STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on April 24, 2025

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
James S. Alesi
David J. Valesky
John B. Maggiore
Uchenna S. Bright
Denise M. Sheehan
Radina R. Valova

CASE 21-E-0629 - In the Matter of the Advancement of Distributed Solar.

ORDER APPROVING NY-SUN PROGRAM MODIFICATIONS

(Issued and Effective April 24, 2025)

BY THE COMMISSION:

INTRODUCTION

On January 5, 2024, the New York State Energy Research and Development Authority (NYSERDA) filed the NY-Sun Program: Impacts of the Inflation Reduction Act and the Potential for Incremental Distributed Solar Capacity Beyond the 10 GW Goal (Post 10 Gigawatt (GW) Report), in accordance with the Public Service Commission's (Commission) Mid-Point Review (MPR) Order.[1] The MPR Order directed NYSERDA to file: (1) a report detailing the federal guidance that has been issued to-date on the Inflation Reduction Act of 2022 (IRA), its impacts on the New York Sun (NY-Sun) program, and NY-Sun program adaptations that

[1] Case 21-E-0629 et al., Order Adopting NY-Sun Mid-Program Modifications (issued June 23, 2023) (MPR Order).

have been and will be undertaken in response to that guidance; and (2) a report detailing the incremental distributed solar capacity that could be procured within the existing budget authorized for the NY-Sun program in light of the IRA. The Post 10 GW Report consolidates NYSERDA's responses to both of these Commission directives.

By this Order, the Commission approves the recommendations set forth in the Post 10 GW Report, subject to modifications, as discussed herein.

BACKGROUND

The Commission initiated the Renewable Portfolio Standard (RPS) in 2004, with a Main Tier for large resources and a Customer-Sited Tier for smaller resources, including distributed solar.[2] Following a series of modifications to the RPS program, in 2014, the Commission authorized NYSERDA to implement the declining NY-Sun Megawatt (MW) Block Program for the period of 2016 through 2023, with a target of 3 GW of distributed solar in New York State and a total budget of $960.6 million to support that goal.[3]

In January 2016, the Commission, through its Clean Energy Fund (CEF) Framework Order, consolidated various post-2015 NYSERDA clean energy activities (e.g., the New York Green Bank (NYGB) and the NY-Sun program) and ratepayer funding under the CEF, with a 10-year program authorization and associated

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[2] Case 03-E-0188, Retail Renewable Portfolio Standard, Order Regarding Retail Renewable Portfolio Standard (issued September 24, 2004).

[3] Case 03-E-0188, supra, Order Authorizing Funding and Implementation of the Solar Photovoltaic MW Block Programs (issued April 24, 2014).

minimum targets.[4] The Commission established the CEF as the funding mechanism for the NY-Sun initiative and the corresponding 3 GW distributed solar goal, with collections from ratepayers to support the $960.6 million funding requirement.

In September 2018, the Commission issued the NY-Sun Funds Order, authorizing the continued use of $216 million of uncommitted RPS funds, which were previously allocated to the NY-Sun initiative for years 2014 and 2015 (i.e., prior to the authorization of the CEF), for the NY-Sun program.[5] The Commission noted that this amount shall continue to be included in the NY-Sun program budget in the event they become uncommitted due to project attrition.

In April 2019, the Commission issued the Order Regarding Value Stack Compensation, which authorized several Value of Distributed Energy Resources (VDER) Value Stack compensation incentives.[6] Specifically, the Commission authorized NYSERDA to fund the Community Adder incentive from previously collected, uncommitted ratepayer funds. NYSERDA was authorized to spend $43.4 million for the Community Adder incentive under the NY-Sun program.

In July 2019, the Climate Leadership and Community Protection Act (CLCPA) was enacted into law, including a requirement to procure at least 6 GW of distributed solar photovoltaic (PV) generation by 2025.[7] On May 14, 2020, in response to a petition filed by NYSERDA, the Commission issued

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[4] Case 14-M-0094 et al., Clean Energy Fund, Order Authorizing the Clean Energy Fund Framework (issued January 21, 2016) (CEF Framework Order).

[5] Case 14-M-0094 et al., supra, Order Regarding NY-Sun Funds (issued September 14, 2018) (NY-Sun Funds Order).

[6] Case 15-E-0751, Value of Distributed Energy Resources, Order Regarding Value Stack Compensation (issued April 18, 2019).

[7] Public Service Law (PSL) §66-p(5).

the 6 GW Order, which extended the NY-Sun program through 2025 and authorized an incremental program budget of $573 million to achieve the 6 GW target under the CLCPA.[8] The Commission also adopted the Solar Energy Equity Framework (SEEF) as a mechanism by which to dedicate no less than $200 million of funding for projects benefiting low-to-moderate income (LMI) households, affordable housing, and environmental justice and disadvantaged communities. As part of the 6 GW Order, the Commission initially authorized two-fifths of the expanded NY-Sun budget, or $230 million, to be sourced from existing uncommitted NYSERDA funds. In a subsequent order regarding broader modifications to the CEF, the Commission authorized funding of the remainder of the NY-Sun budget from a combination of uncommitted funds from legacy NYSERDA portfolios and, if necessary, up to $118.3 million in repurposed NYGB funds.[9]

On December 17, 2021, NYSERDA and Department of Public Service (DPS) Staff filed the 10 GW Solar Roadmap, which presented several policy options for procuring distributed solar in New York towards meeting the clean energy goals established by the CLCPA, including that 70% of the statewide electric generation secured by jurisdictional load serving entities to meet the electrical energy requirements of all end-use customers in New York must come from renewable sources by 2030.[10] Ultimately, NYSERDA and DPS Staff recommended that, based on the

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[8] Case 19-E-0735, Additional NY-Sun Program Funding and Extension of Program Through 2025, Order Extending and Expanding Distributed Solar Incentives (issued May 14, 2020) (6 GW Order).

[9] Case 19-E-0735 et al., supra, Order Approving Clean Energy Fund Modifications (issued September 9, 2021) (CEF Modifications Order).

[10] Case 21-E-0629, New York’s 10 GW Distributed Solar Roadmap: Policy Options for Continued Growth in Distributed Solar (filed December 17, 2021) (10 GW Solar Roadmap).

success of the NY-Sun MW Block program, the Commission should expand the target amount of distributed solar generation projects installed in New York State from 6 GW by 2025, to 10 GW by 2030 (10 GW Goal), and extend and expand the NY-Sun program administered by NYSERDA to achieve that goal.

On April 14, 2022, the Commission issued the 10 GW Order adopting, with modifications, the recommendations from the 10 GW Solar Roadmap, including the 10 GW Goal.[11] The 10 GW Order also: (1) extended and expanded the existing NY-Sun MW Block Program, as proposed, towards achieving that target; (2) established specific incentive structures for Upstate New York and the Consolidated Edison Company of New York, Inc. (Con Edison) service territory; (3) expanded the SEEF to ensure that no less than 40% of the incremental 4 GW of distributed solar capacity needed to meet the 10 GW Goal be targeted towards LMI customers and disadvantaged communities; and (4) set forth prevailing wage requirements for the NY-Sun program. The 10 GW Order further authorized an additional $1.474 billion in funding for the NY-Sun program, including $954 million for base project incentives and adders, $252 million for the SEEF, $239 million in incentive adders to assist the industry with the transition to prevailing wages, $16 million for the Cost Recovery Fee, $12 million for administration, and $1 million for evaluation. This additional funding brought the total authorized NY-Sun budget to approximately $3.267 billion. In the 10 GW Order, the Commission recognized the incremental 4 GW target as a bridge to a future market where distributed solar costs have decreased to the point where incentives are no longer required.[12]

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[11] Case 21-E-0629, Order Expanding NY-Sun Program (issued April 14, 2022) (10 GW Order).

[12] 10 GW Order, p. 27.

