



Case 15-E-0302

Clean Energy Standard

Tier 2 Re-sale Implementation Plan Proposal

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and

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## 1. Introduction

The Commission's Order Adopting Modifications to the Clean Energy Standard,<sup>1</sup> issued October 15, 2020, (October 2020 Order) directed NYSERDA to develop and file this implementation plan for the Re-sale of Tier 2 Renewable Energy Certificates (RECs) to the voluntary market.

On August 1, 2016, the Public Service Commission (Commission) issued its Order Adopting a Clean Energy Standard<sup>2</sup> (CES Framework Order). The Clean Energy Standard (CES) includes a Renewable Energy Standard (RES), a Zero-Emissions Credit (ZEC) requirement, and, as of July 12, 2018, an Offshore Wind Standard.<sup>3</sup> The CES Framework Order anticipated that additional measures would be necessary to fully implement the CES and instituted an implementation phase to address issues and approve changes as necessary.

The CES Phase 1 Implementation Plan (Phase 1 Plan) included details and processes regarding RES eligibility, certification, the long-term procurement of RECs, Load Serving Entity (LSE) demonstration of compliance, and other reporting requirements. The Phase 1 Plan was approved by the Commission on February 22, 2017<sup>4</sup> and filed by Staff and NYSERDA on March 24, 2017.

The CES Phase 2 Implementation Plan (Phase 2 Plan) included modifications to the annual targets for LSE obligations for 2018 through 2021, clarification of the treatment of voluntary purchases and baseline resources in observing progress toward the CES goals, protocols for the application of an annual divergence test, program design and procedures for the sale in 2018 of Tier 1 RECs procured by NYSERDA under long-term contracts, direction for post-2018 design modifications, establishment of a method to calculate the alternative compliance payment (ACP) for 2018 and a description of how NYSERDA would utilize any ACPs received. The Phase 2 Plan was approved by the Commission on November 17, 2017<sup>5</sup> and filed by Staff and NYSERDA on December 18, 2017.

The CES Phase 3 Implementation Plan (Phase 3 Plan) included changes required by the Commission's November 17, 2017 Order, resolution for previously unaddressed issues from the CES Framework Order and other existing Commission Orders, procurement results and reflects RES program developments since the filing of the Phase 2 Plan. The Phase 3 Plan included clarifying how obligated load is calculated, amended RES Tier 1 certification processes for eligible VDER resources, proposed to extend the commercial operation milestone date under RES Tier 1 procurements, proposed program design and procedures for the sale in 2019 and beyond of Tier 1 RECs procured by NYSERDA under long-term contracts, and outlined and clarified the state reporting requirements under the CES, including the content and timing of the Triennial Review process, and provided a schedule of ongoing filings. The

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<sup>1</sup> Case 15-E-0302, Proceeding to Implement a Large-Scale Renewable Program and a Clean Energy Standard; Order Adopting Modification to the Clean Energy Standard (Issued October 15, 2020)(October 2020 Order).

<sup>2</sup> Id., Order Adopting a Clean Energy Standard (issued August 1, 2016) (CES Framework Order).

<sup>3</sup> Case 18-E-0071, In the Matter of Offshore Wind Energy, "Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement," issued and effective July 12, 2018. NYSERDA expects to file proposals as to the administration of the LSE OSW compliance obligations in the future.

<sup>4</sup> Case 15-E-0302, supra, Order Approving Phase 1 Implementation Plan (issued February 22, 2017). (CES Phase 1 Order).

<sup>5</sup> Id., Order Approving Phase 2 Implementation Plan (issued November 17, 2017). (CES Phase 2 Order).

Commission approved the Phase 3 Plan by Order dated December 14, 2018<sup>6</sup> with certain revisions as described in the body of the Order; the Final Phase 3 Plan was filed by Staff and NYSERDA on January 11, 2019.

The CES Phase 4 Implementation Plan (Phase 4 Plan) focused on a number of implementation steps identified by the Commission's January 2020 Order Modifying Tier 1 Renewable Procurements (CES January Order),<sup>7</sup> under which NYSERDA was authorized to employ an index pricing structure in its future Tier 1 solicitations.<sup>8</sup> These implementation steps are primarily focused on impacts to the pricing and disposition of the Tier 1 RECs that NYSERDA procures under this new structure, such as changes to the current process of setting market prices, performance of auctions and managing REC vintages, changes to calculating ACPs, addressing unintentional impacts on the market for RECs imported to or exported from New York, and impacts to the Value Stack Environmental Value tariffs.<sup>9</sup> The Commission approved the Phase 4 Plan by Order dated August 13, 2020<sup>10</sup>, with minor revisions; the Final Phase 4 Plan was filed by Staff and NYSERDA on September 14, 2020.

