



January 3, 2019

TO:

Honorable Kathleen H. Burgess, Secretary to the Commission
New York State Public Service Commission
Empire State Plaza, Agency Building 3
Albany, NY 12223-1350
Email: secretary@dps.ny.gov

FROM:

Shyam Mehta
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RE:

- MATTER 16-M-0429 - In the Matter of Earnings Adjustment Mechanism and Scorecard Reforms Supporting the Commission's Reforming the Energy Vision.
- CASE 14-M-0101 - Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision.

Dear Secretary Burgess,

Please find the joint comments of the Alliance for Clean Energy New York, Coalition for Community Solar Access, the Natural Resources Defense Council, the New York Solar Energy Industries Association, the Pace Energy and Climate Energy Center, the Solar Energy Industries Association, and Vote Solar (referred to herein as the Clean Energy Parties, "CEP") and Acadia Center regarding the *Staff Proposal on Interconnection Earnings Adjustment Mechanisms* released October 24, 2018.

/s/ Shyam Mehta

Shyam Mehta
Executive Director
New York Solar Energy Industries Association (NYSEIA)

On October 24, 2018, Staff released its *Staff Proposal on Interconnection Earnings Adjustment Mechanisms* (“Proposal”). As explained below, the Clean Energy Parties respectfully disagree with Staff’s Proposal and recommend retention and eventual improvement of the current Earnings Adjustment Mechanisms (“EAM”).

1. Background

In May 2016, in an effort to align utility interests with the efficient processing of interconnection applications, the New York Public Service Commission (“PSC” or “Commission”) established an earning adjustment mechanism for distributed energy resources (“DERs”) sized above 50 kW whose interconnections were subject to the New Standardized Interconnection Requirements (“SIR”) in its REV Track Two Order.¹ The Commission stated that REV’s interconnection process requires consideration of “three interrelated attributes: high quality applications, timeliness, and reasonable costs.”² Accordingly, in its Track Two Order, the Commission established an EAM with the following components:

- A threshold condition based on adherence to the timeliness requirements established in the SIR; and
- A positive adjustment based on an evaluation of application quality and the satisfaction of applicants with the process, as measured by 1) a survey of applicants to assess overall satisfaction, and 2) a periodic and selective third party audit of failed applications to assess accuracy, fairness, and key drivers of failure in order to support continual process improvement.³

Each utility was directed to file an interconnection survey process and proposed EAM in compliance with the Track Two Order.⁴ After the Commission rejected the JU’s initial proposal to base the interconnection survey on withdrawn or abandoned applications instead of an independent audit of failed applications,⁵ the JU put forward new EAM interconnection metrics filings on May 28 and August 28, 2017.⁶ The utilities are still in the very early stages of implementing these metrics—indeed, of the six investor-owned utilities, only ConEd, Central Hudson Gas and Electric, and Niagara Mohawk have proposed or received approval for interconnection-related EAMs.

On October 24, 2018, Staff proposed to eliminate the “unnecessary” EAM for interconnection due to the utilities’ DSIP filings and improvements to the SIR proposed by the IPWG and ITWG. According to Staff, these non-EAM changes “have resulted in more efficient

¹ Case 14-M-0101, *Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Adopting a Ratemaking and Utility Revenue Model Policy Framework* (issued May 19, 2016) (Track Two Order).

² *Id.* at 85.

³ *Id.* at 86-87.

⁴ *Id.* at 156 (¶ 2).

⁵ Case 16-M-0429, *In the Matter of Earnings Adjustment Mechanism and Scorecard Reforms Supporting the Commission's Reforming the Energy Vision*, Order Directing Modifications to the Joint Utilities’ Proposed Interconnection Earning Adjustment Mechanism Framework (issued March 9, 2017).

⁶ Case 16-M-0429, *supra*, Modified Interconnection Survey Process and Proposed Earning Adjustment Mechanism of the Joint Utilities (filed May 8, 2017); Case 16-M-0429, *supra*, Supplemental IEAM (filed August 28, 2017).

interconnection application processing and increased developer satisfaction.” This proposal was noticed in the State Register for public comment on November 7, starting the 60-day comment period, which means comments are due on January 6.

2. Eliminating the EAM could lead to backsliding and a retrenchment of interconnection policies and practices that do not support DERs

Unlike other policy measures, EAMs address the fundamental mismatch between the utilities’ incentive to favor traditional utility infrastructure investments and disfavor competition from third-party DER providers, and the State’s goal of facilitating and accelerating DER deployment. Moreover, an EAM is a more permanent mechanism that provides utilities a more steady and recurring incentive to improve their interconnection policies that does not depend solely on the commitment of individual DPS, NYSERDA, and utility staff members to make progress on interconnection. We agree that progress has been made since the interconnection queue crisis of 2015-2016 (described in Staff’s proposal), and attribute that progress to the active engagement of a few key personnel at DPS, NYSERDA, NYSEIA and several of its member companies, and the utilities. While we are grateful for the effective engagement of these individuals and hope that they continue to be as effective and collaborative as they have been to date, it is far from clear that improvements would continue apace without these individuals’ continued focus on the issue, or that New York would not experience significant backsliding without these individuals’ continued attention to the issue. We urge DPS and NYSERDA to continue to facilitate the Interconnection Policy Working Group and Interconnection Technical Working Group, with a focus on driving the groups toward clear deliverables and deadlines. However, without aligned incentives such as could be developed through the EAM, and without clear direction on end goals, these groups will be hamstrung in what they can ultimately achieve.

