

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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**Proceeding on Motion of the Commission Regarding a  
Retail Renewable Portfolio Standard**

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**Case 03-E-0188**

**COMMENTS OF THE CITY OF NEW YORK**

**Dated: April 16, 2012**

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## PRELIMINARY STATEMENT

On February 4, 2012, the New York State Energy Research and Development Authority (“NYSERDA”) filed a *Petition for Expansion of RPS Customer-Sited Tier Photovoltaics Program* (“Petition”) in Case 03-E-0188.<sup>1</sup> NYSERDA requests approval from the New York State Public Service Commission (“Commission”) to modify the Renewable Portfolio Standard (“RPS”) initiative by expanding the solar photovoltaic (“PV”) program implemented under the Customer-Sited Tier.

The program expansion proposed by NYSERDA would promote important policy initiatives of the City of New York (“City”) that are consistent with the RPS goal. The City has developed and is implementing an ambitious slate of energy policies that is set forth in its *PlaNYC 2030: A Greener, Greater New York* (“PlaNYC”). *PlaNYC* is a policy blueprint intended to synthesize the economic and population growth in the City with broad, multi-faceted efforts to protect and enhance the environment.<sup>2</sup> Programs implemented under *PlaNYC* are expected to reduce energy consumption throughout the City, achieve the cleanest air quality of any major city in the United States, and reduce municipal greenhouse gas emissions by 30% by 2017 and City-wide greenhouse gas emissions by 30% by 2030.

As part of *PlaNYC*, the City is working to foster and expand the use of renewable energy, generally, and solar energy, specifically, as part of a targeted effort to develop at least 800 MW of new, clean energy supply in the City.<sup>3</sup> The City recognizes that solar PV systems

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<sup>1</sup> Case 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard.

<sup>2</sup> *PlaNYC*, its updates, and related documents are available at <http://www.nyc.gov/html/planyc2030/html/home/home.shtml>. An update to the plan was issued in April, 2011 (“*PlaNYC Update*”); a progress report was issued in 2010 (“*PlaNYC Progress Report*”).

<sup>3</sup> See, e.g., *PlaNYC* at 104, 112-13.

are “ideal for an urban environment” because the ability to site supply near demand reduces the need for costly transmission upgrades, and this renewable energy resource has the greatest potential for in-City expansion.<sup>4</sup> NYSERDA’s proposal is an opportunity to increase significantly the amount of installed solar capacity in New York City while compensating in part for the historic under-investment of RPS funds in the City. The City is concerned, however, that these opportunities will be lost if the solar PV expansion were to be implemented exactly as proposed.

The City submits the following comments on the Petition, in accordance with the notice of proposed rulemaking published in the February 29, 2012 edition of the New York State Register (I.D. No. PSC-09-12-00010-P). The City generally supports the recommendations advanced by NYSERDA, and it recommends additional opportunities to improve the geographic alignment of RPS collections and investments. The City respectfully requests that the Commission grant the Petition as modified by the recommendations advocated herein.

## COMMENTS

### POINT I

#### **THE COMMISSION SHOULD APPROVE NYSERDA’S PROPOSAL TO EXPAND STATE SOLAR PV CAPACITY THROUGH AN EXISTING REGULATORY FRAMEWORK**

The increased deployment of solar PV has been a cornerstone of the City’s goal of increasing the amount of renewable energy available to its residents and businesses in recognition of the fact that solar technologies are well-suited to development within New York City and other urban environments.<sup>5</sup> Incentives, such as those provided by the RPS, remain necessary to support solar PV expansion within New York State and New York City in order to

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<sup>4</sup> *PlaNYC Update* at 113; *PlaNYC* at 112.

<sup>5</sup> *See, e.g., PlaNYC Update* at 113; *PlaNYC Progress Report* at 56.

offset the higher costs of such facilities. NYSERDA proposes the use of a measured approach to solar PV expansion – one that the City believes is preferable to alternative approaches that have heretofore been advanced by others.

