S.8384 (Parker) / A.9531 (Cusick)

Memorandum in Strong Opposition

April 25, 2022

S.8384 (Parker) / A.9531 (Cusick) - AN ACT to amend the public service law, in relation to providing net revenues from utility-owned large-scale renewable generation projects to low-income customers and authorizes utility companies to own such projects

We strongly oppose S.8384 (Parker) / A.9531 (Cusick). This bill would allow utility ownership of renewable generation, in contravention of over 25 years of New York State energy policy that shields electricity ratepayers from the risk of project development. Re-exposing ratepayers to this risk is not in the public interest, especially given rising energy costs. Having utilities build renewables and charge the full cost to ratepayers will not help achieve the targets of the Climate Leadership and Community Protection Act (CLCPA) any faster or cheaper, partly because utilities cannot get through the Renewable Energy Siting Law (Executive Law Section 94-c) process any quicker than private independent power producers (IPP), as everyone needs to follow the same requirements for environmental review.

The New York State Public Service Commission's (PSC) determination that IPP companies can build and operate generation more efficiently than utilities was one of the main reasons the PSC decided to restructure the electric utility industry in New York over two decades ago. Consistent with this policy, the PSC barred the State's monopoly utilities from constructing and owning renewable generation because of the potential that such ownership would inhibit entry by private market participants, which could result in less competition and higher costs in the long run. The PSC ruled that a utility should only own distributed energy resources if market participants are unwilling to address the need and no one in the market is providing the solution, which is not the case in New York.

No lack of willing IPP investors exists that would necessitate utility involvement, as evidenced by the vigorous response to Requests for Proposals (RFPs) issued by the New York State Energy Research and Development Authority (NYSERDA) under the Clean Energy Standard (CES). More than 88 renewable energy projects (some of which include energy storage), totaling more than 6,000 MW, have received awards under NYSERDA procurements, and there is 6,428 MW of renewable capacity currently installed.

These CES RFPs are for the purchase of renewable energy credits (RECs). Ratepayer support for buying RECs is only a small proportion of overall project development costs, and the rest are covered by payments from the competitive wholesale electricity market. In contrast, utilities would charge ***all*** project development costs to ratepayers. Utilities have a lower cost of capital than IPPs largely because of guaranteed revenues that would have ratepayers cover cost overruns. Cost overruns have been a pattern for prior monopoly utility construction projects that were passed through to captive ratepayers. In the case of privately-owned renewable generation projects, the investors bear the risk of cost overruns and loss, not consumers.

Under the bill, utilities would issue RFPs to third parties to build the facilities. Utilities have proposed this "build-transfer" mechanism in the past, but the PSC has not approved that approach.

Also, the legislation proposes that net revenues from the utility facilities would be provided to low-income customers in the form of bill credits; however, many utilities currently have an immense backlog of community solar bill credits, with tens of thousands of New Yorkers not receiving their bill credits from utilities in a timely fashion under existing programs. Community solar is an approved and tested mechanism for serving low-to-moderate income customers and disadvantaged communities, yet this program is currently being undermined by the utilities failure/refusal to issue bill credits as required through this program. Rather than giving utilities more responsibility for serving New York's disadvantaged communities and meeting the State's equity goals, utilities should be obligated to fix their current inefficiencies in serving these communities through existing programs.

In addition, this year's enacted State Budget provides $250 million for a PSC Utility Arrears Relief Program to reduce gas and electric utilities arrears for residential customers of the utilities, municipal electric systems, and the Long Island Power Authority. Arrears will be reduced through an arrears management plan or placing arrears on a deferred payment agreement, and through the PSC's Energy Affordability Policy Program, the Home Energy Assistance Program, Regular Arrears Supplement Program, and the Emergency Rental Assistance Program.

The bill sends the wrong investment signal to IPP developers of renewable energy projects at exactly the wrong time, when the State is working to meet the CLCPA's targets to dramatically increase its renewable supply and is seeking private sector investment to meet those goals. If adopted, the bill would have the immediate impact of chilling private sector energy investment in this State.

For the reasons stated above, we strongly oppose S.8384 (Parker) / A.9531 (Cusick).

ACE NY is a member-based organization with a mission of promoting the use of clean, renewable electricity technologies, energy efficiency, and transportation electrification in New York State to increase energy diversity and security, boost economic development, improve *public health, and reduce air pollution. Our 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 our mission.*

The Independent Power Producers of New York, Inc. (IPPNY) is a trade association representing companies involved in the competitive power supply industry in New York State and in the development of electric generating facilities, the generation, sale, and marketing of electric power, and the development of natural gas transmission facilities. IPPNY Member companies produce the majority of New York's electricity, utilizing hydro, nuclear, wind, natural gas, solar, energy storage, biomass, oil, and waste-to-energy.

NYSEIA is a not-for-profit industry trade association with a mission to advance and accelerate the deployment of distributed solar energy and energy storage in New York State. We proudly represent hundreds of distributed solar and storage businesses on key legislative, regulatory, and statutory policy matters affecting these industries. Our membership is primarily comprised of local, regional and national firms that develop and install distributed solar energy and battery storage systems across New York State. Our members are working every day to help achieve the ambitious clean energy and equity goals outlined in the Climate Leadership and Communities Protection Act.

The Solar Energy Industries Association® (SEIA) is leading the transformation to a clean energy economy, creating the framework for solar to achieve 30% of U.S. electricity generation by 2030. SEIA works with its 1,000 member companies and other strategic partners to fight for policies that create jobs in every community and shape fair market rules that promote competition and the growth of reliable, low-cost solar power. Founded in 1974, SEIA is the national trade association for the solar and solar + storage industries, building a comprehensive vision for the Solar+ Decade through research, education and advocacy.