the comments of OffshoreMW, which propose an alternative rate recovery mechanism for offshore wind attributes, because the comments contained therein are not responsive to Staff's questions and are outside the scope of this proceeding.

5; Flett Exchange at p.1 ("Flett Exchange has been brokering long-term contracts for solar installations since 2008. The majority of our contracts have had BGS suppliers as buyers…."); and PPL Energy Plus at Response to Q.3. BGS suppliers, such as PPL, enter into long-term agreements to purchase SRECs, and renewable project developers, such as Constellation NewEnergy, Inc., are building new projects in New Jersey based on their execution of 20-year Power Purchase Agreements. Exelon Initial Remarks at p. 4.

Second, transferring the RPS compliance obligation to the EDCs is more likely to result in rate increases than rate decreases. The EDCs acknowledge the Board's goal of maintaining sustainable growth of New Jersey's solar industry. The maintenance of such growth, however, cannot be considered in a vacuum. Plainly, any solar-related policy adopted by the Board must consider the impact of such policy on customer rates. Thus, the EDCs find it of concern that not one of the solar industry commenters defined "lower prices for consumers" as even a potential benefit of removing the RPS obligation from BGS. The Solar Energy Industries Association ("SEIA") can only speculate that having EDCs take responsibility for BGS RPS obligations "would likely reduce the transaction costs associated with long-term REC contracting relative to those associated with the current EDC SREC Finance programs. SEIA Initial Remarks at p. 2 (emphasis added); *see also* Mid-Atlantic Solar Energy Industries Association ("MSEIA") Initial Remarks at p. 2. In other words, SEIA's reference to cost savings only applies to transaction costs and not to any potential decrease in costs of SRECs. (Furthermore, the cost savings

SEIA envisions presumably would require the Board to discontinue the EDC SREC programs.)

As Flett Exchange points out, "[d]uring the past few years, solar costs have plummeted worldwide." Flett Exchange Initial Remarks at p. 1; *see also* Flett Exchange discussion of current above-market SREC costs at page 1. Given that fact, it is no wonder that SEIA and other solar industry associations suggest that transaction or administrative costs might fall, but decline to argue that the referenced change in the BGS product will result in any direct benefit to ratepayers through a reduction in the cost of the commodity (i.e., SRECs) itself. The impact of above-market SREC contracts in a declining-cost industry is only one of the factors likely to lead to BGS/RPS rate increases if the RPS obligation is shifted to EDCs. As Exelon stated:

> Through the current BGS product, the EDCs buy only what they need for all of the energy products required to provide BGS, including renewable products. The EDCs are not required to correctly and exactly predict how much they will need, and the EDCs avoid the risk of having to sell excess purchases or buy products late-in-time to cover shortages. Having the EDCs manage the entirety of their RPS obligations by removing them from the BGS Auction product will eliminate these important benefits.

Exelon Initial Remarks at p. 3.

Furthermore, as the Independent Energy Producers of New Jersey ("IEPNJ") emphasized:

> Active competition is the best protection for New Jersey ratepayers as it assures that any market participant that attempts to pass through excessive or unreasonable costs to customers will fail … The competitive pressure of the BGS auction

> (which has been found to be sufficiently competitive by the BPU's consultants) place cost and risk management responsibility on suppliers … Transferring responsibility for any of these costs … by, for example, requiring EDCs to purchase any of these products through long term contracting, would only transfer risk to ratepayers. Since suppliers are in the business of managing risk, it is appropriate for the BPU to continue to allow this competitive market to function.

IEPNJ Initial Remarks at pp. 1-2.

Third, as noted by the Retail Energy Supply Association ("RESA"), removing the RPS obligation from BGS is likely to negatively impact the retail competitive market and individual TPS customers, as well as create customer confusion. This result is almost guaranteed by the fact that the Electric Discount and Energy Competition Act does not authorize the EDCs to purchase RECs or SRECs on behalf of TPSs.[2] N.J.S.A. 48:3-87(d). Thus, removal of the RPS obligation from BGS would make it more difficult for consumers to compare TPS offers to BGS pricing, since the cost of RPS compliance would be included in TPS offers but not directly in BGS prices.

