

**STATE OF NEW YORK  
BEFORE THE  
PUBLIC SERVICE COMMISSION**

Proceeding on Motion of the Commission to )  
Implement a Large-Scale Renewable Program ) Case 15-E-0302  
and a Clean Energy Standard )

**COMMENTS OF ENERGY OTTAWA INC.**

**I. INTRODUCTION**

Energy Ottawa Inc. (“Energy Ottawa”) hereby submits comments in response to the Public Service Commission’s (“PSC” or “the Commission”) Notice Soliciting Comments on Staff Report Regarding Retention of Existing Baseline Resources under Tier 2 of the Renewable Energy Standard, issued on October 20, 2017 in the above-captioned proceeding (“Notice”).<sup>1</sup> The report was prepared by Department of Public Service Staff (“Staff”) in compliance with directives included in various Commission Orders in this proceeding and was filed to the Commission on October 19, 2017. The report contains recommendations for consideration of eligibility changes to Tier 2 of the Renewable Energy Standard (“RES”) component of New York’s Clean Energy Standard (“CES”). In addition, the report identifies how other initiatives under the “Reforming the Energy Vision,” which the Commission has deemed to be complimentary to Tier 2, can assist baseline renewable generators to remain in operation through voluntary renewable energy purchases.

---

<sup>1</sup> Case 15-E-0302 – *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Notice Soliciting Comments on Staff Report Regarding Retention of Existing Baseline Resources under Tier 2 of the Renewable Energy Standard (October 20, 2017).

## II. DESCRIPTION

Energy Ottawa is a diversified energy company whose core businesses are renewable energy production, energy services, and energy infrastructure management. Energy Ottawa is the parent company of EONY Generation Limited (“EONY”), which owns and operates four small hydroelectric generating stations in New York, representing a combined capacity of approximately 23 megawatts (“MW”): (i) Moose River, a 12.2 MW run-of-river facility located in Lyonsdale, Lewis County; (ii) Dolgeville, a 5 MW run-of-river facility located in Dolgeville, Herkimer County; (iii) Philadelphia, a 3.6 MW run-of-river facility located on the Indian River in Jefferson County; and (iv) Diana, a 1.8 MW run-of-river facility located in Harrisville, Lewis County. All four facilities owned and operated by EONY have been in operation since the 1980s. These facilities are licenced by the Federal Energy Regulatory Commission (“FERC”) and have been designated by FERC as Qualifying Facilities (“QFs”).

In addition, Energy Ottawa either owns and/or operates hydroelectric facilities, gas-to-energy generating plants, and solar energy facilities in the Canadian provinces of Ontario and Québec. With an overall generation portfolio of 128 MW, Energy Ottawa is the largest municipally-owned generator of renewable energy in the province of Ontario. The company is a wholly-owned subsidiary of Hydro Ottawa Holding Inc., which is owned by the City of Ottawa and governed by an independent Board of Directors.

Energy Ottawa remains committed to the highest standards of environmental responsibility and to the development of innovative sources of renewable generation. Energy Ottawa is pleased to operate in North American jurisdictions – New York, Ontario, and Québec – which are leaders in the adoption of robust public policies addressing climate change and promoting clean energy.

As the owner and operator of approximately 23 MW of small hydroelectric capacity in the State of New York, Energy Ottawa has a direct and substantial interest in the outcome of this proceeding, as it will be impacted by the ongoing implementation of the Commission’s CES Order.<sup>2</sup> Energy Ottawa’s interests will be affected by any modifications to Tier 2 which the Commission may adopt in response to the recommendations put forth by Staff. For this reason, Energy Ottawa has been an active stakeholder in this proceeding, including through attendance at the Roundtable Forum on Existing Renewable Generating Facilities hosted by Staff on June 5, 2017, and through submittal of a Petition for Rehearing on the CES Order.<sup>3</sup>

### III. COMMENTS

#### **A. Energy Ottawa strongly requests that the Commission review and act upon the findings and recommendations set forth in the report recently filed by Synapse Energy Economics in this proceeding.**

On December 22, 2017, the formal record in this proceeding as it relates to Tier 2 and the appropriate treatment of existing renewable resources under the CES was significantly enhanced. Alliance for Clean Energy New York filed a report with the Commission prepared by an independent expert consultancy, Synapse Energy Economics (“Synapse”).<sup>4</sup> Energy Ottawa commends the report to the Commission for review. Moreover, Energy Ottawa submits that this report makes several critically important contributions to the record in this proceeding. These aspects of Synapse’s report warrant the Commission’s particular consideration and should induce the Commission to enact modifications to the CES and Tier 2 accordingly.

