

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission
Regarding a Retail Renewable Portfolio Standard

Case 03-E-0188

**PETITION
NY-SUN 2014-2015 FUNDING CONSIDERATIONS
AND OTHER PROGRAM MODIFICATIONS**

Introduction

In his 2013 State of the State address, Governor Andrew M. Cuomo proposed extending the NY-Sun Initiative through 2023 at the existing annual funding levels to provide longer program certainty to solar photovoltaic (PV) system developers, attract significant private investment in PV systems, enable the sustainable development of a robust PV industry in New York, create well-paying skilled jobs, improve the reliability of the electric grid and reduce air pollution.¹ This Petition addresses funding considerations and program implementation for 2014-2015 and lays the groundwork for the NY-Sun Initiative through 2023.

In furtherance of the NY-Sun Initiative the New York State Energy Research and Development Authority (NYSERDA) respectfully requests that the Public Service Commission (Commission) issue an Order identifying the source of funding for the Renewable Portfolio Standard (RPS), Customer-Sited Tier (CST) Standard Offer and Competitive PV Programs and granting NYSERDA the flexibility to reorganize the NY-Sun Initiative into a cohesive program framework, across sectors and system sizes, that employs a transparent and regional MW block approach. NYSERDA submits that all of the requested actions will contribute to a more robust, efficient, coordinated and successful program.

Specifically, NYSERDA seeks an Order to: (1) identify the source of funding for the NY-Sun 2014-2015 program years; (2) allow NYSERDA the flexibility, in consultation with DPS Staff, to establish and to periodically adjust the allocation of funds between the Standard Offer and Competitive PV Programs; (3) allow NYSERDA the flexibility to lower the Standard Offer PV incentive level on a regional basis in response to achieving a designated threshold amount of Megawatts (MW) under contract (MW Block Program); (4) eliminate the “40% of installed cost” rule for the Standard Offer PV program; and (5) allow NYSERDA the flexibility to transition the Competitive PV program to a MW Block performance-based incentive program. Finally, in support of Governor Cuomo’s statewide NY-Sun Initiative, and in the spirit of the findings of the Moreland Act Commission, NYSERDA suggests that the Commission should consider (6) whether there would be greater efficiencies and success if a better-coordinated statewide PV incentive program, including Long Island, were to be implemented.

This Petition is consistent with and addresses certain recommendations provided in the New York State Renewable Portfolio Standard Customer-Sited Tier Program Market Evaluation, Program Expectations

¹ <http://www.governor.ny.gov/sites/default/themes/governor/sos2013/2013SOSBook.pdf>, p. 32.

and Funding Considerations, 2013-2015, to be submitted by NYSERDA to the Commission in September 2013 as part of the 2013 RPS Program Review directed by the Commission's January 8, 2010 Order (2010 Order).²

Requested Actions

1. Funding for NY-Sun Initiative

The current NY-Sun goal is to quadruple, in 2013, the amount of PV capacity installed during 2011. In support of that goal, the Commission's April 24, 2012 Order (2012 Order)³ reallocated \$90,406,444 of Main Tier funds into the CST to support the expansion of the CST PV programs for 2012 and 2013. The 2012 Order also authorized annual budgets for 2014 and 2015 for the CST PV programs totaling \$108 million dollars.⁴ However, the 2012 Order did not specify the source(s) for these funds, but determined that they would "be established within the context of the 2013 overall RPS program review."⁵

At this time, it is uncertain whether, given the complexity of the 2013 review, the Commission will be in a position to issue an order in time to avoid the market and program disruptions that would result from the unavailability of incentives at the end of 2013. The market depends upon advance knowledge of available incentives to have adequate lead time to plan projects, staffing and other aspects of their business for 2014, and NYSERDA is concerned that a delay in the designation of the source of funds for 2014 - 2015 will cause uncertainty and disruption that will retard market confidence and program success. In this Petition, NYSERDA requests that the Commission allocate the \$108 million for the CST PV programs for 2014 - 2015 from the Main Tier now so that the funds will be available on January 1 of each year, thereby avoiding any disruptions in market confidence or program continuity. NYSERDA does not expect this reallocation from the Main Tier to materially affect either the schedule or outcome of Main Tier procurements in 2013, given the available unencumbered Main Tier budget. Given the existing Commission Order on NY-Sun, NYSERDA has modeled the impact of this reallocation on the Main Tier program beyond 2013 and has presented those results in the Main Tier Review Report, submitted to the Commission on September 5, 2013 as part of the 2013 RPS Program review.⁶

