NEW YORK STATE
PUBLIC SERVICE COMMISSION

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

COMMENTS OF INDEPENDENT POWER PRODUCERS OF NEW YORK, INC. ON THE DEPARTMENT OF PUBLIC SERVICE STAFF'S COST STUDY OF THE CLEAN ENERGY STANDARD WHITE PAPER

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Pursuant to the New York State Public Service Commission's ("Commission") notices soliciting, and extending the deadline to file, initial and reply comments in the above-captioned proceeding,[1] Independent Power Producers of New York, Inc. ("IPPNY")[2] hereby offers its comments on the Cost Study, released on April 8, 2016,[3] in which the Department of Public Service Staff ("DPS" or "Staff") analyzed the costs and benefits of its proposed program structure set forth in its White Paper on the Clean Energy Standard ("CES"), filed on January 25, 2016 ("White Paper"). IPPNY submitted its initial comments on the White Paper on April 22, 2016[4] and filed additional comments replying to a small subset of parties on May 13, 2016.[5]

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[1] Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Notice Extending Comment Period (Mar. 8, 2016); Notice of Comment Period for Staff White Paper and Cost Study (Apr. 8, 2016).

[2] IPPNY is a not-for-profit trade association representing the independent power industry in New York State. Its members include nearly 100 companies involved in the development, operation, and ownership of electric generating facilities and the marketing and sale of electric power in New York's electricity markets. IPPNY's comments do not necessarily represent the positions of each of its members.

[3] Case 15-E-0302, *supra*, Clean Energy Standard White Paper – Cost Study (Apr. 8, 2016) ("Cost Study").

[4] Case 15-E-0302, *supra*, Comments of Independent Power Producers of New York, Inc. (Apr. 22, 2016) ("IPPNY Initial Comments").

[5] Case 15-E-0302, *supra*, Reply Comments of Independent Power Producers of New York, Inc. (May 13, 2016) ("IPPNY Reply Comments").

IPPNY is filing these comments in an effort to clarify and, ultimately, strengthen the Cost Study. IPPNY has been a strong and consistent supporter of the Commission's Renewable Portfolio Standard ("RPS") and the Commission's clean energy goals of reducing carbon dioxide ("carbon") emissions in a manner that is consistent with, and does not undermine, wholesale competitive electricity markets. IPPNY believes an accurate Cost Study is an essential tool in achieving those goals. IPPNY's comments raise issues and ask questions that will enhance the Cost Study's detail, clarity, and accuracy, thereby helping to further the State's goals.

As demonstrated herein, the Cost Study contains a number of assumptions concerning the costs of meeting the State's clean energy goals. In addition, the results of the ongoing State Resource Planning Study ("SRP Study") being conducted jointly by the electric distribution companies and the New York Independent System Operator, Inc. ("NYISO") is likely to have a substantial impact on some or all of the Cost Study's assumptions and analysis studied as of this time and may reveal the need to assess other costs (*e.g.*, the costs of significant transmission upgrades). As IPPNY noted in its Initial Comments, "[t]he Commission cannot reasonably be in a position to make sound policy decisions on the major issues before it, which could have significant cost impacts and reliability implications," in the absence of such vital information.[6] The Commission should (1) direct Staff to provide the information underlying its assumptions as requested herein to allow stakeholders the opportunity to assess the validity of the Cost Study's analyses, and (2) postpone any decision-making on the CES until the NYISO completes the SRP Study and all stakeholders have a complete and accurate assessment of the CES's likely costs and impacts.

[6] IPPNY Initial Comments at 7.

I. The Commission Should Direct Staff to Provide More Detail about the Assumptions on Which It Based Its Analyses.

The Cost Study offers initial estimates of the cost impacts the CES is likely to have. Specifically, the Cost Study predicts that the CES will create negative net costs[7] and cause only small rate increases.[8] Unfortunately, the Cost Study does not contain sufficient detail about the assumptions Staff used, such as for price forecasts, program costs, and other critical factors, for any stakeholder to validate the Cost Study's methodology or conclusions. Based on the limited information the Cost Study does contain, at least some of its assumptions and conclusions seem questionable. The Commission should therefore direct Staff to provide more detail about the issues raised herein to ensure the accuracy of the information on which it bases CES policy decisions.