---

<sup>2</sup> Case 15-E-0302 – *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, and Case 16-E-0270 – *Petition of Constellation Energy Nuclear Group LLC; R.E. Ginna Nuclear Power Plant, LLC; and Nine Mile Point Nuclear Station, LLC to Initiate a Proceeding to Establish the Facility Costs for the R.E. Ginna and Nine Mile Point Nuclear Power Plants*, Order Adopting a Clean Energy Standard (August 1, 2016).

<sup>3</sup> Case 15-E-0302, Petition for Rehearing of Energy Ottawa Inc. (August 31, 2016).

<sup>4</sup> Case 15-E-0302, Alliance for Clean Energy New York, Report of Synapse Energy Economics, “Policies to Cost-Effectively Retain Existing Renewables in New York” (December 22, 2016). This report is hereafter referenced in the footnotes to these comments as “Synapse Report.”

First, to Energy Ottawa's knowledge, Synapse's report represents the *only* quantitative analysis performed to date in this proceeding on the following topics: (i) the economic benefits associated with compensating existing resources for their environmental attributes in a fair manner and ensuring these attributes are retained by New York; and (ii) the risks associated with failing to fairly compensate existing resources, and thereby magnifying the risks of premature resource retirements and of New York backsliding on its CES goal.

While this proceeding has featured extensive discussion of existing renewable resources, their valuable contribution to the CES baseline, and how best to retain their environmental attributes in New York going forward, the proceeding has lacked any substantive examination of the costs, benefits, and implications of different schemes for compensating existing resources for the environmental attributes associated with their zero-emissions generation. As far as Energy Ottawa is aware, neither the original Staff White Paper on Clean Energy Standard,<sup>5</sup> nor the CES Order itself, nor subsequent Commission Orders on rehearing or implementation of the CES, nor comments or petitions from stakeholders have offered any detailed data, modelling, or analysis on what the retention or the loss of existing renewable resources would mean for New York's CES policy aspirations or for the benefits and costs to ratepayers. The provision of such information by Synapse fills a glaring gap in the record of this proceeding and is thus, in itself, a noteworthy contribution. As such, it merits meaningful consideration by the Commission.

Second, the body of evidence submitted by Synapse includes valuable information that challenges – and, in Energy Ottawa's view, erodes – a basic premise underlying the policy design of Tier 2. In its CES Order, the Commission concluded that there is no imminent risk of losing the emission attributes associated with existing facilities and that there is no need to provide them with additional support for their emission attributes. In addition, the Commission

---

<sup>5</sup> Case 15-E-0302, Staff White Paper on Clean Energy Standard (January 25, 2016).

dismissed concerns regarding the mass flight of these resources to other states as “merely hypothetical.”<sup>6</sup> In response to concerns and arguments articulated by stakeholders (including Energy Ottawa) in various rehearing petitions filed on the CES Order, the Commission reaffirmed its original view in its December 15, 2016 Order on Petitions for Rehearing, stating that “at this time we do not have sufficient information to support the assertions that all baseline merchant facilities are at risk of ceasing operation or fleeing the New York energy markets.”<sup>7</sup>

