April 22,2016

The New York Solar Energy Industries Association (NYSEIA) respectfully submits the following comments and recommendations on “In the Matter the Implementation of a Large Scale Renewable Program and a Clean Energy Standard” (Case Number 15-E-0302). NYSEIA has structured its comments around supporting the proposal from the Solar Energy Industries Association (SEIA) and Vote Solar on this matter, highlighting the aspects of that proposal that NYSEIA believes are critical to a successful program, and also identifying additional aspects of the proposed program that need further attention or emphasis. As this is a critical time for the growth and success of solar in New York, NYSEIA appreciates the opportunity to share our views on this important matter, and we look forward to the next steps in this proceeding.

NYSEIA Supports SEIA and Vote Solar’s Comments in this Proceeding

SEIA and Vote Solar’s comments on the Clean Energy Standard (CES) are thorough in responding to the Staff White Paper, and they outline a suite of data-driven recommendations and policy mechanisms that would enable the robust growth of New York’s portfolio of utility-scale renewables to meet the 50% by 2030 target. Below are the key aspects of SEIA and Vote Solar’s proposal for the CES structure and methodology that NYSEIA strongly supports. In the CES it is critical that:

- **Firm Targets Should be Established Beyond 2020:** SEIA and Vote Solar recommend the CES clean electricity compliance targets be set upfront through 2030, and not just through 2020 currently as the Staff White Paper currently proposes. Setting firm targets beyond 2020 upfront is essential for creating long-term certainty for renewable energy market participants and establishing the strong market signal needed for the CES to be successful, and there could definitely be a mechanism for adjusting these targets if needed in the future. NYSEIA also recommends that the CES should make clear that after 2030 the targets established for 2030 should be at a minimum maintained until 2050 and not phased out over time.
- **A Tiered Structure Like the One Proposed Should be Used:** SEIA and Vote Solar support the proposed three-tier structure, which creates separate tiers for new renewables, existing renewables, and nuclear, and mandates different contributions from each tier. We strongly agree that it makes sense to have separate tiers by the age of projects (as older projects may have already paid off much of their costs and/or received other incentives) and occasionally by

technology. This separation into tiers will allow New York to achieve the lowest cost procurement of new renewable energy facilities while maintaining existing renewable energy generation and other low-carbon generation like nuclear.

- **CES Targets Should Be More Frontloaded to Take Advantage of the Important Cost Reducing Federal Incentives:** As currently proposed, most of the CES ramp up to 50% occurs after 2020 in the later years of the program. The pace of the target ramp up is an important consideration. Both solar and wind projects are eligible for federal tax incentives that begin to step down in the next five years, and drop off significantly by 2022 or earlier. Specifically, the wind production tax credit begins its step down in 2017, with a phase out in 2020. Similarly, the solar investment tax credit begins its step down in 2020, with a leveling off to 10% in 2022. NYSEIA agrees with SEIA and Vote Solar's position that in order to maximize benefit to New Yorkers of these federal incentives and get these key technologies into the larger scale deployment New York needs as mentioned above, the Commission should increase the CES compliance targets in the years 2017-2021.
- **A Solar Sub-Tier Needs to be Added to the Proposed Tier 1 to Ensure the Growth of Utility Scale Solar, Which is An Essential Resource for New York:** We support SEIA and Vote Solar's position that the creation of a solar sub-tier is needed for the growth of utility scale solar, and that such solar will be essential to meeting the CES goals. SEIA and Vote Solar reference other states that have successfully animated solar markets with similar programs, and solar sub-tiers have proven to be highly effective in diverse contexts across the country. Further, SEIA and Vote Solar highlight that New York's previous Main Tier program failed to meet the previous statewide renewable energy goals and specifically failed to incentivize any solar development. NYSEIA agrees that it would not be in New York's interest to repeat that outcome. NYSEIA also agrees that more attention should be given to reconsidering sub-tiers, for as SEIA and Vote Solar point out the Staff White Paper's statement that "the availability of co-incentives such as NY-Sun supports the recommended approach of not having Tier 1 sub-tiers" is not correct. As SEIA and Vote Solar eloquently points out, co-incentives for solar (e.g. NY-Sun) are simply unavailable to utility-scale solar projects.

