

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Proceeding on Motion of the Commission in Regard
To Reforming the Energy Vision**

Case 14-M-0101

**Columbia University's Sabin Center for Climate Change Law, Environmental Advocates
of New York, the Pace Energy and Climate Center, the Sierra Club, and the Vermont
Energy Investment Corporation.**

September 22, 2014

Columbia University’s Sabin Center for Climate Change Law, Environmental Advocates of New York, New York Public Interest Research Group, the Pace Energy and Climate Center, the Sierra Club, and the Vermont Energy Investment Corporation.

Response to New York State Department of Public Service Staff

Straw Proposal on Track One Issues

Case 14-M-0101

September 22, 2014

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I. Introduction & Overview.

On August 22, 2014, the New York Public Service Commission Staff (“Staff”) filed a Straw Proposal (“Proposal”)¹ in response to the New York Public Service Commission’s (“Commission”) April 2014 Order Instituting Proceeding regarding Case 14-M-0101, otherwise known as Reforming the Energy Vision (“REV”). The Staff asked the Commission to adopt several broad recommendations to implement the basic elements of REV. They also invited parties to submit further comments by September 22, 2014.

Columbia University’s Sabin Center for Climate Change Law, Environmental Advocates of New York, New York Public Interest Research Group, the Pace Energy and Climate Center, the Sierra Club, and the Vermont Energy Investment Corporation (“Clean Energy Advocates”) are pleased to submit joint comments in this case.

This document revisits and builds upon many of the points raised in a filing submitted on July 18, 2014, by a similar coalition of national and state-based environmental groups, clean energy companies, two academic centers, and one of New York’s leading consumer groups.²

¹ Case 14-M-0101 – Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Developing the REV Market in New York: DPS Staff Straw Proposal on Track One Issues (Aug. 22, 2014) [hereinafter “Straw Proposal”].

² Stakeholders in the REV case were asked to provide input on a series of policy questions in June 2014. On July 18, the Pace Energy and Climate Center, The Alliance for Clean Energy New York, the Association for Energy Affordability, the Clean Coalition, Columbia University’s Sabin Center for Climate Change Law, Environmental Advocates of New York, the Environmental Defense Fund, the Natural Resources Defense Council, the New York Public Interest Research Group and the Sierra Club filed detailed responses. Although these parties filed jointly and separately at that time, based on page limitations for individual filings established in the August 25th Ruling, the Association for Energy Affordability, the Clean Coalition, the Environmental Defense Fund, and the Natural Resources Defense Council chose to file individual documents on the Proposal. As a regional affiliate, the Alliance for Clean Energy New York filed with Advanced Energy Economy. These parties share common principles. They remain united around common themes, as you will note, but each have different areas of emphasis based on their expertise.

The Clean Energy Advocates support many aspects of the Proposal. The Proposal describes an ambitious vision that can transform New York’s electricity infrastructure. It encourages the greater deployment of distributed energy resources. The Proposal provides much needed detail about the implementation of REV. It recommends the development of new planning tools and recommends launching several new stakeholder processes. The Clean Energy Advocates are pleased to see significant evolution from the April Staff Report. REV will be unfolding in New York for years to come. Its scope is ambitious. With careful planning and thoughtful execution, its rewards could be immense.

Despite our predominant support for the Proposal, these comments also express a number of reservations. REV is a fundamental restructuring of New York’s electricity systems. This effort poses significant potential risks as well as potential rewards and, although the Proposal adds detail, important questions remain unanswered. The Proposal does not yet clearly advance measures that operationalize some of the stated goals of the proceeding.

The Clean Energy Advocates remain concerned about several underlying assumptions. There appears to be an assumption that if the Commission executes REV, the invisible hand of the market will solve many longstanding issues. For example, the Staff states that the way to build an effective market around distributed energy resources (“DER”) is to: “1) increase the DER asset base, 2) build market and customer confidence in the expanded role of DERs, 3) remove key barriers to DER adoption, and 4) gain experience and develop capabilities that will support the ultimate implementation of the REV platform and markets.”³

³ Straw Proposal, *supra* note 1, at 80.

While the objective is sound, the order is wrong. New York cannot simply install DERs, build market confidence and expect that market participants will come. Without revisiting regulatory structure and removing the barriers to access, an innovative and vibrant DER market with a large number of participants will not be created.

Further, very little analytic work has been advanced to show that the new market-driven vision will result in clean energy deployment at greater levels than exists under the status quo. While this hypothesis may prove true, there is insufficient empirical evidence presented to support the case. The Proposal does not yet describe how a new system of incentives will bring about a marked increase in the DER market.

A. Guiding Principles.

Once again, we offer the following principles as a directional map to the Commission and Staff against which specific policies and programs should be evaluated.

1. Emissions reduction must be central.

The Instituting Order and Proposal stress the objective of “creating market based, sustainable products and services that drive an increasingly efficient, clean, reliable, and consumer-oriented industry.”⁴ This objective should be linked to short and long-term emissions performance targets and corresponding market opportunities that reward participants for positive climate and public health outcomes related to measurable emissions reductions (CB). Once again, we call on the Commission to ensure that emissions reductions New York has already achieved from large-scale central station power plants are not undermined by the proliferation of smaller-scale, more

⁴ Case 14-M-0101, DPS Staff Report and Proposal, April 25, 2014, page 2 [hereinafter “Initial Staff Report”].

polluting electric power generating sources. Such unfettered leakage could threaten the efficacy of any State Implementation Plan or Regional Implementation Plan submitted for compliance with the U.S. Environmental Protection Agency's proposed Clean Power Plan (CB).

2. Commitments to energy efficiency and renewable energy.

New York must continue to be a leader in the promotion of renewable energy and energy efficiency. As the New York Department of Environmental Conservation ("DEC") noted in its REV comments, because "[t]he electricity sector accounts for at least 20 percent of the GHG emitted in NY State...[c]lean, renewable power generation and energy efficiency are critical for reducing GHG emissions and ultimately the risk of catastrophic climate change impacts."⁵ The Energy Efficiency Portfolio Standard ("EEPS") and the Renewable Portfolio Standard ("RPS") have been very cost-effective and resulted in impressive economic, energy, and environmental benefits.⁶ Despite the successes and numerous benefits of these state-run programs, the Staff Proposal appears to assume that if these programs no longer exist, the invisible hand of the market will continue to promote developments in renewable energy and energy efficiency. Further, the Staff Proposal offers no evidence that an abandonment of current programs and a transition to a new market-driven vision will result in clean energy deployment at greater levels than exist under the status quo. While this hypothesis may prove true, there is insufficient empirical evidence presented to support the case.

