



Case 15-E-0302

Clean Energy Standard

Phase 6 Final Implementation Plan
Modification of Backstop Collection Process

August 21, 2024

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1. Introduction

In the Order Approving the Financial Backstop Collection Mechanism, issued and effective June 23, 2023 (Case 15-E-0302), the Commission approved the financial backstop collection process proposed in the Clean Energy Standard Financial Backstop Collections Process Petition filed in July 2021 which sought approval of the Clean Energy Standard financial backstop collection process (“July Petition”), with modifications. NYSERDA is authorized to utilize the process approved in this Order to collect funds to remediate the accumulated Zero-Emissions Credit (ZEC) deficit and to address future projected cash flow deficits by providing appropriate documentation for the Commission to review and render a determination.

Ordering clause 6 provided that “The New York State Energy Research and Development Authority shall, within 120 days of the effective date of this Order, file a proposed true-up process to remedy Clean Energy Standard program deficits in an efficient manner that avoids large year-to-year deficits, as discussed in the body of this Order.”

Effective July 22, 2024, the Commission issued the Order Approving Phase 6 Implementation Plan¹ which approved the Phase 6 Implementation Plan Proposal without changes and ordered that “The New York State Energy Research and Development Authority shall file a final Phase 6 Implementation Plan within 30 days of the effective date of this Order, as discussed in the body of this Order.”

2. Background

The Clean Energy Standard was established to increase the State’s renewable energy supply and preserve New York’s existing zero-emission generation. The Clean Energy Standard (CES) is currently comprised of the REC and ZEC component, an Offshore Wind Standard, a Tier 2, and Tier 4 program.

In its role as CES Program Administrator, NYSERDA’s ability to make timely payments to eligible renewable energy generators is dependent upon the collection of the necessary funds in advance of the payment due date. In addition to directing the development of a backstop mechanism, the November 2016 Order Approving Administrative Cost Recovery, Standardized Agreements and Backstop Principles highlighted the potential benefits of an efficient true-up method so that large under-collections could be avoided to help mitigate the financial shortfalls due to uncollectible expenses.

In the 2020 CES Modification Order, the Commission directed that the financial backstop mechanism address the financial risk of revenue shortfalls for all programs authorized under the CES. In response to these Orders, NYSERDA filed the July 2021 Petition (“July Petition”) seeking approval of its CES financial backstop collection process.

On April 20, 2023, the Commission adopted the CES Tier One Transition Order, which will transition the calculation of the compliance obligation due from Load Serving Entities (LSEs) to NYSERDA away from the historical predetermined percentage-based approach to a load share approach that is more consistent with the approach for other CES programs including ZEC, OREC and Tier 4. With this transition, beginning in 2025, NYSERDA will collect its Tier 1 contractual requirements for a compliance year plus any Commission-approved admin adder. After the end of each year, there will be a true-up process to reconcile differences between NYSERDA Tier 1 REC forecasted costs and volumes with actual

¹ Case 15-E-0302 Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Approving Phase 6 Implementation Plan (Phase 6 IP Order) (Filed July 23, 2024)

costs and volumes realized at the end of the compliance year.

On June 23, 2023, the Commission adopted the Order Approving Financial Backstop Collection Mechanism (“June Order”). Through this order the Commission approved the financial backstop collection process proposed in the July Petition, with modifications.

As a result of both NYSERDA’s July 2021 Petition and the April 2023 CES Tier One Transition Order with its resulting transition to a load share approach, the Commission has directed NYSERDA to propose a true-up process to enable program true-ups to be remedied in an efficient and straightforward manner similar to the aforementioned ZEC deficit.

3. The Need for Change

NYSERDA’s July Petition, seeking the approval of its CES financial backstop collection process, was filed in July 2021. At that time, NYSERDA had not envisioned the fundamental shift in the Tier 1 obligation methodology that was approved by the Commission on April 20, 2023. The transition of the Tier 1 LSE obligation to a load share approach, similar to other LSE obligations under the CES such as Tier 2 and the ZEC Requirement, facilitates the development of a backstop collection mechanism that allows for an efficient collection process while also allowing NYSERDA to maintain adequate cashflow for operations.

3.1 Benefit of Load Share

The key concern the July Petition identified was the potential cashflow impact to NYSERDA resulting from NYSERDA selling Tier 1 RECs to LSEs in arrears.² As detailed in the Final Phase 4 Implementation Plan, LSEs are able to purchase Tier 1 RECs from NYSERDA on a quarterly basis.³ This approach was very successful while the volume of Tier 1 RECs was relatively small. The July Petition correctly identified that NYSERDA could possibly encounter a cashflow shortfall situation as more Tier 1 projects came online.

