VIA ELECTRONIC MAIL

Hon. Kathleen H. Burgess  
New York Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223-1350

Re: Matter 17-01276 – In the Matter of the Value of Distributed Energy Resources  
Working Group Regarding Value Stack;  
Case 15-E-0082 – Proceeding on Motion of the Commission as to the Policies,  
Requirements and Conditions for Implementing a Community Net Metering Program;  
Case 15-E-0751 – In the Matter of the Value of Distributed Energy Resources

Dear Secretary Burgess:

Environmental Defense Fund hereby submits for filing its comments in response to the Notice Soliciting Comments on Staff Proposal and Related Matters, dated May 22, 2018, in the above-referenced proceedings. Our comments relate solely to the Staff Proposal on Value Stack Eligibility Expansion (the “Staff Proposal”) on May 22, 2018 in Case 15-E-0751 and Matter 17-01276, referenced in the Notice, and do not touch on the additional questions posed in the Notice, which pertain to Case 15-E-0082.

We participated extensively in the VDER value stack working group meetings that preceded the issuance of the Staff Proposal, and stated our concerns about including expedited treatment in comments filed in response to the informal discussion documents filed in that case. As previously stated in those comments, we were and remained concerned that:

• There is no record to support the assumption that CHP is at least no worse than system power from a GHG standpoint, and there is evidence from other jurisdictions that it may already not make that hurdle in New York State.
• The environmental characteristics of CHP depend entirely on operational characteristics
that can vary radically from one system to another (or from year to year with the same system), but to our knowledge there is no way that the manner in which it is operated can inform payment received under the Phase 1 value stack.

- The criteria from the Con Edeson standby rate pilot were not designed to be a proxy that hurdle and should not be considered as a substitute for evidence that CHP is environmentally beneficial, or at least not harmful, here.
- As the grid becomes lower emitting due to the adoption of high levels of renewable energy resources and other low-carbon resources, CHP will have an even higher hurdle to hit than the one it has not been shown to hit right now, yet according Phase 1 value stack treatment at this time risks locking in higher-than-justified compensation for decades.
- While not giving CHP the E value is a step in the right direction, it does not suffice for the purpose of avoiding paying CHP for GHG benefit it does not provide, because CHP would still receive LMP+D and the LMP itself includes some amount of carbon avoidance value due to the RGGI program (because large wholesale generators actually bear that cost, which affects LMPs, while distributed generators are not required to internalize the costs of any of their emissions). This effect will be dramatically exacerbated in the event that a price on carbon approaching the Social Cost of Carbon becomes a reality, for example through carbon adder construct currently being considered by the NYISO; in such a situation, the E value could drop to zero because all carbon cost is internalized in the LMP, which CHP would receive in full.

These concerns were set forth in greater detail in the prior comments, and we appreciate the consideration that Staff gave to our reasoning in developing the Staff Proposal. For convenience of reference, we have appended our earlier comments as Exhibit A (Comments of Environmental Defense Fund dated October 19, 2017) and Exhibit B (Comments of Environmental Defense Fund dated January 10, 2018). In light of these concerns, we support Staff’s proposal to work NYSERDA and stakeholders to develop the record to enable CHP eligibility to be given further consideration for VDER value stack compensation.

Respectfully submitted,

Elizabeth B. Stein

Cc: Active parties
Exhibit A

Comments of Environmental Defense Fund dated October 19, 2017

(attached behind)
Date: October 19, 2017

VIA ELECTRONIC MAIL

Hon. Kathleen H. Burgess
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 17-01276 – In the Matter of the Value of Distributed Energy Resources Working Group Regarding Value Stack

Dear Secretary Burgess:


Respectfully submitted,

[Signature]

Elizabeth B. Stein

Cc: Active Parties
Thank you for giving us the opportunity to provide comments on the Expedited Eligibility Discussion Document, Version 2, 10/4/2017 (the “Discussion Document”). These comments focus on the treatment of the “E” value for non-renewable resources and the Environmental Impacts principle for non-Tier 1 REC eligible technologies (Principle III), with a particular attention to the “safe harbor” provisions being proposed based on the Con Edison standby pilot. EDF offers these preliminary comments in the same spirit as we understand Staff to have offered the “Discussion Document,” i.e., as a basis for discussion.

