

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to
Implement a Large-Scale Renewable Program
and a Clean Energy Standard

Case 15-E-0302

**PETITION REGARDING PROPOSED YEAR 2022 CLEAN ENERGY STANDARD
FUNDING AND RECONCILIATION OF YEAR 2020 OF ADMINISTRATIVE COSTS**

Introduction

The New York State Energy Research and Development Authority (NYSERDA) files this petition seeking identification and quantification of the funds to be used to cover NYSEDA's costs and fees needed to administer the Clean Energy Standard (CES) Renewable Energy Standard (RES) Tier 1, Tier 2, Tier 4 and Offshore Wind (OSW) Programs and the Zero-Emissions Credit Requirements (ZECR) program for the 2022 Compliance Year (Year 2022 Administrative Funds) and to propose an administrative adder for Compliance Year 2022-2023 of the ZECR program.

Background

The Commission has designated NYSEDA as the administrator of all CES programs. In addition to establishing the various CES programs, the 2016 CES Order¹ acknowledged that additional measures, including those necessary to the administration of the CES Program, would be necessary to fully implement the CES, and would be determined during an implementation phase. To date, NYSEDA and Staff have filed five implementation plans. The Commission has approved four implementation plans which describe the processes and activities to be performed by NYSEDA Staff in administering the various programs. The fifth plan, the Tier 2 Resale Implementation Plan, was filed on May 1, 2021² and is under consideration by the New York Public Service Commission. Each year NYSEDA files a Petition

¹ Case 15-E-0302, Proceeding to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Adopting a Clean Energy Standard (issued and effective August 1, 2016). (CES Order) See Appendix A for eligible technologies.

² <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={AF053F82-44D6-4C73-A66B-67E18070A7E9}>

seeking approval to access or collect the funds necessary to cover its costs for administering the various CES programs for the upcoming compliance period.

The scale of New York's commitments and the concomitant activities related to clean energy have expanded greatly over the past few years. In July of 2019, Governor Andrew M. Cuomo signed the Climate Leadership and Community Protection Act (Climate Act). The Climate Act mandates that at least 70% of New York State's electricity come from renewable energy sources such as wind and solar by 2030 and that the State's power system achieve zero emissions by 2040.

On April 2, 2020, Governor Cuomo signed into law the Accelerated Renewable Energy Growth and Community Benefit Act (Accelerated Renewables Act), which makes major changes in the permitting process for large-scale renewable projects. Specifically, the bill established a new large-scale renewable siting process to be managed by a new office within the Department of State and created a Build Ready program, administered by NYSERDA, through which underutilized sites would be developed as renewable generation projects for private market construction and operation.

On June 18, 2020, to implement the Climate Act, the staff of the New York Department of Public Service (DPS) and NYSERDA jointly filed a White Paper on Clean Energy Standard Procurements to Implement New York's Climate Leadership and Community Protection Act³.

On October 15, 2020, the Commission issued its Order Adopting Modifications to the Clean Energy Standard (2020 CES Order)⁴. In the 2020 CES Order, the PSC adopted several modifications to the CES to align it with the Climate Act mandates and approved the request to file one comprehensive annual funding request annually. The Commission also approved the anticipated 2021 administrative expenses for the CES. For 2021, the Commission approved NYSERDA's request to fund its administration through an adder mechanism through which NYSERDA's administrative costs for the respective programs would be allocated across the attributes NYSERDA annually sells to LSEs in each year, and via a commensurately-increased attribute price or an increased LSE rate depending on the approach taken to attribute disposition. The respective adders would reflect the approved administrative costs for 12 months and the shortfall or surplus from previous years, with the adders being reduced by any revenues received in the previous years including bid fees, alternative compliance payments, and interest income.

³ Case 15-E-0302, White Paper on Clean Energy Procurements to Implement New York's Climate Leadership and Community Protection Act.