The increased deployment of solar PV also is an important aspect of the State’s renewable energy program. Governor Andrew Cuomo noted in his 2012 State of the State Address (“Address”) that New York State is a national leader in the use and production of renewable energy.<sup>6</sup> He observed that the State successfully has developed its hydroelectric resources and is “making great progress” in the development of its on-shore wind resources, but now it should sharpen its focus on realizing its potential to increase the amount of installed solar PV capacity in New York State.<sup>7</sup> Importantly, he emphasized that this effort must be implemented in a manner that protects ratepayers.<sup>8</sup>

Specifically, Governor Cuomo announced the NY-Sun Initiative that will install in 2012 twice the amount of customer-sited solar PV capacity that was added in 2011, and quadruple that amount in 2013.<sup>9</sup> He stated that NY-Sun should be implemented in a manner that controls overall costs, and noted that certain alternative approaches that have been proposed recently would not satisfy both goals.<sup>10</sup> NYSERDA’s proposal to implement NY-Sun by expanding an existing program with existing funds is consistent with the principles espoused by the Governor and is supported by the findings of a comprehensive solar study recently completed by NYSERDA.

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<sup>6</sup> Address at 13, *available at* <http://www.governor.ny.gov/stateofthestate2012>.

<sup>7</sup> *Id.* at 14.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

As directed by the Power New York Act of 2011 (“Act”), NYSERDA evaluated the costs and benefits of increasing the installed capacity of solar PV in New York State to 5,000 MW by 2025. NYSERDA completed that evaluation and presented its findings and conclusions in the *New York Solar Study: An Analysis of the Benefits and Costs of Increasing Generation from Photovoltaic Devices in New York* (“Solar Study”). The options examined in the Solar Study included a scenario similar to the RPS and a scenario in which utilities, energy service companies, and public authorities are required to procure solar renewable energy credits (“SRECs”).<sup>11</sup> NYSERDA concluded that a two-tiered approach to solar PV procurement similar to the RPS approach (*i.e.*, central procurement for larger projects, upfront incentive payments for smaller projects) is the least-cost option among those studied.

Accordingly, proceeding via the RPS initiative is more appropriate at this time and NYSERDA’s proposal should be approved by the Commission. This administrative approach, wherein the Commission can modify the program as necessary in response to changing circumstances (*e.g.*, economic recession, changes in market demand and technology costs), provides the flexibility necessary to encourage and foster the expansion of solar PV, as demonstrated by the fact that NYSERDA has been implementing the RPS initiative for years with a demonstrable degree of success. The RPS platform provides a sound and proven framework to accelerate the deployment of solar PV in New York State. Further, the program expansion would be defined in scope and cost, given that NYSERDA requests a specific budget (\$216 million), which can be drawn from existing funds for a four-year period ending in 2015.

The Commission plans to undertake a comprehensive review of the RPS initiative, generally, in 2013. The Commission could review the expanded solar PV program as

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<sup>11</sup> Solar Study, Executive Summary at iii.

part of the comprehensive review and modify it as warranted by program performance and other circumstances. Although the expanded solar PV program proposed by NYSERDA is proposed to end on December 31, 2015, the Commission may consider extending the program beyond that deadline.

Additionally, while the City believes that the scope of the expanded solar PV program is reasonable, as part of the 2013 review, the Commission should examine whether the program should be enlarged. There is substantial potential for the proliferation of solar PV facilities in New York City and elsewhere, and consideration should be given to increasing both the MW target and funding level to support and encourage private solar PV investments (as with other aspects of Governor Cuomo's energy agenda, there are broad opportunities here to leverage substantial private investments with government-provided funding). Again, the key is that the administrative approach provides maximum flexibility to tailor the program as appropriate based on its performance and other factors.

