

August 31, 2020

VIA ELECTRONIC FILING

Hon. Michelle L. Phillips
Secretary
New York State Public Service Commission
Three Empire State Plaza
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 – **Comments of the City of New York on CLCPA White Paper**

Dear Secretary Phillips:

Attached for filing in the above-referenced matter, please find the *Comments of the City of New York on CLCPA White Paper*. Please contact me if you have any questions.

Respectfully submitted,

COUCH WHITE, LLP

Justin J. Fung

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JJF
Attachment

cc: Active Parties (via email w/ attachment)

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Proceeding on Motion of the Commission to
Implement a Large-Scale Renewable Program
and a Clean Energy Standard**

Case 15-E-0302

**COMMENTS OF
THE CITY OF NEW YORK
ON
CLCPA WHITE PAPER**

Dated August 31, 2020

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to
Implement a Large-Scale Renewable Program
and a Clean Energy Standard

Case 15-E-0302

PRELIMINARY STATEMENT

The City of New York (“City”) hereby submits these Comments on the *White Paper on Clean Energy Standard Procurements to Implement New York’s Climate Leadership and Community Protection Act* (“CLCPA White Paper”) issued by the New York State Energy Research and Development Authority (“NYSERDA” or “Authority”) and Department of Public Service Staff (“Staff”) on June 18, 2020.¹

The City is a strong proponent of policies and actions that result in increased deployment of renewable resources, particularly within New York City, and applauds the State for setting ambitious greenhouse gas emissions reduction targets as set forth in the Climate Leadership and Community Protection Act (“CLCPA”).² Developing adequate renewable generation to meet the CLCPA targets will take time and effort, but the City is optimistic that the proposals set forth in the CLCPA White Paper, if administered thoughtfully and expeditiously, will place the State on a path to achieve those goals.

¹ Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, White Paper on Clean Energy Standard Procurements to Implement New York’s Climate Leadership and Community Protection Act (issued June 18, 2020) (“CLCPA White Paper”).

² L. 2019, ch. 106.

In particular, the City continues to strongly support the proposed Clean Energy Standard (“CES”) Tier 4, which is designed specifically to facilitate renewable generation into New York City. Decarbonizing New York City’s electric system while maintaining system reliability and resiliency will be crucial to the success of the CLCPA. However, as the questions posed in the Public Service Commission’s (“Commission”) June 30, 2020 *Notice Scheduling Technical Conference and Soliciting Comments* (“Notice”) demonstrate, the Tier 4 proposal remains under development. The City encourages Staff to expeditiously synthesize the comments provided by stakeholders into a more detailed Tier 4 proposal with implementation details for further review and comment by interested parties.

The City’s Comments here are intended to supplement the arguments advanced by the City in its Preliminary Comments, which are incorporated herein by reference.³ To that end, these Comments are organized into two Sections. In Section I, the City addresses (through a number of sub-points) new issues that were not previously addressed in the City Preliminary Comments, and/or responds to arguments advanced by other parties in their respective preliminary comments. In Section II, the City responds to each of the questions posed by the Commission in the Notice. Any decision by the City not to address specific questions posed in the Notice should not be construed as the City having taken any positions on the issues raised thereby.

³ Case 15-E-0302, *supra*, Preliminary Comments of the City of New York (filed July 24, 2020) (“City Preliminary Comments”).

SECTION I – GENERAL COMMENTS ON CLCPA WHITE PAPER

POINT I

MORE DEVELOPMENT OF TIER 4 IS NEEDED, BUT IT SHOULD BE APPROVED EXPEDITIOUSLY

As noted in the City Preliminary Comments, there are a myriad of reasons why the Commission should establish Tier 4 of the CES, including but not limited to a need to: reduce downstate, and in particular, New York City’s reliance on aging fossil fuel-fired generation; solve the “tale of the two grids”;⁴ supplement offshore wind production; enhance fuel diversity, grid reliability and resiliency; and add renewable generation to satisfy local requirements, including the potential for alignment with the City of New York’s Local Law 97 of 2019 (“LL 97”).⁵ Increasing renewable generation into New York City through Tier 4 also will help improve air quality and ameliorate health impacts associated with the burning of fossil fuels by the in-City power plant fleet, such as respiratory ailments and hospitalizations, especially among residents of disadvantaged communities.

