



November 15, 2019

VIA ELECTRONIC FILING

Hon. Michelle Phillips
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza, Agency Building 3
Albany, New York 12223-1350

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

Dear Secretary Phillips:

Advanced Energy Economy Institute (AEE Institute) submits for filing Reply Comments in response to the Commission's August 8 *Notice Soliciting Comments on the Petition of American Wind Energy Association and Alliance for Clean Energy New York for an Order Modifying the Clean Energy Standard Tier 1 Procurement Process*.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Ryan Katofsky", with a stylized flourish at the end.

Ryan Katofsky
Managing Director

**REPLY COMMENTS IN RESPONSE TO THE COMMISSION’S
NOTICE SOLICITING COMMENTS ON THE PETITION OF
AMERICAN WIND ENERGY ASSOCIATION AND THE ALLIANCE
FOR CLEAN ENERGY NEW YORK
(Case 15-E-0302)**

Advanced Energy Economy Institute

Introduction

Advanced Energy Economy Institute (AEE Institute) is submitting these Reply Comments in response to the New York Public Service Commission (“Commission”) *Notice Soliciting Comments*, (the “Notice”) dated August 8, 2019, in the above-referenced proceeding. These comments were developed based on AEE Institute’s longstanding interest to see New York State succeed in meeting its ambitious and forward-thinking Clean Energy Standard (CES) and related clean energy targets, as now codified in statute as mandates with the recent passage of the Climate Leadership and Community Protection Act. Achieving the state’s clean energy and economy-wide decarbonization mandates will require, among other efforts, the construction of significant new renewable energy (RE) generating capacity.

Doing so expeditiously and cost effectively will be critical, and we believe indexed RECs will aid in this regard. As such, AEE Institute expressed its support for Indexed RECs in Initial Comments¹ on the Petition of the Alliance for Clean Energy New York (ACE NY) and the American Wind Energy Association (AWEA), collectively, “the Petitioners.”² In these Reply Comments, we respond primarily to the lack of a fair assessment of the full benefits, in addition to risks, of Indexed RECs in many of the Initial Comments from parties. We also briefly respond to some misconceptions around the purpose of RECs, the impact of market price signals on non-dispatchable resources, and market-based procurement versus rate regulation.

¹ *Comments in Response to the Commission’s Notice Soliciting Comments on the Petition of American Wind Energy Association and Alliance for Clean Energy New York*, filed October 2, 2019, in case 15-E-0302.

² *Statement of American Wind Energy Association and Alliance for Clean Energy New York in Opposition to Petition of Multiple Intervenors and Independent Power Producers of New York Inc., and Petition of American Wind Energy Association and Alliance for Clean Energy New York for an Order Modifying the Clean Energy Standard Tier 1 Procurement Process*, filed in Case 15-E-0302 and Matter 17-01821.

Indexed RECs Transfer Both Benefits and Risks to Customers

Several parties³ discussed their concern over the transfer of electricity market price risk from developers to customers. These parties are correct in their assessment that customers would see more variability in their REC costs, and over periods of low electricity market prices, customers might pay more for electricity and RECs with Indexed RECs than with the current Fixed-Price RECs. However, they stopped short of providing an even-handed assessment by not also discussing the benefits of Indexed RECs during periods of high electricity market prices, as well as other hedging benefits. During periods of high electricity market prices (potentially with the support of carbon pricing, as is currently being considered by the New York ISO), the Indexed REC price could shrink all the way to zero. Further, if structured similar to Indexed Offshore Wind RECs (Indexed ORECs), generators would make payments to NYSERDA in the event that electricity market prices exceed the all-in Indexed REC and electricity market strike price, in effect, creating a negative REC payment. So long as negative REC payments flow back to customers, they provide customers with a price ceiling for electricity costs associated with renewable projects—no such protections from high electricity prices are provided through Fixed-Price RECs. And as NYSERDA noted,⁴ Indexed RECs can be designed with limits on REC pricing during negative energy prices so that customers will not pay increasing REC prices as energy prices fall below zero. This would also preserve the incentive for generators to curtail during negative prices and allow customers to continue receiving the benefits of negative LBMPs without the potential risk that REC prices would increase to offset those energy savings.

In addition to providing customers with a ceiling on their electricity costs associated with renewable energy projects, the Indexed RECs would also lower the all-in REC plus electricity costs for customers by \$8 per MWh, or by one third of the current cost of NYSERDA Fixed-Price RECs, according to the analysis NYSERDA provided in its Initial Comments.⁵ Thus, Indexed RECs can be designed to provide a ceiling on customer electricity prices, preserve the cost savings to customers resulting from negative electricity prices, and lower total all-in electricity plus REC costs as compared to current Fixed-Price RECs.

³ *Joint Utilities' Comments on Proposal of Indexed Renewable Energy Credit Procurement Mechanism* (“JU Initial Comments”) p. 2, *Comments of the City of New York* (at 2), *Initial Comments of Multiple Intervenors* (at 8), filed on October 2, 2019, in case 15-E-0302.

