

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on March 19, 2020

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Diane X. Burman, dissenting
James S. Alesi
Tracey A. Edwards
John B. Howard

CASE 15-E-0751 - In the Matter of the Value of Distributed
Energy Resources.

ORDER REGARDING COMMUNITY CREDIT AND
COMMUNITY ADDER ALLOCATIONS

(Issued and Effective March 19, 2020)

BY THE COMMISSION:

INTRODUCTION

Through the Value of Distributed Energy Resources (VDER) proceeding, the Public Service Commission (Commission) has directed the transition of compensation for distributed generators (DG) from previous methods with limited accuracy and granularity, like net energy metering (NEM), to the Value Stack, which provides compensation based on the actual, calculable values that the generator output provides to the electric

system.¹ On April 18, 2019, the Commission issued the VDER Compensation Order, which modified the calculation and compensation methodology of a number of elements of the Value Stack.² In particular, it refined the transitional incentives added to the Value Stack for Community Distributed Generation (CDG) projects, making available the Community Credit in the service territories of New York State Electric & Gas Corporation (NYSEG), Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), Rochester Gas and Electric Corporation (RG&E), and Consolidated Edison Company of New York, Inc. (Con Edison). The VDER Compensation Order also made the Community Adder available in the service territories of Central Hudson Gas & Electric Corporation (Central Hudson) and Orange and Rockland Utilities, Inc. (O&R).

On November 1, 2019, the New York State Energy Research and Development Authority (NYSERDA) submitted a Petition (the Petition) requesting that the Commission ensure continued availability of the Community Credit and, as an alternative, the availability of the Community Adder in the National Grid, NYSEG, and RG&E service territories. NYSERDA explained that the capacity allocated to Community Credit in National Grid and NYSEG was almost exhausted and recommended that the Commission open up additional Community Credit availability by reallocating capacity assigned to cancelled

¹ Case 15-E-0751, Value of Distributed Energy Resources, Order on Net Energy Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters (issued March 9, 2017) (VDER Transition Order); Order on Phase One Value of Distributed Energy Resources Implementation Proposals, Cost Mitigation Issues, and Related Matters (issued September 14, 2017) (VDER Implementation Order).

² Case 15-E-0751, supra, Order Regarding Value Stack Compensation (issued April 18, 2019) (VDER Compensation Order).

projects and authorize NYSEERDA to pay a Community Adder to projects in those service territories once the Community Credit was fully exhausted.

In this Order, the Commission grants the Petition in part, with modifications. National Grid, NYSEG, and RGE are directed to reallocate capacity from closed tranches where available capacity remained due to projects being cancelled since the issuance of the VDER Compensation Order, and to assign that capacity to a new Community Credit Tranche with compensation at 2 cents per kWh. Furthermore, those utilities shall continue to reallocate capacity to this new Tranche for the next six months when there are cancellations of projects that have received a Market Transition Credit (MTC) or Community Credit allocation. NYSEERDA's request for authorization to provide a Community Adder in those service territories once the Community Credit capacity is fully exhausted is deferred until the Commission has an opportunity to consider NYSEERDA's Petition Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025,³ where future incentives and compensation for CDG and other distributed solar projects can be considered holistically.

BACKGROUND

The VDER Transition Order directed the transition of compensation for eligible Distributed Energy Resources (DERs) from NEM to the Value Stack for various rate classes and project types. The Value Stack is a methodology that bases compensation

³ Case 19-E-0735, Petition of New York State Energy Research and Development Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025, Petition of New York State Energy Research and Development Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025 (filed November 25, 2019) (NY-Sun Expansion Petition).

on the actual, calculable benefits that DERs create. DERs subject to the Value Stack receive compensation for the energy they inject into the utility system according to a set of values that are calculated based on the utility costs they offset, including: Energy Value, based on the energy commodity purchase requirements offset by each kilowatt-hour (kWh) injected; Capacity Value, based on the Installed Capacity (ICAP) purchase requirements offset by injections; Environmental Value, based on the Renewable Energy Credit (REC) compliance cost offset by each kWh injected; Demand Reduction Value (DRV), based on the distribution costs offset by injections, averaged across the utility's service territory; and, Locational System Relief Value (LSRV), available only in locations that the utility has identified as having needs that can be addressed by DERs, and based on the higher, specific distribution costs offset by injections in that area.