Thereafter, pursuant to the Commission's directives in the 10 GW Order, NYSERDA and DPS Staff filed a mid-point review on January 17, 2023 (MPR Filing), providing a general overview of NY-Sun activity since the issuance of the 10 GW Order, and detailing updated project cost estimates based on developer-reported data, utility-reported interconnection costs, international cost trends, and other market or policy factors impacting costs. Based on that review, the MPR Filing made various programmatic recommendations related to the NY-Sun program, including: (1) granting NYSERDA flexibility to adjust its Community Adder and Inclusive Community Solar Adder (ICSA) incentives to respond to dynamic market and policy conditions; (2) making no changes to the Value Stack compensation mechanism at that time; (3) expanding the eligibility requirements for the Prevailing Wage Adder, in response to the IRA; (4) authorizing NYSERDA to develop a new Floating PV adder; (5) authorizing NYSERDA to remove system production adjustments from the incentive payment structure for commercial and industrial projects; and (6) amending consolidated billing rules to enable multiple Net Member Credit rates within a single community distributed generation (CDG) project.

In the MPR Order, the Commission generally adopted, with modifications, the recommendations set forth in the MPR Filing. Relevant to this Order, the MPR Order specifically identified that the IRA introduced a substantial number of tax-related factors that could impact NY-Sun incentives, but federal guidance on the IRA, at the time, was issued on a piecemeal basis. As such, the Commission directed NYSERDA to submit an informational filing that consolidates and details the federal guidance received to-date on the IRA, its impacts to NY-Sun base incentive and adder rates (including but not limited to the Prevailing Wage Adder and the ICSA) and on the NY-Sun program, and the program adaptations that have been and will be undertaken in response to that guidance.

Separately, based on comments received on the MPR Filing, the Commission also identified that components of the IRA offer significant potential benefits to future CDG projects being developed in New York State (e.g., the expansion of tax credits available to such projects), which benefits directly lower the amounts of incentives necessary to enable solar projects to be economically viable, reduce the overall level of incentives needed to be provided under the NY-Sun program, and could enable achievement of the 10 GW Goal at a lower cost than the NY-Sun program budget authorized in the 10 GW Order. To obtain a more in-depth understanding of the impacts of the IRA on the NY-Sun program's future procurement potential, the Commission directed NYSERDA to file, for Commission review and determination, a report that estimates how much of the NY-Sun budget NYSERDA expects to spend to achieve the 10 GW Goal in light of the passage of the IRA and other economic considerations set forth in the MPR Filing. The Commission directed NYSERDA to include in its report, at a minimum, an estimate of the amount of incremental distributed solar capacity that NYSERDA could achieve beyond 10 GW by 2030, while remaining within the budget approved in the 10 GW Order (and the associated time for achievement). The Commission expressly required that any such additional capacity must consist only of CDG projects that commit at least 40% of project capacity to residential subscribers within disadvantaged communities. The Commission noted that it retained the right to revise the requirements for any capacity that NYSERDA may be authorized to procure beyond the 10 GW Goal.

SUMMARY OF POST 10 GW REPORT

IRA Guidance and Impact

The Post 10 GW Report discusses how NYSERDA has adapted program rules for the SEEF adders in response to further federal guidance, and the potential impacts of other provisions of the IRA on the New York market, based on the federal guidance released to that point. Preliminarily, NYSERDA notes that its review and analysis has reinforced the conclusion, drawn in the MPR Filing, that the extension of the "baseline" federal Investment Tax Credit (ITC) at the 30% level through 2032, including the addition of interconnection expenses as part of the eligible cost basis, is by far the most impactful element of the IRA in terms of NY-Sun expenditures required to reach the 10 GW Goal.

First, NYSERDA explains that under the IRA, tax credit recipients can monetize the ITC using two alternative methods in addition to traditional tax equity investment structures, namely: (1) certain entities, including tax-exempt organizations, rural cooperatives, and state and political subdivisions, may receive a direct payment equal to the amount of ITC (Elective Pay), where previously such organizations needed to enter into a power purchase agreement with a private company in order to access the ITC or other tax benefits; and (2) entities that qualify for a tax credit but are not eligible for Elective Pay may transfer or sell all or a portion of their tax credits to unrelated taxpayers in exchange for cash (Tax Credit Transferability). NYSERDA notes, however, that while monetization under Elective Pay and Tax Credit Transferability may eventually lead to new and lower-cost project financing options, implementation is at a very early stage and is supported by insufficient evidence to draw conclusions regarding its impacts on New York's distributed solar market. As such, NYSERDA does not propose adjusting incentive rates in response to these methods at this time.

Second, NYSERDA explains that the IRA provides incremental tax credits for projects that satisfy certain criteria, for example, a 10% increase in the ITC for satisfying a new "domestic content" requirement (e.g., if both 100% of any steel or iron used in the project was produced in the United States and 40% of manufactured products that are components of the facility were produced in the United States). Based on its assessment, NYSERDA notes that it may be difficult for projects currently under development to meet these standards due to the present lack of domestic manufacturing capacity. However, in the future, as domestic solar manufacturing ramps up in response to this and other provisions of the IRA, more New York projects may be able to meet eligibility requirements for receiving this credit. Based on these uncertainties, NYSERDA does not propose to make adjustments to NY-Sun incentive rates in response to the domestic content bonus credit at this time.

The IRA also introduced a 10% increase to the ITC for projects that are located in an "energy community" (Energy Communities Tax Credit). Based on proposed Internal Revenue Service regulations to effectuate this tax provision, NYSERDA states that a very limited geographic area within New York may meet the definition of an "energy community." Notably, however, the proposed regulations describe requirements for a "brownfield site safe harbor" for projects under 5 MW alternating current (AC) located at sites where a completed Phase I Environmental Site Assessment identifies the presence or potential presence of a hazardous substance. NYSERDA explains that this creates an opportunity for some projects receiving NY-Sun incentives to qualify for the Energy Communities Tax Credit because the requirements to qualify as a brownfield site for the purpose of the credit appear to be less stringent than those for the NY-Sun landfill/brownfield adder. Based on its review, NYSERDA concludes that the current eligibility requirements for the NY-Sun landfill/brownfield adder are appropriate to meet State policy goals, and the potential for certain projects to qualify for both the Energy Communities Tax Credit and the NY-Sun landfill/brownfield adder will help support those policy goals by encouraging additional solar development on sites that are not prime agriculture land. Nonetheless, NYSERDA does not propose making any related adjustments to the NY-Sun incentive rates at this time.

Third, NYSERDA explains that, under the IRA, solar projects with a capacity less than 5 MW AC (e.g., projects participating in the NY-Sun program) may seek an allocation of bonus ITC if they are placed in service in connection with low-income communities. Specifically, projects located in low-income communities or on Native American land may be eligible for a 10% bonus credit, and low-income benefit projects and low-income residential building projects may be eligible for a 20% bonus credit (Low Income Communities Bonus Credit, or LICBC). Total annual allocations of such credits is limited to 1,800 MW nationwide, across four categories: (1) Category 1: located in a Low-Income Community (700 MW); (ii) Category 2: located on Native American Land (200 MW); (iii) Category 3: Qualified Low-Income Residential Building Project (200 MW); and (iv) Category 4: Qualified Low-Income Economic Benefit Project (700 MW).[13] The LICBC is available as a limited competitive annual allocation,

[13] While commercially owned projects installed on residences (i.e., residential leases and power purchase agreements) are eligible, residential projects purchased by the homeowner (i.e., cash purchase and/or consumer loan) are not eligible for the ITC.

where a qualifying project is likely to receive an LICBC allocation subsequent to it securing a NY-Sun award.

NYSERDA notes that, while the policy goals of the LICBC are shared by New York, the NY-Sun program seeks to balance the opportunity to increase the benefits of solar deployment for disadvantaged communities with the potential to reduce New York ratepayer impacts by making certain adjustments to the requirements of NY-Sun awards for projects that receive an LICBC allocation. First, NYSERDA explains that it has already adjusted several NY-Sun program rules, such as for the ICSA, to account for the impact of the LICBC (specifically, the 20% bonus credit under Category 4), whereby projects receiving an allocation of LICBC must increase the cost savings delivered to low-income households (i.e., increase bill credit discount from 10% to 20%) without an increased NY-Sun compensation. NYSERDA also states that, for projects receiving the LICBC allocations under Category 1 or Category 2, NYSERDA does not intend to make program adjustments because these allocations are based on a project's geographic location and provide a 10% increase in the project's ITC, and neither category features eligibility criteria that closely match any current SEEF offering. Moreover, the smaller bonus credit (10% versus 20%) and wide range of potential project sizes and types would make calculating and administering of any retroactive incentive adjustment extremely challenging.

