STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 22-M-0149 - Proceeding on Motion of the Commission Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act.

AES CLEAN ENERGY DEVELOPMENT, LLC RESPONSE TO NOTICE SEEKING PUBLIC COMMENT

August 10, 2022

Concurrent with the issuance of its Order on Implementation of the Climate Leadership and Community Protection Act ("Order") in the above referenced proceeding on May 12, 2022, the New York State Public Service Commission ("Commission") also issued a Notice Soliciting Comments that sought input on the question of utility ownership of DERs and large-scale renewable electric generation assets, and specific questions related to that issue. AES Clean Energy Development, LLC ("AES") hereby submits these comments ("Comments") in support of the Alliance for Clean Energy New York ("ACE NY")/Advanced Energy Economy ("AEE") August 10, 2022 filing and New York Battery and Energy Storage Technology Consortium ("NY BEST") August 10, 2022 filing objecting to utility ownership of generation in the state of New York because such a change would reduce competition in the market, distract from reaching the goals of the Climate Leadership and Community Protection Act ("CLCPA"), and send negative indicators to investors.

I. <u>Background on AES Clean Energy</u>

Founded in 1981, AES is a US-based Fortune 500 global energy company with headquarters in Arlington, Virginia and an office in New York City. In the US, AES comprises a team of more than 800 professionals developing and delivering customer-centric clean energy solutions in close collaboration with our project partners and local communities. AES owns and operates a portfolio of more than 4.4 GW of renewable energy projects including more than 400 utility-scale and community solar, wind, energy storage, and hybrid projects across 21 states in the US. AES delivers cost-competitive clean energy to utilities, communities, corporations, and organizations to meet their clean energy and sustainability commitments both today and into the future. AES is capable and motivated to lead the industry in developing and growing solutions that will enable the transition to low-carbon sources of energy and achieving New York State's CLCPA 70 by '30 goal.

With more than two decades of experience working in the State, AES has helped New York lead the adoption of solar, solar-plus-storage, and stand-alone storage at both community and utility-scale levels. We operate 60 projects across the State with a total of more than 850 MW. Our development portfolio includes 2+ GW of utility-scale solar, 50 MW of community solar and 400 MW in planned storage capacity. AES owns and operates Valcour Wind, a portfolio of 612 MW of operating wind projects and anticipates repowering the Valcour Wind assets. While implementing innovative solutions that help the State reach its progressive 70 by '30 goal, AES prioritizes bringing comprehensive benefits to the communities where we operate. Our community-scale distributed energy solar projects, utility-scale and solar-plus-storage clean energy solutions, and largest operating wind portfolio in the State, bring unique community benefits. These benefits include millions of dollars in stable tax revenue generation, job creation, large scale carbon offsets, community partnerships geared towards community health and well-being, economic stimulus, and a more sustainable future for the entire State. AES is aligned with ACE/AEE and NY-BEST in opposition to utility ownership of electric generation in New York.

II. Comments

a. Utility Ownership of DERs and Large-scale Renewable Electric Generation Assets

AES supports ACE NY/AEE and NY BEST's objections to utility ownership. AES and other developers are critical in meeting the goals of CLCPA in the attainment of 70% renewable energy generation by 2030 and a zero-emissions electric grid by 2040. AES agrees with the policy previously articulated by the Commission that restricts regulated utilities from owning and operating generation except in limited circumstances and situations.

AES believes that private developers should continue successfully siting, permitting, constructing, owning, and operating the vast amount of clean energy projects needed to meet the CLCPA goals. Utilities should continue to focus on planning, upgrading, owning and operating the distribution system of the future in coordination with the bulk transmission system to accommodate high penetration of competitive renewable sources of electric generation. The substantive amount of time and resources needed to develop, own and operate renewable energy facilities would put additional strain on critical resources at the utilities and their already incredibly important role of updating New York's grid system, efficiently implementing current programs (such as consolidating billing for community solar and remote crediting projects), and robustly participating in long term planning processes to ensure our grid systems keep up with the pace of development. Rather than expand the responsibilities of regulated utility companies into work that the private developers have been doing, the market structure in New York should remain on course to meet the goals of the CLCPA.

Competition in New York State Energy Research and Development Authority ("NYSERDA") solicitations for renewable energy generation projects has been robust. Since 2017, NYSERDA has awarded 123 large-scale renewable private development contracts totaling 12,808 MW of generating capacity representing a diverse array of projects. Additionally, NYSERDA has awarded contracts for an additional 3,196 MW of distributed solar generating capacity expected to be built soon. According to NYSERDA, these projects represent 66% of our 70% by 2030 goal, with many more awards and contracts expected to be granted in the coming years, putting us on solid ground to achieve or surpass the 70% by 2030 CLCPA mandate.

b. Responses to Commission's Specific Questions

- Should the Commission modify its current policy on vertical market power? If so, in what ways?

