STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

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

CASE 17-E-0603 – In the Matter of Maintenance Tier Applications.

DEPARTMENT OF PUBLIC SERVICE STAFF PROPOSAL

As described herein, Department of Public Service staff (DPS Staff) recommends modifications to the award cap for applications under the Clean Energy Standard Maintenance Tier. As background, on April 14, 2005, the Public Service Commission (Commission) approved an Implementation Plan for the Renewable Portfolio Standard (RPS) Program.[1] In October 2005, the Commission adopted the RPS Maintenance Tier in order to provide financial assistance to existing run-of-river hydroelectric facilities of 5 megawatts (MW) or less, wind facilities, and biomass direct combustion facilities that are at risk of ceasing operation or being abandoned based on the specific circumstances of the facility.[2] To be eligible, facilities must have begun commercial operation any time prior to January 1, 2003, and have been included in New York's baseline of renewable resources calculated when the former RPS program was first adopted. The purpose of the maintenance resource category is to avoid losing valuable baseline renewable resources that may be financially unable to continue operations. The Commission established the case-by-case

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[1] Case 03-E-0188, Large-Scale Renewable Program and a Clean Energy Standard, Order Approving Implementation Plan, Adopting Clarifications and Modifying Environmental Disclosure Program (issued April 14, 2005).

[2] Case 03-E-0188, supra, Order Approving Modifications to Maintenance Resource Category, (issued October 31, 2005).

review approach to establish the financial viability of certain existing renewable resources to determine the specific financial conditions under which such facilities would be at risk. The Commission stated that the level of support should by no means be any more than the level required to encourage new renewable generation development.

The Commission continued the Maintenance Tier program with the adoption of the Clean Energy Standard (CES) in 2016,[3] with program requirements remaining the same as under the RPS.[4] In March 2018, the Commission adopted revisions to the Maintenance Tier program by: (1) expanding eligibility to include facilities in operation prior to January 1, 2015, (2) establishing delivery requirements consistent with those for Tier 1 of the CES; (3) increasing the size of eligible hydroelectric facilities from 5 MW to 10 MW; (4) revising the "to-go-cost" standard; (5) providing for a streamlined review process, while also maintaining a more detailed review process to suit the various needs of individual facilities; and (6) establishing a standard contract term of three years with the potential for contract renewals.[5] The Commission reiterated that the main objective of the Maintenance Tier program is to avoid the cost of replacing an existing facility with a new facility. Because paying more to maintain an existing

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[3] Case 15-E-0302, Clean Energy Standard, Order Adopting a Clean Energy Standard (issued August 1, 2016).

[4] Under the Climate Leadership and Community Protection Act (CLCPA) a renewable energy resource is defined as "systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity." The CLCPA eliminates technologies originally eligible under the RPS. See, Chapter 106 of the Laws of 2019 (codified, in part, in Public Service Law §66-p). The CLCPA became effective on January 1, 2020.

[5] Case 15-E-0302, Order Adopting Measures for the Retention of Existing Renewable Baseline Resources (issued March 16, 2018).

facility than the cost of a new facility contravenes this cost savings objective, the Commission capped Maintenance Tier awards at the most current Tier 1 Renewable Energy Certificate (REC) price, per the most recently published large-scale renewable solicitation.

On January 16, 2020, the Commission adopted changes to the Tier 1 REC procurement process, adopting the use of Index-RECs instead of the then existing fixed-price REC structure.[6] The design of the Index-REC makes it difficult to calculate the average weighted price of the Tier 1 REC due to the variable nature of an Index-REC, and thus the Commission has adjusted that calculation in recent Maintenance Tier awards. The Commission stated that, because the Tier 1 procurements now utilize an Index REC methodology, for purposes of maintenance awards, the cap is calculated using the average strike price from the most recent Renewable Energy Standard solicitation, minus forecasted New York Independent System Operator, Inc. (NYISO) energy and capacity prices ("reference price") for the NYISO Zone in which the facility is located.[7]

On October 17, 2024, the Commission approved a compensation mechanism for baseline/legacy hydroelectric renewable facilities as part of the Environmental Value (E-Value) portion of the Value of Distributed Energy Resources (VDER) Value Stack.[8] Instead of providing baseline hydroelectric renewable facilities with the same E-Value as new generation facilities, the Commission directed that those hydroelectric generating facilities in service before January 1, 2015, and up to and including 5 megawatts (MWs), to have

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[6] Case 15-E-0302, Order Modifying Tier 1 Renewable Procurements (issued January 16, 2020).

[7] Case 17-E-0603, Order Approving Maintenance Tier Support (issued October 7, 2021).

[8] Case 15-E-0751, et al., Value of Distributed Energy Resources, Order Approving Compensation for Hydroelectric Baseline Generating Facilities (issued October 17, 2024).

the opportunity to receive a modified form of the E-Value, called the "H-Value," set at 75 percent of the current E-Value.

Because of the variability of the Tier 1 REC price referenced above, the DPS Staff proposes to use the Commission-approved H-Value as the award cap going forward for eligible Maintenance Tier applications. DPS Staff asserts that the current award cap, using the average Index-REC strike price method, is not an accurate characterization of the current Tier 1 REC price due to the variable nature of the components that make up the strike price – energy, capacity and REC – making it difficult to accurately calculate the average REC price from the latest solicitation. Moreover, the Index-REC approach relies on forecasted values instead of the true REC value, inserting additional uncertainty regarding the Maintenance Tier award cap. On the other hand, DPS Staff's proposed approach to cap maintenance awards at the H-Value should provide transparency to potential Maintenance Tier applicants and more certainty in compensation for the length of the contract and bring consistency among programs that support existing renewable facilities.

The current E-Value is $0.03103/kWh, and thus the current H-Value is $0.02325/kWh, and is paid out within the confines of the Community Distributed Generation program for a maximum of 25 years. In this context, DPS Staff proposes that maintenance awards capped at the H-Value would conform to the ten-year contract tenor recently adopted by the Commission for purposes of Maintenance Tier awards. As part of the recent CES Biennial Review, the contract tenor for maintenance awards was extended from three years to ten years.[9]

[9] Case 15-E-0302, Order Adopting Clean Energy Standard Biennial Review as Final and Making Other Findings, (issued May 15, 2025) (CES Biennial Review).