More important, the EDCs also agree with RESA that yet another change in the State's approach to RPS compliance could in and of itself negatively impact retail competition in New Jersey. RESA forcefully argues that repeated "tinkering" with the solar RPS obligation has "eroded any semblance of regulatory certainty that enables TPSs to accurately account for RPS obligations when entering into contracts with customers." RESA Initial Remarks at p. 1. It is difficult to quantify the impact of regulatory

[2] In this regard, the EDCs agree with the Division of Rate Counsel that legislation would be required to authorize or require the Electric Distribution Companies to purchase RECs and SRECs on behalf of TPSs.

uncertainty. But it should be assumed that a new material change in the manner in which RECs and SRECs are purchased in New Jersey would increase regulatory uncertainty and could result in some disruption of the retail market, either through increased costs to TPS customers or customer termination of TPS contracts.

Finally, the EDCs respectfully disagree with Rate Counsel's characterization of the benefits of "price transparency" that would accrue to ratepayers if the Board determined to disaggregate a single component of the BGS product. The EDCs note that SREC price transparency already exists in the form of information provided by businesses such as Flett Exchange and through OCE's website, which provide current data on the price of SRECs. Consumers can easily track the market price of SRECs through these sites, and removing the RPS obligation from BGS will not necessarily provide any additional benefits to consumers.

Even assuming removal of the RPS obligation from BGS would increase price transparency (a proposition that the EDCs disagree with), that is no reason for the Board to take an action that would likely increase costs to customers. As the EDCs pointed out in their Initial Remarks, removal of the RPS compliance requirement from BGS could result in increased prices to customers as a result of the increased volatility such a change would cause, the reduction in the number of potential purchasers of SRECs, and the impact of long-term contracts if mandated under such a structure. *See* EDC Initial Remarks at pp. 4-8. In this regard, the EDCs agree with DTE Energy Trading ("DTE"),

which stated:

> Price transparency is an indication there are a sufficient number of active buyers and sellers to achieve an efficient result. It exists currently in SREC markets in New Jersey with the RPS obligation included in the BGS supply obligation. That the market price of SRECs is lower than the SACP means the market is also functional. BGS suppliers would rationally choose to meet RPS requirements in the market rather than pay the SACP. Changes in the structure of BGS supply that reduce the number of participants in the RPS market would tend to negatively impact RPS market efficiency and could increase the cost of RPS compliance to customers.

DTE Initial Remarks at p. 2.

In addition, as RESA correctly notes, the proposal to remove the RPS obligation from BGS will create additional customer confusion and, thus, reduce BGS/retail market transparency by making it harder for customers to accurately compare BGS to TPS offerings. Shifting the RPS obligation from BGS suppliers to EDCs will impede the ability of ratepayers to compare BGS and TPS pricing, since TPSs will need to incorporate the cost of RPS compliance in their energy supply product offerings products while BGS supply prices will exclude those costs. It is important that customers be able to compare various all-in price offerings on a consistent basis.

The Board is also well-aware that the BGS product is comprised of a "bundle" of energy components, comprised of energy (including load shaping and congestion), capacity, ancillary services, transmission and renewable attributes. None of the comments filed in this matter justify the benefit of pulling out one attribute of the BGS product, especially when, as is the case here, the price of SRECs has fallen and stabilized

over the past three years. While this disaggregation has been labeled "transparency," the EDCs believe that it begins to pull apart (with no demonstrated gain to ratepayers) the most significant benefit that the full-requirements product has produced for New Jersey customers, i.e., reliance on BGS bidders' expertise and the competitive pressure of the auction structure to create the most cost-effective portfolio of BGS component products.

It is also important to note that the Board's BGS consultant, Boston Pacific Company, Inc. ("Boston Pacific"), has annually concluded the BGS auction to be competitive and consistent with prevailing market conditions.[3] The current competitive market for RECs and SRECs brings New Jersey customers the benefit of competition among all market participants, BGS suppliers, TPSs, and the sellers of RECs and SRECs.

