



March 3, 2025

Michael Gordon  
Founder and Chief Strategy Officer  
Louise Gava  
Director of Operations and Regulatory Affairs  
Joule Assets, Inc.  
2875 Route 35  
Suite 6 South  
Katonah, New York 10536

Re: Case 14-M-0224 – Proceeding of Motion of the  
Commission to Enable Community Choice  
Aggregation Program

Dear Mr. Gordon and Ms. Gava:

This letter provides the determination of Department of Public Service Staff's (DPS Staff) expedited review of Joule Assets Inc.'s (Joule) recent Community Choice Aggregation (CCA) Municipality Filings.

By way of background, on February 12, 2025, DPS Staff issued a rejection letter regarding the Municipality Filings for the Villages of Upper Nyack, Haverstraw, Nyack, and Grand View-on-Hudson, as well as the Town of Highlands, due to deficiencies in the CCA submissions. Thereafter, Joule submitted updated Municipality Filings that included additional information and documentation. DPS Staff has now completed review of the February 25, 2025 updated Municipality Filings for the Villages of Upper Nyack, Nyack, and Grand View-on-Hudson, as well as the Town of Highlands, and has identified the deficiencies summarized below. While the updated Municipality Filings did not include the Village of Haverstraw, the below determination does apply to all five of the municipalities that are subject to the same energy services contract terms.

Most concerning of these deficiencies is that Joule contracted for, and marketed to the municipalities and their constituents/residents, a non-compliant renewable supply product, that being the 50% renewable supply product that includes out of state Renewable Energy Credits (RECs). RECs generated in other states that do not result in any energy being delivered into New York State (NYS) are considered non-compliant and therefore are not permitted to be marketed in New York and, accordingly, cannot be included in CCA product offerings. Nationally sourced RECs cannot be verified through the New York Generation Attributes Tracking System (NYGATS) and do not comply with the requirements of Commission-authorized CCA programs. CCA Administrators who are offering renewable products are required to, among other things, ensure that such energy is generated by eligible technologies as defined in and subject to the environmental attributes and delivery rules of the Public Service Commission's (Commission) Environmental Disclosure Program (EDP).<sup>1</sup>

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<sup>1</sup> CCA Administrators who are offering renewable products are required to, among other things, ensure that such energy is generated by eligible technologies as defined in and subject to the environmental attributes and delivery rules of the Commission's Environmental Disclosure Program. CCA Program Rules (March 20, 2023), Rule 72; CCA Program Rules (Dec. 12, 2024), Rule 79; Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale

This deficiency thereby invalidates all the prior outreach and education (O&E) that may have been performed in these five municipalities to date. As such, Joule will need to obtain new contract terms and rates for compliant renewable supply product offerings that have also been explained to and approved by the municipality before performing Commission-required post-contract O&E that clearly explains the revised 50% renewable product offering, explains the new pricing, and complies with all other Commission O&E requirements. To be clear, even if Joule were permitted to offer a product that includes out of state RECs, which it is not, Joule’s marketing of such a product clearly violated Commission rules because this 50% renewable product was marketed as 100% renewable.

The Department previously has shared such concerns with Joule. In January 2024, the Department issued a Notice of Apparent Violation (NOAV), providing notice to Joule that it could not market 50% nationally sourced RECs along with 50% NYS EDP-compliant RECs as 100% renewable products.<sup>2</sup> Nationally sourced RECs do not advance the State's clean energy goals and are not tracked for compliance by NYS, thereby exposing customers to potential fraud. Further reviews of how this product has been explained to consumers since the NOAV have only confirmed Staff's concerns that consumers can easily be misled that they will be buying 100% renewable energy when that is not actually the case. The NOAV remains outstanding and DPS Staff’s investigation is ongoing.<sup>3</sup>

Given the opt-out framework of the proposed CCA programs, it is critical that the O&E meetings and information scrupulously adhere to parameters established by the Commission as the foundation of the program.<sup>4</sup> The O&E requirements have even greater significance given that the cost of such offerings is significantly above utility costs in the service area.