As to the NY-Sun Multifamily Affordable Housing Incentive (MAHI), NYSERDA states that it has not yet made any adjustments to program rules for projects that may be eligible for both the MAHI and Category 3 of the LICBC. While there is significant overlap in eligibility criteria and policy intention between the MAHI and LICBC Category 3, MAHI program adjustments would need to take into account the ownership structure of the properties, the geographic location of the properties, the level of benefits directly delivered to building residents, the timing of the LICBC allocations, and other factors. Consistent with the NY-Sun Program practice of adjusting incentive rates based on market conditions, NYSERDA plans to consult with stakeholders and DPS Staff to assess a need to make future adjustments to the relevant MAHI program rules.

Fourth, the IRA authorized the United States Environmental Protection Agency (EPA) to implement the Greenhouse Gas Reduction Fund (GGRF), a $27 billion fund designed to: (1) reduce greenhouse gas (GHG) emissions and other air pollutants; (2) deliver the benefits of GHG- and air pollution-reducing projects to American communities, particularly low-income and disadvantaged communities; and (3) mobilize financing and private capital to stimulate additional deployment of GHG and air pollution reducing projects. The GGRF was implemented via three grant competitions, including a $7 billion Solar for All grant competition. NYSERDA states that it, on behalf of New York and in coalition with the City of New York, New York City Department of Housing Preservation and Development, and the New York State Division of Housing and Community Renewal, submitted an EPA Solar for All application on October 12, 2023, requesting $400 million (the maximum allowable award size) towards a portfolio of proposed financial assistance programs supporting distributed solar projects benefitting New York's low-income and disadvantaged communities and households. If awarded in the requested amount, NYSERDA estimates that federal Solar for All funding will support deployment of approximately 385 MW of distributed solar capacity incremental to both the Commission-approved 10 GW Goal, and any expansion of that goal discussed in more detail below.[14]

Potential for Additional Distributed Solar Capacity

NYSERDA reports that, as of September 30, 2023, the NY-Sun program has awarded incentives to 6,637 MW of distributed solar capacity across the State and is authorized to award incentives to an additional 1,664 MW of distributed capacity to reach the 10 GW Goal. To fully procure and deploy the incentivized NY-Sun capacity authorized by the Commission, NYSERDA estimates that a total of approximately $2.846 billion will be needed (inclusive of funds expended and committed to date), leaving approximately $421 million unexpended from the Commission-approved NY-Sun budget of $3.267 billion. Notably, the original analysis and budget set forth in the 10 GW Solar Roadmap was developed prior to the passage of the IRA, and assumed that the ITC (as available at that time) would be reduced to 10% for commercial systems and eliminated entirely for residential systems by 2024, thus necessitating a rise in NY-Sun incentive rates during the program period to balance the decline in tax credit revenue. According to NYSERDA, its calculated net surplus of $421 million is primarily driven by the extension of the baseline 30% ITC effectuated by the IRA, and NYSERDA's associated step-down in NY-Sun incentive levels in response. NYSERDA's estimate factors in updated assumptions for project costs and financial hurdle rates based on available data, assumes that project costs and NY-Sun incentive rates on average will remain relatively stable for the duration of the program period, and includes additional adjustments to account

[14] Subsequent to the filing of the Post 10 GW Report, NYSERDA received notice of an EPA Solar for All award in the amount of $249.8 million. See https://www.epa.gov/greenhouse-gas-reduction-fund/solar-all.

for other factors, such as an increased uptake of "beneficial siting" incentive adders like brownfields and canopies.

Preliminarily, in assessing how the estimated NY-Sun budget surplus might be utilized, NYSERDA notes that the previous expansion of the NY-Sun program to 6 GW by 2025 had a budget of $573 million that was not fully funded through incremental ratepayer collections, but instead relied on the use of uncommitted funds from legacy NYSERDA portfolios, which are no longer active. This included the use of newly uncommitted legacy funds that materialize each year due to project attrition. The Commission further directed that, if uncommitted legacy funds were not sufficient, up to $118.3 million in NYGB funds could be reallocated to fully fund the NY-Sun program.[15] As of the filing of the Post 10 GW Report, NYSERDA estimated a remaining shortfall of up to $75 million for the NY-Sun program that would need to be reallocated from the NYGB program in order to fully fund the NY-Sun program's authorized budget. NYSERDA proposes to avoid reallocation of this $75 million from NYGB (and allow continued availability of funding for NYGB activities) and instead reduce the total authorized NY-Sun budget by a commensurate amount. NYSERDA states that the remainder of the then-estimated surplus of $346 million ($421 million surplus referenced above less $75 million shortfall) could then be utilized to support the attainment of incremental solar capacity beyond the 10 GW Goal.

In the alternative, NYSERDA proposes that the Commission could direct a portion of the estimated surplus NY-Sun budget of $421 million to address not just the remaining projected shortfall of up to $75 million, but to cover the full $118.3 million that NYSERDA was authorized to reallocate from

[15] See 6 GW Order; CEF Modifications Order.

uncommitted legacy funds or NYGB to the NY-Sun program. The $43.3 million difference between the two figures would reflect uncommitted legacy program funds that were previously applied to NY-Sun from legacy programs that are largely closed out at this time. NYSERDA notes, however, that "reimbursing" this $43.3 million retroactively would further reduce funds available to support incremental solar capacity beyond the 10 GW Goal. In the event of unanticipated market changes that may challenge attainment of 10 GW Goal, the available uncommitted legacy funds and NYGB revenues – in a total amount not to exceed $118.3 million – could be directed to ensure successful achievement of the 10 GW Goal.

Turning back to its $346 million proposal, NYSERDA analyzed six total scenarios to illustrate the potential for additional incremental solar capacity. The scenarios include: (1) procuring all incremental capacity from "opt-in" community solar projects supported by the existing ICSA program model; (2) procuring all incremental capacity from an "automatic enrollment" or Statewide Solar for All (S-SFA) program model (S-SFA Model);[16] and (3) splitting incremental capacity evenly between the two models. For each of these three scenarios, NYSERDA also separately estimated the incremental capacity that could potentially be achieved based on whether projects would be required to provide a minimum customer bill discount rate of 10%, or a minimum bill discount rate of 20%.

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[16] Under the S-SFA model, a project's utility company would assign 100% of the project's Value Stack credits to the utility's pool of Energy Assistance Program (EAP) customers. On May 19, 2023, DPS Staff, in collaboration with NYSERDA, issued a proposed framework for an S-SFA initiative. See Case 19-E-0735, supra, Department of Public Service Staff Proposal on a Statewide Solar For All Program (filed May 19, 2023).

For purposes of its analysis, NYSERDA assumed that 40% of the remaining budget (approximately $141 million) would be committed to projects in the Con Edison region, and the remaining 60% (approximately $205 million) would be committed to Upstate projects. NYSERDA also assumed that 50% of the capacity associated with the ICSA model would be dedicated to eligible subscribers, including no less than 40% of each project's capacity dedicated to LMI residents and residents of disadvantaged communities; 100% of the capacity associated with the S-SFA model would be dedicated to eligible low-income residential subscribers; all projects above 1 MW AC would receive the Prevailing Wage Adder at the current level; and uptake for the Brownfield/Landfill, Floating PV, and Canopy Adders would continue at the current pace and incentive rates. Based on the foregoing, NYSERDA estimates the potential incremental solar deployment for each scenario, as shown in the table below:

Scenario	**Project Configuration**	**Customer Bill Discount**	**Upstate MW Funded**	**Con Edison MW Funded**	**Statewide MW Funded**
#1	100% ICSA	10%	670	94	784
#2	100% S-SFA	10%	1,102	132	1,254
#3	50%-50% ICSA/S-SFA Split	10%	833	110	963
#4	100% ICSA	20%	456	81	557
#5	100% S-SFA	20%	621	108	750
#6	50%-50% ICSA/S-SFA Split	20%	526	93	639

Notably, NYSERDA emphasizes that the assumptions employed to analyze the above scenarios do not represent specific recommendations for the division of the NY-Sun program or budget by region or project type. Rather, NYSERDA requests that any additional capacity that is authorized by the Commission to be administered through the existing NY-Sun structure include the NY-Sun program practice of adjusting incentive rates and capacity blocks based on program uptake and other market conditions.

