Advancing the Clean Energy Future

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VIA ELECTRONIC DELIVERY

September 14, 2015

Honorable Kathleen H. Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Case 15-E-0302 – In the Matter of the Implementation of a Large-Scale Renewable Program

Dear Secretary Burgess,

In accordance with the Notice Instituting Proceeding, Soliciting Comments and Providing for Technical Comments and the Notice Extending Deadline for Comments issued by the New York Public Service Commission on June 1, 2015 and July 15, 2015, respectively, in the above-referenced matter, Acadia Center hereby submits the enclosed reply comments in response to initial comments filed in this proceeding.

Respectfully submitted,

/s/

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of the Implementation of a Large-Scale Renewable Program

Case 15-E-0302

ACADIA CENTER REPLY COMMENTS

I. Introduction

Acadia Center respectfully submits the following comments in response to initial comments filed by parties in the Matter of the Implementation of a Large-Scale Renewable ("LSR") program (15-E-0302) on or before August 12, 2015. We welcome the opportunity to submit reply comments on this important issue and note our support for the comments urging the New York Public Service Commission ("Commission") to reject utility ownership of LSR projects.

More than 100 parties filed individual or joint comments on the LSR Options Paper, issued on June 1, 2015, that analyzed various procurement methodologies and issues related to LSRs. Acadia Center would like to take this opportunity to support a number of ideas expressed in the initial party comments and provide our own perspective on why private development of LSRs is most consistent with the state's clean energy objectives.

II. Competition is Essential to Promote Efficient Renewable Energy Markets

The ultimate goal of the Reforming the Energy Vision ("REV") process is to reorient the electric industry and the ratemaking paradigm toward a consumer-centered approach that harnesses technology and markets. Many parties –

including ACE NY et al.,[1] Citizens for Local Power,[2] "IPPNY",[3] Multiple Intervenors, New York Independent System Operator ("NYISO"), NRG Energy, ReEnergy Holdings, and Standard Solar[4] – make compelling arguments that the Utility Owned Generation (UOG) procurement option runs counter to that goal and the objectives of the REV initiative as outlined by the Commission.

In its Order Adopting Regulatory Policy Framework and Implementation Plan, the Commission defined market animation as one of the six REV proceeding objectives, and as noted in initial comments by the Independent Power Producers of New York ("IPPNY") the Commission has ruled that:

> "…a basic tenet underlying REV is to use competitive markets and risk based capital as opposed to ratepayer funding as the source of asset development. On an ex ante basis, utility ownership of DER conflicts with this objective and for that reason alone is problematic."[5]

Acadia Center believes that utility ownership of LSR generation assets is also inconsistent with the REV vision of using competitive markets and utilities as platforms that provide consumers with access to cost-effective, market-based products and services. Ultimately, the risks of UOG outweigh the potential benefits as it limits competition, encourages inefficient investment, and discourages innovation, which may result in higher consumer electric costs.

Further, as noted by NRG and others, UOG runs counter to a longstanding NY energy policy of maintaining competitive and open markets that spur deployment of renewable energy.[6] For the past 20 years, the Commission has encouraged competition in the wholesale generation market that properly placed the risk of loss and cost overruns on private investors rather than ratepayers. Restructuring also ensured that transmission and distribution utilities could not exercise vertical market power to the detriment of wholesale competitive electricity markets and consumers.[7]

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[1] Sub-section C – "The LSR Program should not allow utility-owned generation" – beginning on p. 9 of the submission by ACE NY et al. filed on August 13, 2015

[2] Pp. 2-3 of the submission by Citizens for Local Power filed on August 12, 2015.

[3] Sub-section B – "UOG Chills Private Investment" – beginning on p. 8 of the submission by IPPNY filed on August 12, 2015.

[4] P. 2 of the submission by Standard Solar filed on August 12, 2015

[5] See p. 10 of the submission by IPPNY filed on August 12, 2015.

[6] See, for example, p.2 of the submission by NRG Energy, Inc. filed on August 13, 2015.

