



VIA ELECTRONIC FILING

secretary@dps.ny.gov

July 17, 2023

Hon. Michelle L. Phillips
Secretary
NYS Public Service Commission
3 Empire State Plaza
Albany, New York, 12223-1350

RE: CASE 15-E-0751 - In the Matter of the Value of Distributed Energy Resources

Dear Secretary Phillips,

New York Solar Energy Industries Association (NYSEIA) appreciates the opportunity to provide feedback on the Department of Public Service Staff Proposal¹ regarding the manner in which the Customer Benefit Contribution (CBC) charge will be applied to projects where a Distributed Energy Resource (DER) project was installed prior to the implementation of the CBC charge and subsequently undergoes a new interconnection request to increase the size of the project after January 1, 2022.

NYSEIA is a nonprofit industry trade association proudly representing hundreds of distributed solar and storage businesses with thousands of employees across the Empire State. Our mission is to advance distributed solar energy and energy storage deployment in New York State through engagement on key legislative, regulatory, and statutory policy matters affecting these industries. Our membership is primarily composed of local, regional, and national firms working every day to help achieve the ambitious clean energy and equity goals outlined in the Climate Leadership and Community Protection Act (CLCPA).

NYSEIA concurs with DPS Staff's assertion that the provisions of the CBC must be consistently applied statewide to provide DER projects with market certainty, and we appreciate the Commission's care in proactively ensuring that consistency. That said, we strongly oppose the first element of Staff's proposal which states that for projects that expand their size after September 1, 2023, the entire project (including any capacity that was first placed in service prior to the implementation date) would be subject to the CBC.

Retroactively applying the CBC charge to previously exempt DER capacity sets a concerning precedent that contradicts the expectation set by the Commission's July 16, 2020 *Order Establishing NEM Successor Tariff*² which explicitly stated that only projects interconnected "on or after January 1, 2022" would be subject to the CBC charge. Projects interconnected prior to the implementation date of the CBC were developed under the then-existing set of rate assumptions which did not

¹ Case 15-E-0751, Notice Soliciting Comments (issued April 25, 2023).

² Case 15-E-0751, Order Establishing Net Metering Successor Tariff (issued July 16, 2020) (NEM Successor Order).

anticipate this additional charge. The benefits of those projects would be substantially eroded by the retroactive imposition of the CBC. Doing so could also have a market chilling effect by discouraging project owners from choosing to expand projects first placed in service prior to January 1, 2022 to avoid paying the CBC on previously exempt capacity, negatively impacting progress toward Climate Leadership and Community Protection Act (CLCPA)³ goals. In particular, many early adopters of solar energy are now purchasing electric vehicles and air source heat pumps and may wish to expand their systems to offset the additional electricity consumption, a choice State policy should encourage. NYSEIA is also concerned that the Staff Proposal could be misinterpreted by the utilities and result in the imposition of the CBC on previously exempt capacity in cases of energy storage retrofits to existing solar PV systems where the PV systems are not expanded, discouraging an important use-case for energy storage deployment.

NYSEIA recommends that the Commission modify the Staff Proposal and order that for previously exempt projects that subsequently expand their size, only the incremental additional capacity be subject to the CBC charge. This action would be consistent with market expectations and would allow developers to include the CBC charge in their financial assumptions when forecasting customer savings and project viability. Additionally, because the Staff Proposal does not address how the CBC should be applied for projects that were expanded between the original implementation date of January 1, 2022 and September 1, 2023, NYSEIA recommends that the Commission order clarify that only the incremental capacity of those projects be subject to the CBC charge.

NYSEIA supports the other two elements in the staff proposal, that the Joint Utilities' electric tariffs should be amended to specify how the CBC is applied for DER systems expanded after September 1, 2023, and the Joint Utilities should be required to include the calculation of the CBC charge (i.e., the stated rate multiplied by the customer's specific system size) on the utility bill.

We are grateful for the Commission's commitment to achieving New York State's nation-leading renewable energy goals and for the opportunity to provide input on this matter. We encourage you to take action to clarify the application of the Customer Benefit Contribution (CBC) charge without delay.

Thank you,



Jonathan Cohen
Policy Director
New York Solar Energy Industries Association

³ Chapter 106 of the laws of 2019.