2. Allocation of Funds

The 2012 Order also did not specify how the \$108 million in funding should be split between the two CST PV programs. In determining an appropriate allocation between the two programs, the following should be considered:

- In its July 22, 2013 Order⁷ (July 2013 Order), the Commission authorized NYSERDA to create a Second Tier in the Standard Offer PV Incentive Program with a lower incentive level for systems

² Case 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, "Order Establishing New RPS Goal and Resolving Main Tier Issues," issued and effective January 8, 2010, pp. 26, 27.

³ "Order Authorizing the Expansion of the Solar Photovoltaic and Geographic Balance Programs from 2012 through 2015 and the Reallocation of Main-Tier Unencumbered Funds," issued and effective April 24, 2012, pp. 12, 13.

⁴ *Id.* at pp. 2, 13.

⁵ *Id.*

⁶ "Order Establishing New RPS Goal and Resolving Main Tier Issues," issued and effective January 8, 2010, pp. 26, 27.

⁷ "Order Authorizing Modifications of the Solar Photovoltaic Program in the Customer-Sited Tier," issued and effective July 22, 2013.

larger than 50kW up to 200kW, and to correspondingly raise the minimum project size for the Competitive PV Program. This new option in the Standard Offer PV Incentive Program was launched on August 6, 2013, and high levels of demand, in large part due to the increased size cap, resulted in demand for incentives exceeding available funds by August 9, 2013. Demand for incentives in the Second Tier continues to be strong; however, the limited track record provides insufficient information on the longer term impact of the change, or its impact on a regional basis.

- In its July 2013 Order, the Commission also authorized NYSERDA to use unencumbered NYISO Zone I-J funds from the Competitive PV Program, if available and needed, to help boost Standard Offer funded PV installations in the New York City market. It cannot yet be determined whether or how making those additional funds available to the Standard Offer PV Program will impact demand for incentives in the New York City market, particularly as it relates to the Second Tier.
- As discussed herein, NYSERDA is proposing a transition to MW Block programs for both the Standard Offer PV Program and the Competitive Bid PV Program. Demand for incentives may change regionally and across systems size ranges as a result.

For these reasons, NYSERDA believes it would be premature for the Commission to establish prescriptive funding allocations between the two PV programs at this time, or for the duration of the 2014-2015 timeframe. NYSERDA requests the flexibility to work with DPS staff to establish appropriate allocations, and to review and adjust the allocations as needed (expected to be not more than twice per year), based on market conditions. The planned allocation will preserve the \$30 million annual budget that the Commission established for NYISO Zones G-H-I-J,⁸ and will consider how those funds are to be allocated between the two PV programs to continue to seek increased PV market activity downstate. The balance of the \$108 million will be allocated based on other market conditions, such as demand for incentives and the need to drive the PV industry toward greater cost-effectiveness.

3. Regional Megawatt Block Approach for the Standard Offer PV Incentive Program.

Consistent with NY-Sun, a goal of the Standard Offer PV Incentive Program is to enable the sustainable development of a robust solar power industry in New York, in as cost-effective a manner as possible, and to be responsive to changing market conditions.⁹ The State's solar policies and programs should seek to expedite the transition to a solar industry that does not depend on RPS incentives for success, but maintains healthy growth rates. In New York, based on industry trends,¹⁰ it is expected that RPS incentives can steadily be reduced, and through a consistent approach, be eliminated by 2020. It is expected that RPS incentives could be eliminated in some regions of the State sooner than others. In addition, to continue to encourage the installation of PV systems that are cost-effective, NYSERDA may offer other means to stimulate the continued growth of the industry, such as facilitating access to financing through Green Jobs-Green New York¹¹ or the Green Bank,¹² while RPS incentives are reduced and eliminated.