The EDCs conclude by reiterating their belief that the current BGS product provides significant benefits to New Jersey ratepayers. In contrast, this proceeding has failed to produce any empirical, credible evidence to demonstrate that customers would benefit from the change in the structure of the BGS product described by Staff's questions in this matter. In the absence of such evidence, the EDCs strongly recommend that the Board maintain the current RPS obligation structure.

[3] On page one of its Initial Remarks, Rate Counsel inadvertently mischaracterizes the conclusions of Boston Pacific, which, in 2010, advised the Board to "consider" removing the RPS requirement from the BGS auction but did not actually recommend disaggregating the BGS product. The EDCs believe that this current proceeding in and of itself satisfies Boston Pacific's 2010 recommendation.

To the extent Board seeks additional information regarding these issues, the EDCs look forward to working with Staff, Rate Counsel and other Parties to this proceeding.

Respectfully submitted,

Encl.

C Service List (via Electronic Mail Server)

BPU

Mark Beyer, Chief Economist
Board of Public Utilities
44 South Clinton Avenue, 9th Flr.
P.O. Box 350
Trenton, NJ 08625-0350
PHONE: (609) 292-2637
FAX: (___) ___-____
mark.beyer@bpu.state.nj.us

Paul, BPU Flanagan, Executive Director
Board of Public Utilities
44 South Clinton Avenue
9th Flr.
P.O. Box 350
Trenton, NJ 08625-2836
PHONE: (___) ___-____
FAX: (___) ___-____
paul.flanagan@bpu.state.nj.us

Kristi Izzo, Secretary
Board of Public Utilities
44 South Clinton Avenue, 9th Flr.
P.O. Box 350
Trenton, NJ 08625-0350
PHONE: (609) 292-1599
FAX: (___) ___-____
kristi.izzo@bpu.state.nj.us

Jerome May, Director
Board of Public Utilities
Division of Energy
44 South Clinton Avenue, 9th Flr.
P.O. Box 350
Trenton, NJ 08625-0350
PHONE: (609) 292-3960
FAX: (___) ___-____
Jerome.may@bpu.state.nj.us

Frank Perrotti
Board of Public Utilities
Division of Energy
44 South Clinton Avenue, 9th Flr.
P.O. Box 350
Trenton, NJ 08625-0350
PHONE: (609) 341-2836
FAX: (___) ___-____
frank.perrotti@bpu.state.nj.us

Stacy Peterson
Board of Public Utilities
Division of Energy
44 South Clinton Avenue, 9th Flr.
P.O. Box 350
Trenton, NJ 08625-0350
PHONE: (609) 292-4517
FAX: (___) ___-____
stacy.peterson@bpu.state.nj.us

BPU CONSULTANTS

Frank Mossburg
Boston Pacific Company, Inc.
1100 New York Avenue, NW, Suite 490 East
Washington, DC 20005
PHONE: (___) ___-____
FAX: (___) ___-____
fmossburg@bostonpacific.com

Craig R. Roach
Boston Pacific Company, Inc.
1100 New York Avenue, NW, Suite 490 East
Washington, DC 20005
PHONE: (___) ___-____
FAX: (___) ___-____
croach@bostonpacific.com

DAG

Jennifer Hsia, DAG
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, NJ 07101
PHONE: (973) 648-3709
FAX: (973) 648-3555
jennifer.hsia@dol.lps.state.nj.us

Babette Tenzer, DAG
NJ Dept. of Law & Public Safety
Division of Law
124 Halsey Street, 5th Flr.
PO Box 45029
Newark, NJ 07101
PHONE: (973) 648-7811
FAX: (973) 648-3555
babette.tenzer@dol.lps.state.nj.us

RATE COUNSEL

Stefanie A. Brand, Director
Division of Rate Counsel
140 East Front Street, 4th Flr.
P.O. Box 003
Trenton, NJ 08625
PHONE: (609) 984-1460
FAX: (___) ___-____
sbrand@rpa.state.nj.us

Ami Morita
Division of Rate Counsel
140 East Front Street, 4th Flr.
P.O. Box 003
Trenton, NJ 08625
PHONE: (609) 984-1460
FAX: (___) ___-____
amorita@rpa.state.nj.us

Diane Schulze, Esq.
Division of Rate Counsel
140 East Front Street, 4th Flr.
P.O. Box 003
Trenton, NJ 08625
PHONE: (609) 984-1460
FAX: (___) ___-____
dschulze@rpa.state.nj.us

ATLANTIC CITY ELECTRIC CO.