⁴ Case 15-E-0302, Order Adopting Modification to the Clean Energy Standard. October 15, 2020

The 2020 CES Order also adopted two new programs -- Tier 2 and Tier 4. Tier 2 supports “baseline resources,” which are renewable resources that commenced operation prior to January 2015, to provide a means to ensure that eligible baseline resources continue to operate and that their energy continues to serve New York load. NYSERDA issued its first Competitive Tier 2 Request for Proposals in January 2021⁵ resulting in three agreements. Tier 4 was created to increase the delivery of renewable energy into New York City, which is particularly dependent on polluting fossil fuel-fired generation. NYSERDA aims to procure the unbundled environmental attributes in the form of Tier 4 Renewable Energy Certificates associated with renewable energy delivered into New York City. These environmental attributes include the avoidance of greenhouse gas emissions, as well as the avoidance of local pollutants such as NO_x, SO_x and fine particulate matter. NYSERDA issued its first Tier 4 Request for Proposals on January 13, 2021.⁶

In addition to new Tiers 2 and 4, the CES includes a RES, a ZECR, and an OSW Standard. The ZECR requirement consists of an obligation that LSEs purchase zero emissions credits (ZECs) from NYSERDA in proportion to their load served. The RES consists of an obligation on every LSE to serve their retail customers by procuring new renewable resources, evidenced by the procurement of qualifying Tier 1 RECs or by making Alternative Compliance Payments (ACPs). The LSE obligation approach under the OSW and Tier 4 programs are comparable to that under the ZEC requirement. NYSERDA filed the Tier 2 Re-sale Implementation Plan Proposal on May 1, 2021, which proposes an LSE compliance obligation related to Competitive Tier 2 via an annually calculated per MWh rate that is applied to each LSEs actual wholesale load. Tier 1 RECs, ZECs and Tier 2 RECs will be available for sale to LSEs during the 2022 Compliance Year, while OSW and Tier 4 RECs are not likely to materialize for several years.

2021 Administration Progress Update

As directed by the 2020 CES Order, NYSERDA files quarterly itemized reports⁷ on costs associated with the administration and the development of the CES programs, reconciles actual expenses with approved

⁵ NYSERDA Clean Energy Standard: Competitive Tier 2 Program. <https://www.nysERDA.ny.gov/All-Programs/Programs/Clean-Energy-Standard/Renewable-Generators-and-Developers/Tier-Two-Competitive-Program>

⁶ NYSERDA Clean Energy Standard: Tier 4-New York City Renewable Energy. <https://www.nysERDA.ny.gov/All-Programs/Programs/Clean-Energy-Standard/Renewable-Generators-and-Developers/Tier-Four>

⁷ <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=15-E-0302&CaseSearch=Search>

funding and collections, and applies any differences to subsequent year collection amounts. Table 1 details commitments for the approved 2021 Administrative budgets as of June 30, 2021.

Table 1. Approved Budgets and Commitments as of June 30, 2021						
	RES (Tier 1)	ZECR	OSW (OREC)	Tier 2	Tier 4	Totals
Approved 2021 Budget	\$8,643,080	\$7,778,436	\$8,814,599	\$1,584,193	\$1,625,934	\$28,446,243
Salaries and Overhead	\$1,953,394	\$196,659	\$1,160,330	\$76,161	\$82,187	\$3,468,731
NYS Cost Recovery Expense	\$118,301	\$3,158,814	\$27,849	\$902	\$10,470	\$3,316,336
Technical Support / System Development	\$243,009	\$718,530	\$1,633,018	\$66,620	\$2,422,418	\$5,083,595
Total Commitments	\$2,314,704	\$4,074,003	\$2,821,197	\$143,683	\$2,515,075	\$11,868,662
Remaining Budget Available	\$6,328,376	\$3,704,433	\$5,993,402	\$1,440,510	-\$889,141	\$16,577,581

2022 Administration Proposal

Given the ambitious nature of the goals set forth in the Climate Act and the Accelerated Renewables Act and the corresponding diverse and complex suite of activities needed to achieve the goals, the responsibilities of the NYSERDA CES team continue to expand. The Climate Act requires that 70% of the electricity consumed in the State come from renewable resources by 2030, and that the State zero its carbon emissions by 2040 (2030 and 2040 targets)⁸. The Climate Act also sets procurement targets for various resource types and establishes an investment goal for programs that benefit disadvantaged communities. In the 2020 CES Order the Commission integrated the statutory requirements by expanding the CES, making clear the profound changes necessary to reach the State’s generation mix target for 2030.