Instead, the Clean Energy Advocates believe that REV must build on this legacy by not just preserving, but expanding commitments to energy efficiency and renewable energy deployment

⁵ Case 14-M-0101, Comments of DEC in Response to Track 1 & 2 Policy Questions, July 18, 2014, page 7.

⁶ See NYSERDA NEW YORK STATE RENEWABLE PORTFOLIO STANDARD ANNUAL PERFORMANCE REPORT (March 2014) at 2, available at <https://www.nyserda.ny.gov/-/media/Files/Publications/PPSER/NYSERDA/2014-RPS-annual-report.pdf>.

in New York. The short- and long-term success of REV must be in part judged by success in significantly increasing the pace of clean energy investment, and the provision of attendant economic, environmental and reliability benefits.

3. Distributed Energy Resources must be fully valued.

Encouraging the deployment of clean, distributed energy resources must be a central strategy in reforming New York's electric infrastructure. However, existing regulatory requirements, most notably outdated benefit cost calculations, hinder the growth of distributed energy resources (DER). REV must break down existing barriers to DER by creating new markets, value streams, and other mechanisms that fully and accurately value DER, and the reduction of carbon and other harmful emissions (CB).

4. Distributed System Providers should be compensated for achieving objectives.

The Clean Energy Advocates believe energy market reforms must compensate distributed system providers ("DSPs"). However, compensation must be based on their performance with respect to achieving policy goals. Policy goals for performance should include promoting emissions reductions, encouraging energy efficiency, and accelerating renewables and clean distributed energy development.

5. Greater customer control.

Finally, the Clean Energy Advocates support greater customer control over energy generation and usage. REV creates a vision of vibrant inter-relationships that include customers as

“prosumers.”⁷ Customer participation as dynamic assets supports a more efficient, economical and clean electric power delivery system. REV must create new methods, markets, and applications for customer control, while enhancing existing customer tools.

B. Recommendations Based on Guiding Principles.

Following these principles, the Clean Energy Advocates identify several sections of the Proposal that should be changed or expanded to accomplish the stated goals.

1. Emissions reductions.

The Initiating Order laid out six objectives including the “[r]eduction of carbon emissions.”⁸ The Proposal also mentions the forthcoming § 111(d) regulations and the need to reduce carbon emissions to mitigate climate change as “indicating a need for substantial change in the overall approach to utility functions and ratemaking.”⁹

The Proposal outlines some mechanisms that would induce emissions reductions, such as inclusion of the cost of carbon pollution in the benefit-cost analysis, and thereby increasing the value of DERs.¹⁰ However, the Proposal must establish a firm greenhouse gas emissions reduction goal for the distribution sector and interim goals at reasonable intervals. Without mandating the means, the Commission should establish the sector targets that will put New York on the path to reaching the greenhouse gas reduction goal of 80 percent by 2050 included in draft

⁷ Initial Staff Report, *supra* note 4, at 2 (“‘prosumers’ (producer-consumers) of energy and ancillary services”).

⁸ Case 14-M-0101, Order Instituting Proceeding, April 25, 2014, page 2.

⁹ Straw Proposal, *supra* note 1, at 8.

¹⁰ *See, e.g.*, Straw Proposal, *supra* note 1, at 44-47.

State Energy Plan.¹¹ To ensure measureable progress, the Commission should set short-term greenhouse gas reduction targets, such as 14 percent by 2018 and 20 percent by 2021.

Staff should work closely with the Department of Environmental Conservation (“DEC”) to set the goal and develop the regulatory performance standards needed to reach the state’s climate pollution reduction targets and other air quality improvement measures. As stated in the Proposal, REV is a response to numerous changes in the energy market, including the imminent regulation of power plant carbon emissions under the Clean Air Act.¹² Federal carbon emissions standards will increase utility obligations and further elevate the role of DEC interaction with REV.

DEC administers New York State’s Air Program, specifically permitting and enforcement against “air contamination sources.”¹³ DEC is directed as administrator of New York’s CO₂ Budget Trading Program by 6 N.Y.C.R.R., Part 242, to control greenhouse gas emissions from the bulk power sector. Other sections of the New York Codes and Regulations delegates Clean Air Act duties relating to enforcing National Ambient Air Quality Standards (“NAAQS”).¹⁴ DEC’s July 2014 response recommended “a goal of the REV initiative should be to create market structures for distributed energy resources (DER) in concert with the DEC’s NAAQS attainment strategies.”¹⁵ DEC proposes additional measures, such as to value curtailment, PV, and wind generation resources more than fossil fuel-generation resources (natural gas, oil, etc.)

¹¹ See N.Y. ENERGY PLANNING BOARD, *2014 Draft New York State Energy Plan*, at 29, available at <http://energyplan.ny.gov/Plans/2014.aspx>.

¹² Straw Proposal, *supra* note 1, at 8-9.

¹³ 6 N.Y.C.R.R. §201-1.1(a) (2013).

¹⁴ See 6 N.Y.C.R.R. pts. 243-245.

¹⁵ Case 14-M-0101, Comments of DEC in Response to Track 1 & 2 Policy Questions, July 18, 2014, page 4.

in demand response programs.¹⁶ DEC comments include a table with several recommendations for measurable goals relating to the advancement of clean energy.¹⁷

Despite the potential for regulatory synergy between REV and DEC goals, the Proposal does not incorporate DEC suggestions. The Clean Energy Advocates believe that Staff should work more closely with DEC, and other stakeholders, such as the Department of Health (CB) to create inter-agency policies equipped to achieve better outcomes.

2. Fully Allocate to Utilities the Entire EEPS and RPS Goals.

In addition to setting emissions reductions, Staff should further prioritize energy efficiency as a central strategy for attaining the emissions goals of the REV proposal. Research has consistently shown that achieving higher levels of energy efficiency is the most economic means of reducing emissions.¹⁸ “Efficiency first” ought to be the hallmark of the Proposal.

Once again, based on historical performance and various analyses including the Energy Efficiency and Renewable Energy Potential Study included with the draft State Energy Plan¹⁹, a goal of meeting roughly 20 percent of forecasted demand in 2025 through energy efficiency (which equates to roughly 2 percent of annual electric demand being met by efficiency over a 10 year period) is reasonable and achievable and should be adopted by the Commission.

The Proposal states that utilities would be held to existing targets within EEPS as a backstop to REV. Utility requirements, however, represent only a portion of the overall energy efficiency

¹⁶ *Id.*

¹⁷ *Id.* at 5.