Joseph Janocha, Manager, Regulatory Affairs
Atlantic City Electric Co. – 63ML38
5100 Harding Highway
Atlantic Regional Office
Mays Landing, NJ 08330
PHONE: (609) 625-5868
FAX: (609) 625-5838
joseph.janocha@pepcoholdings.com

Greg Marquis
Pepco Holdings, Inc.
701 Ninth Street NW
Washington, DC 20068-0001
PHONE: (202) 872-2297
FAX: (202) 872-2270
grmarquis@pepco.com

Philip J. Passanante, Assistant General Counsel
Atlantic City Electric Co. - 89KS42
800 King Street, 5th Floor
PO Box 231
Wilmington, DE 19899-0231
PHONE: (302) 429-3105
FAX: (302) 429-3801
philip.passanante@pepcoholdings.com

JCP&L

Sally J. Cheong, Manager - Tariff Activity, Rates NJ
First Energy
300 Madison Ave.
PO Box 1911
Morristown, NJ 07962-1911
PHONE: (973) 401-8699
FAX: (973) 644-4243
scheong@firstenergycorp.com

Kevin Connelly
First Energy
300 Madison Avenue
PO Box 1911
Morristown, NJ 07962
PHONE: (973) 401-8708
FAX: (973) 644-4243
kconnelly@firstenergycorp.com

Gregory Eisenstark (JCP&L), Esq.
Morgan, Lewis & Bockius. LLP
89 Headquarters Plaza, Suite 1419
Morristown, NJ 07960
PHONE: (973) 993-3134
FAX: (877) 432-9652
geisenstark@morganlewis.com

NERA

Chantale LaCasse, Vice President
NERA
1166 Avenue of the Americas
New York, NY 10036
PHONE: (212) 345-9313
FAX: (212) 345-4650
chantale.lacasse@nera.com

Eugene Meehan, Sr Vice President
NERA
1255 23rd Street
Suite 600
Washington, DC 20037
PHONE: (202) 466-9287
FAX: (202) 466-3605
eugene.meehan@nera.com

NJLEUC

Paul F. Forshay, Esq.
Partner
Sutherland, Asbill & Brennan, LL
1275 Pennsylvania Avenue, NW
Washington, DC 20004-2415
PHONE: (202) 383-0100
FAX: (202) 637-3593
paul.forshay@sutherland.com

Steven S. Goldenberg, NJLEUC,
Fox Rothschild LLP
Princeton Corporate Center
997 Lenox Drive, BLDG. 3
Lawrenceville, NJ 08648-2311
PHONE: (609) 896-4586
FAX: (609) 896-1469
SGoldenberg@foxrothschild.com

OTHER PARTIES

Sara Bluhm
NJBIA
102 West State Street
Trenton, NJ 08608-1199
PHONE: (609) 393-7707
FAX: (___) ___-____
sbluhm@njbia.org

Katie Bolcar, Mid-Atlantic Direct
Solar Energy Industries Assoc.
575 7th Street, NW
Suite 400
Washington, DC 20005
PHONE: (___) ___-____
FAX: (___) ___-____
KBolcar@seia.org

Bruce H. Burcat, Esq.
Executive Director
Mid-Atlantic Renewable Energy C
208 Stonegate Way
Camden, DE 19934
PHONE: (___) ___-____
FAX: (___) ___-____
bburcat@marec.us

John Holub
NJ Retail Merchants Assoc.
332 West State Street
Trenton, NJ 08618
PHONE: (___) ___-____
FAX: (___) ___-____
john@njrma.org

