New Jersey
Natural Gas

VIA ELECTRONIC MAIL

November 15, 2013

Hon. Kristi Izzo, Secretary
New Jersey Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

RE: In the Matter of the Clean Energy Programs and Budgets for the Fiscal Year 2014
BPU DOCKET NO. EO13050376V

Dear Secretary Izzo:

New Jersey Natural Gas ("NJNG") has reviewed the October 29, 2013 package of draft documents associated with the proposed revisions to New Jersey's Clean Energy Program ("NJCEP") budgets and programs for Fiscal Year ("FY") 2014. NJNG appreciates the Board of Public Utilities' ("Board") effort to obtain stakeholder input on plans for revised NJCEP spending and programming. NJNG recognizes that balancing the mix of clean energy programs and budgets to effectively serve the needs of New Jersey residents and businesses while aligning with policy priorities from the state's Energy Master Plan ("EMP") is a challenging task, especially as the Board is transitioning to a new administrative structure. NJNG is submitting these comments on several key areas.

Budget Flexibility

Based upon the review of program participation to date for the current Program Year as presented at the November 7,2013 NJCEP Energy Efficiency Committee meeting and the proposed budget reductions within this proposal, it appears that some NJCEP programs may approach their budget caps before the end of FY2014. Should the strong pace for participation continue or even accelerate, some programs could well be in danger of reaching their budget caps. This would potentially force the programs to be shut down or suspended if Board action to adjust those budgets could not be accommodated in a sufficient period of time, especially since a full comment period can take several months to complete. In order to avoid any potential disruption to customers, contractors or related trade allies, NJNG strongly encourages the Board to consider reinstating the budget flexibility provisions that were provided for in the previous program year through the November 20, 2012 Board Order in BPU Docket No. EO11100631V. In granting this authority last year, the Board established strong criteria to limit the flexibility to specific circumstances and provided for notice to the Commissioners in advance of such changes. Applying similar conditions would retain controls regarding the budget but allow the Board's Office of Clean Energy ("OCE") to be responsive to the market to ensure NJCEP programs do not shut down which could result in losing market confidence.

Combined Heat & Power ("CHP")

As noted above, NJNG understands that OCE was faced with difficult decisions regarding resetting the budget. In establishing new budget levels, the proposal specifically references Board Staff's review of 2012-2013 spending levels, actual spending through the first quarter of FY2014, and the current level of commitments. Further, there have been discussions noting that there may be additional funding from other sources for resiliency-related projects pending as the State explores opportunities with some Federal funding sources. Since the CHP program only recently reopened, it is understandable that expenses to date for the current program year are under budget and given the lead time for review and approval of CHP projects that establish budget commitments, NJNG recognizes it would be challenging to spend the full amount reflected in the current 2014 budget. If it is necessary to reduce the budget for this program area, NJNG encourages the Board to consider including language that reaffirms the state's overall commitment to supporting the CHP markets. Industry stakeholders have repeatedly referenced the need for stability to support growth in this market and it is critical to ensure that the actions necessary to balance this budget are not construed as the state lessening its support for the CHP policy initiative.

New Jersey Natural Gas is grateful to have had the opportunity to share our thoughts on these proposals. Please contact me if you have any questions or need additional information regarding our comments.

Sincerely,

Anne-Marie Peracchio

Anne-Marie Peracchio
Director- Conservation and Clean Energy Policy

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November 15, 2013

VIA ELECTRONIC AND REGULAR MAIL
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Re: Bloom Energy Corporation's Comments on Proposed Changes to FY2014 NJCEP programs and budgets

Dear Mr. Winka:

On behalf of our client, Bloom Energy Corporation ("Bloom Energy"), please accept these comments regarding the Board of Public Utilities' ("Board's") Proposed Revisions to the Fiscal Year ("FY") 2014 New Jersey Clean Energy Program ("NJCEP") Programs and Budget dated October 29, 2013 ("Proposed Revisions"). For the reasons detailed below, Bloom Energy has significant concerns with the Proposed Revisions and urges the Board to maintain the current Combined Heat & Power ("CHP")-Fuel Cell FY 2014 budget and program requirements which were previously approved by Board Order.

