



April 24, 2023

VIA ELECTRONIC MAIL

Hon. Michelle L. Phillips, Secretary
New York State Public Service Commission
3 Empire State Plaza
Albany, New York 12223-1350
secretary@dps.ny.gov

Re: Case 19-E-0079 – In the Matter of the Continuation of Standby Rate Exemptions

Dear Secretary Phillips:

Advanced Energy United (United), along with the New York Battery and Energy Storage Technology Consortium (NY-BEST) and the Alliance for Clean Energy New York (ACE NY), submits these joint comments in response to the Notice Soliciting Comments ("Notice"), dated February 2, 2023, in the above-referenced proceeding.

Respectfully Submitted,

/s/ Ryan Katofsky

Ryan Katofsky
Managing Director
Advanced Energy United

/s/ William Acker

Dr. William Acker
Executive Director
Battery and Energy Storage
Technology Consortium

/s/ Anne Reynolds

Anne Reynolds
Executive Director
Alliance for Clean Energy New
York

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

In the Matter of the Continuation of Standby Rate) Case No. 19-E-0079
Exemptions)

April 24, 2023

Comments of Advanced Energy United, New York Battery and Energy Storage Technology Consortium and Alliance for Clean Energy New York on the Staff Proposal to Extend and Modify Standby Rate Exemptions

Introduction

Advanced Energy United (United) along with the New York Battery and Energy Storage Technology Consortium (NY-BEST), and the Alliance for Clean Energy New York (ACENY), herein after referred to as the Clean Energy Industry (or “we”/ “our”) submit these comments in response to the Notice Soliciting Comments (“Notice”), dated February 2, 2023, in the above-referenced proceeding. As outlined below, in addition to our general support of the Staff proposal, we offer some specific recommendations for the Commission’s consideration.

Residential & Small Commercial Exemption and Energy Storage Exemption

Staff made the following recommendations, which we support as proposed:

1. Continuing the Residential and Small Commercial Exemption as presently authorized
2. Continuing the Energy Storage Exemption as presently authorized
3. Removing the automatic sunset of May 31, 2025, and implementing a comment period every two years to evaluate the policy.

Designated Technologies Exemption

The remaining recommendation from Staff has to do with changes to the Designated Technologies Exemption and aligning eligibility for the standby rate exemption within this



category and the list of technologies classified as renewable within the Climate Leadership and Community Protection Act (CLCPA). Given the state’s ambitious goals for greenhouse gas reductions, this change seems reasonable, to align state policies, particularly with respect to fossil fuel use. We see less reason to eliminate the exemption for new resources using sustainably managed biogas and methane waste, as utilization of these resources can provide other environmental benefits even if they do not meet the current legal definition of eligible renewable resources. In that regard, Staff’s statement on which new resources would become ineligible requires clarification, where Staff writes, “The proposed modification to the Designated Technologies Exemption would discontinue exemptions for new fuel cell units which utilize fossil fuels resources, sustainably managed biogas, and methane waste (Previously-Exempt Resources).”¹ It is unclear if, in this instance, the inclusion of “sustainably managed biogas, and methane waste” is specific to fuel cell eligibility, or is meant to be more general. We note that in Case 15-E-0302, the Commission issued an order clarifying that under certain circumstances, fuel cells using these fuels would indeed be eligible for the Clean Energy Standard.² We therefore request that the Commission clarify that new fuel cell resources utilizing renewable fuels that meet the requirements as laid out in Case 15-E-0302 would remain eligible for the standby rate exemption. Subject this clarification, we do not oppose Staff’s recommendation.

That said, we do agree with Staff that existing resources in the categories that would be eliminated for eligibility as new resources should continue to be eligible for the standby rate exemption. However, we do recommend that Staff adopt a broad definition for “the remaining useful life of such resources.” We would argue that as long as the resource continues to operate that it should remain eligible. For example, a biogas facility may require a new engine or generator when those *components* reach the end of their useful life, but upon replacement, the plant may have many years of useful life remaining (and may indeed have improved energy

¹ Attachment to February 2, 2023 Notice, at page 2.

² Order Adopting Modifications to the Clean Energy Standard, Issued and Effective: October 15, 2020, CASE 15-E- 0302 - Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and Clean Energy Standard, at page 21.



efficiency and environmental performance following such a replacement). Provided that the plant returns to service, its eligibility should be unchanged.

Staff also asked if size limits should be set for eligibility within the Designated Technologies Exemption. To meet the state's goals, it is important to maximize resources on available sites. This is particularly important for locations in the more densely populated regions downstate. Any project that does not receive the exemption on delivery charges for exported power will be at a severe economic disadvantage. A size limit would potentially cause developers to build smaller resources on sites that could, by both interconnection capacity and physical space, accommodate a larger resource. Given the constraints on both interconnection and sites downstate, such a provision would be misguided. While it is possible that some resources in this category could be large, our view is that the key consideration should be whether or not, absent an exemption, these resources would be subject to the standby charges, regardless of size. If the answer to this question is yes, then we strongly suggest not imposing an arbitrary size limit.

Process for Considering Future Changes

We support the Staff recommendation to modify the current approach of automatic sunseting of the standby rate exemptions for new customers, which requires periodic reauthorization of the exemptions by the Commission, and replacing that with a policy whereby the exemptions would continue until modified by the Commission, coupled with a biennial review (starting May 31, 2025) that includes public comment. We agree with Staff that this will provide greater clarity and certainty for affected DER owners and developers. With project development times being elongated by supply chain constraints, interconnection backlogs and other factors, it is important to have longer time horizons of rule certainty to ensure robust investment.

Conclusion

We appreciate the Commission's attention to this matter. We generally support the Staff proposal, and respectfully request that the Commission consider our comments in its deliberations.