1. The energy and capacity price forecasts appear inordinately high.

Several of Staff's conclusions in the Cost Study seem to assume an increase in market clearing prices over time. For example, the Cost Study estimates that wholesale energy prices will grow by approximately 60% before the year 2020 in lower-priced zones where onshore wind installations are likely,[9] but the basis for assuming this rapid price escalation is unclear. The Cost Study states that it used "the 2015 NYISO CARIS energy price forecast trend, adjusted downward to align with actual energy prices in 2015," and that, "by virtue of its adjustment method . . . implicitly assumed," the monetized cost of carbon is adjusted and extrapolated proportionally.[10] The Cost Study does not provide any detail on how it performed the "adjustment" process. Such implicit assumptions do not allow other stakeholders to assess those

[7] *See, e.g.,* Cost Study at 5, 41.

[8] *See id.* at 5, 96.

[9] *Id.* at 44.

[10] *Id.*

assumptions and determine either their accuracy or validity. Moreover, the assumption of increased wholesale energy prices itself is debatable given that the purpose of the CES is to add significant amounts of renewable resources with low marginal costs that will operate as base load units (*i.e.*, they will clear at or near the bottom of the bid stack). The Commission should direct Staff to release more detail about the process it used to perform its price "adjustment" and to make explicit any assumptions it made about the monetized cost of carbon.

Similar to its treatment of wholesale energy prices, the Cost Study anticipates that capacity prices in the New York Control Area ("NYCA") will spike to be at or near the cost of new entry ("CONE") by 2017.[11] This forecast, "translated" from another Staff-developed forecast, does not seem to square with other factors contemplated in the White Paper. For example, the forecast does not seem to account adequately for the zero emission credit ("ZEC") payments to upstate nuclear facilities (Ginna, FitzPatrick, and Nine Mile) assumed in the White Paper to meet future and current greenhouse gas ("GHG") emission, sulfur dioxide ("SO2"), nitrogen oxide ("NOx"), particulate matter ("PM"), and ozone requirements, the effect of which may be to maintain these resources, which provide a significant level of capacity.

Furthermore, on the demand side of the equation, the NYISO, in its most recent annual load and capacity report, anticipates far less load growth than would justify such a rise.[12] Indeed, the NYISO predicts a lower growth rate than it did previously, attributing that slowdown to "the projected impact of energy efficiency initiatives and the growth of distributed behind-the-meter energy resources," as well as other programs "developed as part of the Reforming the Energy

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[11] *Id.* at 46.

[12] *See 2016 Load & Capacity Data Report*, NYISO (Apr. 26, 2016), at 1, http://www.nyiso.com/public/webdocs/markets_operations/services/planning/Documents_and_Resources/Planning_Data_and_Reference_Docs/Data_and_Reference_Docs/2016_Load__Capacity_Data_Report.pdf ("The energy growth rate in the 2016 forecast is slightly lower than the rate published in the 2015 *Gold Book*.").

Vision (REV) proceeding."[13] The year over year reduction in load projections is significant. The 2016 Gold Book forecasts an annual average growth rate of 0.21%, down from 0.48% in 2015.[14] The 2016 Gold Book base forecast is 800 MW lower than the 2015 forecast.[15] The NYISO's analysis of the FitzPatrick facility's proposed deactivation also included a separate adjustment to the 2015 forecast—approximately 500 MW—by eliminating the impact of behind-the-meter solar power.[16]

With supply potentially at or near the same levels prior to incremental renewable resources being brought online and load forecast projections reduced, the Cost Study's conclusion that prices will rise so dramatically, which would be expected to occur only with a decreasing reserve margin, seems unlikely. Indeed, rather than suggesting that the capacity market will be at or just above market requirements, the factors of potentially retained supply and reduced load growth indicate that the market will be approximately 2300 MW long. Capacity prices in such a market would likely be substantially lower than what the Cost Study estimates.

