ACE NY
ALLIANCE FOR CLEAN ENERGY NEW YORK, INC.

119 Washington Avenue, Suite 1G
Albany, NY 12210
518.432.1405
info@aceny.org | www.aceny.org

July 3, 2020

Honorable Michelle Phillips
Secretary to the Commission New York State
Public Service Commission
Three Empire State Plaza Albany, NY 12223

Sent Via Email

RE: CASE 20-E-0249

Dear Secretary Phillips,

On behalf of the Alliance for Clean Energy New York and the Solar Energy Industries Association, please accept these comments in CASE 20-E-0249, *In the Matter of a Renewable Energy Facility Host Community Benefit Program*, in response to the *Notice Soliciting Comments* issued May 28, 2020.

The Alliance for Clean Energy New York ("ACE NY") and the Solar Energy Industries Association ("SEIA") appreciate the Public Service Commission's timely response to enactment of section eight of the *Accelerated Renewable Energy Growth and Community Benefit Act*, which requires the Public Service Commission to establish a program through which the owners of major renewable energy facilities will fund a benefit for electric distribution utility customers located in the municipalities that host the facilities. As noted in the *Notice,* the Act provides that the Host Community Benefit can take the form of a bill discount or credit, or a compensatory or environmental benefit for the impacted electric utility customers.

ACE NY is a not-for-profit membership organization with a mission 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 include numerous companies that currently, or will in the future, own and operate major renewable energy facilities in New York communities and thus have significant experience developing and building major wind and solar energy generating facilities in New York and elsewhere. This experience includes the negotiation and long-term implementation of Host Community Benefit Agreements ("HCAs"). Both ACE NY and SEIA welcome the opportunity to comment on the issue of host community benefits and we look forward to the Department of Public Service (DPS) publishing of a proposal detailing a Host Community Benefit Program later this year. As DPS Staff develop a proposed Host Community Benefit Program ("Program"), our member companies ask that the following issues and concerns are considered:

ACE NY and SEIA support the creation of a bill discount mechanism. Wind and solar developers are supportive of this initiative and would welcome the ability to offer a bill discount to the proximate neighbors of a proposed wind or solar project. They often get asked the question, "Can you offer us a discount on our electric bill?" and have to explain that there is not currently an established mechanism for doing that. Our members believe that the ability to offer this tangible benefit to project neighbors is positive.

Offering a bill discount is a cost to project developers. Although obvious, it is necessary to reiterate that paying for a bill discount is a cost to the developers or operators of a major renewable energy project. For renewable energy projects to be both affordable for New York and profitable to the private sector, there is a finite amount that can be paid for the range of community and environmental benefits. If at all possible, it would be sensible to structure this Program in such a way that would allow project developers that opt to offer an electric utility bill discount to pay a corresponding amount less in payments in lieu of taxes (PILOT) payments or under a Host Community Benefit Agreement (HCA) with the hosting town. With that said, we are aware that achieving this dynamic is complicated by the fact that there are different entities applying these various costs. By way of example, typical costs added to project development, construction, and operation include: the payments made under a PILOT, most often negotiated with the Industrial Development Authority (IDA); an HCA negotiated with a town; Special District taxes, which most often includes a fire district tax payment, but could also include a library, sewer, water, or ambulance tax; a payment to cover the requirements of the State Historic Preservation Office (SHPO); and money set aside for decommissioning. With the creation of the new Office of Renewable Energy Siting (ORES) in New York State, there will also likely be a contribution to the Endangered Species Mitigation Fund[1] in some cases. Finally, the new *Accelerated Renewable Energy Growth*

[1] With respect to a payment to the Endangered Species Mitigation Bank Fund, the payment amount and procedures have not yet been established, though we would expect the payment into the Fund to replace payments currently made related to endangered species regulatory compliance.

and Community Benefit Act also references a requirement for a host community benefit to be included in the permits issued by ORES. While we are aware that the Public Service Commission does not have jurisdiction over all of these costs and payments, we urge the Commission to consider these costs is crafting the Host Community Benefit Program and strive to design creative approaches to connecting and aligning this decision-making. In other words, all of this cannot be solved through Case 20-E-0249, but we urge the Commission to keep this context in mind.

Provision of a bill discount should be optional for developers. Because of the dynamic described above, offering an electric utility bill discount should be an option, and not required in every case. With this approach, the project developer could enter into discussions with the host community to determine if it would prefer an HCA, the bill discount, or a subscription to a community solar project for the town government. If the town would prefer the bill discount, the developer would opt-in to the PSC's Host Community Benefit Program. If the town preferred an HCA, they developer would opt out of the PSC Program. If the Town chooses not to negotiate with the developer at all, the developer could still opt-in to the PSC's Host Community Benefit Program to offer the bill discount to project neighbors.

