STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of the Value of Distributed Energy Resources Case 15-E-0751

In the Matter of the Value of Distributed Energy Resources Working Group Regarding Low and Moderate Income Customers Matter 17-01278

Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program Case 15-E-0082

COMMENTS OF CITY OF NEW YORK ON STAFF REPORT

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COUCH WHITE, LLP
540 BROADWAY
P.O. BOX 22222
ALBANY, NEW YORK 12201-2222
518-426-4600
PRELIMINARY STATEMENT

The City of New York (“City”) has supported the Public Service Commission’s (“Commission”) Community Distributed Generation (“CDG”) program since its inception and has actively participated in the process to develop and modify its parameters to maximize its usefulness to a variety of customers. The CDG framework has potential to expand clean energy generation in New York State, consistent with both City and State policy, by extending participation opportunities to residents who cannot, or opt not to, invest in onsite distributed energy resources (“DER”). Simultaneously, the City has an interest in ensuring that, as DER become more prevalent, all customers have ample opportunities to participate in and benefit from clean energy, and barriers to participation in CDG must be removed or reduced to ensure that low-income customers, a community that is underserved in the current market, are included.¹ Yet, because the CDG marketplace is still in its nascent stages, it is important at this juncture to ensure that programs designed to foster low-income participation in CDG are well-developed.

To that end, the City has identified several concerns with the Staff Report on Low-Income Community Distributed Generation Proposal (“Staff Report”) issued by Department of Public Service Staff (“Staff”) on December 15, 2017 in the above-captioned proceedings. Specifically, the Staff Report proposes, inter alia, a Bill Discount Pledge (“BDP”) Program whereby low-income customers would be allowed to redirect a portion of their low-income program discount toward the purchase of renewable generation from a CDG project. The proposed BDP Program raises numerous unanswered questions regarding costs, eligibility requirements,

¹ The City actively participated in the collaborative process established in the Commission’s CDG proceeding to investigate and evaluate low-income participation in CDG, including removing potential barriers to their participation. See Case 15-E-0082, Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program.
implementation, and actual benefits that would inure to low-income customers. Moreover, given that the Commission already has approved a number of programs that conceptually will provide low-income customers with opportunities to participate in and benefit from clean energy projects, there is a risk that the burgeoning CDG marketplace could become crowded with overlapping, incompatible, and uneven benefits systems leading to confusion among customers. For those reasons, and for the reasons set forth herein, the City respectfully recommends that the Commission reject the proposed BDP Program at this time or, in the alternative, direct Staff to revise and refine the BDP Program proposal to answer a number of unresolved issues discussed in more detail in these Comments before taking any action on the proposal.

In contrast, clean energy prospects for low-income customers can be improved by providing developers with the proper price signals to indicate where deployments of CDG projects are most beneficial for the public policy objective of increasing access to DER for communities that have historically been underserved with respect to clean energy opportunities. The City has and continues to support the addition of an environmental justice (“EJ”) adder to the Value Stack calculation in the Value of Distributed Energy Resources (“VDER”) tariff, which could help accomplish this public policy goal. Whether to advance this concept toward implementation or develop alternative approaches for improving the equitability of DER deployments, more discussion is needed on EJ issues. To the extent that insufficient progress has been made on EJ issues within the context of the existing VDER Working Groups, the City respectfully submits that the Commission should convene an alternate forum where these issues, which are of great interest
to a wide variety of stakeholders in the Reforming the Energy Vision proceeding, can continue to be explored in more detail.²

COMMENTS

POINT I

THE PROPOSED BDP PROGRAM RAISES NUMEROUS CONCERNS

The proposed BDP Program would allow low-income customers participating in utility affordability bill discount programs to redirect all or a portion of their bill discounts toward subscriptions in CDG projects. Conceptually, the program may be meritorious as a means of opening a convenient channel for low-income customer participation in CDG. However, while the City understands that the concept proposed by Staff is not a final program sketch, as it is outlined in the Staff Report, the BDP Program lacks critical details and raises unanswered questions about its feasibility and efficacy, costs, and whether actual benefits will be conferred on low-income customers. These outstanding issues must be addressed or further fleshed out before the BDP Program can be approved.

First, clarification is needed as to when and how customers will be enrolled in the BDP Program. For example, many customers in New York City enroll in programs that directly pay their utility bills, including one offered by the New York City Human Resources Administration (“HRA”). It is unclear how the mechanics of a BDP Program would interact with the HRA program, or whether customers enrolled in the HRA program are even eligible to participate in the BDP Program.