The Commission should direct Staff to review the assumptions used to establish the Cost Study's capacity price projection in light of the information provided above and, as necessary, adjust its analysis accordingly.

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[13] *Id.* at 1–2.

[14] *Id.* at 1.

[15] *See id.* at 12.

[16] *See* Zach Smith & Dana Walters, *FitzPatrick Deactivation Study Assumptions*, NYISO (Mar. 7, 2016), at 4, http://www.nyiso.com/public/webdocs/markets_operations/committees/bic_espwg/meeting_materials/2016-03-07/Agenda%2003_FitzDeactivationTopology.pdf; Zach Smith & Dana Walters, *Updated FitzPatrick Deactivation Study Assumptions*, NYISO (Apr. 26, 2016), at 3, http://www.nyiso.com/public/webdocs/markets_operations/committees/bic_espwg/meeting_materials/2016-04-26/FitzDeactivationAssumptionsComparison.pdf.

2. The Cost Study's Net Program Costs appear to misapply the value of carbon benefits.

The Cost Study appears to reach its estimate of Net Program Costs by misapplying the value of carbon benefits in two critical ways. First, the Cost Study fails to account for the carbon allowances created by the Regional Greenhouse Gas Initiative ("RGGI") and the effect of New York's actions on that initiative. If New York achieves a greater reduction of carbon emissions than its target under RGGI, the result will simply be to increase the carbon allowances available in the remainder of the region. A RGGI-wide reduction of carbon emissions would need to be achieved to generate the carbon benefits Staff relies on in the Cost Study. Such a reduction is possible for New York to achieve on its own but would create additional costs not accounted for in the Cost Study. New York could, for example, purchase and dispose of allowances equal to the difference between its current allotment of carbon emissions under RGGI and its projected emissions under the CES. Alternatively, New York could endeavor to reduce the number of region-wide allowances under RGGI. In each case, there is a cost for the State. In the first instance, the Cost Study would need to account for New York's cost of purchasing the requisite allowances; in the second, it would need to account for the reduction in RGGI-based revenue that New York would earn following a region-wide reduction of allowances.

Second, the Cost Study appears to overestimate the Social Cost of Carbon ("SCC"). Based on the methodology it provided, Staff assumed a SCC of nearly $40/ton beginning in 2015.[17] The value of the SCC, however, is dependent on the assumed discount rate, and the SCC that Staff provided indicates that the discount rate Staff used to determine the SCC was far lower than the approximate 5% discount rate that Staff assumed for the Cost Study's other costs and

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[17] *See* Cost Study at 264–65. The Cost Study assumed an avoided rate of 0.538 tons for each MWh.

benefits.[18] Using variable discount rates in this way would cause the Cost Study to reflect lower costs and greater values associated with carbon reduction. Consistent with the discount rate applied to the Cost Study's other assumptions, Staff should assume a 5% discount rate in estimating the SCC. This would result in an SCC value of $11/ton, drastically reducing or eliminating the net benefits the Cost Study claims.[19]

Moreover, Staff's assumed SCC in the Cost Study is inconsistent with the value placed on carbon in the RGGI program. The most recent RGGI auction results, announced on June 3, 2016, cleared at $4.53/ton. Previous auction results have cleared at similar levels. New York and eight other states participate in RGGI, which is designed to establish a market value for carbon that can be internalized in energy prices. Staff has made no effort to explain why the SCC should be so much higher than the State's own program which is designed to reveal the value of carbon.

The Commission should direct Staff to account for the apparent discrepancies in the Cost Study's analysis of carbon savings. If Staff relied on any otherwise undetailed assumptions that it believes account for these discrepancies, the Commission should direct Staff to disclose those assumptions for stakeholder review.

