

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 15-E-0302 — In the Matter of the Implementation of a Large-Scale Renewable Program

**REPLY COMMENTS OF THE ALLIANCE FOR CLEAN ENERGY NEW
YORK, AMERICAN WIND ENERGY ASSOCIATION, ADVANCED
ENERGY ECONOMY INSTITUTE, SOLAR ENERGY INDUSTRIES
ASSOCIATION, NEW YORK SOLAR ENERGY INDUSTRIES
ASSOCIATION, AND NEW ENGLAND CLEAN ENERGY COUNCIL**

September 14, 2015

I. INTRODUCTION

a. Comments Demonstrated Support for LSR Program

The Alliance for Clean Energy New York, American Wind Energy Association, Advanced Energy Economy Institute, Solar Energy Industries Association, New York Solar Energy Industries Association, and New England Clean Energy Council (“Renewable Energy Industry”) respectfully submit the following reply comments in the above-referenced proceeding.

We commend the Commission and staff at NYSERDA and the Department of Public Service for their efforts to facilitate a productive discussion about the framework for a new large-scale renewables (“LSR”) policy. In reviewing the initial comments of the active parties in this proceeding, we first and foremost note the high level of support for New York State’s efforts to promote the increased deployment of LSR. Resounding themes of the submitted comments were support for a new, robust, long-term LSR Program; the crucial role of LSR in meeting the State’s long-term energy and environmental goals; the recognition of the economic development benefits of LSR deployment; and the recognition that state policy signals will continue to serve as a primary driving force for market maturation. We also highlight the broad demonstration of support for Governor Cuomo’s commitments to generate 50% of electricity from renewable sources by 2030 and reduce greenhouse gas emissions 80% by 2050, as evidenced by the submission of over two thousand letters of support from individual citizens. With a comprehensive strategy in place, large-scale renewables can and will rise to the challenge of achieving these ambitious goals without placing undue burden on New York’s businesses and consumers.

As discussed by numerous commenters, LSR provides many direct and indirect benefits to New Yorkers, chief among them being reductions in criteria pollutants, greenhouse gases, and other environmental impacts; much-needed diversification and modernization of our energy infrastructure; and a solid foundation for sustainable economic growth. Given these unique advantages, it is not surprising to see that this proceeding’s public record thus far shows essentially no opposition to increasing to the amount LSR in New York State, and an overwhelming majority of commenters that support the general policy direction outlined in the

June 2015 NYSERDA filing in this proceeding, *Large-Scale Renewable Energy Development in New York: Options and Assessment: Final Report* (“Options Paper”).

We are also very encouraged by the diverse cross section of stakeholders engaged with this proceeding, which is offering the opportunity for a robust debate and comprehensive consideration of the issues and options at hand. Thus far the Commission has heard arguments and recommendations from parties representing the full spectrum of advanced clean energy technology, including land-based and offshore wind, hydropower, solar, fuel cells, bioenergy, and energy storage. Each of these technologies has the ability to make meaningful contributions to the State’s clean energy and climate goals. Most of these technologies are well established in New York but have significant remaining development potential. Others, such as offshore wind, represent enormous untapped potential. The City of New York voiced its particular support for promoting the development of offshore wind resources, noting that it presents one of the only viable opportunities to construct utility-scale renewable generation in the densely populated downstate region.

In the following comments we respond to some of the specific issues and concerns raised by other active parties, and reaffirm the principles that will produce the most effective and successful LSR Program.

II. COMMENTS

a. LSR Program Goals Can be Achieved at Reasonable Costs

Two parties – the Business Council of New York State and Multiple Intervenors – raise concerns about the potential cost of an LSR Program, fearing a negative impact on consumer energy rates. The Business Council states that it “objects to the proposed Large Scale-Renewable (LSR) program because it will be a costly endeavor that will fail to achieve the stated core policy objective...”¹ and, similarly, Multiple Intervenors states “The proposed cost of this program is excessive and should be reduced....”² Based on New York’s experience with the Main Tier of the Renewable Portfolio Standard (“RPS”) program, however, we find this concern to be

¹ Comments of The Business Council of New York State, p. 3.