## 2. Background

On January 16, 2020, NYSERDA filed a Petition for Competitive Tier 2 Program for Baseline Renewable Generation.<sup>11</sup> The purpose of the Tier 2 Petition was to seek authorization to develop and issue a competitive Tier 2 program that would maximize the contributions and potential of existing baseline renewable generation projects, including those rolling off their respective Renewable Portfolio Standard contracts, and to avoid having those valuable resources seek value of their renewable generation and attributes in external markets. By providing a New York State market, the Tier 2 program would incentivize these resources to provide continued support toward the achievement of the CLCPA goals.<sup>12</sup>

In the White Paper on Clean Energy Standard Procurements to Implement New York's Climate Leadership and Community Protection Act, issued June 18, 2020,<sup>13</sup> NYSERDA re-introduced the Tier 2 Petition. In their comments on the proposed Tier 2 Program, various stakeholders supported the idea of re-selling the Tier 2 RECs to the voluntary market based upon the concern that NYSERDA would purchase the majority of the Environment Disclosure Program (EDP) eligible RECs and that by doing so NYSERDA's purchases would adversely impact the voluntary market.

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<sup>6</sup> Case 15-E-0302, supra, Order Approving Phase 3 Implementation Plan (issued December 14, 2018)(CES Phase 3 Order).

<sup>7</sup> Case 15-E-0302, supra, Order Modifying Tier 1 Renewable Procurements (issued January 16, 2020)(CES January Order).

<sup>8</sup> CES January Order, p. 28.

<sup>9</sup> CES January Order, p. 26.

<sup>10</sup> Case 15-E-030, supra, Order Approving Phase 4 Implementation Plan (issued August 13, 2020)(CES Phase 4 Order).

<sup>11</sup> Case 15-E-0302, supra, Petition for Competitive Tier 2 Program for Baseline Renewable Generation (filed January 16, 2020) (Tier 2 Petition).

<sup>12</sup> Tier 2 Petition, p. 3.

<sup>13</sup> Case 15-E-0302, supra, White Paper on Clean Energy Standard Procurements to Implement New York's Climate Leadership and Community Protection Act (Issued June 18, 2020) (CES Whitepaper).

The processes and procedures by which Tier 2 eligible RECs purchased by NYSERDA through Tier 2 solicitations may be sold to CES-obligated LSEs throughout the Tier 2 Program’s five-year life is dictated by the October 2020 Order<sup>14</sup> and the 2021 Tier 2 Agreement.

In its October 2020 Order, the Commission required NYSERDA to develop an implementation plan for the Re-sale of Tier 2 RECs to the voluntary market. The Commission stated that the Tier 2 Re-sale would be a complementary program that will help further stimulate the voluntary market by placing downward pressure on voluntary REC prices. The Order provided that the implementation plan should address the Re-sale process, timing, and its interaction with the LSE obligations and reconciliation process.

### 3. NYSERDA Tier 2 REC Re-sale

#### 3.1 Sale Frequency and Timing

Under this proposed Tier 2 Re-sale Implementation Plan, NYSERDA would hold an annual sale each February and offer for sale the Tier 2 RECs purchased through the previous year’s Tier 2 procurement(s). For example, the first Tier 2 Re-sale would occur in February 2022 and would offer the Tier 2 RECs that NYSERDA purchased during Calendar/Compliance Year 2021. The length of the sale period would be 14 days and would proceed according to the Tier 2 REC Re-sale Process Schedule as shown in Table 1. NYSERDA would continue the annual sales throughout the five-year life of the Tier 2 Program. NYSERDA would announce the quantity of Tier 2 RECs available for sale, sales price, and sales process no later than February 15<sup>th</sup> of each year through the end of the competitive Tier 2 program.<sup>15</sup>