Energy Ottawa respectfully submits that information included in Synapse’s report should behoove the Commission to revisit its posture. For example, Synapse found that in 2014, there was already 1 TWh of generation from existing, independent, renewable facilities in New York that was exported into New England, with this figure set to almost quadruple by 2025.<sup>8</sup> Likewise, Synapse observed that in response to a recent clean energy solicitation administered by distribution utilities in Massachusetts, one proponent submitted a bid in which 70 hydroelectric plants in New York would be utilized to firm-up new wind and solar resources in New York, with the resultant generation ultimately exported into the neighboring state.<sup>9</sup> In short, Synapse’s report presents evidence that contradicts some of the fundamental rationale employed by the Commission in deciding to adopt a CES Tier 2 that generally renewed the Maintenance Program of New York’s original Renewable Portfolio Standard (“RPS”). In turn, with Synapse’s analysis illustrating the likelihood of a flawed premise serving as the basis for Tier 2, Energy Ottawa believes that it is incumbent upon the Commission to grant Synapse’s finding due consideration and to remedy this flaw in a timely and appropriate fashion.

---

<sup>6</sup> CES Order, p. 116.

<sup>7</sup> Case 15-E-0302, Order on Petitions for Rehearing (December 15, 2016), p. 14.

<sup>8</sup> Synapse Report, p. 11.

<sup>9</sup> *Ibid*, p. 7.

Finally, a third way in which Synapse’s study adds considerable value to this proceeding is in recommending a diverse set of policy options for cost-effectively retaining the environmental attributes of existing renewable resources in New York. The dialogue in this proceeding has generally focused on whether and how to establish obligations on load-serving entities (“LSEs”) to procure qualifying Renewable Energy Credits (“RECs”) associated with the environmental attributes of existing renewables. Synapse’s report does a service to this proceeding by offering detailed insights and commentary on options for structuring such an obligation that have heretofore not been considered and/or have not been accompanied by fulsome quantitative analysis. In addition, the study seeks to broaden the parameters of the dialogue, by shining a light on the possibilities and advantages associated with other market-based solutions for compensating existing resources for their environmental attributes. What’s more, within this diverse mix of options, the study yields findings in four of five scenarios that demonstrate lower costs to ratepayers than those imposed by the CES in its current form.

For the foregoing reasons, Energy Ottawa strongly urges the Commission to thoroughly review Synapse’s report and to incorporate its findings into subsequent modifications to Tier 2. Furthermore, using the Synapse study as a critical guide and input, Energy Ottawa encourages the Commission not to limit itself to enacting changes merely to Tier 2’s eligibility criteria, but to more fundamental aspects of the broader policy design of Tier 2 and the CES as well.

**B. Notwithstanding its position that Tier 2 remains fundamentally flawed, Energy Ottawa supports many of Staff’s recommended changes to Tier 2 eligibility criteria. For certain recommendations, Energy Ottawa requests further revision and/or clarification.**

As outlined above and as argued in its August 31, 2016 Petition for Rehearing, Energy Ottawa continues to believe that Tier 2 is anchored in flawed premises, is not supported by information available in the record of this proceeding, unfairly discriminates between different

sources of existing zero-emissions generation, and should be replaced with policy mechanisms that enable all forms of existing zero-emissions generation (including small hydroelectric resources) to participate in the new REC market or the Zero-Emissions Credit program.

Notwithstanding this general position, Energy Ottawa generally supports the recommendations set forth by Staff for changes to Tier 2 eligibility criteria. Energy Ottawa views many of the recommendations as being responsive to stakeholder input, and more reflective of the value existing resources provide and will provide to New York's CES baseline and to achievement of the "50 by 30" goal, respectively. Energy Ottawa is particularly supportive of the following: increase of the size threshold for hydroelectric facilities from 5 MW to 10 MW; extension of the vintage date to include facilities in operation prior to January 1, 2015; addition of a return on capital for future capital expenditures; inclusion of a 5% risk contingency component in a maintenance contract award; streamlining the application and review processes; and allowing for renewal of a maintenance contract.<sup>10</sup>

However, similar to the establishment of Tier 2 in the CES Order itself, several of the proposed recommendations lack justification and rationale. In turn, this impedes the ability of stakeholders to understand the underlying intent and objectives of the proposals, and prevents the formation of a fulsome record in this proceeding.

In the comments below, Energy Ottawa offers further elaboration and additional feedback on specific recommendations, and requests revisions or clarifications, where appropriate.