⁸ "Order Authorizing Customer-Sited Tier Program Through 2015 and Resolving Geographic Balance and Other Issues Pertaining to the RPS Program," issued and effective April 2, 2010, p. 37.

⁹ <http://www.governor.ny.gov/sites/default/themes/governor/sos2013/2013SOSBook.pdf>, p. 32.

¹⁰ New York State Renewable Portfolio Standard Customer-Sited Tier Program, Market Evaluation, Program Expectations and Funding Considerations, 2013-2015, pp 18-19.

¹¹ Green Jobs-Green New York Act of 2009, Title 9-A, Sections 1890-1899-a; a bill amending the Act, S.1111/A.1245, which allows technologies eligible for net metering to be financed thru GJ-GNY, has passed both houses of the NYS Legislature.

¹² <http://www.governor.ny.gov/sites/default/themes/governor/sos2013/2013SOSBook.pdf>, p 26

The RPS CST Standard Offer PV Incentive Program, as authorized by the Commission,¹³ is currently designed as follows:

- Incentives are provided for systems installed on residential or non-residential properties;
- Incentive amounts are based on two tiers, including a Base Tier for the first 50kW of a system, and a Second Tier with a lower incentive for capacity greater than 50kW up to 200kW;
- Incentives are the same throughout the State, for eligible customers¹⁴;
- NYSERDA may adjust the incentive level every two months to allow a reasonable period for installers and customers to enter into contractual agreement;
- If applications in the prior two months exceed by a material amount the amount of available funds and fully use the available funds, NYSERDA will reduce the incentive level for the subsequent two months; and
- If applications in the prior two months did not fully use the available funds, NYSERDA may increase the incentive for the subsequent two months.

Through this program design, the PV industry has steadily grown and incentives have been reduced in five increments over the past three years, from \$2.50/Watt in 2010 to the current level of \$1.30/Watt (Base Tier) and \$.90/Watt (Second Tier) as of September 2013. The number of project applications submitted to the Standard Offer PV Program has also increased significantly from 902 in 2010, to 1,327 in 2011 and 2,375 in 2012. Through NY-Sun and the approval of requests made in NYSERDA Petitions¹⁵, the Standard Offer PV Incentive Program incentive budget grew to \$49 million in 2013, and demand continues to grow with systems greater than 50kW, up to 200kW, now eligible for incentives.

However, the current triggers and process for lowering incentives are not predictable or transparent enough to provide installers with confidence that the contracts they are negotiating with their customers will reference the correct incentive. NYSERDA provides information on its web site¹⁶ regarding the amount of funds remaining available for the current month, updates that information daily, and also shows whether there were funds remaining at the end of the previous months. However, if demand exceeds available funds during any given month, it will not be known until the end of the following month whether an incentive reduction will occur, based on whether funds are also exhausted during that second month. In addition, NYSERDA can lower incentives for other market conditions without notice, regardless of whether funds are exhausted two months in a row.

In its 2010 Order the Commission invited NYSERDA to Petition the Commission to offer recommendations on how to strengthen the CST program within the budgets provided. As we seek to

¹³ “Order Authorizing Modifications of the Solar Photovoltaic Program in the Customer-Sited Tier,” issued and effective July 22, 2013; “Order Authorizing Customer-Sited Tier Program Through 2015 and Resolving Geographic Balance and Other Issues Pertaining to the RPS Program,” issued and effective April 2, 2010.

¹⁴ Customers eligible to participate in RPS CST-funded programs are those paying the SBC/RPS charge on their electric bill, including electric service customers of the State’s investor-owned utilities.

¹⁵ “Order Authorizing the Expansion of the Solar Photovoltaic and Geobalance Programs from 2012 through 2015 and the Reallocation of Main Tier Unencumbered Funds,” issued and effective April 24, 2012; “Order Authorizing Reallocation of Unencumbered 2011 Customer-Sited Tier Program Funds and Resolving Other Issues,” issued and effective April 20, 2012; “Order Authorizing Reallocation of Unencumbered Customer-Sited Tier Program Funds through 2010 and Resolving Other Issues,” issued and effective September 19, 2011; “Order Authorizing Customer-Sited Tier Program Through 2015 and Resolving Geographic Balance and Other Issues Pertaining to the RPS Program,” issued and effective April 2, 2010.

