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Hon. Kathleen H. Burgess,  
Secretary to the Commission,  
New York State Public Service Commission  
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Date: August 11, 2014

**Re: Case 10-M-0457 – In the Matter of the System Benefits Charge IV**

**Case 07-M-0548 – Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard**

**Case 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard**

Dear Secretary Burgess,

Please find below the Response Comments by the Alliance for Clean Energy New York (ACE) and the Pace Energy and Climate Center (Pace) to the Petition of Multiple Intervenors for Expedient Relief From Existing Surcharges filed June 2, 2014.

Respectfully submitted by,

Andrea Cerbin

Staff Attorney  
Pace Energy and Climate Center

## **Introduction**

The following comments are in response to those filed in Case 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, Petition of Multiple Intervenors for Expeditious Relief from Existing Surcharges (issued June 2, 2014). The Alliance for Clean Energy New York (ACE) and the Pace Energy and Climate Center (Pace) would like to take this opportunity to comment that the above-cited petition is untimely, a waste of Commission resources, and lacking in substantive value.

New York State is a leader in clean energy resources. The Systems Benefit Charge (SBC), Energy Efficiency Portfolio Standard (EEPS), and Renewable Energy Portfolio Standard (RPS) contribute funds to enhance renewables and energy efficiency throughout the state. The State must continue to embrace clean energy programs that tap into energy security/efficiency and renewable energy opportunities that are available to New York.

These investments will make New York more competitive and attractive to the clean energy industry. Making New York a more attractive place for the diverse clean energy industry will increase private investment, create jobs, and lower energy bills for both New York citizens and businesses. Continued investment in clean energy through the Existing Surcharges also reduces the greenhouse gas pollution that is changing our climate. These surcharges were adopted to advance state public policy goals such as fuel diversity, energy security, environmental benefits, and to create jobs;<sup>1</sup> policy goals recently reiterated in Executive Order 24, the Draft 2014 New York State Energy Plan. In addition, New York faces a new challenge with the New York's State Implementation Plan required by the federal Clean Air Act which will require air pollution reductions which these investments will need to support.

To that end, ACE and Pace would like to thank the Commission for the opportunity to submit comments regarding the Existing Surcharges in response to the comments submitted by Multiple Intervenors.

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<sup>1</sup> Cerbin, et al., PACE ENERGY AND CLIMATE CENTER, *New York's Renewable Portfolio Standard: Where to from here?* at 3 (2013).

### **Petition is untimely**

The petition is untimely. The petitioners have had several bites at this apple, it remains but a core. As the caption of cases above indicates, the “Existing Charges” that the petitioner seeks relief from are a result of several proceedings before the Commission which petitioner was an active party to and which involved extensive stakeholder engagement. The petitioner has made the argument of inequality through burdensome charges several times throughout the various above-mentioned proceedings. This time, however, petitioner is creating false emergency by asking for immediate relief as though it were the only available option to redress the alleged harm. We would ask that the Commission not consider this petition at this time. The Commission is also currently considering the future of the Existing Surcharges and New York’s clean energy investments in the context of the Clean Energy Fund proceeding (14-M-0094). The relief sought would give petitioner another bite at the apple while disenfranchising other stakeholders who have been active in the various proceedings which established the charges petitioner seeks relief from.

### **Petition is a waste of Commission resources**

In addition to being untimely, this petition is a waste of Commission resources. The remedies sought in the petition, namely those relating to new “Existing Charges” collection methods, are going to be undertaken in the Clean Energy Fund proceeding.<sup>2</sup> This proceeding is ongoing and on point to what petitioner seeks relief for in the instant petition. To this end it would be a waste of Commission resources to hear this petition at this time.

### **Petition lacks merit**

The petitioner claims that the “Existing Charges” are inequitable and burdensome because of the Cost Allocation Principal (CAP).<sup>3</sup> The CAP reasons that retail rates should be

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<sup>2</sup> Case 14-M-0094, Proceeding on Motion of the Commission to Consider a Clean Energy Fund, Order Commencing Proceeding (issued May 8, 2014).

<sup>3</sup> “Cost Allocation Principle: Cost causation is the central principle of all cost allocation. This principle means that costs should be allocated on the basis of factors that cause the cost to be incurred. There is a causal relationship

charged based on the customers' contribution to system peak. The petitioner reasons that based on this principal it is unreasonable for the "Existing Charges" to be based on a volumetric basis while the benefits that accrue from those charges cannot themselves be quantified on a volumetric basis. While this argument fails on several fronts, one being that some of the "Existing Charges" collected go towards programs designed to support carbon reduction, a quantifiable element that can be measured on a volumetric basis, the larger point is that the charges are not designed to mimic a retail rate structure. The charges are designed to capture use, and the more you use, the higher your charges will be. The mere fact that these charges account for a "disproportionate" amount of the hypothetical customer bill should serve only to increase the incentive of that customer to pursue efficiency opportunities by that customer. Which brings us to our last point, that this is a fully redressable problem. Should the "high-load users" wish to seek relief, this can be accomplished by shifting loads and creating efficiencies. Taking these steps can indeed offer an immediate relief to the "burdensome" "Existing Charges."

