

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

Case 15-E-0302

**PETITION REGARDING CLEAN ENERGY STANDARD
Clean Energy Resources Development and Incentives Program**

Introduction

This Petition is submitted by the New York State Energy Research and Development Authority in accordance with the directives of the recently enacted Accelerated Renewable Energy Growth and Community Benefit Act (the Act) regarding the development and implementation of the Clean Energy Resources Development and Incentives Program, the goal of which is to help foster and encourage expedient siting and development of community and environmentally compatible renewable energy facilities in furtherance of the Climate Leadership and Community Protection Act (CLCPA).

In July of 2019, Governor Andrew Cuomo signed the CLCPA, which increases the 50 percent renewable Clean Energy Standard (CES) goal to 70 percent by 2030 and converts that goal into a mandate. The 70 by 30 mandate is an ambitious clean energy standard and emphasizes the need to not only continue to procure new renewable resources, but to ensure that all renewable generation in the State of New York contributes to its maximum potential. All renewable energy consumed by end-use customers in New York State contributes to the CES target, including generation supported by past, present, and future State renewable energy policies as well as voluntary renewable energy purchases.

The Act includes a series of measures designed to support the attainment of the CLCPA goals by expediting the regulatory review and siting of renewable energy and transmission facilities, minimizing impacts to and providing benefits to host communities, minimizing impacts to the environment, and by ensuring that the energy generated by these new renewable facilities can be efficiently and cost effectively delivered to regions of the state where it is needed.

One such measure is a direction that NYSERDA develop and implement the Clean Energy Resources Development and Incentives Program (the “Build-Ready program”), through which NYSERDA will identify suitable sites and then develop renewable energy projects for eventual competitive auction to private developers, while also implementing new initiatives to foster and encourage local understanding about the importance of renewable energy and the value that it can bring to local communities, and including environmental justice as a major consideration in taking these actions.

This Petition is submitted in fulfillment of the Act, requesting approval and funding to initiate and advance the Build-Ready program through 2025. The Act directs NYSERDA to submit a petition to the

New York Public Service Commission (PSC) describing the activities that NYSERDA has taken and plans to undertake in advancement of the of the Build-Ready program and a request for funding to support those activities for a period of at least five years. The Act requires that the PSC issue an Order within four months from the submission of the petition. The petition and subsequent Order must also include a plan for reinvestment of Build-Ready proceeds that are in excess of program expenses and administration.

In accordance with the Act, NYSERDA is now advancing the business case for the Build-Ready program, including the temporary use of existing funds for that purpose, a proposal which presents significant value and benefits for New York as described below.

Build-Ready Program Opportunity

Given the State's aggressive climate goals, we must pursue all possible means to advancing clean energy development for the State of New York. State government is well-placed to build upon, support and enhance the already-significant work of the private market. The State can take a holistic view of where state and local needs lie, where generation and transmission are best developed, where communities can benefit from renewable energy projects, and how renewable energy development can be creatively and broadly integrated within the state. The State can also use the Build-Ready program to pilot and further streamline the new permitting processes underway through the Office of Renewable Energy Siting also established under the Act.

The Build-Ready program's creative approach will yield projects which are fundamentally different than those that the private market would naturally consider, doing so in a manner that considers a broader set of costs and benefits which will expand the inventory of projects available to meet our needs. With this over-arching policy view, the State can take a multi-dimensional approach to identifying sites that are valuable to supporting the state's goals and all New Yorkers, positive to local communities, and supportive of the environment, all while being economically viable. With these advantages, build-ready sites can be fast-tracked through the development cycle and rapidly contribute to the goals of the CLCPA.

Achieving the goals of the CLCPA will necessarily require an acceleration of large-scale renewable resource development; statewide annual Tier 1 procurement totals will likely need to increase over procurement levels achieved over the past three years, during which NYSERDA has averaged about 3,200 GWh/year, almost twice the amount of new renewable capacity supported through over ten years of the predecessor program, the renewable portfolio standard.

Given the magnitude of the State's goals and NYSERDA's already-aggressive pursuit of these goals through its annual procurements, the potential contributions of the Build-Ready program are both prudent and necessary. The Build-Ready program is anticipated to sustain the competitive disposition of approximately six large scale renewable projects annually, starting in 2022 or 2023, and collectively are expected to contribute a measurable percentage of the generation associated with future Tier 1 procurements.

