



November 4, 2024

VIA ELECTRONIC FILING

Honorable Michelle L. Phillips
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

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

Dear Secretary Phillips:

Enclosed for filing in the subject proceeding, please find the reply of the Indicated Utilities¹ to the New York State Energy Research and Development Authority's July 31, 2024 petition regarding administration funding for the Clean Energy Standard. These reply comments primarily propose that the NYS Public Service Commission direct a \$100 million transfer of the CES surplus to Energy Affordability Program customers for summer 2025 bill relief. Please contact me if you have any questions concerning this filing.

Respectfully submitted of behalf of
the Indicated Utilities,

A handwritten signature in blue ink, appearing to read 'Nikolai Wolfe'.

Nikolai Albert T. M. Wolfe, Esq.
Senior Attorney
Energy & Environmental Law

wolfen@coned.com | (646) 771-1884

Enclosure

¹ The Indicated Utilities are Central Hudson Gas & Electric Corporation (Central Hudson), Consolidated Edison Company of New York, Inc. (Con Edison), and Orange and Rockland Utilities, Inc. (O&R).

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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

**INDICATED UTILITIES RESPONSE TO
NYSERDA CES ADMINISTRATION FUNDING PETITION**

I. Introduction

Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., and Central Hudson Gas & Electric Corporation (Indicated Utilities) provide these comments in response to the New York State Energy Research and Development Authority’s (NYSERDA) petition regarding administration funding for the Clean Energy Standard (CES).¹ The Indicated Utilities propose that the Public Service Commission (Commission) direct \$100 million of cumulative surplus funds on a statewide basis to provide electric customers enrolled in the Energy Affordability Program (EAP) with increased monthly discounts during summer 2025. This relief will benefit New York State’s most financially vulnerable customers during a seasonal period when electricity usage and costs are traditionally higher, and is consistent with the Climate Leadership and Customer Protection Act’s (CLCPA) requirement that clean energy benefits be focused to customers in disadvantaged communities. Authorizing this increasing surplus be used to benefit EAP customers is an effective way of providing relief to these customers in the near term. In the longer term, the Indicated Utilities support the evolution and expansion of the EAP through the statewide EAP working group. Further, the Indicated Utilities

¹ Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard (CES Proceeding), Petition Regarding Proposed Year 2025 Clean Energy Standard Funding and Reconciliation of Year 2023 Administrative Costs (filed July 31, 2024) (NYSERDA Petition).

urge the State to fully fund and expand the EAP using revenues generated through New York Cap and Invest (NYCI).

II. Discussion

The NYSERDA Petition seeks Commission approval to use existing but unallocated surplus funds to cover certain costs to administer the Clean Energy Standard (CES) program portfolio for Compliance Year 2025 and implement an administrative adder for the nuclear Zero Emissions Credit (ZEC) program for CY 2025-2026. The Indicated Utilities do not oppose NYSERDA's 2025 budget or request to recover its administrative costs and recognize NYSERDA's efforts to support the State's achievement of CLCPA.

The NYSERDA Petition states that NYSERDA anticipates ending calendar year 2024 with approximately \$78 million in current year surpluses; this amount will be added to NYSERDA's existing surplus resulting in an overall surplus of \$147 million.² This surplus consists of revenues from CES bid fees, contract security forfeitures, interest income, and \$91 million in Alternative Compliance Payments (ACP), which Load Serving Entities (LSEs) may use as an alternative way to satisfy their Tier 1 renewable energy certificate (REC) obligation.

Currently, the Tier 1 REC obligation levels and REC prices are set annually by NYSERDA; the ACP is equal to the published REC price plus a ten percent adder. ACPs have been used as a mechanism to comply with Tier 1 obligations due to a slower-than-expected deployment of Tier 1 REC resources. NYSERDA notes³ that ACPs will no longer be collected starting in Compliance Year 2025 (*i.e.*, calendar year 2026) because the CES Tier 1 REC obligation is transitioning from a predetermined percentage-based obligation to a load share

² NYSERDA Petition, p. 18.

³ *Ibid.*

obligation for all LSEs, aligning the collection methodology with that of all other CES programs.⁴

NYSERDA expects ACP collections for Compliance Year 2024 (*i.e.*, calendar year 2025) will be significantly reduced because of a lower LSE obligation percentage and significant new sources of Tier 1 RECs that are expected to become available as new onshore wind and solar facilities commence commercial operation. The NYSERDA Petition⁵ notes that unspent administrative funds will be used for future ratepayer benefit, in compliance with the 2016 CES Order.⁶ The Phase 2 Order⁷ directs NYSERDA, as part of its annual filing, to propose a use for a cumulative surplus that exceeds 25 percent of NYSERDA's contractual Tier 1 REC payment obligation to generators for the current year. NYSERDA's Tier 1 REC payment obligation was \$82 million, while the cumulative surplus is \$147 million. Therefore, the Indicated Utilities propose a use of these surplus funds, as described below.