Bloom Energy is a provider of breakthrough solid oxide fuel cell technology that generates clean, reliable, and highly-efficient onsite power using an environmentally superior non-combustion process. Bloom Energy currently has over 100 megawatts ("MW") of operating systems at over 150 locations across the United States. In New Jersey, Bloom Energy is seeing growing demand from customers, including telecommunications providers, data centers, office buildings, nursing homes, supermarkets, and other customers who desire a highly efficient, reliable distributed power generation solution, but may not have the thermal requirements necessary to support a traditional CHP solution.

As an active participant in the Board proceeding regarding establishment of the FY2014 NJCEP budget which was memorialized by Board order on June 21, 2013[1], as well as the proceeding regarding FY2014 CHP-Fuel Cell Program requirements, which was memorialized by Board order on October 16, 2013[2], Bloom Energy is surprised and dismayed that the Board is suddenly now proposing to slash program funding by over sixty percent. Like its fellow CHP and Fuel Cell developers, Board Staff and other parties to these proceedings, Bloom Energy invested substantial time and resources into developing a FY2014 CHP-Fuel Cell budget and program that carefully balances ratepayer interests with the Board's important policy objective to promote energy-efficient distributed generation in the state. Now, just a few months after the Board approved the budget and less than two weeks after the Board approved the CHP-Fuel Cell program requirements and released the standard application form, Board Staff has issued these Proposed Revisions which propose to drastically cut funding. At the very moment that Fuel Cell and CHP developers and customers are gearing up to invest in high-resiliency energy projects in New Jersey, the Board Staff has sent exactly the wrong signal at exactly the wrong time – i.e., projects that rely on the NJ Clean Energy program may not happen. This signal will reverberate through the project development and investor communities, causing developers and their customers to hesitate proceeding with New Jersey projects, potentially causing them to focus on other markets instead.

Bloom Energy has relied on these Board Orders in representing to potential New Jersey customers that the State is committed to promoting clean, efficient, reliable distributed generation energy resources through the implementation of a well-designed and appropriately-

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[1] *See In the Matter of the Clean Energy Programs and Budget for Fiscal Year 2014: Modifications to the Combined Heat and Power-Fuel Cell Program*, Docket No. EO13050376V (June 21, 2013).

[2] *See In the Matter of the Clean Energy Programs and Budget for Fiscal Year 2014: Modifications to the Combined Heat and Power-Fuel Cell Program*, Docket No. EO13050376V (Oct. 16, 2013).

funded FY 2014 CHP-Fuel Cell Program. As a result of these representations, Bloom Energy has seen a significant increase in customer demand in recent months. Indeed, several of these customers have indicated that they are planning to file incentive applications now that the standard application is finally available. However, the introduction of regulatory risk has the potential to cause these customers to reconsider their plans.

The success of the CHP-Fuel Cell program and the Board's plan to promote energy efficiency and distributed generation is dependent on the confidence that those developing or investing in CHP and fuel cell projects have in the stability of the regulatory process behind the incentive program. On-site power generation projects often have a long development cycle and uncertainty in the availability of incentives at any point in that development cycle will have the effect of chilling investment in New Jersey. While developers and investors account for some risks when they develop projects in New Jersey, they would hardly expect the BPU to slash CHP-Fuel Cell funding by over 60% and change program rules less than two weeks after the Board issued program requirements. Absent regulatory stability, CHP and fuel cell developers will be discouraged from participating in current and future CHP-Fuel Cell incentive programs and the viability of the program and the Board's policy objective to promote energy efficient distributed generation will be threatened. To combat this significant regulatory risk and promote CHP and fuel cell investor confidence in the integrity of the CHP-Fuel Cell Program, the Board should maintain the incentive levels previously approved by the June 21, 2013 Board Order and the program requirements approved by the October 16, 2013 Board Order. Any potential future changes to the program should be presented well ahead of time for FY2015.

