NEW YORK STATE
PUBLIC SERVICE COMMISSION

Case 15-E-0302 – In the Matter of the Implementation
of a Large-Scale Renewable Program

I. INTRODUCTION

On June 1, 2015, the New York State Energy Research and Development Authority ("NYSERDA") filed its report entitled "Large-Scale Renewable Energy Development in New York: Options and Assessment" ("Report") with the New York State Public Service Commission ("Commission") in the above-captioned case. Pursuant to the Secretary's notices soliciting, and extending the deadline to file comments, NextEra Energy Resources, LLC ("NextEra Energy Resources") thanks the Public Service Commission and NYSERDA for the opportunity to offer our views, and is pleased to submit its initial comments on the Report.

NextEra Energy Resources, LLC is a clean energy leader and is one of the largest wholesale generators of electric power in the U.S. with approximately 19,777 megawatts of generating capacity, which includes megawatts associated with non-controlling interests related to NextEra Energy Partners, LP (NYSE: NEP), primarily in 25 states and Canada as of year-end 2014. NextEra Energy Resources, together with its affiliated entities, is the world's largest generator of renewable energy from the wind and sun.

New York State can take considerable pride in the progress it has made in the development of large-scale renewable resources over the course of the last decade, integrating approximately 2,000 megawatts during that period. In crafting this Report, the Administration is demonstrating its ongoing commitment to leadership in the field of renewable development as a cornerstone of environmental stewardship. NextEra concurs with NYSERDA's view that changing market conditions, as well as initiatives such as the pending Environmental Protection Agency Clean Power Plan (Clean Air Action Section 111(d)), call for modifications to the current approach to ensure Large Scale Renewable ("LSR") resources are procured at "the lowest possible cost while maximizing customer benefits, promoting competition, and animating voluntary markets for renewables to complement public investments."[1]

In its Report, NYSERDA examines a host of benefits and limitations associated with multiple options that could comprise a revised LSR Program. We'd note, as does NYSERDA in its prior Main Tier Program Reviews, that New York State has been consistently behind in meetings its goals. As specified in the latest (2015) Program Review, "Progress toward the NYSERDA Main Tier and Customer-Sited Tier combined target of 10.4 million MWh is approximately 56%."[2] There are various reasons why the State is falling behind on its renewable goals, including the inconsistent procurement schedule, the lack of a defined RPS procurement requirement (rather than a target or goal), and the lack of any compliance or penalty structure, among others. NYSERDA also acknowledges that New York State is relatively unique in having developed its RPS around a central procurement mechanism purchasing only Renewable Energy Certificates with moderate-length (up-to-10-year) agreements. Since that time, several significant, positive reforms have been enacted, including an extension of contracts under the RPS to up to 20 years; the reforms being contemplated within this Report, if adopted, would be beneficial in helping New York State meet its renewable goals.

II. OF THE OPTIONS CONSIDERED, THE STATE SHOULD ADOPT A BUNDLED ENERGY AND RENEWABLE ENERGY CERTIFICATE (REC) MODEL

In its review of procurement options, the Report offers:

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[1] Report at 2.
[2] New York State Renewable Portfolio Standard, Annual Performance Report through December 31, 2014, Final Report (March 2015).

- Fixed-Price REC Contracts (Status Quo or Current Reference Case)
- Bundled Energy and RECs

Since the initial implementation of New York State's RPS program, NYSERDA has administered a program that procures only the Renewable Energy Certificate ("REC"), but not the corresponding energy that is generated along with the REC. The result of this has been a premium in the pricing for RECs offered by renewable developers to NYSERDA, to compensate the developer for the risk associated with the energy market price uncertainty and volatility. In prior comments to NYSERDA and the Public Service Commission, NextEra has endorsed the adoption of a bundled energy and REC contract structure, similar to other successful programs in other states in which NextEra develops renewable resources. By providing the revenue certainty associated with both energy and RECs, combined with a longer contract term (up-to-20 years), the developer can offer more competitive pricing to the consumer; likewise, this type of bundled construct would likely attract more qualified bidders, itself leading to lower pricing resulting from competitive forces. Further, as the Report states, the associated REC-only price risk "leads to a higher cost of capital, and limits access to innovative financing structures, such as YieldCos, that demand a greater degree of revenue certainty[3]." As a company with an affiliated YieldCo, we concur that the additional contract term and revenue certainty represents enhanced investment incentive.

Contract Length - Additionally, as referenced above, NextEra Energy Resources supports the recent adoption by the Public Service Commission of contract lengths of up to 20 years. That period of time, regardless of the selected procurement mechanism, is a significant improvement

[3] Report at 2-3.

over the prior 10-year construct, providing a measure of regulatory and financial certainty, and corresponding risk reduction, such that more developers will be willing to participate in the New York State LSR program.

Contract Counterparties – The Report provides several options for the contract relationship:

- Between the generation owner and NYSERDA (current/reference case)
- Between the generation owner and the Electric Distribution Companies (EDCs)
- Between the generation owner and another State Entity

While any of these options or models might be workable as long as the counterparty is financially sound, NYSERDA's demonstrated experience and expertise as a contract counterparty suggests that the existing model is one with which market participants are familiar and comfortable. While the generation owner/EDC model is workable, with the EDC as the contracting counterparty, the Report raises several considerations that are worthy of mention: (1) potential credit rating impacts on the EDCs; (2) accounting considerations; and (3) the possibility of compensating the EDC for the expense of procuring, or as a way of compensating the EDC for accepting the financial obligation of the PPA. Each of these issues imposes a degree of complexity that can be avoided by having NYSERDA as the contract counterparty.