¹⁸ AMERICAN COUNCIL FOR AN ENERGY EFFICIENT ECONOMY, *Change is in the Air: How States Can Harness Energy Efficiency to Strengthen the Economy and Reduce Pollution* (April 2014).

¹⁹ See NYSERDA, ENERGY EFFICIENCY AND RENEWABLE ENERGY POTENTIAL STUDY OF NEW YORK STATE (April 2014), available at <https://www.nyserdera.ny.gov/Energy-Data-and-Prices-Planning-and-Policy/Energy-Prices-Data-and-Reports/EA-Reports-and-Studies/EERE-Potential-Studies.aspx>.

program commitments currently in effect. Out of \$1.2 billion of EEPS investment, approximately \$680 million was distributed through New York State Energy Research and Development (NYSERDA) programs.²⁰ These dollars account for approximately 3.7 million MWh of acquired & committed energy savings. REV market mechanisms must replace nearly 57 percent of EEPS program dollars, in order to maintain the status quo.

The goals of REV indicate a much loftier goal where the market will accelerate energy efficiency beyond existing programs, yet the Proposal does not identify how the market will replace or expand NYSEDA's \$680 million program contributions. The Proposal should remedy this potential shortfall when outlining guidance and benchmarks for Energy Efficiency Transition Implementation Plans (“ETIP”) and the Distributed System Implementation Plans (“DSIP”). Although the forthcoming Clean Energy Fund (CEF) proposal may provide a clear roadmap for this transfer of responsibility from the current suite of efficiency programs to REV market-driven solutions, we note this concern before its release.

While the Proposal states that utilities would be held to existing EEPS targets to prevent backsliding, there must also be a similar commitment to New York’s RPS targets. An effective transition to REV must also ensure no backsliding in New York’s clean energy leadership. The Clean Energy Advocates support a Clean Energy Fund proposal that commits to funding these programs for ten years at current levels to prevent backsliding and to offer certainty so that companies invest in the New York market. A ten-year commitment would mirror the

²⁰ Based on EEPS reporting data provided through the NY DPS website. Budget data shows NYSEDA programs are responsible for \$680M out of \$1,214M total budget for energy efficiency programs. *Energy Efficiency Portfolio Standard*, NY DPS, available at <http://documents.dps.ny.gov/public/EEPS/EEPSPortfolio.aspx> (last visited Sep. 22, 2104)..

commitment made to NY-Sun and more closely match the required timeframe for compliance with the proposed federal Clean Power Plan.²¹

3. Benchmarks & Fallbacks.

The DSP implementation process must carefully address the issue of sequencing. On one hand, REV proposes the creation of a fundamentally new market aimed at promoting environmentally and economically sound energy resources. On the other hand, REV will remove significant regulatory barriers in New York's energy market. These two interests must be balanced through a proper planning sequence with benchmarks and fallback positions, should the new market underperform expectations, or DSPs fail to achieve the goals set out for them.

Most market functions rely on complicated prerequisite assumptions to operate with the intended results. Even perfectly executed markets can fail due to unforeseen circumstances. These regulatory underpinnings of REV will ultimately determine the effectiveness of the market.

Given the potential issues in creating a new market, the Clean Energy Advocates support a position of sequenced implementation, balancing market-making versus removing regulatory barriers, while preserving fallback plans for more regulated designs and implementing demonstration projects as proof of concept.

4. Public Participation

The Clean Energy Advocates also wish to express their concern about public participation in the REV proceeding. Given the Proposal's expressed intent of a utility-driven model, evidenced by utilities potentially taking over New York's EEPS and RPS programs as well as functioning as

²¹ See Carbon Pollution Emissions Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 70 Fed. Reg. 34,830 (proposed June 18, 2014) (to be codified at 40 C.F.R. pt. 60).

DSPs, we worry that many of these decisions will take place in highly complex ratemaking proceedings that discourage public participation. To this end, we echo the Moreland Commission's concern that "certain customers or customer groups, who are not in a position to advocate for themselves, may feel marginalized when compared to utility companies and other special interest groups during proceedings before the PSC."²²

The recent Survey of Residential Electric Customer Interest confirms that "only 23% of respondents believe that they are adequately involved in discussions about electric power," and this is only exacerbated by the fact that New York is one of the only states, and certainly the largest, that does not have an established public advocate for ratepayers.²³ To further the REV goal of customer engagement, we encourage Staff to ensure that these proceedings provide adequate public participation given the "complex legal jungle that surrounds the PSC."²⁴

II. Establishing REV: DSP Market Vision.

The Proposal states that the "Commission will maintain critical oversight role in the market" including "establishing guidance and processes for market rule making, approving investment plans and rate designs by regulated utilities, and reviewing the activities of ESCOs, third-party service providers, and utilities for compliance with market rules."²⁵

The Clean Energy Advocates strongly support this role for the Commission, and stress the importance of heavy involvement. The Commission will serve as a crucial counterpoint to

²² MORELAND COMMISSION ON UTILITY STORM PREPARATION AND RESPONSE, FINAL REPORT 42 (June 22, 2013), available at <http://utilitystormmanagement.moreland.ny.gov/sites/default/files/MACfinalreportjune22.pdf> [hereinafter "Moreland Report"].

²³ By contrast, California's Office of Ratepayer Advocates has a staff of 142 and a budget of \$24 million. In 2013, the ORA participated in 193 CPUC proceedings and filed approximately 560 pleadings to aid the CPUC. For every \$1 spent on ORA, ratepayers saved approximately \$61.

²⁴ Moreland Report, *supra* note 21, at 45.

²⁵ Straw Proposal, *supra* note 1, at 18.

market participants, and provision of explicit guidance and principles will bring equity and stability to the market.

Staff recommends a periodic Commission review of market design principles. We agree. The Commission should establish a frequent review schedule during the early years of the market, maintaining a strong presence and a heavy influence on the development of DSPs and the market.

To the extent possible, the Commission should standardize the market rules across DSPs. The Proposal advocates market design that will stimulate technological interconnection and standardization of security across DSPs. The Commission should also include an explicit requirement for rule standardization across DSPs. The early market may be exposed to pressures of self-dealing and gaming during rulemaking. Requiring market rule standardization across DSPs would at least limit one potential challenge to REV's success.

