

October 31, 2024

Honorable Michelle L. Phillips
Secretary of the Commission
New York State Department of Public Service
Three Empire Plaza
Albany, New York 12233-1350

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

Dear Secretary Phillips,

The Public Utility Law Project of New York (“PULP”) hereby submits these limited comments in response to the New York State Energy Research and Development Authority’s (“NYSERDA” or “Authority”) *Petition Regarding Proposed Year 2025 Clean Energy Standard Funding and Reconciliation of Year 2023 Administrative Costs*, dated July 31, 2024, in the above referenced proceeding.

I. Introduction

PULP is New York’s only independent nonprofit and public interest law firm whose sole interest is to advocate for low- and fixed-income utility consumers. PULP intervenes in all major utility rate cases before the Public Service Commission, as well as in “generic proceedings” that will impact energy affordability for financially vulnerable households and disadvantaged communities (“DACs”).

Herein, PULP proposes that the Clean Energy Standard (“CES”) Renewable Energy Standard (“RES”) surplus funds be directed toward initiatives that directly support energy affordability for utility customers, with an emphasis on bill credits or equivalent affordability programs. PULP fully supports the state’s efforts to achieve the ambitious targets set forth by the Climate Leadership and Community Protection Act (“CLCPA”), but it is integral that these efforts do not exacerbate already unaffordable utility costs for New York’s most financially vulnerable customers. With CES RES surplus funds projected to reach approximately \$147 million by the end of 2024,¹ PULP believes the Commission has a unique and timely opportunity to provide meaningful financial relief to New York’s low-income households and DACs. Such an approach aligns with the Commission’s vision in the CES Order Approving Phase II Implementation Plan, which emphasizes that surplus CES RES

¹ *See*, Case 15-E-0302, *Petition Regarding Proposed Year 2025 Clean Energy Standard Funding and Reconciliation of Year 2023 Administrative Costs*, at 19.

funds, particularly from alternative compliance payments (“ACPs”), should prioritize benefits to ratepayers.²

II. Background

On July 31, 2024, the New York State Energy Research and Development Authority (“NYSERDA”) filed a Petition seeking approval from the Public Service Commission to allocate funding for the CES program’s 2025 compliance year and to reconcile administrative costs from 2023.³ The Petition proposes an administrative budget of \$36,935,011 for the CES 2025 Compliance Year, an increase of 10.59% over current funding.⁴ NYSEDA proposes to fund its 2025 administration of the Tier 1, Tier 2, Tier 4 and Offshore Wind REC (“OREC”) programs with revenues received in the previous years,⁵ a practice that the Commission has previously authorized.⁶ NYSEDA proposes to fund the Tier 3/Zero-Emissions Credit Requirement (“ZECR”) program with an added charge.⁷

NYSERDA collects CES RES revenues through bid fees, alternative compliance payments (“ACPs”), contract security forfeitures and interest income. The Authority carried a balance of \$68,694,779 in surplus funds into FY2024 and expects to end FY2024 with an additional surplus of \$78,321,205, which results in an overall surplus of \$147,015,984.⁸ This sum includes \$90,600,000 in ACPs, which will be discontinued in the 2025 program year.

III. Discussion

In the CES Order Approving Phase II Implementation Plan, the Commission envisioned ACPs would serve as a financial backstop to support the RES goals and also safeguard the financial interests of ratepayers.⁹ The Commission also directed NYSEDA to report annually on RES program revenues—including net proceeds from REC sales, ACP payments, interest earnings, and program expenses—and explicitly acknowledged ratepayer benefit as a priority in managing any surplus funds.¹⁰

² *See*, Case 15-E-0302, Order Approving Phase 2 Implementation Plan, issued and effective November 17, 2017, at 19-20.

³ *Id.*

⁴ *Id.*, at 16.

⁵ *Id.*, at 18.

⁶ *See*, generally, Case 15-E-0302, Proceeding to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Approving 2022 Clean Energy Standard Administrative Budget, issued and effective December 16, 2021; and Order Approving 2023 Clean Energy Standard Administrative Funding and Reconciliation of Year 2021 Administrative Costs, issued and effective December 15, 2022.

⁷ *See*, Petition at 18.

⁸ *Id.*

⁹ *See*, Case 15-E-0302, Order Approving Phase 2 Implementation Plan, issued and effective November 17, 2017, at 19-20.

¹⁰ *Id.*

Given these directives, it is clear that the Commission’s intention was to utilize surplus ACP funds as a resource to advance ratepayer interests. PULP submits that the allocation of these surplus funds toward energy affordability measures, such as bill credits for low-income households and DACs, would be consistent with the Commission’s original intent to ensure surplus CES RES funds deliver tangible financial relief to New York’s utility customers.

1. PULP Supports the Allocation of Surplus CES RES Funds for Ratepayer Benefit

PULP strongly supports the allocation of CES RES surplus funds in a manner that prioritizes direct financial benefits to ratepayers, particularly through initiatives aimed at energy affordability for low-income customers and DACs. Many New Yorkers are already facing an energy affordability crisis, with over 1.3 million households at risk of service termination and over \$1.8 billion in overdue energy bills statewide as of August 2024.¹¹ This crisis highlights the urgent need for relief measures that can provide immediate and meaningful support to those most affected by rising energy costs.

As New York pursues its ambitious renewable energy targets, the CLCPA imposes an obligation on all state agencies to ensure that the transition is just and equitable.¹² Specifically, it mandates that DACs, which includes low-income households statewide,¹³ must not be disproportionately burdened by the costs associated with this shift.¹⁴ As we noted in our July 2024 Comments on the Draft CES Biennial Review Report:

PULP believes that any PSC actions related to the acceleration of renewable energy development must prioritize programs that directly lower energy costs for low-income households and DACs, increase access to affordable clean energy options, and ensure that DACs receive a fair share of the economic, health, and environmental benefits from the state’s clean energy transition.¹⁵

The direction of CES RES surplus funds toward bill credits or similar financial assistance for low-income households and DACs is an effective way to address this challenge. The targeted financial support could alleviate energy burdens for New York’s most vulnerable communities and help ensure they are not disproportionately impacted by the financial demands of the clean energy transition. Such an approach would meaningfully align the state’s renewable energy goals with its commitment to affordability and equity and is also consistent with the Commission’s policy that surplus funds be used for the ratepayer’s benefit.

¹¹ *See*, Case 91-M-0744, which contains energy utility monthly collections reports (AKA “CARS” reports).

¹² *See*, CLCPA § 7(2).

¹³ *See*, NYS Climate Justice Working Group Disadvantaged Communities Fact Sheet, at https://climate.ny.gov/-/media/Project/Climate/Files/Disadvantaged-Communities-Criteria/LMI-daccriteria-fs-1-v3_acc.pdf.

¹⁴ *See*, CLCPA § 7(2).

¹⁵ *See*, 15-E-0302, PULP Comments on Draft CES Biennial Review Report, filed on September 23, 2024 at <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={00632092-0000-C834-908B-00B14B0E4F91}>.

Lastly, PULP feels it is important to acknowledge that the bulk of the current CES RES surplus funds come from ACPs, which will be discontinued in the 2025 program year. As such, any credit or financial assistance provided through these surplus funds would most likely be one-time in nature, offering temporary but immediate relief to New York's most financially vulnerable customers. While this credit would not constitute a permanent solution to energy affordability challenges, PULP maintains it would serve as a timely and important intervention for New York's most vulnerable households.

a. *PULP Supports Targeted Seasonal Relief for Vulnerable Customers*

PULP recognizes that the overall impact of any credit could be diluted significantly when distributed to the utilities and allocated across a large number and types of customers. As such, if the credits are modest in value, we propose that they be applied specifically to either summer electric bills, when cooling costs are often highest and place the greatest financial strain on fixed-income households, or during the winter months when the seasonal nature of those months also result in traditionally higher electric use. Targeting these credits for the summer or winter months could help maximize their impact and provide meaningful, albeit temporary, relief during a period when the cost of electricity is a heightened and significant burden for vulnerable households.

2. *PULP Supports NYSEDA's Proposed CES FY2025 Budget*

PULP supports NYSEDA's request for an administrative budget increase for the CES 2025 Compliance Year. NYSEDA plays an instrumental role in executing and advancing New York's ambitious climate agenda. As the CES Program matures and grows, it is essential the Authority has adequate funding to continue its administration and oversight.

IV. Conclusion

PULP appreciates the opportunity to provide comments on NYSEDA's CES FY2025 Proposed Budget and offer recommendations on how best to utilize surplus CES RES funds. We respectfully request the Commission to consider the suggestions raised herein and thank the Authority, Department of Public Service, and the Commission for their work to date.

Respectfully submitted,

/s

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