*Table 1: Proposed 2021-Forward Tier 2 REC Re-sale Process Schedule*

Trading Period	Tier 2 REC Sale Offer Announcement	Tier 2 REC Sale Process Conclusion
2021	Between February 1, 2022 and February 15, 2022	Announcement + 14 calendar days
2022	Between February 1, 2023 and February 15, 2023	Announcement + 14 calendar days
2023	Between February 1, 2024 and February 15, 2024	Announcement + 14 calendar days
2024	Between February 1, 2025 and February 15, 2025	Announcement + 14 calendar days
2025	Between February 1, 2026 and February 15, 2026	Announcement + 14 calendar days

#### 3.2 Re-sale Inventory and Sales Pricing

NYSERDA’s Tier 2 Re-sale inventory would be based upon the number of Tier 2 RECs purchased and held by NYSERDA at the time of the Sales Announcement. It should be noted that the Tier 2 Re-sale inventory may not reflect the total number of RECs ultimately to be purchased by NYSERDA due to delays by Tier 2 generators in invoicing and transferring Tier 2 RECs to NYSERDA. All Tier 2 RECs in NYSERDA’s possession would be eligible and made available for Re-sale.

The Tier 2 REC sale price would be based on the net weighted average cost of the available Tier 2 Re-sale inventory, plus any Commission-approved administrative adder.<sup>16</sup> In developing the net weighted average cost, NYSERDA would determine the total overall costs for all projects. For each project from

<sup>14</sup> October 2020 Order, pg. 70.

<sup>15</sup> The timing of the sales is aligned with the certificate issuance process in the New York Generation Attribute Tracking System (NYGATS).

<sup>16</sup> October 2020 Order, pg. 125.

which Tier 2 RECs will be made available for sale, the total project cost would be based upon the quantity of Tier 2 RECs invoiced to NYSERDA and their bid price. Then NYSERDA would divide the overall cost by the Total REC Inventory.

Example:

$$\text{Net Weight Average Price} = (\text{Total Overall Cost}) / (\text{Total REC Inventory})$$

Where:

$$\text{Total Overall Cost} = (\text{NYSERDA cost to procure Tier 2 RECs}) + (\text{Administrative Adder})$$

$$\text{Total REC Inventory} = (\text{Number of eligible Tier 2 RECs in NYSERDA inventory at the time of the Sale})$$

### 3.3 Eligible Purchasers and Transferability

As of the start of the Tier 2 Program, only LSEs who serve load within New York who are required to comply with Commission regulations regarding renewable claims would be eligible to participate in the NYSERDA Tier 2 REC Re-Sale process, such as those offering a voluntary green product or fulfilling a Community Choice Aggregation (CCA) contract. This approach is in alignment with the Commission guidance on supporting the sale of RECs in the voluntary market and the stated desire of CCA and Energy Service Companies (ESCOs) to procure RECs to support renewable product offerings to their customers.<sup>17</sup> NYSERDA requests the ability to expand the pool of eligible purchasers in the future if LSEs do not provide sufficient demand during the Tier 2 REC Re-sales.

The Tier 2 RECs, when purchased through the Tier 2 Re-sale, would have the Tier 2 Identifier removed prior to transfer to the purchasing LSE. The RECs would qualify as non-Tier 1, EDP eligible RECs. The REC would have the same transferability options as other non-Tier 1, EDP eligible RECs as set by the NYGATS Operating Rules. Accordingly, the vintage year of an EDP-eligible Tier 2 REC determines the EDP reporting year in which it is included. Therefore, 2021 vintage year Tier 2 RECs would be included in the 2021 EDP label only if the RECs are duly transferred into the EDP subaccount in NYGATS prior to the close of the 2021 trading period in NYGATS which is June 30, 2022.

### 3.4 Banking

As stated above, the Tier 2 RECs, when purchased through the Tier 2 Re-sale, would have the Tier 2 identifier removed prior to transfer to the purchasing LSE. The REC would be treated as non-Tier 1, EDP eligible REC. The REC would have the same banking options as other non-Tier 1, EDP eligible RECs as set by the NYGATS Operating Rules. Accordingly, the vintage year of an EDP-eligible Tier 2 REC determines the EDP reporting year in which it is included. Therefore, 2021 vintage year Tier 2 RECs would be included in the 2021 EDP label only if the RECs are duly transferred into the EDP subaccount in NYGATS prior to the close of the 2021 trading period in NYGATS which is June 30, 2022.

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<sup>17</sup> October 2020 Order, p. 70.

