



ENVIRONMENTAL ADVOCATES OF NEW YORK

YOUR GOVERNMENT WATCHDOG

Comments of Environmental Advocates of New York Regarding the Following Proposals Currently Before the New York State Public Service Commission:

CASE 13-M-0412 – Petition of New York State Energy Research and Development Authority to Provide Initial Capitalization for the New York Green Bank.

CASE 07-M-0548 - Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard.

CASE 05-M-0090 – In the Matter of the System Benefits Charge III.

CASE 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard.

Introduction

Environmental Advocates of New York appreciates the opportunity to provide comments on the above referenced cases regarding the initial capitalization for the New York Green Bank, Energy Efficiency Portfolio Standard, System Benefits Charge III and Renewable Portfolio Standard.

Environmental Advocates of New York is the state's government watchdog, holding lawmakers and agencies accountable for enacting and enforcing laws that protect natural resources and public health. Environmental Advocates works alone and in coalitions and has more than 13,000 individual members.

Our organization has been actively involved in the development and implementation of New York State's clean energy and efficiency programs in various capacities since their inception. The proposals currently under review by the Commission represent an opportunity to significantly alter the trajectory of New York's energy policies in both the near and long term. Environmental Advocates welcomes the Commission's consideration of these important matters and looks forward to participating in an open and transparent discussion as these proceedings move forward.

CASE 13-M-0412 – Petition of New York State Energy Research and Development Authority to Provide Initial Capitalization for the New York Green Bank.

New York's existing energy efficiency and renewable energy programs have delivered substantial economic, environmental and consumer benefits, especially when it comes to the development of wind farms and behind the meter residential and commercial projects. While this approach has been successful on both the large and small end of the clean energy spectrum, it has failed to establish a workable market model for mid-sized ventures.

Simply put, the traditional private sector capital financing mechanisms are not designed to support the clean energy sector. Companies seeking to operate in this realm cannot take advantage of today's historically low interest rates, nor can they attract investors through the stock and bond markets. As a result, we are leaving a significant amount of achievable energy and environmental benefits on the table. Developers that have thus far been unable to achieve the economies of scale necessary to make these mid-sized projects cost effective are dedicating resources elsewhere.

The concept of the Green Bank, as proposed by NYSERDA, presents a unique opportunity for the state to create a model to capitalize on these missed opportunities. Utilizing this new tool to work with the private sector to develop strategies aimed at advancing promising energy efficiency and renewable project opportunities otherwise hampered by insufficient capital availability has great potential. This innovative approach to financing mid-sized clean energy projects aims to bridge the so-called "valley of death" that too often stymies the commercialization of new technologies and market opportunities, such as the aggregation of building retrofits and community-wide solar installations.

Environmental Advocates, recognizing the shortcomings of the state's current clean energy programs, supports the goals of the Green Bank, however the proposal lacks details regarding implementation, operations and future resources beyond the initial \$210 million capitalization plan currently under consideration.

Transparency and Accountability

As proposed, the Green Bank will exist as a division of NYSERDA, accountable to the Authority's President and CEO and Board of Directors. As such, the entity will be responsible for adhering to all applicable statutes, rules and regulations under the Public Authorities Law and all other appropriate state and federal controls. However, given the wide portfolio of funds NYSERDA is seeking to dedicate to the Green Bank (RPS, SBC, EEPs and RGGI) - coupled with flexibility the Green Bank is seeking in order to partner with the private financial sector - detailed reporting, accountability, conduct and transparency mechanisms are paramount. Specifically, Environmental Advocates seeks clarification and further discussion on issues including, but not limited to, the following:

- NYSERDA is subject to strict reporting, procurement, accounting and auditing standards for the myriad of programs and funds it is charged with administering. The Green Bank, as proposed, will have access to many of those clean energy resources potentially undermining the current governance controls through the creation of products built on varying combinations of the proposed funding mechanisms. The complex nature of the Green Bank's envisioned operations and the need to maintain the integrity of NYSERDA's transparency mechanisms require a comprehensive Green Bank accountability plan separate and apart from the authority's existing requirements.
 - Environmental Advocates urges the Commission to establish strict reporting, procurement, accounting and auditing procedures for the Green Bank, as opposed to allowing NYSERDA to incorporate its activities into its broader portfolio reviews. Models for such standards include, but are not limited to, the Green Jobs Green New York (GJGNY) monthly and annual reports to the GJGNY Advisory Council and NYSERDA's general financial audit procedures, only applied specifically to the Green Bank.

