Comments on the Petition of Interested Hydroelectric Parties Eligibility for Environmental Value Compensation for Pre-2015 Resources Under the Value of Distributed Energy Resources Tariff

(15-E-0751)

I. Introduction

The Alliance for Clean Energy New York, Environmental Advocates for New York, New Yorkers for Clean Power, Sierra Club, Northern Power and Light, New York Solar Energy Industries Association, New York League of Conservation Voters, and Natural Resources Defense Council (Clean Energy Parties) are submitting these Comments in response to the Petition of Interested Hydroelectric Parties Eligibility for Environmental Value Compensation for Pre-2015 Resources Under the Value of Distributed Energy Resources Tariff (Petition) filed on May 26, 2022 in the above referenced proceeding.

ACE NY is a member-based organization with a mission of promoting the use of clean, renewable electricity technologies and energy efficiency in New York State to increase energy diversity and security, boost economic development, improve public health, and reduce air pollution. ACE NY's diverse membership includes companies engaged in the full range of clean energy technologies as well as consultants, academic and financial institutions, and not-for-profit organizations interested in their mission.

The Petition proposes to expand the eligibility for Environmental Value (E-Value) compensation under the Value of Distributed Energy Resources (VDER) tariff to legacy distributed energy resources, that is those that are eligible for VDER compensation, meet the definition of "renewable energy systems" in the Climate Leadership and Community Protection Act (CLCPA), and were in operation prior to January 1, 2015. The petitioners propose that the E-Value is an alternative environmental value compensation and thus, projects compensated under Net Energy Metering (NEM), Competitive Tier 2, or the Maintenance Tier would be ineligible to be compensated through the VDER tariff.

These Clean Energy Parties support the Petition. The Petition would rectify an omission in the VDER program and provide our State with benefits far outweighing the costs. Support of legacy distributed hydro will ensure that existing generation is not retired and that their Renewable Energy Certificates (RECs) remain in-State. It is imperative that New York maintains its baseline of legacy NEM energy facilities to meet our aggressive Climate Law goals.

The Order on Net Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters[1] that created the VDER program did not include pre-2015 resources in those eligible for the E-Value. This shortfall of the program should be rectified given the

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[1] Case 15-E-0751, Order on Net Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters (March 9, 2017)

significant environmental and climate benefits offered by legacy hydro generation. Hydro resources provide the State with continued renewable generation to meet our Climate Law goals and in-state RECs, economic benefit of maintained civil infrastructure, and local distributed generation. VDER was established prior to the CLCPA's more aggressive renewable and emission free electricity goals, and the State should modify existing programs to ensure we can meet them.

New York State enacted the CLCPA in 2019, and it requires a significant acceleration of our renewable energy deployment with its ambitious goals of 70% renewable electricity by 2030. This will be a dramatic increase from the current percentage of 27% in 2021. The State is actively laying the groundwork to meet the 70% goal, but we are also going to need to maintain our existing baseline of renewable generation as we move forward.

II. New York Needs to Maintain a Renewable Energy Baseline

The aggressive 70% renewable energy by 2030 goal of the CLCPA will require the contribution of all our renewable resources, and the State should take steps to ensure that existing resources are not retired. Legacy distributed hydroelectric resources contribute approximately 849 GWHs of renewable generation that displaces greenhouse gas emitting generation. Although maintaining existing renewable resources is not additive to reaching our 70% by 2030 goal, it is a necessary component of reaching that goal without going backward. The expansion of E-Value compensation through VDER will help support legacy renewables and reduce the number of RECs that are sold out of State.

Distributed hydro power also provides additional societal benefits including grid resiliency in remote areas, securing critical civil infrastructure, providing clean energy and reduced electric bills in upstate disadvantaged communities. Supporting existing hydro resources is a cost-effective way to support in-state generation without additional capital costs or increased carbon emissions from construction. Without expansion of E-Value compensation, the capital investment will continue to exist, but our State will not be receiving the generation or the REC benefits from it.

