STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard.	**Case 15-E-0302**

NOTICE OF THE CITY OF NEW YORK REGARDING RENEWABLE RESOURCE PROCUREMENTS

Dated: November 30, 2021

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INTRODUCTION

The City of New York ("City") submits this notice to inform the Public Service Commission ("Commission") of the manner in which it plans to work with its load-serving entity ("LSE"), the New York Power Authority ("NYPA"), to support the goals of the Clean Energy Standard ("CES") and the Climate Leadership and Community Protection Act ("CLCPA").[1] The City intends to procure renewable energy from sources directly serving New York City (*i.e.*, from offshore wind resources and CES Tier 4 resources) in a quantity equal to its energy consumption.

Although NYPA is not subject to the Commission's jurisdiction, the Commission and NYPA have recognized a need to coordinate on their respective efforts to procure renewable resources and avoid shortfalls in collections of CES-related costs. The City is providing this notice to facilitate that coordination. Importantly, the City's plan will result in cost savings of $2.1 billion to $4.3 billion for electricity customers across New York State and will advance the State and City's concomitant clean energy policies.

BACKGROUND

In October 2020, the Commission recognized that the continued reliance on fossil-fueled generation within New York City is an obstacle to the State's ability to achieve the goals set forth

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[1] L. 2019, ch. 106.

in the CLCPA.[2] To overcome this impediment, the Commission established CES Tier 4 to catalyze the delivery of renewable power into New York City.[3] As Tier 4 was enacted to facilitate achievement of the CLCPA, a statewide policy, the Commission imposed an obligation on all regulated LSEs in New York to purchase Tier 4 renewable energy credits ("RECs") in proportion to their overall share of statewide load.[4]

Recently, Governor Kathy Hochul announced that NYSERDA selected two projects for Tier 4, and both will deliver renewable resources into New York City – the Champlain Hudson Power Express ("CHPE") Project proposed by H.Q. Energy Services U.S. Inc. ("HQUS") and the Clean Path New York ("CPNY") Project proposed by Clean Path New York LLC.[5] The City understands that the Tier 4 REC price will be higher than the REC prices under the other CES tiers and higher than the cost of zero emissions credits ("ZECs"). The reason is that the CHPE and CPNY Projects involve the construction of large transmission lines, and their costs encompass the costs of both the renewable resources and the new transmission lines.

Despite the fact that NYPA is not a Commission-jurisdictional entity, NYPA has recognized the importance of the State's clean energy and carbon emissions reductions goals and

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2 Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and Clean Energy Standard, Order Adopting Modifications To The Clean Energy Standard (issued October 15, 2020) at 77-78 ("CES Modification Order").

3 *Id.* at 79-80.

4 *Id.* at 102.

5 NYSERDA, *During Climate Week, Governor Hochul Announces Major Green Energy Infrastructure Projects to Power New York City With Wind, Solar and Hydropower From Upstate New York and Canada* (September 20, 2021), available at https://www.nyserda.ny.gov/About/Newsroom/2021-Announcements/2021-09-20-Governor-Hochul-Announces-Major-Green-Energy-Infrastructure-Projects-to-Power-New-York-City-With-Wind.

has agreed to work with its customers to achieve the State's clean energy goals.[6] Accordingly, in adopting a Clean Energy Standard for New York, the Commission established a framework for allocating CES-related costs that included a load share allocation to NYPA.[7] More recently, NYPA committed to purchasing a proportional share of Tier 4 RECs,[8] and the Commission similarly established a load share allocation for Tier 4 costs that included NYPA's load share.[9]

Presently, the City's load is one of the largest individual customer loads in the State. Because of its size, the treatment of the City's load can affect the CES allocations. Therefore, the treatment of the City's load through NYPA's allocation of the CES obligations similarly matters and can affect the allocations to all other LSEs. In the CES Modification Order, the Commission recognized the importance of understanding the allocations of CES obligations to NYPA, stating that it expects NYPA to file annual reports regarding its participation in the CES to "allow NYSERDA to recalculate the obligations of the jurisdictional LSEs" as necessary.[10]

PROCUREMENT PLAN

In conjunction with the announcement of the CES Tier 4 selections, the City agreed to join with NYSERDA in purchasing Tier 4 RECs.[11] Specifically, the City plans to enter into a 25-year

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6 *See, e.g.*, Case 15-E-0302, *supra*, Reply Comments of the New York Power Authority (filed May 13, 2016); *see also*, Case 15-E-0302, *supra*, New York Power Authority ZEC Comments (filed July 22, 2016).