Staff also proposes several principles for market design, including transparency standards, reliability and resiliency requirements, and principles aimed at determining the value of new DER. In general, the Clean Energy Advocates support Staff's proposed principles for market design. Implementation of the principles will require a stakeholder process, and the details will require careful planning and transparency. For instance, the "periodic[] review [of] market design principles" has tremendous latitude for interpretation in "periodic" review that could threaten to remove stakeholders and market participants from the process.²⁶

²⁶ Straw proposal, *supra* note 1, at 17.

The expanded role of utilities in REV will require considerable new oversight by the DPS. As a result, the DPS will need new staff resources. Insufficient oversight could weaken the new market, and threaten progress. We support increased DPS staff and financial resources to ensure REV's success and encourage DPS to request these resources in its budget request.

Staff's first three principles for market design – transparency, customer protection, and customer benefit – stress the importance of market participation. The Clean Energy Advocates support meaningful involvement for all market participants. By encouraging involvement at multiple stages by a variety of market participants, the Commission would accelerate and stabilize the growth of the market. The Clean Energy Advocates believe that the Commission should adopt a broad definition of what party can act as a market participant, and provide ample opportunity for these participants to enter and meaningfully participate in the market rulemaking process. The New York Independent System Operator (“NYISO”) provides a blueprint for market participant involvement, although the Clean Energy Advocates support an expanded role for non-traditional market participants.

III. Enabling New Roles for Key Market Participants.

A. Identity of the DSP Provider.

As stated in our previous filing, the Clean Energy Advocates agree that given the utilities' high degree of involvement in managing the distribution system, they should initially act as the DSP. Utilities already possess much of the physical infrastructure, human resources, and engineering know-how to rapidly step into the role of DSP.

Yet we maintain doubts about the utilities ability to serve as a disinterested operator. Existing ISO/RTOs demonstrate that “platforms” quickly become so complicated that almost no one – except those operating the platform – knows what is going on. Within this complexity, the opportunity for subtle “self-dealing” is enormous. The Clean Energy Advocates call for as much separation between these functions as possible, including the separation of DSP and utility revenue streams in ratemaking.

The Proposal reflects Staff’s belief that the utilities should have the central role in the DSP process. The central concession relies on the hope that ease of implementation, and utility buy-in will accelerate the emergence of the new market. The Clean Energy Advocates, however, do not believe that this concession should be made without a fall-back position in light of the obvious and identified dangers of utility-DSP ownership.

The DSIP presents an opportunity to test the hypothesis of utility ownership, while maintaining the possibility of an independent DSP. The Commission’s final REV decision should include a fully formed plan for the implementation for an Independent Distributed System Provider (IDSP) in the event the utilities fail to provide a functioning system that is equitable to all users.

Hamilton and Wellinghoff advocate for the need for a standing contingency plan in place in the event that the utility model does not function as anticipated. The Clean Energy Advocates support this position as the most prudent path to implement the distributed platform.

The DSIP should include several measurable outcomes, such as the execution of demonstration projects, the scope of non-utility owned DER installation, and other benchmarks, which would help determine the need for an IDSP. The DSIP should include expectations and benchmarks for DSP market performance. While this compromise may not counteract all “subtle self-dealing,” it will at least fortify the new DSP against interference

B. Customer Engagement.

It is widely believed that most New Yorkers lack the information, products, and incentives to participate in energy markets.²⁷ While there is no silver bullet to addressing customer engagement across sectors, the Proposal recognizes that some classes of customers may be more difficult to reach than others. This is particularly the case for customers dwelling in affordable multi-family buildings.

New York has a large multifamily building stock, with significantly higher percentage of the population in multifamily housing than the national average. More than 40 percent of New York's population lives in the New York metropolitan area where more than 60 percent of the population lives in multifamily buildings of more than five units. In certain boroughs of New York City the percentage is higher than 80 percent.

The Clean Energy Advocates appreciate the Staff's recognition of the problem of "split-incentives" in the Proposal, as well as other issues that impact lower income customers such as lack of access to financing for energy retrofits.²⁸ Split incentives and lack of access to capital are major barriers to aggressive investment in energy efficiency in affordable multi-family housing.

Along with a coalition of energy efficiency providers, environmental justice organizations, housing advocates, and clean energy service providers, called Energy Efficiency for All, the Clean Energy Advocates argue that REV should treat affordable multi-family buildings as a specific and distinct sector with specific needs.²⁹ The Commission should place special emphasis here as REV develops.

²⁷ Straw Proposal, *supra* note 1, at 22.

²⁸ Straw Proposal, *supra* note 1, at 29-30.

²⁹ Case 14-M-0101, Energy Efficiency for All, Letter (July 17, 2014).

The Clean Energy Advocates support developing recommendations to remedy the split incentives issue, including development of a new tariff and new market options through shared savings mechanisms. We look forward to working with the Staff to develop these proposals in Track 2.

In general, the Clean Energy Advocates encourage the Commission to do more to ensure that low-income customers are not left behind. The Proposal fails to fully address this issue, largely focusing on the claim that system wide benefits will trickle down to low-income households. While this may be true, given the much higher comparative energy burden for these households, REV and the CEF must ensure more than passive savings. Low-income customers need to be truly engaged in practicable ways to reduce their energy costs. We recognize some of the efforts to engage low-income customers may be explained in the forthcoming CEF proposal.

IV. Gauging Feasibility.

B. Benefit Cost Analysis.

The Clean Energy Advocates strongly support the Proposal to reconstitute the benefit cost analysis (“BCA”).³⁰ Current concepts were originally established for vertically integrated utilities. The concepts have been modified in a piecemeal fashion several times since, but the need for a complete reassessment and reconfiguration has been evident for years. REV is an ideal opportunity to complete a total BCA stakeholder analysis. A well-designed, timely, and complete BCA should be one of the Commissions most urgent and compelling goals in REV.

³⁰ See Straw Proposal, *supra* note 1, at 42.

The PSC has frequently delayed or pushed the issue of a complete BCA stakeholder analysis from one proceeding to the next. As a result, the current BCA concepts are piecemeal and fail to fully assess important issues.

The Clean Energy Advocates maintain that the benefit cost analysis in REV must adequately address environmental and public health externalities. The Clean Energy Advocates appreciate the Staff recommendation that “[t]he value of reduced carbon emissions must be included in the BCA.”³¹ The Staff went on to say most estimates of the “marginal damage caused by a ton of CO₂ are higher than \$5 per ton,” or the current Regional Greenhouse Gas Initiative (RGGI) allowance price.³² This is correct. The Proposal lists EPA’s Social Cost of Carbon estimates as a potential alternative benchmark. The Clean Energy Advocates support this benchmark as a more accurate valuation of the costs of carbon pollution. Moreover, the BCA should incorporate the health and economic air quality co-benefits associated with carbon pollution reduction strategies, in order to capture the value of corresponding reductions in ozone and particulate matter – pollutants directly linked to respiratory disease and premature death.