Indeed, developers consistently encounter situations in other jurisdictions in which, despite a generally supportive policy structure and political environment, the absence of utility incentives to improve the interconnection process combined with commission staff turnover, under-resourcing, or apathy has led to significant backsliding in utility interconnection policies and practices and substantial erosion in customer experience. The highly technical nature of interconnection rules, the pace of change in DER technology, and the complexity of the interconnection tariff and practices create significant opportunities for disagreement and misunderstanding that require both committed DPS and NYSERDA resources and sufficient incentives to encourage the utilities to dedicate the appropriate attention and resources to providing adequate customer service to interconnecting DER customers. Although New York has recently become a leader in driving progressive, consensus-based improvements to interconnection policies and practices, it is likely that without the appropriate regulatory structure to align utility and DER incentives on a long-term basis, the progress we have made over the last two years could be quickly undone.

3. It is too early to conclude that the interconnection EAMs are not needed

Stakeholders invest considerable time and effort in reviewing and proposing EAM provisions. When finally approved, EAMs are intended to drive investment, operational, and organizational accounting changes by the utilities. These changes take time to design,

implement, and evaluate. EAMs are impacted and complemented by other process and policy changes, but practical experience and time are required to fully understand these impacts. The Staff proposal does not reflect a careful consideration of these factors and the practical consequences of short cycles of EAM creation and elimination on utilities and other market participants.

Staff states that cooperative and efficient developer/utility relations are “not effectively encouraged by performance based regulation such as an interconnection EAM,” but it does not explain why this is the case. Indeed, given our limited experience to date with the implementation of the interconnection EAM in most areas of the State, it is far too early to make such conclusions about the efficacy of the EAMs. Moreover, in the Track Two Order, the Commission explicitly notes that “[o]utcome-based incentives are appropriate where the programmatic inputs are not simple to isolate, and where the beneficial outcome is influenced by a holistic approach and a range of company activities that are planned to *jointly influence the outcome along with customers and third parties.*”⁷ The interconnection EAM is precisely the type of outcome-based incentive that the Commission contemplated in the Track Two Order, including the role of customers and third party market actors. In addition, as Staff notes, National Grid,⁸ Central Hudson,⁹ and Con Edison¹⁰ are currently implementing interconnection EAM measures. It is not yet clear to what extent these utilities’ EAMs are responsible for the utilities’ interconnection progress that Staff cites as a reason to eliminate the policy, but it is reasonable to assume that they may be having an effect. At a minimum, the Commission should allow sufficient time to observe and analyze the impacts of the EAMs in all utilities as well as alternatives to the current EAM structures before deciding to eliminate this policy entirely.

4. Staff’s Proposal to eliminate the interconnection EAM should be rejected

While there have been many improvements to the interconnection process, the interconnection process continues to impose unnecessary costs and risk on DER projects, and more progress is needed to meet New York’s ambitious goals for climate and energy. For example, many of the issues that were on the IPWG’s agenda a year ago, including much needed revisions to rules governing material modification of projects and cost-sharing of interconnection upgrades, have yet to be implemented. Developers continue to experience inconsistent communications from utilities, lengthy and unclear construction timelines, disputes over required upgrades and contract terms, and other challenges. These issues add significant cost to DER project development that is ultimately makes DER products more expensive for the end customer. It will take continued time and attention on the part of the utilities to train staff and implement efficient systems to meet the scale and volume of DG interconnection that New York is aiming to achieve.

⁷ Track Two Order at 63.

⁸ Case 17-E-0238, *Niagara Mohawk Power Corporation d/b/a National Grid - Electric Rates*, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans (issued March 15, 2018) (National Grid Rate Plan).

⁹ Case 17-E-0459, *Central Hudson Gas & Electric Corporation - Electric Rates*, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plan (issued June 14, 2018) (Central Hudson Order Approving Rate Plan).

¹⁰ Case 16-E-0060, *Consolidated Edison Company of New York, Inc. - Electric Rates*, Order Approving Electric and Gas Rate Plans (issued January 25, 2017) (Con Edison Order Approving Rate Plan).

Staff's proposal does not provide sufficient evidence to demonstrate that the interconnection EAM is no longer necessary, or that removing it would not risk backsliding on progress that has already been made. Nor does the Proposal provide evidence that continuing to implement the EAMs would be ineffective at producing further improvements in the future or avoiding backsliding.

In light of these circumstances, we respectfully submit that there is no cause to declare victory at the present moment, and insufficient evidence to conclude that the EAMs should be eliminated. Rather than preemptively eliminating this potentially important tool, we recommend that the Commission continue to gather data on the efficacy and fairness of the EAM and interconnection processes generally, and direct Staff to work with all stakeholders on continued improvements to ensure the EAMs continue to result in improved, superior customer service for DER customers across the state.

Respectfully,

/s/ Shyam Mehta

Shyam Mehta

Executive Director

New York Solar Energy Industries Association (NYSEIA)

On behalf of the Clean Energy Parties (Alliance for Clean Energy New York, Coalition for Community Solar Access, the Natural Resources Defense Council, the New York Solar Energy Industries Association, the Pace Energy and Climate Energy Center, the Solar Energy Industries Association, Vote Solar) and Acadia Center.