Robert Macksoud, CEP
Dir Energy Procurement
EnergySolve
One Executive Drive
Suite 401
Somerset, NJ 08873
PHONE: (___) ___-____
FAX: (___) ___-____
rmacksoud@energysolve.com

Holly Minogue
Gabel Associates
417 Denison Street
Highland Park, NJ 08904
PHONE: (___) ___-____
FAX: (___) ___-____
holly.minogue@gabelassociates.com

Judy Misoyianis, Administrator
New Jersey Retail Merchants Assoc.
332 West State Street
Trenton, NJ 08618
PHONE: (609) 393-8006
FAX: (609) 393-8463
judy.njrma@verizon.net

Lyle Rawlings
Mid-Atlantic Solar Energy Industries Assoc.
Rutgers EcoComplex
Suite 208-B
1200 Florence-Columbus Rd.
Bordentown, NJ 08505
PHONE: (___) ___-____
FAX: (___) ___-____
lrawlings@mseia.net

Larry Spielvogel, PE
L. G. Spielvogel, Inc.
190 Presidential Blvd #310
Bala Cynwyd, PA 19004-1151
PHONE: (___) ___-____
FAX: (___) ___-____
spielvogel@comcast.net

ROCKLAND

William A. Atzl, Jr.
Rockland Electric Company
4 Irving Place
Room 515-S
New York, NY 10003
PHONE: (212) 460-3308
FAX: (212) 460-4819
atzlw@coned.com

John L. Carley, Esq.
Consolidated Edison Co. of NY
Law Dept., Room 1815-S
4 Irving Place
New York, NY 10003
PHONE: (212) 460-2097
FAX: (212) 677-5850
carleyj@coned.com

Margaret Comes, Sr Staff Attorney
Consolidated Edison Co. of NY
Law Dept, Room 1815-S
4 Irving Place
New York, NY 10003
PHONE: (212) 460-3013
FAX: (212) 677-5850
comesm@coned.com

James C. Meyer, Esq.
Riker, Danzig, Scherer, Hyland & Perretti
Headquarters Plaza
One Speedwell Avenue
Morristown, NJ 07962
PHONE: (973) 451-8464
FAX: (973) 538-0800
jmeyer@riker.com

SUPPLIERS

Craig S. Blume, Dir. Power Marketing
UGI Energy Services
One Meridian Boulevard
Suite 2C01
Wyomissing, PA 19610
PHONE: (___) ___-____
FAX: (___) ___-____
cblume@ugies.com

John Citrolo
Conectiv Energy Supply, Inc.
PO Box 6066
MS 92DC69
Newark, DE 19714
PHONE: (___) ___-____
FAX: (___) ___-____
john.citrolo@conectiv.com

Raymond Depillo
PSEG Energy Resources & Trade
80 Park Plaza, T-19
P.O. Box 570
Newark, NJ 07101
PHONE: (973) 430-8866
FAX: (973) 643-8385
raymond.depillo@pseg.com

Deborah M. Franco, Counsel
TransCanada Power Marketing Ltd.
Garden City Center
100 Quentin Roosevelt Blvd.
Garden City, NY 11530-4850
PHONE: (516) 357-3878
FAX: (516) 357-3792
dfranco@cullenanddykman.com

Steve Gabel - IEPNJ
Gabel Associates
417 Denison Street
Highland Park, NJ 08904
PHONE: (___) ___-____
FAX: (___) ___-____
steven@gabelassociates.com

Divesh Gupta, Esq.
Constellation Energy Group
111 Market Place
Suite 500
Baltimore, MD 21202
PHONE: (___) ___-____
FAX: (___) ___-____
divesh.gupta@constellation.com

Deborah Hart, Vice President
Morgan Stanley Capital Group
2000 Westchester Avenue
Trading Floor
Purchase, NY 10577
PHONE: (914) 225-1430
FAX: (914) 225-9297
deborah.hart@morganstanley.com

Marcia Hissong, Director, Contract Administration/Counsel
DTE Energy Trading, Inc.
414 South Main Street
Suite 200
Ann Arbor, MI 48104
PHONE: (734) 887-2042
FAX: (734) 887-2235
hissongm@dteenergy.com

