

State of New York
Public Service Commission

Case 15-E-0751: In the Matter of the Value of Distributed Energy Resources.

Petition for Reconsideration and Clarification of the Prior Commission Decision

The New York State Energy Research and Development Authority (NYSERDA) hereby submits this petition for the New York State Public Service Commission’s (Commission) reconsideration and clarification of the Commission Order Directing Tariff Modifications, dated April 21, 2023.¹ The April 2023 Order, among other things, rejected the Department of Public Service Staff’s (Staff) proposal to grant a one-time option to forfeit Community Adder awarded to certain community solar projects interconnecting to the Consolidated Edison Company of New York, Inc. (Con Edison) distribution system.² This petition presents unintended market impacts of the Commission decision as realized by a number of small distributed solar projects, including projects serving regulated affordable housing customers, in a manner that was previously not considered.³ NYSEDA hereby requests granting of a relief to the impacted distributed solar projects by allowing a one-time option to forfeit the Con Edison Community Credit that was allocated after exhaustion of the Con Edison Community Credit tranche on October 6, 2021.

Background:

In 2015, New York State established a Community Solar Program to allow opportunities for participation in solar generation to utility customers that could not otherwise access the clean solar generation directly.⁴ The Community Solar Program, as adopted, allowed for distributing the net metering credits into amounts offset against the utility accounts of the participating customers.⁵ On March 9, 2017, the Commission issued an Order on Net Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters, whereby New York embarked on the transition to compensation methodologies that enabled more accurate valuation and compensation of distributed energy

¹ Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Order Directing Tariff Modifications, (“April 2023 Order”), issued and effective April 21, 2023.

² See id.

³ A list of all the impacted projects that NYSEDA identified, is included as an Attachment to this Petition.

⁴ CASE 15-E-0082, Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program, Order Establishing a Community Distributed Generation Program and Making Other Findings, issued and effective July 17, 2015.

⁵ See id.

resources.⁶ In doing so, and to avoid market disruption for the community solar projects, the Commission adopted an additional Market Transition Credit, as a component within the Value Stack compensation.⁷ Subsequently, and in the continued transition for compensation methodologies for distributed energy resources, on April 18, 2019, the Commission issued its Order Regarding Value Stack Compensation whereby the Commission modified the calculation and compensation methodology of a number of elements of the Value Stack.⁸ With the available capacity for Market Transition Credit exhausted, and to mitigate the continued risk of market disruption for community solar, the Commission refined the incentives added to the Value Stack for community solar projects, making available the Community Credit in the service territories of NYSEG, National Grid, RG&E, and Con Edison.⁹ The Commission also made the Community Adder available in the service territories of Central Hudson and O&R.¹⁰ The Community Credit, as administered under NYSEG, National Grid, RG&E and Con Edison's tariff, is an added per kilowatt-hour incentive to the Value Stack components (Energy, Environmental Value, Capacity, Locational System Relief Value, Demand Reduction Value) and is paid to eligible Community Solar projects enrolling in the utility tariff for up to 25-year period. The Community Adder, as administered by NYSERDA, is a per watt incentive paid to the Community Solar projects upon successfully achieving the commercial operation.

On March 19, 2020, the Commission issued the Order Regarding Community Credit and Community Adder Allocations, which addressed NYSERDA's petition to ensure the continued availability of the Community Credit and, as an alternative, the Community Adder within the NYSEG, National Grid, and RG&E service territories.¹¹ The Commission directed NYSEG, National Grid, and RG&E to reallocate capacity from closed tranches where available capacity remained, due to projects being cancelled since the issuance of the VDER Compensation Order, to a new Community Credit Tranche 2. Further, the Commission required these utilities to continue to reallocate capacity to Community Credit Tranche 2 "until the later of November 1, 2020, or the first month in which the tranche is full and there are no project cancellations." In order to track the remaining availability of Community Credit, NYSEG, National Grid, and RG&E were ordered to provide monthly reports to NYSERDA. Specifically, each utility was

⁶ Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Order on Net Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters, issued and effective March 9, 2017.