¹⁶ <http://www.nyserdera.ny.gov/Energy-Efficiency-and-Renewable-Programs/Renewables/Solar-Technologies/PV-Funding-Balance.aspx>

continue the momentum toward a sustainable PV industry in New York, with current market conditions as the new basis, we believe the program design can continue to be improved to provide even more certainty and transparency to the industry. As a means of committing to steady, measured and predictable incentive level reductions, NYSERDA proposes the use of a MW Block approach, in which the incentive declines by a pre-determined increment upon NYSERDA's receipt and acceptance of applications totaling some pre-determined amount of MW (MW Blocks) to be incentivized. Because of the regional market differences currently being observed through the Standard Offer PV Incentive Program, this type of approach would most effectively be deployed on a regional basis, potentially providing different incentive levels and different MW Blocks in different regions.

The status of achieving the MW Blocks, block sizes and incentive levels by region will be clearly communicated to the public on NYSERDA's web site. This MW Block approach provides certainty and transparency regarding incentive levels to the industry, accounts for regional market differences that we are currently experiencing throughout the state, which we expect will continue for some time; provides a clear signal to industry that New York intends to eliminate RPS incentives by 2020; and allows for the elimination of those incentives sooner in regions where market conditions can support it.

At this time, funding for the RPS CST is authorized only through 2015. While the MW Block approach is envisioned to be implemented through 2020, and planning should be in the context of this longer-term timeframe, NYSERDA is currently seeking authorization for its implementation through 2015, with the expectation that funding for future years will be considered by the Commission through a separate process. In light of the limited timeframe and budget, NYSERDA proposes to implement the MW Block Program in the context of monthly budgets, as is currently the practice, to avoid having to prematurely terminate the program if demand far exceeds available funds through 2015. In addition, lessons learned during the first two years of implementation will inform the program plan for any future years.

NYSERDA requests authorization to work with stakeholders and DPS Staff to develop a program plan for this new approach, which would be submitted to DPS for their approval in the first quarter of 2014. Stakeholder input will be sought on the size of the MW Blocks, the frequency and magnitude of incentive drops, the regional nature of the program and the structure of the regions. At this time, NYSERDA anticipates that two or three regions may be appropriate. The plan submitted to DPS Staff for approval will explicitly lay out the regions, block structure and incentives to be implemented through 2015; the program would be expected to roll out no later than the second quarter of 2014.

4. Elimination of the 40% of installed cost rule for the Standard Offer PV program.

The 2010 Order¹⁷ states that "the incentive amount may not exceed 40% of total installed cost after all other tax credits have been applied." Because the amount of the actual tax credits are determined at some future date based upon taxable income, there is no accurate way to determine the value of the tax credits at the time the incentive is approved. NYSERDA proposes that this rule be eliminated, and instead, be tracked internally as an indicator of market conditions. Currently, the incentives are approximately 30 - 35% of installed cost. NYSERDA will track this metric and use it in setting appropriate incentive levels, including those established through the MW block approach.

¹⁷ "Order Authorizing Customer-Sited Tier Program Through 2015 and Resolving Geographic Balance and Other Program Issues Pertaining to the RPS Program," issued and effective April 2, 2010, p. 21.

5. Transition the Competitive PV Program to a MW Block performance-based incentive program.

As technologies mature in the marketplace, NYSERDA regularly adjusts programs to match marketplace needs. NYSERDA has determined that the large commercial PV project market has developed to the point that program changes are appropriate. To allow for adequate market response, NYSERDA proposes to initially continue support for large commercial projects based on the current competitive bidding program model and to transition by 2015 to a MW Block performance-based program, with a standard-offer incentive in which the incentive declines by a pre-determined increment upon NYSERDA's receipt and acceptance of applications totaling some pre-determined amount of MW to be incentivized. Incentives are expected to include performance-based incentives, paid over time.

