STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 15-E-0302 — In the Matter of the Implementation of a Large-Scale Renewable Program and a Clean Energy Standard

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COMMENTS ON THE STAFF REPORT REGARDING RETENTION OF EXISTING BASELINE RESOURCES UNDER TIER 2 OF THE RENEWABLE ENERGY STANDARD PROGRAM

PROVIDED BY

THE ALLIANCE FOR CLEAN ENERGY NEW YORK, ADVANCED ENERGY ECONOMY INSTITUTE, and NORTHEAST CLEAN ENERGY COUNCIL

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I. Executive Summary

As described in detail in these Comments, New York's Clean Energy Standard (CES) program needs to incorporate an obligation for all load-serving entities to procure specified amounts of renewable energy credits (RECs) from renewable energy generators that existed prior to 2015. Modifying the CES to include this type of Tier 2 obligation is the most efficient and cost-effective way to ensure that New York retains pre-2015 renewable generators and makes real and sustained progress towards the 50% mandate. The Commission should retain a modified Maintenance Tier to be utilized on an infrequent and case-by-case basis to retain specific renewable energy generators that provide overall benefits to New York and to the State's electricity infrastructure. Further, the Commission should reconsider allowing the full output of a repowered facility to be eligible for CES Tier 1.

II. Introduction:

The Alliance for Clean Energy New York (ACE NY), the Advanced Energy Economy Institute (AEEI), and Northeast Clean Energy Council (NECEC) are writing to respond to the New York Public Service Commission's ("Commission") *Notice Soliciting Comments on Staff Report Regarding Retention of Existing Baseline Resources Under Tier 2 of the Renewable Energy* Standard, issued on October 20, 2017. The *Staff Report Regarding Retention of Existing Baseline Resources Under Tier 2 of the Renewable Energy Standard* ("Staff Report"), was filed by the Department of Public Service on October 19, 2017.

These Comments were developed based on ACE NY's prevailing interest in both the success of the renewable energy industry in New York State and in the success of New York State in meeting its ambitious and forward-thinking 50% Renewable Energy Standard. Achieving 50% will require the construction of new renewable energy generating capacity; the retention of existing renewable energy capacity; and the achievement of aggressive levels of energy efficiency. All three of these components are critical to success. Our members include companies engaged in building new renewable energy projects, and the policies to support new and additional renewables – both distributed and large-scale – are a top priority. But, it is undeniably critical to the successful achievement of Governor Cuomo's 50% by 2030 mandate to support existing renewable energy generators as well, and it is fully in keeping with the principles and goals of the *Reforming the Energy Vision* (REV) initiative to value the environmental attributes of renewable energy generation whether it was built before or after 2015.

In addition to these Comments, ACE NY has made two other filings on this Staff Report: *Clean Energy Advocates Request for Tier 2 Accounting* filed on December 12, 2017 by the Sierra Club, NRDC, Pace Energy and Climate Center, Environmental Advocates of New York, and ACE NY, and a detailed analysis, titled *Policies to Cost-Effectively Retain Existing Renewables in New York,* prepared by Synapse Energy Economics, filed on December 22, 2017. Together with these Comments, these three documents make a strong case for a re-examination of the Commission's approach to pre-2015 renewable energy projects within the framework of the Clean Energy Standard and the State's broader carbon emissions reduction goals. We respectfully request that the Commission reconsider their decision to not incorporate a Tier 2 obligation for load-serving entities within the CES, and also comprehensively consider potential mechanisms for the procurement of Tier 2 Renewable Energy Credits (RECs).