The variety of questions posed in the Notice demonstrate that the development of the mechanics and rules of Tier 4 is ongoing. To further the aims of the Notice, the City recommends that Staff and NYSERDA synthesize stakeholder comments into a more detailed design of the Tier 4 program, and expeditiously (*i.e.*, within a matter of weeks) file that proposal as a supplement to the CLCPA White Paper. This more refined proposal with implementation details should be subject to another round of stakeholder comment. Such a process would have the important benefit

⁴ New York Independent System Operator, Inc. (“NYISO”), *Power Trends 2020: The Vision for a Greener Grid* (issued June 2020) at 9, 26 (“NYISO Power Trends”), available at <https://www.nyiso.com/documents/20142/2223020/2020-Power-Trends-Report.pdf/dd91ce25-11fe-a14f-52c8-f1a9bd9085c2>.

⁵ See City Preliminary Comments at 2-7.

of providing further opportunity to garner support from and build consensus among the parties, including environmental groups and environmental justice organizations, renewable developers, transmission developers, and building owners. Recognizing the need to have Tier 4 in place as soon as possible to begin contributing to the CLCPA goals, this additional stakeholder development process should be accelerated to the extent possible, while still ensuring that all stakeholder feedback is accorded adequate consideration.

To help further frame the continued development of the Tier 4 proposal, the City offers the following comments:

1. Transmission Considerations

The City raised the issue of transmission development in relationship to the Tier 4 program in the City Preliminary Comments.⁶ A number of parties advocated for Tier 4 to be structured as a renewable transmission credit (“RTC”) paid to the owner of a transmission line that delivers renewable energy into NYISO Zone J, separate from any renewable energy credits (“RECs”) paid to the renewable facility that generates that electricity.⁷

The City agrees with other commenters that, to the extent an RTC or other mechanism developed in conjunction with Tier 4 could help spur transmission development into the downstate area and result in new Zone J capacity resources, such concepts are worth exploring as part of NYSERDA and Staff’s continued development and refinement of Tier 4. Given existing constraints on downstate large-scale renewable development, new transmission into New York City will be needed to achieve the CLCPA targets, help alleviate constraints in the existing bulk

⁶ See City Preliminary Comments at 9-13.

⁷ Parties that support the RTC concept include The Alliance for Clean Energy New York, the American Wind Energy Association, the Advanced Energy Economy Institute, and the Solar Energy Industries Association (collectively, “Clean Energy Industry Parties”); oneGrid Corporation; and Invenenergy Renewables LLC.

power system, lower costs to consumers, and increase resiliency of the electric system. For any proposal related to supporting transmission development, NYSERDA and Staff should consider, *inter alia*, how transmission owners would be able to guarantee delivery of a particular volume of renewable energy into New York City, and how that volume would be tracked, measured, and compensated.

2. Local Law 97 Alignment

The Commission, NYSERDA, and Staff should fully consider how Tier 4 will align with LL 97. The success of LL 97 will be critical for the State in meeting the CLCPA targets – the downstate region is responsible for 40 percent of the State’s greenhouse gas emissions, and 70 percent of New York City’s greenhouse gas emissions come from buildings.⁸ As presented in the CLCPA White Paper, Tier 4 potentially could serve the dual purpose of facilitating achievement of the CLCPA’s carbon emissions reduction targets and compliance with LL 97, which benefits both the City and the State as a whole.

One issue that requires immediate resolution is how purchases of Tier 4 RECs for LL 97 purposes should be counted toward a load serving entity’s (“LSE”) CES compliance obligations. The City submits that Tier 4 REC purchases by building owners should reduce the amount that their LSE must procure from NYSERDA for CES compliance purposes on a one-for-one basis, up to the LSE’s CES compliance requirement corresponding to that building owner’s load. If a non-LSE purchases a Tier 4 REC, it still is contributing to the broader CLCPA goal of increasing renewable generation in the State and therefore that purchase should reduce the LSE’s obligation. Conversely, the costs for building owners to comply with LL 97 would be higher if they have to

⁸ *OneNYC 2050: Building a Strong and Fair City – A Livable Climate* (issued April 2019) at 16, available at <https://onenyc.cityofnewyork.us/strategies/a-livable-climate/>.

pay for RECs twice - once for LL 97 compliance purposes, and again through the LSE for CES compliance purposes.⁹ A framework that results in such a double payment is not just and reasonable.¹⁰

The CLCPA White Paper also proposes that NYSERDA's sale price to all LSEs of any remaining Tier 4 RECs be reduced by any revenues received from non-LSE sales.¹¹ The City supports this proposal, which will help reduce the overall cost burden of the Tier 4 program on all ratepayers.

