

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

**COMMENTS ON THE
CLEAN ENERGY STANDARD PHASE 2 IMPLEMENTATION PLAN
PROPOSAL**

PROVIDED BY

**THE ALLIANCE FOR CLEAN ENERGY NEW YORK, AMERICAN
WIND ENERGY ASSOCIATION, ADVANCED ENERGY ECONOMY
INSTITUTE, NORTHEAST CLEAN ENERGY COUNCIL, and SOLAR
ENERGY INDUSTRIES ASSOCIATION**

July 24, 2017

I. INTRODUCTION & SUMMARY

The Alliance for Clean Energy New York (ACE NY), American Wind Energy Association (AWEA), Advanced Energy Economy Institute (AEEI), Northeast Clean Energy Council (NECEC), and Solar Energy Industries Association (SEIA), together the “Renewable Energy Parties,” respectfully submit the following brief comments in the above-referenced proceeding, in response to the *Clean Energy Standard Phase 2 Implementation Plan Proposal* (“Implementation Proposal”) released May 12, 2017. We highlight three issues of these Comments:

- **Renewable Energy Parties request that the Commission maintain a rolling five-year NYSERDA long-term procurement schedule, especially given the safeguard of the proposed divergence test;**

- **Renewable Energy Parties believe that the RES and ZEC programs should be implemented separately and alternative compliance payments (ACP) for the RES program should not be used to cover costs of the ZEC program and vice versa.**
- **We support the future ability of developers to bid in aggregated or co-located projects into NYSERDA solicitations.**

More broadly, Renewable Energy Parties: (A) generally support the proposed Tier 1 RES target modifications but believe they highlight the need for a rolling five-year NYSERDA procurement schedule; (B) generally refrain from commenting on the Tier 1 REC disposition elements; (C) comment on the LSE obligation design issues with a focus on ACPs and separating the RES and ZEC programs, and (D) generally support the suggested future modifications to the procurement program outlined in section 5. Further, Renewable Energy Parties take this opportunity to reiterate our strong recommendation that the Commission set annual compliance targets out to 2030 to provide greater long-term market certainty, and to reiterate that the success of the RES will require effective, predictable, and timely implementation of solicitations. As requested, our comments are organized based on headings in the Implementation Proposal.

II. COMMENTS ON CES PHASE 2 IMPLEMENTATION PLAN

A. Implementation Proposal Section 2 – Renewable Energy Parties support the proposed divergence test and do not oppose the proposed changes to LSE obligations, but recommend restraint and caution in further modifying LSE targets downwards, and re-iterate our request for a five-year rolling NYSERDA procurement schedule.

Renewable Energy Parties generally support section 2 of the proposal (“Tier 1 RES Targets”) including the use of, and methodology for, the divergence test. We acknowledge the approach used to adjust the LSE obligations downward for 2018 – 2021, and understand that it is largely a reflection of both award-to operation lag and policy decisions regarding the treatment of RECs for distributed energy resources. We do want to note, though, that future and/or continuous downward adjustments in the LSE obligations to reflect Staff predictions regarding the future availability of

Tier 1 renewable resources will undermine industry confidence in the certainty of demand in New York and will inhibit development investment, thus undermining the market forces that New York is attempting to harness with the RES program. Consistent LSE obligations are vital to the stability and integrity of the state's advanced energy goals and Clean Energy Standard. While the amount of MWhrs of the LSE obligation in future years may vary due to variations in load levels, it is essential that the percentages of load needed to meet the LSE obligation be fixed and certain going forward. Continuing to revisit or adjust the load percentages that are the heart of the LSE obligation will undermine the business certainty needed to induce development.

Further, both the divergence test and the downward adjustment in LSE obligations provides a clear reminder that the more impactful component of the RES program in terms of stimulating project proposals and driving development investment in New York will necessarily be the Tier 1 RES Long Term Procurement component, i.e. the NYSERDA procurement program. The Renewable Energy Parties emphasize the importance of certainty and stability for this procurement system to succeed. The timely release of procurement requests is central to instilling confidence in the procurement system, and the RES program at large. Also, a five-year NYSERDA procurement schedule, as was included in the CES Order, is critical to attracting new project proposals and ensuring companies will invest in the design, development, interconnection, and permitting processes. A rolling, five-year procurement schedule should be confirmed and publicized each year by the Commission.

B. Implementation Proposal Section 3 – Renewable Energy Parties suggest that allowing voluntary purchases of RECs from NYSERDA in some circumstances could stimulate the voluntary market.

Renewable Energy Parties are not commenting on the majority of section 3 (NYSERDA Tier 1 REC Disposition), with the exception of section 3.2c Eligible Purchasers and Transferability, to briefly suggest that future reconsideration of the restriction on NYSERDA selling RECs to RES-obligated LSEs may be an option for stimulating the voluntary market. Alternatively, Staff may want to consider allowing RES-obligated LSEs to purchase beyond their RES obligation to provide a beyond-compliance voluntary green product to customers. Such beyond-compliance voluntary purchases by customers should be not applied to an LSE's past or future RES obligations in order

to preserve the integrity of both the voluntary and compliance markets. Additionally, any beyond-compliance voluntary purchase by customers should not be included in the calculation of a REC over-supply or otherwise be considered banked RECs.