In addition to accounting for externalities, an updated BCA must also account for the commodity price impact of energy efficiency and renewable energy. The commodity price impact is often referred to as the Demand Reduction Induced Price Effect (DRIPE), the reduction in the market price of gas or electricity to all customers for the purposes due to the reduced demand for electricity.

³¹ Straw Proposal, *supra* note 1, at 47.

³² *Id.*

The key principles guiding the REV BCA framework development include the results of the Societal Cost Test, Utility Cost Test, and Rate Impact Measure.³³ The Clean Energy Advocates strongly support the use of the Societal Cost Test in REV framework development. Societal costs should be included at every level of the REV process, from framework planning through rate design and valuation of DER. We also support the use of the Utility Cost Test.

While rate impacts are an important consideration for regulators, the Clean Energy Advocates caution against applying the Rate Impact Measure (RIM) in the benefit cost analysis. RIM is the wrong test for measuring the cost effectiveness of energy efficiency, and quite likely the wrong test for all DER. In general, the test overemphasizes utility lost revenues. It does a poor job of understanding the differences between rate and bill impacts, and will often severely undervalue effective energy efficiency programs. A Synapse/Regulatory Assistance Project paper from 2012 recommends using different tools to measure rate and bill impacts in ways that offer more information than RIM test.³⁴ Further, the authors note “[m]ost, if not all states” have ruled that the RIM test should not be used to evaluate the cost effectiveness of energy efficiency.³⁵

The Clean Energy Advocates strongly support the creation of a stakeholder process to design an updated BCA framework. We encourage the Commission to launch this process soon and establish firm timelines and milestones for its completion.

With regard to the benefit cost analysis in ETIP, the Proposal outlines a framework following several guiding principles, including transparency in assumptions, inclusion of all parties, life-

³³ Straw Proposal, *supra* note 1, at 44.

³⁴ SYNAPSE ENERGY ECONOMICS/REGULATORY ASSISTANCE PROJECT, Energy Efficiency Cost-Effectiveness Screening: How to Properly Account for ‘Other Program Impacts’ and Environmental Compliance Costs (2012). Available at: <http://www.raponline.org/>

³⁵ *Id.*

time investment analysis, and a comparison of REV investments to business-as-usual.³⁶

Staff provides a table of express potential net benefits that could potentially be included in an ETIP BCA.³⁷ The list of considerations for recognizing the full value of energy efficiency includes utility system benefits, participant benefits, non-energy benefits, and societal non-energy benefits, compared with program costs.³⁸ The Clean Energy Advocates support Staff's more accurate valuation for benefits and costs of energy efficiency in the planning and valuation of DER, included in the Proposal.

Further, the Clean Energy Advocates contend the valuation of DER must be uniform across DSPs. REV empowers DSPs to integrate DER into the electrical delivery system, situated between NYISO wholesale markets, DSP market participants, and end-users.³⁹ The Proposal suggests two mechanisms to provide value for DER. First, NYISO could accept demand reduction bids from DSP, in competition with supply-side energy resources.⁴⁰ Second, the utility could optimize bids for power from the NYISO based on DSP's load on the utility system, essentially relying on DER to modify load requirements.⁴¹ The Commission must maintain a strong presence in either of the proposed DER market mechanisms, by creating a market rule framework, approving investment plans and reviewing rate designs.⁴²

³⁶ Straw Proposal, *supra* note 1, at 44.

³⁷ Straw Proposal, *supra* note 1, at 45 Table 3.

³⁸ *Id.*

³⁹ Straw Proposal, *supra* note 1, at 17.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Straw Proposal, *supra* note 1, at 23.

V. Building the DSP Market.

A. Clean Energy.

1. Transition.

An effective transition to REV must ensure no backsliding in New York's clean energy leadership. The Clean Energy Advocates support a Clean Energy Fund proposal that commits to funding current programs for ten years at current levels, to prevent backsliding and to offer certainty so that companies invest in the New York market. A ten-year commitment would mirror the commitment made to NY-Sun and more closely match the required timeframe for compliance with the proposed federal Clean Power Plan.⁴³

2. Supply Side Renewables.⁴⁴

The Proposal assigns procurement responsibility of Main Tier RPS resources to electric utilities.⁴⁵ Current New York renewable energy development falls primarily to NYSERDA, the central procurement administrator for the RPS program. NYSERDA pays a fixed incentive to renewable energy generators for rights to the RPS "attributes" associated with each MWh of electricity delivered to New York. The Clean Energy Advocates support the position taken in the comments submitted by the Alliance for Clean Energy New York and Advanced Energy Economy. Specifically, the Clean Energy Advocates support ACE and AEE's endorsement of bundled contracts for energy and RECs between utilities and competitively selected projects and their support for the PPA approach for the REV framework for supply-side renewables.

⁴³ See Carbon Pollution Emissions Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 70 Fed. Reg. 34,830 (proposed June 18, 2014) (to be codified at 40 C.F.R. pt. 60).

⁴⁴ The following section closely tracks comments submitted by Advanced Energy Economy and the Alliance for Clean Energy New York.

⁴⁵ Straw Proposal, *supra* note 1, at 5.

“It is more important than ever to continue to support the development of large-scale renewables in New York due to the fuel diversity, low carbon emission, and economic benefits that these resources provide to the energy system and society. Transitioning to utility procurement would fundamentally change the renewable energy market in New York.”⁴⁶ The Clean Energy Advocates support this new approach. However, it raises many new implementation questions. Staff recognized the complexity of the proposed transition, and invited specific comments on five questions.

1) What should be the short-term and long-term goals/targets for these procurements and what are the relevant metrics? Should the goals and metrics be set on an individual utility or collective basis?

The Commission should establish both a statewide renewable energy goal, and a required target for each individual utility. The Commission should also establish mechanisms to ensure a balanced distribution for upstate and downstate projects.

New York should articulate a clear statewide goal in the REV proceeding, in terms of a percentage of total electricity usage. The Clean Energy Advocates support establishing a short-term statewide goal of 30 percent by 2018 and a long-term goal of 50 percent by 2025. The short-term goal should be fulfillment of the existing RPS target, extended until 2018.