Year 2022 will require an increase in staff time to manage and report on contracts resulting from the completed 2017 through 2021 NYSERDA Tier 1 solicitations, which have resulted in 90 new agreements and over 10,800 MW of renewable capacity under contract. Bid proposals for the fifth solicitation,

⁸ PSL § 66-p(b)(2).

RESRFP21-1, are due in August 2021 and will result in additional contracts to negotiate and manage. Given the solicitation cadence and procurement targets set forth in the 2020 CES Order, NYSERDA anticipates the number of projects under active management by the NYSERDA CES team to continue to grow in 2022 and beyond. Historic data for awards from NYSERDA solicitations can be found in Open NY⁹ which includes procurement results, contract status, potential supply of RECs and status of contracted baseline renewables. Under Tier 1 alone, NYSERDA is adding an average 25-30 new agreements per year that must be actively managed from development through settlement. Based on the existing portfolio and forecasted new agreements to be added through anticipated future solicitations, the number of projects under active management is expected to exceed 170 by 2025. The number of clean energy generation projects in commercial operation, for which NYSERDA must provide active financial settlement, is also increasing and is anticipated to exceed 140 projects for RES, Tier 2, Tier 4, OSW and maintenance agreements by 2025. At the same time, settlement is becoming more complex with the adoption of index REC contract structures¹⁰ as opposed to the relatively simple fixed REC structure used in the past.

NYSERDA will be issuing a third Tier 2 RFP in 2022 and will be managing all Tier 2 contracts entered from the first and second RFPs. The Tier 4 program in 2022 will require management of awards from the first solicitation. Both programs will require buildouts of current systems to manage and report activity.

In light of the ambitious nature and scale of the New York's climate goals, NYSERDA is taking an even more active role in contributing to planning and project development processes for awarded projects with the aim to bring forth projects which are both cost-effective and responsibly developed. The resounding success of the CES solicitations and New York's significantly expanding large scale renewable market results in the need for NYSERDA to allocate additional staff toward activities involving procurement, contract negotiations, contract management and analysis as well as other related market development activities such as the administration of the New York Generation Attribute Tracking System (NYGATS), participating in regulatory proceedings related to the Accelerated Renewables Act and advising on all aspects of helping New York become the hub of the burgeoning OSW industry in the northeast United States. NYSERDA also provides support to local governments and communities hosting renewable energy projects by engaging with community leaders to better understand the issues they face, providing free educational seminars and one-on-one technical assistance, and developing resources such as model zoning laws and guidebooks addressing common technology and policy questions.

⁹ <https://data.ny.gov/Energy-Environment/Large-scale-Renewable-Projects-Reported-by-NYSERDA/dprp-55ye>

¹⁰ Case 15-E-0302, Order Authorizing Voluntary Modification of Certain Tier 1 Agreements. November 20, 2020

Year 2022 categories include “Technical Support” and “System Development.” Technical Support includes costs associated with the on-going program consultant support and implementation for the CES programs, development and issuance of procurements and technical evaluation panels for proposal submissions to NYSERDA procurements. A new and notable cost driver this year is increased work on issues related to electrical transmission and energy deliverability both for the terrestrial grid and to support OSW generation. The Accelerated Renewables Act created greater focus on the role of the transmission grid to ensure clean energy generation can be delivered to consumers. NYSERDA is actively working to inform regulatory proceedings related to the Accelerated Renewables Act with timely and accurate assessments of the future of clean energy generation in New York. Furthermore, the growing OSW industry in New York necessitates careful examination of the most cost-effective and resilient approaches for enabling and offshore grid and bringing offshore generated clean electricity into the New York power grid. This includes studying options for meshed versus radial designs, AC vs. DC connections, and cable routing into the greater New York City and Long Island area. Additionally, this petition includes new funding for research, analysis, and stakeholder engagement activities to support the growing OSW industry in New York, including exploration of deeper waters and floating OSW technologies; research to support co-existence with fishermen, agriculture, and wildlife; and other ecosystem and social research/analysis with a goal of providing development certainty, reducing costs and improving development timelines in supplement to NYSERDA’s ongoing and robust initiatives related to offshore wind port infrastructure, continued program development and support related to the on-going contract management of the state’s first and second offshore wind solicitations and on-going planning for future solicitations. As approximately 30 percent of New York’s anticipated future electrical supply and a critical component of decarbonizing the downstate grid and realizing New York State’s 100 percent zero emissions by 2040 goals, NYSERDA is committed to a solid offshore wind program that leads the nation in cost-saving research and predevelopment efforts, that engages comprehensively and proactively with stakeholders through our four Technical Working Groups, and that fosters unparalleled opportunity for economic growth and an inclusive clean energy economy as the nation’s hub for this industry.