Turning to the Municipality Filings at hand, DPS Staff identified the following deficiencies from the CCA Program Rules related to O&E:

- 1) All O&E performed in the five municipalities included a non-compliant renewable supply product offering and therefore does not comply with the O&E requirements and purposes.
- 2) O&E requirements based upon municipality size were not met in the Town of Highlands.<sup>5</sup>
- 3) O&E meeting requirements were not met as there were not verifiable question-and-answer periods.<sup>6</sup>
- 4) During O&E public meetings, the following minimum O&E information requirements were not met:<sup>7</sup>

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Renewable Program and a Clean Energy Standard, Order Adopting a Clean Energy Standard (Aug. 1, 2016) at p. 106, Appendix C; Case 15-E-0302, Order Approving Phase 1 Implementation Plan (Feb. 22, 2017) (adopting the New York Generation Attributes Tracking System Operating Rules); Case 94-E-0952, Opinion and Order Adopting Environmental Disclosure Requirements and Establishing a Tracking Mechanism (Dec. 15, 1998).

<sup>2</sup> The NOAV identified specific instances where O&E meeting presenters provided incorrect or inaccurate descriptions of the 50% program. NOAV (Jan. 9, 2024) at 2-4.

<sup>3</sup> The NOAV also included 9 pages that identified several inaccuracies or deficiencies in program websites and webpages, contract notices, CDG offerings, and post-award meeting processes. NOAV (Jan. 9, 2024) at 5-14.

<sup>4</sup> CCA Framework Order (April 21, 2016) at 20; CCA Modification Order (Jan. 19, 2023) at 60-61; O&E Modification Order (Nov. 19, 2024) at 2-4; CCA Program Rules (March 20, 2023), Rule 32; CCA Program Rules (Dec. 12, 2024), Rule 34.

<sup>5</sup> CCA Program Rules (Dec. 12, 2024), Rule 32.

<sup>6</sup> CCA Program Rules (Dec. 12, 2024), Rule 33; DPS Staff Review of December 17, 2024 Village of Grand View-on-Hudson Information Session accessible here <https://www.youtube.com/watch?v=1mU7junSyms&t=694s>.

<sup>7</sup> CCA Program Rules (March 20, 2023), Rule 32; CCA Program Rules (Dec. 12, 2024), Rule 34.

- a. As noted above, the presenter improperly advised that the 50% renewable product is made up of the 50% NYS recognized and 50% renewable product from other (national) sources. The only renewable products allowed in NYS are those that result in the corresponding renewable energy being delivered into NYS, as tracked in NYGATS; there can be no claims on any renewable offerings outside of that.
  - b. The presenter was unable to clearly explain a bill, and its constituent sub-components and fees.<sup>8</sup>
  - c. The presenter was unable to answer a question about whether taxes would still apply if participating.<sup>9</sup>
  - d. The presenter did not disclose or incorrectly advised information related to Gross Receipts Tax (GRT) impacts on the CCA rate. In contrast, the Joule website correctly shows the price exclusive/inclusive of GRT.<sup>10</sup>
  - e. The identified opt-out period (March 10 – April 8) does not meet the minimum opt-out period of 30 days.<sup>11</sup>
- 5) O&E supplemental information was missing and did not meet minimum O&E information requirements:
- a. Location information was not included in the Municipality Filing; this does not accurately reflect only hanging a single poster/flyer at Village Halls.<sup>12</sup>
  - b. The contract terms, pricing, ability to opt-up or opt-down, and price comparison was not included, as required when the contract information is available.<sup>13</sup>
- 6) Program websites do not include required/accurate information:<sup>14</sup>
- a. The identified opt-out period (March 10 – April 8) does not meet the minimum opt-out period of 30 days.<sup>15</sup>
  - b. Supplier details with program rate/term information, including name or contact information, was not included.<sup>16</sup>

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<sup>8</sup> DPS Staff review of municipal meetings, *see, for example* Village of Haverstraw, accessed at <https://www.youtube.com/watch?v=bMNZILG0dJk> (last viewed on March 3, 2025).

<sup>9</sup> DPS Staff review of municipal meetings, *see, for example* Village of Haverstraw, accessed at <https://www.youtube.com/watch?v=bMNZILG0dJk> (last viewed on March 3, 2025).

