Date: March 8, 2018

Secretary to the Commission

Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
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REQUEST OF AP GAS & ELECTRIC (NY), LLC, AP GAS & ELECTRIC (TX), LLC, AND AP GAS & ELECTRIC (NJ), LLC FOR ACCELERATION OF ADJUSTMENT OF ZERO ENERGY CREDIT OBLIGATION

Dear Secretary Burgess:

AP Gas & Electric (NY), LLC, AP Gas & Electric (TX), LLC and AP Gas & Electric (NJ), LLC ("APG&E", "us", "our") respectfully submits this Request for Acceleration of Adjustment of Zero Energy Credit Obligation.

APG&E is an Energy Services Company ("ESCO") providing electric service to residential, commercial and industrial consumers in New York State using the facilities of New York State's electric distribution utilities. In its August 1, 2016 *Order Adopting a Clean Energy Standard* the Commission required all Load Serving Entities ("LSEs"), including ESCOs, to purchase certain Renewable Energy Credits ("RECs") and Zero Energy Credits ("ZECs") from the New York State Energy Research and Development Authority ("NYSERDA") in order to implement the Clean Energy Standard adopted by the Commission in that Order. In its *Order Approving Administrative Cost Recovery, Standardized Agreements and Backstop Principles* issued on November 17, 2016 (the "November 17 Order"), the Commission directed that:

> NYSERDA will determine and make available to each LSE the number of ZECs the LSE will be required to purchase for

> compliance, assuming the maximum eligible generation from the zero-emission facilities. Each LSE's requirement will be determined based on data provided by NYGATS regarding the load served by the LSE during the previous 12 months.

After the issuance of the November 17 Order, APG&E was informed by NYSERDA that its required payment for ZECs during the period from April 1, 2017 to March 31, 2018 would be based on APG&E's sales during the period from April 1, 2015 to March 31, 2016.

Unfortunately, APG&E has experienced a material drop, greater than 50%, in its retail load in New York State since April of 2016. As a result, the payments that APG&E was required to make to NYSERDA pursuant to the November 17 Order exceeded its actual ZEC obligation for the twelve-month period ending March 31, 2018 by more than $500,000. In addition, APG&E is expecting its obligation for the twelve-month period ending March 31, 2019 to be 90% higher than our actual NYISO load share ratio would suggest it should be.

While APG&E recognizes that this over-payment will ultimately be refunded in September 2018 and that the NY PSC is considering a pay-as-you-go ZEC obligation methodology going forward this over-payment represents a substantial burden to a competitive LSE such as ourselves. The over-payments for the first 2 compliance periods create actual interest expense to APG&E that will not be recoverable and put a significant strain on our cash flow and liquidity.

RELIEF REQUESTED

To minimize the burden imposed on APG&E by ZEC charges based on out-of-date sales data, APG&E respectfully requests that the Commission accelerate an adjustment to our obligation based on actual or more recent sales data and immediately refund the overpayment for the twelve-month period ending March 31, 2018 and reduce our obligation by up to 50% for the twelve-month period ending March 31, 2019.

APG&E respectfully submits that the charges established by the Commission for the ZECs that APG&E is required to purchase in order to use the delivery facilities of New York's electric distribution utilities regulated by the Commission are unjust, unreasonable and unduly discriminatory as applied to APG&E and that any Commission decision requiring APG&E to pay such charges in order to use the delivery facilities of New York utilities is therefore arbitrary, capricious and an abuse of discretion.

These charges are unjust and unreasonable as applied to APG&E, in that they bear no relation to the number of ZECs reasonably required to satisfy APG&E's responsibility under the Commission's Clean Energy Standard with respect to its actual retail load in New York State and create actual, material financial costs and burdens on APG&E without reasonable compensation.

These charges are unduly discriminatory in that the over-collection of ZEC costs from APG&E, benefits other LSEs with whom APG&E must compete to sell electricity as their payment obligations for ZEC costs are unfairly reduced.

We look forward to your immediate consideration of this matter and will make ourselves available at your convenience to discuss this matter. Please feel free to reach out directly to myself or our CEO, Jay Harpole if you have questions or require further information.

Sincerely,

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