[7]In the only two cases where the Commission permitted utility ownership -- ConEd to retain and Iberdola to acquire certain generation assets – a demonstration of significant ratepayer benefits was required. P. 15 of the submission by IPPNY filed on August 12, 2015.

III. Private & Community Ownership Drives Innovation and Cost Savings

Many of the initial commenters emphasized that private developers have the greatest incentive to operate in the most cost-efficient way to reduce their costs and maximize their returns resulting in lower costs for end users. NYSERDA's current financial analysis demonstrates that "…privately-owned projects with bundled PPAs deliver the lowest-cost solution and that financial tools such as YieldCos can drive costs down further."[8] Further, the Commission reached the same conclusion twenty years ago in its Opinion 96-12 when faced with the question in *In the Matter of Competitive Opportunities Regarding Electric Service* case.

In contrast, a cost of service regulatory regime allows utilities to recover costs of failed or inefficient generation projects, providing them with little incentive to run their operations in a least cost manner. In fact, because utilities receive a return on capital investments they have an incentive to spend more on renewables projects. Utility ownership – even under a competitive procurement framework – further exacerbates market inefficiencies as it is difficult for private investors to compete in an open source solicitation when utilities have market advantage due to asymmetric access to information, guaranteed rates of return, and other incumbent advantages.

IV. Other Risks Related to Utility Owned Generation

Utility ownership of generation assets effectively insulates LSRs from wholesale market pricing signals and has the potential to adversely impact the functioning of the energy markets and the reliability of the state's electric system.[9] Transparent and accurate price signals provide the foundation for economically efficient generation, transmission, demand response, energy efficiency, and grid modernization, while incorrect signals lead to inefficient decisions and ultimately higher costs for consumers.

In addition, Joint Utilities assert that their strong credit ratings translate into lower financing costs as opposed to developers, some of which are rated below investment grade.[10] Colloquially known as "widow and orphan" stocks and bonds, utilities' financial instruments have earned a reputation of stable and safe investments. However, it is unclear whether this historic trend will continue unchanged. Distributed energy trends have recently prompted Barclays, a major investment bank, to downgrade electric utility bonds. Barclays noted in its analysis that transition to distributed energy resources is inevitable and will only accelerate going forward making the renewables market more attractive for investors than traditional fossil fuels. [11] Increased competition has a potential to change utilities' risk profile resulting in higher cost of capital and ultimately higher rates under the cost of service regime.

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[8] NYSERDA's Large-Scale Renewable Energy Development in New York: Options and Assessment." p. 126.

[9] NYISO, p. 4, 8

[10] Joint Utilities, p. 5-6

[11] http://blog.rmi.org/blog_2014_06_10_the_barclays_downgrade_of_the_entire_us_electricity_sector

V. Utility Owned Generation is a Step Away from Progressive and Efficient Renewables Market

Acadia Center supports the Citizens for Local Power argument that utility owned generation has a detrimental impact on community renewable generation. Once utilities are allowed to own generation assets, they have little incentive to support Community Choice Aggregation ("CCA") or community-owned renewable competitor projects. They would, however, have an incentive to assert monopolistic barriers in the form of information control, and onerous and expensive interconnection/grid access processes.[12] Considering the importance of community distributed energy programs for the success of the REV initiative as a whole, it is imperative for the Commission to carefully evaluate the potential negative impact on community distributed generation initiatives that stems from utility owned generation.

Instead of investing large amounts of capital in generation assets, utilities should be directed and incentivized to invest in technology, programs, and systems that help to modernize the grid, facilitate the achievement of REV objectives, and achieve deep emissions reductions in the overall energy system. Private developers and communities are more appropriately placed to generate the clean renewable electricity needed to power the grid.

VI. Conclusion

Acadia Center is grateful for the ongoing opportunity to participate in this important proceeding and looks forward to supporting the development of an electric system that empowers consumers and communities and reduces energy system emissions.

[12] Citizens for Local Power, p. 2