3. The Cost Study appears to misstate the economic impacts of the CES.

Staff cites to a number of other studies for its discussion of economic impacts, conceding that "no specific analysis of economic benefits was carried out as part of this Study."[20] By

[18] *See id.* at 25 n.1, 283.

[19] *See The Social Cost of Carbon*, U.S. Envtl. Prot. Agency (Feb. 23, 2016), https://www3.epa.gov/climatechange/EPAactivities/economics/scc.html.

[20] Cost Study at 102.

failing to conduct its own study, Staff risks overlooking vital information pertaining to the CES's overall economic impact.

The Cost Study cites several studies[21] that demonstrate how many jobs may be saved or created as a result of the CES.[22] These studies neglect, however, to consider that, as the CES progresses, other non-renewable units will likely retire and that those retirements will reduce direct and indirect jobs and tax revenues. By failing to account for these closures, the Cost Study's estimate of net job creation and retention seems to presume that all other units in the market will remain in service.

Given the proposal to add a substantial amount of incremental renewable generation while load is projected to remain relatively flat, these facts underscore IPPNY's position that the CES should be a market-based, technology-neutral program to ensure that the most efficient and cost effective, non-emitting or low-emitting resources are retained and developed to participate in the program and meet all federal, regional, and State GHG, NOx, SO2, PM, and ozone requirements. The Commission should direct Staff to either (1) provide the details of how the studies it cites account for these impacts, or (2) conduct its own study that accounts for such impacts and adjust its analyses accordingly.

4. The Cost Study includes assumptions that substantially underestimate the costs of the Champlain Hudson Power Express transmission line.

While the Cost Study addresses imports based on current transfer capability, it also includes what Staff calls a "High Imports Sensitivity" as an appendix to illustrate "the potential impact of a new tie from Quebec to load centers in New York which would carry large hydro

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[21] These include reports by the Brattle Group, the New York State Energy Research & Development Authority, and the National Renewable Energy Laboratory.

[22] *See* Cost Study at 103–06.

supply, should it be deemed CES eligible."[23] Specifically, this section addresses the potential installation of the Champlain Hudson Power Express ("CHPE") transmission line. The Cost Study provides that the costs of the CHPE line are "assumed 100% socialized."[24] The development of CHPE represents a significant investment of capital, though, with costs estimated by the project developer at over $2 billion several years ago when the line was reviewed for its Article VII certificate.[25] Accepting the developer's estimate, more than $2 billion is a substantial sum of money for the State to merely assume away. As IPPNY discussed in its Reply Comments, the Commission should not adopt policies that would force New York State ratepayers to subsidize the Canadian government's construction of hydroelectric plants or that would result in "socialized" facilities impacting New York's markets.[26] The Cost Study provides no detail about the nature of exactly how the costs of the transmission would be socialized and does not appear to reflect those costs anywhere in its analysis. Despite IPPNY's efforts to secure additional information during the Cost Study technical conference, the Cost Study consultant reported that these costs were left out of the analysis as "a policy question."[27] Even assuming, *arguendo*, that CHPE's $2 billion cost could be socialized as a way to bring in renewable power from Canada, the Cost Study must reflect these costs in the analysis to accurately represent the costs and benefits of the CES.

[23] *Id.* at 212. Per the White Paper, Tier 1 and 2 participation would follow the RPS Main Tier eligibility requirements and, thus, would not include large-scale hydro resources.

[24] *Id.*

[25] Case 10-T-0139, *Champlain Power Express, Inc.*, Order Granting Certificate of Environmental Compatibility and Public Need (Apr. 18, 2013), Joint Proposal ¶ 22.

[26] IPPNY Reply Comments at 9–12.

[27] Case 15-E-0302, *supra*, May 4, 2016 Technical Conference Transcript (June 3, 2016), at 173.

5. To the extent that adjustments to the energy price projections are made, those adjustments should be carried over to the analysis of Tier 3 costs associated with ZEC payments to existing upstate nuclear facilities.