Offering a bill discount should meet ORES requirement for community benefit. As mentioned above, the *Accelerated Renewable Energy Growth and Community Benefit Act* references the need for a host community benefit. This part of the law has not been addressed yet in proposed regulations, but developers would like to recommend that either an HCA, a community solar subscription, or a bill discount should be able to be used to fulfill that requirement in the permit.

The bill discount should be one standard offer. Even though ACE NY recommends that the bill discount be optional for project developers, we strongly recommend that the rules be the same for all projects that opt in. That is, the amount of payment and other parameters would not be negotiated each time a developer chooses to opt in. Developers would prefer that a consistent and established dollar per megawatt (MW) per year fee be applied and then be split between all proximate residential neighbors of a wind or solar project. Under this approach, if there were less neighbors, they would get a larger bill discount. Although we understand that another option would be for the bill discount to be applied to all residents of the town, and that this approach has merit, this approach would be complicated if the project was in multiple towns – which many are – and the benefit would quickly become negligible if it is applied too widely. For the same reason, ACE NY supports this benefit being offered to residential customers only, not commercial or industrial customers.

The bill discount should be multi-year. Developers would recommend that the bill discount be paid for 5-10 years, and for the same number of years in every case. Therefore, the cost per MW per year should be based on an appropriate cumulative cost per MW and applied to whichever time period is selected.

The bill discount should be applied going-forward only. Developers strongly feel that this bill discount should apply to projects that do not yet have NYSERDA Clean Energy Standard Tier 1 contracts when PSC issues an Order establishing the Host Community Benefit Program. It should not affect existing contracts or those awarded in 2020, because the developers would not have had the opportunity to factor that cost into their Tier 1 bid price.

The bill discount should be structured to support the community distributed generation market. The Program should not harm the market for community solar by competing for subscribers. The group of ratepayers receiving this benefit should also be allowed to be subscribers to a community distributed generation (CDG) project. As a related issue, a subscription to a nearby CDG project can be (in fact, has been) a host community benefit that is offered to either a town government or to town residents proximate to a proposed grid-scale facility. Encouraging and facilitating this type of community benefit would be doubly supportive of New York State's clean energy goals and the requirements of the Climate Leadership and Community Benefit Act (CLCPA), as it would support both a grid-scale project that will contribute to the 70% by 2030 mandate and a CDG project that would contribute to the 6 GW distributed solar requirement. Further, to facilitate the co-location of community DG and grid-scale projects, a project developer should be able to pursue a permit as one project, even if they are still required to have two interconnections to abide by NYISO and Commission rules for large-scale renewables and for CDG facilities. A community solar project and grid-connected project at the same location should be able to go through the permitting process together, either under the State Environmental Quality Review Act ("SEQR") or ORES 94-c.

Environmental Benefit Projects should be addressed in an HCA. The *Notice Soliciting Comments* asked about environmental benefit projects in addition to a bill discount. This issue is addressed by the point above regarding the optionality of PSC's Host Community Benefit Program. If a town would prefer a project – environmental or other – to be the subject of a HCA instead of getting a bill discount, the developer would like the option of negotiating that with the town. Further, all environmental impacts will be minimized or mitigated by virtue of the SEQR or ORES permitting process. Any additional compensatory benefit for a town will rightly be the subject of a negotiation between the town and the developer. In general, a developer will be amenable to any type of community benefit, whether environmental or other, as long as is affordable in light of the PILOT payments and other project costs, and as long as it will comply with the to-be-developed host community benefit requirement of the new ORES permitting process.

In response to certain questions raised in the *Notice Soliciting Comments*, ACE NY has the following responses:

A. Program Structure

> *1. What type of benefit should be provided under the Host Community Benefit Program? a. Should it be a bill credit/bill discount? b. Should it be an environmental benefit program?*

The benefit provided should be a monthly credit on the electric utility bills of residential customers living within two miles of a major renewable energy facility. Another option would be to adjust the radius depending on project size.

> *2. If the Host Community Benefit is a bill credit/bill discount, should it a be a one-time/single year credit or multi-year benefit, if so, how many years is appropriate?*

The credit on the electric utility bill should be applied for five to ten years. The size of the annual per MW cost should be adjusted based on what time period is selected.

> *3. If the Host Community Benefit is an environmental benefit program, what types of programs or measures should the program support?*

As described above, our belief is that environmental or other compensatory benefits should be negotiated with the host community (e.g. Town, Village) and be included in an HCA. A developer of a major renewable energy projects should have the option of either offering the bill discount through the PSC Program, or entering into an HCA, or offering a subscription to a CDG project to the Town government, or a combination of these options, based on negotiations with the host community, including negotiations of a payments in lieu of taxes (PILOT) agreement.

4. Should the Host Community Benefit Program be open to all utility-customer types within the host community, or only residential customer classes?