### 3.5 Sales Process

For the 2021 Tier 2 REC Re-Sale, held in February 2022, and future compliance years, NYSERDA would announce to LSEs the timing of the Tier 2 REC Re-Sale and the following information:

1. The total quantity of current compliance year Tier 2 RECs available for sale to LSEs.
2. The sale price at which these Tier 2 RECs are offered.
3. Sales Period opening and closing date and time.

NYSERDA will use an electronic submission form to collect bids from LSEs that desire to purchase Tier 2 RECs from NYSERDA. NYSERDA does not anticipate that all LSEs will desire to participate in this voluntary sale. Rather than requiring all LSEs to execute a sale agreement with NYSERDA, it is proposed that participating LSEs agree to the terms and conditions of sale when the bid is submitted (at point of sale).

### 3.6 Tier 2 REC Allocation

NYSERDA proposes to not limit nor guarantee a minimum number of Tier 2 RECs to LSEs participating in the Tier 2 REC Re-Sale process through the use of right of first refusal (ROFR) for all LSEs, as is done for NYSERDA's Quarterly Tier 1 REC Sales. The Tier 2 REC Re-Sale is a voluntary process, and the Tier 2 RECs are being purchased to back voluntary products. The load served by an LSE does not correlate to the need for RECs for a voluntary renewable product. NYSERDA would allocate the RECs based upon the following:

1. If the demand for Tier 2 RECs is below the Tier 2 Re-sale Inventory, each LSE would be allocated a quantity of RECs equal to their order quantity.
2. If total order quantity is above Tier 2 REC inventory, each LSE would receive a pro-rata share of Tier 2 RECs based upon their total order quantity.

### 3.7 Invoices

NYSERDA anticipates it would manually create and distribute Tier 2 REC Re-sale Invoices via email. Invoices would be distributed within approximately 7 business days from the end of the sales period.

The LSE payment terms would be Net 15 Days. If the full funds have not been transferred to NYSERDA according to the payment terms, NYSERDA will reserve the right to cancel the LSE's order.

### 3.8 REC Transfers

Tier 2 REC transfers via NYGATS from NYSERDA to the LSE's NYGATS account would occur after the Tier 2 REC Re-sale Invoice has been paid in full. NYSERDA would not transfer RECs for partial payments.

LSEs would have 14 days to accept the pending transfer from NYSERDA per the NYGATS Operating Rules.

## 4. Re-sale Revenue and LSE CES-Obligated Reconciliation

As identified in the October 2020 Order, the Commission directed NYSERDA to include how the Tier 2 REC Re-Sale would interact with LSE obligations and reconciliation. NYSERDA proposes that the proceeds from the Tier 2 REC Re-Sale be considered Tier 2 Re-sale Revenue. This section includes NYSERDA's approach to using this revenue and how it would impact LSE obligations and reconciliation.

## 4.1 CES-Obligated LSE Reconciliation

The reconciliation process would occur after the Tier 2 compliance year ends on December 31st. NYSERDA would first reconcile NYSERDA's financial obligations to the Tier 2 contracted generators. NYSERDA would next offset NYSERDA's financial obligation to Tier 2 contracted generators with any Tier 2 Re-sale Revenue to determine the net LSE Financial Obligation. NYSERDA would reconcile the funds collected from each LSE to the net LSE Financial Obligations necessary to meet their obligation based on the Version 2 load data that is provided from the NYISO and recorded in NYGATS. This load would be adjusted for load modifiers. This reconciliation would account for the actual adjusted statewide load as well as the number of Tier 2 RECs purchased by NYSERDA and the Tier 2 Re-sale Revenue.

In summary, NYSERDA would utilize the following process to reconcile the funds necessary to purchase the Tier 2 RECs and account for collections from the LSEs.

1. NYSERDA would determine the actual dollar per MWh charge based on the total dollars expended by NYSERDA to purchase Tier 2 RECs offset by any Tier 2 Re-sale Revenue received through the Tier 2 Re-sale.
2. NYSERDA would sum the total load served by the LSEs using the NYISO Version 2 load data including load modifiers.
3. Steps 1 and 2 would be used to determine the final Tier 2 Rate.
4. This final Tier 2 Rate would be applied to the total load associated with each LSE, as recorded in NYGATS, and provide the LSEs their Tier 2 obligation for the compliance year.
5. NYSERDA would reconcile the payments received from each of the LSEs against their final Tier 2 obligation.