These Comments elaborate on the following six position statements:

1. **The first "formative principle" enumerated in the Staff Report is not supported by either previous Commission Orders or the Staff Report itself.**

2. **The Staff Report is not a comprehensive examination of the imperative to retain existing resources, and its limited scope (i.e. changes to the Maintenance Tier) is neither responsive to previous Commission Orders or based on any presented data.**

3. **The Synapse Report, submitted previously to the Commission in this proceeding, supports the establishment of a Tier 2 obligation as the most cost-effective and sustainable approach to implementing a successful 50% by 2030 program for New York.**

4. **Most of the proposed changes to the Maintenance Tier are positive, but they do not obviate the need for a Tier 2 obligation for load serving entities (LSEs).**

5. **In the Maintenance Tier, there does not need to be a price cap if the analysis and decision-making is on a case-by-case basis.**

6. **The repowering of existing renewable energy projects, which will attract private investment and modernize New York's electricity generating infrastructure, should be strongly encouraged, particularly in the context of projects competing for contracts.**

III. Comments on CES Policies Regarding Existing Renewables

1. The first "formative principle" enumerated in the Staff Report is not supported by either previous Commission Orders or the Staff Report itself.

In the introduction to the Staff Report, staff recognize three "formative principles:" (1) The Commission directed that financial need is a mandatory component of any facility's Tier 2 request; (2) This report does not consider expanding or contracting the list of eligible technologies; and (3) This report recognizes the importance of the contribution made by small hydro facilities towards achieving the 50 by 30 goal.

The first of these formative principles is not supported by previous Commission Orders, because the Commission did not mandate that financial need be a criteria for Tier 2. First, there was a previous Staff recommendation for the CES to incorporate a Tier 2a and Tier 2b, in recognition that the retention of existing renewables was important to maintain the baseline of existing renewable capacity in New York if we are to reach 50%, and in recognition that certain of these existing generators would have a market opportunity for their RECs outside of New York. This position was put forward in the *Staff White Paper on a Clean Energy Standard*, issued on January 25, 2016 in this proceeding. But in the August 2016 *Order Establishing the Clean Energy Standard,* the Commission declined to establish a Tier 2 obligation at that time, in the belief that there was no imminent risk of losing the attributes of these baseline resources. In the August 2016 *Order*, the stated reason for the Commission not to establish a Tier 2 was not because there needed to be a demonstration of financial need, but that there was not yet evidence that these resources were at significant risk of either selling RECs elsewhere, exporting energy, or closing down. The Commission stated, "in the event that out of state sales occur, it will reconsider what action, if any, is required in one of the CES triennial review prior to 2030."

Later, in its December 15, 2016 *Order on Petitions for Rehearing,* the Commission "agrees that it is in the best interests of electric consumers to retain existing renewable resources, provided that the cost of retention is less than the cost to replace them with new facilities under the Tier 1 REC program."[1] This agreement was not qualified by a statement that this is in the best interest of consumers only if the generator can demonstrate financial need. The Order stated, "For that reason the Commission finds that it is necessary to begin immediately to further develop the eligibility criteria for Tier 2 to ensure that cost effective retention of baseline resources is achieved to the extent practicable." The Order did <u>not</u> state that cost-effective retention of baseline resources should only be achieved if there was a demonstration of financial need. This same *Order* went on to direct Staff to: "prepare, for Commission review, recommendations for consideration of eligibility changes for Tier 2, in consultation with stakeholders, without waiting for the first triennial review. Factors to consider will include: the cost to consumers; changes in eligibility criteria; a showing of financial hardship; facility locational considerations; and program options." This statement illustrates that the Commission included financial hardship in the list of factors for consideration, but did <u>not</u> establish a hard and fast principle that financial hardship had to be a threshold eligibility requirement for Tier 2. Similarly, the first ordering clause of the *Order* stated, "Staff of the Department of Public Service shall prepare recommendations for consideration of eligibility changes for Tier 2, in consultation with stakeholders, for Commission review without waiting for the first triennial review." The ordering clause did <u>not</u> state that financial hardship must be a threshold criteria, and therefore there is no basis for it being a formative principle for the Staff Report.