The White Paper proposes to provide existing upstate nuclear facilities with ZEC payments so that those facilities can continue to operate despite low electricity prices.[28] The Cost Study specifies that it "refrains from [including] more detailed numbers" relating to the assumptions used either for estimating the generation costs of nuclear electricity or the resulting annual expected program costs.[29] Instead, the Cost Study reports a Gross Program Cost for the nuclear retention program of $270 million through to the year 2030, with a net benefit of $2.8 billion over the same timeframe.[30]

Initially, IPPNY would repeat its point above that concerns with the accuracy of facility cost data and market projections would be eliminated if a market-based, technology-neutral program were implemented. However, if some version of the White Paper's multi-tiered, administrative construct is adopted, the Gross Program Cost for Tier 3 should be revised to the extent that adjustments are made to energy price projections to address the issues identified above. For example, the costs associated with the Ginna Reliability Support Services Agreement have changed in light of different energy prices, as reflected in the subsequent filings made by Rochester Gas and Electric Corporation in that proceeding.[31] Such adjustments, if necessary, would align the costs of the Tier 3 program with the costs of the other two tiers.

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[28] *See* White Paper at 30.

[29] Cost Study at 275.

[30] *See id.* at 283. The nuclear retention program is represented as Tier 3.

[31] *See* Case 14-E-0270, *Petition Requesting Initiation of a Proceeding to Examine Proposal for Continued Operation of the R.E. Ginna Nuclear Power Plant, LLC*, Contingency Alternative to Ginna RSSA RFP Report (Feb. 26, 2016), at 2 n.1.

6. The Cost Study lacks sufficient detail explaining how Staff calculated its implicit premium payments.

The Cost Study uses a number of factors to determine a levelized cost of entry ("LCOE") for various types of renewable resources.[32] The Cost Study does not, however, provide any detail on exactly how Staff used the LCOE to reach the implicit premium payments those resources would receive under the CES. Estimating this cost (by dividing estimated program costs by estimated program generation) yields a premium of between $10–20/MWh.

In addition, more detail is required on the assumed levels of the Alternative Compliance Payment ("ACP"). The assumed ACP of $25.75 for Tier 2A seems low for New York, which is competing with a New England market that has an ACP that is more than $40.00 higher than the assumed level for New York. The ACP will likely need to be set more in line with New England's ACP to ensure Tier 2A resources will sell their renewable energy credits ("RECs") into New York instead of New England.

The Commission should direct Staff to disclose its method of calculating the ACP and the implicit premium payments to renewable resources under the CES, as well as any assumptions applied to those calculations, so that stakeholders may verify the reasonableness of the Cost Study's estimated premiums.

7. Staff failed to provide sufficient detail of the assumptions it used to derive the Cost Study's Net Present Values ("NPVs").

On April 12, 2016, Staff filed a supplement to the Cost Study that contains a number of spreadsheets populated with the data used in the Cost Study.[33] The Cost Study Supplement does

[32] Cost Study at 110–22.

[33] Case 15-E-0302, *supra*, CES Cost Study Supplement (Apr. 12, 2016) ("Cost Study Supplement").

not, however, contain any of the formulas elucidating how Staff approached the data to derive the NPVs it then included in the Cost Study analyses.

The Cost Study Supplement states that all NPV figures are shown "as the lifetime program cost or benefit NPV, in real 2015$, based on a discount of 5.5% (real)."[34] Strangely, if one reverse engineers the likely formulas used by Staff, based on the data in the Cost Study Supplement and the resulting NPVs, it appears that the discount rates vary significantly. The base case, for example, seems to have assumed something nearer to a 12.5% discount rate. Assuming a higher discount rate would have the effect of lowering the estimated costs of the CES. If, for example, the base case assumed a discount rate of 9.6%—halfway between the 100% REC and 100% PPA cases—the resulting NPV would have been approximately $80 million higher.

