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June 30, 2016

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

Re: Case 14-M-0094 – Proceeding on Motion of the Commission to Consider a Clean Energy Fund

Dear Secretary Burgess:

Pursuant to the New York State Public Service Commission's *Order Authorizing the Clean Energy Fund Framework* issued on January 21, 2016, attached for filing is the Proposal of the Joint Utilities (Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation d/b/a National Grid, and Orange and Rockland Utilities, Inc.) to allow New York Power Authority customers to participate in Clean Energy Fund Programs.

Please contact me if you have any questions.

Thank you.

Very truly yours,

Attachments

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to Consider a Clean Energy Fund	)	Case 14-M-0094
In the Matter of Utility Energy Efficiency Programs	)	Case 15-M-0252

PROPOSAL OF THE JOINT UTILITIES TO ALLOW NEW YORK POWER AUTHORITY CUSTOMERS TO PARTICIPATE IN CLEAN ENERGY FUND PROGRAMS

Pursuant to the *Order Authorizing the Clean Energy Fund Framework* (the "CEF Order") issued by the New York State Public Service Commission (the "Commission") on January 21, 2016,[1] Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. ("Con Edison"), Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid"), and Orange and Rockland Utilities, Inc., (collectively the "Joint Utilities" or the "Utilities") respectfully submit this proposal to allow New York Power Authority ("NYPA") customers to participate in Clean Energy Fund ("CEF") programs offered by the New York State Energy Research and Development Authority ("NYSERDA"). The Utilities additionally propose to include Energy Efficiency Transition Implementation Plan ("ETIP") programs offered by the Utilities in this opt-in provision.

[1] Case 14-M-0094, *Proceeding on Motion of the Commission to Consider a Clean Energy Fund* ("CEF Proceeding"), Order Authorizing the Clean Energy Fund Framework (issued and effective January 21, 2016) ("CEF Order").

I. Introduction

The Joint Utilities have long supported the growth of clean energy in New York and welcome this opportunity to expand customer access to key clean energy programs. NYPA customers play a critical role in New York State's economic development, supporting jobs upstate, providing housing to at-risk populations, managing transportation infrastructure such as airports, bridges, and tunnels, and providing critical services to New York City. To date, NYPA customers have largely been ineligible to participate in many of the State's clean energy programs because there has not been a mechanism that would allow them to contribute to the funding of these programs.

In the CEF Order, the Commission directed the Utilities to propose a solution to this issue: an "opt-in" program that would enable NYPA customers to receive program benefits in exchange for an ongoing contribution to program funding via a surcharge on their electricity usage. The Commission ordered that this mechanism should include "rules that are uniform across utilities; opt-in that is customer-based, rather than meter-based; a minimum opt-in period; and rules that protect against the use of opt-in programs to immediately reduce surcharges paid."[2] The Joint Utilities' proposal as detailed below meets these requirements.

Underlying the Commission's directives is a concern for maintaining equity across customer classes. Responding to a 2014 petition by Global Structured Finance Advisors proposing an opt-in mechanism, the Commission found the opt-in mechanism would "… result in a redesign of the program that is inequitable, by forcing utility customers who cannot opt-out

[2] CEF Order, p. 63.

of the surcharges to subsidize the subset of NYPA customers that believe they would benefit…”[3] The CEF Order echoes this concern, highlighting an example whereby “NYPA opt-in customers would … be receiving substantially more in benefits as compared to surcharges paid than other ratepayers.”[4]

Counterbalancing these equity concerns are the Commission’s objectives under the Reforming the Energy Vision (“REV”) proceeding, which seek to leverage customer investment and better integrate distributed energy resources into the State’s energy systems.[5] NYPA customers are often well positioned to support utility efforts to address system needs through customer-sited solutions. Furthermore, in many cases NYPA customers’ energy needs represent remaining “low-hanging fruit,” providing the opportunity for cost-effective energy efficiency gains that will ultimately reduce the overall price paid per kilowatt-hour (“kWh”) of energy efficiency achieved through energy efficiency programs. Accessing these gains ultimately benefits all customers, particularly in cases where a system need has been identified. For these reasons, the Utilities, the Commission, and customers have an interest in providing a reasonable opportunity for NYPA customers to participate in CEF and utility programs.