Recommendations

Based on its analysis, NYSERDA states that deploying incremental capacity beyond the 10 GW Goal is feasible. NYSERDA requests that the NY-Sun program be authorized to fully commit and expend the currently approved NY-Sun program budget, including the aforementioned adjustment for the legacy funding shortfall, to incentivize incremental distributed solar capacity beyond the 10 GW Goal. NYSERDA also requests that the Commission continue to grant flexibility for NYSERDA, in consultation with DPS Staff and stakeholders, to adapt the NY-Sun program to market conditions.

Regarding additional capacity to be incentivized within the current NY-Sun budget, NYSERDA notes that the MPR Order "expressly requires that such additional capacity must consist only of CDG projects that commit at least 40% of project capacity to residential subscribers within [disadvantaged communities]."[17] However, residential community solar subscribers benefitting from the SEEF currently include "moderate income" residential households (i.e., with household incomes between 60% and 80% of Area Median Income, or AMI) residing outside of the geographically defined disadvantaged communities, and limiting eligibility to residential subscribers within disadvantaged communities would represent a shift from

[17] MPR Order, p. 30.

previously-approved and currently-utilized program eligibility criteria. As such, NYSERDA seeks Commission clarification that, in requiring that incremental capacity beyond the 10 GW Goal must commit at least 40% of project capacity to residential community solar subscribers within disadvantaged communities, such eligibility criteria should include "moderate income" residential households as well as members of disadvantaged communities. NYSERDA notes that, if the Commission clarifies as such, the NY-Sun program eligibility would remain aligned with federal programs where the federal LICBC and EPA Solar for All funding is also set at 80% of AMI.

NYSERDA further notes that the SEEF also supports onsite residential projects, affordable housing projects, and predevelopment/technical assistance. NYSERDA requests that the Commission authorize the NY-Sun program to continue to support such projects within the SEEF with a portion of the additional funds discussed above, based on future market conditions, program uptake, and in consultation with DPS Staff and stakeholders. NYSERDA asserts that any such adjustments would not significantly impact the total additional program capacity achieved within the authorized NY-Sun budget.

Finally, in response to the customer discount requirement of 20% as set forth by both the EPA Solar for All program and Category 4 of the LICBC, as well as feedback from stakeholders, NYSERDA analyzed scenarios for a 20% minimum bill credit discount (compared to the current 10% minimum). NYSERDA states that implementing a 20% bill credit discount floor is likely to deepen benefits for participating residential subscribers and better position New York projects to maximize federal funding opportunities but, by necessity, would also require a higher level of incentive funding on a per-watt/per-project basis, resulting in lesser incentivized capacity.

NYSERDA expresses that it would continue to assess NY-Sun program requirements related to customer discounts and seek further stakeholder feedback.

In sum, NYSERDA requests that the Commission: (1) authorize it to commit and expend the total NY-Sun program budget of $3.267 billion to achieve deployment of eligible distributed solar beyond the 10 GW Goal; (2) utilize $75 million of the estimated $421 million in surplus funds, beyond what is necessary to achieve the 10 GW Goal, to fund the current shortfall associated with the 6 GW Order and CEF Modifications Order (instead of reallocating funds from the NYGB); (3) include the remaining surplus funds, estimated at $346 million, within the SEEF, with this amount targeted to community solar projects that each dedicate no less than 40% of their capacity to residential customers who are residents of disadvantaged communities (and/or have household income at or below 80% of AMI); (4) continue to include residential customers with household incomes between 60%-80% of AMI, as well as members of disadvantaged communities, within the 40% capacity minimum for community solar projects supported through the SEEF; and (5) continue to support onsite residential projects, affordable housing projects, and predevelopment and technical assistance within the SEEF, with a portion of the surplus funds discussed above based on future market conditions, program uptake, and in consultation with DPS Staff and stakeholders.

PUBLIC NOTICE AND COMMENTS

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on February 28, 2024 [SAPA No. 21-E-0629SP4] (February 2024 Notice). The time for submission of comments pursuant to the February 2024 Notice expired on April 29, 2024. The comments received are summarized in Appendix A.

Thereafter, on October 17, 2024, the Secretary to the Commission issued a Notice Soliciting Comments (October 2024 Notice), seeking additional stakeholder feedback by October 31, 2024. Comments received in relation to the October 2024 Notice are also summarized in Appendix A. The October 2024 Notice specifically posed three questions related to the use of surplus NY-Sun funds to support LMI households and disadvantaged communities:

1. Do the proposed options for spending surplus NY-Sun funds set forth in the Report help to advance equitable access to solar energy for underserved New Yorkers? Why or why not?
2. Please identify alternative options, if any, for how surplus NY-Sun funds could be spent in order to create equitable access to solar energy.
3. Should consideration be given to how the surplus NY-Sun funds could be leveraged to create synergies with other ratepayer-funded programs that are intended to drive energy affordability and/or access to clean energy solutions in the LMI market segment (e.g., the Energy Affordability Program, Statewide Solar for All, and Energy Efficiency, Building Electrification, and EV Make Ready programs), to improve the collective impact of these programs with respect to increasing access to clean energy solutions, improving energy affordability, or delivering additional benefits? If so, how?

LEGAL AUTHORITY

The Commission has the responsibility and the authority under the PSL to ensure that utilities carry out "their public service responsibilities with economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources."[18] The Commission also has the responsibility, pursuant to PSL §66-p, to ensure that a minimum of 70% of the statewide electric generation secured by jurisdictional load serving entities to meet the electrical energy requirements of all end-use customers in the state be generated by renewable energy systems by 2030, including the procurement of "at least ... six gigawatts of photovoltaic solar generation by [2025] ...." Furthermore, the Commission is directed to design programs under PSL §66-p "in a manner to provide substantial benefits for disadvantaged communities ... including low to moderate income consumers."[19]

Pursuant to the State Energy Law, the Commission is required to consider actions to effectuate State energy policy and the New York State Energy Plan.[20] In fulfilling the mandates of the PSL and the State Energy Law, the Commission has directed the development and implementation of a number of programs to increase the deployment of energy efficiency resources in New York, including the CEF, the RPS, the Energy Efficiency Portfolio Standard, and the Energy Efficiency Transition Implementation Plans. The activities directed and authorized in this Order will continue and build upon the progress made through those programs.

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[18] PSL §5(2); see also PSL §66(3).

[19] PSL §66-p(7).

[20] State Energy Law §§3-103 and 6-104.

DISCUSSION

Since its inception, the NY-Sun program has proven to be one of the State's most successful programs at fostering clean energy development, and has been a key component of the various market-based mechanisms adopted by the Commission to accelerate distributed solar projects across New York State. As the Commission noted in the MPR Order, based on the rapid uptake of distributed solar projects statewide to-date, it appears that the State is well positioned to achieve the 10 GW Goal, towards the broader clean energy targets established in the CLCPA.[21] At the same time, the Commission acknowledges the legitimate concerns about energy affordability in New York State, particularly in light of significant ongoing economic uncertainty in the country and across the globe. The Commission must carefully and concurrently balance this request to continue ratepayer funded incentives under the NY-Sun program, with the Commission's broader responsibility to provide all New Yorkers with safe and adequate service at just and reasonable rates, particularly vulnerable households that are disproportionately impacted by home energy costs. With these overarching considerations in mind, the Commission addresses each of NYSERDA's requests in the Post 10 GW Report below.

Post-10 GW Budget and Spending

NYSERDA requests that the Commission commit and expend the full NY-Sun program budget of approximately \$3.267 billion. NYSERDA states in the Post 10 GW Report that it currently would need to expend approximately \$2.846 billion to achieve the 10 GW Goal, thus potentially leaving a net budget surplus of approximately \$421 million that could be utilized to achieve additional distributed solar projects above and beyond the 10 GW

[21] MPR Order, p. 18.

Goal. This $421 million surplus is inclusive of $118.3 million in funds the Commission allowed to be reallocated from uncommitted legacy NYSERDA portfolios and, if needed, NYGB. Based on the latest available reporting from NYSERDA, the Commission estimates this figure to include approximately $64 million in legacy portfolio funds and a remaining liability on the NYGB of approximately $54.3 million.[22]

The Commission fully acknowledges and commends NYSERDA for its work to-date in administering the NY-Sun program in a cost-effective manner. The potential achievement of the 10 GW Goal significantly under the original program budget of $3.267 billion offers the Commission a unique opportunity to recognize the program's success at establishing a mature self-sustaining distributed solar market. In order to determine whether to authorize NYSERDA to expend the full NY-Sun budget to go beyond 10 GW, the Commission must carefully evaluate the prudency of directing NYSERDA to continue spending on incentivizing solar development versus commencing a phase-out of this very successful program and redirecting the use of all, or some portion, of these funds to provide relief to ratepayers in light of increasing affordability concerns.