⁷ See *id.*

⁸ Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Order Regarding Value Stack Compensation, issued and effective April 18, 2019.

⁹ See *id.*

¹⁰ See *id.*

¹¹ Case 15-E-0751, Order Regarding Community Credit and Community Adder Allocations, issued March 19, 2020.

directed to file a report detailing the available capacity in Community Credit Tranche 2 at least once per month. However, the Commission deferred authorizing a Community Adder in those service territories so that it could be addressed as part of NYSERDA's petition to expand the NY-Sun Program in Case 19-E-0735.

On May 14, 2020, the Commission addressed NYSERDA's petition to expand the NY-Sun Program and clarified that the Community Adder was limited to solar photovoltaic projects.¹² The Commission extended the availability of the Community Adder to the NYSEG, National Grid, and RG&E service territories where the Community Credit incentives had been exhausted. The Commission explained that there was significant Community Credit capacity remaining in Con Edison's service territory and therefore transitioning to the Community Adder was not needed at that time. On October 6, 2021, as required by the Commission, Con Edison filed a Tranche Threshold Notice stating that "Consolidated Edison Company of New York, Inc. has exhausted its Community Credit tranche."¹³ In December 2021, NYSERDA, in consultation with Staff and stakeholders and in accordance with the "Flexibility to Adapt to Market Conditions" Section of the NY-Sun Operating Plan, increased the Multifamily Affordable Housing Incentive for eligible Community Solar projects sited on regulated affordable housing that had not received the Con Edison Community Credit from \$1.00 per Watt DC to \$2.00 per Watt DC. Further, in December 2021, NYSERDA and Staff jointly filed the Distributed Solar Roadmap, which was adopted with modification by the Commission Order Expanding NY-Sun Program.¹⁴ The April 2022 Order, among other things, adopted higher NY-Sun incentives and a new Community Adder for projects located in the Con Edison service territory that had not received the Community Credit. NY-Sun incentives are paid in full upon project interconnection and completion (i.e., are paid on an "upfront" basis).

While the Community Credit and Community Adder were addressed within a number of Commission Orders, the overlapping of both incentives was not addressed by the prior Commission Orders. In light of that, on December 21, 2022, the Secretary to the Commission issued a Notice Soliciting Comments regarding a Staff Proposal to establish rules governing a transition from the

¹² Case 19-E-0735, NY-Sun Program Funding and Extension of Program Through 2025, Order Extending and Expanding Distributed Solar Incentives, issued May 14, 2020.

¹³ Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Tranche Threshold Notice – Consolidated Edison Company of New York, Inc., filed October 6, 2021.

¹⁴ Case 21-E-0629, In the Matter of the Advancement of Distributed Solar, Order Expanding NY-Sun Program, issued and effective April 14, 2022 ("April 2022 Order").

Community Credit to Community Adder.¹⁵ In that, the Staff proposed Con Edison adopt tariff provisions to allow projects that received a Community Adder, but otherwise would be eligible for capacity under the Community Credit Tranches due to project cancellations, a one-time option to forfeit any Community Adder received, and instead select the Community Credit. The April 2023 Order adopted rules to sunset the Con Edison Community Credit Tranche on May 1, 2023, and to permanently replace it with the Community Adder. The Commission, however, rejected the Staff proposal regarding the one-time option for certain Community Solar Projects to forfeit the Community Adder. The Commission explained that granting of the one-time forfeiture “may introduce market uncertainty for developers and may be confusing for those developers who were not made aware that Con Edison was recycling the Community Credit as it became available.”¹⁶ While the Commission Order addressed an important need to sunset Con Edison’s Community Credit recycling and ensured against market uncertainty and confusion for the developers that were unaware of subsequently available Community Credit, unfortunately, it is now evident that, the transition from Community Credit to Community Adder did not go as smoothly as planned. The April 2023 Order introduced unintended financial consequences to a number of small distributed solar projects that had submitted an application for NY-Sun incentives, prior to Con Edison’s allocation of the recycled Community Credit.