⁴ NYSERDA Initial Comments, p. 14.

⁵ *NYSERDA Comments on the AWEA/ACE-NY Petition Regarding Integration of an Index REC Procurement Structure into Tier 1 REC Procurements Under the Clean Energy Standard* (“NYSERDA Initial Comments”), filed October 2, 2019, in case 15-E-0302, at p. 5.

Non-Dispatchable Renewables Do Not Follow Market Price Signals

The Joint Utilities and NYISO also expressed concerns about preserving the incentive for generators to follow market price signals. Currently, the ability of non-dispatchable renewables to follow market price signals is limited to curtailment, such as during negative pricing periods or for system reliability reasons. During all other times when market pricing is close to zero or above, renewable generators have an incentive to generate as there is negligible cost to do so. As discussed in NYSERDA's Initial Comments,⁶ Indexed RECs can be designed to preserve incentives to curtail when prices are negative, essentially leaving the same incentives that exist today: generate when prices are above zero and curtail when prices go below zero.⁷ Thus, the adoption of Indexed RECs would not change the ability or incentives for non-dispatchable renewables to follow market signals compared to the status quo.

RECs Are Not Merely for Accounting for Environmental Benefits, but also the Mechanism for Achieving a Legislative Mandate

The Joint Utilities state that RECs are meant to compensate developers for the environmental attributes of their generation, and they should be priced separately from electricity markets.⁸ This is not correct, since as the Joint Utilities acknowledge,⁹ REC prices are tied to the competitive bidding process through which they are procured rather than a more direct estimation of the environmental benefits that result from clean generation. RECs are an accounting mechanism and can be used for a variety of purposes. In New York, RECs are used as the compliance mechanism for reaching a legal mandate and differs from the mechanisms the Commission has employed to compensate for environmental benefits.¹⁰ Therefore, the price of RECs in New York should be the price that is required to procure enough clean energy to meet the mandate. New York also has flexibility in how it procures RECs, and it is in the public's interest to ensure that the price that New Yorkers pay for reaching clean energy mandates is as low as possible. Per NYSERDA's analysis referenced above, with the use of indexed RECs customers will pay less to meet the clean energy mandates than under the status quo.

⁶ NYSERDA Initial Comments, p. 14.

⁷ Some generators with Production Tax Credits may still generate net positive revenues despite negative prices for a limited range of prices below zero. This will not change, regardless of whether Indexed RECs are adopted.

⁸ JU Initial Comments, p.4.

⁹ "RECs currently compensate developers for environmental attributes associated with clean electricity generation at a fixed rate derived from competitive bids in the NYSERDA Tier 1 Solicitations." JU Initial Comments. P. 4.

¹⁰ Order on Net Energy Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters, March 9, 2017, Case 15-E-0751. See footnote 42 on page 106.

Indexed RECs are Not Rate Regulation

The Joint Utilities also conflate terms that exaggerate the impact of Indexed RECs on ratepayers and energy markets when they state that Indexed RECs amount “to rate regulation by allowing NYSERDA to determine the total revenue provided to these resources.”¹¹ Rate regulation, as it is commonly used in the energy industry, refers to the process of administratively setting prices based on a review of the costs associated with the provision of a service. REC prices result from a competitive solicitation process—it is market competition rather than administrative review that determines the costs to customers. In restructured electricity markets throughout the country, it is commonplace for distribution utilities or state agencies (e.g., the Illinois Power Agency) to purchase RECs and electricity supply at fixed prices, resulting from competitive solicitations, for their default (non-shopping) customers.¹² These prices can be set long-term through hedges or contracts for differences. While these utilities or government bodies are setting long-term prices for default customers, their supply is generally not considered to be rate regulated because it is procured competitively through the market. Even in New York where supply costs for default customers float based on market prices, customers pay for and receive hedges on prices fluctuations through their distribution utilities. Indexed RECs have some similarity to procurement mechanisms for default customers, though Indexed RECs are more limited in that they do not directly procure electricity supply (but do hedge for price fluctuations, and only for specific resources). Referring to Indexed RECs as rate regulation is clearly an exaggeration that causes alarm, and it does not comport with how similar mechanisms in other states and in New York are defined.

Conclusion

AEE Institute appreciates the opportunity to provide these Reply Comments in support of the petition to use indexed RECs in future CES Tier 1 solicitations. Given that the quantitative analyses to date that address Indexed RECs (both in this proceeding and the Offshore Wind Proceeding) show cost savings and price stability for customers, we encourage the Commission to move forward with implementing Index RECs for contracts with eligible land-based resources. We look forward to our continued involvement in this important proceeding.

¹¹ JU Initial Comments, p. 4.

¹² RECs and electricity supply can be purchased together or separately depending on the jurisdiction.