With the foregoing considerations in mind, the Commission finds that the distributed solar market has sufficiently matured, and that ratepayer funded incentives through NY-Sun can begin to phase-out following the achievement of the 10 GW Goal. Therefore, the Commission directs NYSERDA to allocate a portion, but not all, of the potential surplus budget towards further incentivizing distributed solar projects beyond the 10 GW Goal. First, however, the Commission relieves NYGB of its liability to the NY-Sun program, currently calculated to be

[22] See Case 14-M-0094, supra, NYSERDA Uncommitted Funds Summary Report 12.31.2024 (filed March 3, 2025).

approximately $54.3 million, and reauthorizes that amount to be used for NYGB purposes. Next, the Commission directs that approximately $64.0 million in uncommitted funds previously reallocated to NY-Sun be returned back to the legacy NYSERDA portfolios from which they originated. These funds will be utilized by the Commission to provide relief to ratepayers associated with costs for NYSERDA's other clean energy programs currently pending before the Commission.[23] As stated above, the Commission commends NYSERDA for administering the NY-Sun program in an efficient manner such that NYGB and uncommitted legacy funds no longer appear to be needed to reach the 10 GW Goal. Instead, relieving NYGB of any liability will ensure the full funding originally intended for NYGB is available to continue to support the State's clean energy objectives.

While some commenters opposed "reimbursing" funds to the NYGB program, arguing that the funds should be used to further support solar installations, the Commission notes that, in the 6 GW Order, it did not fully authorize new ratepayer collections to fund the full budget to achieve 6 GW of distributed solar. Instead, the Commission authorized a portion of the budget, and then subsequently directed in the CEF Modifications Order that NYSERDA utilize uncommitted legacy funds and, if necessary, up to $118.3 million in repurposed NYGB funds to cover the remainder. The Post 10 GW Report's analysis regarding the "incremental" solar capacity that NYSERDA could

[23] For example, at the direction of the Commission in Case 14-M-0094, NYSERDA filed its Non-LMI and LMI Energy Efficiency and Building Electrification Portfolio Proposals for the 2026 – 2030 period, totaling $500 million and $1 billion, respectively, on November 1, 2023. NYSERDA subsequently supplemented these filings on January 22, 2024, and the proposals are currently pending before the Commission.

procure within the existing authorized NY-Sun program budget (i.e., with a $421 million surplus out of the total $3.267 billion budget) includes use of up to $118.3 million from outside the NY-Sun program. In other words, NYSERDA has not yet drawn funds from NYGB to satisfy the NY-Sun funding requirements, and would only need to do so if NYSERDA were to expend the full NY-Sun program budget.[24] Similarly, as noted above, the CEF Modifications Order directed that the NY-Sun program first utilize any newly uncommitted legacy portfolio funds that result each year from project attrition before drawing funds from NYGB. For the same reasons stated above, the likelihood of a NY-Sun program budget surplus means that NYSERDA no longer needs to utilize these legacy portfolio funds to achieve the 10 GW Goal.

After removing $118.3 million of legacy and/or NYGB funds from the total NY-Sun budget, the Commission estimates a remaining total NY-Sun budget of $3.1487 billion ($3.267 billion less $118.3 million), with a surplus of $302.7 million available after the 10 GW Goal is achieved. Because the NY-Sun program will potentially be able to achieve the 10 GW Goal below budget, the Commission is presented with the opportunity to utilize the surplus to directly address other important policy matters, including, critically, energy affordability. As such, the Commission directs NYSERDA to maintain $150 million of the $302.7 million surplus for continued use through the NY-Sun program. Recognizing New York's matured distributed solar

[24] Similarly, some commenters opposed "reimbursing" NYGB in order to make up for the fact that New York State ultimately did not receive the full $400 million in federal funding under the EPA Solar for All grant for which it applied. As NYSERDA noted, however, this federal funding is separate from (and incremental to) the potential NY-Sun budget surplus discussed herein.

market and the other mechanisms the Commission has put in place like VDER and S-SFA that are beneficial to continued distributed solar development, the $150 million will provide NYSERDA with sufficient funding to pursue additional solar projects beyond 10 GW during this transitional, phase-out of ratepayer funded NY-Sun incentives.[25] NYSERDA shall include in its updated NY-Sun Operating Plan required below, an outreach and communication plan to inform the distributed solar market developers and contractors of the phase-out of ratepayer funded NY-Sun incentives.

The Commission further directs that any incremental solar that NYSERDA procures beyond 10 GW shall be projects within the S-SFA program framework. While commenters varied on the specific funding allocation scenarios presented in the Post 10 GW Report (e.g., a 50/50 split between ICSA and S-SFA incentives structures versus 100% of surplus funds going towards ICSA incentives), the Commission finds that committing the full $150 million towards S-SFA projects provides the greatest value in terms of benefiting low-income customers. This is evidenced by NYSERDA's own analysis in the Post 10 GW Report, which shows that the scenarios allocating 100% of surplus funds towards the S-SFA program would likely incentivize more MWs of solar (all of which will benefit low-income customers) versus the comparable scenarios allocating either some or all of the budget towards the ICSA program. Indeed, as the Commission recently stated, "[o]ffering a portion of the significant public and private

[25] The Commission expressly notes that the actions taken in this Order to phase out ratepayer-funded incentives through the NY-Sun program are not intended to slow or stop distributed solar development in New York once the 10 GW Goal is achieved. To the contrary, the Commission fully expects that the maturing market and other Commission-approved mechanisms will result in continuing distributed solar development, to continue the progress towards the renewable energy targets in PSL §66-p.

investment represented by [the NY-Sun pipeline] to S-SFA's low-income customers fits within a balanced community solar policy that is prioritizing benefits for low-income households and providing equitable access to community solar" and furthering the state's renewable energy goals.[26] The Commission also hereby establishes a cap/target of 500 MW of incremental solar beyond 10 GW. Based on the most up-to-date information available from NYSERDA, the Commission estimates that this cap of 500 MW is within the range of incremental solar generation that could reasonably be achieved if all $150 million of the funding authorized here is put towards procuring additional S-SFA projects. NYSERDA should consult with DPS Staff throughout this process to keep DPS Staff apprised of the status of reaching this cap/target.[27] The Commission also directs NYSERDA to file a status update indicating that the $150 million in surplus funds authorized herein has been fully committed to S-SFA projects beyond the 10 GW Goal, within 30 days after achieving such full commitment.

The Commission also notes that NYSERDA estimated the federal EPA Solar for All funding request for $400 million would support deployment of approximately 385 MW of distributed solar capacity, incremental to the 10 GW and the additional 500 MW approved in this Order. Since the Post 10 GW Report, NYSERDA

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[26] Case 21-E-0629 et al., Order Approving Statewide Solar For All Program with Modifications (issued May 16, 2024), p. 22 (S-SFA Order).

[27] Some commenters assert that a portion of the surplus funding should go towards additional incentives for residential rooftop solar. The Commission notes that NYSERDA, in consultation with DPS Staff, recently released an additional $11.85 million in new Upstate and Downstate residential solar incentives to address ongoing market needs, as shown in NYSERDA's NY-Sun incentives dashboards. See https://www.nyserda.ny.gov/All-Programs/NY-Sun/Contractors/Dashboards-and-incentives.

did receive notice of the EPA Solar for All award in the amount of $249.8 million.[28] Using a simple ratio, this federal funding could result in an additional 240 MW of distributed solar capacity beyond what NYSERDA could achieve using NY-Sun program surplus funds as discussed above, directly benefiting disadvantaged communities and low-income households, while at the same time continuing distributed solar project development while phasing out ratepayer funded incentives.

The remainder of the potential budget surplus, currently estimated to be approximately $152.7 million, shall be returned to NYSERDA's balance of uncommitted legacy funds. The Commission finds this to be a reasonable and appropriate disposition of these surplus funds, since the 6 GW Order and the CEF Modifications Order originally directed that $573 million of the total NY-Sun budget be sourced, in part, from existing uncommitted NYSERDA funds. By returning this $152.7 million of the NY-Sun budget to the balance of uncommitted legacy funds, these monies can be used to reduce future collections related to NYSERDA's other clean energy programs currently pending before the Commission.

