August 28, 2015

VIA ELECTRONIC FILING

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

Re: Case 14-M-0094 – Proceeding on the Motion of the Commission to Consider a Clean Energy Fund. Also cases 13-M-0412, 10-M-0457, and 07-M-0458.

Dear Secretary Burgess:

The Advanced Energy Economy Institute (AEEI), on behalf of Advanced Energy Economy (AEE), the Alliance for Clean Energy New York (ACE NY), the New England Clean Energy Council (NECEC), and their joint and respective member companies, submit for filing the enclosed Reply Comments on NYSERDA's *Clean Energy Fund Information Supplement* in the above-referenced proceeding, in response to the DPS *Notice Regarding Comments* issued on July 2, 2015.

Respectfully Submitted,

Ryan Katofsky
Director, Industry Analysis
Advanced Energy Economy Institute

Reply Comments of Advanced Energy Economy Institute, the Alliance for Clean Energy New York, and the New England Clean Energy Council on NYSERDA's Clean Energy Fund Information Supplement

AEEI, ACE NY, and NECEC ("Advanced Energy Companies") offer the following reply comments in response to the initial public comments filed by active parties and stakeholders on NYSERDA's Clean Energy Fund Information Supplement filed in Case 14-M-0094.

Point I: **SUPPORT FOR THE CLEAN ENERGY FUND PROGRAMS AT SIGNIFICANT LEVELS IS ESSENTIAL TO THE ACHIEVEMENT OF PUBLIC POLICY GOALS AND RATEPAYER BENEFITS**.

The Advanced Energy Community supports the Clean Energy Fund proposal in the belief that the Fund will support the achievement of important public policy goals, including the advancement of clean energy market opportunities, decarbonization of the electricity sector, and an overall more efficient and modernized electricity sector. These programs are essential to achieving the important goals in the State Energy Plan, and progress towards these goals will bring benefits to ratepayers in the form of reduced electricity bills, a more resilient electricity system, and cleaner air. While we appreciate that the proposed CEF is a significant investment over ten years, we cannot ignore that it is a $1.5B *reduction* from current levels of surcharge collections over the next 10 years, with resulting reductions in certain important NYSERDA clean energy programs.

In response to initial comments filed by Multiple Intervenors (MI) requesting more expeditious reductions, we respond that surcharge collections are being reduced by a very significant and immediate amount of $91,000,000 from 2015 to 2016, as well as continuing annual reductions thereafter (2016 – 2026). The $91M reduction is a substantial amount that will result in significant reductions in the support that NYSERDA is able to offer for various energy efficiency and renewable energy initiatives from 2015 to 2016, despite the proposed use of current cash balances. While the goal of the reorientation of NYSERDA's programs is to attract additional private capital into the clean energy marketplace to replace this loss of funds, this will not happen immediately, and we remain concerned about any precipitous drop in energy efficiency direct investment in 2016. This concern is heightened by that fact that, utility investments proposed in the Efficiency Transition Implementation Plans (ETIPs) do not increase to levels that "make up" for the reduced level of investment at NYSERDA. In our understanding, the targets for utilities, set at current EEPS levels, will remain flat from 2015 to 2016; the NYSERDA EEPS targets for that same period will be discontinued, although the investment will be partially shifted to upstream market transformation efforts. This remains a concern for the advanced energy community.

Point II: **SURCHARGE COLLECTIONS BASED ON VOLUMETRIC ELECTRICITY USE CONTINUES TO BE A SENSIBLE APPROACH TO ACHIEVE PUBLIC POLICY GOALS.**

In Initial Comments, MI argues against collecting monies for the Clean Energy Fund on a volumetric basis, stating that the intent and benefit of the CEF programs have no connection to a per kWh recovery mechanism or to kWh consumption levels, e.g., "The costs associated with those programs are not incurred on a per kWh basis, nor can customers be expected to realize the benefits of SBC programs on a per kWh basis," and "the environmental and other benefits targeted by efforts to increase solar generation are not realized by customers based on per kWh consumption."