² Comments of Multiple Intervenors, p. 5.

unfounded. NYSERDA's 2013 program review of the RPS found that total program costs of the Main Tier are expected to comprise less than 0.2% of total retail electricity expenditures, and perhaps more importantly, a cumulative net rate impact of very nearly zero due to wholesale electricity price reductions resulting from the program. Further, increasing LSR creates the potential for significant savings in the long term, as fuel-free resources such as wind energy serve as an effective hedge against volatility in fossil fuel and electricity pricing. NYSERDA's analysis in the LSR Options Paper confirms this characteristic of LSR, noting that

“...a \$1.5 billion ratepayer investment over 10 years could deliver long-term net customer savings, help the State make meaningful progress towards achieving its energy goals, and put the LSR market on a path to grid-parity. Alongside expected CEF budget levels, the proposed LSR funding commitment would enable near-term reductions in total annual collections and significant decreases over time.”³

Predictions regarding significant rate impacts of RPS policies have not been borne out in other states either. A recent RPS analysis from the Lawrence Berkeley National Laboratory and National Renewable Energy Laboratory found “despite frequent claims that state RPS policies have imposed massive costs on ratepayers, experience to-date suggests that any rate impacts that have thus far occurred are likely quite modest, with compliance costs below 2% of average retail rates in most states.”⁴ This same study reports that in 2013, the average rate impact of the RPS in restructured states was 1.2%. The cost impacts modeled in the Options Paper for the \$1.5 B investment level are modest, at worst, compared to total electricity expenditures in New York. For the ‘base market price planning scenario’ the Options Paper states, “Peak costs under the utility-backed PPA option are expected to be approximately \$150 million (in 2013 dollars) in 2028, or .7% of 2013 New York utility revenues (.8% excluding PSEG LI) while peak savings of approximately \$210 million (in 2013 dollars) or 1% (1.2% excluding PSEG LI) are realized much later, in 2043.” While the costs/savings will obviously be affected by what level of investment is ultimately pursued, as well as market prices and development costs, these model results are a strong indication that New York can design an LSR Program where rate impacts can be modest (if not negative), as has been accomplished in numerous other states.

³ Options Paper at p. 27.

⁴ Barbose, Galen L., Lori Bird, Jenny Heeter, Francisco Flores, and Ryan H. Wiser. “Costs and Benefits of Renewables Portfolio Standards in the United States.” *Renewable and Sustainable Energy Reviews* (2015).

In our Initial Comments, we argue that the new LSR Program should be based on a percentage goal, as is the case in most other jurisdictions with an RPS. This is a simple, tested, and reasonable approach that increases the likelihood that New York will meet its important energy and environmental goals, and provides a level of certainty of demand for renewable energy. As evidence, in a National Renewable Energy Laboratory review of thirty states with RPS policies in place, it was reported that twenty-four had achieved 100% of the goal within the designated timeframe, and five more had achieved over 80% of the goal. New York was the only state that had achieved roughly half of its goal.⁵ In states that use this approach, a target-based program is often paired with a cost cap, or an alternative compliance payment (“ACP”) framework that essentially serves as a cost cap. Implementing a similar strategy in New York would ensure cost certainty and alleviate concerns raised by commenters regarding unknown or uncertain costs. As indicated above, noted in our initial comments, states with RPS policies that incorporate an ACP have typically been able to achieve their RPS targets with credits from renewable energy generation, and, in practice, states with cost caps have generally achieved deployment goals without hitting the cap.

b. LSR Procurement with PPAs Can Complement Competitive Markets

In its Initial Comments, the NYISO raises concerns about bundled contracts and their impact on the competitive wholesale market. It is specifically concerned about “...renewable energy incentive mechanisms that would undermine the efficiency of competitive wholesale markets.”⁶ As interpreted by the NYISO, incentive constructs such as long-term, bundled power purchase agreements (“PPAs”), financially equivalent contracts for differences (“CFDs”), and utility-owned generation arrangements: (1) may alter the risk allocation between buyer and suppliers, shifting additional risks onto buyers, (2) may alter suppliers’ incentives to maximize operation or to operate in periods of oversupply “...causing very low or even negative prices,”⁷ (3) may lead to market distortion and reliability concerns by encouraging projects to locate in areas of the grid with otherwise weak locational price signals (NYISO further notes that negative pricing and

⁵ Barbose, Galen, National Renewable Energy Laboratory. “Renewable Portfolio Standards in the United States: A Status Update,” presented September 22, 2014 at the State-Federal Renewable Portfolio Standard Collaborative National Summit on RPS, Washington, D.C.

⁶ Comments of NYISO, p. 9.

⁷ Ibid. p. 11.

“clustering of wind projects in discrete geographic locations”⁸ is a concern), (4) may weaken other suppliers’ revenue placing additional financial strain on those resources, and (5) may lead projects to develop in locations with the lowest costs, rather than in areas with the strongest price signals.