2. **The Staff Report is not a comprehensive examination of the imperative to retain existing resources and its limited scope (i.e. changes to the Maintenance Tier) is neither responsive to previous Commission Orders or based on any presented data.**

As cited above, the basis for the Commission's December 2016 directive to staff to consider changes to Tier 2 was, "the Commission agrees that it is in the best interests of electric consumers

[1] New York Public Service Commission. CASE 15-E-0302. *Order on Petitions for Rehearing.* P.14.

to retain existing renewable resources, provided that the cost of retention is less than the cost to replace them with new facilities under the Tier 1 REC program," and "the Commission finds that it is necessary to begin immediately to further develop the eligibility criteria to Tier 2 to ensure that cost effective retention of baseline resources is achieved to the extent practicable." At the same time, the Commission declined to establish a Tier 2 open to all pre-2015 resources at that time, because, "at this time we do not have sufficient information to support the assertions that all baseline merchant facilities are at risk of ceasing operation or fleeing the New York energy markets. To date there has been no significant attrition of hydro or wind resources."

With these statements as a foundation, it would be reasonable for Staff to include in the Staff Report an up-to-date assessment of the current and future risks that baseline renewable facilities are or will cease operations or export their RECs, and an assessment of the current renewable energy generators located in New York that already export RECs to New England. The Staff Report did not include such an assessment, nor did it include an assessment of options for retaining existing resources in New York to the "extent practicable", and the limited scope of the Staff Report is not, in fact, responsive to the concerns expressed by the Commission in the December 15, 2016 *Order on Petitions.*

The lack of information in the Staff Report regarding current and predicted future export of RECs to other energy markets was the rationale for the *Clean Energy Advocates Request for Tier 2 Accounting* (filed on December 12, 2017 by the Sierra Club, NRDC, Pace Energy and Climate Center, Environmental Advocates of New York, and ACE NY). We respectfully request that the Staff Report be updated to include an accounting of Tier 2 resources in New York and the impact of attrition in the baseline to New York's ability to achieve steady progress towards the 50% goal. We strongly feel that this type of accounting should inform the Commission's next steps with respect to Tier 2. Further, an expanded or updated Staff Report should explore the variety of options for retaining all pre-2015 renewable energy resources in New York, including a new obligation for LSEs to procure RECs from these baseline resources.

3. **The Synapse Report supports the establishment of a Tier 2 obligation as the most cost-effective and sustainable approach to implementing a successful 50% by 2030 program for New York.**

Policies to Cost-Effectively Retain Existing Renewables in New York ("Synapse Report"), prepared by Synapse Energy Economics on behalf of ACE NY, was filed in this proceeding on December 22, 2017. The Synapse Report highlights that certain existing generators are, in fact, at risk of either ceasing operations or exporting their RECs to other jurisdictions. If these resources do export RECs or otherwise sell them into the voluntary market, they will not be available to New York to count towards the 50% mandate. New York State will then have to procure additional Tier 1 RECs to make up for this erosion of the baseline.

The Synapse Report presents that New York is beginning its Clean Energy Standard program with a baseline of renewable energy generating capacity that is 29 percent of the projected 2030 load, including output from hydroelectric facilities owned and operated by the New York Power Authority (NYPA), imported hydropower, and the output from independently owned facilities that served New York load in 2014. While the NYPA facilities make up the majority of the baseline, independent resources contributed 10 TWh in 2014, or just less than 25% of the baseline. Synapse's analysis of policy options to retain RECs from existing resources shows that these options could save New York ratepayers between $135 and $377 million between 2019 and 2023 (present value). In contrast, if New York does not establish policies designed to retain RECs from existing independent generators, it will lose some of its baseline and backslide below the 29 percent starting level. Backsliding would likely begin by 2019, when generators with expiring NYSERDA contracts, along with uncontracted older resources, find opportunities to export that exceed the amount of new Tier 1 resources coming online. Further erosion of the baseline is possible from older resources selling RECs to voluntary or lower-value markets. While some new generation will come online by 2019, it will be adding to a retained baseline of 27.5 percent or lower of 2030 load, rather than adding to the expected baseline level of 29 percent of 2030 load. See the Synapse Report for additional data.

A new Tier 2 REC obligation for load-serving entities could be implemented using a variety of policy structures, and the Synapse Report examines five possibilities. Four of these approaches would use a price for Tier 2 RECs established by the Commission that the purchasing entity would pay to “all-comers”. The options presented include a price be set at 75 percent of the average Tier 1 REC price for each year; 100 percent of the average Tier 1 REC price for each year; the social cost of carbon emission avoided by those generators, adjusted for expected Regional Greenhouse Gas Initiative (RGGI) revenues; or the social cost of carbon emission avoided by those generators, adjusted for expected RGGI revenues and for expected market energy prices. The fifth approach examined would not set a price and would instead use a rolling competitive REC auction in which one third of the off-contract existing independent generation in the baseline is acquired each year through competitive procurement. All of these policy options start with an obligation for New York’s load serving entities (LSEs) to purchase the Tier 2 RECs acquired through the policies, and assume that an LSE obligation would collectively be the size of the independent, in-state generators that were counted in the 2014 baseline.

Using these policy options, the Synapse Report analyzes the period 2019 to 2023 to reflect the fact that program changes would likely not be fully implemented until 2019, and projections past 2023 are increasingly uncertain due to changes in market conditions and rules. The analysis demonstrated that four of the five options have lower ratepayer costs on both a total present-value basis and a per-MWh basis, with cost savings from $135 to $377 million in present value, or between $5.79/MWh and $13.34/MWh.

Table 1 from the Synapse Report is excerpted below. In sum, the Synapse Report makes a strong case that the Commission should reexamine incorporating a Tier 2 obligation into the Clean Energy Standard program and comprehensively examine the impacts of such an obligation and the range of procurement mechanisms for achieving it.

Policy Option	Total Cost ($ millions)	Cost vs. Base Case ($ millions)	Avg. REC Cost ($/MWh)	Avg. REC Cost vs. Base Case ($/MWh)
Base Case/Status Quo	657		28.04	
DPS Staff Proposal	684	27	29.17	1.12
1: 75% of Tier 1 Avg.	522	(135)	22.26	($5.79)
2: 100% of Tier 1 Avg.	760	103	29.12	1.08
3: Carbon Value	480	(177)	20.43	($7.61)
4: Market Responsive Carbon Value	462	(195)	19.60	($8.44)
5: Rolling REC Auction	280–429	(377)–(228)	$14.71–$22.25	($13.34)–($5.80)

4. **Most of the proposed changes to the Maintenance Tier are positive, but they do not obviate the need for a Tier 2 obligation for load serving entities (LSEs).**

The Staff Report proposed a number of modifications to the Tier 2/Maintenance Tier, many of which we support.

- **3.1.2. Vintage**: While the August 2016 *Order Establishing a Clean Energy Standard* restricted Tier 2 eligibility to facilities that were in commercial operation prior to January 1, 2003, the Staff Report recommended changing the vintage date to prior to January 1, 2015. This is a beneficial change for a Maintenance Tier, because if it is based on financial need, it does not matter if it was prior to 2015 or 2003. It is also a beneficial change for a broader Tier 2, as it would integrate with, and be more consistent with, Tier 1. It is appropriate that this could include facilities that have previously received a Renewable Portfolio Standard (RPS) Main Tier or Maintenance Tier contract, as long as the contract has expired and the facility can demonstrate and meet whatever other criteria are applied. We note that this should also include facilities that currently sell their output directly to utilities under existing contracts, which is the case for certain small hydropower facilities in New York.

- **3.1.3. Eligible Technologies**: Currently Tier 2 is limited to run-of-river hydroelectric facilities of 5 MW or less; wind facilities; and biomass direct combustion facilities. The Staff Report proposes increasing this from 5 to 10 MW for hydropower, which is a positive change that we support. For consistency and better integration with Tier 1, it makes sense to have the criteria be the same as Tier 1 except for vintage date. We request that the Commission consider further raising this eligibility threshold for hydropower or, alternatively, provide a rationale for the 10 MW level.