² Except as discussed herein, the City offers no comments or opinions on other aspects of the Staff Report.
Second, the Staff Report asserts that the BDP Program would require that any bill reductions obtained from participating in CDG would be the same or greater than the foregone portion of the customer’s bill discount used to pay for that subscription. In conflict with that assertion, however, the Staff Report also states that “in cases where the BDP amount is insufficient to fully cover subscription costs, some additional customer contribution may be required.” The City is very concerned that low-income customers could end up paying more than they otherwise would have paid if they had simply taken the bill discount offered through a utility affordability bill discount program. Absent a guarantee that the BDP Program framework will result in bill savings at least as great as those provided through the utility affordability bill discount programs, the program will not accomplish its intended purpose and should not be adopted. Even if the Commission deems this an acceptable outcome (which it should not), the Staff Report lacks clarity on whether the incremental amount that low-income customers may be forced to pay will be capped. In addition, the Staff Report is unclear as to how it will be communicated to prospective customers that they may be required to cover a portion of bill subscription costs (i.e., whether such communication would be the responsibility of the developer, utility, etc.), and whether low-income customers may even be willing to participate in the program given that significant risk.

Third, the Staff Report recognizes that additional safeguards may be required to ensure that prospective BDP Program participants do not fall victim to predatory sales and marketing practices, including safeguards above and beyond those already set forth in the Commission’s Uniform Business Practices for Distributed Energy Resource Suppliers (“UBP-
It is unclear from the Staff Report what additional oversight rules are necessary relative to those already established in the UBP-DERS, and how they will be created and enforced. For example, the rules established by the Commission in its Retail Access proceeding regarding how energy service companies can engage low-income customers may be relevant, but it is unclear from the Staff Report the extent to which those rules could (or should) be applicable to a BDP Program. These issues must be adequately addressed prior to any BDP Program being considered.

Fourth, Staff declined to make any recommendations on consolidated billing in the Staff Report because that topic is currently being discussed in the context of the VDER Proceeding. It is unclear to the City what billing procedures would need to be in place in order for a BDP Program to function, and whether it is advisable (or feasible) to implement BDP without consolidated billing. Moreover, consolidated billing has been a focal point of discussion within the VDER proceedings writ large, with private industry advocating for its adoption on a broader scale for some time. The Commission should be careful not to selectively advance a consolidated billing scheme for the BDP Program without addressing the issue for the broader CDG market. To the extent that consolidated billing appears to be a crucial component in the BDP Program achieving success, the Commission should move quickly to resolve these billing issues in the VDER Proceeding.


5 See, e.g., Case 12-M-0476, Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-residential Retail Energy Markets in New York State, Order Adopting a Prohibition on Service to Low-Income Customers by Energy Service Companies (issued December 16, 2016).

Finally, Staff proposes several implementation mechanics that also require further development. For example, the Staff Report suggests that a developer (or utility) could maintain a waitlist of eligible BDP Program participants, but is unclear as to how this mechanism would operate, including whether a customer’s eligibility to subscribe to a CDG project through the BDP Program would be verified when that customer reaches the front of the waitlist, or whether there would be a continuous verification process to remove customers from the waitlist once they lose eligibility. Staff further proposes that the New York State Energy Research & Development Authority (“NYSERDA”) should extend its current income verification service to developers seeking secure BDP subscribers for their CDG projects, but it is unclear from the Staff Report whether this service would be offered for free, or whether developers would have to pay for it. The Staff Report also does not include information pertaining to what potential costs may be associated with an extension of this income verification service to the BDP Program, whether NYSERDA would provide the necessary funding and, if so, what would be the source of funding.

Given these numerous issues, the City respectfully recommends that the Commission reject the proposed BDP Program at this time. In the alternative, the Commission should direct Staff to revise and refine the BDP Program proposal before it takes any action thereon.

**POINT II**

**THE PROPOSED BDP PROGRAM PROVIDES UNEVEN BENEFITS IN RELATION TO OTHER LOW-INCOME CDG INITIATIVES**

In addition to the uncertainties described above, the proposed BDP Program also appears to provide uneven benefits relative to a number of other initiatives already underway that aim to increase clean energy opportunities for low-income customers, and could create unnecessary confusion for low-income customers. For example, NYSERDA recently announced,
as part of the Clean Energy Fund, a Low Income Community Solar Initiative (*i.e.*, “Solar for All”) to offer CDG subscriptions to customers eligible for Home Energy Assistance Program benefits at low cost to them, or at no cost.\(^7\) This program arguably is better suited to providing CDG opportunities to low-income customers than a BDP Program that could require additional (and undefined) contributions from low-income customers who elect to apportion some of their low-income program funds toward a CDG subscription.

Similarly, the Commission recently approved Con Edison’s proposed Shared Solar Pilot program, which aims to provide low-income customers with bill credits derived from solar generation located on utility property and owned by the utility.\(^8\) While the Shared Solar Pilot program is still in the process of being refined, it offers an opportunity to test an innovative business strategy that conceptually could provide clean energy benefits to low-income customers without any additional payment needed from those customers, because the facilities theoretically would be self-sustaining (*i.e.*, the value of the facilities’ generation would cover all operational costs, and any excess value would be conferred to participants as bill credits). It should be noted that the Con Edison program offers a guarantee that participants’ bills will not increase as a result of their participation in the program.

These programs conceptually offer low-income customers with more attractive incentives, relative to pre-participation benefit levels, than the proposed BDP Program. If

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successful, they could also provide a blueprint for future developers to tailor CDG projects to cater to the low-income community.