In short, NYISO regards incentive constructs such as long-term, bundled PPAs, financially equivalent CFDs and utility-owned generation arrangements as “market insulating mechanisms” that can potentially distort wholesale market price signals. NYISO argues that the current REC-only incentive structure is complementary to its competitive wholesale market structure, stating: “the current REC-only incentive construct utilized RPS program has a proven track record of success and compatibility with competitive wholesale markets.”

In response, it is essential to establish the general context in which the LSR Options Paper is recommending incentive constructs including long-term, bundled PPAs and financially equivalent CFDs. New York’s State Energy Plan calls for a goal of 50% renewable energy by 2030, which will require between 21,000,000 MWh and 28,000,000 MWh of additional new renewable generation (roughly 7,100 to 9,300 MW of wind energy equivalent renewables) in addition to the new renewable resources projected to be encouraged under the proposed LRS Program.⁹ To cost-effectively reach this goal it will be essential to use the cost-savings tools like long-term, bundled PPAs or financially equivalent CFDs presented by NYSERDA in the LSR Options Paper.¹⁰

More specific to the issues raised by the NYISO, the NYISO’s Locational Based Marginal Pricing (“LBMP”) system was implemented after the system’s power plants had already achieved capital recovery through vertically integrated guaranteed rates of return. Therefore, existing, conventional generators did not need long-term incentive structures to ensure capital recovery. As a result, LBMP has been extremely effective at encouraging existing power plants

⁸ Ibid. p. 12.

⁹ Calculation based on total state electricity demand in 2013 (from the EIA state data tables). Total state demand in 2013 according to EIA data was 147,899,190 MWh. This estimate assumes 25% of this demand will be met by existing renewables and energy efficiency investments and that 5,256,000 MWh will be achieved from NY-Sun (per 2014 NYSERDA report and 2023 target). Further, between 3,179,880 MWh and 9,828,720 MWh are assumed to come from the proposed LSR Program, based the low price and base case, respectively.

¹⁰ For the reasons set forth in our initial comments, we strongly prefer long-term, bundled PPAs.

to maximize their efficiency and reduce variable costs, leading to significant savings for the State's electricity consumers (as outlined in the NYISO's initial comments).

However, the objectives outlined in the LSR Options Paper and in the State Energy Plan present a very different scenario. In this case, thousands of megawatts of new resources will be added to the electricity system. While LBMP systems have proven to be very successful, not just in NYISO but in all organized competitive wholesale markets, in encouraging efficiencies from existing, capitalized power plants, they have proven to be much less successful in encouraging new generation (hence the introduction of forward capacity markets in ISO-NE and PJM as soon as generation supply began to face shortages). The lack of success in encouraging new generation is no doubt due to the lack of symmetry between the LBMP market's very short-term price signal and the long-term capital recovery requirements of new generation resources, a requirement that did not have to be originally addressed in the NYISO's LBMP market because competing generators had already been capitalized through vertical integration and a guaranteed rate of return.

Given the objectives of the proposed LSR Program and the State Energy Plan, and the requirement to potentially capitalize thousands of megawatts of new generation in approximately thirteen years, it is absolutely necessary for NYISO, in combination with the New York State Reliability Council and others, to re-envision its market structure to provide the same revenue adequacy opportunities (such as long-term capital recovery) that incentivized the system's existing conventional generators. A key component of this approach will be for NYISO to identify transmission upgrades and expansions that not only allow for cost-effective renewables integration, but also provide for reliability enhancements and reduced congestion. By including transmission planning to account for numerous State Energy Plan objectives, including LSR, NYISO can ensure benefits to electricity consumers that outweigh costs, and address a number of the concerns expressed above including: "very low or negative pricing" and reliability concerns. However, another essential component will be incentive structures that provide for long-term capital recovery, such as long-term, bundled PPAs or equivalent CFDs.

Fortunately, a new LSR Program can be designed to both include long-term, bundled PPAs or equivalent CFDs and complement NYISO's current LBMP structure.

1. *Risk shifting from buyers to suppliers:* Long-term bundled PPAs or equivalent CFDs should, at worst, be neutral for buyers compared to the existing unbundled REC approach, and could provide significant benefits. In a competitive procurement for new renewables, project developers will present offers that reflect their costs, plus a risk-weighted rate of return. In the unbundled REC structure, the REC offer price will reflect a developer's best projection of future energy and capacity revenue. As such, electricity customers are essentially paying the full amount for the project through the REC price plus the project's wholesale market revenue. With this unbundled approach, electricity customers are likely paying more than with long-term bundled PPAs or equivalent CFDs, because developers must include a higher-risk weighting, due to the uncertainty associated with reliance on long-term wholesale market prices. In short, project developers require more revenue under the REC-only construct (revenue which will ultimately be paid by electricity consumers) than a long-term, bundled PPA or equivalent CFD structure.

