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New York State Energy Research and Development Authority

Re: Comments on the 2022 Tier 2 Request for Information

To Whom It May Concern:

The Alliance for Clean Energy New York (ACE NY) submits the following comments in response to the New York State Energy and Research Development Authority's (NYSERDA) 2022 Tier 2 Request for Information (RFI). ACE NY is submitting these Comments to provide feedback that will assist the agency in assessing current conditions and future needs of the baseline renewable energy fleet and the non-Tier 1 Renewable Energy Certificate (REC) market.

The mission of ACE NY is to promote the use of clean, renewable electricity technologies and energy efficiency in New York State, in order to increase energy diversity and security, boost economic development, improve public health, and reduce air pollution. ACE NY members are a mix of private companies and non-profit organizations interested in promoting clean energy and creating opportunities for growth in New York's clean energy economy.

Treatment of Tier 2 resources, *i.e.*, renewable electricity generators that began operation in New York before January 1, 2015, is an important issue to ACE NY member companies and organizations as it is a critical component to New York's overall plan to achieve the 70% by 2030 renewable electricity mandate included in New York's Climate Leadership and Community Preservation Act (CLCPA). Numerous ACE NY member companies own and operate Tier 2 facilities.

Thank you for the opportunity to provide our comments and please do not hesitate to reach out if you have any questions.

Sincerely,

Anne Reynolds

Anne Reynolds
Executive Director, Alliance for Clean Energy New York

I. INTRODUCTION

Herein, ACE NY is responding to certain questions included in the RFI. Other questions are most appropriate for individual owners and operators of Tier 2 renewable energy facilities.

II. RESPONSES

Question 8: Is there a continuing need for a state-funded program to support baseline renewable generators in addition to the Tier 2 Maintenance program? Why or why not?

New York must maintain the existing fleet of renewable energy generators in order to meet its renewable energy targets. This will require a robust program that compensates generators for the renewable energy attributes associated with the power that they produce. To do so, New York must be willing to provide remuneration to existing renewable projects on a level that is competitive with the alternative options (currently found primarily by exporting renewable power to neighboring regions).

There is a need for a state program to support baseline renewable generators, both hydroelectric generators as wind generators and wind power facilities.

With the exception of 2022, which was an anomalous year due to global conflict that impacted commodity markets, hydroelectric and other pre-existing generators have faced a prolonged period of low wholesale revenues that have prevented owners from preparing their facilities, many of which are over 75 years old, for a more demanding future that will require the maximum amount of flexibility and reliability that these non-emitting power plants can provide to New York's grid. Having made every attempt to secure long-term revenue sufficiency through any available mechanism that does not carry outsized risk, pre-existing generators believe that the State is uniquely positioned to provide the kind of long-term backstop that is needed by generators to remain operating in the market, remain contributors to the achievement of New York's emissions-free power mandates; and make the necessary investments to prepare for a future affected by climate change itself. This is no different than the role the State plays in supporting existing nuclear generators, for example.

The wholesale market is supposed to adequately value the products produced by hydroelectric and other pre-existing generators, but it does not. These existing generators would like to rely exclusively on market revenues, out-of-market contracts for all other resources but hydroelectric have eroded pricing signals for energy, capacity, and ancillary services to the point that hydroelectric and other pre-existing generators must also reluctantly seek the same out-of-market support for continued long-term viability.

In New York, pre-existing generators, particularly hydroelectric facilities, have a significant local tax burden. In fact, hydroelectric facilities tend to be located in under-resourced communities that are unequivocally dependent on the viability of the hydroelectric generators for the tax revenue that allows their own continued viability. Some facilities carry an outsized tax burden and are the largest contributors to school and municipal taxing jurisdictions, especially in not seeing the same level of solar development as in some parts of the state. Further, unlike other technologies that rely on an international supply chain, hydroelectric projects are heavily reliant on local supply chains and, in their case specifically, already employ union labor. Sustaining New York's fleet of hydroelectric facilities for the long-term will have direct benefit for the NY communities in which they operate, on labor, and on in-state supply chains.

Lastly, ACE NY believes that eligibility for E-Value under VDER is an important element of a stable future hydroelectric industry. The smallest facilities often have both the highest revenue needs and the greatest local benefits. NY ratepayers should have the ability to support and benefit from these local resources. A Tier 2 program which provides enough support for the smallest resources may overpay others, while a competitive program will leave the smallest resources out. Resources which have the highest revenue needs can justifiably be required to pursue more community-focused business model. Further, small hydroelectric plants provide the same benefits as distributed solar and thus should be eligible to receive the E-value as well.

