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STEFANIE A. BRAND  
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November 9, 2018

**Via E-Mail and Regular Mail**

All Persons on the Attached Service List

**RE: I/M/O Sussex Warren Area Energy Cooperative - Commercial  
Utility Consultants and Concord Energy Services  
BPU Dkt. No.: Pending**

Hon. Mayors and Borough and Township Council and Committee Members:

The State Division of Rate Counsel writes to provide our comments on the draft public opt-out notice for the second round of the Sussex Warren Area Energy Cooperative ("SWAEC") Program, an Option 2 government energy aggregation program pursuant to N.J.A.C. 14:4-6.1 et seq. The SWAEC Program is organized by twelve municipalities: the Boroughs of Andover, Branchville and Stanhope, and the Townships of Blairstown, Fredon, Frelinghuysen, Green, Hardwick, Harmony, Hope, Knowlton and Oxford (collectively "the Municipalities"). The draft public notice for the Municipalities was provided to this office by Commercial Utility Consultants, Inc. and Concord Energy Services ("Energy Agents" or "CUC"), the Energy Agent for the SWAEC Program, on October 29, 2018.

As you may recall, by letter dated July 18, 2018 this office provided comments on the two draft bidding documents to the Municipalities, as members of the SWAEC Program, filed by the Energy Agents on July 3, 2018 ("July 3 Filing") with Rate Counsel and the Board of Public Utilities ("BPU" or "Board"). The July 3 Filing advised that the Township of Fredon will serve as the Lead Agency for the SWAEC Program. Rate Counsel recommended that the Municipalities have a municipal attorney review the July 3 Filing documents along with our comments. Rate Counsel reiterates that recommendation here. Since our July 18 comment letter speaks for itself, we limit our comments here to only the draft public opt-out notice.

The draft opt-out public notice must provide the information required by the Board rules. N.J.A.C. 14:4-6.6(r)(9). The Board requires filling out the Third-Party Supplier Contract Summary using "plain language." N.J.A.C. 14:4-6.6(r)(9)(iv). The SWAEC Contract Summary "statement regarding savings" indicates that "there is no

guarantee of savings.” However, the dated cover letter from the SWAEC Program to individual ratepayers on the previous page (in its final paragraph) advises residents that they may opt out if they choose not to receive the “anticipated energy savings.” The dated letter from the Municipality to individual ratepayers also references the “continued” offer of this “cost saving” program. Read together, these statements present a confusing, and potentially misleading, picture of whether participating residents will actually save money, i.e., pay less than those who decide to remain on Basic Generation Service. These documents should be reconciled to accurately convey whether or not savings are guaranteed.

The SWAEC Contract Summary (and the dated cover letter on the previous page) states that the “Price Structure” will be fixed, but the first, undated cover letter from the Municipality and the “Things you should know about energy aggregation” page describe the price as “non-variable.” Board rules, however, require the Third-Party Supplier Contract Summary to indicate whether the price is “fixed” or “variable” and, if variable, to provide certain information including whether there are any ranges or ceilings on that variation. N.J.A.C. 14:4-6.6(r)(9)(vi). While the SWAEC Contract Summary indicates the price structure will be fixed, those two other referenced documents are potentially confusing. Moreover, the undefined term “non-variable” in the Contract Summary, rather than “fixed” or “variable,” does not appear consistent with plain language usage.

The Third-Party Supplier Contract Summary is missing certain information. The “Right to Cancel/Rescind” field should state that participants may opt out at any time without penalty. While a similar statement is in the “Renewal Terms” field, Board rules require including it in the Right to Cancel/Rescind field.<sup>1</sup> The Renewal Terms field should also state what will occur upon the conclusion of the Program, i.e., whether participants will automatically be returned to Basic Generation Service.

The Contract Summary states that it takes one to two billing cycles from the submission of a cancellation request to change a customer opting out of the SWAEC Program back to Basic Generation Service. However, the dated cover letter from the SWAEC Program to the individual ratepayer on the previous page states (in footnote 3) that a change back to Basic Generation Service typically takes one full meter read cycle. These documents should be reconciled.

The Contract Summary also directs residents seeking more information to a web page for IDT Energy ([www.IDTEnergy.com](http://www.IDTEnergy.com)); however, it is unclear where that IDT page posts information on the SWAEC program. Moreover, entering the Fredon, N.J. zip code into that web site provides pricing information that differs from the rate in the Contract Summary.

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<sup>1</sup> As per the “GEA Program Summary Standardized Format” on the BPU web site. N.J.A.C. 14:4-6.6(r)(9).

We note that, while BPU rules require the lead agency to provide a copy of the draft public notice to the Board and Rate Counsel for review before sending it to customers, N.J.A.C. 14:4-6.6(s), neither Rate Counsel nor the BPU “oversees” energy aggregation programs. We recommend modifying the Frequently Asked Questions accordingly.

The Board’s Government Energy Aggregation program rules require that the notice to residential customers must include “a contact name, phone number, and e-mail address for customer inquiries.” N.J.A.C. 14:4-6.6(r)(7). Rate Counsel recommends adding to the draft opt-out public notice the name of a person at the selected third-party supplier (IDT) for prospective customers to contact with questions about the SWAEC Program. Since the phone number on the draft opt-out Contract Summary is a general number for a recorded directory for all customer services provided by IDT, further direction on how to obtain information specific to the SWAEC Program would seem helpful.<sup>2</sup>

Rate Counsel recommends posting all public documents relating to the SWAEC Program, including the current public opt-out notice and the final version of the July 3 Filing, on the Energy Agents’ (and if possible each Municipality’s) web site<sup>3</sup> and also making them available in hard copy at a physical location (such as the municipal hall) where residents may review them. This can assist those without internet access.

Accordingly, Rate Counsel recommends revising the draft public opt-out notice documents to reflect the changes discussed above.

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<sup>2</sup> We also note that the draft public notice includes three different telephone numbers for residents to call to opt out or for more information: 866-688-5197, 855-823-9309 and 877-292-3904. It may be helpful to clarify whether the different numbers respond to different issues or whether one should be called over the others.

<sup>3</sup> We suggest updating the information on the second round of the SWAEC Program on the Energy Agents’ web site. See <http://njaggregation.us/SWAEC/>.


Honorable Mayors and Municipal Council and Committee Members  
Boroughs of Andover, Branchville and Stanhope, and the Townships of Blairstown, Fredon, Frelinghuysen,  
Green, Hardwick, Harmony, Hope, Knowlton and Oxford  
Commercial Utility Consultants, Inc. and Concord Energy Services  
November 9, 2018  
Page 4

We again recommend having a municipal attorney for the Municipalities review the SWAEC Program's July 3 Filing documents and Rate Counsel's comments on them, as well as the draft public opt-out notice and our comments on it. Of course, all documents relating to the SWAEC Program, including public notices, must comply with all provisions of public utility, consumer protection and other applicable law.

Respectfully submitted,

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By:

  
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