3. Tier 4 Procurements vs. Tier 1 Targets

The CES designates the overall amount of renewable resources needed for the State to meet its carbon reduction goals. The City applauds NYSERDA and Staff for continuing to evolve the CES to adapt to implementation challenges including: (i) the thoughtful consideration of what role existing resources should play, (ii) the importance and nascency of offshore wind, (iii) the benefits of promoting repowering in a way that reflects the peculiarities of different resources, (iv) the nexus to other State and City goals such as cleaner air, and (v) the just and equitable need to ensure that all New Yorker's have access to equal amounts of renewable resources. Therefore, it is imperative that RECs be used in the most efficient way to achieve the overall Renewable Energy Standard.

⁹ In their preliminary comments, the Clean Energy Advocates argue that "REC sales to an entity that lacks a direct compliance obligation—and thus an incentive to retire the REC—could raise concerns about the integrity of the [Renewable Energy Standard]." In the case of LL 97, building owners would be purchasing and retiring Tier 4 RECs to comply with City legislation. *See* Case 15-E-0302, *supra*, Preliminary Comments of Clean Energy Advocates (filed July 24, 2020) at 18 (internal citations omitted).

¹⁰ The issue of how the resale of Tier 4 RECs can be tracked through the New York Generation Attribute Tracking System ("NYGATS"), and how the general NYGATS processes can be simplified to reduce administrative burdens on building owners, will need to be addressed.

¹¹ *See* CLCPA White Paper at 56.

As such, the City supports the CLCPA White Paper proposal that any incremental renewables procured through Tier 4 should commensurately reduce the amount of renewables needed through Tier 1.¹² The amount of incremental renewable generation specifically needed from Tier 1 is based on a forecast of renewables needed to serve 70 percent of total statewide electric load in 2030, minus existing baseline renewables and new renewables that are expected to be procured through, *inter alia*, NYSERDA offshore wind solicitations, and the NY-Sun program.¹³ To the extent that the Tier 4 program is able to procure renewable New York City capacity resources toward that same CLCPA target, it is reasonable to reduce, by an equal amount, the gigawatt-hours of renewables needed through Tier 1. The additionality requirements proposed in the CLCPA White Paper would ensure that the renewable energy delivered into New York City will provide incremental environmental benefits to the State as a whole. As stated in Section II, *infra*, the City supports providing NYSERDA with some flexibility to structure its annual Tier 1 procurements, which should enable the Authority to accommodate any decrease to the Tier 1 requirements as a result of renewables developed through Tier 4.

There may be additional nuances with the Tier 4 program that will require Commission resolution. For example, AVANGRID, Inc. advocated in its preliminary comments that existing upstate renewables that reserve capacity on a new high-voltage direct current transmission line into Zone J should qualify for Tier 4.¹⁴ Similarly, the Clean Energy Industry Parties argue that both Tier 1 and Tier 2 resources should be eligible to participate in Tier 4 if the energy is delivered

¹² See CLCPA White Paper at 22.

¹³ See CLCPA White Paper at 20-23. The City takes no position on the accuracy of the CLCPA White Paper's forecast of 2030 electric load.

¹⁴ Case 15-E-0302, *supra*, Preliminary Comments of AVANGRID, Inc. (filed July 24, 2020) at 15.

into Zone J.¹⁵ If the Commission determines that existing in-state renewables qualify for Tier 4, then it must also take care not to double- or triple-count the carbon reduction benefits associated with those facilities. For example, if an existing renewable facility already was counted toward the State’s renewable baseline, and that facility is eligible for and subsequently enters into a Tier 4 REC contract with NYSERDA, its generation does not produce any incremental carbon reduction benefits toward the CLCPA targets and, accordingly, it should not reduce the Tier 1 procurement obligation.