Thomas Hoatson
LS Power Development, LLC
2 Tower Center
East Brunswick, NJ 08816
PHONE: (732) 867-5911
FAX: (___) ___-____
thoatson@lspower.com

Don Hubschman
American Electric Power
155 W. Nationwide Blvd.
Columbus, OH 43215
PHONE: (614) 583-7019
FAX: (614) 583-1601
dmhubschman@aep.com

Adam Kaufman, Executive Director
Independent Energy Producers of NJ
Five Vaughn Drive
Suite 101
Princeton, NJ 08540
PHONE: (___) ___-____
FAX: (___) ___-____
akaufman@kzgrp.com

James Laskey IEPNJ, Esq.
Norris McLaughlin & Marcus
721 Route 202-206
Bridgewater, NJ 08807
PHONE: (908) 722-0700
FAX: (908) 722-0700
jlaskey@nmmlaw.com

Victoria M. Lauterbach
Calwalader, Wickersham & Taft LLP
700 Sixth Street, N.W.
Washington, DC 20001
PHONE: (___) ___-____
FAX: (___) ___-____
tory.lauterbach@cwt.com

Gregory K. Lawrence, Esq.
Cadwalader, Wickersham & Taft LLP
One World Financial Center
New York, NY 10281
PHONE: (___) ___-____
FAX: (___) ___-____
greg.lawrence@cwt.com

Shawn P. Leyden (BGS/CB), Esq
PSEG Services Corporation
80 Park Plaza, T-19
P. O. Box 570
Newark, NJ 07101
PHONE: (973) 430-7698
FAX: (973) 643-8385
shawn.leyden@pseg.com

Robert O'Connell, VP & Complia Manager
J.P. Morgan Ventures Energy Cor
1033 Squires Drive
West Chester, PA 19382
PHONE: (___) ___-____
FAX: (___) ___-____
robert.oconnell@jpmorgan.com

Anthony Pietranico, Electricity Su Specialist
ConEdison Solutions Inc.
PHONE: (732) 741-5822 X204
FAX: (___) ___-____
pietranicoa@conedsolutions.com

David K. Richter, Esq.
PSEG Services Corporation
80 Park Plaza, T5
Newark, NJ 07102
PHONE: (973) 430-6451
FAX: (973) 802-1267
david.richter@pseg.com

Glenn Riepl
AEP Energy Services
1 Riverside Plaza
14th Floor
Columbus, OH 43215-2373
PHONE: (614) 324-4502
FAX: (614) 324-4591
gfriepl@aep.com

Jean-Paul St. Germain
Sempra Energy Trading
58 Commerce Road
Stamford, CT 06902
PHONE: (203) 355-5074
FAX: (___) ___-____
jean-paul.st.germain@rbssempra.

Glen Thomas
The P3 Group
GT Power Group LLC
1060 First Avenue
Suite 400
King of Prussia, PA 19406
PHONE: (___) ___-____
FAX: (___) ___-____
Gthomas@gtpowergroup.com

Howard O. Thompson - BGS
Russo Tumulty Nester Thompson Kelly, LLP
240 Cedar Knolls Road
Suite 306
Cedar Knolls, NJ 07927
PHONE: (973) 993-4477
FAX: (973) 993-3103
hthompson@russotumulty.com

Sharon Weber
PPL Energy Plus
2 North 9th Street TW 20
Allentown, PA 18101
PHONE: (___) ___-____
FAX: (___) ___-____
sjweber@pplweb.com

Stephen Wemple
Con Edison Energy
701 Westchester Avenue
Suite 201 West
White Plains, NY 10604
PHONE: (___) ___-____
FAX: (___) ___-____
wemples@conedcss.com

THIRD PARTY SUPPLIERS

David B. Applebaum, Director,
Regulatory Affairs
NextEra Energy Resources, LLC
21 Pardee Place
Ewing, NJ 08628
PHONE: (___) ___-____
FAX: (___) ___-____
david.applebaum@nexteraenergy.com

