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July 8, 2010

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

**RE: Docket No. EO10050338 – In the Matter of the Board’s Review
of the Retail Margin and the Commercial and Industrial
Energy Pricing (“CIEP”) Threshold**

Dear Secretary Izzo:

The National Energy Marketers Association (NEM)¹ hereby submits comments pursuant to the Board’s June 28, 2010, Order initiating the above-referenced proceeding to review the Retail Margin currently charged to BGS-CIEP customers. During the 2010 Basic Generation Service (BGS) proceeding, the utilities suggested that the Retail Margin should be eliminated. NEM filed comments in response opposing any reduction, phase-out or elimination of the Retail Margin. NEM continues to oppose such a change as unsupported, unwarranted and antithetical to the continued development of the retail electric market in New Jersey.

As the Board noted in its June 28th Order, it approved the Retail Margin mechanism in 2002, “as a way to reflect within Basic Generation Service (“BGS”) prices those costs of providing electric service at retail, including marketing costs and administrative expenses, which must be absorbed by third party suppliers seeking to compete for that market.” (Order at 1). In other words, 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. By comparison, the utilities in New York utilize a Merchant Function Charge that works similarly to provide consumers with a basis to compare utility default service and competitive market offerings.

¹ 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.

In the utilities' filing in the 2010 BGS case they sought to limit the purpose of the Retail Margin by characterizing it having been for an "incubating purpose" and arguing that the market is sufficiently mature to justify its elimination. This misses the point that the purpose of the Retail Margin is to approximate those on-going costs incurred by marketers to serve choice customers. Regardless of the state of market development, marketers will continue to incur costs to serve choice customers over and above just the pure commodity rate just as does the utility to provide default service. To eliminate the Retail Margin would therefore inaccurately skew the information that consumers utilize in comparing marketer offerings and the utility rate.

The foregoing notwithstanding, 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. Recent market changes have created favorable conditions for competition under the three-year averaged BGS pricing regime. As such, this is precisely the wrong time to inject regulatory uncertainty into the competitive marketplace as to significant structural changes to BGS that would dissuade marketers from entering the New Jersey market and make long-term plans to serve such customers.

Accordingly, NEM opposes the reduction, phase-out or elimination of the Retail Margin.

Respectfully submitted,

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