POINT II

THE COMMISSION SHOULD BE INCLUSIVE WITH RESPECT TO THE SOURCES OF RENEWABLE ENERGY THAT QUALIFY FOR TIER 4

A number of parties in this proceeding recommended that the Commission prioritize in-state renewable generation delivered into NYISO Zone J for Tier 4, at the expense of out-of-state resources.¹⁶ The City respectfully urges the Commission to reject those recommendations.

The need for dispatchable renewable resources to be delivered into New York City and the difficulty of doing so are both well-documented. While more than 90 percent of upstate energy production comes from carbon-free resources, only 31 percent of downstate energy production is

¹⁵ Case 15-E-0302, *supra*, Preliminary Comments of the Clean Energy Industry Parties (filed July 24, 2020) at 13 (“Clean Energy Industry Comments”).

¹⁶ *See, e.g.*, Case 15-E-302, *supra*, Preliminary Comments of the New York Offshore Wind Alliance (filed July 24, 2020) at 5; Clean Energy Industry Comments at 14 (advocating that only 1,000 MW out of the proposed 3,000 MW Tier 4 program come from out-of-state resources); Preliminary Comments of Invenergy Renewables LLC (filed July 24, 2020) at 3.

from carbon-free resources.¹⁷ Downstate carbon-free production will decrease even further by 25 percent once the Indian Point Energy Center completely shuts down in April 2021.¹⁸

Achieving the CLCPA carbon emissions reduction targets and combating climate change requires an “all-hands-on-deck” approach. The reality of this is magnified in New York City where in-City fossil generation currently provides 50-60 percent of the City’s annual electricity, and 85-90 percent of City electricity is expected to be fossil fuel generated once Indian Point closes. Addressing this problem will require constructing new transmission capacity to deliver large-scale renewables into New York City. The Commission’s primary focus of Tier 4 should be to facilitate any and all such renewable resources in or into the downstate region, regardless of origin. No single source of renewables will be adequate to serve all of New York City’s energy needs, whether it be on-land or offshore wind, downstate or upstate solar, biogas, or in-state or out-of-state resources that meet the additionality requirements proposed in the CLCPA White Paper.

Climate change is happening, and it does not stop at state borders. The Commission should not erect barriers to delivering renewable resources into New York City by establishing Tier 4 restrictions based on where those renewable resources are located. Likewise, the Commission should not establish preferences for any particular renewable technologies based on location. Rather, it is the operating characteristics of renewable resources (*e.g.*, dispatchability), their additionality, their contribution toward a reliable and resilient system, and an expedited transition away from fossil fuels that should be given additional consideration. The City favors a multi-faceted approach that procures all types of renewables to meet the CLCPA targets, effectively combat climate change, and deliver cleaner air in New York City. Simply put, the magnitude of

¹⁷ See City Preliminary Comments at 3.

¹⁸ NYISO Power Trends at 29.

the challenge requires all resources be brought to bear in an approach that provides for the least cost, fair and just transition.

POINT III

BIOGAS SHOULD BE CONSIDERED A RENEWABLE RESOURCE

The City reiterates its positions from the City Preliminary Comments that the Commission should treat energy generated by biogas as a renewable energy system under the CLCPA.¹⁹ The omission of biogas from the definition of renewable energy systems in the CLCPA is a critical deficiency, but the Commission should exercise its broad discretion to interpret the Public Service Law and treat biogas as renewable energy in order to further facilitate achievement of the CLCPA targets, and avoid unnecessary and preventable direct methane emissions into the atmosphere.

Importantly, the City notes that the New York State Climate Action Council (“CAC”), on its own volition, recently identified a need to establish a Waste Management Working Group to examine the contribution of waste management emissions (including landfill methane) to Statewide greenhouse gas emissions, and develop recommendations for the CAC’s Scoping Plan.²⁰ The CAC’s determination underscores the need to fully and expeditiously account for the impact of waste management emissions in order to achieve the State’s clean energy and climate goals. More near-term action is needed to reduce the impact of waste methane on the environment, including encouraging technologies that can harness biogas for electric generation instead of allowing it to be released into the atmosphere, and pursuing zero-waste goals and organic

¹⁹ City Preliminary Comments at 18-20.