As described below, the Build-Ready program is anticipated to become fiscally self-sustaining through the requested approval period, at which time the program can be re-evaluated for potential future contributions.

Summary of Build-Ready Program Activities

The Build-Ready program will focus on incentivizing the re-use of previously developed and otherwise underutilized sites for renewable facilities, while providing benefits for host communities and protecting environmental justice areas. As is described below, NYSERDA will employ a protocol under which it will survey the state for potentially suitable sites, acquire interests in real property for sites that appear promising, and then conduct site-by-site reviews of siting feasibility, including environmental review and interconnection options.¹

Based on work completed to date, NYSERDA presents this Petition with a sharp view of the solid market opportunity that the Build-Ready program presents. As of the date of this filing, NYSERDA has begun to implement this process for an initial number of sites. With the assistance of sister agencies, NYSERDA has identified a number of sites that appear suitable for renewable development and has had discussions with the owners of those sites regarding their interest in participating in the Build-Ready program. In identifying those sites NYSERDA considered the factors described in the Act and this Petition and the overall projected viability of each site with respect to eventual interest by private developers. NYSERDA anticipates moving forward on some of these sites, but as of the date of this Petition has not entered into a formal development agreement with any site owner. This progress presents demonstrable evidence that NYSERDA's work can and will provide value, and that this request is not premature.

In accordance with the statutory directive, NYSERDA will continue to work with the Department of Public Service (DPS) and the New York State Urban Development Corporation in the process of identifying and assessing sites to determine their suitability for the development of renewable generation facilities, giving priority to previously developed sites, existing or abandoned commercial sites, brownfields, landfills, former commercial or industrial sites dormant electric generating sites, and otherwise underutilized sites. Site evaluation will include consideration of NYSERDA's ultimate ability to recover funds invested in a site, a review of natural conditions, current and previous land use at or near the site, the availability and type of any transmission or distribution facilities on or near the site, as well as constraints of such facilities, the potential for companion energy storage development, the impact of development on environmental justice communities, and developer interest in the site. NYSERDA will take measures to avoid interference with the private development community and will engage with the local community as soon as a site is deemed appropriate for detailed assessment.

As anticipated by the legislation, the identification and evaluation of suitable sites will require the services of professional consultants in several areas, including real estate contracting, interconnection, environmental analysis, and resource assessment and design, particularly where a site has existing environmental conditions or restrictions, such as brownfields, landfills, and former commercial or industrial sites.

For projects and sites that pass the screening process, NYSERDA would then pursue permits – for major renewable energy facilities, as defined by the Act, through the new Office of Renewable Energy Siting – and for smaller projects with the applicable local authority under SEQRA, for authorization to construct a renewable energy facility. The type of technology and the size of the project will depend upon site characteristics. NYSERDA will also establish a community benefit program where property owners and

¹ The legislation empowers NYSERDA to enter into agreements for site control with landowners or other entities that may control such sites.

communities receive benefits for hosting renewable energy facilities, which may include Payment in Lieu of Taxes agreements with the municipality and other programs and benefits.

Build-Ready sites will then be competitively offered to renewable energy developers, bundled with a long-term Renewable Energy Credit contract akin to those offered through NYSERDA's annual Tier 1 solicitations, via a request for proposals, utilizing evaluation criteria similar to those used in Tier 1 solicitations and to be established in consultation with DPS Staff. The request for proposal (RFP) will include all available information about the site, including the contractual obligations, land leases, payment-in-lieu of taxes agreements, and any host community agreements that NYSERDA may have established, all of which will be assigned to the successful proposer. Any awarded proposer would also be required to make a payment to NYSERDA for the development rights to the project. Any proceeds from this process will be recycled by NYSERDA to support the advancement of additional sites through the process, therefore the interim budget request in this Petition is anticipated to be temporary in nature.

NYSERDA will separately consult with Empire State Development and the Department of Labor and other state agencies on the need for, and availability of, green job workforce training in the local area, giving special attention to environmental justice sites. Where funding is available, and a need identified, NYSERDA will establish one or more programs to provide financial support for local workforce and underemployed communities.