In preparation for that transition, NYSERDA will obtain stakeholder input during the latter part of 2013 and throughout 2014, and monitor the market pricing signals to determine appropriate timing for the transition. Monitoring will consider factors such as the pace at which bid prices received in the Competitive PV Program continue to decline, final installed costs of systems compared to proposed costs, and the total cost and incentive levels for installed capacity. A program plan for large commercial PV systems will be submitted to DPS Staff in 2014. The plan will include a clear strategy that sets the stage for reducing incentives in an orderly and transparent fashion for large commercial projects.

As with Standard Offer PV program for systems up to 200kW, this type of approach would likely be deployed on a regional basis, providing different incentive levels and different MW Blocks for two to three regions of the State. Status of achieving the MW Blocks, block sizes and incentive levels by region will be clearly communicated to the public on NYSERDA's web site. This approach will provide certainty and transparency regarding incentive levels; account for regional market differences; provide a clear signal to industry that New York intends to ramp down incentives with the aim to reach zero direct incentives by 2020; and allows for the elimination of incentives sooner in regions where market conditions can support it.

As part of the program design process and to enable testing of new program processes and systems on a smaller scale, NYSERDA may work with DPS and stakeholders to develop a targeted, early deployment of the fixed-price performance based incentive for commercial customers seeking to achieve deep energy savings and work towards a goal of zero net energy buildings. This jump-start initiative would support large commercial projects that integrate PV and building efficiency, demand response or energy storage technologies. The benefits of targeting this group of customers include the following:

- Demonstrating the value of performing energy efficiency work on buildings planning to install PV systems;
- Providing buildings undergoing energy efficiency projects the flexibility to plan for, schedule and arrange for financing of their PV systems with a degree of certainty that the competitive bid program does not afford;
- Marketing PV systems to building owners already thinking about the energy characteristics of their building.

NYSERDA proposes to work with Staff and stakeholders during 2014 to develop a MW Block performance based incentive program for large commercial customers (systems larger than 200kW) to be implemented no later than 2015.

6. Consideration of a Statewide Program

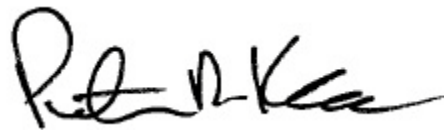
Governor Andrew M. Cuomo's NY-Sun initiative is a Statewide program, with Statewide goals. NYSERDA and LIPA administer standard offer incentive programs contributing to achievement of those goals. And while there are some PV installers who may only work on Long Island, there are others who may work more broadly within the downstate region, or even Statewide. In fact, if PV becomes an eligible measure for financing through GJGNY, as is proposed by the New York State legislature, NYSERDA would expect to be in a position to provide financing for PV projects taking place in the Long Island Power Authority's (LIPA) service territory. From that perspective, there may be greater efficiencies for industry and program administrators if better coordination of program design and implementation, including having common installer eligibility criteria, quality control and quality assurance protocols, and sharing of program data, takes place across all program territories. NYSERDA requests authorization to work with DPS and LIPA Staff to identify the merits and potential of establishing a Statewide program collaboration.

Conclusion

Should the Commission grant the requests herein, the CST PV Programs will continue to make a significant contribution to goals of the Renewable Portfolio Standard and Governor Cuomo's NY-Sun Initiative. Accordingly, NYSERDA requests that the Commission issue an Order (1) identifying the funding source for the NY-Sun 2014-2015 program years; (2) allowing NYSERDA the flexibility, in consultation with DPS Staff, to establish and to periodically adjust the allocation of the funds between the Standard Offer and Competitive PV Programs; (3) allowing NYSERDA the flexibility to lower the Standard Offer PV incentive level on a regional basis in response to achieving some threshold amount of MW under contract; (4) eliminating the 40% of installed cost rule for the Standard Offer PV program; (5) allowing NYSERDA the flexibility to transition the Competitive PV program to a performance-based MW Block program and (6) allowing NYSERDA to work with LIPA and DPS Staff to explore a coordinated statewide solar PV program.

Dated: September 5, 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter Keane", written in a cursive style.

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