The Utilities are proposing a mechanism that is simple to understand and administer for participants, NYPA, and the Utilities. Complex program requirements, particularly those that would require ongoing tracking and management, would raise implementation costs and potentially create confusion among participants. To address both equity and administrative complexity concerns, the Utilities have aligned program participation parameters for NYPA

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[3] Case 07-M-0548 – *Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard*, Order Denying Petition Regarding Voluntary Opt-In Mechanism (issued January 13, 2015), p. 2.
[4] CEF Order, p. 63.
[5] Case 14-M-0101 – *Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision* (“REV Proceeding”).

customers with those currently in place for all other customers. This approach is simple, fair, and should be adopted.

As directed by the Order, the Joint Utilities consulted with NYPA, NYSERDA, and various stakeholders in the development of this proposal.[6] The proposal reflects stakeholder input.

II. Joint Utilities Opt-In Proposal

A. Voluntary Opt In

The Joint Utilities begin by emphasizing that participation through its proposed opt-in mechanism would be strictly voluntary. The Joint Utilities expect NYPA customers will only opt in if they expect the benefits they receive to be commensurate with their costs of participation.[7] Allowing NYPA customers this choice immediately and unavoidably creates the equity issue the Commission seeks to avoid or mitigate, in that all participating NYPA customers will draw more from opting in than they contribute.

The Utilities propose voluntary opt in, in order to achieve the important goal of opening up access to "low-hanging fruit," allowing the State to support low-cost, high-impact energy efficiency or clean energy improvements still available at NYPA customer locations, and thereby reduce overall program costs for all customers.

[6] The Joint Utilities held a number of teleconference calls with both NYPA and NYSERDA in the development of their proposal. Additionally, the Utilities hosted a joint stakeholder session with NYPA and NYSERDA at Con Edison's offices on June 10, 2016. Invitations were sent to the service list for the CEF Proceeding, as well as to key parties who would be affected by the changes proposed herein. The City of New York ("NYC"), the New York City Housing Authority ("NYCHA"), the Port Authority of New York and New Jersey, Westchester County, and the Metropolitan Transit Authority ("MTA") were among the stakeholders represented at stakeholder discussions held by the Utilities.

[7] The Utilities note that "opt in" will include an obligation to pay all program-related costs, including any applicable utility Earning Adjustment Mechanisms, as the Commission required to be proposed in its REV Track Two Order, when approved and implemented. The specific mechanism for allocating these costs will require further evaluation. *See* REV Proceeding, Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (issued May 19, 2016) ("REV Track Two Order").

NYPA customers that opt in would pay the full CEF and ETIP volumetric surcharges applicable to all other customers under their respective utility's tariff.

B. Applicability

The opt-in mechanism is easily applied to governmental customers receiving service under Con Edison's Power Authority of the State of New York ("PASNY") tariff who receive 100 percent of their supply from NYPA. The Joint Utilities also considered applicability to customers taking service under the ReCharge New York, Replacement Power, Expansion Power, Preservation Power, and World Trade Center programs ("NYPA Economic Development Programs" or "NYPA EDP"), who receive varying percentages of their power from NYPA.[8] While the CEF Order states that "partial pay customers," those customers that contribute to the CEF for the portion of their usage procured from a utility or Energy Service Company ("ESCO"), are eligible to receive incentives from CEF program participation, the Order does not clearly define what constitutes a partial pay customer.[9]

