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November 18, 2009

The Honorable Kristi Izzo  
Secretary  
State of New Jersey  
Board of Public Utilities  
Two Gateway Center, 8<sup>th</sup> floor  
Newark, NJ 07102

**RE: Docket No. EO09050351 – In the Matter of the  
Provision of Basic Generation Service for the Period  
Beginning June 1, 2010 – Retail Margin**

Dear Secretary Izzo:

The National Energy Marketers Association (NEM)<sup>1</sup> hereby submits comments in response to the November 12, 2009, Secretarial Letter pertaining to the potential reduction, phase-out or elimination of the Retail Margin. NEM opposes the reduction, phase-out or elimination of the Retail Margin and urges the Board to reject the utilities' proposal.

In the utilities' Joint Filing of June 30, 2009, they suggested that the Retail Margin could be eliminated because, in their view, its "incubating purpose" had been satisfied because a significant percentage of BGS-CIEP load has migrated to competitive suppliers. (Joint Filing at 15). NEM disagrees with the utilities assessment of the purpose and effect of the Retail Margin. The Retail Margin was intended to be a proxy for marketing and administrative expenses incurred by competitive marketers to serve migrating customers. These, by their very nature, are on-going costs and should continue to be included in Basic Generation Service (BGS) pricing. In the neighboring jurisdiction of New York, a Merchant Function Charge works similarly to provide consumers with a basis to compare utility default service and competitive market offerings.

Moreover, NEM also disagrees with the utilities that the market has reached a point of maturation that would justify the discontinuation of the Retail Margin. In NEM's view, the significant lack of migration of mass market consumers belies this point, and in fact, would support the extension of the Retail Margin. Indeed, with three year averaged BGS pricing finally yielding an improved opportunity for marketers to serve mass market

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<sup>1</sup> NEM is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting and power line technologies.

consumers, the marketplace should not be undermined with the introduction of significant structural changes.

NEM submits that merely entertaining the proposal to discontinue the Retail Margin injects a great deal of regulatory uncertainty into the competitive marketplace, that in turn impacts suppliers decisions regarding competitive entry and long-term planning. The Retail Margin has been a longstanding element of the BGS market structure that market participants have factored into their decisions to become licensed and market to serve New Jersey consumers.

From a procedural standpoint, NEM is also concerned that stakeholders have not been afforded adequate notice and opportunity to address the utilities' proposal to phase-out the Retail Margin. If the Board were to consider a modification to the Retail Margin, it should take place only after the parties have been provided with a full opportunity to consider the proposal, rather than the truncated comment window that has been provided for an issue that is amongst those central to BGS pricing

For the foregoing reasons, NEM recommends that the Board reject the utilities' proposal to reduce, phase-out or eliminate the Retail Margin.

Respectfully submitted,

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