- i. Increase in size threshold for hydroelectric facilities: Energy Ottawa supports the recommended increase and requests a further increase to 20 MW. While Staff notes that a 10 MW threshold would capture approximately 92% of all

---

<sup>10</sup> Case 15-E-0302, Staff Report Regarding Retention of Existing Baseline Resources under Tier 2 of the Renewable Energy Standard Program (October 19, 2017), pp. 2-3. This document is hereafter referred to as "Staff Report" in the footnotes to these comments.

independent hydroelectric facilities in New York, there is no specific, definitive rationale offered for limiting the threshold to 10 MW and excluding a sizeable segment of the State’s hydro fleet from Tier 2 eligibility. As Figure 5 in Synapse’s report illustrates, there are upwards of several dozen non-State-owned hydroelectric generators operating in New York whose individual generating capacity exceeds 10 MW.<sup>11</sup> It remains wholly unclear what rationale Staff or the Commission is invoking to preclude these facilities from applying for financial support and receiving compensation for their environmental attributes (especially as the Commission has dismissed arguments indicating that the attributes from these facilities may leave the State). In the absence of such rationale, Energy Ottawa believes that the Commission should adopt an approach that is more inclusive and should therefore increase the size threshold for hydroelectric facilities to a much higher level (i.e. 20 MW).

ii. Eligibility based on existing contractual arrangement: Energy Ottawa seeks clarity on the eligibility of a facility to seek a maintenance contract, based upon the type of contractual arrangement in place for the sale of the facility’s environmental attributes. In one section of the report, while discussing renewal of a maintenance contract, Staff proposes that “a facility may only seek a contract for maintenance support if it is not currently under an RPS or CES contract that was awarded in a competitive solicitation.”<sup>12</sup> Elsewhere, however, Staff describes eligible facilities as those “which are not currently under a contract to

---

<sup>11</sup> Synapse Report, p. 5.

<sup>12</sup> Staff Report, p. 20.



sell their environmental attributes associated with the energy produced.”<sup>13</sup>

Energy Ottawa requests clarification from the Commission on the intended interpretation and application of these statements. Energy Ottawa is seeking clarification on account of the unique contractual arrangement in place for the sale of the environmental attributes associated with generation from its hydroelectric facilities in New York (see description in section II. above). Energy Ottawa currently sells the environmental attributes associated with its facilities’ generation to its local electric distribution company, as part of a power purchase agreement (“PPA”) in place between the two parties.<sup>14</sup> Nothing in the record of this proceeding appears to signal intent on the part of the Commission to preclude facilities in a situation like Energy Ottawa’s from seeking support under Tier 2. Nevertheless, in the interests of certainty, Energy Ottawa requests clarification from the Commission on this matter (i.e. whether a facility which currently sells its environmental attributes to an electric distribution company/LSE as part of a PPA or other contract is still able to apply for financial support under Tier 2). Similarly, Energy Ottawa seeks clarification from the Commission on whether the New York State Energy Research and Development Authority (“NYSERDA”) will lay claim to the environmental attributes of a facility under a Tier 2 maintenance contract.

iii. Maximum incentive payments for contracts under streamlined or case-by-case reviews: Whereas the CES Order did not stipulate any maximum level of

---

<sup>13</sup> Staff Report, p. 25.

<sup>14</sup> Energy Ottawa further notes that this PPA is a default contractual arrangement with the local LSE. While the LSE retains ownership of the environmental attributes, Energy Ottawa receives no financial compensation for these attributes. Under the terms of the default contract, Energy Ottawa simply receives payment for a day-ahead energy price and ancillary services.

financial support to be awarded to Tier 2 facilities, Staff recommends capping incentive payments using different methodologies, based upon whether a facility has applied under the streamlined or case-by-case review processes.<sup>15</sup>