The counter argument to this is if energy prices fall meaningfully, the long-term bundled PPA or equivalent CFD would leave electricity consumers exposed to higher prices through the long-term contract incentive. However, the opposite is also true: if electricity prices rise then electricity consumers will benefit. In this scenario, the REC-only product is a poor choice, since electricity consumers would be paying more for renewable energy than the project's costs and a risk-weighted weight of return. As such, in this scenario the REC-only structure is actually shifting risk from sellers onto buyers, and eliminating the hedge value of renewable energy. It is up to New York policymakers to determine the likelihood that historically low wholesale electricity prices will fall even further or if they are likely to rise over time. In the latter case, long-term, bundled PPAs or equivalent CFDs are protecting electricity consumers from changes in prices. The unbundled REC product, as demonstrated by the example above, is not inherently less risky for electricity consumers than a long-term bundled PPA or equivalent CFD and, in fact, only a long-

term fixed product can really protect electricity consumers from electricity price fluctuations.

One of the primary benefits of renewable energy is that it is the only resource that can provide a long-term, fixed price for up to twenty or twenty-five years. However, electricity consumers only benefit from this unique characteristic if they lock in renewable energy prices over the long term. The REC-only product does not achieve this outcome and ensures that electricity consumers always pay a premium for renewable energy, even if LBMPs rise in the future.

2. *“Implied REC” model addresses market distortion:* The remaining NYISO issues outlined above can be summarized as concerns with potential “market distorting effects” of long-term, bundled PPAs or equivalent CFDs. We share an interest in maintaining proper market signals, and as discussed in our Initial Comments, support a regulatory model that continues to recognize the unique value of renewable energy resources to maximize ratepayer value and achieve resource diversity in the Main Tier. One such approach that we believe may achieve this goal at maximum value to ratepayers is the “implied REC” concept. The use of an “implied REC” model, similar to that being utilized by the state of Massachusetts, can address these concerns while providing all of the benefits of long-term, bundled PPAs or equivalent CFDs. In order for LBMP to work effectively, renewable energy developers must respond to price signals, building new projects or increasing output in areas with relatively higher LBMPs. Renewable energy brings some challenges to this approach since the most cost-effective renewables, land-based wind, tend to be located in areas with lower LBMPs. It is, of course, the case that this challenge would exist whether the LSR Program used unbundled RECs or long-term, bundled PPA or equivalent CFDs. One way to effectively address this concern is through transmission upgrades and expansions, as mentioned above. In addition, renewable energy companies recommend that an “implied REC” be used as the evaluation tool to select renewable energy projects for the LSR Program.

Under this approach, offers would present a single, bundled price. However, for evaluation purposes, those prices would be broken into two components: (1) energy, and (2) RECs. Winning offers would be selected based on the least cost REC. Developers (and those reviewing offers) would evaluate the otherwise expected energy and capacity revenues in making their offers. The implied REC is the difference between a projects' required offer price and the expected energy and capacity revenues. Projects with relatively higher energy and capacity revenues will require a lower implied REC and vice versa, other factors being equal. As a result, the use of an implied REC as the offer evaluation tool encourages projects that could expect to receive higher energy and capacity revenue over projects with lower revenues from those products. The implied REC approach to evaluating offers thereby maintains the market compatibility of the unbundled REC product, and can encourage a more diversified portfolio of renewable projects, while enabling the benefits of long-term, bundled PPAs or equivalent CFDs to flow to electricity consumers.

c. LSR Procurement with PPAs Benefits Consumers With Minimal Risks

Several commenters (e.g. Multiple Intervenors, Business Council of New York State, Consumer Power Advocates, Nucor Steel Auburn) raised issues associated with the consumer risk of bundled PPAs, and particularly cited New York's previous experience with the "Six-Cent Law." In citing this history, however, commenters failed to mention the most important and fundamental difference between that policy and a new LSR Program that involves PPAs: competition. A new LSR Program for New York, as envisioned in all of the policy scenarios in the Options Paper, would have renewable energy developers competing to achieve the least cost. A central procurement entity, such as NYSERDA or NYPA, would be evaluating and selecting competing bids based on pre-established criteria, which could potentially include other factors (e.g. local economic development benefits) but most certainly would focus on least cost. The LSR Program would not have an established price and would maintain competition to put downward pressure on price. For the last ten years, the RPS Main Tier has been a competitive program, and the new LSR Program would continue to be as well. Furthermore, the Six-Cent Law differed in that it did not have an overall program budget, or mechanisms for cost containment, both of which were outlined in detail in the Options Paper.

