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Hon. Michelle L. Phillips  
Secretary to the Commission  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223-1350

Via email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

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

May 4, 2020

Dear Secretary Phillips,

Joule Assets, Inc. submits the following comments on the New York State Energy Research and Development Authority's ("NYSERDA") Petition Regarding Clean Energy Standard Competitive Tier 2 Program for Baseline Renewable Generation.

Thank you and please feel free to contact me with any questions.

Sincerely,

/s  
Mike Gordon  
CEO, Joule Assets

## Summary

Joule Assets supports NYSERDA's petition regarding a Competitive Tier 2 Program for Baseline Renewable Generation, with modification. In the event the proposal is not effectively modified, Joule assesses the proposal as seriously harmful to consumers, to further renewable development and even to the retention of legacy renewable generation.

We largely support the construct of the Brookfield proposal with some suggestions with respect to how to specifically implement it. Echoes of this approach may be found in others' submissions with mitigation, however, that we do not believe would be adequate to preserve either the voluntary or Community Choice Aggregation markets.

## Standing and Background

Joule Assets, Inc. (or "Joule"), is one of four Administrators approved by the Public Service Commission to implement Community Choice Aggregation (CCA) programs in New York State.

As CCA Administrator, Joule represents more than twenty New York State municipalities, who themselves represent roughly 200,000 homes. The firm as well, originally organized the other large Community Choice Aggregation, Westchester Community Power, now serving in excess of 100,000 New York State homes and small businesses.

CCA has been authorized by the PSC, and promoted by NYSERDA, in part as a program to

- expand the voluntary market for renewables in NYS
- to capture demand for clean energy at the community scale, and therefore to
- send market signals to developers of new Tier 1 generation;

In time, New York's aggressive mandates will drive more renewables into the market as well. In the meantime, CCAs currently rely on RECs from existing renewables (predominantly small and mid-scale run-of-river hydro) to serve customers with a 100% in-state renewable electricity supply. Therefore, the voluntary market and the compliance market work in tandem to achieve our long-term clean energy goals.

Further, CCAs are uniquely free to, and capable of, entering into longer-term contracts with renewable generators, therefore providing price security that will support the retention of existing renewable resources. Within two months, Joule clients will be purchasing in excess of 1.2 million MWhs each year from ESCOs. All Joule clients have, to-date, defaulted to a 100% renewable electricity product, greened by NYGATS-registered RECs.

The Public Service Commission has authorized our firm to provide CDG credits to homeowners included in the default CCA offering (i.e. on an opt-out basis).<sup>1</sup> As a general indicator of the

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<sup>1</sup> On March 16<sup>th</sup>, 2018, the Public Service Commission approved Joule Assets' Implementation Plan and determined that the firm satisfied the State Administrative Procedure Act for opt-out CDG. Order Approving Joule



potential impact of such a transition, our current customer base could support roughly 800 MWs of CDG. At \$1.50 per Watt construction cost, 800 MWs would drive \$1.2 billion of economic development through new construction. With the unified bill order, issued in late 2019, by the Public Service Commission, CCAs expect to drive the creation of 500 – 1,000 MWs of CDG next year. However, utilities will retain 100% of the environmental attributes from these projects.

Utilities pay full price for these environmental assets, and offset their clean energy creation requirements, in exchange. Yet, a pretty clear case can be made that CCAs will drive close to 100% of this new development in the coming years. Despite this fact, given the standard market discount offered by CDG Sponsors, consumers retain less than \$3 per MWh of this value.

CCAs currently pay more, on average, for “free-market” RECs provided by private counterparties. When we deploy CDG, we in essence, “double buy;” we buy the electricity and RECs AND we buy CDG. While the cost currently cancels the REC benefit out for the typical consumer, a 100% renewable purchase that also engages CDG supports the retention and development of 14 MWhs of renewable supply for the average consumer who purchases 7 MWhs each year.

This benefit is essential to preserve if we hope to achieve “70 by 30” as is the current New York State renewable power objective. With our fixed price, long-term offerings, coupled with REC purchases, CCAs are supporting the retention and eventual enhancement of renewable generation.

CCAs value is far more profound, though, beyond our admittedly critical role in preserving and expanding renewable generation. The aggregations deliver value to consumers through low fixed rates for energy supply, and create a platform for enhanced energy services (e.g. integration of CDG and other DER, efficiency, demand management, etc.).

## **Concerns**

CCA communities are willing to pay a premium for the claim over municipally procured renewables, but cannot add costs to residents’ bills by setting a default price that exceeds historical price to compare (i.e. utility rates). In essence, what a CCA is doing is setting a capped energy price for consumers based on consumers’ previous market experience.

This is particularly valuable as utilities face significant restrictions on how much price hedging they can engage in. It’s a cap, rather than a fixed price, because standard New York market practice allows consumers to migrate to LBMP-based utility prices without any exit penalty.

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Assets’ Community Choice Aggregation Program with Modifications, Case 14-M-0224 (Issued March 16, 2018). To offer opt-out CDG for a particular municipality, Joule will have to receive approval of a municipality-specific CDG Implementation Plan from Department of Public Service Staff.

In tandem, though, the CCA is driving community education, empowerment, and clean energy development. CCAs can sign long-term contracts with renewable developers without locking customers in. The municipality's commitment to offer this supply as default product is adequate enough assurance for power plant developers and their financiers.