New York needs a statewide renewable energy goal, which will facilitate New York meeting its full suite of policy goals, including the 80 x 50 carbon reduction goal and the proposed federal Clean Power Plan target. Both the Regional Greenhouse Gas Initiative (RGGI) and the proposed

⁴⁶ Staff Proposal, *supra* note 1, at 52.

federal Clean Power Plan assume that New York's 30 percent RPS will be achieved and significantly exceeded. The 50 percent overall target is achievable in the context of NYSERDA's recent renewable potential assessment, which found current economic potential of 30 percent and bounded technical potential of 70 percent.⁴⁷

In the process of establishing a statewide goal, the Commission and NYSERDA should estimate the amount of renewable energy expected from NY-Sun, the remaining RPS Main Tier through 2015, the remaining RPS customer-sited tier, the 280 MW Long Island Power Authority renewable energy procurement and future procurements, and other ongoing renewable and efficiency programs, New York Power Authority initiatives, and the amount of renewable energy expected from REV.

Based on this analysis, New York should then establish short-term and long-term targets for each utility service territory in the State. The Commission should establish required procurement amounts for each utility in megawatt-hours, for each year, based on projected total load for that utility, with specific upstate and downstate procurement requirements. If year by year requirements are too restrictive, the Commission should consider a rolling average that allows some year to year variation while keeping on track with needed long-term outcomes.

To ensure these targets are met, the Commission should establish an Alternative Compliance Payment (ACP) program where utilities would be required to pay a fixed \$/MWh penalty if they do not reach their yearly target. The ACP funds should be used to support the development of additional renewable energy resources in New York.

⁴⁷ NYSERDA, ENERGY EFFICIENCY AND RENEWABLE ENERGY POTENTIAL STUDY OF NEW YORK: SUMMARY, at 10 (April 2014), *available at* <https://www.nysERDA.ny.gov/Energy-Data-and-Prices-Planning-and-Policy/Energy-Prices-Data-and-Reports/EA-Reports-and-Studies/EERE-Potential-Studies.aspx>.

2) If centrally procured, should the allocation of purchases among utilities be based on load share or some other equitable basis?

If new renewable resources are centrally procured, the allocation of purchases among utilities should be based on projected load. The Clean Energy Advocates believe there should be a continuing central procurement function, which may offer many benefits for all stakeholders involved.

3) If centrally procured, should each utility be a party to each agreement?

If new renewable resources are centrally procured, each utility should enter into a bundled, long-term PPA with one or more generators to cover that utility's required purchase amount as a percentage of their projected load share. Further, the Clean Energy Advocates recommend that the Commission require tracking of the renewable energy credits (RECs) within the bundled PPAs and REC reporting to the New York Generation Attribute Tracking System.

We recommend that New York explore using an approach generally similar to that employed by Massachusetts, under which a state entity, such as NYSERDA, manages a central procurement process and, upon the selection of winning biddings, requires utilities to enter into PPAs.

Implementing this type of hybrid central procurement approach could offer many benefits to ratepayers, utilities, regulators and project developers, but requires a well-designed program.

Towards this goal, the Clean Energy Advocates recommend that the Commission also launch a stakeholder process to create a standard form PPA, allowing all stakeholders to submit comments as it is developed.

4) If procured by individual utilities, how could potential concerns regarding affiliated renewable generation developers or interests in potential transmission projects be addressed?

This question raises the potential issue of conflicts of interest, which would be mitigated by the central procurement approach that we support, as generally described above. If the new renewable energy were procured individually by each utility, the procurement would have to be somehow conducted by a third party with government oversight and final approval. Selection would have to be based on objective pre-determined principles such as price, ability to complete the project (progress/completion of permits, interconnections agreements, etc.), and objective local economic benefits criteria. Contracts could be a pre-approved standard form PPA as described above.

5) Whether individually or centrally procured, what existing RPS program design criteria regarding energy delivery, technology eligibility, and procurement mechanisms should be revisited?

The Clean Energy Advocates strongly oppose revisiting the discussion of RPS eligible technology. The REV proposal should not be revisiting the issue. Current RPS technologies should be eligible as renewables for procurement in REV.

The Clean Energy Advocates recommend that Staff include the topic of Main Tier procurement by utilities in the Options Paper for the REV Track 2, which is set to be released on October 3, 2014, so it can be discussed in the roundtables.

We appreciate that the Commission recognized in the Proposal that a new system for Main Tier renewables procurement must be in place by the end of 2015 to avoid gaps in the project

development process and market uncertainty for those interested in investing in New York. As such, we are hoping that this discussion and decision-making proceeds expeditiously, even as we recognize the workload of REV for Staff.

If this issue is included in the Track 2 Options Paper and roundtable discussions, it can then be a topic in the Commission's final Track 2 Order scheduled for the second quarter of 2015. On that schedule, utilities can potentially begin to plan for this aspect of DSP function to affect their activities in 2016, which is appropriate as the current RPS expires at the end of 2015. Without this schedule (or a more aggressive one) there could be a gap in New York's RPS implementation and progress towards a more diverse and clean fleet of power generation sources.

3. Energy Efficiency and Load Management Controls.

In the Proposal, Staff identified development of DSP capabilities - specifically the transition of energy efficiency programs - as a critical near-term path objective for REV.⁴⁸ The Straw Proposal further specifies the need for an "immediate process to develop demand response tariffs... including tariffs for storage and energy efficiency" as a "key critical path need" for REV policy recommendations.⁴⁹

The Proposal outlines an implementation plan for energy efficiency, but one that lacks needed detail on key points. The Clean Energy Advocates recommend more care and forethought in planning the changes in energy efficiency programs outlined in the Proposal. We recommend

⁴⁸ Straw Proposal, *supra* note 1, at 3-4.

⁴⁹ Straw Proposal, *supra* note 1, at 5.

that funding for the existing efficiency saving programs be sustained until there is evidence to suggest that the new framework will succeed.

The Proposal states existing obligations under the EEPS will create a backstop requirement as REV moves forward.⁵⁰ However, as mentioned earlier in this document, the proposed backstop does not account for efficiency savings committed through NYSERDA programs. In addition, we support a recommendation from the Northeast Energy Efficiency Partnership requiring the utilities to account for the full EEPS goals, utility ETIPs should analyze and report on efforts to capture remaining cost-effective efficiency potential identified in NYSERDA's April 2014 Energy Efficiency and Renewable Energy potential study, amounting to 18percent of forecasted electric load, 11percent of gas load, and 20 percent of petroleum fuels in buildings by 2030.⁵¹

Second, each utility is directed to develop an ETIP. The Proposal observes that the utility ETIP will serve as a bridge between the utilities' current energy efficiency efforts and the expanded efforts envisioned by REV.⁵² However, the Proposal says very little about the scope or scale of what may be required to build a bridge that will achieve the sought for results.