Energy Ottawa has two concerns with this recommendation. First, no rationale is offered by Staff for why maximum support levels are deemed to be necessary at this time, notwithstanding the CES Order's silence in this regard. Second, it remains unclear why Staff have recommended the methodologies in question, especially as their respective purposes do not appear to be wholly aligned. Staff's explanation for one (Social Cost of Carbon price minus Regional Greenhouse Gas Initiative) is that it supports preservation of carbon-free emissions. Their explanation for the other, meanwhile, is that it covers the projected shortfall between total forecasted revenues and total forecasted operating costs necessary to provide a net income of zero. Accordingly, Energy Ottawa urges the Commission not to adopt maximum incentive payments for Tier 2 contracts.

iv. Standard terms for maintenance contracts: Staff recommends establishing a standard contract term of three years. However, Staff does not offer any rationale in support of the three-year term or of the incongruence between this proposal and the 10-year duration of maintenance contracts that was established policy under the RPS Maintenance Program. Accordingly, in the absence of any rationale arguing otherwise, Energy Ottawa recommends that the standard term for Tier 2 maintenance contracts should mirror that of the RPS Maintenance Program.

v. Application process for facilities operated on a portfolio basis: Energy Ottawa seeks clarification from the Commission that generators which operate their assets

---

<sup>15</sup> Staff Report, pp. 19-20.

on a portfolio basis, rather than on a facility-by-facility basis, will be permitted to apply for a maintenance contract under either process (i.e. streamlined or case-by-case). The operation of facilities on a portfolio basis may not involve the maintenance of financial records for each facility within a generator's fleet, but rather one set of records for the overall asset portfolio. Energy Ottawa does not believe that the Commission intends to preclude existing resources from applying for Tier 2 support, merely on account of the operation and financial accounting of their fleet. Energy Ottawa is aware of other parties who have raised this matter during this proceeding, but is not aware of any guidance or clarification offered by the Commission.<sup>16</sup> Energy Ottawa respectfully requests that the Commission offer such a response in its subsequent action on Staff's Tier 2 report.

**C. Energy Ottawa appreciates Staff's confirmation that facilities receiving support under Tier 2 are not necessarily precluded from receiving compensation under the Value of Distributed Energy Resources ("VDER") tariff and other complimentary initiatives, such as Community Choice Aggregation ("CCA"). Energy Ottawa requests guidance from the Commission or Staff on these issues and opportunities.**

Energy Ottawa notes with encouragement the language in Staff's report confirming that facilities receiving maintenance support under Tier 2 are not precluded from also receiving support through VDER, CCA, and other such initiatives.<sup>17</sup> While Energy Ottawa maintains that the chief priority in this proceeding ought to be establishing a policy mechanism that ensures fair, equitable compensation for the environmental attributes produced by all forms of existing zero-emissions generation, Energy Ottawa welcomes efforts to maximize the range of opportunities made available to existing resources. What's more, Energy Ottawa welcomes Staff's intent to provide guidance to existing resources on VDER, CCA, and other initiatives.

---

<sup>16</sup> Case 15-E-0302, Response of Brookfield Renewable Regarding Petitions for Rehearing and Reconsideration of the Commission's Clean Energy Standard Order (November 14, 2016), p. 15.

<sup>17</sup> Staff Report, p. 25.

Energy Ottawa is appreciative of such plans for several reasons. First, mixed signals have been sent regarding the eligibility of existing facilities for these programs. For example, Synapse's report acknowledges that at least one decision in the VDER proceeding has foreclosed opportunities for the participation of existing facilities.<sup>18</sup> And secondly, all of the various proceedings and programs are quite complex, while many owners of existing renewable facilities possess limited ability to engage fulsomely in each and every process. Energy Ottawa would therefore be grateful for any detailed guidance material and support documentation that the Commission or staff could provide on these matters.

#### **IV. CONCLUSION**

Energy Ottawa appreciates this opportunity to provide comments and respectfully requests that the Commission proceed in a manner consistent with the comments set forth herein.

Respectfully submitted,

**/s/ Franz Kropp**

Franz Kropp

Director, Generation

Energy Ottawa Inc.

3025 Albion Road North

Ottawa, Ontario K1G 3B4

(613) 225-0418 ext. 7498

[franzkropp@energyottawa.com](mailto:franzkropp@energyottawa.com)

Dated: January 8, 2018

---

<sup>18</sup> Synapse Report, p. 14.