For the foregoing reasons, the City recommends that the Commission approve the Petition, and authorize NYSERDA to expand the solar PV program described therein, subject to the modifications set forth below.

## **POINT II**

### **THE VAST MAJORITY OF INCREMENTAL SOLAR PV FUNDING SHOULD BE ALLOCATED TO NEW YORK CITY**

NYSERDA proposes to allocate an unspecified amount of incremental funding for the statewide competitive-bidding program to the NYISO load zones targeted by the Geobalance program (*i.e.*, Zones G, H, I and J; collectively, the "Geobalance Zones").<sup>12</sup>

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<sup>12</sup> Petition at 4. *See also* Case 03-E-0188, *supra*, Order Authorizing Customer-Sited Tier Program Through 2015 and Resolving Geographic Balance RPS Program (issued April 2,

However, NYSERDA does not recommend that any incremental funding for the proposed standard-offer incentive expansion similarly be designated for use by New York City and other downstate areas. For the reasons described further below, the vast majority of incremental solar PV funding under both the expanded statewide and standard-offer programs should be allocated to New York City.

Please note, though, that while the City is generally supportive of broad-based renewable energy initiatives, its support for this program is premised on the majority of the funding being allocated to downstate areas, primarily New York City. For the reasons discussed herein and in the Geobalance Order, there has been a substantial imbalance in the funding contributed by New York City customers and the benefits they have received from the RPS. Accordingly, expanding the solar PV program is reasonable only if it is focused on New York City.

**A. The Vast Majority Of Incremental Solar PV Funding For The Expanded Statewide Program Should Be Allocated To New York City**

Solar PV facilities are well-suited to development throughout New York City. The Solar Study concluded that focused development of PV resources in New York City would increase the overall benefit-cost ratio of a statewide PV expansion, and that PV installations downstate should reach retail parity sooner than those developed upstate.<sup>13</sup> Analysis conducted by the City indicated that such facilities can benefit from higher energy costs and capacity factors as compared to solar PV systems located upstate.

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2010) (“Geobalance Order”), wherein the Commission acknowledged the geographic disparity between – and the inequity of – the collection and spending of RPS funds and adopted the Geobalance program to address the issue.

<sup>13</sup> Solar Study at ES-11, -15.

A New York City emphasis on PV expansion would support the goal of the Geobalance program to eliminate the historic geographic imbalance with which RPS funds have been collected and spent within New York State. For these reasons, and because the investment of RPS funds within New York City has lagged investment in other regions of the State as described further below, at least 80% of the funding proposed for the expanded statewide competitive bidding should be designated for New York City.

Focusing the proposed solar PV expansion in this manner will increase the likelihood that RPS funds are invested, and renewable generation facilities developed, in New York City. Given the recognized benefits associated with increased deployment of solar PV in the City, and the geographic disparity that historically has characterized the distribution of RPS investments, there is good cause to ameliorate the funding inequity between New York City and the rest of the State by placing much of the emphasis, and allocating the majority of the funding, for the expanded solar PV program in New York City. Such emphasis would facilitate RPS investment in larger solar PV facilities in New York City by improving the economics of such projects.

An emphasis on development within New York City also is consistent with the framework of the Customer-Sited Tier and Geobalance programs established by the Commission. For instance, the Commission concluded that “the ability of the resources to support load pockets ... by reducing demand from the grid during peak demand periods” should be one factor underlying the allocation of Customer-Sited Tier funds.<sup>14</sup> Many solar PV facilities located within New York City may be able to support a load pocket.

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<sup>14</sup> Case 03-E-0188, *supra*, Order Regarding Renewable Portfolio Standard (issued September 24, 2004) at 47 (“RPS Order”).

