

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 15-E-0302 – In the Matter of the Implementation of a Large-Scale
Renewable Program

SUPPLEMENTAL COMMENTS OF
Environmental Advocates of New York, Pace Energy and Climate Center,
Natural Resources Defense Council, Sierra Club

Dated: October 28, 2016

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Natural Resources Defense Council, Sierra Club**

Supplemental Comments on Appendix F of the Clean Energy Standard Order

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In light of the December 1, 2016 implementation deadlines in the Commission's August 1st Clean Energy Standard Order ("CES Order"), and in hopeful anticipation of an implementation plan to establish the policy framework for an enforceable Clean Energy Standard, the undersigned parties ("Clean Energy Advocates") provides these supplemental comments on Appendix F (Implementation Phase) of the CES Order.

I. Introduction

Governor Cuomo's creation of the CES to achieve the State Energy Plan's 50% renewable energy generation by 2030 target is an essential and immediate step forward in achieving a clean energy future for New York. The 50% renewable energy mandate establishes New York as a national leader in the fight against climate change, significantly reducing the State's emissions of greenhouse gases and other pollutants and improving the health of New Yorkers. Increasing New York's renewable portfolio will create new industries and jobs and bring billions of dollars of direct economic investment to New York. Renewable development also promotes fuel diversity, protects utility customers from volatile gas prices and creates energy security and independence for New York residents.

For these reasons, the Commission must not delay in issuing an implementation plan establishing a binding, enforceable CES in 2017. The CES Order directed NYSERDA to file a firm schedule of fixed dates for annual/supplemental solicitations and the 2017 REC/ACP prices by December 1, 2016. By that same date, the CES Order also directed New York's Load-Serving Entities ("LSEs") to inform NYSERDA whether they intend to purchase RECs from NYSERDA during the 2017 compliance period. As detailed in Appendix F of the CES Order, there are a number of implementation issues that still need to be addressed before the CES can be fully implemented in 2017. In light of these upcoming deadlines, and to ensure the CES immediately puts the State on a path to ensure that the State Energy Plan goal "is converted from actionable to achievable,"¹ the Clean Energy Advocates offer the following recommendations on Appendix F of the CES Order.

¹ See Letter from Governor Cuomo to Audrey Zibelman (December 2015), available at https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Renewable_Energy_Letter.pdf

Our comments support an evenly-distributed LSE target for Tier 1 MWh required for each year leading up to 2030, as well as NYSERDA's LSE true-up proposal in its August 25th filing. We support an Alternative Compliance Payment (ACP) mechanism that provides an effective incentive to fully support the REC market, and that uses ACP funds to directly support future renewables deployment. We support the procurement schedule dictated for NYSERDA in the CES Order, and add that it should be projected five years in advance. We believe that new selection criteria should be objective and transparent, and preferably shadow-tested years in advance of being determinative of actual bids.

II. Comments

a. Annual targets and compliance

The Clean Energy Advocates support confirmation of the 2018-2021 LSE targets as established in the CES Order. The LSE targets from 2022-2030 should be evenly distributed and designed to reach 100% of the Tier 1 MWh need by 2030. The CES White Paper's proposal to back-load these targets based on an assumed future price differential that may not materialize has three very significant disadvantages. First, it creates a substantively worse outcome because it would defer the environmental and societal benefits that should be the first-order objective of the program. Climate change impacts of greenhouse gases, for example, are cumulative. A ton of CO₂ reduced in 2017 is more beneficial than a ton reduced in 2030 because it takes away heat-trapping gas for 13 additional years. The faster New York State moves in adopting clean energy, the more likely we are to avoid the worst impacts of climate change. At a minimum, the environmental and societal cost of deferring or accelerating the myriad of renewables benefits should be accounted for in calculating annual targets, by weighing earlier emissions reductions against the cost reduction potential of back-loading. Such an approach is supported by the Commission's BCA framework Order.

Second, back-loading CES obligations puts the achievement of end targets in jeopardy. It creates a larger compliance burden during future periods, when prices are most uncertain. If prices of various resources do not materialize as forecasted, then it may prove difficult to meet a large portion of the goals all at once.

Third, beyond the risk that price forecasts are incorrect, back-loading could actually itself increase costs. The lack of robust early support for New York's renewables market could lead developers to take their projects elsewhere during the beginning of the program. As the LSR Options Paper noted, "[t]he benefit of a less back-loaded planning budget approach is that it allows for a more measured build-out of [large scale renewables] development capacity in New York to maintain a robust pipeline of projects over time." In modeling a fixed program budget anticipated to achieve a fraction of the CES targets, the Options Paper showed, for example, that a slowly rising program budget would result in approximately 100 MW greater large-scale renewables deployment by 2023 than the amount achieved under a sharply back-loaded budget. A more robust early procurement target also has the potential to bend the cost curve for large scale renewables in New York, improving the program's economic profile over the next decade and beyond. Models that assume a fixed capital cost for these projects over ten years ignore the potential for large up-front investments from the State to contribute to the development of the

large scale renewables market. In the same way that larger up-front investments in NY Sun are catalyzing the solar market, larger up-front investments in the early years will help drive long-term cost reduction in the market allowing renewables to reach parity with other forms of electricity faster.

In ensuring that these targets are met, the Clean Energy Advocates support NYSERDA's proposed method in its August 25th filing dictating that LSEs would provide compliance information and true-up in Q1 of the year following the end of the compliance year. LSEs should have to true-up by purchasing RECs for any unmet compliance obligation up to a defensible threshold amount (e.g. 5-10% of total annual obligation) and would have to pay the ACP for any additional unmet compliance obligation. The Clean Energy Advocates oppose borrowing of RECs from future years, but would support allowing LSEs to bank RECs for a limited time.

b. Alternative Compliance Payments

The Clean Energy Advocates support the deployment of ACP funds in a manner that ensures that the 50 by 30 goal will not be compromised.