The utility bill credit or discount should be open to only residential customers within the host community, as these customers are the residents, voters, and thus the primary stakeholders in that host community.

5. What should the geographical bounds of the host community be in relation to the location of the major renewable energy facility, such as a certain number of miles from the site location, the entire town(s) in which the major renewable energy facility is located, or some other defined area?

The utility bill credit should be offered to residential customers within two miles of the facility regardless of what town they live in. These are the stakeholders that will be at all affected by the project, and two miles has been the typical analysis radius used for solar projects in Article 10 permitting processes. Further, many projects are located in more than one town or close to a town's borders. Opening the discount to all residents of multiple towns risks reducing the benefit to individual ratepayers to the point of insignificance. Note that we strongly recommend that the total cumulative cost for a project developer be based on the size of the project so the cost to the developer would be consistent regardless of the radius that is used for the bill discount program.

6. How should the Host Community Benefit Program be structured if there are multiple major renewable energy facilities within the same host community?

This issue is partially addressed by offering the benefits to ratepayers within two miles of a facility. Cases when a home is within two miles of two major renewable energy projects would be rare. But when those cases arise, the resident should be able to benefit from two credits on their utility bill if both projects opt-in to PSC's Program.

B. Financial Structure

1.What is a reasonable cost to be borne by developers for each major renewable energy facility, in terms of dollars per-kilowatt-hour or dollars-per-megawatt.

ACE NY recommends that a dollars per megawatt per year cost be consistently applied for each project, and that the time period for which it would be offered would also be consistent for all projects. As discussed above, this question must be viewed in light of the other community and environmental benefits provided by the project as well as other expenses. This includes, for example, the PILOT payment, a Host Community Benefit Agreement, taxes paid to all Special Districts, payments made to support historic preservation (aka SHPO payment), and any funds contributed to an Endangered Species Mitigation Bank Fund.

2.What is a reasonable range in which to set the level of benefit to be provided to each customer receiving such benefit? a. Provide a reasonable range if the benefit is provided as a one-time benefit, or as a recurring benefit on an annual basis? b. What other factors and/or considerations should be considered in determining the amount of the Host Community Benefit provided to customers?

In fairness, the amount paid by a renewable energy facility should be based on its expected average electrical output, and not based on external factors such as the size and population of the town that hosts it. Our recommendation – i.e. that it should be paid as a recurring benefit for a set number of years to those that live within two miles of the project – is designed to be fair for all project developers and to still have an adequately substantive impact on individual ratepayers, which should be considered the goal of the Program.

3.If the Host Community Benefit is a bill credit/bill discount, how should the funding of the incentive payments flow from the developer to the utility, who would provide the benefit directly to the customer? A. Should the developer pay the utility directly, and if so, how frequently should payments be sent to the utilities to support the program? B. Should there be a fund administered by the New York State Energy Research and Development Authority (NYSERDA), into which the developer would pay, and from which NYSERDA would then disburse funds to the utilities as the utilities provide customers with the benefit? How should the payments into and out of this fund be structured?

Renewable energy project developers would prefer a program design that involves paying NYSERDA annually, as there is an existing transactional relationship with NYSERDA and because there may be projects in two utility areas. If the program is designed so that utilities invoice the renewable energy facility, it should be a fixed amount annually.

3. Utility Coordination

1.If utilities are administering a bill credit/bill discount what information from the host community would the utility need in order to verify eligible customers? a. If the benefit is determined to be a multi-year bill credit/bill discount, how often should the verification of eligible customers be reviewed? b. If the benefit is determined to be a multi-year bill credit/bill discount, how often should the benefit be provided, e.g., monthly, quarterly, semi-annually, annually?

Most of this question is most relevant for utilities. Regarding (b), ACE NY recommends a monthly payment of the credit.

2.If the benefit is determined to be a bill credit/bill discount, what would the utilities need to do in order to implement such a program within their billing systems? Provide an estimated timeframe for implementation. a. How should the bill credit/bill discount be identified in the bill? i. Should it be included in an existing line item on the bill or as a separate line item? ii. Should any bill message be included regarding the bill credit/bill discount? b. Does special consideration need to be taken for bill credits/bill discounts provided by municipal electric utilities?

Most of this question is most relevant for the administrating utility. Regarding (a), the discount should be identified monthly as connected to the project by name, i.e. *You are receiving this credit to your electric utility bill as a neighbor of the Sunshine Farms solar electricity generating facility.*

Thank you for the opportunity articulate these recommendations regarding the Commission's development and adoption of a Host Community Benefit Program. On behalf of ACE NY and SEIA, we look forward to reviewing a Host Community Benefit Program Proposal later this year.

Respectfully,

Anne Reynolds

Anne Reynolds, Executive Director
Alliance for Clean Energy New York

David Gahl, Senior Director of State Affairs, Northeast
Solar Energy Industries Associatioin