7 Case 15-E-0302, *supra*, Order Adopting a Clean Energy Standard (issued August 1, 2016) at 27.

8 Case 15-E-0302, *supra*, Comments of the New York Power Authority (filed August 31, 2020) at 17.

9 CES Modification Order at 108.

10 CES Modification Order, *supra*, at 108, 110.

11 NYSERDA, *During Climate Week, Governor Hochul Announces Major Green Energy Infrastructure Projects to Power New York City With Wind, Solar and Hydropower From Upstate New York and Canada*, (issued September 20, 2021), available at

agreement with NYSERDA to procure Tier 4 RECs ("Agreement"), which combined with its load share-based allocation of offshore wind RECs, will be equivalent to its load.[12] In total, the City expects to purchase approximately 20 percent of the combined Tier 4 RECs produced by the CHPE and CPNY Projects.

By voluntarily entering into this significant, long term arrangement to purchase such a large quantity of Tier 4 RECs, the City will be paying significantly more than if it pays only for its load share-based allocation of the costs of the CES Tiers.[13] At the same time, other New York consumers are expected to realize billions of dollars of savings over the lives of the Tier 4 Projects.

The City recognizes that there is some uncertainty surrounding the future volume and price of the various RECs. To ensure that New Yorkers do not incur any potential risk resulting from this arrangement, the Agreement will include a provision that allows NYSERDA to terminate the Agreement within 30 days of the Commission making a determination that the arrangement is no longer in the best interest of New York customers.

The City is aware of NYPA's commitment to supporting achievement of the CES and CLCPA goals and is not seeking to reduce or otherwise interfere with that commitment. The City also is cognizant of the Commission's statement regarding "the importance of ensuring ongoing coordination with NYPA and LIPA … [and NYPA's agreement to provide] a notice indicating the

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https://www.nyserda.ny.gov/About/Newsroom/2021-Announcements/2021-09-20-Governor-Hochul-Announces-Major-Green-Energy-Infrastructure-Projects-to-Power-New-York-City-With-Wind.

[12] The CES Modification Order authorized NYSERDA to re-sell Tier 4 RECs, and the Agreement is consistent with that authorization. While the City does not believe formal Commission approval of the Agreement is required, the City will work with NYSERDA to submit the Agreement for Commission review as the Commission deems appropriate.

[13] As discussed in more detail below, the City is taking this action to achieve its public policy goals, reduce the reliance on the in-City fleet of fossil-fueled electric generating facilities, and expedite the transition of New York City to a carbon-free future.

extent to which they intend to participate in NYSERDA's annual CES procurements and/or fund their pro rata share of attributes procured by NYSERDA in the coming year."[14] The City has been in communication with NYPA regarding this plan, and the City will work with NYPA to effectuate it when Tier 4 RECs become available.

The City recognizes that its plan will impact both the manner in which NYPA supports achievement of the CES and CLCPA goals, and NYPA's allocation of costs related to Tier 1, Tier 2, Tier 4, and ZECs.[15] In furtherance of the coordination between and among the Commission, NYSERDA, and NYPA referenced in the CES Modification Order, and in order to be transparent in its activities in support of its and the State's policy goals, the City is submitting this notice. By doing so well in advance of implementation of this plan, NYSERDA and the Commission can properly plan for any revisions to the CES Tier 1, Tier 2, Tier 4, and ZEC obligations among other LSEs that may be needed to avoid potential discrepancies in future CES program collections. That is, NYSERDA and the Commission will need to recalculate the LSE commitments related to CES Tiers 1, 2, 4, and ZECs once Tier 4 RECs become available to account for any reduction in the allocations of the related CES costs to NYPA occasioned by the City's plan described herein.