The City supports the development of programs that offer low-income customers with bill savings opportunities through increased access to DER, and hopes for as many eligible customers to participate as is practicable. However, the emergence of multiple low-income CDG delivery platforms with varying degrees of complexity and ultimate customer benefit raises equity concerns, namely how to determine which customers will be given the most lucrative participation opportunities, and which customers will be given the least lucrative opportunities or no opportunity to participate at all. Authorizing the BDP Program at this time without further refinement could result in confusion in the nascent CDG market as all of these similar, but unidentical programs could all be marketed to prospective low-income customers, which could add complexity to an eligible customer’s decision-making and have the unintended impact of diminishing participation rates. The Commission should refrain from adopting the proposed BDP Program without clarity as to how the proposed BDP Program would interact with other, more-refined low-income CDG offerings.

**POINT III**

**THE COMMISSION SHOULD ESTABLISH AN ALTERNATE FORUM TO FOCUS SPECIFICALLY ON ENVIRONMENTAL JUSTICE ISSUES**

In addition to the BDP Program proposal, the Staff Report acknowledges that an EJ component of VDER compensation could incentivize CDG development in communities that traditionally have borne a disproportionate burden of prolonged underinvestment, pollution, and corresponding public health and socio-economic impacts. While the Staff Report proposes further development of the framework for potentially including an EJ location incentive in VDER compensation, it also notes that the VDER Value Stack Working Group already has begun to
examine these issues. The City further notes that the VDER Low-to-Moderate Income (“LMI”) Working Group had been the designated venue for advancing non-Value Stack adders when VDER Phase Two was initiated.

The City previously has advocated for the implementation of a Value Stack adder which would provide additional compensation for projects located in, and serving customers who reside in or near, high-value public policy areas such as environmental justice communities, and it reiterates that support here. A framework that provides incentives for developers to invest in projects located in EJ communities, as well as incentives for low-income customers to participate, can ensure that the City’s and the State’s policy objectives of equitable and inclusive climate action can be achieved.

While an EJ adder has been the subject of discussion at various VDER Working Group meetings, including both the Value Stack Working Group and the LMI Working Group, the City is concerned that other topics are being prioritized during these discussions, and solutions to the issue of insufficient clean energy benefits for EJ communities will continue to be deferred. Continued discussion elsewhere may therefore be required. Recognizing this policy gap, a number of participants in the Value Stack Working Group, including the City, recently convened a Sub-working Group that, in part, will continue informal discussions in the first half of 2018 on policy options for addressing EJ concerns in anticipation of formal discussion of this issue within the broader Value Stack Working Group in the second half of 2018. At present, however, there remains uncertainty surrounding whether EJ-related issues will be included within the broader

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9 The City has repeatedly raised the issue of an EJ adder both in the context of formal filings within the VDER Proceeding itself, and in discussions during the VDER Low Income Working Group meetings.
Value Stack Working Group agenda later this year, and whether EJ-related priorities would be more effectively advanced outside of the VDER proceeding.

To that end, the City recommends that the Commission either direct Staff to focus on EJ issues within the Value Stack Working Group or institute a separate proceeding outside of the formal VDER Proceeding (and the Working Groups that have emerged therefrom) to focus on addressing low-income participation in clean energy, with a specific focus on EJ issues. This alternate forum would enable the City and other parties to carry forward the considerable effort that was dedicated within the LMI Working Group and that continues within the Sub-working Group discussed above, and would contemplate the suitability of various types of instruments (e.g., tariffs, non-wires solutions, direct incentives, etc.) for advancing LMI and EJ priorities.
CONCLUSION

For the reasons set forth in these Comments, the City respectfully recommends that the Commission: (1) decline to authorize the BDP Program at this time or, in the alternative, direct Staff to refine the Staff Report to address the outstanding issues described herein; (2) clarify how a proposed BDP Program would interact with other low-income CDG offerings; and (3) continue exploring environmental justice issues in a forum outside of the context of the VDER Working Groups.

Respectfully submitted,

Justin J. Fung

Susanne DesRoches
Deputy Director, Infrastructure Policy
NYC Mayor’s Office of Recovery and Resiliency
Mayor’s Office of Sustainability
253 Broadway, 14th Floor
New York, New York 10007
Tel: (212) 788-7554
E-mail: sdesroches@cityhall.nyc.gov

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Justin J. Fung, Esq.
Adam T. Conway, Esq.
Devlyn C. Tedesco, Esq.
COUCH WHITE, LLP
Counsel for the City of New York
540 Broadway
P.O. Box 22222
Albany, New York 12201-2222
Tel.: 518-426-4600
Fax: 518-426-0376
E-mail: jfung@couchwhite.com
aconway@couchwhite.com
dtedesco@couchwhite.com

Susanne DesRoches
Deputy Director, Infrastructure Policy
NYC Mayor’s Office of Recovery and Resiliency
Mayor’s Office of Sustainability
253 Broadway, 14th Floor
New York, New York 10007
Tel: (212) 788-7554
E-mail: sdesroches@cityhall.nyc.gov

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Albany, New York