d. Bid Evaluations Need Not Be Overly Complex

In their Initial Comments, the Independent Power Producers of New York (“IPPNY”) raise concerns regarding the complexity of applying the “implied REC” concept to long-term, bundled PPAs or equivalent CFDs, and whether this complexity makes it too difficult for the purchaser to objectively evaluate project offers. IPPNY states:

“...this approach would require the REC purchaser to estimate future wholesale market revenues that would apply to each bidder in each location across the duration of its contract and thus calculate the future REC costs or benefits for when the price of power in a location is higher than the contract price, thereby giving ratepayers a REC-related credit instead of cost. Not only would the purchaser have to estimate wholesale energy costs in general, but it would have to estimate the amount that each bidding renewable resource would deliver at different times of the year and at different times of the day and the value of the energy at the times that the resources are delivering the energy. Finally, the purchaser would be required to estimate the amount of installed capacity that each renewable resource would provide and the value of that capacity. The CFD approach also is problematic because it is unlikely that the purchaser would be able to develop objective criteria for ranking and choosing among the bidders.”¹¹

In response, we again note that the “implied REC” approach has been used by the Massachusetts Department of Energy Resources (“DOER”) to evaluate winning long-term, bundled PPAs pursuant to the Green Communities Act, which required the state’s utilities to engage in long-term, bundled PPAs with RPS-eligible renewable sources. As outlined above, renewable projects’ offers would break their bundled price into two components: energy and RECs. MA DOER evaluated the efficacy of the REC (“implied REC”) against forward energy curves for the liquid trading zone in which the renewable project was located.

A similar approach can be used to evaluate project offers in New York. In our view, the evaluation tools used by a state agency serving as the central procurement entity (e.g. NYSERDA or NYPA) to compare implied REC offers do not need to be nearly as complex as set forth in IPPNY’s comments, since NYSERDA/NYPA would simply be trying to make relative comparisons between competing projects, not precisely determining forward energy and REC revenues. To effectively compare implied REC offers, NYSERDA will only need forward energy curves for each dominant zonal trading hub in New York. These curves are readily

¹¹ Comments of IPPNY, p. 19.

available commercially or can be generated by NYSERDA consultants (in fact, NYSERDA likely already uses forward energy curves in setting its benchmark prices for the REC-only product). To further simplify comparisons between projects offers, the procurement agency could require all offers to settle against each zone's dominant liquid trading hub. This approach will provide the procurement entity with enough information to compare the relative cost-effectiveness of offers without engaging in a highly granular analysis of hourly wholesale prices at generator buses or likely capacity revenues.

e. Recovering Costs Using Volumetric Charges is Best Approach

The Options Paper did not explicitly state how costs of the new LSR Program would be collected, either through a surcharge or more integrated into rates. In any case, in its initial comments, Multiple Intervenors argues against collecting monies for the LSR Program on a volumetric basis, stating that the six stated benefits of the LSR Program (increased fuel diversity, decreased price volatility, decreased greenhouse gas emissions, compliance with federal mandates, cleaner air, and the promotion of economic development and job growth) are “not experienced by customers on a volumetric basis,”¹² concluding that it is “inappropriate to recover RPS costs on a purely volumetric basis, which inequitably allocates a disproportionate share of RPS costs to large, high-load factor customers.”¹³ We respectfully disagree that there is not a connection between the LSR Program's benefits and volumetric electricity consumption. The State's renewable energy policy goals are motivated, in significant part, by the fact that traditional electricity use has environmental consequences that affect all New Yorkers, whether through emissions of criteria pollutants, emissions of greenhouse gases, or water consumption. These impacts are a direct result of, and directly related to, the amount of total electricity use (or, at least, total electricity use from non-renewable sources). Therefore, it is reasonable and appropriate that investments to mitigate these effects should be supported by funding, whether a surcharge or otherwise, that is linked to total electricity consumption.

There are additional goals of an LSR Program: protecting New Yorkers from price volatility and an over-reliance on one fuel type. Diverse clean energy technologies can dampen price volatility

¹² Comments of Multiple Intervenors, p. 20.

¹³ Ibid.

in a system increasingly reliant on natural gas. The purpose of increasing fuel diversity and reducing volatility is to put downward pressure on price and keep prices stable. All ratepayers benefit when prices are lower and less volatile, and they realize these benefits on a per-kWh basis accordingly with how much electricity they consume.