In advancing this effort, NYSERDA will require funding to support a new Build-Ready team and to formally undertake these activities, as described in more detail below.

The Build-Ready Team

NYSERDA's long history with and exposure to the renewable energy development market, from both a market-wide and individual project perspective, has effectively prepared NYSERDA to assume this new role. That said, NYSERDA's collective experience has generally been gained from the buyer side of proposed and executed transactions. While NYSERDA understands, in considerable detail, the necessary conditions that make a site suitable for renewable development, NYSERDA has not previously played the role developers play in prospecting for, assessing, acquiring, designing, permitting, and interconnecting renewable facilities. NYSERDA proposes to develop an internal development and project management team as well as a team of "Subject Matter Expert" consultants to support the creation and execution of a Build-Ready program development pipeline.

In total, NYSERDA anticipates adding six new Full-Time Equivalent (FTE) Staff to payroll to implement this effort, supported by consultants including subject matter experts. The NYSERDA Build-Ready team FTE Staff is expected to contribute expertise in the areas of management, project management, prospecting, project development, permitting, and legal support. Recognizing the current fiscal challenges within the State, if funding is approved for these positions, NYSERDA would advance such positions prudently and in consideration of any applicable hiring constraints.

The internal NYSERDA team will be supported by one or more consultants who will conduct prospecting and initial site review diligence as a part of initial site identification efforts, and an independent engineer who will provide necessary oversight of the subject matter experts and provide insight into the siting, design and permitting of the projects. NYSERDA anticipates hiring subject matter experts to focus on three subject areas: (1) interconnection analysis, (2) environmental site assessment, and (3) permitting, and engineering resource assessment and project design. These subject areas will each advance the

site/project from concept through preliminary and detailed design. NYSERDA also anticipates the need for outside legal counsel support to advance its real estate, permitting and procurement activities.

Project Types

The Build-Ready program will seek to increase the rate of renewable development and energy storage projects while bringing an enhanced understanding of the nature and benefits of renewable energy to local communities. The Build-Ready program will prioritize previously developed sites, existing or abandoned commercial sites, including brownfields, landfills, former commercial or industrial sites dormant electric generating sites, and otherwise underutilized sites; however the Build-Ready team will also work to identify greenfield projects that provide co-benefits in some form, that have community support but are not under active consideration by private developers, or may be liberated through associated transmission and distribution system investments that result from the State power grid study, another measure included in the Act to support the attainment of the CLCPA goals.

The Build-Ready program will focus on both utility scale solar and wind projects which may be paired with energy storage with a variety of capacities; ultimately advancing a diversified portfolio capable of beginning to transact within approximately two years.

Community Engagement and Benefits

In recognition of the ambitious nature of CLCPA mandate, the critical importance of local support to the successful development of any renewable project, and recognition that all projects are local, NYSERDA has made considerable efforts to ensure that communities have access to full and accurate information about the nature of renewable energy development. Over the past few years, NYSERDA has consulted with dozens of local governments regarding various aspects of renewable development through its Clean Energy Siting team. NYSERDA has also required in its recent Renewable Energy Standard Tier 1 RFPs that developers engage with local communities early and often and has built an assessment of the quality of each developer's approach into its project viability scoring.

Implementation of the Build-Ready program will provide NYSERDA with an opportunity to engage more directly and collaboratively with each local community as projects are identified and advanced. These engagements will happen with each community, by both formal written notice and by personal contact, if not before, as soon as a site is deemed appropriate for assessment.

A component of these initial and ongoing consultations will include a discussion of new host community benefit programs through which property owners and communities may receive benefits for hosting renewable energy facilities. NYSERDA will seek to establish this community benefit program early in the process, which will include payment-in-lieu-of-taxes agreements with the municipalities and other programs and benefits. For some projects, NYSERDA will be seeking SEQRA and other local approvals, and for all projects NYSERDA will be negotiating directly with landowners and the local municipalities.

NYSERDA will consult with the Department of Environmental Conservation with respect to the location of environmental justice areas throughout the State, and whether renewable development on any individual site may adversely affect an environmental justice area. NYSERDA will separately consult with Empire State Development and the Department of Labor and other state agencies on the need for, and availability of, green job workforce training in the local area, giving special attention to

environmental justice sites. Where funding is available, and a need identified, NYSERDA will establish one or more programs to provide financial support for local workforce and underemployed communities.