²⁰ See New York State Climate Action Council, Meeting Presentation for August 24, 2020, at 25-27, available at <https://climate.ny.gov/Meetings-and-Materials>.

diversion. Recovering biogas from the controlled anaerobic digestion of waste (especially in a city with a population of over eight million) should be viewed as an environmental benefit.

Treatment of biogas as a renewable energy system falls within the spirit and purpose of the CLCPA.²¹ One of the core legislative findings of the CLCPA is a need for “substantial reductions in greenhouse gas emissions ... by mid-century in order to limit global warming to no more than 2°C and ideally 1.5°C, and thus minimize the risk of severe impacts from climate change.”²² Meaningful efforts to reduce greenhouse gas emissions must include actions to reduce emissions of methane, which, on a pound-for-pound basis, has a global warming potential 84 times greater than that of CO₂ over a 20-year period.²³

The City has long considered the replacement of fossil fuel with digester gas as a reduction in greenhouse gas emissions, not an offset.²⁴ Capturing methane (which normally would be released into the atmosphere in any conditions in which organic material decomposes in an oxygen-free environment, such as in landfills or lagoons) and utilizing it for energy production has a twofold effect in reducing emissions. First, combusting the methane transforms one greenhouse

²¹ When interpreting statutes, “inquiry should be made into the spirit and purpose of the legislation, which requires examination of the statutory context of the provision as well as its legislative history.” Nostrom v. A.W. Chesterton Co., 19 N.Y.3d 106, 120 (2012) (internal quotations and citations omitted).

²² L. 2019, ch. 106 at Section I, paragraph 2.a.

²³ United Nation Intergovernmental Panel on Climate Change, *Climate Change 2014 Synthesis Report* (issued 2015) at 87, available at <https://www.ipcc.ch/report/ar5/syr/>.

²⁴ The CLCPA created a new Article 75 of the Environmental Conservation Law (“ECL”), directing the Department of Environmental Conservation to establish statewide greenhouse gas emissions limits as a percentage of 1990 emissions “measured in units of carbon dioxide equivalents and identified for each individual type of greenhouse gas.” ECL § 75-0107(2) (emphasis added). Notably, for ECL purposes, the CLCPA defines a carbon dioxide equivalent as “the amount of carbon dioxide by mass that would produce the same global warming impact as a given mass of another greenhouse gas over an integrated twenty-year time frame after emission.” ECL § 75-0101(2).

gas into a much-less potent one. Second, using biogas composed of recently-sequestered atmospheric carbon as a biogenic fuel avoids the need for fossil fuels like natural gas. This is consistent with the spirit and purpose of the CLCPA.

Relatedly, in enacting the CLCPA, the State Legislature also declared the following:

“It shall [] be a goal of the state of New York to reduce greenhouse gas emissions from all *anthropogenic* sources 100% over 1990 levels by the year 2050, with an incremental target of at least a 40 percent reduction in climate pollution by the year 2030, in line with [U.S. Global Change Research Program] and [Intergovernmental Panel on Climate Change] projections of what is necessary to avoid the most severe impacts of climate change.”²⁵

The methane produced by the digestion of sewage, food scraps, and other organic feedstocks under anaerobic conditions is biogenic in nature and does not contribute to anthropogenic greenhouse gas emissions. Unlike the burning of natural gas, carbon in this organic matter was only recently removed from the atmosphere by photosynthesis. Microbial decomposition of sewage and other organic wastes can be controlled through anaerobic digestion, and the methane-rich biogas generated thereby can be captured instead of being released back into the atmosphere, for example, if left in a landfill. When used for energy generation, this process avoids anthropogenic greenhouse gas emissions from fossil fuels like natural gas or oil, consistent with the CLCPA.

For all the foregoing reasons, it is reasonable and appropriate to treat energy generated by biogas as a renewable energy system, and doing so is consistent with the legislative intent and spirit of the CLCPA, and will help to reduce the impact of greenhouse gas emissions.²⁶ This is an

²⁵ L. 2019, ch. 106 at Section I, paragraph 3. (emphasis added).