In justification of the Proposed Revisions, Board Staff references lack of program subscription and cites a separate Board review process "exploring potential sources of funding for resiliency efforts that are separate from SBC funds."[3] As previously mentioned, however, the application for the CHP-fuel cell incentive program was not even made available until late October, 2013 and requires applicants to submit such time-intensive information as engineering

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[3] Proposed Revisions, p. 2.

reports, air emissions data, permit and certification schedules, etc. Moreover, reference to a speculative, potential source of funding for resiliency projects does little to reassure New Jersey CHP and fuel cell investors that sufficient incentives are available for them to develop projects in the state. The better way to reassure investors and achieve the State's policy goal is to maintain the current CHP and fuel cell budget and program rules. If the Board and its Staff are going to rely upon the advent of a new resiliency based funding source, then the details of that funding source must be released *before* the Board effectuates any reduction in funding of the current program.

Bloom Energy appreciated the opportunity to assist in developing a well-designed CHP-Fuel Cell budget and program for FY2014 that promotes the important policy objective of encouraging more energy efficient distributed generation projects in New Jersey. We now urge the Board not to change the terms of that budget and funding less than halfway through the fiscal year and just as Bloom Energy and its fellow developers are preparing to realize the goals envisioned by the Board in developing the program. Please do not hesitate to contact me should you have any questions or need any further information. Thank you.

Very truly yours,

Murray E. Bevan / emm

Murray E. Bevan

State of New Jersey
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November 15, 2013

VIA HAND DELIVERY AND ELECTRONIC MAIL
Honorable Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625

Re: Comments of the New Jersey Division of Rate Counsel
Proposed Revisions to FY14 NJCEP Programs and Budget October 29, 2013
BPU Docket No.: EO13050376V

Dear Secretary Izzo:

Enclosed please find original and ten copies of comments submitted on behalf of the New Jersey Division of Rate Counsel in connection with the above-captioned matter.

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

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NJCEP FY 2014 True-Up Budget and Proposed Program Changes (Request for Comments dated October 29, 2013)

Comments of the New Jersey Division of Rate Counsel

November 15, 2013

The Division of Rate Counsel ("Rate Counsel") would like to thank the Board of Public Utilities ("BPU" or "the Board") for the opportunity to present comments on the proposed changes to the Board-approved FY2014 Clean Energy Program ("CEP") program budget, which were circulated to stakeholders for comment by the Office of Clean Energy ("OCE") in an e-mail notice issued October 29, 2013 ("Request for Comments"). Rate Counsel's comments and recommendations regarding the Request for Comments are set forth below.

The budget revisions were proposed by the OCE in order to accommodate a total of $194.7 million which lapsed from the Clean Energy Program Trust Fund to the State's General Fund. (Request for Comments, p. 1). Of the $194.7 million, $32.8 million lapsed from the Solar Alternative Compliance Payment account, leaving $161.9 million that must be covered by NJCEP Fiscal Year 2014 ("FY14") budgets.

For two Commercial and Industrial ("C&I") programs, the OCE has proposed changes to eligibility for incentives. For the CHP-FC program, the OCE is proposing to add an additional criterion that CHP systems must operate at full rated capacity for a minimum number of hours per year. For the Pay-for-Performance New Construction program, OCE proposes eliminating pre-inspections and allowing invoices for qualifying measures to pre-date the initial application date by up to 6 months.

Rate Counsel's comments on the proposed changes are organized by general issues which apply to all sectors, residential program issues, C&I program issues, and CHP-FC issues.

General Issues

- The proposed reductions to marketing are drastic, including a 58% proposed cut to Residential marketing, and a 64% cut to the C&I as a percent of the approved FY2014 budgets. In order to fully spend budgets and avoid future budget lapses, the market managers should consider spending a large portion of the marketing budgets toward the beginning of the fiscal year to jump start activity, rather than cutting market budgets at this time. Rate Counsel recommends that the marketing budget should not be cut because the majority of the programs would not spend the revised budget if the current pace of spending continues throughout the program year. Rate Counsel further recommend that the rest of the programs should absorb slightly more cut (which is just about 1 to 2% additional cut from each program) to avoid a budget reduction for the marketing activities. If the Board ultimately decides that marketing budgets must be cut to accommodate the budget lapse, then these budgets should only be cut commensurate with the proposed reductions to the overall residential and C&I portfolio budgets (roughly -28% and -22%, respectively)

Residential Programs

- Except for the proposed change to the residential marketing budget, the recommended budget cuts for the individual residential programs are similar, ranging from 23% for Home Performance with Energy Star ("HPwES") to 33% for COOLAdvantage and WARMAdvantage ("HVAC programs") and the Energy Efficient Products programs, relative to each program's initial FY14 budget.

