February 6, 2023

VIA ELECTRONIC MAIL

Hon. Michelle L. Phillips
Secretary
New York state Public Service Commission
3 Empire State Plaza
Albany, New York 12223-1350
secretary@dps.ny.gov

Re: Case 15-E-0302 and Case 15-E-0751

Dear Secretary Phillips:

AES Clean Energy Development, LLC ("AES") submits for filing the attached comments in response to the Petition Regarding Modification of The Clean Energy Standard to Transition from a defined Percentage Obligation to a Load Share Obligation ("Petition") filed with the New York State Public Service Commission ("Commission") on November 9, 2022, by the New York State Energy Research and Development Authority ("NYSERDA").

Respectfully submitted,

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

Case 15-E-0751 In the Matter of the Value of Distributed Energy Resources

AES CLEAN ENERGY DEVELOPMENT, LLC RESPONSE TO PETITION REGARDING MODIFICATION OF THE CLEAN ENERGY STANDARD TO TRANSITION FROM A DEFINED PERCENTAGE OBLIGATION TO A LOAD SHARE OBLIGATION

AES Clean Energy Development, LLC ("AES") appreciates the opportunity to respond to NYSERDA's Petition Regarding Modification of The Clean Energy Standard to Transition from a defined Percentage Obligation to a Load Share Obligation, ("Petition") filed with the New York State Public Service Commission ("Commission") on November 9, 2022. AES generally supports changes to Tier 1 renewable energy certificate ("REC") Load Serving Entity ("LSE") obligation to purchase RECs based on their load share. This approach would create consistency across all the Tiers of RECs offered in New York and should be easier to administer. However, AES encourages the Commission to continue to support bilateral contracts between generators and LSEs and with voluntary market participants, as described in further detail below. Additionally, AES supports the comments provided by The Alliance for Clean Energy New York in response to this Petition.

I. Background on AES Clean Energy

AES was founded in 1981 and is a U.S.-based Fortune 500 global energy company with headquarters in Arlington, Virginia and offices in many locations in the U.S., including New York City. 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. With more than two decades of experience working in New York, AES operates 60 projects with approximately 852 MW of nameplate capacity. AES's development portfolio in New York includes more than 2 GW of utility-scale solar, 50 MW of community solar, and 400 MW in storage capacity. AES owns and operates Valcour Wind, a portfolio of 612 MW of operating wind projects. AES is motivated to lead the industry in developing and growing solutions that will enable the transition to carbon-free sources of energy and achieving the Climate Leadership and Community Protection Act ("CLCPA") goals of 70% renewable energy by 2030 and 100% renewable energy by 2040. AES values the opportunity to comment on NYSERDA's Petition.

II. Comments

AES supports the concept of a voluntary REC market in New York for all RECs. Specifically, AES encourages NYSERDA to allow bilateral contracts between generators and voluntary off-takers for the Tier 1 REC market, ensuring fair and just market rules.

AES recognizes the critical role NYSERDA continues to play in renewable energy development in New York. NYSERDA's central role since the inception of the CES program is very important and having NYSERDA as the creditworthy counterparty has instilled confidence and fostered the development of renewable resources. As the market is maturing, demand is growing, and customers are becoming more sophisticated, the program should evolve. NYSERDA will continue to play a pivotal role, but AES believes the Commission should allow bilateral transactions to occur for Tier 1 RECs, consistent with the opening of the electric industry to competition in its landmark Opinion No. 96-12.[1]

For developers without NYSERDA Tier 1 contracts or which do not qualify for any NYSERDA contracts, or for developers with baseline renewable generation (Tier 2 RECs), these voluntary buyers offer the opportunity to structure distinct contracts with the off-takers directly, provide flexibility, and encourage competition in the voluntary market in New York. Thus, these options encourage developers to keep domestically produced RECs in New York and serve New York's policy goals. If developers cannot directly contract with off-takers outside of NYSERDA-led contracts, as described in the Petition, the developers might look to sell RECs outside of New York, for economic reasons, which would deter the State from meeting the goals of the CLCPA.

In addition, the Petition poses risks for Tier 1 generators by removing the merchant market and it is unclear if generators could sell their test power prior to contracts beginning or if they could sell excess power, or if developers possibly build larger projects than contracted, this Petition could limit the ability to provide other hedge products in the market.[2] As well, the loss of the market for RECs outside of Tier 1 contracts (pre contract or excess power), could result in higher bid prices due to perceived increased risks by developers. Further, this Petition may remove revenue streams that Tier 1 developers had previously included in their bid pricing, undermining their project finance viability.[3]

Expanding the REC program to allow for voluntary purchasers is a positive step in the evolution of renewable energy market. AES believes that expanding the pool of REC buyers to include, for example, municipal government sectors, the commercial and industrial sectors, commercial real estate companies, hospitals, universities, and organizations with environmental, social, and governance goals will reduce the costs borne by the general body of rate payers. As explained in the Petition, if there is robust demand from voluntary purchasers, it is possible that no costs, or minimal costs, of the voluntary REC program would be borne by rate payers, generally. AES believes fostering a competitive, healthy, voluntary market is better for the long-term sustainability

[1] The State of New York Public Service Commission, Opinion No.96-12, Case 94-E-0952, p. 12

[2] Sustainable Energy Advantage, NYSERDA Tier 1 Restructuring Petition: More Than Meets the Eye. https://www.seadvantage.com/blog-post/more-than-meets-the-eye-res/.

[3] Id.

of the CES program. Competition has been proven to result in lower costs, greater innovation, and more opportunities than other market designs.

In its Reforming the Energy Vision[4] proceeding, the Commission again recognized the benefits of competition, as well as the need to transform the marketplace and provide greater options to consumers – and to consumers. Allowing for bilateral Tier 1 REC purchases between developers and customers is fully consistent with the Commission's vision of the future electric industry. If the Commission is not prepared to entertain this structure immediately, it should seek input and perhaps schedule a technical conference to explore and evaluate the implications and benefits of a competitive voluntary marketplace.

III. Conclusion

AES recognizes the challenges and obstacles to renewable energy development in New York and appreciates NYSERDA's key role in addressing those issues. AES agrees with the concept of a voluntary REC market in New York and recommends that the Commission and NYSERDA consider a market structure that does not introduce additional risk for developers and allows voluntary buyers to directly contract with generators for Tier 1 RECs. Allowing this flexibility in the market would encourage competition and reduce the burden on rate payers.

[4] Reforming the Energy Vision (REV).
https://www.ny.gov/sites/default/files/atoms/files/WhitePaperREVMarch2016.pdf