Question 10: How are you perceiving REC market trends?

The REC market that pre-existing generators depend on was non-existent prior to 2019 and has strengthened significantly in the last two years primarily as a result of new regulations and reduced supply due to export. However, there is no indication that the voluntary REC market is capable of providing the long-term support that pre-existing generators require.

Question 11: Is the Tier 2 REC market in NY functioning?

From the perspective of a pre-existing generator, no. The REC market is prone to volatile price swings, and significant regulatory uncertainty both of which prevent any of the long-term buying and selling behavior that is needed by pre-existing generators. Even though REC pricing has undoubtedly improved, short-term pricing alone is not sufficient to drive long-term behavior on the part of generators.

Questions 12 and 34: What are the potential benefits to your organization of a NYSERDA-run competitive REC purchase and sale program that is not present in the REC market?

Neither the existing Tier 2 Program, the previous Maintenance Tier Program, or the voluntary REC market are meeting the needs of Tier 2 generators.

The benefit of a NYSERDA-run competitive REC procurement program, as compared to the REC voluntary market, would be the opportunity for long-term contracts. Long term contracts can allow Tier 2 generators to re-invest in facility upgrades and maintenance, and would allow for lower bids.

The existing Tier 2 Program has been ineffective because it is not structured in a way to consider contracts that account for the commercial structures in place at many operating projects. Equally important, the Tier 2 Program has not been able to offer compensation that is competitive with other options available to generators out-of-state. Meanwhile, Tier 2 generators would prefer to sell their RECs in-state, because exports bear risks and fees that are passed on to customers in other markets in the form of higher prices for renewable generation.

There is no meaningful benefit of a short-term NYSERDA-run competitive purchase and sale program because generators are capable of seeking out opportunities to sell RECs on their own. In fact, a “NYSERDA-run competitive REC purchase and sale program” seems to imply that NYSERDA would not be purchasing all of the available inventory in which case there would be some generators who would be left with REC inventories that would then have to compete to sell RECs with NYSERDA’s resale process where NYSERDA would be selling RECs at a price below what the generators with leftover inventory would have offered into NYSERDA’s competitive process. A poorly thought-out program could artificially depress prices and do more harm than good.

Because there are virtually no opportunities to transact for longer terms (10+ years) or for products that provide a meaningful hedge against wholesale electricity price declines like an index REC contract, the primary benefit of NYSERDA’s involvement is providing the long-term revenue certainty that the market cannot deliver on. Other benefits include generators not having to be overly exposed to the many financially at risk ESCO counterparties that operate in NY.

The Maintenance Tier program is flawed in its design simply because a facility that is at financial risk cannot be adequately supported via a 3-year fixed price REC contract.

Question 13: Do you have any other general feedback not covered in the RFI?

One of our members observed that the form of the RFI (as a text-only response field) doesn’t allow for the inclusion of charts and visuals to support statements.

Pre-existing generators welcome in-person meetings and tours so that they can provide NYSERDA and NYS DPS with a full appreciation of the contribution of pre-existing generators to New York State.

III. CONCLUSION

Clearly, maintaining the current fleet of pre-2015 renewables is important for the achievement of the CLCPA goals, as all of the assessments conducted in the Clean Energy Standard proceeding at the Public Service Commission, including the modelling of necessary NYSERDA procurement levels under Tier 1, assumed that New York *would* maintain the baseline of pre-2015 renewable generators. Therefore, NYSERDA does need to monitor the baseline and take action should it be eroding.

It is equally clear that the three-year Competitive Tier 2 Program has been unsuccessful. For this reason, we welcome NYSERDA's exploration of possible solutions and this RFI. One solution would be to further reform the repowering requirements for facility eligibility for Tier 1. ACE NY would support an effort to re-examine the repowering Tier 1 eligibility requirements. A second solution (not mutually exclusive from a repowering policy change) would be to re-design the Tier 2 Program to offer long-term contracts and to use a higher maximum confidential bid price. This should be fully explored by NYSERDA. Thirdly, we reiterate our position that hydroelectric facilities should be eligible for the E-value in the VDER Program. Fourth, ACE NY would welcome an assessment of the likely impacts of a cap-and-invest program on the energy market clearing price and what affect, if any, that would have on the fleet of Tier 2 resources over time. Finally, we acknowledge that many of the questions posed in this RFI are more appropriately answered by individual renewable energy operators, and thus our responses were limited to only select questions.

Thank you for the opportunity to provide this input.