

# AGREE New York

Alliance for a Green Economy  
2013 East Genesee Street  
Syracuse, NY 13210  
315.480.1515

## VIA ELECTRONIC MAIL

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

July 11, 2016

Re: Case #15-E-0302 - Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard

Dear Secretary Burgess:

On July 8, 2016, the Department of Public Service Staff ("Staff") submitted a new proposal in the Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard ("Clean Energy Standard Proceeding"). The new document is entitled "Staff's Responsive Proposal for Preserving Zero-Emissions Attributes" ("Staff's New Proposal"). It represents significant changes to Staff's earlier proposal for a nuclear tier as detailed in Staff's January 25, 2016 Clean Energy Standard White Paper.

Accompanying Staff's New Proposal was a notice soliciting comments with a comment deadline of July 18, 2016. The 10-day comment period includes only 6 business days.

Alliance for a Green Economy ("AGREE") respectfully requests an extension to this 10-day comment period. The new proposal includes dramatic changes to the policy, including changes to the structure of the proposed nuclear tier, how nuclear subsidies would be calculated, how much they will cost, how costs and benefits are considered, which generators may be eligible, and more.

For instance, Staff's earlier cost estimates for the nuclear tier ranged from \$59 million to \$658 million over the first 7 years. Now, under the new proposal, Staff estimates the first two years will cost nearly \$1 billion. Over the life of the program, it could amount to over \$7 billion.

The change in price is a result of a completely new approach for determining the cost of so-called “Zero Emissions Credits” that nuclear generators would receive. This change alone will clearly have significant new impacts on ratepayers, utility responsibilities, and electricity markets. We believe this new proposal that could cost consumers more than \$7 billion necessitates a State Administrative Procedures Act (“SAPA”) notice and the customary 45-day public comment period.

Another change proposed is that reactors would now need a “determination of public necessity” and that the Commission would make this determination for some reactors upon inception of the program. Thus, Staff is proposing a new policy and process at the same times as they are proposing which generators should benefit from the process. It seems that the only opportunity parties would have to challenge the brand new “public necessity” policy proposal as well as the “public necessity” determination for any particular generator would be during this 10-day comment period, after which the Commission would lock in subsidies for that generator for a 12-year period.

Staff’s New Proposal also appears to be calibrated to address certain legal questions surrounding the proposed nuclear tier. The legal implications of Staff’s New Proposal will need to be studied and thoroughly considered for parties to be able to respond. The 10-day comment period provided is not adequate for parties to be able to sufficiently analyze the statutory and legal implications of Staff’s New Proposal and to provide meaningful comments.

For all the reasons above, we request that a SAPA notice be issued and that parties and the public be provided at least 45 days to comment on Staff’s New Proposal. Previous comment periods in this case have provided much longer opportunity for comment than the 10 days provided here. Parties were provided 49 days (before extensions) on Staff’s original White Paper in this case, and 59 days to comment on Staff’s Cost Study for this case. Staff’s New Proposal is so different from these original documents that it warrants a commensurate comment period.

The proposed out-of-market nuclear subsidies proposed here represent a significant change to New York State policy, which currently supports competitive wholesale markets through deregulation and explicitly excludes nuclear energy generators from receiving clean energy or renewable energy subsidies. Such a policy change should not be pursued in an expedited manner, but should be considered carefully with adequate opportunity for consideration of proposals given to intervenors and the public at large. We ask that you protect the orderly and efficient conduct of this proceeding by allowing parties and the public an adequate period for comment on these significant changes to the proposed policy.

Thank you for your consideration.

Sincerely,

/s/

Jessica Azulay

Program Director

Alliance for a Green Economy