For these reasons, continuing to recover the initial costs of these important and beneficial investments using a surcharge linked to volumetric energy continues to be both equitable and reasonable.

f. Utility Ownership of Renewable Generation

Numerous commenters (i.e., Brookfield Renewable Energy Group, Deepwater Wind, IPPNY, Citizens for Local Power, EDP Renewables, Multiple Intervenors, NRG, ReEnergy, RENEW Northeast, and Walmart) aligned with our Initial Comments in opposition to utility ownership of generation (“UOG”). These commenters cited similar concerns with vertical market power, the potential for utility bias, the need for more oversight, and the difficulties in comparing bids for UOG to bids for PPAs. We agree with these commenters that it would be extremely difficult to adequately overcome these issues and fairly level the playing field between UOG and independent power producers. IPPNY shares our position that UOG would not bring benefits to ratepayers, and shares concerns given that New York State’s electricity markets preclude generation ownership by electric distribution utilities. Allowing UOG of large-scale renewables would backtrack on New York’s progress in developing competitive markets and would set an unjustified, uncompetitive, and potentially harmful precedent.

The Indicated Joint Utilities claim that UOG “reduces costs and risks for customers, maintains the benefits of competition among developers through joint-utility solicitations, and increases the likelihood that the State will meet its goals,”¹⁴ and therefore believes that UOG “will result in the best long-term outcome for both the State and New York’s electric customers.”¹⁵ NYSEG and RG&E advocate for a hybrid approach in which UOG would be optional, and utilities could be

¹⁴ Comments of Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc., Niagara Mohawk Power Corporation d/b/a National Grid, and Orange and Rockland Utilities, Inc. (collectively the “Indicated Joint Utilities”), p. 3.

¹⁵ Ibid.

used to meet certain policy objectives. Viewing UOG as a superior option to PPAs, Consumer Power Advocates recommends that UOG be allowed to compete with privately owned projects, and believes “that it is premature to discuss limitations on ownership by any parties.”¹⁶

For the reasons we, and others, outlined in our Initial Comments, we respectfully disagree that UOG offers more benefits than the alternatives discussed in the Options Paper, and the problematic elements related to market bias would risk eroding the very foundation of New York’s restructured electricity market.

In arguing that UOG is a preferred model, the Indicated Joint Utilities cite examples from other states, noting that “Oregon, New Jersey, Colorado, California, Washington, Iowa, Minnesota, Arizona, Wisconsin, and North Carolina, to name a few, have used UOG to align utility interest with policy direction...”¹⁷ The status of electricity restructuring should be taken into account when comparing New York’s potential to manage UOG to other states. Of the list referenced by the Indicated Joint Utilities, only Oregon, California, and New Jersey have restructured energy markets. In these cases, California is certainly unique in its approach to restructuring, and is therefore not a simple comparison to New York. In the case of New Jersey, utility ownership has been mainly limited to distributed resources, not LSR. These examples have limited relevance to New York and do not demonstrate extensive experience and success in markets similar to New York.

The Indicated Joint Utilities also state:

“Contrary to the assertions of opponents of UOG, utility ownership does not necessarily mean that utilities will become developers and builders of resources. Rather, the utilities could work cooperatively with competitive developers of generation, who will continue to contribute their experience and expertise in a competitive market. Utilities will simply own and operate the resources for the benefit of customers over the life of the project(s).”¹⁸

If developers were compelled to transfer projects to utilities, or to develop projects to be owned and operated by utilities, this would create a disincentive for developers to aggressively

¹⁶ Comments of Consumer Power Advocates, p. 4.

¹⁷ Comments of Indicated Joint Utilities, p. 3.

¹⁸ Ibid. p. 4.

participate in the LSR Program in New York and actively invest in the development and siting process in New York. Without the opportunity to create ongoing revenue streams, developers will most likely pursue opportunities elsewhere.

Another presumed benefit raised by the Indicated Joint Utilities is that UOG will ensure “the renewable energy attributes are retained in New York for the life of the asset, as opposed to having customers pay for these attributes at contract expiration to prevent them from being sold into other states.”¹⁹ In response, we note that the Options Paper referenced the potential for PPAs themselves to address the issue of terminal value or cost, as did presentations at the Technical Conference.²⁰ The issue of addressing terminal value or cost in PPAs warrants further dialogue and exploration.