This prompted NYSERDA to request the ability to pre-emptively request funds through the backstop mechanism, to address any potential cashflow issues based on a forecasted need. In reviewing the comments received on the July Petition, there were concerns about transparency and how NYSERDA would determine and justify the need for using the backstop mechanism for this purpose.⁴

One of the many benefits of transitioning to the load share approach is that NYSERDA will receive monthly payments from all LSEs based on their New York Independent System Operator (NYISO) Version 1 (V1) load data. This process greatly reduces the likelihood NYSERDA would have a cashflow shortfall situation, while smoothing the collection of funds from LSEs.

The June Order provided extensive and explicit information that NYSERDA will be required to provide when submitting a backstop request for funding. This is a prudent approach when reviewing a funding request and analyzing the cashflow assumptions. The Commission also directed NYSERDA to propose “an efficient true-up process to enable program true-ups to be remedied in an efficient and straightforward manner to prevent such that large year-to-year deficits do not accumulate.”⁵

² Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Proposed CES Financial Backstop Collections Process (July Petition) (Filed July 1, 2021)

³ Case 15-E-0302, *supra*, Phase 4 Final Implementation Plan (Filed September 14, 2020)

⁴ Case 15-E-0302, *supra*, Order Approving Financial Backstop Collection Mechanism (Ordered June 23, 2023)

⁵ Case 15-E-0302, *supra*, Order Approving Financial Backstop Collection Mechanism (Ordered June 23, 2023)

4. Rolling Backstop Collections

NYSERDA will perform the following “Rolling Backstop Collection” (RBC) process as directed by the June Order to serve as an efficient true-up method to facilitate timely resolution of outstanding receivables that may result from past due CES invoices. This process minimizes the likelihood of a net cash shortfall and more proactively resolves the occasional issue of uncollectible receivables.

Should NYSERDA’s longer-term cashflow forecasts indicate that expected expenditures will exceed all sources of cash available, NYSERDA will follow the backstop invocation request process as defined in the June 2023 Order. NYSERDA believes that with the RBC process outlined herein, the need to request such a broader backstop will be greatly diminished.

4.1 Process

NYSERDA will put in place a “true-up” process to allow significantly overdue uncollectible CES program receivables to be incorporated into the next compliance period when determining the annual LSE obligations, as opposed to the current process of accumulating large deficits and petitioning the Commission for approval for the funds to be collected by the Electric Distribution Companies (EDCs). The RBC process will be more efficient and timelier in comparison. In addition, it will move collecting the past due funds from a transmission- and distribution-side collection, as currently enacted, to a supply-side collection.

The RBC process, as further discussed below, builds upon NYSERDA’s established methods for administration of the LSE obligations under the CES. This alignment creates a single, efficient collection model.

4.2 Identification

NYSERDA strives to minimize uncollectible amounts through a well-controlled accounts receivable process, regular reporting, and coordination with DPS staff. NYSERDA will identify any LSE obligation not paid in full after the programmatic reconciliation process. NYSERDA management will review and determine if the past due amount should be considered “uncollectible”. If NYSERDA determines that a past due amount might be collectible, NYSERDA may work with DPS Staff and other appropriate agencies, up to and including the Attorney General’s office, to collect the past due funds. If NYSERDA determines the past due funds to be “uncollectible”, NYSERDA will coordinate with DPS Staff as further described later in this implementation plan. Once all reasonable collection efforts are exhausted, NYSERDA will identify any unpaid LSE obligations that it deems to uncollectible and recommend incorporation in the RBC process.

4.3 Coordination

Throughout the compliance period, NYSERDA and DPS staff will work together to review delinquent LSE accounts and take measures to collect and ensure compliance with LSE obligations. Once collection efforts have been exhausted, NYSERDA will identify any LSE obligations not paid in full and deem them uncollectible for incorporation in the true-up reconciliation process. The coordination between NYSERDA and DPS Staff provides for agreement that NYSERDA’s identified uncollectible amount should be included in calculating the next compliance period obligation.

As identified in various implementation plans, each year NYSERDA and DPS Staff consult to review cost and load projections to determine annual initial rates for each CES compliance program. These initial

rates are used to determine each LSE's monthly invoice in conjunction with their NYISO V1 load data. The proposed RBC process will be an additional cost component.