Murray E. Bevan, Esq.
Bevan, Mosca, Giuditta & Zarillo, P.C.
222 Mount Airy Road, Suite 200
Basking Ridge, NJ 07920
PHONE: (908) 753-8300
FAX: (908) 753-8301
mbevan@bmgzlaw.com

Bob Blake
Mxenergy
10010 Junction Drive
Suite 104S
Annapolis Junction, MD 20701
PHONE: (___) ___-____
FAX: (___) ___-____
rblake@mxenergy.com

David Gill, Mgr. Regulatory Affairs
NextEra Energy Resources, LLC
700 Universe Boulevard
Juno Beach, FL 33408
PHONE: (___) ___-____
FAX: (___) ___-____
david.gill@extraenergy.com

Marc A. Hanks, Senior Manager
Direct Energy Services LLC
Government & Regulatory Affairs
PHONE: (___) ___-____
FAX: (___) ___-____
marc.hanks@directenergy.com

Jay Kooper
Amerada Hess
One Hess Plaza
Woodbridge, NJ 07095
PHONE: (732) 750-7048
FAX: (___) ___-____
jkooper@hess.com

Mark S. Kumm
Pepco Energy Services, Inc.
1300 N. 17th, Suite 1600
Arlington, VA 22209
PHONE: (703) 253-1651
FAX: (703) 253-1697
mkumm@pepcoenergy.com

Kathleen Maher
Constellation NewEnergy
810 Seventh Avenue, Suite 400
New York, NY 10019-5818
PHONE: (___) ___-____
FAX: (___) ___-____
kathleen.maher@constellation.com

Stacey Rantala
National Energy Marketers Association
3333 K Street, N.W.
Suite 110
Washington, DC 20007
PHONE: (___) ___-____
FAX: (___) ___-____
srantala@energymarketers.com

Dana Swieson
EPEX
717 Constitutional Drive
Suite 110
Exton, PA 19341
PHONE: (___) ___-____
FAX: (___) ___-____
dana.swieson@epex.com

PSE&G

Mally Becker, Esq.
PSEG Services Corporation
80 Park Plaza, T-5
Newark, NJ 07102
PHONE: (973) 430-7380
FAX: (973) 430-5983
mally.becker@pseg.com

Anthony R. Robinson
Public Service Electric & Gas Company
80 Park Plaza, T08
Newark, NJ 07102
PHONE: (973) 430-6154
FAX: (973) 297-0179
anthony.robinson@pseg.com

MID-ATLANTIC SOLAR ENERGY INDUSTRIES ASSOCIATION
c/o Rutgers EcoComplex, Suite 208-B
1200 Florence-Columbus Road, Bordentown, NJ 08505

April 11, 2014

Via e-mail

B. Scott Hunter
Renewable Energy Program Administrator
Board of Public Utilities
44 South Clinton Avenue
Trenton, NJ 08625

Kristi Izzo
Secretary

RE: Draft Solar Development Volatility Report

Dear Mr. Hunter:

Please accept the following comments by MSEIA in regard to the above-referenced matter. MSEIA appreciates this opportunity to comment regarding the Draft Solar Development Volatility Report.

MSEIA is a solar industry trade organization, who since 1997 has represented solar energy companies in New Jersey, Pennsylvania, and Delaware, as well as national and international companies. MSEIA is devoted to: (1) developing and promoting policies that will grow the market for solar energy; (2) delivering solar power at the least possible cost to ratepayers and with the greatest value as a public good; and (3) promoting diversity in the solar industry and its customer base, thus creating local economic growth and local job creation.

MSEIA offers the following comments regarding the draft report:

1. The draft report and the presentation to stakeholders highlight the expiration of the federal 1603 grant program and the timing of its occurrence (shortly before the start of a rapid decline in solar development in New Jersey) – implying that the 1603 expiration was an important factor in the decline. It should be noted, however, that the nationwide U.S. market for solar development expanded rapidly after the expiration of the 1603 grant. MSEIA believes that the 1603 expiration was not a key factor contributing to the New Jersey decline. MSEIA believes that the volatility and decline in the SREC market was by far the most important factor in solar development decline.