If ACP levels were to be set low enough such that load-serving entities elected to pay ACPs in lieu of acquiring RECs for a significant portion of retail load, then annual achievement would be lower than anticipated, expected emissions benefits would be deferred, and ultimate achievement of the CES goals would be made more difficult. Suppose, for example, that the load acquisition curve indicates that to be on track to achieve 50 percent renewables by 2030, the state's load serving entities must serve 7 percent of their supply from tier 1 renewable resources by 2022 and sets REC procurement requirements accordingly. If instead the load-serving entities elected to pay ACPs for 2 percent of that load in lieu of procuring RECs, only 5 percent new renewables supply would have actually been procured and the load-serving entities would be behind target. While this may be acceptable in limited, short-term circumstances, such as to temporarily solve a misalignment between the supply and demand for RECs in a given year due to unforeseen market forces (e.g., delayed project commissions), the purpose of ACP payments should be to ultimately solve for their own necessity. Year over year, the market should converge back towards its targets despite any temporary reliance on the ACP mechanism.

Accordingly, the Commission must take steps to ensure long-term targets are met, including (1) setting ACP levels high enough to act as an effective disincentive against purchasing RECs when RECs may be available; (2) assuming realistic levels of ACP compliance when developing annual targets, building in a cushion to account for ACP compliance in lieu of REC purchases; and (3) using ACP funds to assist with REC procurement for future periods such that any achievement gaps created through use of the ACP for compliance are closed.

ACP funds should not be used for research purposes, but should instead be directed to either procuring renewable energy in furtherance of the 50% goal, or to fund programs that will directly reduce the costs of renewables development. It is especially important to use collected funds specifically for renewables procurement if the ACP is used as a compliance mechanism for any significant portion of the CES obligation (as well as to reevaluate the program design in order to change that dynamic, should it arise). While the ACP is a fundamentally important price signal driving the market-based development of renewable resources, the "recycling" of

collected ACPs for procurement activity allows the State to amplify the ultimate purpose of supporting in-state renewable energy development.

By designing renewables targets in a manner that accounts for use of the ACP and by using ACP proceeds for REC procurement, the Commission may be able to offer a lower ACP price than would otherwise be possible while maintaining the integrity of the program. However, the ACP should be high enough to provide an incentive for LSEs to commit to purchasing RECs at the beginning of each calendar year. While LSEs can meet their compliance obligations via the ACP, significant use of this mechanism will erode progress towards the 50% mandate, and should be viewed as a program failure. To guard against this, the ACP should be adjusted upward if the amount of ACPs paid is a significant portion (e.g. 20%) of the total LSE obligation. This would allow for the ACP to best meet its twin objectives of stimulating renewables procurement and cost control.

c. Procurement schedule

The Clean Energy Advocates support the NYSERDA procurement schedule that was included in the CES Order, and emphasize the need for scheduling solicitations well in advance of their issuance. In the Commission's previous Renewable Portfolio Standard proceeding, NYSERDA argued that the "lack of regularly scheduled and known RPS competitive solicitations, and that the Program does not disclose the funding available for each procurement, send an uncertain market signal that impedes the development of new renewable capacity."² As the Commission noted in its December 2010 RPS Order, "[a]ll commenters believe that more regularly scheduled solicitations will provide the regulatory certainty that developers need to help create a more robust renewable energy market in New York State."³

Despite the overwhelming unanimous support for frequent, regularly scheduled solicitations, between 2010-2015, six solicitations were offered in an unpredictable and unevenly spaced manner (March 2010, June 2011, December 2011, January 2013, August 2014, and May 2015), which did not afford developers the opportunity to achieve the proper financing and preparation necessary to offer adequate proposals. In order to avoid this in the CES, the Commission should work with NYSERDA to ensure that the CES procurement schedule is planned well in advance and timed effectively to allow for market participants to adequately plan their activities and investments, thereby encouraging more robust solicitations and lower bid prices. The Clean Energy Advocates also support a rolling schedule for NYSERDA to ensure a minimum procurement amount scheduled five years in advance.

d. Evaluation criteria

It is imperative that all evaluation criteria be completely objective and transparent so that the competition is fair and the risks are understood in advance. If new criteria are used by NYSERDA (that is, in addition to least cost and local economic impacts) the criteria should be expressed with clarity and be able to be objectively evaluated. While the Clean Energy

² NYSERDA, "New York RPS Evaluation Report", at 8 (March 31, 2009).

³ Case 03-E-0188, Renewable Portfolio Standard (RPS), Order Authorizing Additional Main Tier Solicitation and Setting Future Solicitation Guidelines, at 5 (Dec. 3, 2010).

Advocates understand the State's interest in including some criteria related to developer experience and project feasibility, it could be difficult to assess project feasibility and probability objectively. One possible approach to address the concern that a project will be completed as promised in a more objective fashion would be to have some portion of the project score be based on how far along a project is with respect to different development milestones.

III. Conclusion

New York cannot afford to wait any longer to combat the devastating impacts of climate change. The time is now to act on the CES Order and capture the enormous economic and environmental value of developing large scale renewables to achieve the State Energy Plan goals. We urge the Commission to avoid delay and issue an implementation plan as soon as possible to ensure a successful CES for 2017 and beyond. We look forward to working with the Commission and DPS Staff to develop a well-designed program that will deliver on the promise of clean energy for our power sector, our economy, and our children.

Sincerely,

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