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VIA ELECTRONIC DELIVERY

Honorable Michelle L. Phillips
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

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

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

PETITION OF THE JOINT UTILITIES CONCERNING THE TRADE OF VALUE OF DISTRIBUTED ENERGY RESOURCES TIER 1 RENEWABLE ENERGY CREDITS

Dear Secretary Phillips:

As an alternative to the directive in the Public Service Commission’s April 20, 2023 *Order Modifying Clean Energy Standard Tier 1 Obligations*, enclosed please find for filing in the subject proceedings the petition of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (collectively, “Joint Utilities”) seeking the ability to sell and transfer banked Tier 1 Value of Distributed Energy Resources (“VDER”) Renewable Energy Credits (“RECs”) among the Joint Utilities for compliance years 2023 and 2024 where any remaining Tier 1 VDER RECs at the end of the 2024 compliance period would be required to be purchased by the New York State Energy Research and Development Authority.

Respectfully submitted on behalf of
the Joint Utilities,

/s/ Janet M. Audunson

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**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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

Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard) Case 15-E-0302
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**PETITION OF THE JOINT UTILITIES CONCERNING THE TRADE OF VALUE OF
DISTRIBUTED ENERGY RESOURCES TIER 1 RENEWABLE ENERGY CREDITS**

The New York State Public Service Commission’s (Commission) August 1, 2016 Clean Energy Standard (CES) Framework Order created the CES to accelerate the development of clean energy generation resources throughout New York State.¹ The CES includes a Tier 1 program “designed to foster development of new renewable energy resources that obligates each [New York load serving entity (LSE)] to serve its retail customers with new renewable resources, evidenced by the purchase of qualifying Tier 1 [Renewable Energy Credits (RECs)].”²

The CES and Tier 1 programs have evolved over the last seven years. Most recently, the Commission’s Tier 1 Transition Order directed the transition of the Tier 1 Program from an annual compliance obligation with LSEs purchasing RECs in the market through auctions and self-supply to a load share ratio approach that is comparable to the method used for other CES

¹ Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard* (CES Proceeding), Order Adopting a Clean Energy Standard (issued August 1, 2016) (CES Framework Order).

² CES Proceeding, Order Modifying Clean Energy Standard Tier 1 Obligations (issued April 20, 2023) (CES Tier 1 Transition Order), p. 2.

obligations³ as well as the Offshore Wind Standard.⁴ Modifications to the implementation of the Tier 1 program have led to significant success in bringing clean energy resources to New York State. However, certain unchanged features of the existing Tier 1 program are expected to cause unintended consequences for the Joint Utilities⁵ when the transition to the load share ratio methodology takes effect. Specifically, the prohibition on transferring Tier 1 Value of Distributed Energy Resources (VDER) RECs among the Joint Utilities will result in the forfeiture of approximately 1.1 million RECs at the end of CES compliance year 2024 when the load share ratio methodology begins to apply. If this prohibition remains in place, it will result in over \$33 million in unnecessary charges to utility customers.

For these reasons and as discussed below, the Joint Utilities hereby petition the Commission for a modification of policies to enable the transfer of banked Tier 1 VDER RECs among the Joint Utilities at the close of CES compliance years 2023 and 2024 to eliminate unnecessary costs to their respective customers.⁶

I. DISCUSSION

The Commission's March 9, 2017 VDER Phase 1 Order established restrictions on what entities were eligible to purchase RECs from the New York State Energy Research and Development Authority (NYSERDA) and on the transferability of NYSERDA-procured Tier 1

³ The load share ratio approach is currently used to allocate LSE obligations under CES Tier 2 (the competitive program for baseline resources), Tier 3 (the Zero Emission Credit (ZEC) program), and Tier 4 (which applies to delivery of renewable energy into downstate load centers).

⁴ CES Proceeding, CES Tier 1 Transition Order, pp. 1-2.

⁵ The Joint Utilities are Central Hudson Gas & Electric Corporation (Central Hudson), Consolidated Edison Company of New York, Inc. (Con Edison), New York State Electric & Gas Corporation (NYSEG), Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), Orange & Rockland Utilities, Inc. (Orange & Rockland), and Rochester Gas and Electric Corporation (RG&E).

⁶ *I.e.*, the sale of surplus RECs by an LSE that has met its obligations to another LSE that is short of RECs and would otherwise need to make an alternative compliance payment (ACP).