The Proposal observes that the existing "one-time incentives based programs" are inadequate to meet state and federal greenhouse gas emission reduction goals, goals the Proposal observes will require "an order of magnitude greater investment."⁵³ By removing NYSERDA energy efficiency commitments from the plan, the Proposal cuts the current resource commitment by half but provides little guidance to utilities on expected actions to make up that loss and achieve

⁵⁰ Straw Proposal, *supra* note 1, at 53.

⁵¹ See generally NYSERDA, ENERGY EFFICIENCY AND RENEWABLE ENERGY POTENTIAL STUDY OF NEW YORK STATE: VOLUME 1 (April 2014), available at <https://www.nysERDA.ny.gov/Energy-Data-and-Prices-Planning-and-Policy/Energy-Prices-Data-and-Reports/EA-Reports-and-Studies/EERE-Potential-Studies.aspx>.

⁵² Straw Proposal, *supra* note 1, at 53.

⁵³ Straw Proposal, *supra* note 1, at 50-51.

the sought for ten-fold increase investments in energy efficiency.

The Proposal goes on to suggest that as product pricing schemes and DSP markets take shape, utilities need to reduce the attention they give to effectively utilizing energy efficiency to serve electricity service goals, promising that eventually efficiency targets may be “phased out or subsumed into an alternative performance measure.”⁵⁴ The Proposal provides no examples of how this has been accomplished elsewhere. It also says little about what specific new methods can be expected to achieve these outcomes.

In addition to the minimum obligation of EEPS, the Proposal recommends that the means for achieving targets should be re-evaluated.⁵⁵ However, the Proposal offers little guidance on how to address issues that new approaches may pose. Specifically, the ETIP guidelines recommend that each utility should consider incorporating “whole building, fuel neutral approaches, and load and building management controls and demand response measures.”⁵⁶

Many of the Clean Energy Advocates have long advocated giving utilities and NYSERDA flexibility to innovate and respond quickly to market information. This proposal suggests new flexibility but offers no guidance or insight into how that may be accomplished, for example, by addressing how all source efficiency may be accounted for in both the utility program obligations and the overall efficiency goals these programs will serve.

Additionally, the ETIP guidelines suggest utilities should consider “targeting energy efficiency efforts to maximize the economic value to the utility service territory,”⁵⁷ but the Proposal does not address at all how maximizing economic value relates to the established measures of value

⁵⁴ Straw Proposal, *supra* note 1, at 54.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

used to assess the benefits of energy efficiency in benefit-cost assessments.

We are further concerned that the Proposal blurs the separate roles that demand management and energy efficiency may serve in meeting system needs. While demand management and energy efficiency are valuable tools for improving system efficiency, the two differ in their benefit profiles, in management requirements, in their cost, and in the way they achieve their outcomes. The Proposal overlooks important differing planning and management issues associated with demand management and energy efficiency.

Finally, REV should include an ongoing role for NYSERDA and the Clean Energy Fund in overcoming market barriers to energy efficiency and assisting consumers to manage and control their energy use. In light of the residential customer survey,⁵⁸ Track 1 should articulate a role for the CEF in assisting all customers to participate in DER markets and in achieving cost-effective savings by promoting market regulation (e.g., building energy codes and appliance standards).

B. Demonstration Projects.

The Clean Energy Advocates have been strong proponents of demonstration projects to illustrate the potential for non-wires alternatives in recent rate cases. The Clean Energy Advocates recommend that a similar approach be taken in REV. As part of utility-owned DSP planning, the Proposal should require a demonstration of a functioning DSP infrastructure project, with a transparent stakeholder process.

⁵⁸ Case 14-M-0101, 2014 Survey of Residential Electric Customer Interest in Value-Added Products and Services, August 20, 2014.

Consolidated Edison, Inc.’s Brooklyn/Queens Demand Management (“BQDM”) Program⁵⁹ demonstrates the potential for non-wires alternatives applied through recent rate cases. Projects like the BQDM program demonstrate that non-wires alternatives are viable DER, and should be a focus of REV. The Clean Energy Advocates recommend that Staff should prioritize non-wires alternatives as a DER tool. In the BQDM Program alone, Con Edison will acquire 52MW of distributed resources to address overloaded distribution facilities.⁶⁰ Non-wires alternatives are a cost-effective use of distributed resources.

Demonstration projects would also inform the distribution grid planning process that will occur during development of the DSIPs. For example, Pacific Gas & Electric and the Clean Coalition partnered on a project in the Bayview and Hunters Point areas of San Francisco that will prove that local renewable energy can fulfill at least 25 percent of total electricity consumption for 20,000 customers while maintaining or improving power quality, reliability, and resilience.⁶¹ Additionally, PSEG Long Island’s Utility 2.0 Long Range Plan highlighted a potential community microgrid project in the South Fork that would enhance resiliency and demonstrate distributed grid planning.⁶²

The implementation plan for REV should include demonstration projects for DSP and DER. Early implementation plans and demonstration projects will confirm whether the utility ownership of DSP is technically feasible, and illustrate the ability of the utilities to implement projects.

C. Interconnection.

⁵⁹ Case 14-E-0302 - Petition of Consolidated Edison Company of New York, Inc. for Approval of Brooklyn/Queens Demand Management Program (July 15, 2014).

⁶⁰ *Id.* at 3.

⁶¹ See Case 14-M-0101, Comments of the Clean Coalition, July 18, 2014.)

⁶² PSEG Long Island, *Utility 2.0 Long Range Plan* at 3-34 to 3-35 (July 1, 2014).

We agree with Staff that interconnection applications will increase under the REV, utilities will need to devote more staff to processing these requests, and we support the Staff recommendation to undertake a periodic interconnection reform process. Further, we support the recommendation to increase the New York Standardized Interconnection Requirement to 5MW. We also note that reconsidering cost allocation for DER interconnection upgrades must be included in Track Two. In addition to these comments, the Clean Energy Advocates support the comments on the interconnection submitted today by Interstate Renewable Energy Council (IREC).