In sum, after factoring in all of these adjustments to the NY-Sun program, the Commission calculates that the final total NY-Sun program budget, inclusive of the $150 million in surplus funds that NYSERDA is authorized to use to procure solar beyond the 10 GW Goal, is $2.996 billion ($3.267 billion, less $118.3 million and $152.7 million). NYSERDA is directed to file an updated Clean Energy Fund cash flow analysis reflecting the accounting and other changes made herein, within 45 days of the issuance of this Order.

[28] See note 13, supra.

Flexibility to Allocate Surplus Funds

NYSERDA requests continued flexibility, in consultation with DPS Staff, to adapt to market conditions and assess potential program adjustments to meet program goals, capture efficiencies, and build a sustainable equitable solar market. The Commission has a longstanding history of providing NYSERDA flexibility to adjust NY-Sun incentive levels as appropriate to adapt to market conditions. In particular, the declining NY-Sun MW Block program structure has worked well in fostering distributed solar growth by providing upfront incentives to developers in a clear and transparent manner. The Commission finds it reasonable to continue providing NYSERDA such flexibility to adjust incentive levels for the NY-Sun program, subject to the requirement established above that any incremental solar procured beyond 10 GW must be projects within the S-SFA framework. Given the fluid nature of the solar industry, it is important for NYSERDA to have the ability to quickly adapt NY-Sun program incentive levels to evolving market conditions and towards achieving statewide clean energy goals. NYSERDA should continue to consult with DPS Staff prior to making any changes to program incentives, and should continue to follow the outreach and notice procedures set forth in NYSERDA's NY-Sun Operating Plan.

Some commenters recommended that the Commission require specific geographic splits of the available funds, for example, splitting funding 60/40 between Upstate and Downstate New York, based on the assumptions utilized by NYSERDA in the Post 10 GW Report. The Commission notes, however, that the scenarios and assumptions that NYSERDA presented were meant to be illustrative only.[29] As such, the Commission declines, at this time, to require a specific geographic split for the surplus NY-Sun funds. Instead, as explained above, it is critical for NYSERDA to have flexibility to adapt the NY-Sun program incentives to evolving market conditions.

Relatedly, the Commission declines, at this time, to require a minimum bill discount of 20% in order to receive a NY-Sun incentive. Since the Commission is directing the use of the surplus funds towards S-SFA projects, setting a bill discount is not necessary. EAP customers are automatically enrolled in the S-SFA program and bill credits are pooled together and distributed to EAP customers each month. In the S-SFA Order, the Commission stated that it may be appropriate to revisit the S-SFA eligibility requirements and the methodology for calculating EAP bill discounts in the future, once the S-SFA program advances.[30] Mandating a bill discount percentage at this point is premature and can be considered when DPS Staff revisits the entire S-SFA program.

SEEF Considerations

NYSERDA recommends that any surplus funds above and beyond what is needed to meet the 10 GW Goal should be used within the SEEF framework. In addition, although the MPR Order stated that incremental capacity beyond 10 GW must consist only of CDG projects that commit at least 40% of project capacity to residential subscribers within disadvantaged communities, NYSERDA requests that the Commission clarify that the MPR Order

[29] NYSERDA specifically states that those scenarios and the assumptions utilized to make such estimations "do not represent specific recommendations for the division of program budget/capacity by region or project type." Post 10 GW Report, p. 11.

[30] S-SFA Order, p. 58.

directive also includes "moderate income" residential households as well as members of disadvantaged communities.

Preliminarily, the Commission reiterates that any incremental solar beyond the 10 GW Goal shall be projects within the S-SFA framework, which will ensure that this incremental solar directly benefits low-income customers. That notwithstanding, the Commission acknowledges the discrepancy between the MPR Order and how NYSERDA currently operates its NY-Sun incentive programs within the SEEF framework. This discrepancy was inadvertent, and the Commission hereby explicitly clarifies that NYSERDA should continue administering SEEF as it historically has done, including that moderate income residential households (i.e., with household incomes between 60% and 80% of AMI) residing outside of the geographically defined disadvantaged communities be eligible to benefit from SEEF. For example, to the extent ICSA incentives are still currently available for projects that would count towards the 10 GW Goal, residential customers with household incomes between 60%-80% of AMI, as well as members of disadvantaged communities, should count towards the 40% capacity requirement for such projects to receive the ICSA.

In response to the October 2024 Notice, multiple commenters expressed a desire for NYSERDA to consider how surplus NY-Sun funds could be leveraged to create synergies with other LMI and affordability programs. Reducing energy burden and increasing access to clean energy solutions for lower-income households are policy priorities for the Commission, and low-income solar programs can play a key role in addressing these policy objectives. The Commission agrees with commenters, and directs NYSERDA to create synergies between low-income solar programs and energy efficiency and building electrification programs where appropriate. NYSERDA is the primary administrator of ratepayer-funded LMI clean energy programs, including energy efficiency programs. In this role, NYSERDA determines income eligibility for thousands of LMI customers every year and is in position to connect these customers to available incentives and program opportunities. In this respect, the Commission expects NYSERDA to be strategic in its administration of LMI programs and help to increase the impact of ratepayer funds. Cross-program outreach and data sharing between NYSERDA programs could help create stronger bonds between these programs, reduce administrative costs, and unlock opportunities for customers participating in one program to also become aware of and benefit from other, similar programs. Further, NYSERDA should leverage the Regional Clean Energy Hubs, which are primarily funded by ratepayers, to improve outreach on available programs and help customers link to complementary program opportunities. One timely example of how NYSERDA can be more strategic is in linking low-income customers that electrify their space and/or water heating with heat pumps to opportunities to participate in CDG projects. The conversion of space and water heating to heat pump solutions could increase electricity consumption and energy burden for these customers. The addition of a CDG subscription opportunity could help to offset some of the increased electricity costs that the customer may experience.

To aid in the Commission's visibility into how the SEEF is interacting with other ratepayer-funded programs, NYSERDA is hereby required to enhance its existing reporting for NY-Sun to include the number of LMI customers supported by each program component (i.e., S-SFA projects and projects supported through the ICSA), as well as the estimate of the total annual bill savings for LMI customers supported through solar initiatives.[31] As the Commission previously stated, careful tracking of SEEF funds spent and the corresponding benefits inuring to disadvantaged communities and LMI customers will be critical to ensuring compliance with the funding requirement for disadvantaged communities under the CLCPA.[32] NYSERDA is directed to coordinate with DPS Staff to update its NY-Sun Operating Plan to reflect these new reporting requirements, and shall file such updated NY-Sun Operating Plan within 60 days of this Order.

Other Issues

Some commenters recommend creating various enhanced or new beneficial siting adders, such as enhanced parking garage and solar canopy adders, and an adder for agrivoltaics. As it stated in the 6 GW and 10 GW Orders, the Commission continues to support the establishment of an agricultural program to offer support and incentives to projects that are designed to maximize agricultural and environmental co-benefits. Similarly, the Commission supports, in concept, incentives for other types of solar projects that can leverage existing land uses to the benefit of New Yorkers. NYSERDA should continue to evaluate the costs and benefits of enhanced adders as part of NYSERDA's existing beneficial siting adder framework, and should consult with DPS Staff prior to making modifications to those adders. Regarding new beneficial adders like an agrivoltaics adder, the Commission notes that it previously invited NYSERDA to file a proposal, for Commission consideration, to be used within the 10 GW budget if NYSERDA determines that such a new adder may provide value to customers.

[31] NYSERDA is currently required to report on metrics for energy savings and clean energy market penetration in the LMI market and to post such information on its website, pursuant to its NY-Sun Operating Plan.

[32] See 10 GW Order, p. 44.

