



April 24, 2026

VIA ELECTRONIC MAIL

Hon. Michelle L. Phillips, Secretary
State of New York Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350
Email: Secretary@dps.ny.gov

RE: Case 15-E-0302; Comments of the Sierra Club

In response to the Public Service Commission’s (Commission) January 27, 2026 Notice Soliciting Comments, the Sierra Club respectfully submits these comments concerning issues relating to utility ownership of renewable generation. As set forth below, Sierra Club is strongly supportive of continued actions to accelerate renewable development in New York. However, Sierra Club does not believe that allowing utility ownership beyond the circumstances in which it is already authorized is reasonably calculated to address the impediments that have slowed progress to date or benefit electric customers. The primary cause of recent delay has been the unforeseen supply chain disruptions and rapid inflation stemming from a series of global events coupled with the State’s heavy emphasis on bid price and its election to require developers to re-bid projects rather than to negotiate modifications to existing contracts. These challenges were not related to the project developers’ identities and would have similarly impacted utility developers. Moreover, utility ownership presents certain additional risks not present in the current private development model, including the potential to shift risk and cost onto captive electric customers. Ultimately, should the Commission decide to authorize utility ownership, it should do so through a trial structure that limits the capacity of any utility procurement and requires the utilities to demonstrate the claimed ratepayer benefits of this ownership structure.

A. Ownership structure has not been the primary impediment to renewable development in New York since the passage of the Climate Leadership and Community Protection Act

Sierra Club shares the Commission’s desire to accelerate the pace of renewable energy development. Clean, renewable energy provides myriad benefits to New York including improving air and water quality, stabilizing electricity prices, and mitigating climate harms. As the Commission considers the potential for changes to ownership structures for renewable generation, however, it is important that the Commission remain clear-eyed about the causes of delay and the ways that modifying ownership structures may or may not address those root causes. Sierra Club is doubtful that authorizing utility ownership of renewable generation will address the challenges that have stymied development of large-scale renewable energy resources since the passage of the CLCPA.

Overweighting of price in evaluation of bids

Sierra Club is concerned that the Commission's maintenance of the current 70% weighting of price in evaluation of renewable energy bids¹ is compelling renewable developers to underprice risks. As a consequence, winning bids have not been robust enough to withstand supply chain disruptions and tariffs that have escalated development costs. As the Biennial Review notes, "experience has shown that the cheapest project is not necessarily the best value for ratepayers, in particular to the extent lower-priced projects end up unable to successfully reach the deployment stage,"² inefficiently increasing attrition rates and requiring additional procurement in future solicitations.

Sierra Club believes that, in order to ensure timely commercial operation and reliable development, greater emphasis should be placed on the overall value of a project, not just its cost. This includes factors like project feasibility, timely execution, and the ability to meet critical milestones. A project that delivers benefits sooner, even if at a slightly higher cost, may ultimately provide greater value to ratepayers by avoiding delays and missed targets. Therefore, evaluation criteria should prioritize the likelihood of on-time commercial operation, readiness for deployment, and the overall value a project brings to the state's clean energy goals. At a minimum, criteria indicative of the likelihood of successful project development, such as project maturity and prior successful project development, should be given increased weight in future solicitations, and price elements should be commensurately deemphasized in NYSERDA's scoring matrix.

Increased stay-out for re-bid projects

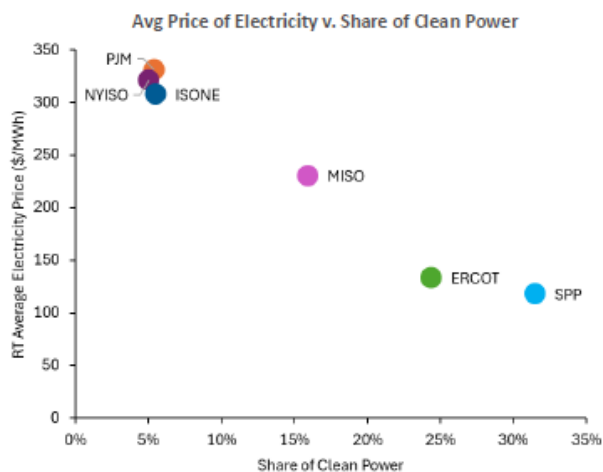
Relatedly, the most recent Tier 1 renewable RFP increases the stay-out period for projects that have failed to execute NYSERDA contracts from one year to three years.³ This requirement is misguided and detrimental to the cost-effective achievement of New York's clean energy goals. The three-year stay-out prevents the projects that are most advanced in their development and, critically, those that are best positioned to save New York money by taking advantage of expiring federal tax credits, from participating in the most recent NYSERDA Tier 1 request for proposals (RFP). Even if their costs have increased since they were originally bid, the projects that have recently canceled their contracts may well be best positioned to provide cost-efficient clean energy to the State.