RATIONALE FOR CITY'S PROCUREMENT PLAN

To ensure that there is no misunderstanding or confusion regarding the City's motives, the City offers the following explanation for voluntarily agreeing to incur a substantially greater share of the CES and CLCPA compliance costs than would otherwise be allocated to it.

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[14] CES Modification Order at 108.

[15] In the CES Modification Order (p. 76), the Commission stated that NYPA should not be obligated to support the Competitive Tier 2 Program. However, the City is uncertain whether an expanded Tier 2 program will be established in the future. To be clear, the City's plans do not contemplate participation in any variant of the CES Tier 2 Program.

POINT I

THE CITY'S PLAN WILL PROVIDE COST SAVINGS TO NEW YORK CUSTOMERS

Each CES Tier has a REC price that is based on the cost of generating the REC. At this time, the quantities and prices of future RECs, including Tier 4, are unknown, and therefore, the City's analysis and the information set forth herein has been based on estimates of the potential REC prices. Regardless, there is no doubt that the cost of building new transmission in New York is substantial. Because the Tier 4 REC price will reflect the combined cost of new generation and new transmission, it is reasonable to assume that it will exceed the prices for other CES obligations. By purchasing significantly more than its proportional allocation of Tier 4 RECs, the City will be spending significantly more to secure carbon-free power than if it, through NYPA, simply complied with the base levels of compliance with the CES as established by the Commission. Based on publicly available information and its own analysis, the City has calculated that its load share based allocation of Tier 4 REC costs would have been less than 3% of the total costs. Under its procurement plan, the City would purchase approximately 20% of the total Tier 4 RECs.

This voluntary procurement will provide significant financial benefits to other New York customers as compared to a scenario in which the City complies only with the minimum requirements for each CES Tier. The City has calculated that the gross investment of this proposal ranges from $3.2 billion to $6.2 billion. After subtracting the costs of its proportional share of Tier 1 and Tier 2 RECS and ZECs that would be reallocated to other LSEs, and adjusting for Tier 4 REC costs that otherwise would have been allocated to it through NYPA, the net benefits to other customers are expected to be in the range of $2.1 billion to $4.3 billion.[16] In other words, the

[16] The net present value of these benefits using NYSERDA's societal discount rate of 5.75 percent is $0.8 billion to $1.7 billion.

benefits inuring to other customers will greatly outweigh the Tier 1, Tier 2, and ZEC savings the City will realize. Specifically, the City calculates that over the 25-year term of the Agreement, its savings will range from $424 million to $560 million as follows: (i) Tier 1: $166 million to $302 million; (ii) ZECs: $258 million.

These savings to the City are more than offset by the incremental $2.5 billion to $4.8 billion of Tier 4 RECs that the City will purchase under the Agreement. This is the amount of incremental spending the City will be making for Tier 4 RECs above what it would otherwise have paid for Tier 4 RECs on a load share basis. Netting out the Tier 1, Tier 2, and ZEC costs that will need to be reallocated to other LSEs as a result of the City's plan results in the net benefit to all ratepayers of $2.1 - $4.3 billion.

Other customers also will benefit in that Tier 4 RECs sold on a voluntary basis will reduce LSE obligations commensurately.[17] By procuring a substantial quantity of the available Tier 4 RECs, the City will reduce the number of Tier 4 RECs that must be procured by LSEs, thereby reducing their Tier 4 compliance costs.

Importantly, no other customer in New York would be financially harmed by the City's plan, particularly in light of the Agreement provision discussed above that allows NYSERDA to terminate the Agreement in the event that the arrangement is no longer inuring to the public benefit.

