



June 29, 2021

Hon. Michelle Phillips  
Secretary  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, NY 12223-1350

RE: Case 14-M-0224 - Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs: *Department of Public Service Staff Whitepaper on Community Choice Aggregation Programs*

Dear Secretary Phillips:

On behalf of the Municipal Electric and Gas Alliance (“MEGA”), please accept our comments in Case 14-M-0224 regarding the Department of Public Service Staff’s (Staff) whitepaper filed on April 14, 2021, in the Proceeding on the Motion of the Commission to Enable Community Choice Aggregation (CCA) Programs.

MEGA has organized its response into two categories:

- Operational Recommendations, which are outlined in the DPS Whitepaper under Sections 5.1, 5.2, and 5.3
- Market Design Recommendations, which are found in the DPS Whitepaper in Sections 5.2 and 5.4

### **Operational Recommendations**

MEGA supports program standardization and uniformity in elements of the CCA program rates such as: uniform filing structure, outreach and education, consistent program rates among customer rate classes, uniform requirements in resident notification letters and information therein (including standard requirements for any comparison to utility rate), and CCA administrator program websites.

Just as important, if not even more so, MEGA supports establishing a set of utility requirements to ensure successful implementation of CCA programs. Regulatory oversight and consistent enforcement of billing errors and customer enrollment errors by utilities is certainly a welcomed

proposal as it pertains to CCA programs. However, this should not be a novel proposition. It should already be a standard that utilities are not only held to, but when they fall short -- should enforced.

Program standardization of information and processes among CCA programs, CCA Administrators, and utilities will help to streamline the submission process. This will enhance efficiency for all parties and help ensure that programs run by different administrators are held to the same standards and expectations. Any changes to the process and requirements should be made with appropriate notice given to impacted parties.

### **Market Design Recommendations**

Price To Compare. MEGA does not unconditionally support Staff's recommendation to define the price to compare for the CCA market as: the utility rate + merchant function charge + any other defined adder that applies to utility supply customers but not ESCO customers.

The fundamental issue is that the definition of the "price to compare" is misleading and confusing. It is illogical to compare a utility's trailing 12-month average historical variable supply rate with a price in the future – say, a fixed rate for 24 or 36 months. The ESCO forward pricing that is presented to CCAs accounts not only for all pertinent energy-related cost components, but also incorporates the renewable energy compliance costs such as Tier 2 RECs, carbon pricing, planned capacity and transmission increases for the contract term offered. Historical utility variable pricing obviously does not factor these costs in. Comparing a fixed CCA rate for 24-months in the future cannot be correctly compared to a 12-month trailing average variable utility rate.

Product Pricing. MEGA resolutely disapproves of Staff's recommendation to adopt a 5% cap on commodity product offerings. As outlined in the above section ("Price to Compare"), the fundamental calculation of the "price to compare" is flawed. Therefore, to use a baseless price construct and impose a 5% cap is nonsensical. More importantly, it is disconcerting that Staff is considering imposing an artificial limit to a free and competitive supply market. Currently, NYS utility rates are variable and based on market rates. For example, when looking at National Grid supply rates for SC1 customers from January 2015 until present, the minimum rate has been \$0.0314/kWh and the maximum rate charged has been \$0.0861/kWh (<https://www.nationalgridus.com/Upstate-NY-Business/Rates/Rate-Statements>). Clearly, the range between these two values is over 5.5 cents per kilowatthour, demonstrating that it is illogical to "cap" a rate that is based on an energy market that literally changes every minute.

### Renewable Energy Certificates

*"Staff is seeking input on ways for CCAs to more easily procure RECs in order to offer their CCA participants EDP compliant renewable supply. Staff is seeking input on alternative product structures that, while potentially not EDP compliant, would still allow a municipality the ability to choose an environmentally beneficial product offering on an opt-out basis for its constituents."*