Discussion:

Securing the Community Credit and applicable NY-Sun incentives in a timely manner is essential for Community Solar projects in establishing financial sufficiency and commercial viability. The Community Credit and Community Adder are both transitional mechanisms approved by the Commission to moderate the changeover from the prior Net Energy Metering to the Value Stack for various customer classes and project types. Although Community Adder and Community credit can both benefit distributed solar project financing and development, switching one for the other during the advanced phases of project development can create a significant confusion and uncertainty to project financing.

The unintended consequences, as discussed above, are further compounded by the impact of the April 2023 Order on a directive from the April 2022 Order. Specifically, the April 2022 Order, in relevant parts, allowed the projects interconnecting to Con Edison’s distribution system that were not

¹⁵ Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Notice Soliciting Comments, issued December 21, 2022.

¹⁶ The April 2023 Order at p. 9.

previously granted Community Credit, an opportunity to opt into a higher NY-Sun incentive rate structure.¹⁷ However, the April 2022 Order did not direct projects that were granted Community Credit an opportunity to select a higher NY-Sun incentive by rejecting the subsequently allocated Community Credit. This caused a number of small distributed solar projects that had applied for and were otherwise eligible for a higher NY-Sun incentive award, to be required, per the applicable tariff, to accept the subsequently allocated Community Credit and therefore, a lower NY-Sun incentive rate. Likewise, community solar projects that were awarded the higher NY-Sun Multifamily Affordable Housing Incentive after the exhaustion of the Con Edison Community Credit tranche, have been required, per the applicable tariff, to accept the recycled Community Credit and therefore, a lower NY-Sun incentive rate. This shift significantly, and often detrimentally, frustrated project financing.

In identifying the projects that have applied for the higher NY-Sun incentive prior to Con Edison's allocation of Community Credit where Con Edison's allocation of credited was after the Con Edison's Tranche Threshold Notice dated October 6, 2021, NYSERDA has identified at least 46 projects in the NY-Sun pipeline included in the "Preliminary List" in the Attachment. Out of the identified 46 projects, approximately 30 are or will be serving regulated multifamily affordable housing customers. It is crucial to note that these 30 projects represent over 15% of the current pipeline for the NY-Sun Multifamily Affordable Housing Incentive in the Con Edison service territory. Of the remaining 17 projects, 15 are less than 1 MWdc in size. Having to lose a higher upfront NY-Sun incentive is burdening some of these projects with cashflow challenges and difficulty obtaining or maintaining project financier approvals. Further, due to the complexities of the transition from Community Credit, for a subset of these projects, NYSERDA has fully paid the previously approved higher NY-Sun incentives.

In light of the identified uncertainty and market confusion that resulted due to the misalignment in project incentive application, project financing, project development timeline and availability of Con Edison community credit, NYSERDA requests the Commission to allow the impacted projects, as identified in the Attachment, that – (i) applied for, and as of this filing, were awarded the higher NY-Sun Incentive or Community Adder; and (ii) were allocated "recycled" Con Edison Community Credit after the exhaustion of the Con Edison Community Credit tranche on October 6, 2021; be allowed to exercise a one-time option to reject the subsequently allocated Community Credit. NYSERDA underscores that the requested relief appears to not pose any negative consequences for ratepayers. NYSERDA calculates that the Con Edison Community Credit provides an incentive equivalent to approximately \$1.40 per Watt DC

¹⁷ The April 2022 Order at P. 40.

(paid over the twenty-five-year tariff period) while the incremental NY-Sun incentives that would be maintained by projects exercising the proposed one-time forfeiture of Community Credit, range from \$0.50 to \$1.20 per Watt DC, depending on project-specific characteristics.

