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Via email at secretary@dps.ny.gov

Honorable Kathleen H. Burgess, Secretary
New York State Public Service Commission
Three Empire Plaza
Albany, New York 12223-1350

Re: Comments on the Clean Energy Fund Information Supplement

> **PSC Case 14-M-0094 - Proceeding on Motion of the Commission to Consider a Clean Energy Fund**
> **PSC Case 15-E-0302 - In the Matter of the Implementation of a Large-Scale Renewable Program**
> **PSC Case 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard**

Dear Secretary Burgess:

On June 25, 2015, the New York State Energy Research and Development Authority (NYSERDA) filed with the New York State Public Service Commission (PSC) its Clean Energy Fund (CEF) Information Supplement for its proposed ten-year, $5.322 billion CEF pursuant to which it proposes four main portfolios of activity within the Fund: Market Development ($2.713 billion); Innovation and Research ($716.6 million); 2016 Main Tier solicitation under the Renewable Portfolio Standard (RPS) ($150 million); the New York Green Bank ($781.5 million); and the NY-Sun Initiative ($960.6 million). In response to the Secretary's July 2, 2015 notice soliciting comments, the Independent Power Producers of New York, Inc. (IPPNY) submits the following comments. IPPNY is a not-for-profit trade association representing the independent power industry in New York. IPPNY's members[1] are companies involved in the development of electric generating facilities, the generation, sale, and marketing of electric power, and the development of natural gas facilities in the State of New York. IPPNY has been an active participant in the PSC's RPS proceeding, and it represents a number of companies that generate electricity using renewable energy resources. IPPNY and its members also have participated actively in the development of the Regional Greenhouse Gas Initiative (RGGI) program at both the state and regional levels. Furthermore, IPPNY is an ongoing participant in the PSC's cases on Reforming the Energy Vision (REV), the Clean Energy Fund (CEF), and on Large-Scale Renewables (LSR).

I. Summary of IPPNY's Comments

IPPNY's comments include recommendations, such as:

- As proposed by NYSERDA, the CEF should provide $150 million for the RPS Main Tier 2016 solicitation, and all existing RPS Main Tier resources should continue to be eligible for this solicitation.
- Instead of NYSERDA's proposal to repurpose $844.4 million for projects under the NY-Sun program that are not large-scale, the State should use the full $844.4 million to support LSR and all resources eligible under the RPS Main Tier; the State should seek additional PSC authorization for funding for other uses under the NY-Sun program as proposed by NYSERDA within the overall context of the CEF.
- In terms of eligibility criteria under the CEF and LSR programs, the State should include renewable energy resources as defined by the New York State Energy Law and also include other technologies.

[1] The views expressed in IPPNY's comments do not necessarily represent the positions of each of its members.

- The CEF and LSR initiatives should continue to support fuel cell projects.
- As proposed by NYSERDA, the New York Green Bank should support LSR projects; the State should reduce financing costs to LSR developers in a manner consistent with wholesale electricity markets and should continue to look at ways for the Green Bank to be more beneficial to projects such as LSR.
- RGGI monies within the CEF must continue to be available for each of these four categories required by NYSERDA's regulations for the use of RGGI monies: (1) innovative carbon dioxide (CO2) emissions abatement technologies with significant CO2 reduction potential; (2) renewable technologies; (3) non-CO2 emitting technologies; and (4) energy efficiency. Therefore, any RGGI monies within the CEF explicitly must be used for projects such as the Competitive Greenhouse Gas Reduction Program and for LSR as well as for all resources eligible under the RPS Main Tier.
- As proposed by NYSERDA, the CEF should fund the New York Generation Attribute Tracking System (NYGATS), and NYSERDA should launch the program.

II. Chapter 6 – Market Development Initiatives and Evolution of Previously Authorized Programs

A. 6.9.2.2 Evolution of Previously Authorized On-Site Power Production Programs

On page 110, the CEF Information Supplement says that "NYSERDA intends to give ADG, Small Wind, and Fuel Cells one more year of traditional incentives (throughout 2016, while gathering stakeholder feedback) before these programs transition away from relying principally on incentives (i.e., standard offer type first-come-first-served programs) in favor of transitioning to a selection process to source and support projects and strategies that offer some potential for cost reductions and/or unique value demonstration." Also, the Supplement states: "Fuel cells: Continue the current-style of incentive program through 12/31/2016. Thereafter, NYSERDA will transition away from open enrollment incentives for fuel cells under the CEF and will begin providing support to scout and demonstrate niche applications where fuel cells provide greater and/or unique value relative to other energy options. NYSERDA will continue to explore opportunities to invest in promising technology innovations that offer the prospect of significant cost reduction and value enhancements."

The RPS Main Tier is not limited to "Large-Scale Renewables." The RPS Main Tier also has been used successfully for small scale distributed fuel cell projects. These projects are very consistent with likely outcomes under the REV proceeding. IPPNY urges that the CEF and LSR initiatives provide continued support to fuel cell projects. Fuel cells also must continue to be part of the 2016 RPS Main Tier solicitation, given that the Federal Investment Tax Credit for fuel cells expires in December 2016 and provides an opportunity to leverage federal dollars into New York State.