We respectfully disagree that there is not a connection between Clean Energy Fund programs and volumetric electricity consumption.

At a basic level, State policy goals related to renewable energy and energy efficiency are motivated by the fact that traditional electricity use has environmental consequences that affect all New Yorkers, whether through emissions of criteria pollutants, emissions of greenhouse gases, or water consumption. These impacts are a direct result of, and directly related to, the amount of total electricity use (or, at least, total electricity use from non-renewable sources). Therefore, investments to mitigate these effects should be supported by a surcharge linked to total electricity consumption.

Additional motivations for the suite of Clean Energy Fund programs include protecting ratepayers from unnecessary costs and price volatility by striving to increase both efficiency and fuel diversity. Thus the portfolio includes programs to promote both the efficient end-use that will reduce total consumption (in kWh) and the system efficiency resulting from peak reductions, as well as programs to support diverse clean technologies that can dampen price volatility in the face of a system increasingly reliant on natural gas. While the benefits of both energy efficiency and on-site clean distributed generation will be directly realized by the customer implementing specific projects (to the limited extent that those types of incentives will be available), all ratepayers benefit when prices are lower and less volatile, a value all ratepayers realize on a per kWh basis according to how much electricity they consume.

For these reasons, continuing to recover the initial costs of these investments using a surcharge linked to volumetric energy use continues to be equitable and reasonable.

Point III: **ESTABLISHMENT OF A SELF-DIRECT PROGRAM FOR THE CLEAN ENERGY FUND RAISES SERIOUS CONCERNS**.

MI raises the prospect of a self-direct program for the Clean Energy Fund in their Initial Comments. We acknowledge that it is rational and reasonable that customers -- of any size -- would prefer to make investments at their own premises rather than contribute to a public fund to make similar clean energy investments on a statewide basis.

While we agree with MI that a self-direct program would provide large customers with more flexibility and would address their concerns regarding their surcharge levels as compared to other smaller customers, we believe this approach raises three types of concerns.

First, the current strategic reorientation of NYSERDA's programs is, in part, predicated on the imperative to invest funds in projects that deliver the maximum GHG reduction benefits for each dollar invested. A major benefit of a pooled fund is that the most efficient and effective initiatives, can be pursued at scale. A self-direct program erodes this benefit both by redirecting monies from the Clean Energy Fund and potentially fostering investments that are less efficient that those NYSERDA would otherwise pursue.

Second, the Clean Energy Fund proposal represents a major shift away from direct incentive payments for individual projects, towards upstream investments that transform markets. As such, the entire suite of Clean Energy Fund programs will be designed to deliver benefits to all ratepayers (really, all New Yorkers) and not just to those that directly participate in the programs by investing in clean energy projects at their premises. This could be, for example, by reducing soft costs, raising awareness, fostering new products, etc. As this transition occurs, it would neither be equitable nor fair for large customers to not support the Clean Energy Fund and be able to invest in on-site projects as an alternative yet still benefit from the changed marketplace. In short, the new Clean Energy Fund approach makes a self-direct program less relevant or equitable due to the transition away from direct incentive programs.

Third, a self-direct program raises issues of compliance and enforcement that could prove complex and burdensome for NYSERDA. If a program were to be designed, it would have to have clear and enforceable formalized rules; be limited to a small number of customers; and incorporate energy efficiency planning, reporting, measurement, and verification requirements for program participants. As a related matter, the proposal for a self-direct program raises questions as to why large customers would be eligible to self-direct while regular ratepayers, including low-income ratepayers, would not.