Build-Ready Development Approach

The Build-Ready team will advance the full life cycle of renewable energy projects from initial site identification through permitting, interconnection and sale. This will be accomplished via a progressive screening or “funneling” of potential sites through assessment, analysis and design stages ultimately leading to reassignment of fully “Build-Ready” sites through a competitive RFP. Landowners and local governments will be consulted throughout the process. It is expected that the Build-Ready team will be able to sustain the competitive disposition of approximately six projects annually once sufficient progress is made to advance its initial sites.

The Build-Ready team may identify potential project sites for consideration and screening through a top-down analysis conducted by the team or by nomination by external parties, with priority focused toward previously developed sites including but not limited to local governments, State agencies, local industrial development authorities, regional economic development councils, landowners, and engagement with the ongoing grid planning program also included within the Act, among others.

Initial site review will be conducted using a desktop screening analysis utilizing a broad range of environmental, technical and real estate criteria to reduce the number of sites that need to be more thoroughly reviewed by subject matter experts. As described above, the site identification and review process will provide NYSERDA with the opportunity to engage directly and collaboratively with each local community and landowners as projects are identified and advanced.

A desktop screening analysis would be followed by a preliminary assessment and design process which will more thoroughly review the site for potential fatal flaws projects that appear suitable and viable will move into the detailed assessment and design where the project will undergo field studies, interconnection studies and assessments and enter permitting and interconnection processes. During this phase, the Build-Ready team will also execute an interconnection agreement, complete local state and federal permitting, complete any tax arrangement (PILOT, etc.), and any remaining items necessary for the engineering, procurement and construction of the project. NYSERDA will also pursue host community agreements and other community benefit opportunities such as workforce training opportunities.

Depending on the nature of the circumstances surrounding each project, NYSERDA will determine whether to pursue development of individual projects to full “build-ready” status or to some lesser level of development that while significantly “de-risking” the project will require further development work by a successful bidder. Upon completion of this process the Build-Ready projects will be ready to be sold through a competitive process as described below.

Competitive Solicitation

As projects approach the completion of the major milestones of development, they will be considered for a competitive RFP and sale process. In addition to the projects that are build-ready and would allow the start of construction immediately or within months, NYSERDA may also offer earlier stage projects in annual auctions in order to maximize the risk/return ratio, reduce budget and increase the benefits to the State of New York. For instance, depending on the circumstances a given project may be more valuable

to private developers if the interconnection process has progressed through various studies, but not yielded an interconnection agreement.

Build-Ready sites will then be competitively offered to renewable energy developers, via a competitive RFP. The RFP will include all available information about the site, including the contractual obligations, land leases, PILOT agreements, and any host community agreements that NYSERDA may have established, all of which will be assigned to the successful proposer. Any such proceeds from an RFP will be recycled to support the advancement of additional sites through the process, therefore the interim budget request in this Petition is anticipated to be temporary in nature.

NYSERDA anticipates that the Build-Ready RFPs would operate using the same principles applied in NYSERDA's annual Tier 1 solicitations: including a focus on providing market certainty, preserving cost containment, competitive forces, and the implementation of cost-effective contract structures. The Public Service Commission's Order Adopting the Clean Energy Standard issued on August 1, 2016, along with additional orders and implementation plans issued under Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard (Orders), established the Renewable Energy Standard (RES) as the State's principal means of achieving CES goal. A component of the RES consists of a Tier 1 obligation on load serving entities (LSE) to procure Renewable Energy Certificates (RECs)² associated with new renewable energy resources.

The Orders authorize NYSERDA, as central procurement administrator, to offer long-term contracts to generators for the purchase of Tier 1-eligible RECs, in the form of Tier 1 NYGATS certificates. Pursuant to the Orders, NYSERDA seeks to accomplish the RES objective by contracting with suppliers, through a series of competitive RFPs, for the RES Tier 1 RECs created by eligible generation resources.³ Renewable projects ultimately constructed under the Build-Ready program will similarly generate and sell Tier 1 RECs to NYSERDA through long-term contracts toward the RES Tier 1 obligations. For these reasons, NYSERDA proposes to maintain many of the elements of its current RES Tier 1 procurements in the solicitations for Build-Ready sites. This would include the utilization of a similar (1) threshold eligibility criteria, (2) scoring criteria, (3) contracting structure and approach, among others.