Subsequent to any Commission action on this matter, NYSERDA will, in consultation with Con Edison, file a Final List of impacted projects, which may choose to exercise the proposed option to forego the Community Credit.¹⁸ NYSERDA proposes that projects would exercise their option by making the selection, within sixty (60) days of the filing of the Final List, on a form that would be posted on Con Edison's Interconnection Online Application Portal. Any project that does not inform Con Edison within 60 days, will be deemed to have not exercised the option, and NY-Sun incentives will be adjusted accordingly. For clarity, NYSERDA proposes that projects that are or become operational, but have not yet been paid NY-Sun incentives as of this filing, be eligible to exercise this option and have the Community Credit removed on a go-forward basis.

As noted above, eight projects were allocated the Community Credit, are operational, and have already received payment of the higher NY-Sun incentive amount, totaling \$544,558 above the amount for which these projects should have been eligible. To avoid negative impacts to ratepayers and any further market disruption, NYSERDA proposes a reduction in that amount to the NY-Sun budget for Con Edison MW Block Incentives and Adders, previously approved by Commission in the April 2022 Order. Since the identification of this error, NYSERDA has implemented changes to its invoice review process, including confirmation of each operational project's metering status directly with the utility, to correctly identify projects that received allocations of recycled Community Credit subsequent to their NY-Sun award, and therefore ensure that the payment amount is adjusted as necessary.

NYSERDA believes that the Comments filed in the above referenced docket by Ecogy Energy, filed on March 13, 2023, in response to the Staff proposal, accurately conveyed that the "one time option" to forego the Community Credit was important to maintain certainty for market participants such as themselves.¹⁹ The comments filed by Solar One and the New York Solar Energy Industries

¹⁸ NYSERDA anticipates that the Final List will include fewer projects than the Preliminary List in the Attachment, as in the interim, certain impacted projects may proactively choose to maintain their Community Credit allocation and accepted adjusted NY-Sun incentive, or, alternatively, change their metering type (per the current tariff) to become ineligible for the Community Credit and thus eligible to maintain the higher NY-Sun incentive award.

¹⁹ Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Public Comments by Ecogy Energy, March 13, 2023.

Association (NYSEIA) on April 14, 2023, also support the impacted solar projects' ability to exercise a one-time option to select the Community Credit as capacity becomes available.²⁰

Conclusion

In order to address the above discussed unintended financial impacts on certain Community Solar projects, and to negate the regulatory uncertainty and market confusion, NYSERDA requests the Commission to allow the impacted projects that – i) applied for, and as of this filing, awarded the higher NY-Sun Incentive or Community Adder; and (ii) were allocated Con Edison Community Credit after exhaustion of the Con Edison Community Credit tranche on October 6, 2021, be allowed to exercise a one-time option to reject the allocated Community Credit. Further, for the projects that were allocated the Community Credit, are operational, and have already received the higher NY-Sun incentive amount, NYSERDA proposes a reduction in the already rendered NY-Sun incentive amount to the NY-Sun budget for Con Edison MW Block Incentives and Adders, previously approved by Commission in the April 2022 Order.

Respectfully submitted,



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Submission date: September 13, 2023

²⁰ Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Public Comments by Solar One and the New York Solar Energy Industries Association, April 14, 2023.

ATTACHMENT

PRELIMINARY LIST OF IMPACTED PROJECTS

CESIR ID
MC-606449
MC-606589
MC-606594
MC-606596
SDG-41661
MC-606601
LDG-02992
MC-608715
SDG-42073
LDG-02990
MC-562272
LDG-02991
MC-607635
LDG-02977
LDG-02981
MC-562944
LDG-02975
LDG-02973
LDG-02972
MC-562909
SDG-42319
SDG-42342
MC-545818
MC-541877
MC-567631
MC-588173
MC-554938
LDG-02987
LDG-02988
LDG-02983
LDG-02986
LDG-02431
MC-589311
SDG-45451
SDG-47367
MC-589283

LDG-03865
LDG-03704
LDG-03566
LDG-03565
MC-595556
SDG-49640
SDG-49641
SDG-49642
SDG-49643