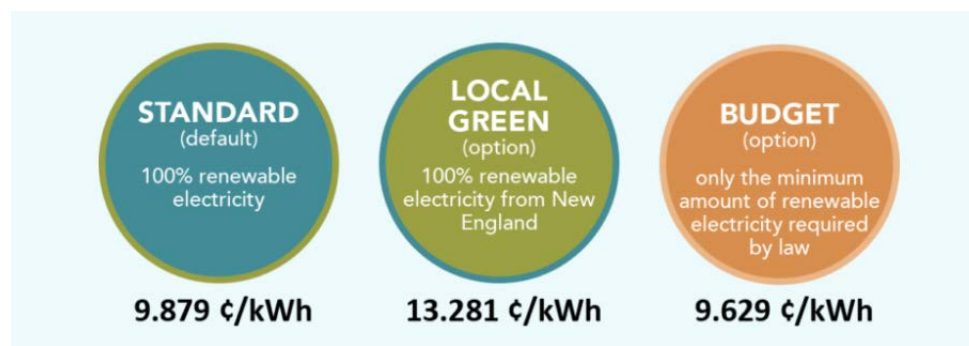
MEGA not only supports alternative product structures for procuring and offering RECs, we believe a new approach is crucial to the future of 100% green CCAs in New York State.

For numerous municipalities participating in MEGA's CCA programs, a 100% renewable supply option was critical to their decision to participate. Unfortunately, current REC market conditions threaten CCA participation and/or program renewal by communities seeking to offer a 100% green supply option. CCA participants want competitively-priced renewable energy options, and MEGA

wants to provide those options to its customers. Municipalities are seeking affordable renewable electricity for their residents. Yet, given current market conditions, there is little CCA Administrators can do to meet the demands of participating municipalities and customers without changes to the current requirements for RECs utilized by CCAs.

Under the Framework Order, CCAs can offer green supply products if the RECs purchased for the CCA meet certain criteria. Specifically, green energy provided to CCA customers must be compliant with environmental attribute and delivery rules, which require that the renewable energy be generated in New York or deliverable to New York from an adjacent control area, such as New England or the Pennsylvania, Jersey, Maryland Power Pool (“PJM”). According to MEGA’s supplier, the issue making it difficult to offer a competitively-priced green product to CCAs at this time is that there is a shortage of available RECs which are either generated in or deliverable to New York. To serve non-CCA customers, such as large industrial or commercial customers who are not subject to this restriction, suppliers can source RECs from other states and control areas. However, the Commission’s current rules for CCAs prevent suppliers from purchasing out-of-state RECs which do not satisfy the location or deliverability requirements adopted by the Commission.

MEGA urges the Commission to find creative solutions to this problem. For example, in many Massachusetts Community Choice programs, a tiered system of renewable energy is offered to residents:



Source: <https://masspowerchoice.com/greenfield>

In this scenario, the customer can choose the level of renewable electricity that best aligns with their values and their budget. New York State could consider a similar solution, in which different sources of renewable electricity can be procured and offered. Ideally, each of the green solutions would coincide with a tiered points system within NYSERDA’s Clean Energy Communities program.

In 2021, MEGA had several municipalities seeking affordable renewable electricity supply for their residents. Ultimately, they all either choose the grid mix default or walked away from CCA due to the high cost of RECs. This is frustrating to see as NYS works to not only meet renewable energy goals, but to engage residents and communities in the process of going green. While it has been suggested that this is a problem with procurement, CCA Administrators throughout the state agree that this is a basic problem of supply and demand for Tier 2 RECs and the narrow definition of what makes up a 100% green product for NYS CCAs.

Opt-Out CDG Only Program

*Staff is also seeking comments on whether the Commission should explore the development of a program similar to a traditional CCA supply program that would allow municipalities to pass local legislation to enable CDG enrollment for all eligible members within their community on an opt-out basis. This would be a standalone program that would not be integrated with a CCA supply product. Staff is seeking input on the development of an opt-out CDG program, the necessary rules for such a program, and its association or disassociation with the traditional CCA program model.*

Pairing CCA programs with opt-out CDG savings provides a powerful tool given the challenges with procuring affordable 100% green electric supply for CCA communities. By pairing the programs, communities that are hesitant to potentially increase resident electric bills with 100% green supply can access a guaranteed savings program through opt-out CDG.

If New York State is invested in incentivizing and growing CCA programs, the two programs should remain paired. MEGA does not support stand-alone opt-out CDG but recommends that these programs operate in tandem to enable greater renewables access and affordability.

Should you have any questions please do not hesitate to contact me.

Sincerely,



Ronald Feldstein  
President and CEO  
Municipal Electric and Gas Alliance