In addition to lacking merit, the remedies that the petitioner calls for would be unduly burdensome on NYSEDA and contravene the express purposes laid out by the PSC in establishing the collections. In the original PSC Order, one of the rationales for picking a volumetric methodology in collections was agency efficiency and transparency.<sup>4</sup> The other rationale was creating an "economically efficient RPS requirement that minimizes adverse cost impacts, **allocates costs equitably among ratepayers.**"<sup>5</sup> It is obvious that the relief petitioner prays for is in clear contravention of the original intentions of the PSC and should therefore be dismissed.

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between customer peak demand and investments in capacity. Therefore, the fixed costs of all the components of electricity supply infrastructure—generation, transmission and distribution—should be charged to retail customers based on each customer or customer class contribution to system peak demand." ELECTRICITY CONSUMERS RESOURCE COUNCIL, *Allocation of Costs for Renewable Energy A Policy Brief of the Electricity Consumers Resource Council*, at 1 (2010) available at <http://www.elcon.org/Documents/Profiles/2010/AllocationofCostsofRenewableEnergy-ELCONPolicyBrief%207-2010.pdf>.

<sup>4</sup> Case 03-E-0188, Order Regarding Retail Renewable Portfolio Standard, at 65-6 (issued September 24, 2004). "This approach therefore satisfies two of our previously stated objectives, that is, developing (1) an economically efficient RPS requirement that minimizes adverse cost impacts, **allocates costs equitably among ratepayers**, and affords opportunities for recovery of utility investment, and (2) an RPS that is administratively transparent, efficient, and verifiable." (emphasis added).

<sup>5</sup> *Id.*

## **Existing Surcharges**

Pace & Co. has fully supported the Commission's decision to implement the System Benefit Charge, Renewable Portfolio Standard, and Energy Efficiency Portfolio Standard Programs. The addition of renewable energy generators can reduce reliance on "high priced units" which set the prices. This is called the "bid stack effect." The operator of the regional electricity system will use lower priced generators before using the high priced ones. The total net present value of the impact [wholesale price suppression effect] under Base Case assumptions is \$3.3 billion, or approximately 0.9% of total electricity bills over the study period.<sup>6</sup>

Some clean energy facilities, such as wind farms and solar photovoltaic systems, require no fuel and are able to offer their generated power at a much lower price. The addition of renewables to the bid stack effectively pushes the most costly fossil fuel off the bid stack, lowering the marginal electric energy clearing price for that hour.<sup>7</sup> This effect is most noticeable when renewables are producing and being utilized at times of peak electricity demand.<sup>8</sup>

The wholesale price suppression effect created by the addition of renewables through the RPS benefits all New York ratepayers. This includes high-load factor customers. Every ratepayer must pay into the RPS through the existing surcharges. The existing surcharges for customers may increase, however, with more money being invested in renewable programs, the cost of electricity and the traditional delivery costs will decrease.

## **Conclusion**

The Petition as filed is untimely, is a waste of Commission resources, lacks merit, and contravenes the full intention of the State to have a full and vibrant green economy. A lower

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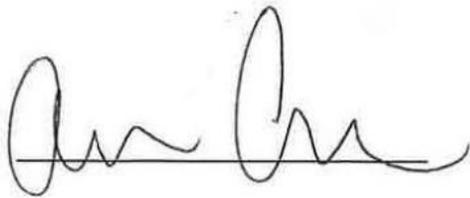
<sup>6</sup> NYSERDA, *New York Solar Study: An Analysis Of The Benefits and Costs of Increasing Generation from Photovoltaic Devices In New York* at 38 (2012). See also, in reference to the RPS Main Tier state, "Program costs are expected to comprise less than 0.2% of total retail electricity expenditures," and "Taking into account wholesale electricity price reductions resulting from the program, cumulative net rate impact is projected to be essentially zero." *New York State Renewable Portfolio Standard Annual Performance Report Through December 31, 2013* at 5 (March 2014).

<sup>7</sup> Pub. Util. Comm., *Renewable Resources and Wholesale Price Suppression*, at 2 (2013).

<sup>8</sup> *Id.*

wholesale price is better for all customers, including the constituency of Multiple Intervenors. All New York ratepayers benefit from the SBC, EEPS, and RPS programs and the existing surcharges that help to fund them. ACE and Pace, therefore respectfully does not agree with Multiple Intervenors that high-load factor customers should be relieved from paying the surcharges which feed into these successful and beneficial programs. Pace suggests that all customers (including high-load factor customers) continue to pay the existing surcharges due to the great environmental and economic impacts these programs have in New York State and how they contribute to the lowering of New York ratepayer's electric bills.

Respectfully submitted on behalf of the above organizations,

A handwritten signature in black ink, appearing to read 'Andrea Cerbin', written over a horizontal line.

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