In response to the February 2024 and October 2024 Notices, various commenters recommend specific allocations of surplus funds for discrete uses, including, but not limited to: (1) $100 million to fund solar credits to reduce electricity bills for LMI customers and disadvantaged communities undertaking electrification projects; (2) $100 million to reduce barriers to rooftop solar by funding roof repairs, deferred maintenance, and electrical system issues; (3) new adders for affordable housing in New York City that cannot benefit from the New York City Property Tax Abatement; and (4) enhanced bridge loan options for multifamily affordable housing. While the intent behind these recommendations is laudable, they fall outside of the scope of the NY-Sun program to provide clear and transparent upfront incentives to accelerate distributed solar development in New York State. That notwithstanding, as noted above, the Commission is already directing NYSERDA to create additional synergies between low-income solar programs and other ratepayer funded programs like energy efficiency and building electrification programs where appropriate, which will help address some of the issues raised by these commenters. Moreover, some of these programmatic elements may fall within the broader portfolio of potential financial assistance programs that NYSERDA may implement using federal EPA award money in order to support distributed solar projects benefitting New York’s LMI customers and disadvantaged communities and households. The Commission highly encourages NYSERDA to evaluate how that federal funding could be creatively used to further support the Commission’s clean energy and distributed solar objectives, while also supporting low-income customers and disadvantaged communities. Similarly, as recommended by some commenters, the Commission encourages NYSERDA to actively collaborate with Clean Energy Hubs and other community-based organizations that provide services to low-income households and disadvantaged communities, in order to maximize the potential benefits that the NY-Sun program could provide to those communities.

CONCLUSION

The Commission recognizes the success of the NY-Sun program in helping accelerate the pace to a self-sustained distributed solar market in New York, and supporting the continued development of a clean, distributed, dynamic, and efficient electric grid. Through this Order, the Commission builds upon those successes, while also ensuring that ratepayer funds are utilized in the most efficient manner possible, including providing tangible benefits to the State's low-income customers and disadvantaged communities. Based on the foregoing, the Commission approves, with modifications, the recommendations set forth in the Post 10 GW Report, subject to the discussion in the body of the Order. NYSERDA is directed to update the NY-Sun Operating Plan to incorporate the changes discussed in this Order within 60 days of the issuance of this Order.

The Commission orders:

1. The NY-Sun program administered by the New York State Energy Research and Development Authority is hereby modified, as discussed in the body of this Order.

2. As discussed in the body of this Order, the total funding level for NY-Sun program administered by the New York State Energy Research and Development Authority is hereby modified to $2.996 billion.

3. The New York State Energy Research and Development Authority shall file an updated Clean Energy Fund cash flow

analysis, reflecting the modifications described in the body of this Order, within 45 days of the issuance of this Order.

4. The New York State Energy Research and Development Authority is authorized to expend $150 million of NY-Sun program funds to procure Statewide Solar for All projects beyond 10 gigawatts of statewide distributed solar deployment, as discussed in the body of this Order.

5. The New York State Energy Research and Development Authority shall notify the Commission in writing, within 30 days of when it has fully committed $150 million in surplus NY-Sun funds to Statewide Solar for All projects beyond 10 gigawatts of statewide distributed solar deployment, as discussed in the body of this Order.

6. The New York State Energy Research and Development Authority shall file an updated NY-Sun Operating Plan reflecting the decisions in this Order, within 60 days of the issuance of this Order.

7. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

8. This proceeding is continued.

By the Commission,

(SIGNED) MICHELLE L. PHILLIPS
Secretary

APPENDIX A

SUMMARY OF COMMENTS

Comments Responding to February 2024 Notice

Ampion, PBC (Ampion)

Ampion generally supports the recommendations set forth in the Post 10 GW Report. Ampion asserts that traditional community solar is a proven means of delivering operational renewable capacity to the grid and directing economic benefits to disadvantaged communities, as compared to the S-SFA Model (which is unproven and has an unknown timeline). Ampion argues that the Commission should reserve at least 50% of any available incremental funding for the traditional community solar model through the ICSA program. Ampion further notes that it is possible that a traditional community solar program could achieve sufficient deployment velocity that it would exhaust 50% of the available incremental funding before S-SFA is fully operational, and in such a circumstance, NYSERDA should be given discretion to use an additional increment of funding on ICSA projects rather than holding those funds for S-SFA projects.

The New York Solar Energy Industries Association, Coalition for Community Solar Access, and Solar Energy Industries Association (collectively, the Solar Parties)

The Solar Parties support NYSERDA's proposal to leverage the authorized NY-Sun program budget to achieve distributed solar capacity beyond 10 GW but oppose utilizing $75 million to fund the current NY-Sun program shortfall. The Solar Parties also support investing the majority, but not all, of the surplus funds into SEEF-eligible community solar projects. Specifically, the Solar Parties also recommend that the Commission direct NYSERDA to: (1) evenly split funding 50/50 between low-income community solar and the S-SFA program; (2)

establish a baseline 10% customer bill discount, with deeper bill discounts for projects that receive federal LICBC or EPA Solar for All funding; (3) allocate all NY-Sun S-SFA funding to solar, rather than battery storage; (4) increase the maximum direct current (DC) nameplate rating for projects that include energy storage; (5) provide more support for Upstate onsite solar projects; (6) allocate 5% of the budget surplus towards Upstate residential solar; (7) raise the Upstate Non-Residential program's maximum system size from 750 kW to 1.5 MW, create a $0.20/Watt-DC rooftop beneficial siting adder, and allow prevailing wage opt-in for non-residential projects; (8) support agrivoltaics; and (9) adopt a flexible approach for the Con Edison territory, including creating an enhanced carport and canopy adder for low-income community solar, and authorizing NYSERDA to flexibly allocate Con Edison funding towards any SEEF-eligible project. The Solar Parties also support granting NYSERDA general flexibility to adjust the program and reallocate funding in response to market conditions. Finally, the Solar Parties urges continued development of policies and programs to support distributed solar in the long-term.

The City of New York (The City)

The City endorses using the full NY-Sun program budget to achieve deployment of eligible distributed solar beyond the 10 GW Goal, but notes that both the allocation of NY-Sun budget and program design must recognize and adequately address the unique barriers and challenges facing disadvantaged communities in New York City. As such, the City supports allocating 40% of the remaining $346 million budget, or approximately $141 million, to projects in the Con Edison region, and 60%, or $205 million, to Upstate New York. The City also supports a 50/50 split between the ICSA and S-SFA program, while providing customers with a 20% discount rate. The City further urges that a portion of the surplus NY-Sun funds be dedicated to expanding solar canopy incentives and adders, particularly for projects located in New York City. The City further asserts that federal incentives should not be diminished by using them as a de facto offset to fund other benefits (e.g., 20% customer bill credit), but instead should be used to develop and implement higher incentive rates for projects developed and operated in disadvantaged communities. The City states that NY-Sun programs should be stackable with new federal incentives to maximize the number of disadvantaged households that can directly benefit from distributed solar development.

In follow-up comments filed on June 5, 2024, the City emphasized the Solar Parties' opposition to using $75 million of the estimated surplus to fund the current NY-Sun program shortfall and argued that the shortfall should be covered through repurposed NYGB funds. The City states that the $75 million should instead be used to supplement and help restore the partial reward from the EPA's Solar for All competition.

Catalyst Power (Catalyst)

Catalyst supports adopting a rooftop adder, increasing the on-site solar capacity limit for the Upstate Non-Residential program from 750 kW to 1.5 MW, increasing the Non-Residential MW Block program incentive level to $0.50/W to better support on-site solar for businesses, and refining the locational marginal price aspect of the current Value Stack pricing structure from zonal to nodal.

Green Street Power Partners (GSPP)

GSPP notes that New York State was only awarded $249.8 million in federal funding out of the $400 million for which it applied, and it is critical for the excess funds outlined in the Post 10 GW Report to be used to support commercial solar distributed generation programs in the Upstate region. GSPP specifically recommends that the Commission adopt a 50/50 ICSA/S-SFA split for excess funding, implement a minimum 10% discount requirement for ICSA projects, establish a minimum 90% compensation rate for S-SFA projects, and continue taking proactive action to support the solar industry in the long term.

Solar One

Solar One generally supports NYSERDA's proposals, but opposes allocating $75 million in incremental funding to fund the current NY-Sun shortfall. Solar One supports NYSERDA's proposed Scenario 1 (i.e., 100% of funding being allocated to the ICSA, with a 10% discount), provided that increased funding for the ICSA must also involve increasing the $/Watt value of the ICSA, and NYSERDA must be granted flexibility to use available program funds for any SEEF programs it deems necessary. Solar One recommends expansion of the Affordable Solar Residential Incentive. Solar One also supports allowing the ICSA to be stackable with the MAHI, and creating an enhanced parking solar canopy adder in the Con Edison territory.