III. The Competitive Tier 2 Program is Not Working

The State has struggled to fashion a program that can adequately support our legacy generation to keep it in production or keep the RECs in-state. The existing Competitive Tier 2 program has not slowed the decline in baseline resources, resources that we badly need to meet our Climate Law goals. The Program has not been a success.

The Tier 2 program currently does not offer adequate compensation for our legacy resources, which can receive a higher value for their RECs out of State. We support the expansion of E-Value compensation through VDER because it will reduce the number of RECs that are currently sold out of State and include these legacy resources in our generation mix, helping to achieve the 70% by 2030 CLCPA goal.

NYSERDA's Petition[2] to establish the Competitive Tier 2 program suggested that any future program to support legacy renewables should "consider the outcome of the Competitive Tier 2 procurement program and conditions in external markets."[3] After two Tier 2 solicitations and an increasing number of RECs sold out-of-state, support of additional supplementation of legacy hydro needs to be considered.

Our State is losing in-state renewable generation from legacy hydro due to low market revenues and high operational costs. The petitioners state that legacy renewables contributions to the grid have declined by 949 GWh from 2014-2020. One of the factors for this decline is from lower market revenues as the Locational Based Marginal Prices have been declining for over a decade, and capacity revenues where most distributed hydroelectricity is located have declined also. Legacy hydro under 5 MW also faces high operational costs of over $60/MWh. As was pointed out in the petition, hydro can continue to operate even with declining energy prices because of their low input costs, until the deferred maintenance issues reach a critical point. Legacy hydro retirement is prompted by sudden unavoidable costs, not a threshold market price.

In addition, the Market Transition Credit and the Community Credit, which were intended to provide additional support to DER projects are fully allocated in all Commission-jurisdictional utility territories and are no longer available. We support expanding the eligibility of the E-Value to legacy hydro to grow the number of distributed hydro projects in the State.

IV. Pre-2015 Generators Are Bringing Environmental Value and Deserve E-Value Compensation in the VDER Tariff

The Commission's 2018 decision to not allow legacy renewables to be eligible to receive E-Value compensation is outdated, unproductive, inefficient, and unfair. Now, New York has a clear and statutory requirement to achieve 100% emission-free power by 2040. First, this will require all possible resources be deployed and all emission-free resources to provide their environmental value to the grid, regardless of their vintage, and should be compensated for it. Second, it is clear that legacy resources are increasingly exporting their RECs as outlined in the Petition. Third, legacy resources have expressed and demonstrated their interest in participating in the community distributed generation (CDG) market, as cited in the Petition[4].

Finally, the VDER Order, in explaining the decision to not provide the E-Value to legacy resources, stated "The eligibility of technologies to produce RECs will continue to be

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[2] Case 15-E-0302, *Petition Regarding the Clean Energy Standard – Competitive Tier 2 Program for Baseline Renewable Generation* (Jan. 27, 2020),

[3] Case 15-E-0302, *Petition Regarding the Clean Energy Standard – Competitive Tier 2 Program for Baseline Renewable Generation* (Jan. 27, 2020), at 4.

[4] Case 15-E-0751, Petition of Interested Hydroelectric Parties Eligibility for Environmental Value Compensation for Pre-2015 Resources Under the Value of Distributed Energy Resources Tariff, (May 26, 2022) at 3.

reviewed as part of the ongoing implementation of the CES. In addition, compensation for any Environmental Value provided by technologies that do not produce Tier 1 RECs will be part of Phase Two of this proceeding."[5] Subsequent VDER Orders did not address legacy hydro generation exclusion from the E-Value. It is time for legacy distributed hydro generation to receive compensation for the environmental value it produces.

V. Conclusion

For these reasons, these undersigned Clean Energy Parties recommend that the New York Public Service Commission approve the Petition.

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[5] Case 15-E-0751, Order on Net Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters (March 9, 2017) at 104.