



September 27, 2021

**VIA ELECTRONIC MAIL**

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Re: Appraisal methodology for solar and wind energy projects

Dear Acting Commissioner Hiller and Mr. St. Germain:

On behalf of the Alliance for Clean Energy New York (ACE NY) and the New York Solar Energy Industries Association (NYSEIA), we are writing to request that the Department of Taxation and Finance (DTF) extend the deadline for comments on DTF’s draft solar and wind appraisal models and preliminary discount rates. While we appreciate that DTF is continuing to consider input, our member companies need additional time – at least 10 more business days – to adequately review and comment on the second model (Model #2) which DTF posted on Friday, September 17.

We welcome DTF’s continuing efforts to develop a model for valuing wind and solar projects. We also recognize the complexity of valuing these projects. The release of Model #2 – and DTF’s request for comments on this model – is clearly an example of the agency’s continuing efforts.

In comparison to the first model, Model #2, which DTF describes as "a potential alternative to the previously published preliminary model," features different assumptions regarding revenue and expense factors that our members companies are in the process of examining and running simulations. We believe that DTF will find the feedback from the project developers useful and it should not publish the final model before carefully reviewing this feedback.

Complicating the review of both models is DTF’s statement that “the final appraisal model may incorporate assumptions from both,” according to your website. It’s impracticable for project developers to comment on potential hybrid model scenarios in which various valuations could ultimately undercut one another. Much of the feedback that project developers provide on the individual models may not apply to a hybrid model.

To assist our member companies in their review and simulation, we request that any hidden or locked components of Model #2 (and Model #1) be unlocked. This will enable our member companies to examine the valuations more carefully and to run audits and simulations. Some of our members have conveyed that there are several tabs in Model #2 that are not visible. Four of these tabs contain information directly related to the calculation of revenues, a critical element of the model. Being able to review the information and mechanics of the contents of the inaccessible portions of the model is essential for commenters proposing potential corrections.

In closing, we would like to reiterate that the DTF model, as currently structured, produces a valuation in excess of true fair market value and is thus not a legally defensible model for the State of New York to use. By materially underestimating the discount rate and overestimating revenues, the DTF model's outcomes exceed fair market value, in violation of the State Constitution, N.Y. Const. art. XVI, § 2 ("Assessments shall in no case exceed full value.") The DTF model, as proposed, will also suppress the development of renewable energy projects required to support the state's renewable electricity mandates as established in New York's Climate Leadership and Community Protection Act of 2019<sup>1</sup> (CLCPA), while the intent of the legislation included in the 2021-2022 Enacted State Budget<sup>2</sup> that lead to this proposal was to support efforts to meet the State's renewable energy goals. The Memo in Support for this legislative proposal stated that DTF should develop this appraisal model to "establish a process for creating a standard methodology for the assessment of wind and solar projects that facilitates meeting New York's aggressive carbon reduction goals."

In our comments filed on September 3, ACE NY and NYSEIA recommend three changes to the proposed DTF model.

- (A) Use significantly higher discount rates in the model to better reflect risk and operating realities for clean energy projects in New York State, and that are consistent with those used by professional New York State assessors in clean energy project appraisals.**
- (B) Exclude intangible assets like environmental attributes from the model, as required by law.**
- (C) More accurately estimate revenue by adjusting to account for basis risk, curtailment, congestion, production profile, and capacity market revenue differences.**

We ask that you seriously consider these recommendations.

As a second option, we believe the admittedly complicated task of accurately forecasting the revenue for wind and solar projects, both utility scale ("Tier 1") and distributed ("VDER"), can be best achieved by modeling aligned with how industry investors approach valuation. This type of after-tax, market-based model would more accurately represent fair market values and reflect how the renewable energy industry values facilities.

ACE NY and NYSEIA would like to restate the positive impact that a standardized and workable appraisal methodology will have in New York State. It will provide a framework for local communities to negotiate tax agreements with energy developers and will pave the way for related economic benefits. In March,

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<sup>1</sup> <https://legislation.nysenate.gov/pdf/bills/2019/S6599>

<sup>2</sup> <https://www.budget.ny.gov/pubs/archive/fy22/ex/artvii/revenue-memo.pdf>

ACE NY and NYSEIA released a new economic impact report<sup>3</sup> that found that implementing a standardized renewable energy tax assessment model will generate economic activity that would result in 16,000 new jobs across the state, particularly in upstate regions, representing a 32% increase over economic activity without tax standardization. Moreover, New York's labor income would rise \$2 billion dollars, from \$6.2 billion to \$8.2 billion and the gross state product would rise \$5.2 billion dollars, from \$16.3 billion to \$21.5 billion. The report also found that with a standardized tax assessment model, New York would experience \$38.2 billion in business sales compared to the \$29 billion generated without the framework. The report shows that upstate regions, particularly Western New York, North Country and the Mid-Hudson Region, will realize the most significant economic benefits from a standardized tax assessment model, as these regions have the highest solar and wind capacity.

In closing, a standardized methodology will bring certainty to taxing jurisdictions and project developers alike and will guide and assist in the negotiation of Payment In Lieu of Taxes (PILOT) agreements. But a model that results in excessive or un-financeable property taxation will simply kill wind and solar project development in New York, particularly projects that don't have a PILOT in place at this time.

Thank you for considering our requests.

Respectfully,



Anne Reynolds  
Executive Director  
Alliance for Clean Energy New York



Shyam Mehta  
Executive Director  
New York Solar Energy Industries Association

Cc:

Ms. Jessica Waldorf, Acting Assistant Secretary for Energy  
Ms. Jane Wiesenbergh, Assistant Secretary for Economic Development  
Mr. Sean Ewart, Senior Policy Advisor for Energy  
Mr. Rajiv Shah, Assistant Counsel, Executive Chamber  
Ms. Doreen M. Harris, President, NY State Energy Research and Development Authority  
Mr. John Howard, Chair, NY State Department of Public Service  
Mr. Basil Seggos, Commissioner, NY State Department of Environmental Conservation  
Mr. Houtan Moaveni, Executive Director, NY State Office of Renewable Energy Siting

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<sup>3</sup> Standardizing Renewable Energy Property Tax Approaches in NY State: Economic Benefits to Host Communities (March 2021 Report Released by ACE NY and NYSEIA)  
[https://static1.squarespace.com/static/5c34c6b685ede137995b2e5d/t/605a361cc6e4087ef35f1f50/1616524834792/SEA\\_Prop-Tax-Impacts-Report\\_FINAL\\_03.22.21.pdf](https://static1.squarespace.com/static/5c34c6b685ede137995b2e5d/t/605a361cc6e4087ef35f1f50/1616524834792/SEA_Prop-Tax-Impacts-Report_FINAL_03.22.21.pdf)