III. Proposed Use of Cumulative Surplus

The Indicated Utilities respectfully propose that the Commission direct \$100 million of the CES cumulative surplus to be provided to electric customers enrolled in the EAP across New York State in the four summer months of 2025 to defray the cost of the clean energy transition for the State's financially vulnerable customers. The Indicated Utilities estimate that this could be a meaningful addition to the EAP monthly discount, totaling approximately \$100 to \$140, or

⁴ Case 15-E-0302, CES Proceeding, Order Modifying Clean Energy Standard Tier 1 Obligation (issued April 20, 2023).

⁵ NYSERDA Petition, p. 19.

⁶ Case 15-E-0302, CES Proceeding, Order Approving Administrative Cost Recovery, Standardized Agreements and Backstop Principles (issued November 17, 2016).

⁷ Case 15-E-0302, CES Proceeding, Order Approving Phase 2 Implementation Plan (issued November 17, 2017) (Phase 2 Order), p. 20.

\$25-35 per month.⁸ EAP customers have contributed funds to the CES and the cumulative surplus through their monthly bill, including through ACPs. Directly refunding a portion of the cumulative surplus to EAP customers would reduce the burden of the clean energy transition on financially vulnerable households.

This year is on track to be the hottest on record (as of October 31).⁹ This summer, the Con Edison service territory experienced four heatwaves, doubling the regional normal of two heatwaves per summer.¹⁰ In order to address the increasing intensity of summer heat and offset the bill impact of summer cooling, the Indicated Utilities propose that NYSERDA's surplus funds be distributed during the June, July, August, and September 2025 billing cycles. As part of this proposal, the electric utilities would receive their allocated portion of CES funds and provide an additional monthly discount to all EAP customers in the summer months.¹¹ This would be a similar disbursement schedule to the monthly bill relief for EAP customers in the summer of 2020 during the Covid-19 public health crisis.¹² Though the underlying rationale may be slightly different, the Indicated Utilities believe this proposal is consistent with the goals of the CLCPA and would provide near-term assistance to vulnerable customers who themselves have been contributing to the CES. The CES was designed to not financially burden customers, so providing this relief to low-income customers advances the goals of the CES.

The CES cumulative surplus is unallocated to any program, initiative, or expense so its use will not compromise NYSERDA's existing or future operations. A \$100 million transfer to

⁸ Based on EAP enrollment numbers reported as of August 2024.

⁹ Con Edison meteorology team

¹⁰ Ibid.

¹¹ The Indicated Utilities note that each utility will need sufficient time to implement the proposed bill relief, so the timing of an order may determine when credits could reasonably be applied to customer bills.

¹² Case 20-M-0231, Order Approving Temporary Emergency Financial Relief for Electric Low-Income Bill Discount Program Customers (issued June 11, 2020)

EAP customers would leave NYSERDA with a forecasted surplus of \$47 million, which is more than the \$37 million NYSERDA requested for the CY 2025 administrative budget.

IV. Conclusion

The Commission is currently considering reform options to improve CES programs and boost the State's efforts to meet the CLCPA's goals.¹³ A Commission directive to provide surplus funds to low-income customers would provide short-term relief to EAP customers and address various commenters' concerns about the cost of the CES and the clean energy transition for vulnerable residents.¹⁴ In the longer term, various programs, including revenue generated by the NYCI program, are being considered by the State to fund and expand the EAP to protect financially vulnerable customers across the State.¹⁵ The Indicated Utilities support these efforts.

The Indicated Utilities propose that the Commission direct a \$100 million transfer of the CES surplus to EAP customers for summer 2025 bill relief. This will benefit EAP customers across New York State, while simultaneously providing NYSERDA with the necessary funds to continue administering the CES programs for CY 2025. The Indicated Utilities appreciate the Commission's consideration and look forward to future collaboration with NYSERDA, DPS Staff, and all other stakeholders to meet the goals of the CLCPA in an equitable manner.

Dated: November 4, 2024

¹³ Case 15-E-0302, CES Proceeding, Draft Biennial Review.

¹⁴ Case 15-E-0302, CES Proceeding, *see, e.g.*, initial comments of the Public Utility Law Project on the Draft Clean Energy Standard Biennial Review (filed September 23, 2024) pp. 3-4.

¹⁵ See <https://commentmanagement-bucket.s3.amazonaws.com/clients/13/35/commentattachment/55cd0ae5-2b20-4084-a96e-e86fae0d72dd.pdf>

Respectfully submitted,

**CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC. and ORANGE
AND ROCKLAND UTILITIES, INC.**

By: */s/ Nikolai Albert T. M. Wolfe*

Nikolai Albert T. M. Wolfe, Esq.
Senior Attorney

Consolidated Edison Company of New
York, Inc.
4 Irving Place, 18th Floor
NY, NY 10003
Tel: (646) 771-1884
Email: wolfen@coned.com

**CENTRAL HUDSON GAS &
ELECTRIC CORPORATION**

By: */s/ Marina Chu, Esq.*

Marina Chu, Esq.
Regulatory Attorney
Central Hudson Gas & Electric Corporation
284 South Avenue
Poughkeepsie, New York 12601
Tel: (845) 452-2000
Email: mchu@cenhud.com