STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding to Implement a Large-Scale Renewable Program and a Clean Energy Standard	)))	Case 15-E-0302

JOINT UTILITIES COMMENTS ON CLEAN ENERGY STANDARD PHASE 3 IMPLEMENTATION PLAN

On July 30, 2018, the Staff of the New York State Department of Public Service ("DPS Staff") and the New York State Energy Research and Development Authority ("NYSERDA") jointly filed a Clean Energy Standard Phase 3 Implementation Plan Proposal ("CES Phase 3 Proposal").[1] Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. ("Con Edison"), Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid"), New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc.("O&R"), and Rochester Gas and Electric Corporation (collectively, the "Joint Utilities") submit the following comments on the CES Phase 3 Proposal.[2]

The Joint Utilities continue to support the State's clean energy policies and continue to urge the New York Public Service Commission (the "Commission") to implement these policies in a cost-effective manner for customers. The Joint Utilities recognize NYSERDA's significant efforts in advancing the State's renewable energy goals and urge the Commission to consider near-term compliance obligations in light of how the market is developing and to accelerate the

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1 Case 15-E-0302, *Proceeding to Implement a Large-Scale Renewable Program and a Clean Energy Standard* ("CES Proceeding"), Clean Energy Standard Phase 3 Implementation Plan Proposal (dated July 27, 2018) ("CES Phase 3 Proposal").

2 New York State Register, *Continued Implementation of the Clean Energy Standard*, I.D. No. PSC-34-18-000014-P (issued August 22, 2018), p. 22. Pursuant thereto, comments are due October 22, 2018.

triennial review process. Beginning this review as early as January 2019 would allow the Commission to make adjustments that improve the near- and long-term Tier 1 Renewable Energy Credit ("REC") market, including enhancing the information available to load-serving entities ("LSEs") concerning the RECs that they will use to meet their compliance obligations. The Joint Utilities also support the proposed retention of the current formula for calculating Alternative Compliance Payments ("ACP") and urge the Commission to consider how ACPs can be "applied to the benefit of consumers by reducing the cost of the Renewable Energy Standard ("RES") program," as provided for in the Commission's *Order Adopting a Clean Energy Standard* ("CES Order").[3] Finally, the Joint Utilities urge the Commission to consider expanding REC trading rules to allow LSEs to trade RECs with other LSEs.

I. Near-Term Compliance Obligations Should Receive Further Consideration and the Commission Should Provide Guidance to NYSERDA for the Use of ACP Funds

The CES Phase 3 Proposal bases Tier 1 REC obligations on estimates of available Tier 1 RECs procured by NYSERDA as well as Tier 1 RECs from qualifying projects under the Value of Distributed Energy Resources ("VDER") Value Stack tariffs.[4] As the Commission recognized in its CES Order, "the development of new renewable resources … can take more time than anticipated."[5] The CES Phase 3 Proposal recognizes this reality by requesting to allow the extension of the Commercial Operation Milestone Date ("COMD") for contracted renewable resources by two additional six-month periods. This proposal, if granted, would allow a COMD of up to five years from the selection date instead of the existing up-to-four-year period.[6]

[3] CES Proceeding, Order Adopting a Clean Energy Standard (issued August 1, 2016) ("CES Order"), p. 110.
[4] CES Proceeding, CES Phase 3 Proposal, pp. 3-4.
[5] CES Proceeding, CES Order, p. 90.
[6] CES Proceeding, CES Phase 3 Proposal, p. 6.

The Joint Utilities recognize NYSERDA for its work in completing several successful solicitations for new large-scale renewable resources in recent years. These resources will support the achievement of the State's 2030 goal and become a valuable source of RECs for New York as these resources come online in future years. The same is true for the many distributed energy resources that are expected to begin minting RECs through the Value of Distributed Energy Resources framework. Until these new resources come into service, however, the number of resources that meet the Clean Energy Standard's required in-service date of January 1, 2015 or later remains very limited. Because compliance obligations are not directly tied to the availability of these resources, significant mismatches can occur between the quantity of RECs needed for compliance and the quantity of RECs available for sale.

When an insufficient quantity of RECs exists, LSEs must comply through the Alternative Compliance Payment ("ACP") mechanism. ACP revenues are provided to NYSERDA, which then determines how to expend the funds in accordance with the CES Order's requirement that the funds be "applied to the benefit of consumers by reducing the cost of the RES program."[7] Given, however, that NYSERDA will now begin to receive ACP funds, it would be appropriate for the Commission to give NYSERDA further guidance on how best to spend these funds.[8] The Joint Utilities suggest that funds could be used to reduce the cost of RECs in future years or to reduce or eliminate NYSERDA's administrative adder. Additionally or alternatively, these funds could be put toward utility-offered energy efficiency programs that reduce the amount of renewable energy utilities must purchase. These issues could be considered as part of the triennial review process.