2. The draft report evaluates eight policy options for New Jersey to minimize solar development volatility, and rates each of the eight policy options according to seven criteria. Five of the seven criteria are concerned with the value of the option in achieving policy goals, and the other two are implementation feasibility and whether the option is a complementary or stand-alone policy. According to the draft report, **only the Competitive Procurement of Long-Term Contracts option scored "High" on each of the five criteria concerning value in achieving policy goals***, as shown in the table below. In fact, only one other policy option rated more

* For the "Increase Market Diversity" criteria, the score for this option was "Potentially High"

than one “High” score – the Standard-Offer Contracts with Volume-Based Price option, with four “High” scores.

It is very clear when comparing the ratings in the report that this policy option was shown to be the best at achieving policy goals.

Options	Increase Stability	Minimize Ratepayer Cost	Ratepayer Cost Volatility	Implementation Feasibility	Increase Market Diversity	Long-term Incentive Reduction	Complementary vs. Stand-Alone
Expand EDC Programs	Medium	Low	Unknown	High	Medium (Loan + Solicitation) Low (EDC Direct Ownership)	Medium	Complementary
Green Bank Financing	Medium	Medium/Low	Low	Medium	High	Medium	Complementary
Standard Offer Contracts with Volume-Based Price	High	Moderate	High	Low	Potentially high depending on policy choices	High	Stand-Alone
Competitive Procurement of Long-Term Contracts	High	High	High	Low	Potentially High	High	Stand-Alone
SREC Price Floor	Low to Moderate depending on details	Low to Moderate depending on details	Medium	Low	Unclear	Low	Complementary
Supply Responsive Demand Formula	High	Neutral	High	Medium	Neutral	Neutral	Complementary or Stand-Alone
BGS Tanche	Unclear	Unclear	High	Low	Low	Medium	Complementary
RPS Obligation to EDCs	Medium	Medium	High	Low	Neutral to Low	Medium	Stand-Alone

Regarding the other two criteria, the Competitive Procurement option was rated as a “stand-alone” option, and was rated “low” in Implementation Feasibility. The feasibility rating was the only downside expressed about this policy option. The low feasibility rating was noted to be due to the policy requiring “significant change”; requiring a central contracting authority or EDC involvement; and having potential transition issues for existing system owners.

Regarding this question of feasibility, MSEIA believes the fact that this policy would require a significant change is a challenge to the political will of state government and the BPU. If, as shown in the draft report, the policy option for Competitive Procurement of Long-Term Contracts is a clear winner in meeting public policy goals, then undertaking a significant change to implement it should not be a barrier to undertaking the policy. In other words, if the policy has the most value, it’s worth working harder to get it.

Regarding the need for either a central contracting authority or EDC involvement, MSEIA believes that these paths to implementation, if crafted carefully with the needs of all stakeholders in mind, can be workable. Furthermore, MSEIA believes that there are alternatives that would not require either of those measures.

Regarding the transition issues for existing system owners, MSEIA acknowledges that this is a significant issue that must be addressed. However, MSEIA believes that there are straightforward ways to ensure that the interests of existing owners are addressed **more effectively within this policy option** than with the other policy options.

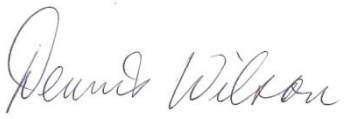
3. The draft report details a policy option termed “BGS SREC Auction Tranche”. This option was one of three suggestions by three different stakeholders in filings under BPU Docket No. ER12020150, Review of the Basic Generation Service Procurement Process. The other two options, one by MSEIA and one by the Office of the Rate Counsel, were not detailed in the draft report. MSEIA believes that all three options that were offered by different stakeholders under this category should be discussed in the final report.

4. MSEIA believes that Green Bank financing, a complementary policy option, should be considered seriously by the BPU as an addition to the most advantageous stand-alone policy option.

MSEIA hopes that the BPU will take bold and decisive action before solar development volatility again becomes a crisis.

Respectfully yours,

Lyle Rawlings
VPresident



Dennis Wilson
Vice-President, New Jersey