POINT II

THE CITY'S PLAN ADVANCES IMPORTANT PUBLIC POLICY GOALS ON AN EXPEDITED BASIS

The City is a strong proponent of measures that will decarbonize the electric system while maintaining system reliability and resiliency. Indeed, the City in OneNYC committed to achieving

[17] CES Modification Order at 100-101.

carbon neutrality by 2050 and achievement of 100% clean energy resources by 2040.[18] However, there are significant obstacles to the City's and State's abilities to achieve their policy goals. For example, siting challenges such as real estate scarcity and high construction costs have prevented the development of utility-scale renewable resources downstate, resulting in a significant discrepancy between the level of carbon-free resources that comprise the resource mixes upstate versus downstate (90% versus 21%, respectively),[19] referred to by the New York Independent System Operator, Inc. ("NYISO") as the "tale of two grids." Moreover, much of the generation located within New York City is old and inefficient, has comparatively higher emissions than modern generating facilities, and is located within disadvantaged communities.

The closure of the Indian Point Energy Center, a significant source of clean energy for New York City, requires New York City customers to rely more heavily on the aging, heavily polluting in-City fossil generation fleet. This increased reliance has the potential to negatively impact local air quality, thereby exacerbating public health issues that already exist in disadvantaged communities in and around New York City, such as high incidences of asthma and other respiratory ailments.

By facilitating the delivery of large quantities of clean energy into New York City on a relatively expeditious basis, Tier 4 presents a promising opportunity to improve local air quality and materially lessen reliance on the in-City fossil fleet. These significant project attributes will particularly benefit residents in areas that have been disproportionately impacted by the in-City fleet for decades. Most importantly, the benefits that Tier 4 will provide to New York City cannot

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18 *OneNYC 2050: A Livable Climate* (issued April 2019) at 32, available at http://onenyc.cityofnewyork.us/strategies/a-livable-climate/ ("OneNYC").

19 NYISO, *Power Trends 2021: New York's Clean Energy Grid of the Future* (issued May 2021) at 25, available at https://www.nyiso.com/documents/20142/2223020/2021-Power-Trends-Report.pdf/471a65f8-4f3a-59f9-4f8c-3d9f2754d7de.

be accomplished by the other CES components, which either do not provide direct benefits to New York City, or do so to a lesser extent and on a longer timeline.

Conversely, the City understands that construction of the CHPE Project could commence very quickly after its Tier 4 contract is approved by the Commission. Thus, the CHPE Project could provide benefits to New York City within about three to four years, much faster than any other large-scale carbon-free resource.[20]

In establishing Tier 4, the Commission recognized that it was uniquely situated to benefit New York City in a way that no other CES Tier could:

> Among existing CES programs, only the Offshore Wind Standard holds the promise of reducing New York City's reliance on fossil-fuel fired generation on the necessary scale. However, the Commission believes that it would be imprudent, at this time, to rely exclusively on the Offshore Wind Standard to achieve this purpose. Resource diversity concerns may, in time, counsel against exclusive reliance on offshore wind to reduce the use of fossil fuel-fired generation in Zone J. The Commission concludes, therefore, that a separate tier, independent of both Tier 1 and the Offshore Wind Standard, will be necessary to comply with the CLCPA and should be pursued through a NYSERDA solicitation.[21]

In sum, Tier 4 can provide substantial environmental and health benefits to New York City residents, and it is a critical element of multifaceted effort required to achieve the goals of the CLCPA and the City's public policies. Moreover, the CHPE and CPNY Projects add important diversification to the City's resource mix. They both will deliver clean energy from a variety of resources located over several geographic areas. This resource and geographic diversity will

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[20] It is worth noting that this Notice concerns only the City as an electric customer. There are millions of customers who live in New York City that will continue to pay for all CES Tiers; and therefore, no CES Tiers will be funded only by upstate customers.

[21] CES Modification Order at 80.

provide significant reliability and resiliency benefits, which will become increasingly important as the State continues to electrify vehicles and building heating.

The City seeks to capitalize on these benefits for the betterment of New York City residents and as a cornerstone on the pathway to a carbon-free New York City. The City's planned procurement modifications will facilitate the City's ability to deploy its resources in the manner described herein in order to maximize the benefits for New York City residents and for all New Yorkers.

POINT III

THE CITY'S PLAN IS DISTINGUISHABLE FROM PRIOR EFFORTS TO MODIFY CES ALLOCATIONS

The City is aware that other entities have sought to modify their CES obligations, and therefore, the City believes it is important to illustrate the unique circumstances here that distinguish its plan from those requests.