- The broad mix of funding sources identified above were established through distinct processes, each subject to specific rules, regulations and procedures dictating the purposes and uses of the funds. As such, the repurposing of these monies are subject to mandated public reviews and comment periods.
 - How does the Commission intend to address previously established governance requirements, such as SEQRA and SAPA, triggered by the repurposing of RPS, EEPS, SBC and RGGI dollars both in this instance and in the future while maintaining the flexibility the Green Bank is seeking with regard to private sector partnerships?
- NYSERDA, in the petition, proposes the establishment of an Advisory Committee made up of “experts in the field to review the plans for and operations of the Green Bank and provide advice and counsel on best practices for the activities of the Green Bank.” During the October 15th technical conference convened by the Commission, NYSERDA staff indicated that the Advisory Committee will be made up of “market participants.” Environmental Advocates is concerned that the lack of detail regarding the composition of the Advisory Committee may preclude the inclusion and participation of key stakeholders (e.g. environmental, labor, consumer and environmental justice representatives).
 - The Commission should establish guidelines governing the selection of Advisory Committee members to ensure representation from a wide array of affected constituencies, including environmental, labor, consumer and environmental justice representatives.
 - As an active market participant at the NYISO, Environmental Advocates respectfully requests to be included as a member of the organization on the Advisory Committee.

Funding Considerations

NYSERDA has requested \$210 million through the repurposing of existing funding sources for the initial capitalization of the Green Bank, as illustrated in the chart below:

Initial Green Bank Capitalization Proposed Funding Sources

NYSERDA EEPS	\$3.5 million
NYSERDA SBC	\$22.1 million
Utility EEPS	\$90 million
NYSERDA RPS	\$50 million
RGGI	\$44.7 million
Total	\$210.3 million

Each of the proposed allocations – with the notable exception of RGGI – requires Commission authorization. The requested funding falls far short of the stated \$1 billion target established by Governor Cuomo and subsequently referenced in the NYSERDA petition and accompanying analysis prepared by independent consultant, Booz & Co. Environmental Advocates is concerned that the proposal does not identify any clear sources of future funding in order to fully capitalize the Green Bank. The filing does indicate the intention of NYSERDA to explore further allocations from the state’s clean energy funds during the Commission’s 2013-14 review processes.

- We urge the Commission to direct NYSERDA to develop multi-year budgetary forecasts identifying potential funding sources and amounts.
- The Commission should propose performance thresholds and metrics to be utilized in the evaluation of any future funding allocations to the Green Bank, subject to public review and comment.
- NYSERDA should be required to identify specific programs to be targeted for any future funding reallocations and the potential impacts on those initiatives.
- NYSERDA proposes to “warehouse” certain Green Bank products with the intent to explore securitization opportunities in the financial markets. We request the Commission clarify NYSERDA’s legal authority with the respect to the securitization of each individual funding source included in the initial capitalization proposal.
- A separate public review process should be established for the repurposing of RGGI funds since they are outside of the purview of the Commission and may be disproportionately utilized in relation to other sources or in the context of existing RGGI programs.

CASE 07-M-0548 - Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard.

Environmental Advocates commends DPS staff for the advancement of its comprehensive Energy Efficiency Portfolio Standard Restructuring Proposal. With nearly 100 different programs split between investor-owned utilities and NYSERDA, EEPS has become unmanageable and ineffective. Many of the shortcomings of the EEPS programs observed by Environmental Advocates and other stakeholders were identified in the restructuring proposal. Some key highlights include:

- the lack of incentive for utilities and NYSERDA to collaborate which has fostered a competitive environment resulting in a confusing marketplace, the inefficient deployment of resources and missed opportunities for increased energy and cost savings;
- overly burdensome review requirements, combined with a lack of sufficient DPS staff and resources has stagnated progress;
- the application of the Total Resource Cost Recovery test to individual efficiency measures instead of overall portfolio performance has significantly limited the potential of many EEPS programs; and
- the fuel specific nature of program funding has shut out a large number of potential program participants, such as buildings heated with deliverable fuels.

An important step toward improving the performance of New York’s energy efficiency programs would be a shift in emphasis from the system-wide 15 x 15 goal to a series of directional goals and metrics as proposed by DPS staff. Ratepayers would be better served by shifting program goals to focus on a set of specific benchmarks such as a reduction in peak demand, carbon emission reductions, deployment of smart grid and advanced efficiency technologies and the identification and utilization of best practices.

EEPS should be restructured to coordinate and collaborate with other clean energy initiatives, like the Green Bank, RPS and RGGI. The state’s transmission and distribution operators should also be afforded the opportunity to utilize EEPS resources to implement measures aimed at system-wide efficiencies that benefit of all customer classes. Specifically, Environmental Advocates recommends:

- streamlining existing programs by eliminating duplicative offerings and putting an end to unnecessary competition between utilities and NYSERDA;
- establishing clear delineation of roles by placing NYSERDA in charge of program administration and directing utilities to take advantage of their contact with customers as the chief marketers of the programs and facilitators of ratepayer involvement through the provision of basic efficiency measures;
- offering fuel neutral programs in order to expand the universe of potential program participants;
- implementing program level cost-effective assessments instead of the currently employed measure-by-measure metrics; and
- simplifying performance reviews and required reporting to focus on program-wide progress, freeing up DPS staff and the Commission to direct resources to macro policy evaluations and improvements.