Market indications are that adoption of this NYSERDA proposal without modification would hike the CCA price for RECs to higher than \$6 per MWh. All Joule Assets communities and most Westchester Power communities currently default to renewable power at a price of \$2.50 - \$3 per MWh for NYGATS-registered RECs.

In contrast, two other Administrators offered municipalities REC prices of \$4 - \$5 per MWh. With few exceptions, these communities chose to offer residents standard power as their default product, in preference to the 100% renewable option.

This clearly delineates a "reservation price" that CCA communities are willing to pay for a credible claim to renewable power supply. Many communities are deploying CCAs for the specific purpose of buying existing renewable generation and sparking the development of more. A \$6 price premium for each MWh of renewable generation would simply price CCAs out of the renewable market.

Due to municipalities' motivations, it is clear that approval without modification would seriously inhibit the CCA market in New York State and it is further clear that such a price hike would hamper the development of new renewable generation that CCAs spark.

Further, creating a subsidy in which a state agency competes with the private market that was developed by the state is neither elegant nor effective. Were the Public Service Commission to approve this program as designed, it would be feeding its older renewable stock with a youthful, vibrant emerging market. Aging plants would survive for several more years but their long-term food supply in the form of CCAs would be gone—such a move today would sow the seeds of destruction of the very market we hope to retain.

"Vibrant" is not hyperbole: the CCA market is rapidly growing. Currently buying roughly 1.5 million MWhs each year, an additional annual purchase of 2 million MWhs is either now being bid out or will be bid out in the next several weeks. Municipalities representing another 3 million MWhs annually have passed CCA laws and have invited and received proposals from Administrators. 1/3 of these have been awarded, 1/3 are shortly to be awarded, and all are expected to be awarded before the close of 2020.

All contracts will be awarded at fixed rates for longer-terms that consumers can get on their own. All consumers will be protected by DPS oversight and all subscribed power plants will be protected from market troughs such as those we face today, quantified in multiple submissions to this docket.

## Solutions

While we support the general ethic of Clean Energy Advocates' submission, CCA market growth renders their proposed solution unworkable: were NYSEERDA to purchase RECs to leave room for current CCAs, only one in four CCA customers would have access to RECs in the remaining market (1.5 million RECs for a market that will total 6.5 million MWhs). Similarly, were NYSEERDA to procure such numbers on behalf of the CCA community, 5 million MWhs each year would be left out of the procurement. Further, leftover RECs will not have cleared the market because their reservation price was too high. CCAs will be left with the most expensive market resource while NYSEERDA will have procured the least expensive.

Taking these approaches would, at best, turn the CCA market, and thus the NY State market, brown.

Brookfield Renewable's approach is best. Were NYSEERDA to purchase 7 TWhs of RECs, then offer these up at a fixed or capped price to CCAs (and ESCOs) through a re-bid or open offer, it would not be in competition with the market and it would allow for the current rapid growth of that market. Our calculation is that this fixed or capped price could be as high as \$3 per MWh, defraying significant portions of the total program cost (more than half, if a pay-as bid market were to clear at \$6), seriously mitigating any general ratepayer burden.

Further, NYPA's proposal to qualify its resources as Tier II eligible, would provide further growth opportunity for the industry as well. NYPA's 2019 authorization to develop power plants to serve CCAs, coupled with a true commitment to make Tier II RECs available to the CCA community, could feed the further development of CCAs, the further development of merchant renewable power in long-term contracts, and the further development of Tier I RECs.

One final note: Joint Utilities suggest we address our development challenge by permitting utilities to develop renewable power plants, not to-date permitted by New York law or regulation. Joule does not support such action **as it is currently contemplated**. Current proposals circulated in Albany hold the potential to atrophy the competitive market, create competition between utilities free-market ESCOs and ESCO products, create interconnection procedures that offer equal access only in theory, and return the state to a vertically-integrated environment. It's also not clear to us that utility cost-of-capital will remain as affordable as it is today, given our new Covid-19 environment.

Interestingly, though, tweaks to the utility proposal could ensure that this initiative feeds the competitive market and addresses current misalignment of market incentives: were utilities to construct **only** for deregulated and CCA consumers, offering **only a long-term fixed price** of power, every utility incentive would be turned on its face. CCAs and ESCOs would be beneficial to utilities. Data and information would flow more smoothly to these free-market players while retaining robust consumer privacy protections. CCAs and ESCOs would become valued utility clients, with their grass roots clout animating electricity market products and better achieving REV goals. To achieve this, however, effective regulation or legislation would necessarily need



to double down on the separation of transmission ownership from small consumer service—owning a power plant and the power lines while simultaneously selling that product to captive customers, even on an opt-in basis, is a recipe for an atrophy of competition and of viable alternative consumer offerings.

**Summary:**

NYSERDA expressed appropriate concern for atrophying the clean, free electricity market, when it decided to size the market by procuring only 1/3 of available state RECS. Its solution will be effective, however, if and only if we hike the amount of procured RECs and take care of all market participants, in the process.

We know the price that these critical market participants can shoulder, without eliminating market sustenance and growth. We know the critical role that CCAs are playing, we know the expected size of CCA markets, and we can hope that reforms of the ESCO market will further animate the clean generation market.

As a result, we have the tools to price, size and structure NYSERDA procurement and redistribution to feed this emerging market while protecting our legacy renewable power resources.

Respectfully Submitted,

/s  
Mike Gordon  
CEO, Joule Assets