

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on February 13, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 03-E-0188 - Proceeding on Motion of the Commission
Regarding a Retail Renewable Portfolio
Standard.

ORDER AUTHORIZING AN INCREASE IN THE MAXIMUM PROJECT INCENTIVE
FOR THE ON-SITE WIND PROGRAM IN THE CUSTOMER-SITED TIER

(Issued and Effective February 14, 2013)

BY THE COMMISSION:

INTRODUCTION

In this order, in response to a petition submitted by Distributed Wind Energy Association and Sustainable Energy Developments, Inc., the Commission authorizes an increase in the funding cap applicable to the on-site wind program within the Customer-Sited Tier of the Renewable Portfolio Standard (RPS) Program. The Commission rejects the request for programmatic changes that include competitive solicitations for on-site wind, and adjusting the evaluation of bid prices for customer-sited and community wind projects in the Main Tier of the RPS Program.

BACKGROUND

The RPS program employs two primary programs to help the State reach its renewable energy goals. The Main Tier, which accounts for the vast majority of new renewable generation and employs annual competitive solicitations to obtain new

renewable projects; and the Customer-Sited Tier, a program established for “behind-the-meter” generators to allow customers to participate directly in the promotion of certain clean energy technologies.

Customer-sited wind¹ has been a staple in the RPS program since its adoption in 2004 and is part of the portfolio of self-generation technologies that make up the Customer-Sited Tier.² The Commission revised the customer-sited wind program in 2011.³ At that time, the Commission modified the equipment size cap for small wind installations from 600 kW to 2 MW to be consistent with the State’s net-metering laws and to boost on-site wind program participation. The Commission also required the New York State Energy Research and Development Authority (NYSERDA), the RPS program administrator, to continue to apply a maximum incentive of \$400,000 per installation since, at that time, it was estimated that more energy production would be afforded by the larger turbines at no additional cost to ratepayers. It also required NYSERDA to work with Staff of the Department of Public Service (Staff) to develop mechanisms to make certain that the smallest-sized wind generators continued to have funding opportunities.⁴ As a result, the on-site wind program was revised to reflect the changes above.⁵

The current program administered by NYSERDA for on-site wind provides an incentive based on the expected annual

¹ The customer-sited wind program has also been referred to as the “small” wind program and is currently known as the “on-site” wind program.

² See Renewable Portfolio Standard Customer Sited Tier Program Operating Plan (2012-2015) June 2012.

³ Case 03-E-0188, Order Authorizing Reallocation of Unencumbered Customer-Sited Tier Program Funds Through 2010 and Resolving Other Issues (issued September 19, 2011), p. 9.

⁴ Id.

⁵ See <http://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities/PON-2439-On-Site-Wind-Turbine-Incentive-Program.aspx>

energy output of the proposed wind energy system. Incentive payments are structured as follows:

- For the first 10,000 kWh, the incentive equals \$3.50/kWh.
- For 10,001-125,000 kWh, the incentive equals \$1.00/kWh.
- For greater than 125,000 kWh, the incentive equals \$.30/kWh.
- The maximum financial award is \$400,000 per site/customer.
- The maximum equipment size shall not exceed 110% of the customer's annual electric energy usage, including eligible remote meters, up to a 2 megawatt (MW) maximum per site/customer.
- The NYSERDA incentive shall also not exceed 50% of the total installed cost of the wind energy system.

The incentives are currently structured in such a way that the \$400,000 cap is reached for a turbine in the approximate size range of 400 kWs. Therefore, installations between 400 kW and 2 MW would be capped at that rate.

On October 2, 2012, the Distributed Wind Energy Association and Sustainable Energy Developments, Inc. (the Petitioners) submitted a petition to request modifications to the on-site wind program in the Customer-Sited Tier and also modifications to the Main Tier to allow on-site wind and community wind projects to compete more favorably in the Main Tier program.

SUMMARY OF PETITION

The Petitioners request that the Commission direct NYSERDA to make the following programmatic changes to the on-site wind program in the Customer-Sited Tier: 1) removal of the \$400,000 funding cap per installation; and, 2) establishment of a competitive solicitation for on-site wind similar to the

structure the Commission established for the photovoltaic (PV) program under the NY-Sun Initiative. The Petitioners state that while residential-scale size wind energy projects have experienced success in the on-site wind program, larger installations continue to face development hurdles and also face competition with other customer-sited tier programs, specifically, the expanded solar PV Program established as part of the NY-Sun initiative.⁶ The Petitioners assert that removal of the funding cap, coupled with a customer-sited competitive bid program, would ensure that the lowest cost wind projects are developed and would also put customer-sited wind and solar projects on a more equal footing regarding the incentives received from the RPS program. Furthermore, they claim, it will provide financial flexibility for developers to transition from project design to the construction phase as well as assist in helping the State meet its on-site wind target by 2015.

The Petitioners also request that customer-sited and community wind energy projects be afforded a multiplier of 1.5 times the average bid price in the Main Tier competitive solicitation program, in addition to a more stream-lined contract process.⁷ The Petitioners contend that these changes would encourage localized investment and level the playing field for small-scale community wind development, which cannot currently compete with larger wind projects.

Lastly, the Petitioners urge NYSERDA and the Commission to develop and deploy the electric generation

⁶ See Case 03-E-0188, Order Authorizing the Expansion of the Solar Photovoltaic and Geographic Balance Programs From 2012 Through 2015 And The Reallocation of Main-Tier Unencumbered Funds (issued April 24, 2012).

⁷ The Petitioners claim that many of the Main Tier contract requirements are overly burdensome for smaller "behind-the-meter" wind projects such as the required security deposit and the need for an NYISO queue number for system interconnection.

attribute tracking system for New York State, enacted into law in August 2012, to help support voluntary renewable energy markets.

NOTICE OF PROPOSED RULEMAKING

A Notice of Proposed Rulemaking (Notice) concerning the Petitioners' requested modification to the RPS Program was published in the State Register on October 31, 2012 [SAPA 03-E-0188SP34]. The minimum period for the receipt of public comments pursuant to the State Administrative Procedures Act (SAPA) regarding the Notice expired on December 17, 2012. Comments were received from nine parties and are summarized below.⁸

SUMMARY OF COMMENTS

Talco, WPF, and Vergenet all support the petition in its entirety. They cite renewable energy diversity, job creation, and economic growth as reasons to support the RPS programmatic changes sought in the petition. Ridgeline states that community scale wind is disadvantaged by the RPS Program because it rewards large projects in the Main Tier and the smallest projects in the Customer-Sited Tier, but fails to properly compensate mid-size projects for the benefits they provide. It also supports the addition of a "Community Scale Tier" in the RPS program for wind projects up to 20 or 25 MW.

ACE NY and Pace both support the concept of providing a level playing field between solar PV and customer-sited wind, where the customer can choose between technologies without a

⁸ Talco Electronics, Inc. (Talco), WindPartners Finance, LLC (WPF), Vergenet SA (Verenet), Ridgeline Energy LLC (Ridgeline), Alliance for Clean Energy New York, Inc. (ACE NY), Pace Energy and Climate Center (Pace), Multiple Intervenors (MI), Independent Power Producers of New York, Inc. (IPPNY), and NYSERDA.

funding bias. They also support a competitive offering for the on-site wind program similar to the NY-Sun initiative. ACE NY and Pace also support changes to the Main Tier solicitation process that facilitates participation by smaller wind projects, however, they do not support the proposed 1.5 multiplier for those projects in the Main Tier solicitations. Rather, they support examining the best ways to support small and community wind projects in the upcoming 2013 RPS program review.

MI notes that New York State electricity customers pay the second highest rates in the continental United States and recommends that the Commission seek opportunities to reduce the total cost to customers, not increase it as proposed in the petition. MI believes that approval of the petition would create "detrimental precedents" for the RPS program, marking a fundamental shift in how the RPS Main Tier is structured and implemented. MI notes that the proposed 1.5 multiplier for small wind projects in the Main Tier solicitation process is especially egregious and could result in less costly projects being passed over, thereby increasing the overall cost of RPS. They further argue that the Commission has steadfastly distinguished between the two tiers within the RPS Program, citing that the Main Tier is responsible for procuring renewable energy on the basis of cost, not technology, unlike the Customer-Sited Tier that helps promote technologies that cannot compete in the Main Tier. MI claims that the multiplier would blur the distinction between these two programs by providing a discrete advantage for customer-sited and community wind projects that would be eligible for the Main Tier. Finally, MI notes that the petitioners do not properly recognize that the NY-Sun Initiative was implemented to provide solar PV a competitive advantage because wind technology dominates the RPS Program. MI notes that providing additional incentives within

the Main Tier for more wind projects does not make sense, especially when the proposal would likely not change the portfolio of bid-winning technology, but rather substitute fewer kWh of wind energy at a higher price for more kWh at a lower price. IPPNY's comments mirror those of MI in opposing the changes proposed for the Main Tier, stating that the proposed multiplier would not level the playing field, but rather provide an artificial advantage over other eligible technologies and reduce its ability to provide renewable energy at the most cost-effective price to New York ratepayers.

NYSERDA supports raising the current \$400,000 funding cap up to \$1 million for larger wind turbine installations in the on-site wind program. It states that its expectation of achieving additional MWhs of energy production from larger systems at no additional incentive has not resulted in any large customer-sited turbine installations. Further, it notes that the current Customer-Sited Tier Operating Plan projects that 25.5 MW of on-site wind would be installed or encumbered by the end of 2015 with an annual output of 62,000 MWh and that these projections relied heavily on the expectation that a considerable number of wind turbines in excess of 400 kW would be installed. NYSERDA states that its experience, through 2012, shows that the on-site wind program is now on a trajectory to appreciably under-spend and under-perform.

NYSERDA's recommendation for increasing the funding cap is based on its calculation that a turbine just over the 2 MW threshold could be expected to receive between \$1.25 and \$1.75 million in total incentives from a ten year Main Tier contract based on the most-recent portfolio weighted average price received in the last Main Tier solicitation. NYSERDA also notes that if the declining block rate structure for the on-site wind program is revised and properly structured, then the

marginal MWh could be acquired at increasingly less expense; however, the expected capacity and annual generation output targets stated in the Operating Plan would decline.

Similar to MI and IPPNY, NYSERDA does not support changing the Main Tier in the manner proposed by the petitioners. It also does not support a competitive NY-Sun like initiative at this time because, it notes, there are only a few participating entities that have expressed interest in the New York marketplace for customer-sited wind and believes that there are an insufficient number of potential bidders to establish a properly-functioning competitive offering.

Finally, NYSERDA notes that the generation attribute tracking system is currently under active development and acknowledges the importance that it becomes available in a timely manner. NYSERDA expects to initiate a stakeholder process early in 2013.

DISCUSSION

The petition identifies a concern we share, namely that the Customer-Sited Tier on-site wind program has not met the expectations of increased program participation for larger wind turbine installations to help achieve RPS goals. Current economic conditions have stalled the renewable industry. As we noted in our recent order authorizing an increase for the anaerobic digester-to-gas electricity program, allowing NYSERDA to adjust program incentives in a prudent and a cost-efficient manner within the confines of the budgets we have set for each program makes sense to assist with accelerating the deployment of these customer-sited projects.⁹ While we recognize that increasing incentives will decrease the overall projected annual

⁹ See Case 03-E-0188, Order Authorizing the Increase of Maximum Project Incentive for the Anaerobic Digester Gas-to-Electricity Program (issued January 23, 2013), pp. 5-7.

production of the program, we also recognize the need to respond to market conditions if we are to advance additional renewable projects.

Staff confirms that incrementally raising the cap from \$400,000 to \$1 million to support larger turbine installations will be in the public interest if the incentive amounts for on-site wind are properly structured so that funding is commensurate with prices that are paid on a dollar per Kwh basis in the Main Tier, as suggested by NYSERDA. Staff also reports that the current unencumbered budget for the on-site wind program is 14.8 million through 2015. We will require NYSERDA to work with Staff to revise the funding formulas in the declining block structure for projects sized over 400 kw and to issue an updated Program Opportunity Notice for the on-site wind program. We will also require NYSERDA to reflect the program changes in the Customer-Sited Tier Operating Plan.

We reject the proposal to set up a competitive process for on-site wind at this time. NYSERDA's experience with customer-sited and community wind developers indicates that only a few entities have expressed interest in the New York marketplace in the size range that could be considered for such a competitive program. Therefore, we do not adopt the petitioners' proposal to create such a program. We will, however, consider modifications to the on-site wind program as part of the Commission's overall review of the RPS Program that will commence later this year.

We also reject the petitioners' proposal to provide smaller-scale wind projects a 1.5 multiplier for bids received in the Main Tier. As MI and others correctly state, the Main Tier program is designed to be technology neutral and reward developers that offer bids for renewable attribute that are lower in cost than others. We have stated in the past that the

Main Tier is not intended to force contribution by, or as is done in the Customer-Sited Tier, apportion financial support to, any particular technology. Eligible technologies are reached in the Main Tier based on where the costs, and therefore bids, fall on a supply curve of all the competing technologies in relation to the demand created in the RPS Program. To provide a multiplier on the bid price for small wind projects would undermine this principle by creating an artificial advantage for such projects and would result in ratepayers paying higher prices for fewer MWhs of energy production. Therefore, the proposed changes to the Main Tier, requested at this time, will not be made.

Finally, as NYSERDA notes, and is confirmed by our staff, the generation attribute tracking system is currently under development and NYSERDA intends to reach out to stakeholders early this year for input into the final design of the system. We will also require a report on the progress of that system as part of the 2013 RPS review.

The Commission orders:

1. The New York State Energy Research and Development Authority (NYSERDA) is authorized to raise the current funding cap for on-site wind generation as provided in this order.
2. NYSERDA shall work with Department of Public Service Staff to implement a new declining block structure for the existing Customer-Sited Tier on-site wind program in the manner described in the body of this order.

3. This proceeding is continued.

By the Commission,

(SIGNED)

JEFFREY C. COHEN
Acting Secretary