  Further highlighting NYSEIA's concern about the amount of utility-scale solar that will result without a solar sub-tier are the solar deployment projections on pages 35-37 of the Clean Energy Standard White Paper – Cost Study. Without such a solar sub-tier, the Clean Energy Standard White Paper – Cost Study projects that no utility scale solar will be brought on-line until 2021. This would mean that a significant delay would occur before the utility solar market was animated in New York, wasting critical time and missing the key opportunity for federal support of utility scale solar, which exists now through the federal investment tax credit and will be substantially reduced starting in 2022. NYSEIA does not believe that including a solar sub-tier would layer burdensome administrative costs or complexity to CES nor dramatically increase costs, and requests that this be seriously examined.

- **The Proposed Overall REC Based Mechanism Makes Sense to Allow Flexibility in Achieving Compliance With the CES Across the Utility Territories:** We agree with SEIA and Vote Solar in supporting Staff's recommendation of the use of a renewable energy credit (REC) based system to deliver and measure compliance with the CES. The flexibility and liquidity of such a system is very valuable, but as SEIA and Vote Solar emphasize stability and predictability are also key and must be carefully built in to such a system.
- **The LSEs Are Logical Entities Responsible for Compliance With the CES, But Long-Term Contracts Are Essential:** We agree with SEIA and Vote Solar that the proposed requirement for Load Serving Entities (LSEs) to be the obligated entities required to procure sufficient RECs each year to meet the mandated percentage of retail load makes sense. This is an established policy design implemented in other REC markets across the country. NYSEIA, however, as noted below, strongly recommends that this structure alone is not enough. As the LSEs, especially the ESCOs, have enrollment that fluctuates annually, the LSEs would likely tend to meet the CES requirements just on a yearly basis. Such a procurement model would be a very difficult for large scale solar and many other types of renewable facilities, as there would be no set commitment for REC purchases or the associated revenue streams, and such commitments are typically essential for successful long-term project financing. Thus, we recommend that a significant proportion of the LSEs obligations be mandated in the CES to involve long-term contracts as described below.
- **Long-Term Bundled Contracts Should be the Dominant Procurement Mechanism and Comprise The Majority of the CES Mandate:** NYSEIA agrees with SEIA and Vote Solar's recommendation that the Commission establish 20-year bundled energy and REC contracts as the primary procurement mechanism in the CES. These contracts would be between developers and the Electric Distribution Companies (EDCs) as creditworthy counterparties, and the procurements be administered by NYSERDA on a preset regular schedule. The recent Cost Analysis demonstrated that bundled contracts are the lowest cost procurement option, benefitting both ratepayers and developers. Any concerns about wholesale price drops and technology cost reductions are far outweighed by such savings and stability. NYSEIA believes that long-term contracts for RECs only, while better than no long-term contracts at all, would be insufficient to drive development of the scale and pace needed.
- **Alternative Compliance Payments Should Be Set Above Market Price and Only Some Banking/Limited Borrowing Should Be Allowed By LSEs:** The Alternative Compliance Payment (ACP) needs to be set at a sufficiently high level to motivate obligated entities to meet requirements through renewable energy procurement. SEIA and Vote Solar suggest that the ACP be set at a level above expected market prices. ACP prices should be reviewed periodically and revenues be used to fund activities and programs that facilitate renewable energy development in New York or otherwise benefit ratepayers. NYSEIA supports SEIA and Vote Solar's comments in this regard and adds that the ACP should serve as a substantial penalty for non-compliance with CES. To that end, NYSEIA recommends the ACP should be set at a level 50% above the expected

market price of RECs. Along the same lines, the CES annual targets are meant to drive renewables energy procurement on a steady annual basis, and so only some banking and very limited borrowing should be allowed.