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[7] CES Proceeding, CES Order, p. 110.

[8] The Joint Utilities also note that the Commission should further consider the structure and purpose of the ACP if there is a significant persistent mismatch between available RECs and compliance obligations.

The Joint Utilities support the Phase 3 Implementation Plan's proposal to retain the existing approach to calculating the ACP value – as 10 percent above the current-year NYSERDA REC price.

II. NYSERDA's Process for Offering RECs to LSEs Should Be Refined

The Joint Utilities urge the Commission and NYSERDA to consider ways to increase the information available to LSEs regarding the quantity of RECs expected to be available for sale in any given compliance year or quarterly offering. The Joint Utilities recognize that this may require NYSERDA to revise its reporting requirements for eligible suppliers, such as that it has RECs on hand when they are needed for the purposes of its quarterly sales. The current process gives too little information to LSEs too late, making it challenging for LSEs to plan their REC procurement strategy, consider any alternate sources of RECs, and avoid ACP payments. The Joint Utilities recognize that the Clean Energy Standard is still in its early years and that all entities involved are still learning. The Joint Utilities offer this feedback in the interests of enhancing the operating efficiency of the Clean Energy Standard and reducing overall costs for customers.

III. The Triennial Review Process Should Be Accelerated

The Commission has long recognized the need to evaluate the progress of the Clean Energy Standard's implementation on a periodic basis. The Commission specifically adopted mechanisms to effectuate these reviews, including annual divergence tests, triennial reviews, and reporting requirements.

The annual divergence test provides for Commission action in the event of divergences between REC supply and LSE obligation.[9] The CES Phase 3 Proposal would begin the divergence test reporting in September 2019, and additional time would then be required before the Commission could take any action. Given this process, it is unlikely that any changes could be made prior to the 2021 compliance year. This unnecessarily delays changes that could be made in the short term to improve the availability of RECs, reduce costs and risks to customers, and accelerate the achievement of the State's clean energy objectives.

The Joint Utilities urge the Commission to conduct the 2018 compliance year divergence test and begin the triennial review process as early as January 2019. Sufficient data exists today to assess the development of the CES since its launch in 2016. There is no need to wait for the New York Independent System Operator's reconciliation process in evaluating the current state of the Clean Energy Standard implementation. Among other issues to be considered in the triennial review, the Joint Utilities urge the Commission to consider expanding renewable energy procurement pathways.[10] Additionally, the Commission should support utilities seeking to issue new green tariff offerings to interested customers who wish to reduce their carbon footprint while remaining a full-service utility customer, allowing more RECs to be developed in the marketplace under an additional mechanism.

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9 CES Proceeding, CES Phase 3 Proposal, p. 14.

10 As identified by the Staff White Paper on Clean Energy Standard in the CES Proceeding and in comments by Con Edison, O&R, and National Grid early in the development of the CES utility ownership would provide savings to customers by utilizing lower cost financing and retaining the resources for the benefit of customers for its entire lifecycle, without having to contract for RECs when initial contracts expire, as is currently occurring with legacy Renewable Portfolio Standard resources. *E.g.*, CES Proceeding, New York Clean Energy Standard White Paper – Cost Study (issued April 8, 2016), p. 113 and Comments of the Indicated Joint Utilities on the New York Clean Energy Standard White Paper –Cost Study (filed June 6, 2016), pp. 9-10.

IV. REC Trading Should Be Expanded

The Joint Utilities also reiterate their request that the Commission consider expanding the ability of LSEs to trade RECs with other LSEs in order to create additional liquidity in REC markets and allow LSEs to manage variability of REC output at renewable facilities when their Tier 1-minted REC volumes exceed their REC obligations.[11] The Commission could require that all RECs are traded at the currently effective NYSERDA price, or, in the alternative, omit such a requirement entirely. The current ACP value will serve as a cap on overall REC prices.

V. Conclusion

The Joint Utilities provide these comments in the interests of continuing to enhance the implementation of the Clean Energy Standard in a cost-effective manner for customers. The Joint Utilities look forward to working with the Commission, DPS Staff, NYSERDA, and other stakeholders on these matters.

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Respectfully submitted,

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[11] CES Proceeding, Joint Utilities' Petition for clarification Regarding Order Approving Phase 2 Implementation Plan in Clean Energy Standard Proceeding (filed December 18, 2017), pp. 4-5.

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