The VDER Transition Order also established a number of transitional mechanisms to moderate the changeover from NEM to the Value Stack for various customer classes and project types, including Phase One NEM, which is a limited continuation of NEM-style compensation, and the MTC, which is an adder to the Value Stack for mass market customers participating in CDG projects designed to make Value Stack compensation approach the previous level of compensation under NEM.

The VDER Compensation Order modified the calculation and compensation methodology of a number of elements of the Value Stack. Specifically, inter alia, it replaced the MTC for new projects in certain utility territories with the Community Credit. The Community Credit is, like the MTC, a per kWh adder to the Value Stack for CDG members; unlike the MTC, it is not limited to only mass market customers but instead goes to all CDG members. In addition, while customers receiving the MTC do

not receive the DRV, customers who receive the Community Credit do also receive the DRV.

The MTC applies to mass market subscribers of CDG projects in Tranches 1-4 in all electric utility service territories.⁴ The Community Credit applies to all subscribers of CDG projects in the Community Credit Tranche in the Con Edison, National Grid, NYSEG, and RG&E service territories.⁵ The MTC and Community Credit are intended as transitional mechanisms to moderate the changeover from NEM to the Value Stack for various customer classes and project types, and to maintain an annual net revenue impact of less than 2% in order to limit the potential cost shift to nonparticipating ratepayers.

The Commission directed the utilities to calculate the 2% revenue impact target based on the assumed output of a solar generator, and established capacity-based Tranches for the MTC and Community Credit that were consistent with this 2% revenue impact target.⁶ Specifically, the VDER Transition established the sizes of Tranche 0/1, Tranche 2, and Tranche 3; a subsequent order established the size of Tranche 4 in Central Hudson and O&R;⁷ and the VDER Compensation Order closed the existing Tranches in Con Edison, National Grid, NYSEG, and RG&E and created a Community Credit Tranche in each of their territories based on their respective remaining capacity, including capacity originally allocated to projects that became unused when those

⁴ Case 15-E-0751, supra, VDER Transition Order.

⁵ Case 15-E-0751, supra, VDER Compensation Order.

⁶ Case 15-E-0751, supra, VDER Transition Order, pp. 126-127; VDER Compensation Order, pp. 25-27.

⁷ Case 15-E_0751, supra, Order Regarding Compensation of Community Distributed Generation Projects (issued January 18, 2018).

projects were cancelled. A project is assigned a Tranche position in the available Tranche at the time it qualifies.⁸

The Commission directed that, if a project that qualified for the Community Credit Tranche was later cancelled, its capacity be returned to the Community Credit Tranche as available capacity, as long as the Community Credit Tranche had not been fully exhausted at that time. However, the Commission directed that capacity related to cancellations in Tranche 0/1, Tranche 2, and Tranche 3 after the issuance of the VDER Compensation Order, as well as cancellations in the Community Credit Tranche after its closure, not be reallocated. Rather, the Commission stated that it would monitor such cancellations and would later consider the use of excess capacity created.

The Community Adder was also established in the VDER Compensation Order. The Community Adder is an upfront incentive paid to eligible projects by NYSERDA in addition to other applicable NYSERDA incentives, intended to replace the MTC. The VDER Compensation Order established the Community Adder in O&R and Central Hudson, where no Community Credit Tranches were created as the MTC Tranches had used up all available capacity. The Community Adder for these territories was set at a level intended to approximately equal the Net Present Value of the Community Credit in the National Grid, NYSEG, and RG&E service territories. The VDER Compensation Order explained that as Community Credit availability is exhausted and to the extent that above-Value-Stack compensation continues to be needed to ensure robust development of CDG projects, it would be appropriate to consider extending the Community Adder to

⁸ A project "qualifies" when it meets the standard for placement in a Tranche; that is, when it has a payment made for 25% of its interconnection costs or has its Standard Interconnection Contract executed if no such payment is required.

projects in other utility territories not receiving an MTC or Community Credit, as well as to extend its availability in Central Hudson and O&R.