- All of the residential programs could receive larger budget cuts and shift the excess budget to marketing activities, because none of the programs would even meet the targets under the revised program budget if the current pace of spending continues throughout the program year.[1] If NJCEP takes an additional 1.5% budget cut from all of the residential programs (excluding marketing and Comfort Partners), and shifts the excess budget to marketing activities, the marketing budget would see only a 3% cut relative to

[1] Only two of the residential programs (Residential New Construction and HPwES) have commitments. If the current pace of spending and commitments were to continue through FY14, these two programs would exceed their proposed revised program budgets, conservatively assuming that all commitments materialize as expenses by the end of the year. However, both of these programs are likely to have commitments remaining at the end of the fiscal year. Moreover assuming that the current pace of spending and commitments will continue does not take into account that much of the existing commitments will become expenses during the program year. Without information on historical commitment attrition rates, and information about the extent to which expenses are front-loaded in the beginning of the program year, it is difficult to predict whether the pace of spending will increase in the later part of a program year.

the original FY2014 budget. Marketing efforts could place a particular focus on programs that are not currently meeting goals (e.g. Energy Efficient Products – Refrigerators).

- Comfort Partners should not be subject to any budget cuts. This program benefits some of New Jersey's most vulnerable residents, and has consistently spent its budget in past years.

C&I Programs

The proposed reductions to C&I program budgets relative to their Board-approved FY14 budgets range from a low of 5% (for the C&I Retrofit program) to as high as 100% (for the SBC Credit Program and "New Programs", presumably referring to the Retro-commissioning and Multi-family programs). Most of the proposed budget cuts for individual C&I programs are between 17 and 25 percent relative to approved FY14 budgets.

- The reasoning behind the proposed budget cuts for some of the programs is not at all clear. For example, the proposal calls for a 22% budget cut for the Pay for Performance New Construction program ("P4P-NC"), which has expenses and commitments through October 29, 2013 equal to 68% of the original FY14 program budget. Furthermore, as of August the P4P-NC program had eight approved draft energy reductions plans, well beyond its program goal of three for that month; seen another way, as of August P4P-NC had exceeded its goal for November, three months ahead of schedule.[2] In contrast, the Large Energy Users program ("LEUP") currently only has commitments and expenses equal to 31% of its original FY14 budget but is slated to receive a modest 11% budget cut, per the proposal. LEUP is currently slightly ahead of its goal, and as of August met its September goal for approved final energy efficiency plans.

- The recommended changes to the P4P-NC program (elimination of pre-inspections and allowing invoices for qualifying measures to pre-date the initial application date by up to 6 months) seem reasonable. However, the new budget for this program should take into account any expected increase in participation, given that OCE is proposing to remove a significant barrier to participation – the pre-approval requirements (Request for Comments, p. 3). TRC has recommended a 22% reduction to the Board-approved FY14 budget for P4P-NC, for which only two percent of the original budget has been spent, but 67% of the original budget or 84% of the revised budget has been committed to date. As of November 1, the program is only one-third of the way through the fiscal year, with two

[2] TRC Energy Services. October 9, 2013. C&I Market Manager EE Committee Meeting Presentation.

third of the fiscal year left to go. It seems likely that the recommended revised budget for P4P-NC will not be sufficient through the end of the fiscal year.

- The recommended budget cut to LEUP is one of the smallest among the cuts for individual C&I programs, 11% relative to the approved FY14 program budget. This budget cut appears too modest because the program has spent only 1% of the original budget to date. Further, the program's commitments only amount to about 30% of the originally approved budget, compared with a range of 41 to 67% for the other C&I programs (excluding Local Government Energy Audit, for which commitments are minimal). Rate Counsel recommends making a larger budget cut for LEUP (in the range of 22%, consistent with the overall C&I budget cut) and shifting the extra budget freed up from the budget for this program to other program activities, including marketing.