In most cases, NYSERDA expects that the Build-Ready sites will be auctioned separate and apart from its annual Tier 1 RES RFPs. NYSERDA proposes to seek bids on each individual project, in the form of a per MWh/Tier 1 bid; successful bidders would receive a long-term Tier 1 REC agreement similar or identical to those awarded under NYSERDA's Renewable Energy Standard. Any awarded proposer would also be required to make a payment to NYSERDA for the development rights to the project.

² While the PSC's August 1, 2016 Order references renewable energy "credits," NYGATS creates renewable energy certificates. The NYGATS certificates are created in one MWh denominations and are in all other ways consistent with the Order.

³ Directives pertaining to NYSERDA's RES central procurement role are contained in the PSC's February 22, 2017 Order Approving the Phase 1 Implementation Plan and the Final Phase 1 Implementation Plan filed by NYSERDA on March 24, 2017, the November 17, 2017 Order Approving the Phase 2 Implementation Plan and the Final Phase 2 Implementation Plan filed by NYSERDA on December 18, 2017, the December 14, 2018 Order Approving the Phase 3 Implementation Plan and the Final Phase 3 Implementation Plan filed by NYSERDA on January 11, 2019, and the January 16, 2020 Order Modifying Tier 1 Renewable Procurements, whereby the PSC directed NYSERDA to offer bidders an Index REC price option in future RES solicitations.

Pipeline and Schedule

The Build-Ready team plans to deliver an annual pipeline of Build-Ready renewable energy projects to market. As proposed, the Build-Ready team expects to sustain the competitive disposition of approximately six projects annually and be able to begin transactions on the projects after approximately two to three years of development activities, ultimately contributing a measurable component of the CLCPA goals.

Budgeting and Planning

The Act directs NYSERDA to submit this Petition regarding its plan to pursue the policies underlying the Build-Ready program and provides that this Petition may request the funding necessary to allow implementation of that plan for a period of at least five years as a first phase of the Build-Ready program.

The proposed initial five-year Build-Ready budget has been developed to support annual prospecting of new projects and the annual origination and addition of new projects to the Build-Ready portfolio. The budget also includes the NYSERDA staff and all third-party consultants necessary to complete the development and sale of the portfolio as described above.

Should this Petition be approved by the Commission, NYSERDA will require funds to cover the costs and fees it would incur in administering the Build-Ready program for five years, a period which is expected to begin in 2020 and end in 2025. NYSERDA's administrative budgets typically include NYSERDA staff direct and indirect salaries, fringe benefits, and other direct program operating costs and allocated general and administrative expenses. The Build-Ready program would also require system development for the issuance of RFPs as well as technical support for program design and review of proposals. Administration of the Build-Ready program would require approximately six FTE staff as described above, as well as technical and consultant support.

NYSERDA would allocate a proportionate share of the annual New York State Cost Recovery Fee (CRF) to the Build-Ready program. The CRF is a fee assessed to NYSERDA and other public authorities by New York State for an allocable share of state governmental costs attributable to the provision of services to public benefit corporations pursuant to Section 2975 of the Public Authorities Law. For the fiscal year ended March 31, 2019, the latest year for which NYSERDA's Indirect Cost rates have been approved by the federal government, the CRF assessment was about 1.18% of NYSERDA's annual expenses, and NYSERDA has assumed a similar percentage of the Build-Ready funding for the program's allocable share of CRF costs. If actual cost allocations exceed these estimates, NYSERDA would reallocate approved but uncommitted administrative Build-Ready funds or would request approval for additional funds.

Table 1. Proposed Build-Ready Administrative Costs

Administrative Category	Estimated Budget Requirements Through December 2025
Salaries and Overhead	\$13,500,000
Technical, Consultant and Legal Support	\$56,500,000
System Development	\$1,000,000
NYS Cost Recovery Fee Expense	\$800,000
Total	\$71,800,000

NYSERDA’s ability to make timely payments for its Build-Ready program expenses is dependent upon availability of funding to cover development expenses anticipated to be recovered through auction proceeds subsequently realized, an approach that is anticipated to become self-sustaining over time but will require upfront funding as the Build-Ready project pipeline is advanced. Because of the nascent status of the Build-Ready program, it is difficult for NYSERDA to closely estimate the timing and amount of expenses that will be incurred and the timing and amount of expense recoveries.