- **Imported Electricity Should Qualify for the CES If Meets Certain Requirements As Proposed By Staff:** SEIA and Vote Solar support Staff's recommendation that "renewable generation located in control areas adjacent to the NYISO control area will be eligible so long as the generation is accompanied with documentation of a contract path between the generator and the purchaser that, among other things, includes provision of transmission or transmission rights for delivering the generation via the NYISO." NYSEIA agrees that this is a reasonable method that provides some flexibility but guarantees New Yorker's benefit from renewable energy generated under the CES.
- **Utility-Owned Generation Should Be Limited:** Utility-owned generation (UOG) has been an important issue in the CES. SEIA and Vote Solar comments state that UOG should only be permitted under narrow circumstances where there has been an adequate showing that a market need exists that cannot be otherwise met through competition or third-party developers. Importantly, SEIA and Vote Solar emphasize that failure in market design and/or solicitation mechanism should not be reasons for permitting UOG. NYSEIA agrees that SEIA and Vote Solar's proposal is consistent with principles laid out in REV Track 1 Order.
- **Non-Utility Offtakers and the "Self Initiated" Market Should Be Able to Grow Alongside the CES:** NYSEIA agrees with SEIA, Vote Solar and Staff that New York should not discount the interest amongst non-utility entities in procuring renewable energy as a hedge against electricity price volatility and as a means of meeting corporate sustainability commitments, but we strongly agree with SEIA and Vote Solar that it may be slow to develop and should not count towards the 50% mandate. Thus, the self-initiated market should be non-compliance. SEIA and Vote Solar recommend the self-initiated market be split between 1) LSEs, CCAs, and merchant and 2) large customers. The CES should pursue policy mechanisms that facilitate non-utility participation. NYSEIA supports this effort and looks forward to collaborating on creative solutions to open access to non-utility offtakers.

NYSEIA Recommends Additional Details Beyond SEIA and Vote Solar's Comments

While NYSEIA strongly supports SEIA and Vote Solar's Comments, there are some aspects of the proposal that we feel need further attention and detailing. These aspects are explained below:

- **A Tier 0 for Existing Renewable Electricity Facilities Ineligible to Receive RECs Should be Added to Bring Simplicity and Clarity to Tracking the CES:** NYSEIA recommends that it would make sense for the CES to have an additional Tier 0 for existing renewable generation facilities that will not qualify for RECs under the CES but will still be counted toward New York's renewable electricity goal. Future renewable generation facilities may also arise that do not qualify for RECs, and if so, they could be counted under this tier as well. We make this request because as the proposed tier structure is currently configured, there is a significant amount of existing renewable electricity generation that would not fit under the proposed Tier 2 for existing generation. NYSEIA agrees with and has no issue with the current structure of Tier 2, but we would recommend that it is very important from an accounting and transparency perspective to clearly and explicitly track these other facilities so there is no ambiguity about where the state stands in relation to the CES goals and also so that the status of these facilities is monitored. For example, in the summary table of the Staff White Paper on pg 9, New York is supposed to have 42,832 GWhs of renewable electricity online by 2017, but the Tier-based tables (for Tier 1 and 2) for 2017 on pg 45 add to a total of 18,797 GWhs. That is a big discrepancy and again this appears to be because there is a significant amount of existing renewable generation that would count towards the CES goal but does not qualify for Tier 2. The simple addition of this Tier 0 would eliminate this complexity going forward and put an accounting mechanism into place make the tracking of the CES much easier.

- **More Detail is Needed on How the LSE Mandate Will Connect with the Long-Term Contract Procurement:** While NYSEIA strongly agrees with the LSEs as the mandated entities and with long-term contracts as the needed dominant procurement mechanism, NYSEIA suggests that it be further clarified how LSEs will meet their annual renewable energy obligations by purchases of parts of these contracts from EDCs. According to Staff's proposal, the EDCs will effectively be taking long positions in RECs (via long-term bundled contracts) and reselling short positions to LSEs. To create a marketplace with supply and demand equilibrium, where the EDCs are not stuck in long positions unable to sell RECs, the Commission should consider a mechanism that requires a large portion of LSE REC purchases must be from EDCs.
- **RECs Should Apply to the Behind the Meter Market Projects, But This Should be Carefully Done and Be Reevaluated Going Forward:** An important topic in the CES is whether behind the meter distributed generation should be eligible for RECs. SEIA and Vote Solar's comments support this, and NYSEIA agrees that this initially makes sense, but recommends that this be done with care and that it be reevaluated in the future as conditions change. Specifically, NYSEIA views the long-term inclusion of behind the meter generation in the REC market as having the potential to complicate the ultimate transition to a Successor Tariff that fully and fairly values the benefits delivered by renewable energy generation. Of particular importance in this view is the fact that we would not want to create any confusion around RECs vs the valuation of the environmental and societal components of the Successor Tariff. As many parties correctly argued and the Commission concluded in their BCA order in January, RECs do not correspond particularly closely to the true environmental and social value of the energy generated and should not be used as a proxy for those

components in the Successor Tariff if behind the meter generation is eligible for RECs.

We appreciate the opportunity to submit these comments and look forward to continuing to work with DPS Staff, the Commission, the Utilities, NYSERDA and other stakeholders.

Respectfully submitted,

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