While the Indicated Joint Utilities advocate for a UOG-only model (or, an LSR Program with a UOG-only track) – an approach that we do not support – NYSEG and RG&E recommend a “Hybrid Option” envisioned as follows:

“...a New York State agency, like NYSEERDA, would administer the LSR Program using a central procurement mechanism with open-source solicitations resulting in head-to-head competition between proposals for Power Purchase Agreements (“PPAs”), Contracts for Differences (“CFDs”) and optionality for utility-owned generation (“UOG”).”²¹

This approach still contains inherent flaws in terms of not facilitating fair comparison and competition between proposals. In fact, we agree with the Indicated Joint Utilities that having UOG compete with PPAs “introduces complexities in bid evaluations, is inefficient, will make comparability of bids extremely difficult, and will ultimately increase the cost of the LSR program.”²²

g. Integration of a Long Island LSR Program and a Statewide LSR Program

¹⁹ Comments of Indicated Joint Utilities, p. 7.

²⁰ Presentation materials of Bob Grace, SEA, at the LSR Technical Conference, July 8, 2015. See <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={BC1D95F5-53CC-433A-B67B-B5AF4CA94A39}>

²¹ Comments of New York State Electric and Gas Corporation (“NYSEG”) and Rochester Gas & Electric Corporation (“RG&E”), p. 2.

²² Comments of Indicated Joint Utilities, p. 16.

Our Initial Comments discussed the need for a consistent statewide program for large-scale renewables, including Long Island, as well as the fact that Long Island significantly lags behind the rest of the state in terms of the percentage of electricity sourced from renewable technologies. In its comments, PSEG LI summarized its actions and accomplishments with respect to procurement of renewable energy, but did not put forth a vision of how Long Island can achieve or contribute to the goal in the State Energy Plan of 50% renewable energy statewide by 2030. PSEG LI states that it expects to “continue LSR procurements consistent with State goals,” which we welcome and support, but it does not provide any details other than saying that, “an additional RFP will be issued later this year to obtain the remainder of the 280 MW goal” from 2013. We continue to believe that the LIPA/PSEG LI approach should be consistent and better integrated with a robust statewide LSR Program.

PSEG LI also states:

“Consistent with its recent procurements, PSEG LI recommends that renewable capacity procured for Long Island should either be located on Long Island and/or directly interconnected to the Long Island electric grid in order to have a direct impact on reducing emissions from displacing fossil fueled generation on Long Island. If local fossil production is not displaced, local Long Island communities will not benefit from reduced pollution from these plants.”²³

Given the ACE NY mission to promote clean energy, local economic development, and cleaner air for New Yorkers, we agree and support this sentiment, and believe that PSEG LI should continue to act to procure diverse renewable energy generation located on and offshore Long Island. Given this imperative and the characteristics of Long Island’s geography and electricity load, offshore wind is an excellent opportunity for PSEG LI to meet its various policy goals, and should be pursued. Again, a collaborative approach with the state agencies designing and implementing the new LSR Program in pursuit of offshore wind development in New York would likely be the most productive and sensible approach. Our Initial Comments recommended that the new LSR Program include an offshore wind tier, given that technology’s significant development potential and the fact that, unlike other eligible technologies, it has not yet been deployed. Ideally, LIPA and PSEG LI would work with the Commission and NYSERDA in

²³ Comments of PSEG Long Island LLC (“PSEG LI”) on behalf of the Long Island Power Authority (“LIPA”), p. 4.

designing an offshore wind tier that would best serve Long Island and allow that region to benefit from renewable energy development as the rest of the state has.

As our Initial Comments summarized, the recent NYSERDA/University of Delaware *Offshore Wind Cost Study* modeled how offshore wind costs are declining, and how coordinated public policy could further that downward trend. This report modeled a 53% reduction in the levelized cost of energy from offshore wind in a scenario involving a suite of public policy actions, particularly a New York commitment to a gradual pipeline of offshore wind projects. Even if LIPA/PSEG LI procured large-scale renewables independent from a new statewide LSR Program, those procurement efforts could and should be well coordinated with the new LSR Program, and potentially other initiatives, to develop the pipeline that will encourage offshore development and drive down costs.

h. Role of the New York Power Authority

In its Initial Comments, NYPA fully supports the Commission's efforts to "refashion and revitalize" the State's LSR efforts. We appreciate NYPA's recognition that both "State and Federal energy/environmental policies argue strongly for establishment of an extremely aggressive program to accelerate development of LSR projects,"²⁴ and we wholeheartedly concur.

