STATE OF NEW YORK
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

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COMMENTS OF THE NEW YORK POWER AUTHORITY

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In accordance with the Public Service Commission's ("Commission" or "PSC") January 21, 2016 Order Expanding Scope of Proceeding and Seeking Comments, the March 8, 2016 "Notice Extending Comment Period" and the April 8, 2016 "Notice of Comment Period for Staff White Paper and Cost Study," the New York Power Authority ("NYPA") hereby files these comments on the Department of Public Service ("DPS") Staff White Paper on the Clean Energy Standard ("White Paper"), dated January 25, 2016. NYPA fully supports Governor Cuomo's long term goal for fifty percent of New York State's electricity to originate from renewable sources by the year 2030 ("50 x 30") and generally supports the DPS' initial framework to achieve that goal as described in the White Paper. NYPA provides the following comments on the White Paper's proposed design of the Clean Energy Standard ("CES") program framework.

I. NYPA WILL WORK AGGRESSIVELY TO SUPPORT GOVERNOR CUOMO'S 50 X 30 GOAL

In his letter dated December 2, 2015 to the DPS, Governor Cuomo directs that the 50 x 30 goal be converted from aspiration to actionable. NYPA is taking action by expanding its programs to target the 50 x 30 goal through both supply and demand-focused initiatives. NYPA is in the process of accelerating and enlarging its renewables program to increase renewable

electricity used by its customers and public facilities.[1] In addition, NYPA continues to develop and grow its energy efficiency program that will reduce NYPA's load serving entity obligation and thereby reduce the total amount of renewable energy needed to get to 50 x 30. As part of this two-sided effort NYPA will:

- Finance $1.5 billion of clean energy projects by 2020 to help government entities complete renewable distributed generation, microgrids, energy efficiency, and smart grid technologies projects all of which support achieving the 50 x 30 goal. Currently, NYPA is developing Solar PV with battery storage systems incorporating smart inverters at the State University of New York at New Paltz and Queens College. These projects, and more like them, will provide renewable energy to the campuses and also offer grid support services. NYPA is also developing a 15.8 MW Combined Heat and Power based microgrid projected to provide 91% of the electric load and 70% of the thermal load of the Empire State Plaza. The Empire State Plaza microgrid, among other benefits, is projected to avoid 25.6 tons of CO_2 emissions per year.
    - As part of this NYPA will expand its energy efficiency programs where NYPA has historically financed approximately $200M each year of energy efficiency projects. Over the years, NYPA has completed nearly 2,170 energy efficiency and clean energy projects, saving 1.3M MWh of electricity a year, while reducing greenhouse gas emissions by over 1M tons annually.
- Enter into Memoranda of Understanding ("MOUs") with customers to develop distributed and large-scale renewable energy with offtake agreements.
    - The City of New York ("City") has a goal of powering 100% of the City government operations from renewable sources of energy. NYPA is actively exploring with the City, among other options, large scale renewable project development such as offshore wind and on site renewable project development.
    - NYPA also plans to enter into MOUs with its municipal and rural electric cooperative customers to develop Reforming the Energy Vision ("REV") related projects, including deployment of distributed energy resources such as Solar PV, smart meters, demand response, and other customer-sited energy savings projects.
- Continue active development of New York's first offshore wind project to be located south of Long Island in the Atlantic Ocean, projected to be between 350 MW to 700

[1] Through initiatives such as K-Solar, NYPA assists in the development of renewable energy projects for public facilities that are not NYPA energy commodity customers.

MW. With an assumed average capacity factor of 40%, the project would provide approximately 1.22 TWh to 2.45 TWh of renewable electricity annually.

- Expand K-Solar and similar solar advisory services at public facilities to develop a total of 100 MW by the year 2020.
- Continue working with developers of large scale renewables projects to facilitate interconnection to NYPA's transmission system Statewide. Over 600 MW of large-scale wind facilities have connected directly to NYPA's system over the past eight years.
- Expand NYPA's existing Green Power Program to facilitate the purchase of renewable energy for customers by leveraging NYPA's competitive purchasing capabilities. NYPA's voluntary Green Power Program customers have supported the development of over 70 MW of wind generation and an additional 20 MW of biomass generation currently in progress. In 2015, NYPA's Green Power Program supplied more the 150 GWh of Renewable Energy Credits ("RECs") to customers, encouraging market based renewable energy development.