A downstate emphasis also is consistent the Solar Study's findings. NYSERDA concluded that: "[r]etail parity may be achieved, and will occur sooner in New York City than in other regions of the state. **This suggests a greater leverage of state PV incentive dollars in New York City.**"<sup>15</sup>

Results from the City's analysis confirm these conclusions. As compared to upstate solar PV systems, facilities located within New York City will benefit from higher energy prices and higher capacity factors. Although those differences benefit the economics of in-City projects, their higher installation costs result in higher overall costs for in-City solar PV projects. RPS incentives remain essential to overcoming this cost differential.

The City values the Geobalance program created by the Commission to address regional disparities in RPS investments. Unfortunately, notwithstanding the implementation of that program, as of December 31, 2011, only 9% of Customer-Sited Tier solar PV projects are located in New York City, and no on-site wind, fuel cell, or anaerobic digester project supported by the Customer-Sited Tier is located in New York City.<sup>16</sup> Further, a material amount of the RPS funds invested in the Geobalance Zones was made in areas outside of New York City.<sup>17</sup> In short, the Geobalance program has not made sufficient progress toward shrinking the geographic disparity in RPS investments. Absent further modifications to the manner in which such

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<sup>15</sup> Solar Study at ES-11 (emphasis added). The Solar Study also concluded that, although the SREC procurement scenario that it modeled would be the most expensive of the policy options examined, focusing investment in New York City could lower the total cost of implementing that scenario. *Id.* at ES-13.

<sup>16</sup> NYSERDA, *New York State Renewable Portfolio Standard Performance Report for Program Period December 31, 2010* (issued May 24, 2011) at Figures 4 and 6. Further, none of the Main Tier projects have been located in New York City. *Id.* at Appendix A.

<sup>17</sup> The number of Customer-Sited Tier projects located in the service territories of Orange & Rockland Utilities, Inc. and Central Hudson Gas & Electric Corporation greatly exceed the number of project located in New York City.

investments are targeted for the Geobalance Zones, generally, and New York City, specifically, it is likely that the disparity between collections and expenditures will continue, to the detriment of downstate ratepayers.

Finally, the City recognizes that the Commission does not strive for “a perfect correlation between the geographic source of funding and the location of resources....”<sup>18</sup> and that a precise level of mathematical proportionality is not required. As noted above, however, RPS investment in New York City continues to lag upstate investment by a substantial margin, and New York City continues to receive only a small fraction of RPS investment. While the City’s recommendation to focus the effort and funding for the expanded solar PV program in New York City is not intended to, and would not, result in “a perfect correlation” between downstate RPS contributions and downstate RPS investment, it would promote greater equality in the distribution of RPS projects and investment than presently exists.

**B. The Vast Majority Of Incremental Solar PV Funding For The Expanded Standard-Offer Program Should Be Allocated To New York City**

As described above, the Geobalance Program has been slow to correct the historic underinvestment of RPS funds in New York City. This investment gap also extends to residential and small commercial renewable energy systems. Failure of the Customer-Sited Tier to spur the development of such projects in New York City contrasts starkly with Commission statements that Customer-Sited Tier investments should be distributed in a manner that creates “opportunit[ies] for residential and small business customers to participate.”<sup>19</sup> It is apparent that further programmatic changes are necessary if the RPS initiative is to increase its level of investment in residential and small commercial solar PV facilities in New York City.

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<sup>18</sup> Case 03-E-0188, *supra*, Geobalance Order at 30.

<sup>19</sup> Case 03-E-0188, *supra*, RPS Order at 47.

To begin correcting this investment gap, the City recommends that 80% of funding for the expanded standard-offer incentive program be designated for residential and small commercial projects located in New York City. The increased funding that the City recommends is justified by the same considerations discussed in Point II.A, *supra*, and would provide greater opportunities to capture the comparative benefits of downstate solar PV systems (*i.e.*, higher energy costs and capacity factors, and load pocket support).