<u>CHP-Fuel Cell and Large CHP programs</u>

- Despite that the EDA is no longer managing the large CHP solicitation, the proposed budget modification still allocates some funds to EDA for this program. OCE proposed that this program receives the difference between the revised FY14 budget ($16.4 million) and the Committed Expenses as of 10/29 ($11.1 million), that is, $5.29 million. OCE should provide an explanation why EDA needs the $5.29 million, and why it should receive an additional $2 million in line item transfers when all of the other programs are receiving budget cuts.

- Under the NJCEP budget modification proposal for the C&I sector, the CHP-Fuel Cell program would receive the largest budget cut (44%) second only to C&I marketing. A significant budget cut for this program is warranted given that the program has only committed 5% of the original budget (or 12% of the proposed revised budget). If the current pace for making commitments continues throughout the program year, the CHP-Fuel Cell program will only commit less than half of the revised budget, and OCE may need to make an additional cut to this program's budget. Thus, Rate Counsel recommends that the OCE cut additional budget from this program (in excess of the $29 million already proposed), but also that the OCE should propose a drastic change to the program design and/or marketing plans in order to rapidly increase program participation.

- The OCE is proposing to add an additional criterion for systems to be eligible for CHP-FC incentives. The proposed requirement is that systems must operate at full rated capacity for at least 5,000 full load equivalent hours per year. Under the proposal, OCE may grant an exemption if the facility is defined as a "critical facility", which would instead face a reduced requirement of 3,500 full load equivalent hours per year. The proposed revision to the CHP-FC program to require units to operate at 5,000 full load equivalent hours per year should help to ensure that systems are operating efficiently and producing energy savings (rather than operating as back-up systems). Rate Counsel supports the added requirement, which will assure that ratepayer-funded subsidies will not be used to support underutilized CHP facilities. Rate Counsel questions the need for and basis of the proposed reduced threshold of 3,500 full load equivalent hours per year for "critical facilities." Rate Counsel is in agreement with OCE's statements at page 2 of its proposal that "NJCEP's CHP-FC program is an energy efficiency program, not a resiliency program," and further agrees with OCE that resiliency efforts, while important, should be funded from sources other than the SBC. Accordingly, resiliency should not be a basis for a waiver of a standard intended to assure that CHP facilities funded through the SBC further the objective of energy efficiency.

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STATE OF NEW JERSEY

BOARD OF PUBLIC UTILITIES

PROPOSED FY14 NEW JERSEY CLEAN ENERGY PROGRAM BUDGET TRUE UP

COMMENTS OF CLEAREDGE POWER

I. Introduction

ClearEdge Power is a company headquartered in Sunnyvale, CA with manufacturing and office facilities in Hillsboro, OR and South Windsor, CT. ClearEdge Power is producing efficient fuel cell systems for distributed energy generation that scale from 5 kilowatts to multiple megawatts with 2MW currently being installed in New Jersey. Through the use of combined heat and power, our ultra-clean and quiet stationary fuel cells produce power without combustion and meet the strictest air emissions requirements in the United States. PureCell® fuel cell systems bridge environmental goals established by policy makers with consumers' need to save energy and money.

We offer the following as comments related to the proposed FY2014 budget true up for the New Jersey Clean Energy Program (NJCEP).

II. Comments

A. Fiscal Year 2014 Budget for Fuel Cells and Combined Heat and Power (FC/CHP)

The remaining FC/CHP program budget of $33M seems sufficient for current market demand for both the small and large fuel cell programs combined. However, the suggested budget may not be adequate for future market demand given the anticipated timing for distributed generation projects in the pipeline. Incentive funding stability is critical to early project phases, such as qualification and development. If drastic budget changes occur during project discussions, New Jersey energy consumers considering the use of fuel cell systems at their site may withdraw from an excellent project because they are unsure of the State's commitment to the program and the technology. This will be especially important when considering an appropriate budget moving forward into FY15. Maintaining dedicated funding for distributed generation programs sends a clear message to the market, allowing project developers adequate time to develop high-quality, long term projects. A stable, committed program is required for at least five years to make an appreciable impact.