RECs during the 2017 compliance period.⁷ The Commission directed NYSERDA to offer the RECs for sale in the compliance period only to each participating LSE. While the Commission prohibited LSEs from trading RECs among themselves at that time, the CES Framework Order did provide that excess RECs could be sold back to NYSERDA at cost if any were not required to demonstrate compliance. The prohibition on the transfer of RECs was formalized in Appendix B of the VDER Phase 1 Order.⁸

However, the Commission has noted that the limitations on transference of RECs applicable in the first implementation year may not be appropriate in future periods. As NYSERDA and DPS Staff have noted, “[w]hile the approach taken for the 2017 compliance period was appropriate for the initial year of the RES [Renewable Energy Standard] during which relatively few RECs were available for sale by NYSERDA, the CES August Order [CES Framework Order] required that, for subsequent years, Staff should propose a methodology for pricing and offering for sale NYSERDA procured Tier 1 RECs.”⁹

The potential costs that stem from the inability to sell Tier 1 VDER RECs among the Joint Utilities are significant. Table 1, below, indicates the current forecasted volume of Tier 1 RECs each of the Joint Utilities expect will be banked (i.e., unused for CES compliance) at the end of compliance year 2024.

⁷ Case 15-E-0751, *In the Matter of the Value of Distributed Energy Resources*, Order on Net Energy Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters (March 9, 2017) (VDER Phase 1 Order).

⁸ *Id.*, Appendix B, p. B-1.

⁹ CES Proceeding, NYSERDA and Staff of the New York State Department of Public Service Clean Energy Standard Final Phase 2 Implementation Plan (filed December 18, 2017), p. 8.

Table 1: Estimated Tier 1 RECs that Will Be Banked at the End of Compliance Year 2024

Central Hudson	-
Con Edison	-
Orange & Rockland	2,200
National Grid	550,000
NYSEG	390,000
RG&E	170,000
Total:	1,112,200

This balance, at a forecasted average cost of \$30/REC, indicates a potential cost of approximately \$33 million to customers of those utilities that will have banked RECs at the end of 2024. In addition, the other utilities would be required to pay an Alternative Compliance Payment premium in the event of any shortfall in Tier 1 REC procurements, which will add additional costs to those utilities' customers.

II. PROPOSED REMEDY

The Joint Utilities hereby request that the Commission grant a variance from the requirements in Appendix B of the VDER Phase 1 Order to explicitly permit the Joint Utilities to transfer and sell banked Tier 1 VDER RECs among each other at established tariff rates for compliance periods 2023 and 2024.¹⁰ Furthermore, the Joint Utilities request that the Commission direct NYSERDA to purchase any residual VDER RECs that are not needed by any of the Joint Utilities to establish compliance for periods prior to the formal transition of the CES Tier 1 program to a load share ratio compliance methodology, which will begin with the 2025 compliance period.

In the case that the Commission determines that the transfer and sale of Tier 1 VDER RECs among the Joint Utilities should not be permitted at this time, the Joint Utilities request

¹⁰ The compliance period begins on January 1 and ends on December 31 of each calendar year.

that the Commission direct NYSERDA to purchase all banked Tier 1 VDER RECs that exceed compliance obligations and that NYSERDA include these banked purchases in the load share ratio compliance methodology that will begin in 2025.

III. CONCLUSION

It is critical that customer interests remain protected as the CES Tier 1 program continues to evolve. In particular, the Joint Utilities urge the Commission to ensure that the value of banked Tier 1 VDER RECs, which will have been purchased through customer charges on utility bills, is not forfeited at the end of the 2024 compliance period. To eliminate the possibility that this value is lost, the Joint Utilities request that the Commission (i) explicitly permit the sale and transfer of any such banked Tier 1 VDER RECs among the Joint Utilities for compliance years 2023 and 2024, and (ii) direct NYSERDA to purchase any remaining Tier 1 VDER RECs at the end of the 2024 compliance period. In the alternative, should the Commission find that the sale of Tier 1 VDER RECs among the Joint Utilities should not be permitted, the Joint Utilities request that the Commission direct NYSERDA to purchase all banked Tier 1 VDER RECs of the Joint Utilities at the conclusion of the 2024 compliance period.

Dated: November 14, 2023

Respectfully submitted,

**NIAGARA MOHAWK POWER
CORPORATION d/b/a NATIONAL GRID**

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**CONSOLIDATED EDISON COMPANY OF
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