Transmission Developers Inc.
A Blackstone Portfolio Company

August 31, 2016

Kathleen H. Burgess, Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223

RE: CASE 15-E-0302 and CASE 16-E-0270
Petition for rehearing of Transmission Developers, Inc.

Dear Secretary Burgess:

Pursuant to Rule 3.7 of the Rules of Procedure adopted by the New York State Public Service Commission ("PSC"), Transmission Developers, Inc. ("TDI") offers this petition for rehearing in connection with the PSC's August 1, 2016 Order establishing, among other things, a "Clean Energy Standard" (the "CES Order"). TDI previously submitted comments in this docket on April 22, 2016 and June 6, 2016.

Rule 3.7 affords to affected parties the right to seek reconsideration of a PSC decision when "new circumstances warrant a different determination." TDI submits that the enactment in Massachusetts of "An Act to Promote Energy Diversity" (signed by Governor Baker on August 8, 2016) presents such a circumstance. As a number of commentators in this docket have pointed out, such an initiative by a neighboring state very well could have the effect of siphoning off a significant portion of the renewable energy supply that would otherwise be available to New York State.[1]

[1] As noted, just over three weeks ago, Governor Baker signed into law a bill calling for the procurement of 9.45 Twh of clean energy generation delivered into Massachusetts pursuant to long-term contracts. This reflects the growing appetite of New England for new renewable energy, including large-scale hydropower, a trend that TDI discussed in its comments of April 22, 2016 with reference to both the then-pending Massachusetts legislation and the "Tri-State Clean Energy Request for Proposals." It may be noted that, together, these two New England initiatives provide a powerful magnet for up to 14.45 Twh of renewable energy supplies. Incremental large-scale hydropower must be the subject of proper incentives in New York or it will likely bypass the New York market and thereby undercut the PSC's renewable policy.

Nonetheless, TDI commends the PSC and its staff for adopting the CES Order in such a timely manner and for boldly advancing Governor Cuomo's ambitious "50 by 30" renewable energy goal. The CES Order once again reinforces New York's place at the forefront of the renewable energy revolution.

We note that the CES Order attempts to strike a balance between delegating to the PSC staff considerable discretion with respect to implementation strategies and the private sector's need for clarity and certainty. This approach is a laudable, important, and necessary feature of any regulatory program as ambitious and complex as this one. However, unless the proper balance is struck, achieving the program's goals may be hampered by the private sector's inability to make reliable investment decisions.

In one area in particular, TDI believes that a more definitive response at this time is needed. Incremental[2] renewable power that flows into the New York Control Area from adjacent control areas in response to the program should be acknowledged as a key facilitator of the program's success.

Although the precise scope of the revisions that would need to be made to the CES Order are within the purview--and call for the expertise--of the PSC staff, we can point to two critical sentences that, if revised, would help to provide the needed clarity. These sentences appear below, with the additions and deletions appropriately shown:

CES Order, Page 16: The LSEs will be able to meet their obligations by purchasing RECs from NYSERDA, by purchasing qualified RECs from other sources, by purchasing incremental renewable energy from the types of resources that currently qualify as part of the 2014 Baseline Renewable Resources, or by making Alternative Compliance Payments to NYSERDA.[3]

CES Order, Page 80 (footnote 58): ~~This issue~~ *(avoiding erosion of the LSE obligation)* ~~will be revisited if at some later date~~ The Commission has decided that ~~while~~ voluntary market actions providing ~~with~~ additional~~ity~~ renewable energy will ~~not~~ offset LSE compliance obligations and will ~~but may~~ be counted toward achievement of the overall program goal.

Simply put, Load Serving Entities ("LSEs") that purchase incremental

[2] Incremental is defined as new energy that is delivered into New York that is not currently counted as included in the 2014 Baseline Renewable Resources inventory.

[3] It may be noted that large-scale vintage impoundment hydropower does so qualify.

renewable energy that currently qualifies as renewable in the context of the renewable baseline should be relieved of the obligation to purchase Renewable Energy Credits ("RECs") or to make Alternative Compliance Payments ("ACPs"). The amount of REC/ACP relief should correspond with the amount of renewable energy purchased by that LSE. Furthermore, any incremental renewable energy that currently qualifies in the renewable baseline should count towards the 50 by 30 goal and reduce the number of RECs that need to be purchased accordingly.[4]

TDI believes that the language refinements described above are fully consistent with goals of the program established by the CES Order and are necessary in order to ensure that the program functions as intended. With the minor adjustments we propose herein, the CES Order will strike the necessary balance of agency flexibility and market certainty and will further advance what is a truly historic initiative.

Very Truly Yours,

Donald Jessome
Chief Executive Officer

cc: Active Parties (via e-mail)

[4] The CES Order assumes that this will occur in due course. At page 118, it states: "The targets established in triennial reviews will also reflect the development of voluntary activity and the portion of the RES attainment wedge to be represented by voluntary activity in the subsequent procurement period." This feature of the program should not be deferred for three years.