

VIA ELECTRONIC MAIL

October 23, 2020

Hon. Michelle L. Phillips
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

RE: Case No. 18-E-0138 – Proceeding on Motion of the Commission Regarding Electric Vehicle Supply Equipment and Infrastructure

Dear Secretary Phillips:

Please find attached the Petition for Declaratory Ruling for filing with the New York State Public Service Commission in the above-referenced case.

Respectfully submitted,

By: */s/ Justin Bell*

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Enc.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission
Regarding Electric Vehicle Supply
Equipment and Infrastructure

Case 18-E-0138

PETITION FOR DECLARATORY RULING

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Proceeding on Motion of the Commission
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PETITION FOR DECLARATORY RULING

Pursuant to Part 8 of the rules of the New York Public Service Commission (“the Commission”),¹ the Long Island Power Authority (“LIPA”), a corporate municipal instrumentality of the State of New York and a body corporate and politic and a political subdivision of the State of New York, hereby seeks a declaratory ruling from the Commission that the prize competitions established by the Commission’s Order Establishing Electric Vehicle Infrastructure Make-Ready Program and Other Programs (the “EV Make-Ready Order” or “Order”)² are open to projects in communities located anywhere in the State, regardless of whether those communities are served by investor-owned utilities or by LIPA.

I. BACKGROUND

On April 24, 2018, the Commission commenced this proceeding to identify cost-effective approaches for electric utilities to support the infrastructure and equipment necessary to accommodate increased electricity demands associated with the deployment of electric

¹ N.Y. Comp. Codes R. & Regs. tit. 16, § 8.1 *et seq.*

² Case 18-E-0138, *Order Establishing Electric Vehicle Infrastructure Make-Ready Program and Other Programs* (issued July 16, 2020).

vehicles. Though LIPA generally is not subject to the jurisdiction of the Commission,³ LIPA supports the goals set forth in the Commission’s orders in this proceeding and has taken actions in coordination with the Commission to encourage deployment of electric vehicles and charging infrastructure in LIPA’s service territory.

On July 18, 2019, Governor Cuomo signed the Climate Leadership and Community Protection Act (“CLCPA”), enshrining into law the State’s nation-leading clean energy goals.⁴ Pertaining to this petition, the CLCPA also includes the requirements that all State agencies prioritize reduction of greenhouse gas emissions in disadvantaged communities and that no less than 35 percent of the overall benefits of spending on clean energy programs benefit disadvantaged communities.⁵

The EV Make-Ready Order established three prize competitions to be administered by the New York State Energy Research and Development Authority (“NYSERDA”), including an Environmental Justice Community Clean Vehicles Transformation Prize Competition, a Clean Personal Mobility Prize Competition, and a Clean Medium- and Heavy- Duty Innovation Prize Competition (together, the “Prize Competitions”). The Prize Competitions are intended to advance the goals of reducing vehicle emissions, improving access to clean transportation, and electrifying vehicle fleets in disadvantaged communities.

The Commission ordered NYSERDA to make the Prize Competitions “open across the State **to all communities served by electric utilities regulated by the Commission**, and to all types of organization, including local government, not-for-profit, community-based

³ N.Y. Pub. Auth. Law § 1020-s; N.Y. Pub. Serv. Law § 3-b (McKinney). New York’s regulated electric 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.

⁴ Chapter 106 of the Laws of 2019.

⁵ Per the CLCPA, disadvantaged communities are defined as communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high concentrations of low- and moderate-income households.

organizations, and private sector service, equipment, and solution providers.”⁶ The Commission also directed NYSERDA and the Department of Public Service Staff to “work collaboratively to create criteria and other requirements consistent with the goals of the prize pilots: address emissions, equity, and electrification in places where people and transportation intersect.”

II. DISCUSSION

The Commission Should Declare that the Prize Competitions are Open to New York State Communities Served by Non-Jurisdictional Electric Utilities

LIPA respectfully urges the Commission to declare that the Prize Competitions are open to projects benefiting communities located in all service territories in New York State, regardless of whether they are served by investor-owned utilities or by LIPA.

In the EV Make-Ready Order, the Commission directed NYSERDA to design and administer Prize Competitions that would be open to communities served by “electric utilities regulated by the Commission”.⁷ The Order was silent as to the eligibility of other communities, such as those served by LIPA, potentially rendering those communities ineligible by omission.

LIPA submits, however, that the rationale for establishing the Prize Competitions—chiefly, the advancement of the State’s goals to electrify transportation, expand access to clean transportation, and reduce emissions in disadvantaged communities—applies as strongly to *all* communities throughout the State, without regard to the identity of their electric service provider or the regulatory framework under which it operates. The nation-leading climate and community protection requirements set forth in the CLCPA are statewide requirements. A coordinated, statewide approach is therefore needed to meet those requirements, and the benefits of the CLCPA should be shared by all New Yorkers.

Regarding cost allocation, the eligibility and participation of communities outside the service territories of investor-owned utilities need not upset the cost allocation parameters

⁶ EV Make-Ready Order, at 136 (emphasis added).

⁷ *Id.*

already established in the EV Make-Ready Order. The Order provides that “Staff and NYSERDA will work collaboratively to determine appropriate cost allocation for these pilots, under the framework that costs will generally be allocated to all customers within the service territory where the program activity takes place, with the exception that program activities with statewide benefits may be allocated to multiple utilities based on other factors such as utility revenues, number of customers, or other appropriate allocation factors.”⁸ LIPA accepts these parameters.

III. CONCLUSION

For all of these reasons, LIPA requests a declaratory ruling from the Commission that the Prize Competitions are open to projects in communities located anywhere in the State, regardless of whether those communities are served by investor-owned utilities or by LIPA. LIPA seeks the Commission’s consideration of this important matter and looks forward to working in coordination with DPS Staff and NYSERDA to advance the goals and policies identified in this proceeding.

Dated: October 23, 2020

Respectfully submitted,

LONG ISLAND POWER AUTHORITY

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⁸ *Id.* at 135.