THE PETITION

In the Petition, NYSERDA explains that the VDER Compensation Order has driven robust development, particularly in the National Grid and NYSEG territories, such that the Community Credit Tranches in those territories were almost exhausted. NYSERDA states that the incentives provided by the Community Credit continue to be necessary for robust CDG development in New York without market disruption. NYSERDA notes that some projects in MTC Tranches were cancelled since the issuance of the VDER Compensation Order, resulting in additional empty capacity. NYSERDA recommends that the Commission direct that such empty capacity be reallocated to new Community Credit Tranches at National Grid, NYSEG, and RG&E valued at \$0.02 per kWh, a step down from the \$0.0225 per kWh level of the Community Credit authorized in the VDER Compensation Order, reflecting the continued reductions in solar and CDG costs.

NYSERDA also requests that, to avoid market uncertainty or disruption following the exhaustion of this new Tranche, the Commission authorize NYSERDA to provide a Community Adder to CDG projects in National Grid, NYSEG, and RG&E not receiving an MTC or Community Credit. NYSERDA recommends that the Community Adder be set at \$0.18 per Watt DC and be funded using up to \$35 million of currently uncommitted NY-Sun funds. NYSERDA notes that it is preparing a further filing that will request additional funding as part of a comprehensive expansion of the NY-Sun Program to achieve the State's 6 GW solar deployment target.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking (Notice) was published in the State Register on November 20, 2019 [SAPA No. 15-E-0751SP30]. The time for submission of comments pursuant to the Notice expired on January 21, 2020. The comments received, which include those from the Indicated Utilities,⁹ the Clean Energy Parties (CEPs),¹⁰ and Borrego Solar Systems, Inc. (Borrego), are addressed below.

COMMENTS

The Indicated Utilities oppose the reallocation of unused capacity into a new Community Credit Tranche. They argue that this reallocation would result in larger total capacity than anticipated in the VDER Transition Order and VDER Compensation Order and therefore would result in a net revenue impact above the 2% target. They also argue that it would be contrary to the Commission's prior statements regarding the reopening of closed Tranches. However, the Indicated Utilities support NYSERDA's request for authorization to support projects not receiving a Community Credit with a Community Adder funded by NY-Sun.

CEPs support NYSERDA's proposals in spirit but suggest certain modifications. With respect to the reallocation of cancelled capacity to a new Community Credit Tranche, CEPs support the proposed reallocation. CEPs note that they do not

⁹ For the purposes of this Order, the Indicated Utilities are Central Hudson, Con Edison, NYSEG, O&R, and RG&E. National Grid did not file comments.

¹⁰ For the purposes of this Order, the Clean Energy Parties are the Coalition for Community Solar Access, New York Solar Energy Industries Association, and Solar Energy Industries Association.

oppose the step-down to a \$0.02 per kWh Community Credit but caution against stepping down too quickly. With respect to the Community Adder, CEPs support the availability of a Community Adder but express concern that the \$0.18 per Watt DC level proposed by NYSERDA is too low to support financing of projects developed prior to the implementation of consolidated billing. CEPs state that the \$0.18 per Watt DC Community Adder would be 45% lower than the \$0.0225 per kWh Community Credit. As an alternative to NYSERDA's proposal, CEPs recommend that the Commission ensure that as much capacity as possible is made available in the new Community Credit Tranche and create a bridge Community Adder for National Grid, NYSEG, and RG&E of at least \$0.26 per Watt DC. CEPs also request that the Commission act on the Petition as soon as possible given the exhaustion of existing Tranches in the National Grid and NYSEG service territories.

Borrego supports the comments of the CEPs and also generally supports the Petition, with certain recommended modifications. With respect to a Community Credit reallocation, Borrego supports the Petition and recommends that the Commission take additional action to ensure that nonviable projects are not inappropriately holding MTC or Community Credit capacity. Borrego supports the establishment of a Community Adder but recommends that a time-limited bridge Community Adder be created at \$0.26 per Watt DC to support mature projects.

LEGAL AUTHORITY

As described in the VDER Transition Order, the Commission has the authority to direct the treatment of DER by electric corporations pursuant to, inter alia, PSL §§ 5(2), 66(1), 66(2), and 66(3). Pursuant to the PSL, the Commission determines what treatment will result in the provision of safe

and adequate service at just and reasonable rates consistent with the public interest.