- **3.1.4: To-Go-Costs:** The Staff Report recommends that "to-go" costs include two new elements. The first new element is a risk contingency component equal to five percent (5%) of the forecasted operation and maintenance to-go costs developed in the review process. If adopted, this risk contingency will be included as a projected operating expense in the calculation of the facility's net income. Second, to encourage renewable facility owners to invest the capital necessary to maintain the facilities in operation, Staff proposes to include a return on capital for new capital expenditures required to maintain safe and efficient operations. The rate of return to be applied to these new capital expenditures will be calculated by Staff and updated on an annual basis. ACE NY supports these two changes. We note that inclusion of these elements could particularly assist hydropower facilities that need significant capital investments as they approach their FERC relicensing processes. Refurbishment of existing hydropower facilities in New York can not only extend the life of these facilities and thereby retain their RECs in New York, but can improve and maintain the safety of water management infrastructure that serves other purposes, such as flood control or recreation.

ACE NY supports the change in vintage date, the increased MW threshold for hydropower eligibility, and the addition of the two new elements to the calculation of to-go costs. These modifications are positive improvements for the Maintenance Tier. In the case of the vintage date, this modification is also appropriate for application to a new Tier 2 obligation for LSEs. While we support these modifications, these changes to the Maintenance Tier do not eliminate the need for a new Tier 2 obligation for LSEs.

5. **In the Maintenance Tier, there does not need to be a REC price cap if the analysis and decision-making is on a case-by-case basis.**

The Staff Report also recommends that the Maintenance Tier incorporate two different avenues for applicants: a streamlined approach and a case-by-case review. ACE NY supports the effort to incorporate a more streamlined review process to avoid workload for both Applicants and Staff, and to still generate the desired data concerning financial viability. The streamlined review will use a standardized application template and will offer three-year contracts that will provide a REC price designed to cover the projected shortfall between total forecasted revenues and total forecasted operating costs. Staff recommend that the REC prices in these cases be capped at the Social Cost of Carbon (SCC) price minus the Regional Greenhouse Gas Initiative (RGGI) cost. We note that the streamlined review is still a case-by-case review in that it is focused on a particular generation facility; the to-go costs at that facility; and the projected revenue for that facility. Given the Commission statement in its December 2016 *Order on Petitions, "*the Commission agrees that it is in the best interests of electric consumers to retain existing renewable resources, provided that the cost of retention is less than the cost to replace them with new facilities under the Tier 1 REC program," it would make sense to have the REC price cap under the streamlined review be the prevailing Tier 1 REC price, rather than the social cost of carbon as was recommended in the Staff Report. We respectfully request that the Commission consider this change.

The second option (case-by-case review) will use a more customized review and may allow for contracts of different lengths. Under this second option, applicants will again be awarded a "payment designed to cover the projected shortfall between total forecasted revenues and total forecasted operating costs necessary to provide a net income of zero, up to a maximum payment of the then current Tier 1 REC price, per the most recently published large-scale renewable solicitation." Because this second option is similar to how the Maintenance Tier has operated for the last eleven years, and will be incorporating a rigorous and comprehensive analysis of the unique circumstances facing a particular generator that chooses to undergo this review, we suggest that a specified REC price cap is not necessary, as Staff would make decisions on a truly case-by-case basis. Given the experience of the Maintenance Tier and the rigors of this process, we would expect that this option would be utilized on an infrequent basis and the Commission should maintain the option of responding to whatever unique circumstances that may arise.

IV. Comments on Policies Regarding Repowering

The repowering renewable energy projects, which will attract private investment and modernize New York's generating infrastructure, should be strongly encouraged, particularly in the context of projects competing for contracts.