Lightstar Renewables, LLC (Lightstar)

Lightstar concurs with the comments of the Solar Parties, and further supports implementing an agrivoltaics adder as a means to ensure distributed solar can address the needs of rural communities and landowners.

Comments Responding to October 2024 Notice

Alliance for a Green Economy (AGREE) and WE ACT for Environmental Justice (WE/ACT)

AGREE/WE ACT support the use of the surplus to attain additional distributed solar capacity for New York State, but recommend that a significant portion of the additional capacity be targeted to achieve synergy with the Energy Efficiency and Building Electrification (EE/BE) programs. Specifically, $100 million of the surplus should be used to fund a program to use incremental solar credits to reduce electricity bills for LMI customers and households in disadvantaged communities that undertake electrification projects, including retrofit readiness programs that address common barriers to both solar adoption and EE/BE in order to maximize solar energy savings through rooftop solar projects. AGREE/WE ACT further request that another $100 million be directed to address barriers to rooftop solar for LMI households and disadvantaged communities, including roof leaks, deferred maintenance, and electrical system issues. AGREE/WE ACT further: oppose using NY-Sun surplus funds to address the budget shortfall related to the 6 GW goal; advocate for Scenario 6 from the Post 10 GW Report; and argue against additional NY-Sun incentives for agrivoltaics.

City of New York

The City continues to advocate that surplus funds should not be reallocated to the NYGB, but should instead be used to supplement and help restore EPA Solar for All award funding. Regarding the remaining $346 million surplus, the City advocates for: (1) 40%, or $141 million, committed to projects in the Con Edison service territory; (2) 60%, or $205 million, committed to Upstate New York and Long Island; (3) surplus funds split 50/50 between the ICSA and S-SFA models; (4) 50% of capacity associated with the ICSA model dedicated to eligible subscribers, including no less than 40% of each project's capacity dedicated to LMI residents and residents in Disadvantaged Communities; (5) 100% of the capacity associated with the S-SFA model dedicated to eligible low-income subscribers; and (6) a minimum customer bill discount of 20%. Regarding a 20% customer bill discount, the City recommends that NYSERDA conduct annual assessments of the efficacy of both the programs and bill credits to ensure they are properly incentivizing increased solar deployment in Disadvantaged Communities. The City also argues that a portion of NY-Sun funding should be allocated to increasing credits for solar canopies in urban areas. As to creating synergies between NY-Sun and other low-income efforts, the City argues that the Commission should consider how surplus NY-Sun funds could be leveraged to provide enhanced support for solar projects paired with energy storage, particularly projects that may be located in areas with electricity grid constraints and/or that are enrolled in the S-SFA program.

<u>Coalition for Community Solar Access (CCSA)</u>

CCSA continues to support dividing surplus funds equally between the ICSA and S-SFA programs. CCSA does not recommend pursuing other program designs with NY-Sun funds at this time, but instead additional work to expand the reach of solar programs to underserved communities is best done through other programs and proceedings, such as through the use of EPA Solar for All funds. Any new program designs merit careful consideration and full stakeholder input, which would be better suited for a separate proceeding. CCSA also supports cross-program outreach and data sharing, and that through customer engagement, customers can be informed of other clean energy and energy affordability programs and encouraged to participate.

New York Solar Energy Industries Association (NYSEIA)

NYSEIA supports prioritizing LMI community solar projects while also recommending that part of the budget be allocated to other types of solar projects, including prioritizing rooftop solar for low-income and disadvantaged communities, and expanding incentives for solar canopies and carports in urban areas. NYSEIA also supports funds being used for community outreach and education about solar benefits. NYSEIA urges the Commission to authorize this reinvestment of surplus funds without delay and to grant NYSERDA the necessary discretion and flexibility to allocate these funds in response to changing market conditions.

NYSEIA supports using NY-Sun funds to encourage businesses to invest in solar using private capital. Also, NYSEIA argues that recipients of low-cost power allocations form NYPA should also be encouraged to adopt solar and other renewable energy sources. Conversely, NYSEIA does not support commingling NY-Sun funds with energy efficiency and affordability programs. Instead, NY-Sun funds should be dedicated solely to solar projects, while other funding sources should be leveraged to advance energy efficiency and electrification efforts.

New York Power Authority (NYPA)

NYPA generally notes that all six Scenarios presented in the Post 10 GW Report advance access to the benefits of solar energy for underserved New Yorkers, and specifically, LMI ratepayers. NYPA expresses that the S-SFA opt-out model provides the most direct benefit to low-income ratepayers in disadvantaged communities, but also supports a mix of opt-in and opt-out community solar programs to ensure that the opt-in market thrives in New York. NYPA encourages the Commission to continue its support for the alignment of the S-SFA program with NYPA's Renewable Energy Access and Community Help (REACH) program, in that both seek to provide low-income customers with access to the benefits of solar energy. In addition to aligning S-SFA and REACH, NYPA recommends that the Commission allocate surplus NY-Sun funding using a combination of Scenarios 3 and 6, where the NY-Sun incentive offered by NYSERDA is variable based upon the percentage of the customer bill discount that is offered by the project (with larger discount percentages resulting in larger NY-Sun incentive amounts).

Public Utility Law Project (PULP)

PULP supports Scenario 6 from the Post 10 GW Report, which provides for a balanced 50/50 allocation of surplus funds between the ICSA and S-SFA models and a 20% discount rate. PULP also asserts that NYSERDA should prioritize projects that capitalize on federal resources such as the IRA. PULP also supports continuing income eligibility for residential customers at 60%-80% AMI, as well residential customers in disadvantaged communities.

PULP recommends that the Commission require NYSERDA to collaborate further with Clean Energy Hubs and other local, community-based organizations who provide services to low-income and disadvantaged communities, which PULP asserts will help elevate the visibility and effectiveness of community solar projects across New York by connecting with the very communities that stand to benefit most. Such outreach should be accompanied by a transparent and accountable tracking and reporting process.

While PULP does not provide specific recommendations on how NY-Sun surplus funds should be allocated, PULP recommends that NYSERDA track all stakeholder recommendations received through this process and include them in a dedicated section of the next Report. Stakeholders should be invited to collaboratively evaluate and decide whether to advocate for alternative uses in the next program year

PULP supports efforts to leverage surplus NY-Sun funds to create synergies between NY-Sun and other ratepayer funded programs. PULP adds that deepening and maximizing the impact for low-income households and disadvantaged communities while creating higher incentives for developers to focus on projects in these areas would be a win-win. For example, PULP suggests NYSERDA could work with the utilities to identify communities where there is a high concentration of customers enrolled in their utility's energy affordability program.

Solar One

Solar One strongly urges the Commission to authorize the investment of surplus NY-Sun funds without delay. However, Solar One suggests that there are other solar incentives than the ICSA and S-SFA models that are not addressed in the NY-Sun program. Solar One recommends directing the surplus funds instead to programs that reduce barriers to solar for affordable housing and 1-4 family LMI income homeowners that are undergoing electrification.

Solar One recommends that NYSERDA be granted flexibility to redirect surplus funds to new programs that fill gaps in the current incentive landscape. For example, Solar One suggests: a NY-Sun adder for affordable housing projects where the owners cannot benefit from tax incentives due to ownership structure (modeled after the California Solar on Multifamily

Affordable Housing Program); an adder for affordable housing in New York City that cannot benefit from the NYC Property Tax Abatement; an enhanced bridge loan option for multifamily affordable housing to help cover the up-front capital to pay for solar; additional adders for the hardest-to-build projects benefiting low-income households and affordable housing, for example, "enabling upgrades" for affordable housing and low-income small residential homes, rooftop/parking canopies that benefit low-income customers, affordable solar for small rooftops and/or tall buildings, and EL9 affordable buildings with low VDER. Solar One also advocates for adjusting NY-Sun milestone payments for New Construction Affordable Housing by delivering payment closer to the solar project construction.

Solar One further argues that NY-Sun funds should be directed towards an incentive program, such as a NY-Sun adder, for significantly subsidized solar on homes of low-income residents that are undergoing electrification. For example, Solar One suggests that NY-Sun incentives could be paired with electrification of low-income households in the Energy Affordability Guarantee Pilot, and then usage data collected from the pilot could be used to develop a practical program structure to expand the pilot and make the incentive more widely available for other low-income households that undergo electrification.