System Development includes costs for anticipated revisions to NYGATS and other systems to implement and manage the expanding suite of CES programs and the related LSE compliance activities.

NYSERDA will allocate a proportionate share of the annual New York State Cost Recovery Fee (CRF) to the CES program. The CRF is a fee assessed to NYSERDA and other public authorities by New York State for an allocable share of state governmental costs attributable to the provision of services to public

benefit corporations pursuant to Section 2975 of the Public Authorities Law. For the past six fiscal years, the CRF assessment has averaged about 1.3% of NYSERDA’s annual expenses.

Given the work needed to continue to deliver a high-quality and effective CES program in furtherance of New York’s climate and energy goals, NYSERDA proposes a total administrative budget of \$30,209,000 for the 2022 compliance year as shown in Table 2.

Table 2. Proposed CES Year 2022 Budget						
Program Salary, Overhead and Cost Recovery Fee Expenses	RES (Tier 1)	ZECR (Funded through ZEC Admin. Adder)	OSW (OREC)	Tier 2	Tier 4	Total
Salaries and Overhead	\$5,419,000	\$537,000	\$2,995,000	\$379,000	\$443,000	\$9,773,000
NYS Cost Recovery Expense	\$1,073,000	\$6,399,000	\$136,000	\$13,000	\$6,000	\$7,627,000
Technical Support	\$3,165,000	\$75,000	\$8,502,000	\$195,000	\$60,000	\$11,997,000
System Development	\$150,000	\$582,000	\$20,000	\$40,000	\$20,000	\$812,000
Total	9,807,000	7,593,000	11,653,000	627,000	529,000	30,209,000

NYSERDA’s administrative budget includes NYSERDA staff direct and indirect salaries, fringe benefits, and other direct program operating costs and allocated general and administrative expenses. As directed in the October 2020 Order, NYSERDA continues to keep detailed account of all costs in administering the CES program and any unspent administrative funds will be used for future ratepayer benefit.

The proposed budget in Table 2 includes 2 new full-time employee (FTE) positions. These positions are incremental to the 27.5 FTEs approved in the CES Modification Order. As previously discussed, NYSERDA anticipates that significant increases in the number of CES projects in active development and under active management by CES Staff will continue over the next several years. NYSERDA also anticipates a corresponding increase in projects reaching commercial operation which translates to significant growth in both the quantity of invoices being processed by NYSERDA and the total dollar value associated with those invoices. To manage this increased workload, NYSERDA proposes adding 2

additional FTE positions to the CES team with one position focused on managing renewable generation projects in development and the other position supporting CES financial management including settlement.

2020 Budget Reconciliation

NYSERDA files quarterly itemized reports on the costs associated with the administration and the development of the CES programs. As is shown in Table 3, NYSERDA is projecting a deficit in the ZECR program for 2020 that NYSERDA proposes to cure via incorporation of that deficit into the 2022 ZEC adder as described in the next section of this proposal.