### **POINT III**

#### **LARGER SYSTEMS THAT ARE NOT CUSTOMER-SITED SHOULD BE ELIGIBLE TO PARTICIPATE IN THE EXPANDED SOLAR PV PROGRAM**

Participation in the Customer-Sited Tier is limited to commercial solar PV systems of 50 kW or less,<sup>20</sup> and the Geobalance program requires that projects must be customer-sited and limited in size to 2 MW or less.<sup>21</sup> The expanded solar PV programs proposed by NYSERDA would be modeled on the existing Customer-Sited Tier and Geobalance programs,<sup>22</sup> meaning that it presumably would have similar eligibility requirements. In addition to focusing the effort and funding for the solar PV program in New York City, the Commission should expand the scope of the program to facilitate participation by solar projects of all sizes that may be developed in the City. These modifications would increase the attractiveness and installation of larger solar PV facilities and are better aligned with the State's and City's concurrent goals for solar PV penetration and proliferation.

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<sup>20</sup> Case 03-E-0188, *supra*, Customer-Sited Tier Program: Program Goals and Funding Plan (2010-2015) (dated June 29, 2010) at 16.

<sup>21</sup> *Id.* at 11.

<sup>22</sup> Petition at 4.

There are opportunities to develop solar PV resources within New York City that likely would be excluded under the existing RPS initiative, but should be included, and encouraged, under an expanded solar PV program. The City, with assistance from NYSERDA and in coordination with Consolidated Edison Company of New York, Inc. and building owners and developers, is actively assessing the viability and expansion of distributed generation facilities throughout New York City. Such facilities may be located in or on specific buildings, or they may be campus-style facilities that serve multiple buildings. As part of this assessment, the City is specifically examining the role and potential use of solar PV for both applications. Other opportunities may exist to locate solar PV facilities at utility substations. While some facilities may fit within the capacity limit presently in place, as well as behind-the-meter connections, other facilities could be substantially larger, and, particularly with campus-style systems or systems located at substations, would not be connected behind the meter. These differences should not exclude such facilities from eligibility for RPS incentives.<sup>23</sup> Indeed, restricting the type of solar PV facilities that are eligible for RPS incentives could become a barrier to the proliferation of such facilities and frustrate the achievement of the State's, Governor's, and City's concurrent goals for greater solar PV penetration.

An emphasis on larger, downstate solar PV systems also is consistent with Commission policy. For instance, in its Geobalance Order, the Commission stated that: "We also want to build on the State's solar photovoltaic program in a manner that targets larger installations in the downstate region where they are more cost-effective and where distributed generation can do the most good."<sup>24</sup>

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<sup>23</sup> NYSERDA proposes to include aggregated systems in its expanded statewide competitive-bidding program.

<sup>24</sup> Case 03-E-0188, *supra*, Geobalance Order at 32-33.

Moreover, relaxing these requirements reflects important differences between upstate and New York City. The RPS supports numerous megawatt-scale wind energy generation systems in upstate New York. A lack of available space, relative costs and differing wind velocities, as well as other factors likely will prevent similar facilities from ever being constructed within New York City. However, as noted above and in the Solar Study, there are broad opportunities to deploy solar PV systems of all sizes in New York City. NYSERDA's proposal should therefore be modified to reflect this potential and ensure that opportunities to expand the use of this renewable technology are not lost.

There are multiple ways of doing so. For example, the eligibility requirements for the expanded solar PV program could be expressly established with no size limitations. Alternatively, solar PV facilities with a capacity in excess of relevant thresholds that are located within New York City could be granted an exception from the pre-existing capacity threshold and/or the customer-sited requirements. An added benefit of this recommendation is that an expanded solar PV program with no size limitations that is focused on New York City would help to rectify the historic under-investment of RPS funds in New York City.