The Joint Utilities struggled with whether to propose an opt-in requirement applicable only to those customers taking service under the NYPA Economic Development Programs who receive 100 percent of their supply from NYPA, while customers receiving less than 100 percent of their supply from NYPA would be considered "partial pay customers" who receive CEF and ETIP benefits without opting in. Applying a "100 percent NYPA usage standard" in determining eligibility for clean energy incentives would discriminate against 100 percent-NYPA EDP customers by requiring them to pay a surcharge on their full energy usage, while the 95-percent NYPA EDP customer would only have to pay a surcharge on five percent of its energy usage to

[8] It is also unclear how the 47 municipal electric utilities and four rural electric cooperatives that receive electric supply from NYPA would be treated for the purposes of this program. However, as this would be handled outside the auspices of the Utilities the issue is therefore not addressed in the Utilities' proposal.
[9] CEF Order, p. 63.

be eligible for clean energy program benefits. If, for example, a customer receives 95 percent of its supply from NYPA in a given year, it would only contribute a *de minimis* amount to clean energy program funding, but would receive full benefits from clean energy programs.

Further complicating the application of this "100 percent NYPA usage standard" is the fixed nature of NYPA's supply allocation process. NYPA allocates supply to NYPA EDP customers on a fixed basis, not on a percentage basis. Because customers' energy use naturally varies from month-to-month and year-to-year based on factors including weather, individual business activity, and broader economic conditions, the percentage of their overall energy use supplied by NYPA can vary significantly over time.

The Commission could address the issue by requiring 100 percent-NYPA EDP customers to provide verification of actual contributions to CEF and ETIP programs over time; however, this would add substantial administrative complexity to the application process, requiring evaluation of the CEF and ETIP contributions made by every customer receiving service under the NYPA EDP over time. Alternatively, a solution that would simply allow all NYPA EDP customers participating in energy efficiency programs to receive clean energy incentives without verification of contribution to CEF or Utility ETIP programs could create the free-ridership concerns the Commission seeks to avoid. Analyses performed by Con Edison and NYPA suggest that this decision would apply to a relatively small number of NYPA customers across the state.

After much deliberation, the Joint Utilities propose to allow all NYPA EDP customers to be eligible to receive incentives under CEF and ETIP programs without specific opt-in criteria, assuming that all such customers may at some point be "partial pay customers." The ongoing administrative complexity that would result from customers' changing contributions due to changes in energy usage over time, coupled with the fact that this analysis would be necessary for all customers receiving service under these programs, makes a verification process and opt-in requirement for these customers unworkable.

C. Allowing Access to both Utility ETIP and CEF Program Incentives

Based upon the Joint Utilities' on-the-ground experience and certain stakeholder feedback, access to Utility ETIP program funds is just as important as access to NYSERDA CEF funds in order to support project economics for many investments that would contribute to meeting the State's energy efficiency goals and provide benefits to the distribution system.[10] As a result, the Joint Utilities proposal would allow NYPA customers to make a one-time election to opt in to paying both CEF[11] and Utility ETIP surcharges, thereby making them eligible to participate in both sets of programs.[12]

This requirement will help to address the Commission's equity concerns as well as simplify program administration. Today, these surcharges are billed to all other customers in a single charge; other customers do not get to pick and choose the programs to which they wish to contribute. Breaking out the CEF and EE Tracker components would exacerbate "special treatment" concerns for NYPA customers with respect to program contributions, and would

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[10] The 125 MW Revised EE/DR/CHP Program, as described in more detail in the August 13, 2014 *Indian Point Energy Center Energy Efficiency, Demand Reduction, and Combined Heat and Power Implementation Plan* ("Implementation Plan") in Case 12-E-0503, provides for joint implementation by Con Edison and NYSERDA of a 100 MW Demand Management Program ("DMP"), incorporating both the energy efficiency and demand reduction components of the Implementation Plan and NYSERDA implementation of a 25 MW Combined Heat and Power ("CHP") program. During most of the time that the DMP program has been in operation, NYPA customers were unable to participate because they did not contribute to Energy Efficiency Portfolio Standard costs through the System Benefits Charge.

[11] Certain stakeholders recommended splitting Renewable Portfolio Standard charges out of the CEF surcharge. The Joint Utilities respectfully decline to include this recommendation in their proposal because it would lengthen the "repayment" period discussed below and would require changes to utility billing systems. Furthermore, it would widen the gap between program requirements for NYPA customers and all other customers.

[12] The Order only refers to a "CEF opt-in tariff" in Ordering Clause 22. However, that Ordering Clause also states that the proposal should be "consistent with the discussion in the body of this Order and informed by input from NYSERDA and other stakeholders." The body of the Order is ambiguous as to whether opt in must be offered for ETIP.

require changes to utility billing systems. Furthermore, making both of these programs available will facilitate enhanced coordination between NYSERDA and the utilities in designing complementary programs that could meet certain NYPA customers' unique needs (*e.g.*, the New York City subway system or the Holland Tunnel).

D. Opt In by Building or Premises

The CEF Order requires that the Utilities adopt a "customer based" as opposed to "meter based" opt-in requirement. The Utilities interpret this requirement as addressing the scenario described in the CEF Order where a NYPA customer opts in to pay surcharges on the usage of a single meter, only to immediately reduce the amount of usage on that meter via a specific energy efficiency or clean energy upgrade (*e.g.*, installing a CHP unit or LED lighting on a lighting-only meter).

Requiring that a substantial amount of load is subject to the CEF and Utility ETIP surcharges helps to address the equity issues the Commission seeks to avoid. However, creating a requirement that all customer locations for certain NYPA customers (*e.g.*, NYCHA) must opt in together in order to be eligible for a single incentive would be similarly unreasonable and would create a barrier to participation.

The Utilities propose a middle road that would require the customer to simultaneously opt in all of its accounts at the building or, in cases where a building is not present (*e.g.*, non-station MTA facilities), at the premises, in order for the customer to become eligible for an incentive supporting clean energy measures installed at that location.[13]

[13] The Utilities recognize that NYPA customers are unique and that metering arrangements may require some flexibility in the application of this standard.

E. Minimum Opt-In Period

The CEF Order requires that the Utilities' proposed solution include a minimum opt-in period. Such a requirement would prevent NYPA customers from opting in for a short period, then opting out once incentives were issued. Similar to the "customer-based" opt-in provision, this would further promote attainment of the Commission's objective that NYPA customers should meaningfully contribute to CEF programs.

To determine the appropriate length of a minimum opt-in period, Con Edison conducted an illustrative analysis of a typical NYCHA building receiving an incentive for a lighting upgrade. The results of this analysis are presented below. In this case, the customer recoups its investment in the lighting project and sees overall benefits exceed its costs in about one year, as a result of significant reductions in energy use at the location. However, because the kWh surcharge assessed is so small, it will take the customer more than 24 years to "re-pay" those funds back to the program, even when the full CEF and ETIP surcharge is applied. Any effort to split the surcharge up (*e.g.*, charge only for CEF programs or remove the Renewable Portfolio Standard costs from the CEF surcharge) would only extend the repayment period. It is likely that the measure funded by the incentive (in this case, light bulbs) will require replacement before the end of the 24-year period, potentially using a new technology that would be eligible for incentives under a future clean energy program incentive offering.

Figure 1: Illustrative CEF Program Incentive "Re-payment" Period at a 100 Unit NYCHA Building Implementing a Lighting Upgrade

750,000 kWh/ year	Approximate annual usage before upgrade
225,000 kWh/ year	Estimated annual energy savings from a full lighting upgrade
$56,250	Typical Con Edison ETIP incentive paid for full lighting upgrade
$0.00620/kWh	Utility ETIP + CEF surcharge (RPS included) at Con Edison rates
= ~24 years	Time required to "pay back" full ETIP/CEF incentive (Calculated using Net Present Valuation with a three percent discount rate)

While each scenario will vary based on the technology under consideration, the incentive received, and the overall usage at the location, this example indicates that no minimum opt-in period is likely to be long enough to fully eliminate the transfer of program funds from all other customers to select NYPA customers. Furthermore, establishing an opt-out provision would broaden the gap between program requirements for NYPA customers and those for all other customers; no other class of customer is permitted to opt out of the program.[14] If an opt-out option were available to other customers, the program would no longer be sustainable. Finally, an opt-out provision would create additional administrative complexity and require ongoing monitoring to ensure surcharges were appropriately removed at the expiration of the opt-in period, raising program implementation costs.

[14] While certain commercial and industrial customers are eligible to participate in the self-direct program, these customers must still make contributions and use those funds for clean energy investments according to program rules.

For all of these reasons, the Joint Utilities propose that NYPA customers be allowed a one-time election to opt in to the programs, with no ability to opt out at a future date.

F. Eligibility for Incentives

NYSERDA CEF programs and Utility ETIP incentive offerings can be structured as competitive procurements, requiring applications for funding to be submitted within 60 to 90 days of issuance.[15] Utility infrastructure deferral programs, such as Con Edison's Brooklyn-Queens Demand Management Program, can operate on similarly short timeframes. The Joint Utilities propose several opt-in program design elements to address these constraints.

First, the Joint Utilities' proposal applies the same waiting period for incentive eligibility to NYPA customers as applied to all other customers. NYPA customers would be immediately eligible to commit to program solicitations once they have certified on the incentive application form their intent to opt in, and would be eligible to receive incentives following or ETIP program.[16]

Second, the Joint Utilities recognize NYPA customers' decision to opt in will be highly dependent on their selection to receive an incentive by participating in a CEF or ETIP program. Creating a requirement that NYPA customers must already be opted-in to participate in a CEF or ETIP program would cause significant uncertainty for NYPA customers and would likely discourage participation in the programs. At the same time, both NYSERDA and the Utilities must have certainty that a clean energy project will move forward if it is selected for an incentive in order to effectively allocate program funds. To address these issues, the Joint Utilities propose to include a certification on the CEF or ETIP program application form that would

[15] This is not to suggest that all Utilities' programs are designed to incorporate competitive procurement. National Grid, for example, offers programs on a first-come, first-served basis.

[16] At the utility's option, this would be upon the customer's acceptance into the program or one month after its first surcharge payment.

automatically enroll a NYPA customer into the opt-in program should it be selected for an incentive.

G. Implementation

Though the Utilities have not yet established the full implementation details for the opt-in mechanism, several elements of an implementation framework are outlined here. First, the Joint Utilities propose that NYPA manage the opt-in process and transfer the list of customer accounts to the utilities for billing purposes as needed. Second, the Joint Utilities propose to enroll customers into the opt-in program in batches, twice a year, in order to enhance administrative ease. This proposal is particularly important to Con Edison, as transfer of customer metering and billing data to NYPA for ultimate billing to the end-customer is complex and involves multiple file transfers each month. A rolling opt-in period would significantly increase the time needed to verify that each customer was appropriately coded and that the proper transfer of data to NYPA was occurring.

III. Conclusion

The Joint Utilities' proposal as discussed herein represents a reasonable, well-considered approach to addressing the Commission's directives and expanding accessibility to the State's key clean energy programs. As proposed, this opt-in mechanism would benefit both NYPA customers and all other customers by opening up access to remaining "low-hanging fruit" that will reduce the cost per kWh of energy efficiency program investments in New York. The Joint Utilities emphasize that the elements of this proposal should be taken together, as the removal or alteration of one provision (*e.g.*, allowing NYPA customers to opt-out of future contributions) may reduce or eliminate benefits to other customers and could result in shifting program costs to customers that are unable to opt out of participation.

The Joint Utilities respectfully submit these comments for the Commission's consideration and look forward to working with Staff on the mechanics of implementing this proposal.

New York, New York
June 30, 2016

Respectfully submitted,

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