B. Eligibility Criteria

NYSERDA has released its proposed CEF eligibility rules[2] for consideration and comment as part of the feedback process on the CEF Information Supplement. The rules lay out the terminology and eligibility criteria for CEF investments, as proposed in NYSERDA's CEF Information Supplement. The rules propose that the CEF only pursue investments that are in "clean energy" - that is those that New York may use to advance at least one of the State's clean energy goals as defined in the 2015 New York State Energy Plan. The eligibility rules also propose that "admissible energy-related technologies, strategies or solutions may include, but are not necessarily limited to, large-scale and on-site renewable energy sources (e.g., hydro, solar,

[2] Case 14-M-0094, *Proceeding on Motion of the Commission to Consider a Clean Energy Fund*, letter by NYSERDA on investment eligibility criteria that NYSERDA believes should apply to the four portfolios of the CEF (July 31, 2015)

wind and other carbon dioxide (CO2)-free solutions), energy efficiency, energy storage, smart grid, demand response, distributed generation, renewable thermal and other low CO2 technologies (which include combined heat and power and co-generation)." Consistent with Section 1-103(12) of the New York State Energy Law, renewable energy resources under the LSR program and the CEF should include “sources which are capable of being continuously restored by natural or other means or are so large as to be useable for centuries without significant depletion and include but are not limited to solar, wind, plant and forest products, wastes, tidal, hydro, geothermal, deuterium, and hydrogen.” RPS Main Tier program eligibility also includes in-State facilities that utilize biogas, biomass, liquid biofuel, fuel cells, hydroelectricity (30 MW or less with no new storage impoundment), solar, tidal ocean, wind, as well as maintenance resources. Fuel cells, solar and wind also are eligible under the RPS Customer-Sited Tier. The State should build upon the list of technologies that are enumerated in that Energy Law definition in determining which technologies are eligible for incentives under the CEF and LSR initiatives.

With regards to LSR, the eligibility rules propose that, as a RPS Main Tier solicitation is proposed for 2016, "the eligibility criteria for Renewable Portfolio Standard-eligible renewables remain intact for all CEF portfolios investing in these technologies unless and until the eligibility criteria is otherwise defined or determined through the LSR proceeding, at which point those technologies and strategies that will facilitate the development of LSR will be eligible across all CEF portfolios, namely Market Development, Innovation and Research, NY Green Bank, and NY-Sun." IPPNY agrees that all existing Main Tier resources should continue to be eligible for the 2016 solicitation.

III. Chapter 7 - Large Scale Renewables

A. 7.1 Extension and Transition from Current Main Tier Program

Page 174 of the Information Supplement (***12.2 Proposed CEF Collections Cap for 2016 and Thereafter***) notes that $844.4 million in RPS funds is proposed to be repurposed. Within the summary of CEF Informational Webinars Frequently Asked Questions[3] provided by NYSERDA as a follow-up to the July 15, 2015 CEF Informational Webinar on Market Development, NYSERDA indicated, "when the RPS program concludes at the end of 2015, it is anticipated that $844.4 million in authorized funds for that purpose will remain uncommitted. NYSERDA proposes repurposing that money to support State policies for support for renewables, specifically to support funding of the NY-Sun program for the first two years. In April 2014, the PSC approved a NYSERDA petition for $960.6 million of funding for NY-Sun (Page 168 of the CEF Information Supplement - ***Chapter 11 - NY-Sun***) but did not establish collections to support program activities. NYSERDA indicated that the funding for NY-Sun identified in the CEF is to satisfy this previously approved funding and is not incremental to the $960.6 million."

In its letter[4] to NYSERDA as a follow-up to the CEF Forum, IPPNY urged that the CEF Information Supplement contain details on how the $815 million (as originally proposed by NYSERDA at the CEF Forum) of the RPS Main Tier monies that NYSERDA proposes to be repurposed to the CEF will be used for LSR and RPS Main Tier resources. NYSERDA now proposes to repurpose $844.4 million pursuant to the CEF Information Supplement for the NY-Sun program and will not make those funds available for large-scale projects. As a result, NYSERDA will have to seek additional authorization (as part of the CEF or otherwise for LSR

[3] Case 14-M-0094, *Proceeding on Motion of the Commission to Consider a Clean Energy Fund*, CEF Informational Webinars Frequently Asked Questions (July 24, 2015)
[4] Case 14-M-0094, *Proceeding on Motion of the Commission to Consider a Clean Energy Fund*, Correspondence of the Independent Power Producers of New York to NYSERDA President & CEO John Rhodes as a follow-up to the January 14, 2015 CEF Forum (January 22, 2015)

resources) from the PSC for spending on LSR. Instead, as part of the funding that the PSC intends to provide to LSR, IPPNY strongly urges that the State use the full $844.4 million to support LSR and all resources eligible under the RPS Main Tier and that the State should seek additional PSC authorization for funding for other uses under the NY-Sun program as proposed by NYSERDA within the overall context of the CEF.