One concrete example of a large project for which an RPS incentive is essential, and which justifies the modification proposed herein, is the City's proposal to allow its Fresh Kills landfill to be the site of a renewable energy facility. On March 20, 2012, the City announced that it had issued a Request for Proposals ("RFP") to design, construct, install, and operate solar and wind power facilities at the Fresh Kills landfill in Staten Island.<sup>25</sup> The RFP

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<sup>25</sup> New York City Economic Development Corporation, Press Release, *Deputy Mayor Holloway Announces RFPs to Build New Solar and Wind Power Facilities* (dated March 20, 2012), available at <http://www.nycedc.com/press-release/deputy-mayor-holloway-announces-rfps-build-new-solar-and-wind-power-facilities> (hereinafter, "Fresh Kills Press Release").

notes that the 75 acres of capped landfill being made available to developers presents a unique opportunity for the development of large-scale renewable energy projects in New York City. The City estimates that the property may accommodate as much as 15 MW of solar PV capacity. This project presents one of the largest known potential solar PV development in New York State, and it could comprise as much as 75% of the incremental solar PV installations necessary to achieve the target established by Governor Cuomo for 2013.<sup>26</sup>

Importantly, the project would involve commercial development by a private entity without any subsidy from the City. The City's role is only to make the land available under a long-term lease. It will not financially support the project, provide low-cost financing, or purchase the output from the facility. In other words, this project would be equivalent to an upstate wind farm. The City has received indications from developers that the project's eligibility for inclusion in the RPS is essential, in much the same way that inclusion in the RPS has been a critical factor for upstate wind projects. Therefore, the City urges the Commission to take the steps necessary to fulfill the Governor's target and demonstrate to developers that the State is committed to its renewable energy agenda and expansion of its renewable energy portfolio.

#### **POINT IV**

#### **THE SOLAR PV PROGRAM EXPANSION PROPOSED BY NYSERDA SHOULD BE FUNDED SOLELY BY A REALLOCATION OF MAIN TIER FUNDS**

For the period 2012-2013, NYSERDA proposes to finance the expanded solar PV program by reallocating \$17.5 million of unencumbered Customer-Sited Tier funds,<sup>27</sup> and \$90.5

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<sup>26</sup> Petition at 3.

<sup>27</sup> On January 30, 2012, NYSERDA submitted a petition requesting Commission approval of its proposal to reallocate \$17.5 million of unencumbered Customer-Sited Tier funds to the

million of Main Tier funding.<sup>28</sup> For the period 2014-2015, NYSERDA notes that the Commission could consider an increase in customer collections for the RPS as part of its comprehensive review of the RPS initiative in 2013.<sup>29</sup>

The City's analysis concluded that the budget to fund the expanded solar PV program each year between 2012 and 2015 amounts to a reallocation of less than 4% of the Main Tier budget. This reallocation would have a negligible impact on renewable energy procurement under the Main Tier and would not impede progress toward achieving the RPS goals. Therefore, the City recommends that the expanded solar PV program be financed solely via a reallocation of Main Tier funds each year.

Additionally, as part of the examination discussed above in Point I, the Commission should evaluate whether Main Tier funds should be used for a further enlargement of the solar PV program. If the expanded solar PV program described above is successful, it would help to rectify the upstate/downstate funding and expenditure imbalance. Accordingly, reallocating more Main Tier funds for this program would be appropriate. Given the already substantial size of the RPS collections, such a reallocation would also be preferable to increasing the size of the RPS surcharge to customers.

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standard-offer solar PV incentive and Geobalance programs. Case 03-E-0188, *supra*, Petition for Modification Proposal Regarding Unallocated CST Funds (filed January 30, 2012) (hereinafter, "January 30 Petition".) Here, NYSERDA notes that approval of the reallocation proposed in its January 30 Petition would reduce to \$90.5 million the additional funding necessary during the period 2012-2013 to support the proposed solar PV expansion.

<sup>28</sup> Petition at 5.

<sup>29</sup> *Id.*

**CONCLUSION**

For the foregoing reasons, the City recommends that the Commission approve the  
Petition, subject to the modifications recommended herein.

Dated: April 16, 2012  
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Respectfully submitted,

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