CASE 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard.

In the absence of a comprehensive proposal to expand the RPS beyond 2015, NYSERDA has filed a petition asking the PSC to fund NY-Sun through 2015 at \$108 million annually. While the request contains some positive reforms to the existing programs, it falls far short of Governor Cuomo’s vision for a stable, long-term solar initiative funded through 2023.

The petition fails to provide the predictability and certainty needed to spur growth in New York’s solar industry. A two year extension coupled with what promises to be an evolving program structure may not send the market signals necessary to attract long-term private investment. Environmental Advocates, first and foremost, supports the passage of legislation establishing NY-Sun in statute with dedicated funding through 2023. However, in the absence of legislative action, we urge the Commission to go beyond the proposal put forth by NYSERDA by issuing an order extending NY-Sun for the next ten years.

To date, NY-Sun has functioned primarily as a behind-the-meter incentive program. NYSERDA and utility collaboration on solar projects has the potential to maximize environmental and ratepayer benefits. The initiative should broaden its reach to encourage larger utility scale systems and strategically located installations designed to address peak demand and maximize utility infrastructure performance.

Solar growth has been limited by the constraints of a transmission and distribution system that was not designed to handle disparate, intermittent renewable generation sources. Resources should be dedicated, upon the demonstration of clear environmental and consumer benefits, to infrastructure improvements designed to maximize solar potential and reliability, including but not limited to incentives for co-location of energy storage technologies and the development of microgrids.

Administratively, the program would benefit from a predictable schedule of Program Opportunity Notices for large scale offerings and an open queue for proposed systems to eliminate the need for developers to resubmit bids with each request for proposals. Real-time project tracking would provide a layer of transparency needed to hold developers, utilities and NYSERDA accountable for the timely deployment of systems and should be included in the final amendments to the program.

Environmental Advocates supports NYSERDA's proposal to transform the Competitive PV program to a regional MW Block offering. This strategy will help to address the inequitable distribution of resources throughout the state. Regional blocks will also allow for more strategic industry planning and provide for a more cost effective program by accounting for regional cost disparities in wholesale electricity, property and labor. We urge the Commission to direct NYSERDA to expedite the transition from the Competitive PV program outside of the broader RPS review. Delaying the implementation of the Regional MW Block initiative adds an unnecessary level of market uncertainty that may hinder industry investment.

Eliminating the 40% system incentive cap will provide NYSERDA with the ability to rapidly adjust to the dynamic solar market, ensuring New York ratepayers the most value for their investment. Environmental Advocates also supports continuing NYSERDA's efforts to address balance of system costs and their partnerships with municipalities to establish uniform zoning and permitting standards. The development of a streamlined statewide program would provide much needed stability to the Long Island market as LIPA adapts to the reforms adopted by the legislature earlier this year.

2013 Renewable Portfolio Standard Review

New York's Renewable Portfolio Standard, especially in its early years of implementation, was successful at stimulating the growth of renewable generation, particularly in the areas of land-based wind, biomass and hydroelectric generation, at the lowest cost to ratepayers. In recent years, the effectiveness of the RPS Main Tier has waned as project costs have increased and the volume of completed projects has declined. Renewable developers have diverted investments to other states and NYSERDA projects the need for an influx of additional funds if the state is to meet its clean energy targets.

The development of large scale renewable generation is critical to New York's environmental and economic security. The state's generation mix is rapidly transitioning to a landscape dominated by natural gas fired power plants. A long-term commitment to clean power sources is essential to meet the needs of fuel diversity. Extending the RPS through 2023 is an important first step.

The central procurement model, the backbone of the Main Tier, has produced diminishing returns over time. Environmental Advocates urges the Commission to diversify the Main Tier by developing regional and technology specific incentives for large scale renewables. NYSERDA should examine the possibility of expanding financing options to include feed-in-tariffs, utility partnerships, purchase power agreements and contracts for differences.

The future development of land-based wind, while still a worthwhile pursuit, will be limited by geographical and siting challenges. Offshore wind represents the next logical step for reliable renewable generation. NYSERDA should partner with NYPA and the state's utilities to utilize the RPS and Green Bank to develop to appropriate mix of incentives to help make offshore wind a reality in New York State. Attention must also be paid to the transmission and distribution upgrades necessary to accommodate new large-scale systems.

Conclusion

The future of renewable energy in New York is at a crossroads. The glut of natural gas, tight financial markets and the uncertainty surrounding federal incentives has presented significant challenges for developers. These proceedings offer a valuable opportunity for the state to rethink existing programs and develop innovative strategies designed to reignite clean energy investment in New York.

Environmental Advocates appreciates the opportunity to comment and we look forward to continued participation in the process.