Page 129 of the Supplement indicates that "NYSERDA has developed a CEF budget scenario that would extend the RPS Main Tier by providing [$150 million in] funding for NYSERDA to issue one additional solicitation in 2016." IPPNY strongly supports the allocation of this money under the CEF.

B. 7.2.1 Voluntary Market Facilitator

Pages 129-130 of the CEF Information Supplement states that NYSERDA will develop and implement the NYGATS program, which would be launched in 2016. During the July 15, 2015 CEF Webinar, NYSERDA indicated that $3 million is provided for NYGATS for five years and that this funding already has been allocated from System Benefits Charge and RGGI monies. IPPNY supports the creation of NYGATS as a comprehensive generation tracking system to expand the exchange of information about electricity produced in New York State's competitive electricity market with that of markets already having tracking systems in place. As NYSERDA has contemplated, NYGATS should contain the important flexibility to allow generators to choose whether or not they wish to register with the system.

C. 7.2.3 Market Mechanism Developer

Page 131 of the CEF Information Supplement indicates that: "To improve project economics and reduce costs, NYSERDA will also explore, in consultation or in coordination with the NY Green Bank, the development of a state financing entity which can provide lower cost financing to project developers." As a follow-up to the July 15, 2015 CEF Webinar, NYSERDA indicated how the Green Bank can be used to support LSR, noting that "the Green Bank achieves its mission of accelerating clean energy deployment in New York State through investment in all types and sizes of eligible projects – from distributed, behind-the-meter renewable and efficiency initiatives to small-to-medium clean energy projects and LSR. The Green Bank is eager to participate in LSR projects that meet its investment criteria, including replicability, market transformation, additionally and environmental benefit elements. The Green Bank can participate in various ways in the capital structure for a LSR project, through the provision of products like credit enhancements (e.g., letters of credit and guarantees, including in support of proposed rated debt issuances) and asset loans and investments (e.g., construction facilities, lease or [power purchase agreement] PPA guarantees in certain cases, term loans, take-out equity etc.), all alongside private capital providers (e.g., sponsors, lenders, tax equity etc.). The Green Bank's typical investment size is between $5.0 – 50.0 million."

IPPNY urges the State to continue to look at ways to use the Green Bank to fund the LSR initiative and to have the Green Bank be more beneficial to projects such as LSR. As noted in the CEF Information Supplement (***Chapter 10 - NY Green Bank, 10.1 Introduction, 10.2.1 Market Response***), the focus of the Green Bank includes LSR (page 155), and the Green Bank has received proposals from utility-scale projects (page 159). The State can reduce financing costs to LSR developers by providing more low interest loans to LSR through the Green Bank in a manner consistent with wholesale electricity markets.

D. 7.2.4 Offshore Wind (OSW)

Page 132 of the Supplement states that: "Specifically, NYSERDA proposes to initiate multistate collaboration to enhance the attractiveness of OSW to developers, achieve economies of scale in the supply chain, and improve overall economics. As discussed in the LSR options paper, NYSERDA also proposes to explore establishing a financing entity or mechanism that can provide low-cost financing at the scale needed to advance OSW development in the New York State region Atlantic Ocean waters." IPPNY supports the use of a financing entity through the Green Bank to provide low-cost financing to generation resources.

IV. Chapter 12 - Budget and Benefits: Overall Program Authorization for 2016-2025; Proposed CEF Collections Cap for 2016 and Thereafter; Anticipated CEF Expenditures for 2016 and Thereafter; and Administration and Evaluation Costs of the CEF

A. 12.2 Proposed CEF Collections Cap for 2016 and Thereafter

Table 8 on page 174 of the document shows that the CEF is proposed to contain $250 million in funds from the RGGI program. During the July 15, 2015 CEF Webinar, NYSERDA indicated that the use of RGGI money has not been delineated and that it will supplement the CEF in a fuel neutral way. NYSERDA said that RGGI funds will be used to support state policies for renewables and to support the NY-Sun program for the first two years of the program. NYSERDA noted that the $6.25 million in the RGGI Operating Plan is for one quarter and that the $250 million has not been collected yet.

As IPPNY consistently has argued, RGGI monies within the CEF must continue to be available for each of these four categories required by NYSERDA's regulations for the use of RGGI monies: (1) innovative CO_2 emissions abatement technologies with significant CO_2 reduction potential; (2) renewable technologies; (3) non-CO_2 emitting technologies; and (4) energy efficiency. Therefore, any RGGI monies within the CEF explicitly must be used for projects such as the Competitive Greenhouse Gas Reduction Program and for LSR as well as for all resources eligible under the RPS Main Tier.

Thank you for the opportunity to provide these comments, and IPPNY urges you to incorporate them into your decision making. If you have any questions or need additional information, please feel free to contact me.

Sincerely,

______/s/____________

Gavin J. Donohue
President & CEO