In 2016, the New York Association of Public Power ("NYAPP") requested that the Commission: (i) clarify that the CES obligations did not apply to its rural electric cooperative and municipal electric company members; and (ii) not apply CES obligations to municipal utilities who already predominantly rely on carbon-free resources.[22] The Commission denied NYAPP's request, stating:

> The Commission fully expects that customers of [NYPA] will participate in achieving the State's goal of fifty percent renewable electricity consumed in New York by 2030 and indeed [NYPA has] committed to do so […] the Commission is instituting [the CES] to prevent widespread damage from carbon emissions that affect everyone and it is fair and appropriate for all consumers to

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[22] Case 15-E-0302, *supra*, *et. al*, Request For Clarification And Petition For Rehearing Of The New York Association Of Public Power (filed August 21, 2016) at 3.

> participate. If municipal utilities were exempt from the LSE obligation, the burden on other LSEs would increase.[23]

The Long Island Power Authority ("LIPA") requested a modification to its CES obligations because of its support for distributed solar resources.[24] LIPA proposed that energy produced from distributed solar capacity that exceeds an LSE's pro rata share of the CLCPA's 6 GW solar target should offset its remaining CES requirements through a credit mechanism.[25] LIPA reasoned that this approach would prevent those LSEs' customers from shouldering more than their fair share of the State's clean energy goals.[26] The City submitted comments in opposition to LIPA's proposal, asserting that (i) the proposal would impose additional costs on non-LIPA customers, and (ii) it would be inequitable to waive some energy consumers' costs associated with the CES because of efforts taken outside of the CES.[27] In short, the City argued that LIPA's proposal was incompatible with the CES because it was seeking to reduce its share of CES obligations, thereby imposing additional costs on other ratepayers. The Commission has not ruled on this request yet.

The City's plan is distinguishable from both NYAPP and LIPA's requests. Those requests would have resulted in a net increase in costs to other customers with no commensurate benefits. Here, as demonstrated above, other customers will realize a net benefit, not an incremental cost. That is, the City's plan will result in savings for all other customers while facilitating achievement of concurrent State and City energy policies. Also, unlike those requests, where the applicants

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23 Case 15-E-0302, *supra*, Order On Petitions For Rehearing (issued December 15, 2016) at 20.

24 Case 15-E-0302, *supra*, White Paper on Clean Energy Standard Procurements to Implement New York's Climate Leadership and Community Protection Act (issued June 18, 2020).

25 Case 15-E-0302, *supra*, Comments of Long Island Power Authority (filed August 31, 2020) at 4-5.

26 *Id*. at 5.

27 Case 15-E-0302, *supra*, Comments of the City of New York (filed November 25, 2020) at 5.

were seeking to be relieved of the financial impact of the CES, the City is seeking to lead by example and take on a considerable financial burden in an effort to further critical State and City public policy goals that will inure to the benefit of all New Yorkers. Moreover, as discussed above, there is no risk to other customers as a result of this plan due to the mechanism whereby NYSERDA may terminate the Agreement in the event it no longer inures to the public benefit.

To be clear, the City is not relying on Tier 4, alone. In addition to its Tier 4 and OREC commitments, the City will continue to aggressively pursue permanent usage reductions via energy efficiency measures, and it will continue to support the deployment of distributed solar. Separately, many City buildings and facilities participate in NYISO and utility-level demand response programs and will continue to do so.

Finally, the City is willing to make a long-term commitment to purchase Tier 4 RECs, whereas NYAPP and LIPA were seeking relief without making any commitments at all towards advancement of the State's and City's policy goals. Rather, they were simply seeking to preserve the status quo..

CONCLUSION

Tier 4 is a critical component to achieving the CLCPA's and the City's public policy goals. Through its renewable resource procurement plans described herein, the City is taking a critical step toward achieving its policy goals and leading the nation in becoming carbon-free. This plan also will provide benefits to all New Yorkers as they will realize net savings from the City's actions.

Respectfully submitted,

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