ACE NY strongly disagrees with the approach put forward in the Staff Report to prohibit re-powered facilities from being eligible for Tier 1, and instead supports the proposal that was included in the *Clean Energy Standard Phase 1 Implementation Plan Proposal,*[2] submitted to the Commission on October 31, 2016. This plan proposed that the, "entire generation from a repowered vintage generator ("Repowered Facility") will be considered eligible for Tier 1 if it can demonstrate..." followed by five detailed criteria that stringently defined repowering.

In its February 22, 2017 *Order Approving Phase 1 Implementation Plan,* the Commission stated, "The repowering option for older vintage facilities that predated the RPS program (pre-2003 resources) appears as a reasonable solution to put older facilities back into production, especially in instances when the generating components have met their useful life and may be completely decommissioned." However, the Commission opted to not allow repowered facilities to be eligible for Tier 1 at that time, stating, "The Joint Utilities, however, raise important points regarding facilities that have already received an RPS contract (pre-2015 resources) where

[2] Case 15-E-0302, *Clean Energy Standard Phase I Implementation Plan Proposal*, Submitted by Staff of the New York State Energy Research and Development Authority and Staff of the New York State Department of Public Service, October 31, 2016.

repowering may not be in the best interest of ratepayers if there is value in operating the facility beyond the industry standard useful-life. Therefore, the Commission will not allow repowered facilities to be eligible for Tier 1 at this time. However, Staff is directed to include the topic of repowering in its recommendations to the Commission related to the cost-effective retention of baseline resources, which will be due within 180 days from the issuance of this order."

Based on the review of comments included in the February 22nd *Order*, the only objection to the inclusion of repowered facilities was from the Joint Utilities: the possibility that existing renewable energy generators would re-power their facilities prematurely, when they could have continued operating beyond the industry standard of useful life. This concern ignores the fact that re-powered facilities would be competing for a Tier 1 REC contract and would benefit ratepayers and New York communities.

Prior to a repowering project moving ahead, an operator would need to determine that the considerable cost of re-powering a facility (and meeting the five stringent criteria for re-powering that were laid out by Staff[3]) would be recovered with a combination of wholesale market revenues and a Tier 1 REC contract with NYSERDA for which the facility could successfully compete. In these circumstances, NYSERDA would then be obtaining Tier 1 RECs at a more competitive price than they otherwise would realize, which would benefit ratepayers. Also, the re-powered facility would provide extended or increased economic benefits and jobs to its host community; and the renewable energy generating fleet in New York would become more modernized and efficient. Further, repowering projects could allow for significant increases in the capacity factor at wind facilities, as technology continues to evolve, that will increase generation within the existing footprint of a project and with a simpler siting process (because

[3] These criteria were: (1) the Prime Mover had operated for the length of its useful life; (2) the Prime Mover had been completely replaced with a new one which was installed after January 1, 2015; (3) the replacement of the Prime Mover had resulted in a material increase of 15 percent or more in efficiency of production of the generation unit; and (4) 80 percent of the tax basis from the completed repowered facility is derived from capital expenditures made after January 1, 2015.

the facility is already sited) and potentially requiring less investment in interconnection or transmission infrastructure. These benefits of re-powering are clear.

Because of its clear benefits, the Commission should consider policies to encourage re-powering, such as was laid out in the Staff proposal in October 2016. Unfortunately, the Staff Report discourages repowering by disallowing Tier 1 eligibility for a re-powered facility. And although the Staff Report's recommendations would allow the pre-repowering capacity of a generator to apply to the Maintenance Tier, it is quite unlikely that an operator could utilize this option which would involving demonstrating financial need for one portion of a plant while successfully competing for a Tier 1 contract for another portion of a plant.

The Staff Report does not contain an extensive discussion nor analysis of the pros and cons of allowing the entire capacity of a re-powered facility be eligible for Tier 1; nor a projection of potential or likely projects that could be re-powered; nor an analysis of the costs and benefits to ratepayers of encouraging or discouraging repowering with respect to most cost-effectively achieving the 50% mandate by 2030. We respectfully request that the Commission re-examine the question of the costs and benefits of repowering of renewable energy facilities in this context.

