



May 29, 2025

VIA ELECTRONIC FILING

secretary@dps.ny.gov

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

Re: Petition of CleanChoice Energy, Inc. for a Declaratory Ruling Clarifying that Large-Scale Renewable Projects May Conditionally Sell Tier 1 Renewable Energy Credits to Third Party Market Participants (25-E-0270)

Dear Secretary Phillips:

The Alliance for Clean Energy New York¹ (ACE NY) would like to convey our support for the CleanChoice Energy Petition seeking a declaratory ruling that large-scale renewable energy projects (“LSR projects”) may sell uncontracted renewable energy credits (“RECs”) to third parties and that energy service companies (“ESCOs”) remain permitted to make bilateral REC transactions with entities besides NYSERDA. As noted in the Petition, the RECs referred to include both Tier 1 RECs as well as any non-Tier 1 RECs generated by qualifying

¹ ACE NY is a member-based organization with a mission of promoting the use of clean, renewable electricity technologies and energy efficiency in New York State to increase energy diversity and security, boost economic development, improve public health, and reduce air pollution. ACE NY’s diverse membership includes companies engaged in the full range of clean energy technologies as well as consultants, academic and financial institutions, and not-for-profit organizations interested in the organization’s mission.

renewable resources that are not currently under contract with NYSERDA. ACE NY member companies focused on the development of LSR Projects have expressed great interest in this petition and the outcome it seeks.

The December 12, 2019 Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process (in Case 15-M-0127)² specified that ESCOs may meet minimum renewable requirements by purchasing RECs from eligible renewable generators through bilateral agreements or through NYGATS (among other options), however, unclear language in the April 20, 2023 Order Modifying Clean Energy Standard Tier 1 Obligations (in Case 15-E-0302)³ creates uncertainty that those options to procure unbundled RECs with entities besides NYSERDA are still permitted.

The April 2023 CES Modification Order stated that NYSERDA contracts for 95% of the anticipated generation output of Tier 1 resources, which means that 5% of anticipated Tier 1 resource output remains uncontracted by NYSERDA. The April 2023 Order implies that this 5% remainder of uncontracted Tier 1 RECs “would remain available to support voluntary REC products” but does not specify the contracting method by which these RECs remain available, and to which entities.

The April 2023 Order additionally states that load-serving entities (“LSEs”) may not have the opportunity to purchase Tier 1 RECs from entities other than NYSERDA but does not specify if this is due to lack of market liquidity or if this due to market prohibition.

To resolve this ambiguity, we respectfully request that the Commission consider issuing a declaratory ruling that LSR Projects that have not contracted with NYSERDA are free to sell or transfer their RECs to third party market participants, including but not limited to ESCOs.

² Case 15-M-0127, In the Matter of Eligibility Criteria for Energy Service Companies, Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process (issued Dec. 12, 2019) at 80.

³ Case 15-E-0302, *supra*, Order Modifying Clean Energy Standard Tier 1 Obligations (issued Apr. 20, 2023) (the “CES Modification Order”), at 4.

This ruling would provide options for ACE NY's member companies who develop and own LSR Projects.

Thank you for your consideration of ACE NY's comments. If you have any questions or need additional information, please reach out to me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MW', is positioned above the typed name.

Marguerite Wells

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