D. Microgrids.

The Proposal outlines many of the barriers to microgrid adoption in this State. These range from interconnection issues with the utility to the legal and regulatory structure that surrounds these projects. Staff recognizes the importance of cleaning up the ambiguous regulatory language around microgrids, especially the “near or at” language for qualifying facilities. The Proposal states that:

“[a] new regulatory framework would assist in encouraging such microgrids. Consideration should be given to a new tariff structure that allows groups of customers to sign up to receive microgrid delivery service wherein the Commission’s regulatory policies are implemented in advance through the tariff without the need for qualifying applicants to obtain direct Commission approval for the structuring of a microgrid.”⁶³

The Clean Energy Advocates request additional clarity on this framework, particularly whether this framework would facilitate exclusively utility-owned microgrids. If the proposal in question targets facilitating utility-owned microgrids, Staff should provide more detail on how customers would qualify to “sign up” to receive this service. For example, in what areas would microgrid

⁶³ Straw Proposal, *supra* note 1, at 62.

service be available, and how would that determination shift based on the location of existing microgrid-related assets?

Several barriers such as stand-by rates and revision to the campus-style tariff will need to be addressed in Track Two in order to allow microgrids to flourish. Removing these barriers will increase the societal and financial benefits of microgrids and encourage rapid deployment across the grid adding efficiency and resiliency.

In order to properly reconsider standby rates in the microgrid context, or to reconsider the value that even stand-alone DER provides to the grid, further study of the benefits that DER and microgrids can provide to the grid may be needed. Such studies may focus, for example, on the cost of otherwise necessary transmission and distribution upgrades that DER is able to defer.

While standby rates themselves will be an issue for Track 2, the process and responsibility for gathering information on the benefits of DERs in order to properly evaluate these rates belongs in Track 1.

Staff should consider whether the DSP should be charged, as part of its ongoing function, with carrying out studies to measure the costs and benefits of DERs and microgrids on the grid.

Otherwise, we believe that Staff may be handing over a difficult mandate to Track 2. This track will be reconsidering standby rates potentially without sufficient information to guide informed tariffs, and without an ongoing process for how the DSP will support gathering the appropriate information.

Standby rates are an issue for accelerated DER investment. While utility ownership of DSP may defray some of the costs behind standby rates, the Commission should carefully consider clear metrics and goals for new standby rates in the Track Two proceeding.

E. Demand Response Tariffs.

The Proposal recommends “creat[ing] opportunities for DER to participate in expanded DR programs whether NYISO is ultimately able to allow retail participants into its programs or not.”⁶⁴ Staff appears ready to quickly move forward to establish demand response programs before further uncertainty negatively impacts the DER industry. Specifically, Staff recommends expanding demand response programs beyond the current (Con Edison customer) participation to a statewide utility-offered program.⁶⁵ The Clean Energy Advocates support Staff in expanding demand response programs and the state’s ability to promote demand response through utility purchase or within the wholesale market.

VI. Mitigating Market Power.

Utility ownership of DER faces the existing rebuttable presumption against vertical market power.⁶⁶ The initial REV order outlines the potential necessity for utility ownership, citing the needs for active management of DER resources, reliability interests, and public interests for essential services that are not provided through competitive markets.⁶⁷

To help counter the potential problems associated with vertical market power, while gaining the benefits of utility ownership, Staff outlines a basic balancing test for DSP/utility ownership of DER.⁶⁸ First, the DER proposal must address a substantial system need. Second, the DSP must demonstrate why the benefits of utility engagement outweigh the market power concerns.

⁶⁴ *Straw Proposal*, *supra* note 1, at 63.

⁶⁵ *Straw Proposal*, *supra* note 1, at 64.

⁶⁶ Case 96-E-0900, Statement of Policy on Vertical Market Power, App. I, at 1 (issued and effective July 17, 1998) (establishing a rebuttable presumption that ownership of generation by an affiliate of a utility would unacceptably exacerbate the potential for vertical market power).

⁶⁷ Initial Staff Report, *supra* note 4, at 26-28.

⁶⁸ *Straw Proposal*, *supra* note 1, at 73.

Finally, the DSP/utility must include a competitive solicitation for construction and operation. An Order should include some guidelines for the application of the test because the current rules do not provide sufficient detail for consistent application.

In addition to this case-by-case analysis, the Straw Proposal also allows for two express ownership cases: energy efficiency programs and DER assets located on utility distribution network property.⁶⁹ The Proposal should provide additional detail outlining the scope and scale of this ownership standard.

The Straw Proposal also cites ratemaking incentives and penalties as a market regulation tool mitigating the vertical market power problems.⁷⁰ Ratemaking is a Track Two issue, which will need to be carefully considered regarding the potential for interference in the DER market.

A central issue the Clean Energy Advocates identify regarding DSP ownership of DER is the issue of incentivizing performance through revenue. It is currently unclear how utilities as DSP will capitalize on investment, and how the market structure will incentivize investment in DER. Utilities currently base their revenue requirement on return on investment (RoI). Capital expense, RoI and rate are the traditional subjects of rate cases in New York. The nature of these arrangements incentivizes larger, longer-term capital projects. The Straw Proposal does not provide evidence of how REV will address the fundamental disagreement between RoI, utility revenue, and incentivizing DER.

Many energy efficiency and demand side measures are ineligible for cost recovery under NYISO tariffs. As such, alternative revenue streams must be created to account for more advanced DER. Creating rates and tariffs to account for this challenge will fall to Track Two. In finalizing Track

⁶⁹ Straw Proposal, *supra* note 1, at 72.

⁷⁰ Straw Proposal, *supra* note 1, at 71-74.

One, the Commission should formalize metrics and a plan to implement IDSP should Track Two fail to create market conditions necessary to promote the DER growth.

VII. Implementing REV.

Utility Planning

The Proposal mentions the importance of longer-term planning in the implementation of an effective distributed system. Utilities and the DSP require long-term assurances on advanced infrastructure and capital expenses, effecting return on investment and eventually rates. The proposal mentions extended rate cases as a remedy to this issue.

The Clean Energy Advocates caution against a wholesale extension of rate periods. Extended periods for rate proceedings would reduce stakeholder participation and limit oversight. A longer rate period would only exacerbate the major concerns of the utility-DSP ownership, utility renewable procurement, and vertical market power. Simply too many issues in the Track One Straw Proposal are left for Track Two discussion to provide a longer rate period in Track One. Many programs could be appropriately treated with longer rate periods, but these programs and their rates are not fully developed within Track One. As such, there should not be a wholesale extension of rate periods.

VII. Concluding Remarks.

We appreciate the opportunity to comment on the Proposal and we look forward to working with Staff and the Commission to make REV a success. Successful implementation of REV may not

only advance state goals for environmental and technological development, but may create a blueprint for other states hoping to catalyze development of a 21st century utility infrastructure.

Respectfully submitted,

Signatories.