Renewable energy remains a powerful hedge against volatile fossil fuel prices. During Winter Storm Fern, regions with high penetration of renewable generation experienced the smallest increases in electricity prices.

¹ Order Adopting Clean Energy Standard Biennial Review as Final and Making Other Findings, Case 15-E-0302 (May 15, 2025), at 36.

² DPS & NYSERDA, Draft Clean Energy Standard Biennial Review, Case 15-E-0302 (July 1, 2024), at 64.

³ NYSERDA, Request for Proposals RESRFP25-1, Update to Renewable Energy Standard Purchase of New York Tier 1 Eligible Renewable Energy Certificates Request for Proposals (RFP) No. RESRFP25-1 RFP (updated Nov. 10, 2025), at 24 ("Any project that was the subject of a provisional award under NYSERDA's RESRFP22-1, RESRFP23-1, or RESRFP24-1 solicitations is not eligible under this RFP. For greater clarity, this includes projects that failed to execute NYSERDA's RES Standard Form Agreement for an award in the prior three RES solicitations, or terminated their Agreement from the solicitations.").



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With the price of fossil fuels again soaring, this time as a consequence of the U.S. war in the Middle East, New York should be taking every step possible to accelerate procurement of renewable energy, including supporting projects that can be built quickly, especially those positioned to take advantage of the expiring federal clean energy tax credits. However, because the factors that have slowed renewable development to date—supply chain disruptions and inflation impacting the economics of contract that project developers needed to bid too low and have not been able to renegotiate—authorizing utility ownership would do little to improve the situation.

B. The Commission should not shift development risks onto existing ratepayers; any authorization of utility ownership should be for a limited number of megawatts and include additional safeguards

Sierra Club has significant concerns about the potential for utility ownership of generation to shift risks inherent in project development to existing electric customers without a commensurate benefit to these customers. New York’s current renewable procurement structure places nearly all the development risks on developers. NYSERDA does not pay out on its renewable energy credit (REC) contracts until the contracted facilities are producing energy and generating RECs. And utility customers do not pay out until the utilities purchase those RECs from NYSERDA. While inflation adjusters incorporated into NYSERDA REC contracts can shift some of the risk of cost increases for successfully developed projects onto NYSERDA—and by extension electric customers—ultimately these electric customers bear none of the risks of project failure.

Utilities, both in New York and elsewhere, have a long track record of recovering the costs of unsuccessful projects.⁵ Sierra Club is concerned that, if the Commission were to authorize utility ownership of renewable generation, in order to produce cost savings through lower financing costs it would need to shift the risk of project failure onto ratepayers, and the

⁴ American Clean Power, OSW in NYISO Talking Points (Feb. 2026), at Slide 4.

⁵ Indeed, residents of Long Island are still paying off the costs of the Shoreham nuclear plant, which never produced energy.

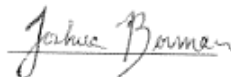
balance would not be net beneficial for customers. Given the Commission's resistance to authorizing post-contracting adjustments for private developers, it would be anomalous for the Commission to effectively enable the same result by authorizing regulated utility development without the ratepayer safeguards that the current competitive contracting process provides.

If the Commission opts to authorize utility ownership, it should limit the scope of the procurement and incorporate additional safeguards. As noted above, it remains to be seen whether utilities will be able to develop renewable generation at a lower cost than private developers, and, if so, how these cost benefits will counterbalance the increased risk to their customers of project development failures. Sierra Club therefore recommends that utilities be required to provide proof of concept by limiting the scope of any initial procurement authorization to a pre-determined number of megawatts.

Moreover, it is critical that if utilities are authorized to own renewable projects, they do not unfairly advantage these projects over those developed by private entities. For example, utilities must be prevented from prioritizing the interconnection of their projects over those in the queue from private developers, and the Commission should require reporting to verify that interconnection timelines for utility-owned projects remain consistent with those for privately-developed projects. Additionally, if utility customers take on risk of project failure from utility developed storage resources, these resources should be operated in the market so as to maximize benefits to their customers, not simply to maximize utility revenue. For example, the resources could be operated to limit the need for other investments and/or maximize integration of renewable energy rather than simply being arbitrated to yield the largest payout for the utility owner. Again, a reporting or audit mechanism could be used to verify that these projects are being operated to optimize benefits to their customers.

Thank you for your consideration.

Respectfully submitted,



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