<sup>10</sup> DPS Staff review of municipal meetings, *see, for example*, Village of Upper Nyack, accessed at <https://www.youtube.com/watch?v=IiRqvd-OAXI> (last viewed on March 3, 2025).

<sup>11</sup> DPS Staff Review of municipal meetings, *see, for example* Village of Nyack, accessed at <https://www.joulecommunitypower.com/s/Nyack-post-pricing-Dec-2024-Jan-2025.pdf> and Village of Haverstraw, accessed at <https://www.youtube.com/watch?v=bMNZILG0dJk> (last viewed on March 3, 2025).

<sup>12</sup> CCA Program Rules (March 20, 2023), Rule 33; CCA Program Rules (Dec. 12, 2024), Rule 36; *see, for example* Grand View-on-Hudson Municipality Filing Part 5: Post Contract Information, accessed at <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={60943D95-0000-CE1E-AD02-16C0F6E97951}>

<sup>13</sup> CCA Program Rules (March 20, 2023), Rule 32; CCA Program Rules (Dec. 12, 2024), Rule 34; *see, for example* Village of Nyack O&E Record, accessed at <https://rocklandcommunitypower.com/s/OE-Tracking-Village-of-Nyack-22525-Final.pdf> (last viewed on March 3, 2025).

<sup>14</sup> CCA Program Rules (March 20, 2023), Rule 35; CCA Program Rules (Dec. 12, 2024), Rules 38-39.

<sup>15</sup> *See, for example* Town of Highlands Community Power website, accessed at <https://www.joulecommunitypower.com/highlandstown> and <https://rocklandcommunitypower.com/rates-50-default> (last viewed on March 3, 2025).

<sup>16</sup> *See, for example* <https://rocklandcommunitypower.com/rates-50-default> (last viewed on March 3, 2025).

- c. There is incorrect identification or explanation of product offerings:
- i. The Villages of Grand View-on-Hudson and Haverstraw webpage includes the non-compliant product information description: *“The 50% Renewable Fixed Rate Option includes 50% electricity supply matched by Renewable Energy Certificates (RECs) provided by New York State renewable power plants (hydropower, wind, solar). The remaining 50% is matched by RECs sourced from other U.S. renewable electricity sources, but are not tracked or verified by the NYS Department of Public Service. The 50% Renewable Option is not counted as 100% renewable by New York State.”*<sup>17</sup>
  - ii. The Villages of Nyack and Upper Nyack webpage states: *“The 100% Renewable Fixed Rate Option includes 100% electricity supply matched by Renewable Energy Certificates (RECs) provided by New York State renewable power plants (hydropower, wind, solar). The remaining 100% is matched by RECs sourced from other U.S. renewable electricity sources, but are not tracked or verified by the NYS Department of Public Service. The 100% Renewable Option is not counted as 50% renewable by New York State.”*<sup>18</sup>
- 7) Energy Supply Agreement (ESA) Redactions: Redactions to the ESA include items that would not qualify for redaction, such as, but not limited to, basic CCA program information and publicly available information. Unredacted copies of the signed ESAs are available publicly. The DPS Records Access Officer has been in contact with Joule regarding this issue.

In light of the deficiencies identified in this letter, DPS Staff rejects the Municipality Filings for the Villages of Nyack, Upper Nyack, and Grand View-on-Hudson, and the Town of Highlands. Therefore, these municipalities are not approved to begin the opt-out period.

Sincerely,

*Marco L. Padula*

Marco L. Padula  
Director, Markets and Innovation

cc:

Mayor Joseph Rand, Village of Nyack  
Mayor Karen Tarapata, Village of Upper Nyack  
Mayor Michael Kohut, Village of Haverstraw  
Mayor Lawrence R. Lynn, Village of Grand View-on-Hudson  
Supervisor Bob Livsey, Town of Highlands

(via electronic mail)

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<sup>17</sup> See, for example Rockland Community Power website, accessed at <https://rocklandcommunitypower.com/rates-50-default> (last viewed on March 3, 2025).

<sup>18</sup> See, for example Rockland Community Power website, accessed at <https://rocklandcommunitypower.com/rates-100-default> (last viewed on March 3, 2025).