We would recommend the Clean Energy Program administrators more clearly define application hurdles and timing to further help end users understand their own project timing relative to installation and start up. Without a clear sense of when incentive funding will be approved and distributed, customers may not move forward because they lack capital to begin project development without confirmation from the Clean Energy Program. This may also help the State more consistently spend the monies allocated to the FC/CHP program if technically feasible projects are more quickly approved to move forward and less technically sound projects are removed from the queue.

III. Conclusion

Thank you for the opportunity to comment on the proposed FY2014 budget true up for the New Jersey Clean Energy Program (NJCEP). We would be pleased to provide you with additional information or clarification as needed.

Respectfully Submitted:

By: ______________________

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November 15, 2013

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November 15, 2013

VIA ELECTRONIC MAIL
Hon. Kristi Izzo, Secretary
Board of Public Utilities
44 South Clinton Avenue
Trenton, NJ 08625

Re: I/M/O Clean Energy Programs and Budgets for the Fiscal Year 2014
BPU Docket No. EO13050376V

Dear Secretary Izzo:

These comments are filed on behalf of FuelCell Energy, Inc. ("FuelCell") and Ameresco, Inc. ("Ameresco"). FuelCell and Ameresco have been active participants in the Board's proceedings devoted to fostering the development and expansion of combined heat and power ("CHP") and fuel cell projects to enhance the State's energy independence and grid resiliency and efficiency.

We again underscore that it is critical to the success of the State's efforts to expand the use of CHP/fuel cell technologies that the Clean Energy program be administered in a manner that provides a high degree of regulatory certainty to the marketplace. To the extent that funds committed to CHP/fuel cell development are permitted to be redirected to other purposes, an uncertain regulatory environment is created that will reduce customer participation due to concerns that "committed" grants will be unavailable when needed. Once customer confidence is lost, it is quite difficult to regain their trust sufficiently to convince them to pursue another project. The creation of an uncertain regulatory environment is obviously counter-productive and will hinder the State's ability to achieve its stated 1500MW CHP/fuel cell goal. It will also adversely affect current efforts to enhance the efficiency and resiliency of our energy infrastructure and to make critical governmental facilities grid independent.

Fox Rothschild LLP
ATTORNEYS AT LAW

Despite our prior comments, the latest revised Clean Energy budget proposes a substantial $59 million cut to the CHP/Fuel Cell program. It is not clear from the budget where these funds are being reallocated to and whether the Energy Infrastructure Trust, which included $30 million to fund CHP projects for certain critical governmental entities, has been discontinued. Nor is it clear whether and to what extent FEMA funds will be available to fill in these gaps. What is clear is that if only the currently budgeted $33 million were to be budgeted each year, it would take more than 40 years for the State to achieve its 1500MW goal for 2020. Clearly, adequate funding must be made available, and on a consistent basis. This is particularly necessary to provide adequate support the State's significant post-Sandy restoration efforts.

We acknowledge that the funds previously budgeted to CHP and fuel cell projects would not have been exhausted by the projects that are currently in the pipeline for this year. This is particularly so in light of the fact that the CHP program only recently reopened. We are also encouraged by staff's stated willingness to pursue the availability of additional funding from other sources if needed for resiliency-related projects.

However, we again urge the Board to assign a priority to CHP/fuel cell funding and to eschew the usual "use it or lose it" approach to budgeting should funds devoted to CHP and fuel cell projects be left on the table at the end of a budget year. Whether it is through the pursuit of alternative funding sources or a willingness to carry over unused funds to the next budget year, the Board must assure the marketplace that adequate funding will be made available for qualified projects when needed. To the extent that it is not clear that such funding will be available, customers will be unwilling to devote the significant time and resources required to develop these substantial projects.

The Board must make regulatory certainty a priority in establishing the CHP/Fuel Cell budgets going forward. The money allocated to these projects should not be reallocated to other purposes as the continued invasion of these budgets will create a lasting precedent that will inhibit the State's ability to achieve its 1500MW goal, as well as its post-Sandy efforts to foster a more resilient, efficient and independent power grid.

We urge the Board to assure that adequate funding remains available at all times for CHP/Fuel Cell development.

Respectfully submitted,

Steven S. Goldenberg

SSG:jfp
Encl.