If NYSERDA and DPS Staff determine additional time and effort may yet allow collection of the past due funds, NYSERDA will record the past due amount as pending until the next compliance year, when it will be re-evaluated by NYSERDA and DPS Staff.

4.4 Recoveries

NYSERDA recognizes there may be situations where a business situation can change. If NYSERDA receives a recovery from an uncollected amount which has been included in a true-up reconciliation, then NYSERDA will apply an offsetting credit to the following compliance period obligation calculation.

4.5 Collection

Under the RBC process, once NYSERDA and DPS Staff agree on past due uncollectible accounts, NYSERDA will then include these amounts as a new cost component when determining the initial rate for the upcoming compliance year. This approach builds on activities NYSERDA utilizes for various CES programs. NYSERDA currently utilizes a similar approach to address the "NYPA Uncollectible" after it was approved by the Commission in the October 2020 Order.⁶

As mentioned, the RBC process will be incorporated into existing NYSERDA procedures used to determine LSE obligations for CES programs with a load share methodology. Figure 1 provides the calculations utilized to determine the ZEC initial rate, as detailed in the ZEC Implementation Plan.⁷

Figure 1.	
Current Method to Determine Initial ZEC Rate	
<i>Cost Component</i>	
Max ZEC Quantity	27,618,000.00
Tranche 4 Price	\$ 18.27
Total ZEC Cost	\$ 504,580,860.00
<i>Load Component</i>	
NYISO Estimated	149,560,000.00
NYPA Uncollectible	10,000,000.00
Net Total Load	139,560,000.00
2023-24 Initial ZEC Rate	\$ 3.616

Figure 2 provides a sample calculation, for illustrative purposes, demonstrating how NYSERDA will incorporate the uncollectible funds as a cost component.

⁶ Case 15-E-0302, *supra*, Order Adopting Modifications to the Clean Energy Standard (Ordered October 15, 2020)

⁷ Case 15-E-0302, *supra*, Final Zero Emissions Credit Implementation Plan ("ZEC Implementation Plan") (Filed October 21, 2019)

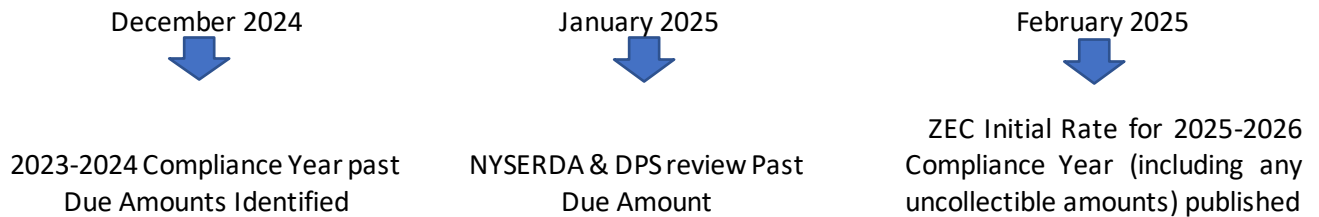
Figure 2.

Proposed Method to include Uncollectible Funds	
<i>Cost Component</i>	
Max ZEC Quantity	27,618,000.00
Tranche 4 Price	\$ 18.27
Net ZEC Cost	\$ 504,580,860.00
Agreed Uncollectible	\$ 238,797.95
Total ZEC Cost	\$ 504,819,657.95
<i>Load Component</i>	
NYISO Estimated	149,560,000.00
NYPA Uncollectible	10,000,000.00
Net Total Load	139,560,000.00
2023-24 Initial ZEC Rate	\$ 3.617

4.6 Timing

NYSERDA will enact the RBC process for the next compliance year for each CES program with an LSE obligation that is load share based. Figure 3 provides a timeline, for illustrative purposes, detailing when the uncollectible funds will be included as a cost component when determining the initial rate for the ZEC requirement.

Figure 3.



5. End of Program

NYSERDA does recognize that the CES Programs may eventually end, and the RBC methodology would no longer be possible. Any uncollectible amounts at the end of a program would be collected through the EDCs. In this situation, NYSERDA would submit a reconciliation statement to the Commission identifying the uncollectible amount remaining at the end of the program, to be collected from the EDCs who collect the necessary funds from ratepayers over a reasonable timeline to align with the winddown of the program.