The Commission should direct Staff (1) to disclose the formulas it used to derive the NPVs it published in the Cost Study, allowing for other stakeholders to assess their accuracy; and (2) to the extent different discount rates were applied, to explain the basis for each discount rate.

8. The Cost Study presents seemingly contradictory statements regarding the propriety of considering the effect of price suppression as an economic benefit.

Staff's treatment of the effects of price suppression in the Cost Study appears to be inconsistent. The Cost Study first states that "wholesale price impacts are not resource or societal benefits" and, therefore, "should not be considered a societal 'benefit' produced by the policy."[35] Nevertheless, the Study goes on to contradict itself by advocating that, "when bill

[34] *Id.* at 1.

[35] Cost Study at 107.

impacts are estimated, it *is* appropriate to acknowledge . . . such price reductions."[36] If suppressed market prices are factored into consumers' bill impacts, though, and thereby used to offset costs incurred elsewhere, the Cost Study should consider them a benefit. Conversely, if Staff believes that the mechanisms of price suppression are either not a societal benefit or are not likely to be sustained, it should remove the effects of price suppression from its estimate of consumers' bill impacts so that stakeholders can weigh the CES's actual costs and valid benefits accordingly.

At a minimum, the Cost Study implies that its analysis of bill impacts includes some impact based on the suppression of market prices but provides no information on the estimated amount of offset such price suppression would yield or how this "benefit" was calculated. If Staff's estimation of New York consumers' bill impacts assumed the suppression of market prices, it should provide more detail on how that assumption affected the Cost Study's estimate. If, however, Staff does not wish to regard market price suppression as a benefit, it should provide information on what impact the CES is likely to have on consumers' bills absent any price-suppressive effects. In either case, the Commission should direct Staff to resolve the Cost Study's inherent contradiction and adjust its estimates accordingly.

II. The Commission Should Postpone Any Major Policy Decisions on the CES until Stakeholders Can Accurately Assess the Cost Study's Reasonableness.

In its Initial Comments, IPPNY respectfully urged the Commission to postpone deciding on significant and far reaching CES policy issues in the absence of all the relevant information necessary to accurately gauge the cost impacts and reliability implications of its decisions.[37] IPPNY referred specifically to the SRP Study, and, in the interest of ensuring that the CES is

[36] *Id.* (emphasis added).

[37] IPPNY Initial Comments at 7.

ultimately successful, IPPNY maintains its position that the Commission should wait until it has adequately reviewed the SRP Study before its acts.[38]

The same reasoning applies to the details and assumptions, as discussed above, that Staff did not publish in the Cost Study. The Commission should not make any major decisions concerning the CES until Staff has provided stakeholders with the information requested herein and afforded them the opportunity to verify the reasonableness of the Cost Study's assumptions and the resultant conclusions. The moderate delay would allow the Commission and stakeholders to consider other relevant information, such as the Annual Energy Outlook ("AEO") for 2016, due to be released in early July.

As noted above, IPPNY has been and continues to be a strong supporter of the Commission's goals of reducing carbon emissions within New York's competitive market system. IPPNY believes a reasonable Cost Study to be an essential tool in achieving those goals, and believes that postponing any Commission action until the information discussed herein is available will enhance the Cost Study's detail, clarity, and accuracy, thereby strengthening the CES.

III. Conclusion

For the foregoing reasons, IPPNY respectfully requests that the Commission direct Staff to disclose the assumptions and other information used in its Cost Study analyses as discussed above. IPPNY also respectfully requests that the Commission postpone any major policy decisions on the CES until the SRP Study is completed and the information discussed above is

[38] In response to repeated requests for a status update during stakeholder meetings over the past month, NYISO representatives have stated that they have not been given authority from Staff to release either study results or information on the status of the studies. At this time, the only available information is that the SRP Study will be completed in August 2016.

available to stakeholders so that they may accurately assess the Cost Study's reasonableness and the validity of its conclusions.

Respectfully submitted,

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