During the time period through 2025, NYSERDA projects that the Build-Ready program will begin to receive returns on its project investments such that the full budget noted above will not be needed, and ultimately anticipates that its costs may be able to be recovered over the long term. NYSERDA anticipates that the Build-Ready program will require several years of disbursements of approximately \$10-\$15 million per year before initial revenues are realized. As a result, NYSERDA requests the ability to utilize no more than \$50 million in Clean Energy Fund (CEF) cash balances to launch the program and for future use as a buffer to account for timing differences in cash outlays and receipts.

Table 2. Proposed Funding Source

Funding Source	Requested Amount
Clean Energy Fund Cash Balances	\$50,000,000

In the November 17, 2016 Order Approving Administrative Cost Recovery, Standardized Agreements and Backstop Principles (Case 15-E-0302), the Commission established that NYSERDA’s REC and ZEC payments could use any cash balances in the CEF until such funds are restored through repayments, or through a financial backstop collection mechanism through the electric distribution companies. NYSERDA proposes that these same principles should be used to address the funding authorization for the Build-Ready program.

NYSERDA anticipates that its payments/expenses for the Build-Ready program will be fully recovered from program payments over the duration of the program, but the timing of initial payments and subsequent recovery of expenses may present a cash flow timing issue. Therefore, NYSERDA proposes

that the Build-Ready approach mimic the authorization provided for the CES REC/ZEC programs. Similar to these programs, NYSERDA requests on-going approval to use any cash balances in the CEF through the Bill as You Go funding mechanism to meet Build-Ready program cash payments until such funds are replenished and restored to the CEF through ongoing Build-Ready program payments.

If aggregate lifetime Build-Ready program payments should exceed NYSERDA's development expenses, such excess shall be retained for future ratepayer benefit as approved by the Commission. Despite NYSERDA's best efforts to the contrary, if aggregate shortfalls do exceed amounts that could be covered in the short term from CEF cash balances (and the CEF cash balances would have to be restored through this mechanism), NYSERDA will invoke an Electric Distribution Company (EDC) financial backstop collection mechanism as approved in the November 2016 Order.⁴ The financial backstop must be established such that it can be called upon and implemented to timely address cash shortfalls and allow NYSERDA's development expenses to be paid promptly, similar to principles agreed to between NYSERDA and the EDCs for the current CES backstop collection mechanism.

NYSERDA's annual reports will include a detailed accounting of all funds, expenditures, commitments and receipts, and will allow for periodic updates based on actual experience and a more informed vision of the future.

Reporting and Tracking of Progress

As described above, NYSERDA's work in advancing the Build-Ready program has already commenced. Real time reporting and communication regarding project development and host community engagement/benefits will take place through direct outreach, webinars, social media, and an active web presence. From a formal reporting perspective, as required by the Act, commencing on April 1, 2021, and annually by this date thereafter, NYSERDA will issue a report providing:

- Achievements in the prior year versus planned achievements;
- Plans for the coming year;
- An accounting of proceeds, less program and administration expenses, earned;
- A status update on the use and status of the CEF cash balances;
- A status update on the portfolio of projects under development;
- A list of the sites auctioned for development and the identity of the winning bidders;
- Amount of renewable energy production from the auctioned sites; and
- Amount and type of host community benefits provided.

Prior to the conclusion of the program time period through 2025 requested herein, NYSERDA will conduct a review Build-Ready program and file the report for public comment. The review will provide an analytical assessment of the achievements to date of the Build-Ready program in meeting the state's clean energy goals. This report will serve as the foundation upon which the future advancement of the program will be considered.

⁴ Case 15-E-0302, *supra*, Order Approving Administrative Cost Recovery, Standardized Agreements and Backstop Principles, issued and effective November 16, 2016.

Conclusion

NYSERDA respectfully requests that the Commission issue and order granting this Petition and allowing NYSERDA to continue with its development and implementation of the Build-Ready program, as described above.