Table 3. Unspent CES Compliance Period Funds – RES and ZECR through Year Four (2020)			
Program Salary, Overhead and Cost Recovery Fee Expenses	Budget	End of Year Committed	Unspent Funds
RES Salary and Overhead	\$3,927,880	\$3,445,046	\$482,834
RES NYS Cost Recovery Fee Expenses	\$177,894	\$128,369	\$49,525
RES Technical Support	\$1,300,000	\$1,297,706	\$2,294
RES System Development	\$1,850,000	\$1,758,406	<u>\$91,594</u>
RES Total			\$626,247
ZECR Salary and Overhead	\$437,716	\$411,292	\$26,424
ZECR NYS Cost Recovery Fee Expenses	\$4,874,394	\$6,154,506	(\$1,280,112)
ZEC Technical Support	\$295,000	\$170,940	\$124,060
ZEC System Development	\$100,000	\$6,768	<u>\$93,232</u>
ZEC Total			(\$1,036,396)
Total	\$12,962,884	\$13,373,033	(\$410,149)

Sources of Funds and Funding Proposal

NYSERDA proposes to fund its administration of the Tier 1, Tier 2, Tier 4 and OSW programs with revenues received in the previous years including bid fees, alternative compliance payments (ACP) and interest income, and to fund the ZEC program with an adder charge.

In accordance with previously filed implementation plans, NYSERDA collects bid fees as part of the OSW, RES Tier 1 and Tier 2 programs and has collected funds due to contract security forfeitures as part of the Tier 1 program. Per the respective implementation plans, the Commission authorized that these funds can be used to offset the costs of administering these programs. NYSERDA anticipates closing

calendar year 2021 with a balance of approximately \$10.6 million in cumulative bid fees, bid deposits and forfeited contract security.

Similarly, the Commission has authorized the use of ACP funds to offset the cost of achieving the RES goals, including mitigating any impact to customers related to the financial backstop as described in the Order approving the Phase 2 Implementation Plan.¹¹ NYSEDA carried a balance of \$9.2 million in ACP collections into 2021 as reflected in the CES Financial Status Report for calendar year 2020 filed on March 30, 2021.¹²

NYSEDA forecasts collecting an additional \$43.6 million in ACP collections when settling the 2020 compliance year which will manifest as revenue in the 2021 calendar year. NYSEDA therefore anticipates ending calendar year 2021 with approximately \$52.8 million in cumulative ACP collections resulting in an overall of surplus of \$57.9 million as shown in Table 4.

Table 4. Preliminary Estimate of CES RES surplus funding (\$000s)	
Revenue/Source of Funds	
Renewable Energy Credit Proceeds	\$31,000
Alternative Compliance Payments	\$43,574
Management/Bid Fees	\$2,000
Contract Security and Bid Deposits	\$1,000
Investment Income	\$150
Total	\$77,724
Expense/Use of Funds	
Program Administration	\$4,400
Program Support	\$1,068
System Development Costs	\$2,500
REC Payments to Generating Facilities	\$31,000
NYS Cost Recovery Fee	\$632
Total	\$39,600
Surplus/(Deficit)	\$38,124
Beginning Surplus/(Deficit), January 1, 2021	\$19,785
Cumulative Surplus/(Deficit)	\$57,909

¹¹ Case 15-E-0302. Order Approving Phase 2 Implementation Plan. November 17, 2017

¹² <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={C95A6077-4AB2-4F1D-AA4B-2B039AEFFF20}>

For the ZECR program, NYSERDA proposes to continue to fund its administration of the ZECR program through a ZEC adder. NYSERDA proposes to also use the adder to cover the shortfall of funding for Year 4 (2020) which were primarily due to the ZECR NYS Cost Recovery Fee Expenses as previously detailed in Table 3.

As directed in the November 16, 2016, Order, NYSERDA has kept a detailed account of all costs in administering the CES program and any unspent administrative funds will be used for future ratepayer benefit. Any funds collected through the ZEC adder will, if unspent, be returned to the LSEs who purchased ZEC's, in a proportionate amount.

Conclusion

NYSERDA respectfully requests that the Commission approve the proposed CES Year 2022 administrative costs and the corresponding proposal to fund 2022 administration of Tier 1, Tier 2, Tier 4 and OSW programs with revenues received in the previous years including bid fees, forfeited contract security funds, alternative compliance payments received, and interest income, and to fund the ZEC program with an administrative adder charge as in previous years.

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Respectfully submitted,



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