



Janet M. Audunson, P.E., Esq.
Assistant General Counsel

July 24, 2020

VIA ELECTRONIC DELIVERY

Honorable Michelle L. Phillips
Secretary
New York State Public Service Commission
Three Empire State Plaza, 19th Floor
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

JOINT UTILITIES PRELIMINARY COMMENTS ON THE WHITE PAPER REGARDING CLEAN ENERGY STANDARD PROCUREMENTS TO IMPLEMENT NEW YORK'S CLIMATE LEADERSHIP AND COMMUNITY PROTECTION ACT

Dear Secretary Phillips:

In response to the Commission's *Notice Scheduling Technical Conference and Soliciting Comments* in the subject proceeding¹ in regard to the Department of Public Service Staff and the Staff of the New York State Energy Research Development Authority *White Paper on Clean Energy Standard Procurements to Implement New York's Climate Leadership and Community Protection Act*, enclosed please find the preliminary comments of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (collectively, "Joint Utilities").

Respectfully submitted on behalf of
the Joint Utilities,

/s/ Janet M. Audunson

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Assistant General Counsel

¹ Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Notice Scheduling Technical Conference and Soliciting Comments (issued June 30, 2020).

**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

**JOINT UTILITIES PRELIMINARY COMMENTS ON THE WHITE PAPER
REGARDING CLEAN ENERGY STANDARD PROCUREMENTS TO IMPLEMENT
NEW YORK’S CLIMATE LEADERSHIP AND COMMUNITY PROTECTION ACT**

On June 18, 2020, the Department of Public Service Staff and the Staff of the New York State Energy Research Development Authority (NYSERDA) filed their *White Paper on Clean Energy Standard Procurements to Implement New York’s Climate Leadership and Community Protection Act* (CES White Paper).¹ The Joint Utilities² submit these comments in response to the Public Service Commission’s invitation to parties to file preliminary feedback on the white paper to inform the record and determine the extent of future outreach.³

The Joint Utilities support the objectives of the Climate Leadership and Community Protection Act (CLCPA).⁴ We further note that the Commission’s specific efforts related to energy efficiency, renewable resources, and the clean energy standard as well as its support for

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

² The Joint Utilities are Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

³ CES Proceeding, Notice Scheduling Technical Conference and Soliciting Comments (issued June 30, 2020) (Notice), p. 2. Pursuant thereto preliminary comments are due July 24, 2020.

⁴ Chapter 106 of the Laws of 2019. CLCPA is available at <https://legislation.nysenate.gov/pdf/bills/2019/S6599>.

other clean energy initiatives, such as electric heat pumps and electric vehicles, all represent critical elements in achieving the State’s decarbonization goals. Consistent with prior comments, the Joint Utilities urge a sharper focus on (1) zero-emission credits (ZECs) (and the current shortfall), (2) the New York Power Authority’s (NYPA) participation in Tier 2 solicitations, and (3) the Divergence Test⁵ to adjust alternative compliance payments (ACPs). The Joint Utilities also seek clarification of the Tier 4 recommendations.

More specifically, regarding NYPA’s share of a projected \$34 million ZEC shortfall, the CES White Paper states that NYPA has indicated an inability to meet its ZEC targets based on its contractual limitations with certain customers. The CES White Paper proposes to address the deficit by establishing a backstop that uses uncommitted and unspent Energy Efficiency Portfolio Standard, Renewable Portfolio Standard, and System Benefits Charge funds held by NYSERDA.⁶ The Joint Utilities agree that a backstop approach is necessary but oppose the use of funds to which NYPA customers never contributed. NYPA should meet its ZEC obligation shortfall from its own funds. While the CES White Paper proposes annual NYPA reports to monitor the procurement situation,⁷ the Joint Utilities urge development of a more detailed and equitable approach to ZEC procurement and reporting for NYPA.

While NYPA initially indicated that it would not participate in the initial solicitation, the CES White Paper seeks comments on NYPA’s future participation in Tier 2.⁸ The Joint Utilities question the public interest reason for allowing NYPA to participate in the Tier 2 solicitations

⁵ The Divergence Test assesses the “balance between mandated demand and anticipated supply of Tier 1 RECs [Renewable Energy Credits].” CES Proceeding, Clean Energy Standard Final Phase 3 Implementation Plan (filed January 11, 2019), p. 14.

⁶ CES Proceeding, CES White Paper, p. 65.

⁷ *Id.*, pp. 28, 67.

⁸ *Id.*, pp. 59-60.

and how a determination enabling NYPA participation would impact future solicitations as well as the overall cost to the public. Regardless of its ownership of legacy generating plants, NYPA should pay its share of all new Tier 2 requirements. To the extent that NYPA is permitted to participate in the Tier 2 solicitations, the Commission should affirm that utility-owned hydro facilities and utility legacy power purchase agreements where the utility owns the environmental attributes have the ability to participate in Tier 2 solicitations.

Next, the CES White Paper establishes a Divergence Test process to enable NYSERDA to revise annual procurement targets for Tier 1 solicitations based on “new information regarding attrition among selected (Tier 1) projects, changes in load, and project development under other programs such as the Offshore Wind Standard, NY-Sun, and Tier 4...”⁹ Every load-serving entity is required to procure specified amounts of Tier 1 RECs based on targets established by NYSERDA and/or pay ACPs. The Commission should formally clarify how this process would be coordinated with Tier 4 actual results to reflect annual REC availability and reduce the potential for ACP obligations when RECs are unavailable. Clarity is needed regarding how these results would be coordinated to assure that unnecessary ACPs are not required in situations when the total amount of RECs required in a given year far exceed the RECs available to meet the State’s renewable energy requirements.

The Joint Utilities would appreciate further details with respect to the establishment of the proposed Tier 4/Zone J solicitation,¹⁰ particularly related to how it interfaces with existing New York State Independent System Operator (NYISO) market rules that were developed to

⁹ *Id.*, p. 29.

¹⁰ *Id.*, pp. 45-57.

incent project siting decisions based on locational energy, capacity, and ancillary services pricing as well as its transmission planning process to the extent that it addresses deliverability constraints. The Joint Utilities also seek clarification as to the treatment of new behind-the-meter clean energy resources that inject energy within Zone J and whether offshore wind could participate in the Tier 4 process. The CES White Paper also proposes that there be no compensation for RECs generated in hours in which real-time Zone J energy prices average below zero.¹¹ The Joint Utilities note their support of this concept with regard to Indexed RECs,¹² but seek clarification on one element of the CES White Paper's proposal. The Indexed REC approach that the Commission recently adopted established the determination of periods with negative energy prices based on the day-ahead hourly averages rather than real-time prices.¹³ The Joint Utilities request clarification regarding the basis for this change and whether it would be used in all situations going forward.

Finally, the Joint Utilities urge a process for Staff or the Commission to provide timely clarification on the foregoing for stakeholder comment in advance of the August 31, 2020 due date for comments on the CES White Paper.¹⁴

In sum, the Joint Utilities respectfully urge further attention, with appropriate stakeholder comments, to (1) zero-emission credits (and the current shortfall), (2) the New York Power Authority's (NYPA) participation in Tier 2 solicitations, and (3) the Divergence Test to adjust

¹¹ *Id.*, p. 51.

¹² CES Proceeding, Joint Utilities Reply Comments on Proposal for Indexed Renewable Energy Credit Procurement Mechanism (filed November 15, 2019), pp. 7-8.

¹³ CES Proceeding, Order Modifying Tier 1 Renewable Procurements (issued January 16, 2020), p. 21.

¹⁴ CES Proceeding, Notice, p. 2.

alternative compliance payments (ACPs). The Joint Utilities also seek clarification of the proposed Tier 4 recommendations.

Dated: July 24, 2020

Respectfully submitted,

**CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC. and ORANGE AND
ROCKLAND UTILITIES, INC.**

By: */s/ Susan Vercheak*

Susan Vercheak
Associate General Counsel
Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, New York 10003
Tel.: 212-460-4333
Email: vercheaks@coned.com
(Admitted in New Jersey only)

**CENTRAL HUDSON GAS AND ELECTRIC
CORPORATION**

By: */s/ Paul A. Colbert*

Paul A. Colbert
Associate General Counsel –
Regulatory Affairs
Central Hudson Gas and Electric Corporation
284 South Avenue
Poughkeepsie, NY 12601
Tel: (845) 486-5831
Email: pcolbert@cenhud.com

**NIAGARA MOHAWK POWER
CORPORATION d/b/a NATIONAL GRID**

By: /s/ *Janet M. Audunson*

Janet M. Audunson
Assistant General Counsel
National Grid
300 Erie Boulevard West
Syracuse, New York 13202
Tel: (315) 428-3411
Email: janet.audunson@nationalgrid.com

**NEW YORK STATE ELECTRIC &
GAS CORPORATION and
ROCHESTER GAS AND ELECTRIC
CORPORATION**

By: /s/ *Amy A. Davis*

Amy A. Davis
Senior Regulatory Counsel
89 East Avenue
Rochester, NY 14649
Tel.: (585)771-4234
Email: amy.davis@avangrid.com