II. NYPA WILL WORK WITH ITS CUSTOMERS TO ACHIEVE THE ULTIMATE GOAL OF 50 X 30

NYPA resolves to achieve 50 x 30 with its customers, but its plan to achieve the goal may not comport in all respects with the schedule and other requirements applicable to other Load Serving Entities ("LSEs") as proposed in the White Paper.[2] NYPA will support 50 x 30 in a manner that complies with NYPA's statutory mandate to provide low cost power to New York State, including businesses and industrial firms that are willing to commit to remain in-State long-term and create or retain jobs. As stated in the White Paper, NYPA will confer with DPS Staff concerning its 50 x 30 implementation plan.[3]

In carrying out its expanded renewables program, NYPA will focus on those customers that do not currently have fifty percent of their load served by NYPA hydroelectric power. NYPA will develop long-term plans to ensure that those customers reach renewable targets that

[2] NYPA's implementation of a separate 50 x 30 program apart from the DPS proposal is explicitly endorsed by the White Paper: "[NYPA is] expected to adopt renewable and non-emitting energy percentages for [its] served load and Staff will confer with NYPA … regarding [its] plans." White Paper p. 12.
[3] Id.

will enable the State to reach 50 x 30. NYPA's Statewide "Recharge New York" economic development program ("RNY") already provides customers with fifty percent hydroelectric power at low rates to attract businesses and jobs to New York State. Adding renewable targets, and associated costs, above this low-cost fifty percent hydroelectric power would undermine the success of the RNY program. Similarly, several of NYPA's other statutory customer groups such as replacement, expansion and preservation power customers significantly exceed the fifty percent renewables targets through their electricity purchases from, and long-time financial support of, NYPA's hydroelectric generation assets. By statutory mandate, NYPA provides these customers with low-cost renewable power to support the communities and businesses located near NYPA's large hydroelectric power generators and throughout New York State. NYPA will balance reaching 50 x 30 with its statutory purposes to provide low cost power for economic development and government customers to avoid a wholesale loss of jobs for the State and/or burdensome increases in energy costs for NYPA customers.[4]

Until NYPA's contracts with its customers expire, NYPA will seek voluntary commitments to support achieving 50 x 30. In that regard, NYPA is already communicating with its customer base seeking such voluntary participation to accept near-term renewables targets, and working to incorporate 50 x 30 objectives into new contracts. In its outreach with customers, NYPA will shape their expectations that 50 x 30 targets will be incorporated into new contracts to the maximum extent possible.

[4] See RNY legislative history 2011 N.Y. Laws 60; Public Authorities Law ("PAL") § 1005(5); PAL § 1001-a(1) states in relevant part " … to preserve reliability of electric service … and to assist in deterring further extraordinary increases in rates for electric service the authority should provide such supplemental electricity for such use in the metropolitan area of the city of New York.

The extent to which CES targets as proposed in the White Paper would, if adopted by NYPA and its customers, increase NYPA customer rates cannot be determined until the elements, comprehensive structure and actual costs are finally determined. Thus, at present, NYPA cannot provide specific detail on the level and manner in which it and its customers will voluntarily participate in aspects of the program. Considerations that will bear on the scope of NYPA's participation include the following factors: (i) the extent to which participation will impact NYPA's ability to carry out its statutory mandates; (ii) customer willingness to voluntarily participate; (iii) the fact that NYPA functions in competitive wholesale markets and does not have a franchised retail customer base from which to recover above market costs; (iv) the fact that NYPA has statutory and contractual limitations on which costs can be passed along to customers; and (v) the significant level of NYPA's existing and ongoing contribution to achievement of the Statewide 50% renewable goal which is financed by NYPA customers through their rates.

III. IMPOSITION OF CES STANDARDS ON NYPA CUSTOMERS CANNOT CONFLICT WITH NYPA'S STATUTE

a) NYPA Cannot Jeopardize the Success of its Economic Development and Job Retention Programs

NYPA's statutory mission includes the provision of low cost power to New York State, including firms that commit to stay long-term and create or retain jobs within the State.[5] The legislative history of RNY states its purpose: the "provision of low cost power to foster Statewide economic development."[6] NYPA's economic development programs are designed to ensure long-term predictability and stability of energy costs to such manufacturers and businesses. The White Paper identifies economic development and job retention as important

[5] PAL § 1005(13-a).
[6] 2011 N.Y. Laws 60.

public policy interests of the CES.[7] Many jobs created and retained by NYPA's economic development programs are tied directly to the allocation of NYPA power. In aggregate, NYPA's economic development customers have committed to over 390,000 jobs, including 374,000 that were retained and close to 16,000 that were created due to the RNY program. Further, these commitments include in-State capital investment expenditures of $33 billion.

However, several of NYPA's economic development customers have indicated that their manufacturing or business operations may relocate out of the State in the absence of low-cost power. Any increase in energy costs for these customers could lead to the loss of business or jobs from New York State and frustrate NYPA's core statutory policies of job creation and retention, among others. Thus, NYPA would seek to avoid implementation of CES in ways that could undermine the success of NYPA's low cost power economic development programs.

Indeed, the Commission has previously shown great sensitivity to this issue in an effort to support NYPA's economic development activities. RNY customers are exempt from most Statewide Commission mandated surcharges (including the Renewable Portfolio Standard ("RPS") – a program that CES is intended to replace, in conjunction with other PSC initiatives) and pay reduced delivery charges in order to keep energy costs low in order for RNY to provide the greatest economic benefit.[8] In the PSC's Order Regarding Retail RPS in 2004, it stated that customers "provided electricity at reduced prices to achieve economic development objectives" should not have to pay any RPS costs, as it "would be counterproductive to these economic

[7] White Paper pp. 2, 17, 18, 20.
[8] Case 11-E-0176, In the Matter of the Commission's Implementation of Certain Provisions of the Recharge New York Power Program Act, *Order Directing Certain Utilities to Submit Tariff Amendments*, issued and effective September 19, 2011.

development goals."[9] This policy was reiterated in the PSC's orders concerning the RNY Program in 2011, which mandated that the State's regulated utilities offer discounted delivery for RNY power through the elimination of RPS, Systems Benefits Charge and Energy Efficiency Portfolio Standards surcharges.[10]

b) Voluntary CES Targets Will Need to Account for NYPA's Other Statutory Mandates to Provide Low-Cost Power

NYPA is fully supportive of the White Paper's goals; however, NYPA must first effectuate the intent of its statute as provided in the PAL.[11] NYPA is mandated to provide power to its domestic and rural customers at rates "as low as possible."[12] The Niagara Redevelopment Act echoes this passage, stating that "at least 50 [percent] of the project power…shall be made available at the lowest rates reasonably possible and in such manner as to encourage the widest possible use."[13] New York's Fourth Appellate Division has upheld these statutes to mean that NYPA's power must be sold at the "lowest possible rates and no charges other than a handling cost may be added upon resale to consumers."[14]

This concern for affordable power is raised in the statute applicable to NYPA's New York City governmental customers as well: "[NYPA must] preserve reliability of electric

[9] Case 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, *Order Regarding Retail Renewable Portfolio Standard*, issued and effective September 24, 2004, pp. 10-11.
[10] Case 11-E-0176, In the Matter of the Commission's Implementation of Certain Provisions of the Recharge New York Power Program Act, *Order Directing Certain Utilities to Submit Tariff Amendments*, issued and effective September 19, 2011. The PSC's decisions greatly promoted State economic development efforts. Indeed, in 2014 RNY customers saw a benefit of over $89 million in cost avoidance for both production and delivery charges relative to that of what they would have been with power from their retail service provider.
[11] PAL § 1014.
[12] PAL § 1005(5).
[13] 16 U.S.C. § 836(b)(1).
[14] *Auer v. Dyson*, 110 Misc. 2d 943 (N.Y. Sup. Ct. 1981), *aff'd*, 112 A.D.2d 803, (N.Y. App. Div. 4th Dep't 1985).

service in the metropolitan area of the city of New York and throughout the State and assist in deterring further extraordinary increases in rates for electric service."[15]

In light of these statutory powers, NYPA will seek voluntary cooperation from its customers to comply with CES standards. In this regard, NYPA will make sure to leverage pre-existing renewable goals, including the City's goal to have 100% of its electricity from renewable sources by 2050.

IV. NYPA'S CUSTOMERS' HYDROELECTRIC PURCHASES SHOULD BE CREDITED TOWARD THEIR CONTRIBUTION TO 50 X 30

a) NYPA's Customers Have Been Paying for NYPA's Large Hydroelectric Resources for Decades

Inclusion of NYPA's hydroelectric power in the CES baseline, to reduce the total obligation on all other LSEs, is inherently unfair to NYPA customers.[16] Historically, these customers have shouldered the cost of developing, maintaining and operating NYPA's Niagara and St. Lawrence hydroelectric projects.[17] Thus, NYPA customers have substantially assumed the cost for hydroelectric projects that led to the establishment of the baseline of 26% renewable electricity,[18] in a manner that the customers of other LSEs have not.

b) Failure to Account For Hydroelectric Purchases Imposes an Inequitable Burden on NYPA's Customers

The White Paper asserts that its approach in proposing the CES targets promotes equity by requiring all customers to bear costs.[19] However, as applied to NYPA's customers, the proposed methodology for calculating CES targets has the potential to be inequitable and

[15] PAL § 1001-a(1).
[16] White Paper, p. 12.
[17] NYPA's rates are explicitly designed to recuperate the capital and operation costs of its hydroelectric generation from its customers. See e.g. PAL § 1005 (5).
[18] White Paper, Appendix B, p. 3.
[19] White Paper, p. 11.

unreasonable as it completely ignores NYPA customers' contribution to the CES baseline and inappropriately shifts CES compliance costs from the customers of other LSEs to those of NYPA. Including NYPA customers' hydroelectric purchases in the CES baseline reduces the total amount of renewables that other LSE customers are required to purchase.[20] DPS Staff's approach in the White Paper asks NYPA's hydroelectric customers to shoulder the burden of more CES costs than the customers of other LSEs in order for New York to reach 50 x 30.

c) NYPA Will Work With its Hydroelectric Customers to Implement Reforming the Energy Vision and Energy Efficiency Projects to Achieve 50 x 30

Figuratively speaking, CES compliance can be seen as a fraction, with renewable supply as the numerator and total load in the denominator. Decreases in load (the denominator), as well as increases in renewable supply (the numerator) both move New York closer to 50 x 30. NYPA will attack both elements with all of its customers, including those that are allocated substantially zero-carbon emission hydroelectric power. This will include aggressive implementation of energy efficiency and REV related projects including distributed energy resources such as solar, smart meters, demand response, and other customer-sited energy savings projects.

V. NYPA IS UNABLE TO UNILATERALLY PASS CES COSTS THROUGH TO ITS CUSTOMERS

Unlike investor owned utilities with a franchised retail customer base and permissive tariffs, neither NYPA's tariffs, nor its contracts grant NYPA the flexibility to pass along CES costs to its customer base. Moreover, under NYPA's statute, it may not use PSC Orders to raise customer rates.[21] Broadly, NYPA's power contracts and service tariffs allow for the pass-through

[20] White Paper, p. 12.

[21] PAL § 1014 states the following: "the rates, services and practices relating to the generation, transmission, distribution and sale by [NYPA]…shall not be subject to the provisions of the [Public Service Law] nor to regulation by, nor the jurisdiction of the department of public service." *Lathorp v. Village of Bath*, 112 AD2d 749 (N.Y. App. Div. 4th Dep't 1985) further states that "the Legislature has expressly provided that the services and practices, as well as the rates, of public agencies with respect to power supplied by [NYPA] shall be governed by the

of costs solely due to changes in applicable external fees, such as New York Independent System Operator ("NYISO") charges, but could not include provisions for the inclusion of costs from PSC Orders.

This is illustrated in NYPA's power contracts. Permitted adjustments to such contracts are allowed to address billing and payment errors, and the receipt of actual, additional or corrected data concerning customer energy or demand usage. In addition, there are generally pass-through allowances for costs associated with taxes, transmission charges and NYISO charges. NYPA power contracts do not include change of law provisions other than NYISO tariff changes (which are subject to Federal Energy Regulatory Commission ("FERC") review and approval) as a justification to make adjustments to billings NYPA contract customers.

NYPA's Rules and Regulations, including Force Majeure, do not provide the means to pass-through PSC mandated CES costs to NYPA customers. "Force Majeure" as applicable to NYPA's power contracts is codified in NYPA's Rules and Regulations, which in turn are incorporated by reference into its contracts. Specifically, 21 NYCRR § 454.3 addresses "Liability, Limitations and Conditions of Service" including "Uncontrollable Forces," which detail those instances where NYPA may be excused from contractual obligations for the delivery of service.[22] PSC Orders are not listed in such instances for a clear reason: pursuant to PAL § 1014, the Public Service Law is inapplicable to NYPA concerning its power "rates [and] services." Therefore, NYPA's "Force Majeure" provisions do not provide an avenue for NYPA to pass-through CES costs via NYPA's power contracts to its customers.

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provisions in their contracts with [NYPA] and not by 'general principles of public service law regulating rates, services and practices.'" *See also* PAL § 1005(5)(g).

[22] See 21 NYCRR § 454.3(c).

NYPA contracts also include termination provisions which allow NYPA to cancel service or modify the quantities of power and energy available to a customer if such cancellation or modification may be required to comply with any ruling, order, or decision of any regulatory or judicial body having jurisdiction over NYPA, including but not limited to FERC. As the PSC is not a regulatory body with jurisdiction over NYPA for purposes of its power contracts and rates,[23] NYPA has no contractual right to terminate because a customer refuses to accept PSC imposed CES requirements.

VI. OUT-OF-STATE RESOURCES THAT CAN DELIVER RENEWABLE ENERGY INTO NEW YORK SHOULD BE ELIGIBLE UNDER THE CES

NYPA supports the White Paper's proposal to confer eligibility on out-of-state resources capable of delivering power into the New York energy market.[24] NYPA strongly supports the simultaneous bolstering of transmission within New York State and connecting with its neighboring control areas to accommodate more renewables and to increase the reliability of the grid. An example of this is NYPA's Hudson Transmission Partner's transmission line ("HTP"), which was built to facilitate energy imports from the PJM Interconnection ("PJM") into the New York Control Area.[25] If an out-of-state renewable generator within PJM can schedule an energy-only transaction from PJM to the New York Control Area on the HTP line, the energy associated with that transaction would supply New York loads and should be eligible under the CES.[26] This will potentially expand the amount of eligible resources and reduce compliance costs for New York ratepayers.

[23] PAL § 1014.
[24] White Paper, p. 20.
[25] In fact the City has indicated that it may use HTP to import electricity from renewable resources from out-of-state to meet its 100% renewable by 2050 goal.
[26] Capacity should not be required for an out-of-state resource to qualify. The capacity market is to ensure resource adequacy and is not indicative of whether energy was delivered to an in-state load.

VII. ENERGY STORAGE SHOULD NOT COUNT AS LSE LOAD

The PSC should make clear that sales to energy storage facilities will not be counted as part of an LSE's overall load for purpose of establishing CES compliance obligations. The White Paper is unclear whether CES targets would apply to load for grid-scale energy storage. Importantly, construction of substantial grid-scale energy storage may be required to balance the intermittent supply of renewable energy with the demands of loads in order to achieve 50 x 30. Furthermore, existing energy storage resources should not be penalized, as they currently provide this balancing service. Adding costs to the operation of storage resources that will likely be necessary to assist the State in reaching 50 x 30 would be counterproductive. Thus, the electricity used in the storage mode should not be included in calculating Statewide or individual CES targets or compliance.

VIII. RENEWABLE ENERGY CREDIT MARKET DESIGN SHOULD MAXIMIZE COMPETITION AMONG RENEWABLE RESOURCES AS WELL AS MARKET EFFICIENCY

a) CES Tiers Should be Consolidated

The REC Market should be structured to encourage competition among renewable resources to maximize liquidity and reduce costs of compliance. To that end, NYPA recommends that Tiers 1 and 2 as set forth in the White Paper be consolidated. In the alternative, and at a minimum, Tiers 2a and 2b should be consolidated to increase competition and reduce the risk of a limited supply of RECs leading to higher prices.

If the tiers are maintained, LSEs should be able to use excess RECs from higher tiers, or "overflow" RECs, towards compliance obligations in the lower tiers. For example, if an LSE enters into a long-term agreement with a new wind facility for RECs under Tier 1, and that

facility produces more RECs than its Tier 1 requirements, the LSE should be able to use the excess RECs (or "overflow") for compliance with either Tier 2a or 2b.

By consolidating Tiers or allowing use of such overflow RECs, LSE's will have increased flexibility in how they approach CES compliance. LSE's will have an incentive to enter into larger long term agreements with new resources without the risk of having excess RECs that are unusable to meet their future Tier 1 obligations. Further, these proposals will mitigate liquidity concerns that may arise due to the restricted number of resources eligible in the lower tiers.

b) CES Standards Should Support the Broadest Range of Renewable Resources

NYPA supports the White Paper's position that CES-eligible resources have no limitations on facility size, and that the CES should promote participation of the broadest array of system capacities and configurations.[27] Options for compliance with the CES should be unfettered to allow for the development of diverse resources, stimulate private sector ingenuity and competition, and ensure that the costs for meeting 50 x 30 are as low as possible. For example, customer-sited renewable projects will help the State reach 50 x 30, and NYPA supports the eligibility of such projects under the CES. Allowing customer-sited resources to count towards reaching CES objectives will encourage further development of Distributed Energy Resources ("DERs") consistent with an objective of REV.

Both new and existing hydroelectric facilities should be eligible under the CES without regard to size or type of facility. Hydroelectric resources provide low-cost reliable energy capable of being supplied at all hours of the day. NYPA supports expanding eligible resources

[27] White Paper, p. 18.

under Tier 1 to allow for new impoundment and kinetic hydroelectric facilities to be included in the list of CES Eligible Electric Generation Resources in Appendix C of the White Paper. In order to achieve 50 x 30, New York will need to develop all renewable resources available to it, especially low-cost hydroelectric resources from within and outside the State. NYPA also supports the explicit inclusion of run-of-river hydroelectric power under the CES.[28] However, it is inequitable for the White Paper to request NYPA's load to voluntarily participate in the CES without recognizing the contributions of NYPA's hydroelectric generation. Notably, NYPA's small run-of-river hydroelectric facilities face the same financial challenges as non-state controlled facilities, yet their zero-emission contributions are not eligible under any tier of the White Paper proposal.[29] Allowing NYPA small run-of-river projects to participate in the CES will allow NYPA to ensure that these resources continue to contribute towards the Governor's 50 x 30 goal.

To encourage a broad range of resources that reduce emissions, CES eligibility requirements should avoid barriers to investment in clean energy technologies. The comparative emission standard for adulterated biomass projects[30] introduces uncertainty regarding CES eligibility that impedes investment in such technologies.[31] CES should have well-defined eligibility standards that will give investors regulatory certainty.

c) REC Program Design Should Not Encourage Uneconomic Behavior

[28] White Paper, Appendix C, p. 3.
[29] This inequitable treatment is further highlighted by the fact that, under the White Paper's framework, Canadian government or province -owned hydroelectric power is eligible under Tier 2b while NYPA owned hydroelectric is not.
[30] White Paper, Appendix C, p. 6, as further described in the New York State Renewable Portfolio Biomass Power Guide, prepared for the New York State Energy Research and Development Authority (NYSERDA), revised July 22, 2014.
[31] The CES comments of Taylor Biomass and AlterNRG Corp. describe the potential difficulties created by the comparative emission standard.

The REC program design should not encourage uneconomic behavior by awarding RECs to eligible resources when market signals do not indicate a need for electricity. If the CES allows eligible resources to generate RECs when market prices for its energy are negative, those resources may replace existing renewable resources that receive lower or no REC value. This could potentially cause distortion in the energy market and grid operations. The risk is especially acute if the CES pursues bundled power purchase agreement ("PPA") structures, as PPAs give generators no incentive to seek high-demand times and locations.[32]

One method by which this concern could be mitigated is by limiting the award of RECs to resources only when the Locational Based Marginal Price ("LBMP") for the resource's energy is positive. This may mitigate the risk that new resources would displace generation from existing wind and hydroelectric power or other renewable resources and encourage new resources to locate where there is a greater need for their output.

IX. CES IMPLEMENTATION SHOULD NOT INCREASE THE COST OF MASS-TRANSIT

In the White Paper, DPS Staff raises the concern that certain program initiatives will have the effect of reducing total carbon emissions while increasing electricity demand, and that CES compliance obligations could have the inadvertent effect of deterring the use of such beneficial program initiatives.[33] While in this context the White Paper discussed electric vehicles and geothermal heat pumps, this concern applies as well to NYPA's customers that operate mass-transit powered by electricity. Increasing the cost of electricity for providers of mass-transit will

[32] There have been numerous occasions in 2015-2016 where Western and Northern New York experienced negative pricing due to transmission congestion and significant production from renewable generation. Negative prices in these regions could force the Niagara Power Project and St. Lawrence Power Project to "spill" water in order to avoid losing money in the market.

[33] White Paper, p. 13. Discussing the adoption of electric vehicles and geothermal heat pumps. NYPA notes that a more comprehensive approach such as a carbon tax could avoid this disincentive. Additionally, in the context of electricity a carbon tax could incorporate the externalities of carbon emissions into the LBMP of electricity as opposed to valuing the avoidance of carbon emissions in a separate REC market.

increase the cost of the service. The presence of good mass transit contributes to making New York the state with the lowest per capita carbon dioxide emission in the United States.[34] For example, an average trip on the New York Metropolitan Transportation Authority keeps more than 10lbs. of greenhouse gas emissions from entering the earth's atmosphere.[35] Given the important role that mass-transit has – and can have – in reducing total greenhouse gas emissions for New York State, and to avoid a potentially counterproductive outcome, NYPA will work with its mass-transit electricity customers to ensure 50 x 30 is achieved in a cost-conscious manner.

X. BANKING OF RECS SHOULD BE ALLOWED

NYPA supports the Staff's recommendation in the White Paper to incorporate flexibility into CES compliance by allowing the banking of RECs. Banking allows LSEs to use RECs from one year and use them for compliance in a subsequent year. This reduces the need for LSEs to precisely predict how many RECs will be needed, and helps to smooth the fluctuations of REC supply and demand. Banking acts as a type of hedging mechanism for LSEs to protect against future REC price increases.

Additionally, banking has the potential to increase the development of more renewable resources earlier, along with their associated benefits that include lower emissions, increased economic development, and a more robust REC market. For example, a hypothetical LSE may have a forecasted CES compliance requirement of 10 MWhs of Tier 1 RECs in 2017. If this LSE is able to bank RECs, it would likely be more willing to enter into a long term contract for

[34] Energy Related Carbon Dioxide Emissions at the State Level, 2000-2013, U.S. Energy Information Administration (October 26, 2015).
[35] See, April 2012 Sustainability Report, Metro Transit Authority, http://web.mta.info/sustainability/pdf/2012Report.pdf

them from a renewable facility in an amount equal to or above its first-year REC compliance obligation. Instead of contracting for a lower amount of RECs than its forecasted obligation in order to forestall unwanted overages, the LSE would likely have the incentive to contract for a facility with an output equal to or greater than 10 MWhs, as it would be able to utilize these RECs in later years as the CES targets increase.

XI. ADMINISTRATION OF ZERO EMISSION CREDITS

To the extent necessary, NYPA will comment on the recent PSC Order Further Expanding Scope of Proceeding and Seeking Comments expediting the program to provide financial support for certain nuclear plant facilities but offers these limited comments on the Zero Emission Credit ("ZEC") proposal in White Paper.[36] The White Paper describes ZECs as "an opportunity to provide qualifying nuclear plants with support payments, reflective of their going forward costs of operation, to ensure that they continue to operate."[37] Further, the White Paper asserts that ZECs will limit carbon emissions during the transition to 50 x 30,[38] and some NYPA customers have expressed support for the ZEC program on that basis. To ensure that the objective for Tier 3 ZECs is achieved NYPA will confer with DPS Staff regarding NYPA customer participation.

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[36] Case 15-E0302, Order Further Expanding Scope of Proceeding and Seeking Comments, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard (February 24, 2016)
[37] White Paper p. 30.
[38] Id.

NYPA looks forward to working with the Commission and other stakeholders to successfully achieve Governor Cuomo's 50 x 30 goal.

Respectfully submitted,

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