²⁶ As stated in the City Preliminary Comments, the Commission and NYSERDA should work with others to encourage the State Legislature to revisit this omission and amend Public Service Law 66-p(1)(b) to expressly include biogas, in order to effectuate the purpose of the CLCPA. City Preliminary Comments at 20.

especially important strategy for densely populated areas with access to biogas from the treatment of wastewater, as well as the agriculture sector.

SECTION II – RESPONSES TO QUESTIONS IN NOTICE

The City offers the following responses to the questions posed in the Notice.

- 1. Section II.a.3 describes current efforts to ensure that the CLCPA Targets are achieved in a manner that provides substantial benefits to disadvantaged communities including low to moderate income consumers. Are there other policies that should be considered or other ways in which the CES affects disadvantaged communities that are not addressed?**

The Commission should structure the Tier 4 program in a manner that produces meaningful benefits for disadvantaged communities. This can be accomplished in a number of ways. First, as noted in the City Preliminary Comments, New York City does not just need carbon-free energy generated elsewhere in the State – it also needs to replace the capacity provided by the existing fleet of heavily polluting in-City aging fossil-fueled generating facilities. These facilities are disproportionately located in disadvantaged communities whose members experience higher rates of respiratory ailments and cardiovascular disease due to poor local air quality and harmful emissions.²⁷ Given existing New York State Reliability Council and NYISO reliability requirements, renewables developed under Tier 4 will have to qualify as in-City capacity in order to effectively replace fossil-fueled generators to the benefit of the City’s disadvantaged communities. The Commission should ensure that the rules of Tier 4 are designed such that Tier 4 renewables effectively replace in-City fossil-fueled generation.

Second, the Commission should direct NYSERDA to qualitatively and quantitatively consider benefits inuring to disadvantaged communities as part of its bid review process. This

²⁷ See City Preliminary Comments at 3-4, 13-14.

should include the benefits associated with the dispatchability of renewable energy resources or systems, whether inherent to the resource or acquired through the coupling of resources. Maintaining system reliability and resiliency will be critical as the State relies on more intermittent renewable generation. Any actions that promote the quality of dispatchability and the strategic location of such resources or systems to provide the same resource adequacy and reliability benefits that traditional, fossil fuel-fired peaking units currently provide should be encouraged. The quality of dispatchability carries many benefits including: (i) the optimization of variable production renewable energy generation (like wind and solar), (ii) reduction of peak loads and the concomitant infrastructure required to support peak load, (iii) an expedited transition away from fossil fuels and attendant improvements to air quality, (iv) enhanced system reliability, and (v) lower overall costs. Realizing these benefits will have an especially positive impact on disadvantaged communities, which have disproportionately suffered from poor air quality, and higher energy cost burdens.

2. Section II.c.1 outlines a procurement trajectory under Tier 1 of the CES needed to meet the 70 by 30 Target and proposes several changes to NYSERDA's procurement process.

- a. Does the proposal of annual procurements with flexible targets properly balance the goal of ensuring a predictable schedule of procurements that will facilitate private sector investment with the flexibility NYSERDA will need to meet the procurement goals driven by the CLCPA?**

The City addressed this issue in the City Preliminary Comments.²⁸ While some degree of flexibility for NYSERDA should be authorized, the Commission also should continue maintaining an oversight role over NYSERDA's procurements, in accordance with its statutory obligation to ensure that rates remain just and reasonable.²⁹ Customer costs should remain an important

²⁸ See City Preliminary Comments at 21-23.

²⁹ Public Service Law § 65(1).

consideration, and inasmuch as NYSERDA's procurements involve funds collected from ratepayers pursuant to the Public Service Law, those procurements should proceed in a manner that does not cause or result in unexpected or unreasonable utility bill impacts for customers.

b. Section II.c.1 also presents changes to the procurement process and selection criteria intended to facilitate a greater emphasis on project viability and the potential interactive effects caused by the increasing penetration of renewable energy resources on the grid. Are there other considerations that should inform the Tier 1 procurement process as the State progresses toward the 70 by 30 Target?