NYPA's comments also align with renewable energy companies in their support for a central procurement process implemented by a state entity. In our Initial Comments, we supported a central procurement process coordinated by a state entity, but with the counterparties to PPAs still being the distribution utilities. NYPA's comments support a central procurement approach, but are not clear if distribution utilities or NYPA itself would be the PPA counterparty. NYPA's comments also include a footnote indicating that legislation may be needed to allow for NYPA to take on the role it envisions, and implying that NYPA could potentially be the counterparty to PPAs with developers. NYPA then makes a strong case for taking on that central procurement role.

²⁴ Comments of NYPA, p. 3.

Although we respectfully defer to the Commission and other state officials in the determination of which state entity is best able to take on that role, we continue to support an obligation of distribution utilities to enter into PPAs. At the end of the day, the Commission will determine which state entity will play the procurement coordination role, but it is essential that the program be built around an obligation of distribution utilities to enter into PPAs, as this is most cost-effective way to meet New York's policy goals. We recognize that this is not the preference of the distribution utilities, as the Indicated Joint Utilities opposed an obligation for distribution utilities, stating, "Mandates, penalties for shortfalls, or other forms of punitive control are counterproductive and will not help achieve goals."²⁵ There is no evidence to support this claim, and much to refute it. In response, we again highlight that states with utility obligation have near-complete achievement of their RPS goals, while New York, with only a NYSERDA obligation, does not.

An important concern of renewable energy companies is the timely design, development, and implementation of a new LSR Program, so that companies can begin to embark on lengthy development processes with the confidence that there will be demand for the clean energy they generate at the end of that process. The current RPS Main Tier ends at the end of this calendar year, although one additional solicitation is proposed for 2016. It is important that there not be a policy gap and that developers maintain confidence in the New York market. These issues of timeliness should be carefully considered in policy development, especially if legislation is involved.

i. The Proposal Needs Detail on Legacy Renewables

A few commenters, including Multiple Intervenors, disagreed that the new LSR Program should support existing, or legacy, renewables. The statements of opposition, however, did not address how the State could maintain those resources in the New York market without a replacement for the RPS Maintenance Tier in some form. In our Initial Comments, we highlighted that in the next ten years, the nearly 2,000 MW of renewable energy procured under the Main Tier will be coming off contracts, and the State's goal should be to maintain those clean resources, and their associated RECs, in the New York market, to achieve State and Federal policy objectives. Our

²⁵ Comments of Indicated Joint Utilities, p. 14.

position is that New York needs a legacy LSR program to achieve that goal, and the budget to do so needs to be in addition to the investments necessary to achieve new LSR (proposed at \$1.5B). We look forward to a further dialogue with the Commission on policy options for achieving this goal while addressing concerns raised regarding costs.

III. CONCLUSION

We strongly support New York State's pursuit of an LSR Program to replace the expiring RPS Main Tier, and we appreciate the opportunity to offer these Reply Comments. We further appreciate that the Commission recognizes the value of renewable energy to New York in terms of keeping energy dollars in-state; promoting local economic development; reducing the carbon emissions that cause global climate change; diversifying New York's electricity supply in a market increasingly dominated by natural gas; providing long-term price stability in electricity supply; and avoiding air pollution that affects public health.

As described in our Initial Comments, we strongly believe that the new LSR Program for New York State should be a utility obligation to procure a specified percentage of renewable energy by specified dates, i.e. it should be a "target-driven" policy. A clear, target-driven renewable energy policy has proven successful in other states, is competitive and market-driven, and stimulates private sector investment to achieve a clean energy future. The utilities should be required to meet this obligation through long-term, bundled power purchase agreements. As shown in the analyses in the Options Paper, utility-backed PPAs offer the most chance for success in attracting investment and construction in New York, and can advance renewable energy goals at least cost and risk to New York ratepayers. The utility-backed PPAs would be competitively procured, with independent power producers offering competitive, least-cost bids. The bids should be evaluated and selected by a state procurement entity using the "implied REC" approach outlined in these Reply Comments. This approach – competitively selected PPAs using an implied REC selection tool – complements New York's competitive restructured electricity system and maintains the benefits of the NYISO markets.

Furthermore, the new LSR Program should not allow utility-owned generation of large-scale renewables. The Options Paper does not put forward a compelling case in support of UOG and

instead raises considerable risks and costs associated with UOG, including a transfer of risk to ratepayers; higher costs in all but one unlikely scenario; a severe chilling of competitive markets; opportunities for bias and vertical market power; and backtracking on the progress of electricity system restructuring over the last fifteen years. None of the comments submitted successfully countered these compelling arguments.

Thank you for your consideration of this response and our additional recommendations. We look forward to continuing to participate in this important proceeding.

Respectfully submitted,

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