The Staff Report did express Staff's concern that allowing an existing facility to be compensated for the entire output of a repowered facility could circumvent the financial needs test that the Commission requires for maintenance support under Tier 2. This concern is not a valid reason for rejecting policies to encourage re-powering. First, allowing projects to be eligible for Tier 1 would allow them to compete for contracts with NYSERDA (or NYPA) for which there is <u>not</u> a financial needs test, making this concern invalid. Second, as we outline above, there was not a clear mandate from the Commission that a demonstration of financial need should be required for Tier 2. Financial need is an appropriate criteria for the Maintenance Tier, but the CES needs a new obligation for LSEs to procure Tier 2 RECs separate and apart from a Maintenance Tier in order to retain the existing baseline to the extent practicable and allow it to be counted towards the 50% mandate.

The Staff Report also expresses that "Staff finds it unlikely that an owner would abandon a facility and its site as long as its ongoing operating revenues exceeded the expected costs." While this may be true, it is not an adequate basis for discouraging re-powering given the benefits of repowering discussed above. The approach to repowering should be governed by what best achieves New York's policy goals at least cost.

IV Voluntary markets

Section 3.3 of the Staff Report addresses the voluntary market. Although it does not propose any changes to how the voluntary markets work in New York at this time, it does state that, "a facility receiving maintenance support under Tier 2 does not necessarily preclude it from receiving compensation under the Value of Distributed Energy Resources (VDER) tariff." This raises three additional questions for which we request clarification. First, would a generator participating in the Maintenance Tier definitively be able to participate in VDER? Second, would a generator participating in the Maintenance Tier also be able to sell their RECs into the voluntary market, or is that contract essentially a contract for the RECs? Third, would a pre-2015 generator participating in the VDER tariff also be able to sell their RECs into the voluntary market? In this third circumstance, the generator would not be receiving the environmental value component of the value stack ("E-Value"), per the rules of VDER Phase One, so it would be appropriate that they would still be able to sell their RECs to another buyer. With respect to pre-existing renewable generators participating in the VDER tariff, the restriction on their receiving the E-Value component of the Value Stack is arbitrary and exacerbates New York's challenges with respect to retaining the pre-2015 baseline. For example, a pre-2015 small hydropower plant that is currently selling through the wholesale market might be interested in transitioning to a Community Distributed Generation (CDG) project. This type of project would attract private capital to refurbish a generator and should be compensated for its provision of carbon-free power just like a community solar project built after 2015.

V. CONCLUSION

Thank you for the opportunity to provide these Comments on the *Staff Report Regarding Retention of Existing Baseline Resources Under Tier 2 of the Renewable Energy Standard Program*. We understand that the CES program is a complicated and evolving policy. It has numerous components designed to ensure that New York makes steady progress towards the 50% renewable energy by 2030 goal, and does so in a way that is transparent, gradual, fair, and affordable. It is important that the CES policies be designed to be sustainable and successful while protecting ratepayers from unnecessary or overly burdensome costs.

To address the potential that New York's baseline of pre-2015 renewable energy generators be retained in New York, we respectfully ask the Staff and the Commission to re-consider an obligation for all load-serving entities to procure specified amounts of renewable energy credits (RECs) from renewable energy generators that existed prior to 2015, in the belief that modifying the CES to include this type of Tier 2 obligation is the most efficient and cost-effective way to ensure sustained progress towards the 50% mandate. We also ask that the Staff and Commission examine methods for implementing such an obligation, such as the options laid out in the Synapse Report previously submitted by ACE NY in this proceeding.

We also request that the Staff and Commission re-consider its position on repowering and undergo a more detailed assessment of the benefits of encouraging re-powering in New York, in the belief that a policy to encourage repowering would be a component of the CES that could assist in attracting private capital to New York to upgrade our existing fleet of renewable generators over time, and assist in retaining the existing generators in New York, thereby supporting achievement of the 50% mandate in the most cost-effective manner.