DISCUSSION AND CONCLUSION

The Commission grants NYSERDA's request that the MTC or Community Credit Tranche capacity allocated to projects that were later cancelled be used to create a new Community Credit Tranche 2 with a compensation level of \$.02 per kWh at National Grid, NYSEG, and RG&E. This new Tranche should be sized to maintain the approximate total capacity allocated to MTC and Community Tranches at each utility at the level authorized in the VDER Compensation Order. Those total capacity numbers, slightly modified to avoid fractional Tranche sizes and ensure that the 2% net revenue impact limit is adhered to, is 620 MW for National Grid, 381 MW for NYSEG, and 150 MW for RG&E. The size of Community Credit Tranche 2 should be equal to that total capacity allocation minus the capacity of active projects in all other Tranches, as well as any remaining available capacity in Community Credit Tranche 1. For example, for National Grid, currently available data shows 68 MW allocated to active projects in MTC Tranche 0/1 and 521 MW allocated to active projects in Community Credit Tranche 1, with no remaining available capacity in Community Credit Tranche 1; based on those numbers, Community Credit Tranche 2 would be sized at 31 MW.

However, unlike the other Tranches, Community Credit Tranche 2 is not being fixed to a specific size at each utility in this Order. Rather, Community Credit Tranche 2 should continue to expand if additional cancellations occur, consistent with the recommendations of CEPs and Borrego. This will ensure that the funds allocated to support CDG through the MTC and Community Credit are used for those purposes and that differential levels of cancellations do not result in

inconsistent investment in CDG across utilities. To ensure that sufficient time is allowed such that projects currently in the queue are required to fully commit to their project by paying 100% of their interconnection costs, this practice of reallocating open capacity shall continue for a minimum of six months, until November 1, 2020. However, to avoid creating excessive uncertainty, this reallocation shall only occur at each utility until the Community Credit Tranche 2 at that utility is full and cancellations have slowed such that there are no cancellations for one calendar month.

National Grid, NYSEG, and RG&E shall each maintain a waitlist of projects that qualify at a time when no capacity is available in Community Credit Tranche 2,¹¹ ordered by the date on which each project qualified. Whenever a cancellation results in additional capacity becoming available in Community Credit Tranche 2, it shall be allocated to projects on that waitlist, in order of qualification date, starting with the one that qualified earliest. Each utility shall update the size of Community Credit Tranche 2 at least once per month and immediately inform a developer when that developer is allocated capacity. Consistent with present practice, each utility shall also provide NYSERDA information each month on the capacity of each Tranche for publication on NYSERDA's website; in addition, each utility shall provide NYSERDA with the waitlist of projects that are eligible for Community Credit Tranche 2 but have not yet been allocated capacity, in order by qualification date, so that developers are aware of their position on the waitlist. To the extent that a Community Adder is authorized in National Grid, NYSEG, and RG&E, any project on the waitlist that reaches

¹¹ For National Grid and NYSEG, this includes projects that qualified after Community Credit Tranche 1 was closed and before Community Credit Tranche 2 is open.

the milestone for Community Adder allocation may forfeit its position on the waitlist and its eligibility for a Community Credit and elect to receive the Community Adder instead.

The deadlines in the Standardized Interconnection Requirements (SIR) generally require that projects that have qualified move forward, including paying the remainder of their interconnection costs by a fixed deadline, and thus should ensure that developers cancel nonviable projects within the reallocation period. However, as Borrego notes, these deadlines may not always result in the formal cancellation of projects without utility action. Borrego's concerns that utility forbearance in cancelling projects that miss deadlines or developers' requests for extensions could result in no-longer-viable projects occupying queue space are reasonable. Generally, consistent with the SIR, utilities should cancel projects where the developer fails to make the full payment on time. Uniformly applied, this rule is fair and will ensure that community credits are available to projects that show continued progress toward interconnection. However, the Commission notes that, given current conditions, some additional extensions or flexibility may be appropriate, and expects to consider holistic action to address this issue.

