STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

PETITION OF THE CLEAN ENERGY PARTIES FOR A DECLARATORY RULING REGARDING THE ENVIRONMENTAL VALUE OF THE PHASE ONE VDER TARIFF	**Case 15-E-0751**

Clean Energy Parties' Reply Comments to the Joint Utilities' Opposition to the Clean Energy Parties' Petition for a Declaratory Ruling Regarding the Environmental Value of the Phase One VDER Tariff

On October 22, 2018, the Clean Energy Parties (CEP)[1] filed a petition in the above-referenced case for a declaratory ruling regarding the environmental value (E-value) of the Phase One VDER Tariff. The Joint Utilities[2] (JU) filed a response opposing the petition on November 6, 2018. The CEP present the following reply comments to clarify the scope the petition and address certain representations put forth in the JU's response.

A. The JU Response Requests that the Commission Address Issues That Go Far Beyond the Scope of the CEP Petition

The JU attempt to significantly widen the scope of the CEP's narrow petition to interpret an existing Commission Order. Specifically, the JU seek to expand the scope of this Petition to reopen an issue decided by the Commission in March 2017—namely, whether the Phase One E-Value should be set using the Tier 1 REC price, the SCC, or some combination of the two. This issue was discussed in stakeholder working groups, proposed in DPS' Staff Report on Phase One of VDER, and officially noticed for public comment over two years ago.[3] In other words, the issue was subject to extensive comment and review, and has been settled law for nearly 18 months. To the extent the Commission seeks to reexamine this decision, the logical forum is in

[1] The CEP are the Solar Energy Industries Association, the Alliance for Clean Energy New York, the Coalition for Community Solar Access, the Natural Resources Defense Council, the New York Solar Energy Industries Association, the Pace Energy and Climate Center, and Vote Solar.
[2] The JU 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] PSC, Notice Soliciting Comments on Staff Report and Recommendations, Case No. 15-E-0751 (issued Oct. 28, 2016).

the context of the VDER Phase Two proceeding that is currently underway. Indeed, as part of this Phase Two proceeding, Staff has already conducted several stakeholder meetings on the E-value. These meetings included presentations on compensating DERs for avoided local pollutants, implementing a time-varying E-value, adopting a more appropriate discount rate for the social cost of carbon, and addressing environmental justice concerns, among other issues.[4] Like the JU, Petitioners believe that numerous changes to the E-Value in Phase Two are warranted. However, Petitioners' request for declaratory relief was intentionally narrowly constrained to a small number of technical questions related to the Phase One Order, and was not an attempt to undermine or circumvent the Commission's appropriately deliberate Phase Two process. The Commission should reject the JU's attempt to shoehorn a key issue in the Phase Two process into this narrow request for interpretation of the Phase One Tariff.

B. *The JU's Response Makes Representations Unsupported by the Record*

The JU's comments mischaracterize compensating DERs for their full environmental benefits as an "unjustifiabl[e] increase [of] out-of-market compensation" and as "additional subsidies that would not be cost-effective."[5] The environmental component is not a subsidy. Rather, like the energy, capacity or avoided distribution values in the Value Stack, the environmental component of the value stack compensates DERs for avoided costs to the system and ratepayers that are associated with the generation of electricity from DERs. As they do for energy, capacity, and distribution costs, DERs that reduce carbon pollution help to avoid the real costs that New York ratepayers will face as they attempt to mitigate or adapt to climate change. In any event, the JU assertions that these "subsidies" are not "cost-effective" are questionable as they are unsupported by any data.

[4] *See, e.g.*, http://www3.dps.ny.gov/W/PSCWeb.nsf/All/8A5F3592472A270C8525808800517BDD?OpenDocument; Institute for Policy Integrity, "Value of Distributed Energy Resources – E/EJ Value Informal Subgroup – Track 1 and 2 Report" (July 9, 2018), https://policyintegrity.org/documents/DER_Value_Stack_E_Value_Report_07.09.18.pdf.; Energy + Environmental Economics, "Shaped E Value" (July 11, 2018); Synapse Report, "Climate Costs and the Value of E" (Oct. 2, 2018).

[5] Reply of Joint Utilities to Clean Energy Parties Petition for Declaratory Ruling, Case 15-E-0751 (Nov. 6, 2018), pg. 2 ("JU Comments").

The JU further assert, without citation, that "the Commission has previously determined that the Tier 1 REC price should be used going forward."[6] This is not accurate. The Commission clearly and expressly determined in the VDER Phase One Order, whose interpretation is the subject of this petition, that the E-value would be set by the higher of the SCC or the Tier 1 REC price, and fixed for 25 years.[7] Arguments that seek to overturn the Commission's decision in this matter are more appropriate for other forums, such as the VDER Phase Two process, where there is more flexibility to address the conceptual methodology of the Value Stack.

In addition, the JU cite pages 14-15 and 18-19 of the BCA Framework Order for the proposition that Staff proposed and the Commission approved an SCC 20-year analysis period to align with the energy price forecast in NYISO's CARIS LMBP Model. However, the cited material contains no endorsement of a 20-year as opposed to a 25-year analysis period for the SCC, and it certainly does not mandate that DERs should receive no credit for the avoided carbon emissions in years 21 to 25 of the VDER tariff. Some confusion on this point is potentially explained by the fact that DPS Staff originally proposed a 20-year tariff term for all components of the VDER tariff (including the E-value)—a proposal that was modified to a 25-year term in the Commission's March 9 Order.[8] Given this regulatory history, the most reasonable reading of the March 9 Order is that the Commission intended that the conceptual principles established in the BCA Framework Order should be used to determine an appropriate "avoided environmental value" for the 25-year VDER tariff (where the SCC value turns out to be higher than the Tier 1 REC price).

We respectfully submit that ignoring five years of avoided carbon costs in calculating an E-value for a 25-year tariff would not be consistent with the BCA Framework Order's basic mandate to use the SCC to evaluate the benefits that can be provided by DERs. Indeed, as the CEP Petition demonstrates, limiting the calculation of the 25-year E-value to the first 20 years of the SCC estimates would be arbitrary and capricious. The Interagency Working Group has set a

[6] JU Comments, pg. 3.
[7] VDER Phase One Order (Mar. 9, 2017), pgs. 106-107
[8] VDER Phase One Order (Mar. 9, 2017), pgs. 53-56.

schedule of increasing SCC values up to 2050.[9] However, Staff's current calculation of the SCC only includes avoided carbon damages for the first 20 years of the VDER tariff, effectively treating the last five years of the tariff term as if no carbon pollution can be mitigated during that time, or as if the value of mitigating carbon pollution in years 21-25 is zero. Given that most, if not all, VDER-eligible technologies have an anticipated useful life of at least 25 years,[10] it would be arbitrary to assume that a given DER will provide no environmental value after the first 20 years of its operating life.

The JU next allege that the E-value component of the VDER tariff "overstates the net benefits from a solar project because production from any solar facility will decline over time due to normal degradation of photovoltaic ("PV") panels."[11] This issue appears to be an out-of-time objection to the Commission's determination that the Phase One E-value must be "fixed for the term of compensation for all Value Stack-eligible projects,"[12] and as such is beyond the scope of this Petition for clarification. In addition, this objection is easily dismissed because to the extent a given DER produces less energy in later years (as some, but not all DERs may do),[13] that DER will receive less overall compensation because the VDER value stack credits are based on the number of kWh produced and injected into the grid.

With respect to double-discounting, the JU comments also misstate the CEP's position. Specifically, the CEP Petition does not argue that a discount rate should not be used for the SCC calculation.[14] The CEP do not here challenge the use of a 3% discount rate for calculating the "central value" of the SCC (although we recommend that this discount rate should be reexamined in the context of the Phase 2 VDER process). Rather, the CEP's position is simply

[9] *See* Interagency Working Group on Social Cost of Greenhouse Gases, *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866* (Aug. 2016) (Appendix A), https://www.epa.gov/sites/production/files/2016-12/documents/sc_co2_tsd_august_2016.pdf.
[10] NREL, "Useful Life," https://www.nrel.gov/analysis/tech-footprint.html.
[11] JU Comments, pg. 4.
[12] VDER Phase One Order, pg. 106.
[13] The lack of a record on this point is important. Different VDER-eligible DER technologies (which could include small hydroelectric producers, tidal energy generators, and anaerobic food waste digesters) have different production profiles. Production from any given facility varies from year to year depending on the weather, maintenance, fuel supply, and other factors, and consequently these resources could very well produce *more* energy in later years. As noted above, there is ample evidence that DERs of all stripes will provide carbon reductions for at least 25 years, and in many cases, much longer.
[14] *See* JU Comments, pg. 4 ("The Clean Energy Parties' second proposed modification is the use of an arithmetic average of all future SCC values (i.e., without application of a discount rate).").

that DPS should not arbitrarily apply a *second* discount rate on top of the 3% discount rate already included in the Interagency Working Group SCC estimates. Moreover, we note that the portion of the BCA Framework Order that the JU cite to support their assertion that DPS should use the utility WACC rather than the Interagency Working Group discount rate explicitly states that the WACC should *not* be applied to the SCC.[15] The JU has not presented any coherent rationale for why the Commission should apply the WACC as a discount rate *on top of* the already-discounted SCC.

Finally, the JU claim that requiring two updates per year would "needlessly increase administrative costs."[16] The JU have not attempted to estimate these costs, which would in all likelihood be minor relative to the modest costs they must anyway undertake to update and file their monthly VDER filings. In any event, we respectfully submit that the administrative cost of updating a spreadsheet like the one provided by Staff is more than outweighed by the benefit of accurately valuing the environmental benefits that DERs provide.

Conclusion

We thank the Commission for the opportunity to clarify the scope of this Petition and to respond to certain representations raised by the JU.

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On behalf of the Clean Energy Parties

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[15] *See* BCA Framework Order, pgs. 26-27 ("There is, however, one important exception to use of WACC as the discount rate -- the discount for calculating SCC.") (cited in JU Comments, pg. 4, footnote 13).
[16] *See* JU Comments, pg. 6.