The City supports the CLCPA White Paper proposal to emphasize project viability and grid interactivity as part of NYSERDA's Tier 1 bid review process. As more renewable resources connect to the electric system, it will become increasingly important to ensure that grid reliability is maintained. Likewise, dispatchability and peak coincidence will be important factors to consider as more renewables are connected to the grid, in order to ensure that local constraints do not result in increased curtailments of these resources. These criteria should be made transparent to developers in each NYSERDA Tier 1 procurement event, and NYSERDA should provide a detailed explanation of its findings and conclusions to any developer whose proposed project is rejected on viability or grid interactivity grounds. NYSERDA also should consider adding additional sub-categories to its future bid review processes, including but not limited to benefits inuring to disadvantaged communities, reductions to criteria pollutants, and mitigation of cumulative greenhouse gas emissions.

- c. Section II.c.1 proposes reforms to the NYSERDA procurement process intended to account for curtailment and other interactions within the State’s portfolio of renewable generation. Are the proposed reforms sufficient? Should the Commission consider additional reforms, such as a procurement policy that, in agreements resulting from future procurements, would make no payment to the generator for any REC generated in hours and at locations where the applicable LBMP is negative?**

The Commission should look to design a system that procures sufficient quantities of complementary resources and systems with dispatchable qualities to reduce, to the greatest extent possible, the potential for these market conditions to exist in the first place.

- 3. Section II.c.2 describes a procurement trajectory aimed at meeting the CLCPA’s 9 GW offshore wind requirement. Does the proposed approach adequately balance the need to provide a clear investment signal to the offshore wind industry with the need to preserve NYSERDA’s flexibility to respond to market conditions?**

The City addressed this issue in the City Preliminary Comments,³⁰ and also reiterates its response to Question 2.a, above. As with the Tier 1 program, NYSERDA should have flexibility to administer its offshore wind procurements, but the Commission also should continue to maintain an oversight role over those solicitations. As more offshore wind comes online in the future, the Commission also will need to address transmission planning to ensure that the clean energy generated thereby can be delivered to areas where it is needed the most.

- 4. Section III.c.3 proposes a new Tier 4 of the CES intended to increase the penetration of renewable energy consumed in zone J.**

- a. Is there [] a need to explore additional policy mechanisms under the CES to achieve that goal?**

The City strongly supports the expeditious implementation of Tier 4, as stated in Section I, *supra*. Until that is complete it remains unclear as to whether additional policy mechanisms are needed.

³⁰ City Preliminary Comments at 21-23.

- b. Will the two additionality requirements included in the proposal achieve their purposes of ensuring that hydropower resources eligible under Tier 4 would be additional to baseline generation? Are the additionality requirements appropriately restrictive? Is the proposed three-year historical baseline reasonable?**

The City takes no position on these issues at this time.

- c. Will the proposal's delivery requirement achieve its goal of ensuring that Tier 4 resources provide incremental renewable energy into zone J? What options does the Commission have for verifying that Tier 4 resources are delivering into zone J using new transmission interconnections?**

The City addressed this issue in the City Preliminary Comments.³¹ As reiterated above, the City strongly urges the Commission to establish rules to ensure that any resources developed through Tier 4 will qualify as in-City capacity under the NYISO's rules and tariffs.

- d. Should Tier 4 procurement costs be capped in relation to Tier 1 costs? If so, how should NYSERDA calculate the Tier 1 reference price that would serve as a cost cap for Tier 4 procurements?**

The City addressed this issue in the City Preliminary Comments.³² The Commission should conduct a robust analysis of the benefits and costs of Tier 4, and the results should be quickly provided as a supplement to the CLCPA White Paper. To date, no rationale for a cap has been provided and such a requirement would be inconsistent with how Tier 1 and offshore wind procurements have been administered. As proposed in the CLCPA White Paper, NYSERDA already would have flexibility to forgo procurements should it determine, *inter alia*, that prices are excessive. If any cap is included therein, the details and rationale should be provided. In any event, any Tier 4 price cap should consider the costs to develop and operate a Tier 4 project, including transmission costs, as appropriate.

³¹ City Preliminary Comments at 13-14.

³² City Preliminary Comments at 10-13.