C. Implementation Proposal Section 4 – Renewable Energy Parties believe that the RES and ZEC programs should be implemented separately and alternative compliance payments (ACP) for the RES program should not be used to cover costs of the ZEC program, and vice versa.

Section 4.1b of the proposal recommends that collected ACP funds be used to pay NYSERDA's obligations under REC and ZEC contracts in cases where other funds are not available. Specifically, it states that NYSERDA would, "use collected ACP revenues to reduce or defer the need for NYSERDA to invoke the provision in the CES August Order and refined in a November 2016 Order whereby electric distribution companies are required to provide a customer funded financial backstop mechanism to ensure payments will be made to REC and ZEC generators." In light of staff's recognition that "it is important to establish an equitable and simple process" to allocate ACP revenues, Renewable Energy Parties respectfully request that the RES and ZEC programs be implemented separately so that if, for some reason, NYSERDA's cash flow needs with respect to ZEC payments would trigger the use of the backstop mechanism, that would occur without using the ACPs collected for the RES, and vice versa.

D. Implementation Proposal Section 5 – Renewable Energy Parties support the opportunity for bidders to propose aggregated or co-located projects in future solicitations.

Section 5 of the Implementation Proposal covers other Tier 1 RES procurement design features. Section 5.1a suggests that future NYSERDA RES solicitations may allow the aggregation of eligible distributed resources as an option for bidders, and the aggregation of grid-scale resources that are non-contiguous if they are approximately the same vintage and same technology. Renewable Energy Parties are supportive of these options.

Section 5.1b suggests that co-located generation projects, even if they are different technologies, may be allowed to bid together into future NYSERDA RES solicitations. Renewable Energy Parties support this option as well.

Section 5.1c proposes that future NYSERDA solicitations may allow refurbished projects if/after New York establishes some minimum thresholds for refurbishment that would allow a repowered or relocated facility to qualify for Tier 1. We are supportive of this approach, subject to the eligibility criteria. Renewable Energy Parties recommend differentiated qualification thresholds for returned-to-service and/or repowered facilities based on technology. For instance, what might be considered reasonable minimum refurbishment investment and/or lifetime extension for a hydropower facility may not hold true for a solar facility, and vice versa. Differentiating in this manner and providing eligibility for certain facilities can encourage investment to upgrade, improve, and maintain New York's existing fleet of renewable generation, and address the remaining unsolved issue of pre-2015 renewables ("Tier 2") regarding which we have previously submitted extensive comments. We also continue to support eligibility of repowered facilities for Tier 1, as originally proposed in Staff's CES Phase 1 Implementation Proposal.

Section 5.1d of the Implementation Proposal puts forward the possibility of contract opt-out provisions under certain circumstances, to assure that voluntary activity is enhancing renewable energy demand rather than arbitraging the NYSERDA contract while increasing overall ratepayer costs. Renewable Energy Parties are supportive of proposed Seller right of suspension provisions for the 2018 solicitation put forth in the Implementation Proposal.

E. Renewable Energy Parties inquire about CES targets for the years 2022 – 2030.

Neither the Phase 1 Implementation Plan nor this Phase 2 implementation addressed the establishment of 2022-2030 targets. With respect to setting the LSE obligations, Renewable Energy Parties strongly recommend that the Commission set annual compliance targets out to 2030 with the option to review targets as needed. In previous filings, we have supported the triennial review of targets, but only in the context of annual targets being established at the start of the

program and criteria articulated regarding what would cause the targets to be adjusted either upwards or downwards. An important strength of the CES mandate is that it can create long-term certainty for renewable energy market participants by establishing a strong market signal through 2030, as RPS policies do in other states. At this time, this aspect of the CES is still missing and we inquire about when this will be addressed.

III. CONCLUSION

Renewable Energy Parties applaud Staff for their thoughtful consideration of how to best implement the Renewable Energy Standard portion of New York’s new Clean Energy Standard, as embodied in the suite of Orders issued since August 1, 2016, and in this Phase 2 Proposal. As stated by the Commission in the recent *Order on Petitions*:¹ “A continuous incentive to build new facilities is essential to the RES program.” Accordingly, the RES needs to be designed to clearly and with certainty provide that incentive starting in 2017 and continuing, even as it continues to evolve, through 2030. Elements that would improve the provision of that continuous signal are: the provision of targets for the LSE obligation out through 2030, and a five-year rolling schedule of targets for the NYSERDA long-term procurement program. Even recognizing that the LSE targets may be subject to change during a triennial review, the CES would be more sustainable and impactful with provisions of these targets and public understanding of the criteria under which they may be adjusted upwards or downwards in future reviews.

Thank you for the opportunity to comment.

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¹ New York Public Service Commission. December 15, 2016. *Order on Petitions* in CASE 15-E-0302 Clean Energy Standard.

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