Point IV: **PRUDENT PUBLIC POLICY WILL GUIDE NYSERDA FLEXIBILITY AND ENSURE ADEQUATE OPPORTUNITY FOR STAKEHOLDER INPUT**

Several commenters joined Advanced Energy Companies in expressing concern regarding unlimited NYSERA flexibility in shifting funding within and among the four portfolios, as well as citing a need for stakeholder input into Investment Plans. The Clean Energy Organizations Collaborative Parties stated, for example, "In the event the Commission does not ask for more detail on specific spending levels in the CEF, we ask the Commission to make the Investment Plan available for stakeholder review and comment." The Natural Resources Defense Council states, "The Commission should set specific limitations, perhaps on a percentage basis, on how much NYSERDA may be able to transfer between programs with a CEF portfolio without obtaining permission. Amounts above that defined percentage should require approval of the commission or senior DPS staff. NYSERDA should be required to provide public notice of any such transfers, including those that may not require direct Commission or DPS staff approval, along with an explanation of the amount and the reasons for such a transfer."

We agree with such commenters and reiterate that prudent public policy would integrate meaningful Commission oversight, substantial public transparency, and adequate opportunity for market participants to inform programmatic decision-making into the design of a $5 billion, 10-year fund. It is simply too significant a program – with wide and diverse market implications, as well as opportunities for funds to be redirected – to not ensure adequate stakeholder input and oversight. We recognize that NYSERDA is striving to balance this imperative with streamlining its ability to make program changes, but we continue to believe that in the long run, NYSERDA's programming will be improved and protected by a deliberative approach that incorporates adequate public review.

Point V: **ENERGY EFFICIENCY PROGRAMMING DESERVES MORE NYSERDA EXPLORATION AND EXPLANATION**

Advanced Energy Companies, many of which are direct participants in New York energy efficiency programs and markets, have previously stated our concern that with NYSERDA's changes and reductions in energy efficiency programming, and combined with utilities' flat investment levels, there is an unfortunate potential for backsliding in energy efficiency progress. This concern was raised by other commenters, including the City of New York, the Clean Energy Organizations Collaborative, and the Natural Resources Defense Council. In their Initial Comments, Joint Utilities (JU) expressed an interest in increasing their energy efficiency efforts, including a willingness to increase the budgets in their ETIPs, citing the "movement of direct customer incentives out of the NYSERDA portfolio and into the portfolios of the utility ETIPs." ACEEE also noted this continuing concern in its recent study, which maintained that because New York will "backslide" in its commitment to energy efficiency in light of the ETIPs as submitted, NYSERDA and the utilities should coordinate on program design and implementation that complements and does not compete with utility programs. JU comments also raised the need for improved communication on this topic. We use this opportunity to reiterate our concern and underscore our alignment with these commenters. While we are not providing a detailed solution to this problem in these Reply Comments, we do identify the REV/CEF transition of energy efficiency programs as a remaining significant issue that deserves more deliberation by NYSERDA, the Commission, utilities, and stakeholders. We would welcome the opportunity to participate and contribute to that dialogue.

Point V: **TECHNOLOGICAL DIVERSITY AND CLEAN ENERGY FUND ELIGIBILITY**

We support technological diversity and agree with the comments of the Independent Power Producers of New York[1] that the CEF should continue to support technologies that are currently eligible for the RPS main-tier. Based on NYSERDA's eligibility criteria letter,[2] which includes a list of clean energy technologies that NYSERDA states is not exhaustive,

[1] Comments of the Independent Power Producers of New York, Page 5

[2] NYSERDA Eligibility Letter, Case 14-M-0094, July 31, 2015

we assume that Clean Energy technologies eligible for CEF support will incorporate the current RPS definition of eligible technologies, including low emissions carbon technologies.

There are critically important aspects to the definition of “clean” that are not explicitly included in the Clean Energy Fund eligibility criterion submitted by NYSERDA. For example, it is an established fact that criteria pollutants such as NOx, SOx, and particulate matter can result in significant adverse impacts to human health and the environment, especially in dense urban areas. The current renewable energy definition recognizes these broader adverse impacts from traditional forms of generation, such as criteria pollutants and water use, which continue to be appropriate for establishing the eligibility of clean energy technologies. The CEF eligibility criteria should include consideration of all of the above impacts in a framework that is both technology neutral and performance based rather than rely on a pre-determined list.