- e. **The CLCPA White Paper proposes a possible alternative under which the price for the Tier 4 REC could be set via standard offer or directly negotiated between NYSERDA and a potential developer. Under what circumstances would such an approach be reasonable? If pursued, what policies and procedures should the Commission establish to guide such an approach?**

The City takes no position on this issue at this time.

- f. **Should Tier 4 RECs be made available for re-sale? If so, how should Tier 4 RECs be priced for re-sale? Should a price floor calculated based on the social cost of carbon be imposed? Further, if NYSERDA receives revenue from the re-sale of Tier 4 RECs that exceed its procurement costs, how should such excess revenues should be directed?**

The City addressed this issue in the City Preliminary Comments.³³ NYSERDA's resale price for Tier 4 RECs should be no higher than the sum of the costs incurred thereby to purchase, process, and resell such RECs. However, assuming, *arguendo*, that the Commission permits NYSERDA to charge a premium on resold Tier 4 RECs, the revenues received therefrom should only be used to support energy efficiency and distributed energy programs in New York City, including those that benefit disadvantaged communities.

- 5. **Section II.c.4 describes a petition (Tier 2 Petition) NYSERDA filed on January 24, 2020 proposing a Competitive Tier 2 Program for baseline renewable generation.**
 - a. **The Tier 2 Petition proposed to size the overall program to include the majority of eligible generation, but to limit annual procurement volumes so as to promote competition and lower-cost bids. Unpurchased RECs would be available for voluntary market purchase by CCAs, ESCOs, or any other interested entities. Should NYSERDA be authorized to re-sell Tier 2 RECs to such entities?**
 - b. **The New York Power Authority (NYPA), through its comments addressing the Tier 2 Petition, stated that, as part of its voluntary compliance with the CES goals, if the baseline generation from its hydroelectric resources is deemed Tier 2-eligible, it would retain and retire sufficient environmental attributes from its existing hydroelectric resources (self-supply) to meet the Tier 2 program targets in accordance with its share of statewide load. Should the attributes associated with baseline generation from NYPA's hydroelectric**

³³ City Preliminary Comments at 15.

resources be used by NYPA as a self-supply option under the proposed Competitive Tier 2 program? And, if so, to what extent?

The City previously addressed NYSERDA's Tier 2 Petition in comments filed on May 4, 2020.³⁴ The City hereby incorporates the arguments advanced therein in these Comments.

- 6. Section II.c.5 proposes a pathway through which repowered facilities may become eligible for Tier 1.**
 - a. Does this proposal appropriately balance the objective of ensuring that existing facilities see the correct price signal to invest in repowering with the need to avoid duplicative expenditure of ratepayer funds for facilities that have already received support?**
 - b. Is the definition of "useful life" reasonable for each of the technologies listed?**
 - c. Should replacement of each prime mover be a requirement for a Tier 1-eligible repowering?**
 - d. Should the proposed 80% tax basis requirement be a requirement for a Tier 1 eligible repowering?**
 - e. Are there other criteria that should be considered to determine the eligibility of repowered facilities under Tier 1?**

The City addressed repowering in the City Preliminary Comments.³⁵ The conditions regarding repowering should be modified to remove disincentives to repower hydroelectric facilities when their turbines and generators reach the end of useful life.

³⁴ Case 15-E-0302, *supra*, Comments of the City of New York on the Proposed Clean Energy Standard Competitive Tier 2 Program (filed May 4, 2020).

³⁵ See City Preliminary Comments at 16-18.

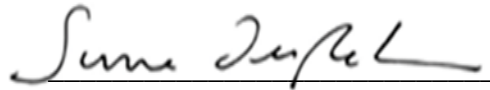
CONCLUSION

The City appreciates this opportunity to provide additional feedback on the CLCPA White Paper, and looks forward to working with the Commission, NYSERDA, Staff, and other stakeholders to develop a successful CES program to achieve the CLCPA targets, including the proposed Tier 4 program. For the reasons set forth herein and in the City Preliminary Comments, the City respectfully urges that the Commission adopt the recommendations herein.

Respectfully submitted,

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Dated: August 31, 2020
Albany, New York

Dated: August 31, 2020
New York, New York