The creation of and allocation of capacity to Community Credit Tranche 2 is not applied to Central Hudson and O&R, as MTC Tranche 3 in those two utilities experienced significant overflow such that the estimated net revenue impact in those utilities remains at approximately 2% even after attrition. In addition, Community Adders have already been authorized and are currently available in Central Hudson and O&R. The changes directed in this Order are also not applied to Con Edison, as Con Edison has minimal allocated capacity in its MTC Tranches and has substantial remaining capacity available in

its Community Credit Tranche; to the extent that any projects allocated capacity in Con Edison's Community Credit Tranche are subsequently cancelled, Con Edison should continue to return the capacity to that Tranche as is currently the practice.

The position of the Indicated Utilities regarding the reallocation of closed capacity appears to reflect a misunderstanding of NYSERDA's proposal. Their comments claim that granting the proposal would "significantly exceed the MW used in the calculations the Commission relied upon to justify the establishment of the Community Credit in the first instance" and specifically state that the proposal would result in 540 MW of CDG in Tranches at NYSEG and RG&E. This appears to be based on an assumption that NYSERDA would base the size of the new Community Credit Tranche on all cancelled projects. This is not correct; the proposal in the Petition is to restore the total capacity to the numbers used in the VDER Compensation Order, where the Community Credit was established, by reallocating capacity for projects that have cancelled since that Order was issued. Specifically, this would retain the total capacity of all Tranches at NYSEG and RG&E at 468 MW, as shown in Appendix B to the VDER Compensation Order. This reflects the fact that the sizing of the Community Credit Tranches in the VDER Compensation Order took into account all projects that were cancelled before that Order was issued. As the capacity is being moved from higher compensation MTC or Community Credit Tranches to a lower compensation Community Credit Tranche, this can only result in a reduction of net revenue impacts as compared to the VDER Compensation Order.

The Commission recognizes that there are serious disagreements among the parties regarding the appropriate level of the Community Adder. The NY-Sun Expansion Petition, filed by NYSERDA on November 25, 2019 in Case 19-E-0735, contains

proposals related to the continued availability and levels of the Community Adder, as well as proposals related to other NY-Sun incentives, including the base incentive and other adders. As the appropriate level of the Community Adder is interrelated with the level and availability of other incentives, considering the Community Adder as part of consideration of the NY-Sun Expansion Petition, rather than deciding upon it at this time, will allow for a more holistic consideration of its appropriate level. As the Community Credit Tranche 2 availability will continue to be allocated over at least the next six months, a minor delay in resolution of the level of the Community Adder will not result in a significant increase in uncertainty for developers.

National Grid, NYSEG, and RG&E are directed to file the tariff amendments needed to implement the Community Credit Tranche 2. As this Order was the subject of substantial public process, the requirements related to newspaper publication of tariff amendments are waived for those amendments.

The Commission orders:

1. New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, and Rochester Gas and Electric Corporation are directed to file, in conformance with the discussion in the body of this Order, tariff leaves implementing the modifications to the Value of Distributed Energy Resources policy and to the Value Stack in this order, on not less than 20 days' notice to become effective on May 1, 2020.

2. Consistent with the discussion in the body of this Order, New York State Electric & Gas Corporation (NYSEG), Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), and Rochester Gas and Electric Corporation (RG&E) shall

reallocate capacity that had been allocated to cancelled projects to the new Community Credit Tranche 2 to maintain total cumulative Market Transition Credit (MTC) and Community Credit capacity of 318 MW in NYSEG, 620 MW in National Grid, and 150 in RG&E. NYSEG, National Grid, and RG&E shall each continue to reallocate capacity in this way until the later of November 1, 2020, or the first month in which the Community Credit Tranche 2 is full and there are no project cancellations.

3. Consistent with the discussion in the body of this Order, New York State Electric & Gas Corporation (NYSEG), Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), and Rochester Gas and Electric Corporation (RG&E) shall provide updates at least once per month to the New York State Energy Research and Development Authority including the current capacity in each Tranche and a list of any projects that are eligible for Community Credit Tranche 2 but have not yet been allocated capacity, in the order that those projects met the milestone for being assigned to a Tranche.

4. The requirements of Public Service Law §66(12)(b) and 16 NYCRR §720-8.1, related to newspaper publication of the tariff amendments described by Ordering Clause No. 1, are waived.

5. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

6. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary