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October 31, 2016

Honorable Kathleen H. Burgess  
Secretary to the Commission  
New York State Public Service Commission  
Empire State Plaza, Agency Building 3  
Albany, New York 12223-1350  
[secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**RE: CASE 15-E-0302 — Petition of NYSERDA in Proceeding on Motion of the Commission to Implement a Large Scale Renewable Program and a Clean energy Standard**

**CASE 14-M-0094 — Petition of NYSERDA in Proceeding on Motion of the Commission to Consider a Clean Energy Fund**

Dear Secretary Burgess,

The Alliance for Clean Energy New York (ACE NY) respectfully submits this correspondence in support of the August 25th petition of the New York State Energy Research and Development Authority (NYSERDA) pursuant to the Commission’s *Order Adopting a Clean Energy Standard* (CASE 15-E-0302). Specifically, ACE NY is offering support for the portions of that petition focused on the mechanism by which the distribution utilities will provide a financial backstop for the contracts between NYSERDA and the generators of Renewable Energy Certificates (RECs) under the clean energy standard (CES) Tier 1, referred to in the petition as the “EDC Guarantee.”<sup>1</sup>

With respect to this issue, the petitioner first requests that NYSERDA be enabled to borrow against cash balances in the Clean Energy Fund (CEF) in the event of a shortfall between its revenue and payments in REC transactions. It further requests that if that a shortfall exceeds the amount of cash balances in the CEF at the time, there would be invoked an obligation of electric distribution companies (EDC) to serve as financial backstop. These two measures will provide a financial backstop that will enable NYSERDA to timely meet its obligations without posing any unnecessary burden on EDCs.

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<sup>1</sup> NYSERDA petition pursuant to August 1, 2016 Order, dated August 25, 2016, page 7.

These NYSERDA requests are necessary and reasonable, and will ensure that the CES structure as established by the Commission will be workable and sustainable. The financial backstop mechanism will be designed to be invoked only in the rare situation when NYSERDA revenue from the sale of renewable energy certificates (RECs) and payments of Alternative Compliance Payments (ACPs) and/or available cash at NYSERDA in the Clean Energy Fund are not adequate to cover the obligation of NYSERDA to purchase RECs from renewable energy generators under contracts. While we expect that this situation will occur infrequently, if at all, the establishment of this mechanism is necessary to ensure that NYSERDA is a creditworthy counterparty to the REC contracts with renewable energy developers planned as part of the CES program. It will also alleviate the risks to NYSERDA associated with poorly timed or aligned revenue and payments for RECs.

The mechanism being discussed here is needed for two critical reasons. First, it protects NYSERDA's budget and programs from the risk inherent in NYSERDA taking on substantial financial obligations that could (at least on paper) interfere with the fiscal stability of the NYSERDA and its ability to implement its other critical missions and efforts. Second, without this mechanism in place, it is highly unlikely that prudent investors, corporate investment committees or banks would see the contracts that NYSERDA plans to enter into as secure and financeable – essentially the distribution customers of New York will be acting as guarantors of the contract, something that is needed for a brand new procurement system with potentially variable revenue sources behind it, much like a young borrower without a credit rating and in need of a co-signer.

NYSERDA's petition states, "The effectiveness of the purchase contracts will depend on the certainty of the payments to the generators," and, "any timing delays or permanent issues in receipt of payments from LSEs would create cash flow issues for the timing of payment obligations to generators." This will be largely addressed by the establishment of a monthly obligation payment from load serving entities (LSEs) for the purchase of Tier 1 RECs, as NYSERDA proposes. Even with this structure though, there remains some small risk of a cash shortfall, and thus there is a need to create the financial backstop mechanism that NYSERDA proposes.

We strongly support a Commission directive to the utilities to modify their tariffs to establish this financial backstop. NYSERDA's requests for both a reasonable payment schedule that aligns its obligations under the CES with the payments it will receive, and appropriate financial backstops to secure its obligations in the event of a shortfall, are simple, prudent, and in the public interest of ensuring a well-functioning mechanism for paying generators. These schedules and backstops will both improve the efficiency of and confidence in CES markets. We endorse these requests to the Commission.

We believe the Commission and the utilities should take action to establish the mechanism as requested by NYSERDA. This is a crucial component to establishing an efficient, effective, and financially sustainable CES Tier 1, and is important to the state to enable a stable business environment to support the increased deployment of large-scale renewable energy, including wind power, utility-scale solar, hydropower upgrades, biogas projects, fuel cell projects, and

offshore wind. As such, we strongly encourage the Commission to act expeditiously and rule in favor of the petitioner's requests.

Respectfully submitted,

A handwritten signature in cursive script that reads "Anne Reynolds". The signature is written in black ink and is positioned above the typed name and title.

Anne Reynolds,  
Executive Director, Alliance for Clean Energy New York