We appreciate that covering the output of CHP systems under the VDER Tariff in Phase 2 is likely appropriate, although the relationship between the VDER Tariff and the Standby Tariff remains to be clarified. Our concerns relate solely to the expedited treatment as currently described, which we believe is not justified given the carbon reduction trajectory needed to achieve timely compliance with the State’s greenhouse gas reduction goals and the lack of any analytical foundation for the approach embodied in the Discussion Document.

EDF engaged extensively in the standby pilot discussions that led to the adoption of the provisions that are identified here as a potential basis for a safe harbor for a determination of CHP being “no worse than” system power. We did so because we appreciated that CHP may provide particular value (notably resiliency value) in New York City, and many parties had argued that the standby tariff as previously applicable was unfair to those resources and as such constituted a barrier to efficient deployment of them. In that context, the parameters described in the Discussion Document served to limit the downside environmental risk of the pilot. We signaled the need for additional safeguards to manage aggregate carbon emissions in our statement in support of the JP. Therefore, as further described below, we currently believe that using the parameters developed in the context of the standby pilot for this new purpose would be a serious misapplication of them, and should be avoided.

1. The current “E” value clearly understates the environmental value of renewable energy resources, which have renewability attributes as well as providing pollution avoidance. As
the Commission noted, Phase Two is an evolving process that will include “improvements and modifications to the Value Stack, including components related to the bulk system, distribution system and societal values.” As we have stated previously and as other parties have agreed, fast-tracking is not appropriate for developing E-Value. Because the Phase 1 E-value is limited to the value of avoided REC costs, it is a materially incomplete stand-in for environmental value, since it fails to include any value attributable to the avoidance of un-internalized emissions of any kind.

2. Presently, most damage costs associated with air emissions are not internalized by polluters (in the electric sector or elsewhere). Except to the extent that generators subject to RGGI have an obligation to purchase emissions permits (at a price far below the cost associated with the marginal damage of the emissions with which they burden society), polluters are presently able to impose significant damage costs on society at no cost to themselves.

3. Based on our understanding of what “expedited treatment” would mean, providing emitting resources with such treatment would allow them to be compensated based on the Phase 1 tariff for long periods of time -- effectively insulating those resources against future rules that more accurately value their emissions. Given the expected progress towards a clean electric generation mix, resources that are barely “no worse than” system average on day 1 will be worse than system average at some point in the future. The question is merely how soon that will occur. In the case of CHP, we are unaware of current research addressing this question on a statewide basis, but research in California shows that as that state continues to add clean energy resources to its grid, conventional fossil fuel-based CHP systems are already becoming net GHG

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emitting, especially when operated inefficiently.\textsuperscript{3} In light of this trajectory, and especially in light of the dearth of relevant data for New York State, any long-term commitment that insulates emitting resources against the effect of future rules concerning their emissions should be done with extreme caution; the current discussion document appears to lack the necessary level of caution.

4. Establishing a principle that a one-time finding that a particular “technology” is “no worse” than bulk system power would be highly problematic.

a. “No worse than bulk system power” is vague in several respects. No worse than which bulk system power? Average or marginal? This is not a trivial question, insofar as distributed energy resources that meet baseload power might best be compared to the system average, which can be very low, particularly upstate.\textsuperscript{4} At what location should such a determination be made?

b. Making the finding for a “technology” would allow for the proliferation of installation configurations and operational practices that fall well short of potential performance.

c. Establishing the actual performance of an actual system is extremely difficult. This challenge became apparent in the context of Con Edison’s standby pilot, where the language that was ultimately accepted for pilot purposes continued to pose a risk of underperformance in practice (as further discussed below).

5. Using the Con Edison Standby Rate Pilot filing in Case 16-E-0060 as a basis for a safe harbor is highly problematic and, as currently conceived, should be rejected.

a. The language that is included in the Discussion Document was not developed to “guarantee”


\textsuperscript{4} According to EPA’s Emissions & Generation Resource Integrated Database (eGRID) data, the average GHG emission rate in Upstate NY in 2014 was only 366 lbs CO2/MWh compared to the non-baseload output GHG emission rate of 1,195 lbs CO2/MWh. https://www.epa.gov/sites/production/files/2017-02/documents/eGRID2014_summarytables_v2.pdf
that CHP would be “no worse” than system power, environmentally. Rather, where it was a
doregone conclusion that new standby rate structures should be a subject for experimentation,
this language minimized downside environmental risk that otherwise might have prevented
the pilot from going forward at all (which would have made it impossible to experiment with
alternative standby rate structures). A rigorous comparison to “system power,” present or
future, was never the point of that discussion; accordingly, it would not be appropriate to
treat the compromise approach arrived at in that context as if it addresses the issues here.
Indeed, in our statement supporting the Joint Proposal in Case 16-E-0060, we placed our
support for the standby tariff provisions of that proposal in context and highlighted our
continuing concern about long-term environmental ramifications and pointed specifically to
the fact that the JP did not already include measures to contain aggregate CO₂ emissions, as
follows:

“While the JP is a step forward in an area where building owners have perceived rate
design as a barrier to implementing efficient technologies, ensuring that on-site distributed
generation that is powered by fossil fuels such as natural gas contributes to desired
environmental outcomes over the long term will require further measures to manage
emissions from those resources, including measures to ensure that their aggregate CO₂
emissions are consistent with state carbon reduction goals.”

b. Relatedly, since the relevant language was developed in the context of a pilot, with an eye
toward minimizing the downside environmental risk of the pilot, the fact that the pilot was
capped at a maximum number of megawatts is of central importance. Any proposal to apply
a limited construct developed for a modest pilot more broadly wrenches it out of context and

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5 Cases 16-E-0060 and 16-E-0061, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and
Regulations of Consolidated Edison Company of New York, Inc. for Electric Service and Proceeding on Motion of the
Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for
Gas Service, Statement of Support of Environmental Defense Fund Regarding the Joint Proposal Filed in the Above
Cases (October 13, 2016) at 6.
no guarantee as to accuracy and no rigorous track record that would give reason to expect – much less guarantee – accuracy. Meanwhile, because the actual performance of a given CHP plant varies over time based on the thermal needs of a site and other factors, it is not possible to predict its emissions performance based on factors such as “usable thermal energy.”

d. Like natural gas-based central generation, natural gas-based distributed generation results in CO₂ emissions and upstream methane emissions. But unlike central generation, it does not bear any of the cost arising from its CO₂ emissions, as resources under 25MW are exempt from the obligation to purchase RGGI allowances. Moreover, since LBMPs in the wholesale market in effect include the cost of RGGI allowances, paying LBMPs as the energy value to carbon-emitting CHP resources would overcompensate them for that value component; this is because when CHP receives the LBMP portion of the value stack while not being required to internalize its own emissions, it would in effect receive a benefit from other parties’ emissions in the form of higher energy prices despite not being required to pay any costs associated with its own emissions (which is the effect of “E” being held constant as zero over the entire period). This effect will be exacerbated if in the future large generators face a higher price for their carbon emissions (whether through RGGI or through a carbon adder) while distributed energy resources continue to avoid responsibility for their emissions.

We appreciate the opportunity to comment on the Discussion Document and look forward to a further discussion among the parties. Thank you.

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6 Excessive deployment of natural gas-based technologies in the long term could also lead New York to lock in additional natural gas infrastructure that would last decades or longer, making it harder to reach ambitious, longer term goals, such as the State’s goal of 80% GHG emissions reductions by 2050.
Exhibit B

Comments of Environmental Defense Fund dated January 10, 2018

(attached behind)
VIA ELECTRONIC MAIL

Hon. Kathleen H. Burgess
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 17-01276 – In the Matter of the Value of Distributed Energy Resources Working Group Regarding Value Stack

Dear Secretary Burgess:

Environmental Defense Fund hereby submits for filing its informal comments on the Staff Discussion Document on VDER Value Stack Expedited Eligibility Expansion filed December 18, 2017.

Respectfully submitted,

Elizabeth B. Stein
Senior Manager, New York Clean Energy Law and Policy
Environmental Defense Fund
257 Park Avenue South
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Date: January 10, 2018

Cc: Active Parties
Thank you for giving us the opportunity to provide comments on the Staff Discussion Document on VDER Value Stack Expedited Eligibility Expansion (the “Discussion Document”). We understand, based on working group discussions in the VDER proceeding, that the Discussion Document represents the penultimate step in developing the concept of expedited eligibility for value stack compensation and that the next iteration of this concept available for public comment will be a formal proposal that is to be filed with the Public Service Commission (the “Commission”) for approval. These comments primarily raise concerns about the proposal’s adherence to its own stated principles, and recommend that those portions of the proposal that are out of alignment with the principles be modified or omitted from the proposal before it is presented to the Commission. Specifically, while we generally find that the proposal lays out a sound foundation for expanding eligibility to the value stack established in Phase 1 of the VDER proceeding, including requiring proper attention to (1) awareness of environmental consequences of expanded eligibility, and (2) the need for a sufficient factual record to make an expedited decision about eligibility, we also find that in the case of CHP, the factual record simply does not support findings that would support expanded eligibility.

As noted in our comments to the earlier version of this document, we appreciate that covering the output of CHP systems under the VDER Tariff in Phase 2 is likely appropriate. Our concerns relate specifically to (1) the expedited treatment as currently described, which we believe is not justified given the nature of expedited treatment (which assumes a fundamental compatibility between various resources and the method arrived at in Phase 1), (2) the carbon reduction trajectory needed to achieve timely compliance with the State’s greenhouse gas emissions reduction goals, and (3) the lack of any analytical foundation for the approach embodied in the Discussion Document. That said, we appreciate why various parties, including Staff, would like to offer some value-based compensation mechanism to CHP sooner rather than later, and we conclude with a range of suggestions as to how CHP might be accommodated at this juncture based on analysis available at this time.

1. The proposed principle of “ripeness” would require that there be a “complete enough
factual record for a decision at this time,” and the proposed principle relating to environmental impacts would require that non-renewable technologies “have potential environmental impacts that are better than or at least approximately ‘no worse’ than bulk system power.” No factual record exists to support the conclusion that CHP is “better than or at least approximately ‘no worse than’ bulk system power,” as required by these two principles.

a. The ripeness principle itself is insufficiently precise to provide the basis for rigorous analysis. “No worse than bulk system power” is vague in several respects. No worse than which bulk system power – that of the state or a specific zone? Average or marginal? This is not a trivial question insofar as distributed energy resources that meet baseload power might best be compared to the system average, which can be very low, particularly upstate.1

b. Regardless of what is meant by the principle, there is no factual record to support the conclusion that CHP (generically or in any particular case) satisfies this principle at this time. We are unaware of current research addressing this question on a statewide basis in New York, but research in California shows that as that state continues to add clean energy resources to its grid, conventional fossil fuel-based CHP systems are already becoming net GHG-emitting, especially when operated inefficiently.2

c. The notion that the deal struck in the case of the standby pilot could be regarded as a proxy for a finding that CHP is “no worse than bulk system power” is entirely incorrect. It reflects a fundamental misunderstanding of what was sought to be achieved and what was agreed to in that context. EDF engaged extensively in the discussions that led to the adoption of those

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1 According to EPA’s Emissions & Generation Resource Integrated Database (eGRID) data, the average GHG emission rate in Upstate NY in 2014 was only 366 lbs CO2/MWh compared to the non-baseload output GHG emission rate of 1,195 lbs CO2/MWh. https://www.epa.gov/sites/production/files/2017-02/documents/egrid2014_summarytables_v2.pdf

provisions. We did so because we appreciated that CHP may provide particular value (notably resiliency value, but also potentially carbon reduction value) in New York City, and many parties had argued that the standby tariff as previously applicable was unfair to those resources and as such constituted a barrier to the efficient deployment of them. In that context, the parameters described in the Discussion Document served to limit the downside environmental risk of the pilot. *At no point was an empirical comparison between CHP output and bulk system power attempted or performed.* We signaled the need for additional safeguards to manage aggregate carbon emissions in our statement in support of the JP. The proposal that the compromise reached in the pilot be repurposed to provide an approach that could substitute for a factual finding that CHP is no worse than system power was introduced in the earlier version of the Discussion Document. The current Discussion Document continues to propose a profound misuse of the deal struck in that pilot, and we will reiterate below the extent of the mismatch between this approach and what is needed here in further detail.

d. This all stands in stark contrast to the case of standalone storage, where the proposal sets forth a reasonably robust approach for ensuring that the resources are no worse than bulk system power. Despite the uncertainty about the meaning of “no worse than bulk system power” and the absence from the record of actual data or analysis concerning performance characteristics, the proposal has established a connection between the output of a storage resource and bulk system power (“If storage is ‘charged’ with either system power, or an otherwise VDER-eligible technology, then it should satisfy the principle that its injection is no worse than system power, environmentally”). The further requirement that storage customers receiving value stack compensation be charged based on the Mandatory Hourly Price (MHP), in addition to preventing uneconomic arbitrage, also largely mitigates the risk that storage resources will charge from environmentally-worse-than-average system power
(in New York, marginal emission rates generally increase as overall demand on the electric system
increases. Dirtier generators operate on the margin during high-price peak demand hours relative to low
price off-peak demand hours).

2. There is no basis for believing that the language borrowed from the Con Edison Standby
Rate Pilot filing in Case 16-E-0060, which here is proposed to provide an example of a CHP definition
that would “be adequate to satisfy the principle of ‘no worse’ than system power”, would in fact
satisfy that principle, and proceeding as if it did satisfy that principle could create significant
environmental risk.

a. The language that is included in the Discussion Document was not developed to ensure that
CHP would be “no worse” than system power, environmentally. A rigorous comparison to “system power,”
present or future, was never performed. Rather, where it was a foregone conclusion that new standby rate
structures should be a subject for experimentation, this language minimized downside environmental risk
that might otherwise have prevented the pilot from going forward at all (which would have made it
impossible to experiment with alternative standby rate structures). To the contrary, the chief screen for
required efficiency levels was technical and economic feasibility for CHP developers and operators, which
does not necessarily have any relationship at all to the performance of the bulk system. 4

Accordingly, it would be inappropriate – and indeed a non sequitur – to treat the compromise approach
arrived at in that context as if it addresses the issues here. Indeed, in our statement supporting the Joint
Proposal in Case 16-E-0060, we placed our support for the standby tariff provisions of that proposal in
context and highlighted our continuing concern about long-term environmental ramifications and pointed
specifically to the fact that the JP did not already include measures to contain aggregate CO2 emissions or
align them with state carbon

Emissions Reductions.” Pace University School of Law, Pace Energy and Climate Center, November 2015.
4 The fact that the “proposed efficiency standard” developed for the pilot permitted different NOx emissions rates for
different CHP facilities of different sizes illustrates this reality.
reduction goals, as follows:

“While the JP is a step forward in an area where building owners have perceived rate design as a barrier to implementing efficient technologies, ensuring that on-site distributed generation that is powered by fossil fuels such as natural gas contributes to desired environmental outcomes over the long term will require further measures to manage emissions from those resources, including measures to ensure that their aggregate CO₂ emissions are consistent with state carbon reduction goals.”\(^5\)

b. Relatedly, since the relevant language was developed in the context of a pilot, with an eye toward minimizing the downside environmental risk of the pilot, the fact that the pilot was capped at a maximum number of megawatts is of central importance. Any proposal to apply a limited construct developed for a modest pilot more broadly wrenches it out of context and defeats its original purpose.

3. The principle of “technology neutrality” proposes to make compensation based on specific values provided, rather than on technology designation, but in the case of CHP, there is a risk of installation configurations and operational practices that fall well short of potential performance. This challenge became apparent in the context of Con Edison’s standby pilot, where the language that was ultimately accepted for pilot purposes continued to pose a risk of underperformance in practice (as further discussed below). In that context, the compromise that was struck for the standby rate pilot is based solely on projections, with no guarantee as to accuracy and no rigorous track record that would give reason to expect accuracy. Meanwhile, because the actual performance of a given CHP plant varies over time based on the thermal needs of a site and other factors, it is not possible to predict its

emissions performance based on factors such as “usable thermal energy.”

4. The “LMP” portion of the value stack may be improper in the case of CHP, which produces on-site emissions but is not required to internalize any cost of carbon; however, a downward adjustment of the LMP to address this problem would run afoul of the first principle set forth in the proposal, “Practicality” (“inclusion of the technology or project type must not require any changes to the definition or calculation of the existing Value Stack elements”).

a. Like natural gas-based central generation, natural gas-based distributed generation results in CO2 emissions and upstream methane emissions. But because New York does not have an economy-wide carbon price, distributed generation is in effect exempt from the carbon dioxide emissions regulation that exists in New York. Unlike central generation, it does not bear any of the cost arising from its CO2 emissions, as resources under 25MW are exempt from the obligation to purchase RGGI allowances. Moreover, since LBMPs in the wholesale market in effect include the cost of RGGI allowances, paying LBMPs as the energy value to carbon-emitting CHP resources would overcompensate them for that value component; this is because when CHP receives the LBMP portion of the value stack while not being required to internalize its own emissions, it would in effect receive a benefit from other parties’ emissions in the form of higher energy prices despite not being required to pay any costs associated with its own emissions (which is the effect of “E” being held constant as zero over the entire period). This effect will be exacerbated if in the future large generators face a higher price for their carbon emissions (whether through RGGI, a carbon adder, or any other mechanism) while distributed energy resources continue to avoid responsibility for their emissions.

6 Excessive deployment of natural gas-based technologies in the long term could also lead New York to lock in additional natural gas infrastructure that would last decades or longer, making it harder to reach ambitious, longer term goals, such as the State’s goal of 80% GHG emissions reductions by 2050.
b. As a result of all this, the problem with compensating CHP based on the LMP+D+E formula is not limited to the E component of the formula, and is not necessarily resolved by eliminating E in the short term. The LMP component of the value stack also has the effect of rewarding carbon avoidance to the extent that the RGGI price affects clearing prices. This is not inappropriate in the case of renewable resources that do not produce carbon emissions, but becomes highly problematic in the case of resources that do produce emissions.\(^7\)

5. **The proposal for a subsequent adjustment in the credit value if CHP is later found to be worse than bulk system power is a good start, but is insufficient.**

a. As we discussed above, it is possible that CHP is worse than bulk system power on day 1 (we are aware of no statewide data for New York but the data we already have for California suggests that this may already be true there, and New York’s electricity is actually cleaner than California’s in terms of the average CO\(_2\) emission rate). If CHP is granted “expedited treatment” in the near future, it is essential that the Commission recognize the possibility that the credit to CHP might need to be adjusted downward not only to reflect changes from the present state (worsening performance compared to the bulk system, whether due to deteriorating performance of a particular facility or improvement of the bulk system), but also due to the creation of the factual record that is presently absent but is urgently needed, which may reveal that a present stipulation that these facilities are no worse than bulk system power was erroneous from the start.

The absence of a sufficient factual record to support this proposal must be taken seriously in light of the considerable environmental risks that may be exacerbated by expanding value stack treatment to CHP resources for a long period at this juncture, particularly while fuels for distributed generators remain

\(^7\) Here, again, standalone storage is distinguishable from CHP. Storage resources will be paying some price for their carbon emissions, since they will charge using bulk system power at the MHP, and the MHP will reflect among other things the effect of the RGGI program; CHP, by contrast, avoids that carbon price signal because the fuels used for CHP have not yet been included in any carbon pricing regime.
outside any carbon dioxide pricing regime. We see a spectrum of potential remedies for this deficiency. One possibility, which might make it reasonably possible to treat CHP in an expedited fashion without neglecting the underlying facts, is that a process could be established to develop the requisite factual record in a timely manner, and a proposal based on that factual record could be introduced. Another possibility – at the opposite end of the spectrum – would be for Staff to step away from attempting to shoehorn the treatment of these resources into a compensation package that was developed for a completely different type of resource, and begin the more comprehensive work that will be required for a more universally applicable approach to DER compensation, i.e., the long-awaited Phase 2 of the VDER proceeding. A compromise approach might be for the Commission to direct the development of the currently missing factual record by a date certain, some set amount of time after CHP is admitted to the value stack, and direct in advance that appropriate adjustments will be made once that factual record exists and, if appropriate, periodically thereafter.

There may be additional possible approaches whereby temporary or limited provision is made for a discrete slice of the CHP market, while expressly recognizing the deficiency of the factual record and deferring a generally applicable decision that could open the floodgates until such a factual record is established.

We appreciate the opportunity to comment on the Discussion Document. Thank you.