AES does not believe that the Commission should modify its current policy on vertical market power. Modifying the Commission's policy on vertical market power and enabling IOUs to develop and own distributed energy resources ("DERs") (beyond the limited circumstances where the Commission has approved the option of utility ownership) or renewable energy generation will not help New York meet the goals of the CLCPA. Such a shift would increase the potential for vertical market power.

Utility assets are funded by New York ratepayers and include a guaranteed return on investment ("ROI") for these natural monopoly utilities' investments. By nature, introducing rate-based investments through monopoly utilities could temporarily undercut a thriving competitive market. In this scenario, real world costs would no longer be priced into these market transactions, a concept that is irreconcilable with the principles of previous Commission decisions.

The Commission should continue its focus on alleviating the issues with renewable energy deployment in New York specifically transmission capacity constraints, the uncertainty around local permitting and tax agreement issues, and the lengthy interconnection process at the New York Independent System Operator ("NY-ISO").

- Should the Commission modify its current policy on utility ownership of DER assets? If so, in what ways?

AES does not believe that the Commission should modify its current policy on utility ownership of DER assets. The Commission designed the Clean Energy Standard ("CES") program so that privately-owned independent companies should be the entities owning and operating new renewable energy facilities in New York. The Commission had also decided that regulated utilities should focus on the most cost-effective operation of the distribution system in a way that supports development of DER markets and the delivery of clean and renewable power, as well as investing in energy efficiency (for buildings and other electricity uses) and in build-ready investments, such as for electric vehicle charging.

The current Commission policy on utility ownership of DER assets sends clear signals to the competitive market that New York is an attractive market, while also providing utilities with the opportunity to invest in their networks in a manner that supports this market, for example, with advanced metering infrastructure and other smart grid investments. If the Commission were to change course away from private sector provision of DER products and services, this would have a disruptive and chilling effect on both the private sector's pursuit of renewable energy project development, and the utilities' pursuit other clean energy initiatives.

- Are there advantages to utility ownership of electric generation assets? If so, identify those advantage(s) and explain in what instances use of the advantage(s) should be justified/not justified.

As the Commission previously explained in Case 22-M-0149, the issue of utility ownership of renewable energy generation assets should only be permitted in specific situations. Introducing utility owned generation would hinder New York's competitive market and would have a disruptive effect on private investment in large-scale renewables in the State. Utility ownership would discourage competition. As demonstrated by the recent NYSERDA Tier 1 Renewable Energy Certificate ("REC") Request for Proposals ("RFP"), private entities with capital are eager to build renewable energy in New York. NYSERDA has awarded more than 88 renewable energy projects totaling more than 6,000 MW under their CES request for proposals ("RFPs"). While it is unlikely that all approved projects will subsequently be built, these approved projects stand to nearly double New York's currently installed capacity of 6,400 MW of renewable energy generation, putting New York on track to meet the goals of the CLCPA. If costs are higher than anticipated for private developers, they absorb the losses, not utility customers.

- Are there disadvantages to utility ownership, in addition to those noted by the Commission in its Vertical Market Power and DER policy decisions? If so, identify those disadvantages and explain how they should be balanced against any advantages to utility ownership.

The Commission has previously determined that that utility ownership of DERs would discourage investment from the competitive market and prove to be a distraction from the utility's focus of operating its electric distribution system. The Commission ruled that, utility ownership of DERs would not be allowed unless markets have had an opportunity to provide a service and have failed to do so in a cost-effective manner, but there may be circumstances where a utility identifies a resource need for new transmission or a distribution plant that could be better met by greater penetration of DERs.

- If utility ownership is allowed, should there be limitations on regulated entities versus affiliates, or within regulated service territories versus outside the territory, etc.?

AES believes that utility ownership of electric generation should only be permitted in specific circumstances, as outlined in CASE 22-M-0149.

III. Conclusion

We appreciate the opportunity to communicate our objections to regulated utilities being allowed to own and operate power generation facilities in New York. The disadvantages to utility ownership of distributed energy resources "DERs" or renewable energy generation far outweigh any possible benefits.

Further, since these policies were put in place, the private sector has proven its interest and ability to invest in New York and develop wind and solar projects in New York: the competition in all NYSERDA solicitations has been robust and the REC prices have remained affordable. In addition, since the utility ownership policies were reiterated by the Commission, there have been many additional complex tasks assigned to the utilities to support New York's clean energy transition, such as transmission planning. In short, New York's utilities have plenty to do and changing the utility ownership policy will distract from those efforts.

Respectfully submitted,

Michael Farrell
Senior Director, Development- NY/NE
292 Madison Ave 15th Floor
New York, NY 10017
Michael.farrell@aes.com
718-909-4486