Procurement Options – The Report identifies several options for conducting procurements:

- Individual Utility Procurement
- Common Request for Proposals: Individual Utility Implementation
- Common Request for Proposals: Bid Evaluation and Selection
- State Entity-Directed Solicitation

While any of these options might be workable as long as "independent oversight" protections are in place to avoid bias or inappropriate influence, NYSERDA's demonstrated experience and expertise with RPS procurements, as well as its procurement experience with other programs, suggest that it would be a logical choice to conduct LSR procurements. Likewise, NYSERDA is an independent entity that can ensure objectivity and fairness, important characteristics in the efficient functioning of any programs well as to ensure that customers obtain maximum benefit at reasonable cost. The Report stated it correctly: "Appointment of an appropriate entity to facilitate the solicitation, evaluation, and selection process as well as to standardize the terms of competition is important to a fair and successful implementation.[4]" Our view is that NYSERDA has served well in that role, the overall central procurement process is simple and straight-forward, and it (NYSERDA) should continue to be the procurement entity under the LSR program.

As noted above, the other identified options can work. As stated in the Report, the EDC model, wherein individual utilities are responsible for procurement, as well as the development and execution of the PPA, has a measure of complexity and potential inconsistency across procurement processes and contracts that should generally be avoided. Likewise, if the EDCs or EDC affiliates are to participate in LSR procurements in any way, the need for independent oversight would be paramount to avoid any air of selection bias or influence. Likewise, a Common Request for Proposals approach, wherein a third party entity would conduct the actual solicitation but the EDCs would be responsible for implementation, is equally workable, but incorporates complexities that the existing NYSERDA-centric approach avoids. The current procurement process is a simple, straight forward construct that works well – and can work equally well within the new LSR program.

[4] Report at 5.

We acknowledge that the EDCs have their own experience in conducting procurements. Should the PSC determine that an EDC procurement model is the preferred alternative, we would strongly suggest that an independent third party be brought in to verify that any process is conducted fairly, particularly if the EDCs or their affiliates are approved to participate in the LSR program.

III. THE OBLIGATION TO PURCHASE SHOULD BE ON THE EDCS ON A LOAD RATIO SHARE BASIS

While NextEra Energy Resources recommends that NYSERDA remains the procurement administrator, as well as the contract counterparty, we further recommend that the EDCs be assigned the costs associated with the program and the procured renewable facilities on a load ratio share basis. The program itself and the relevant monthly assessment would be identified, as it is today, as a separate line item on each ratepayer's utility bill. This is an equitable approach that takes into consideration the fact that even though many of the current and future renewable facilities are located in less-populated areas of the state, the benefits of those facilities are experienced by all residents of New York State, including public health and economic development. Should costs associated with administering the invoicing and other expenses be imposed upon the EDCs, they should be recoverable upon demonstration to, and approval by, the Public Service Commission.

IV. TARGET-BASED COMPLIANCE, NOT GOAL-BASED

The existing Renewable Portfolio Standard is based on goals driven by the amount of funding collected by State, approved by the Public Service Commission and administered via NYSERDA-based procurements. While that approach has resulted in the development of over 2,000 MWs of renewable generation, a significant achievement, New York State has consistently fallen short of meeting its RPS goals. The majority of states engaged in RPS programs have established specific RPS targets based on a designated percentage of load. We recommend that New York State establish similar targets for the LSR program. While establishing an Alternative Compliance Payment ("ACP") seems inappropriate, given that the entity penalized for failure to meet the target would be a state agency, NYSERDA (as the procuring and compliance entity) should be required to report to the Governor and the Legislature on a regular basis on its adherence to the LRS target to create a measure of compliance certainty and discipline that presently does not exist within the current RPS construct.

We recognize that the prior RPS program was limited based on the amount of funding collected from ratepayers through the monthly wires charge as authorized by the PSC. In order to achieve a similar measure of fiscal accountability, the PSC can approve in the final LSR program a designated cost cap on the overall percentage paid by the average ratepayer on his or her invoice – the equivalent of a fiscal circuit breaker.

V. SOLAR CARVEOUT

New York State, through a variety of progressive programs such as NY-SUN, has become a national leader in the development of distributed solar generation in both the residential and commercial/industrial segments. Unfortunately, because of its REC-only design, and with the exception of periodic programs and RFPs initiated by the Long Island Power Authority and the New York Power Authority, New York State has lagged behind in the development of large- or utility-scale solar. Since the outset of New York State's RPS program, technological advances in materials and development have driven the economics associated with solar generation to new lows, although not yet at parity with wind. Additionally, it is well established that the economies of scale associated with large-scale solar produce economic efficiencies superior to those of distributed solar.

New York State has an opportunity to enhance its leadership in solar by incorporating within LSR a designated carve-out for large- or utility-scale solar generation, wherein only solar resources can compete with other solar resources. As with other states, the solar designation would be somewhat smaller in terms of percentage than that for "Main Tier" category, but as with those resources it would be a mandated, targeted requirement, rather than a goal.

Likewise, the procurement percentage for solar should be meaningful and escalating. So, as an example, if the PSC and NYSERDA determine that 1 percent of total load should be procured in 2016 from solar resources, there should be a schedule wherein the annual percentage of load procured escalates year over year – e.g. 1.5 percent by 2017, 2.0 percent by 2018, 2.5 percent by 2019, etc. Similar to wind or other Main Tier resources, large-scale solar procured via this process will receive a 20-year bundled PPA, which provides a measure of price stability to both the customer and developer needed to ensure a viable market for large-scale solar.

Respectfully submitted,

David B. Applebaum
Regional Director, Regulatory Affairs
NextEra Energy Resources, LLC
(561) 304-6751 (tel)
david.applebaum@nee.com

By: ______________________
David B. Applebaum

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