July 24, 2020

RE: Case 15-E-0302 - Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard

Thank you for the opportunity to submit comments on the Department of Public Service (DPS) and New York State Energy Research and Development Authority (NYSERDA) recently issued "White Paper on Clean Energy Standard Procurements to Implement New York's Climate Leadership and Community Protection Act" (the White Paper). The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate.

REBNY commends DPS and NYSERDA for their leadership in helping the State achieve the targets set by the Climate Leadership and Community Protection Act (CLCPA). In setting New York on a path to a carbon-neutral economy, the CLCPA requires that 70 percent of electricity be sourced from renewable resources by 2030. The White Paper lays out a comprehensive and aggressive approach that will help New York achieve its nation-leading objectives.

As owners and operators of buildings, REBNY members are eager to help the State achieve its carbon reduction goals, including the CLCPA's electric sector targets and the State's overall energy efficiency goals. With electricity comprising a significant amount of the energy used in buildings, reducing the carbon-intensity of electricity is a vital component of ultimately decarbonizing the building stock. At the same time, REBNY members also continue to make significant investments in energy efficiency to use less energy overall. Indeed, achieving both objectives will be critical for building owner's ability to reach locally mandate carbon emission reductions goals.

The White Paper lays out an aggressive framework to align the Clean Energy Standard with the CLCPA. In particular, the White Paper puts forward proposals that will bring additional focus to decarbonizing the downstate region, including New York City. If adopted, the combination of the proposed Tier 4 renewable energy credit (REC) and aggressive offshore wind plans should allow New York City to significantly lessen its reliance on the natural gas-fired electric generating facilities in New York City. Importantly, the deployment of these resources will improve air quality throughout New York City and particularly in New York City's environmental justice communities that are near the existing generating facilities.

Further, the White Paper appropriately recognizes the opportunity for the State to leverage resources of building owners and other private actors. Specifically, the proposal to allow NYSERDA to resell offshore wind, Tier 2, and Tier 4 RECs to voluntary purchasers will allow private capital to be used to further the goals of the CLCPA. As stated in the White Paper, many New York City building owners are interested in procuring RECs from NYSERDA. Enabling such investment to occur is one way to help State dollars go further while also reducing the need to socialize the overall cost burden on all ratepayers.

While we believe the proposed Tier 4 REC concept offers significant benefits, we also recognize that it is a novel concept. Therefore, if it is to succeed, it will be important that as many details as possible be clarified and understood by market participants in advance of any implementation plan being issued. To do so, it would be prudent to promptly convene an opportunity for all stakeholders – resource owners, transmission developers, utilities, Energy Service Companies, and particularly consumers – to exchange views, provide input, and help to shape the concept into a workable, desirable program. The PSC has a long tradition of setting policy after providing opportunities for stakeholders to interact with DPS Staff and each other, as well as the submission of written comments, and we believe such engagement on this newly proposed concept would help ensure its success.

In summary, we believe the White Paper represents a significant step forward and look forward to its enactment into State policy.

The below sections of this comment letter respond to some of the questions posed in the White Paper for comment.

Section II.a.3 describes current efforts to ensure that the CLCPA Targets are achieved in a manner that provides substantial benefits to disadvantaged communities including low to moderate income consumers. Are there other policies that should be considered or other ways in which the CES affects disadvantaged communities that are not addressed?

Ensuring that changes to the Clean Energy Standard address historic inequities is an important objective that must be realized. With this in mind, REBNY agrees that the proposed Tier 4 REC policy would help do so by more rapidly deploy renewable resources into New York City that will be required to eventually close fossil-fuel powered peaker plants.

To further this goal, NYSERDA and DPS may want to consider, among other factors, whether projects seeking Tier 4 RECs are dispatchable, as reliable carbon-free resources will be vital to securing the power supply in such a way that will allow for the closure of natural gas fired peaker pants. The dispatchability of these resources may be particularly important given the intermittent nature of offshore wind, which will provide a significant source or carbon-free power in the New York City region in the years ahead.

Section III.c.3 proposes a new Tier 4 to the CES intended to increase the penetration of renewable energy consumed in zone J.

a. Is there is a need to explore additional policy mechanisms under the CES to achieve that goal?

The proposed Tier 4 is an appropriate mechanism to encourage the deployment of renewable resources in or connected to zone J. By acting as a counterparty to the renewable developer, NYSERDA's role is vital to ensuring that renewable energy projects obtain the long-term backing that is needed for these projects to be built. In the absence of NYERDA's involvement, many projects would otherwise struggle to obtain financing from the private market alone.

To date, there has been little progress made in reducing reliance on natural gas-fired generating facilities in New York City. In part this is due to the challenges of siting renewable resources within New York City, and in part it is due to the lack of economic justification for investing in alternatives. The proposed Tier 4 changes this paradigm and should support investments in a combination of renewable resources and the transmission needed to connect such resources to zone J.

It is important to note that on its own, especially with the proposed 3,000 MW cap, Tier 4 will not be sufficient to meet the CLCPA's goals. However, Tier 4 is part of a multi-faceted effort that includes offshore wind connected into zone J along with robust energy efficiency initiatives.

At the same time, it is important to be mindful that there is no doubt that the demand for electricity within New York City will continue to rise, even as our members pursue all manner of energy efficiency projects in their buildings. As buildings convert from fossil-fueled furnaces and boilers to heat pumps, and as the use of electric vehicles increases, energy efficiency efforts likely will be unable to fully offset the increasing demand. At the same time, generation capacity in New York City will decline when the peaking plants retire in the 2023-2025 time frame. Additional generation resources, whether within the City or connected to the City via transmission lines, will be needed.

For that reason, we recommend that DPS and NYSERDA conduct a study to characterize the demand for Tier 4 RECs, offshore wind RECs, and RECs generally to understand the interplay between that demand, the potential quantity of RECs available for sale, and the need for additional mechanisms. Such a study should be performed as soon as possible so that NYSERDA can incorporate its findings, as applicable, in its implementation plan for Tier 4 and to inform the development of additional mechanisms, as needed.

In addition, NYSERDA and DPS should consider whether a mechanism to allow newly created renewable generation to transition from a Tier 1 REC to a Tier 4 REC would advance the State goals more rapidly. Such a mechanism may be warranted as the timeline for development of renewable resources is much shorter than the timeline for development of new transmission. If Tier 4 renewable resources are delayed to coincide with the development of new transmission projects, it could have the unintended consequence of delaying the deployment of those resources.

c. Will the proposal's delivery requirement achieve its goal of ensuring that Tier 4 resources provide incremental renewable energy into zone J? What options does the

Commission have for verifying that Tier 4 resources are delivering into zone J using new transmission interconnections?

With the goal of more rapidly reducing the use of fossil-fuel powered generation facilities and recognizing the air quality benefits that will result from doing so, REBNY believes that in order to be eligible for Tier 4, renewable energy must be delivered through a controllable capacity resource in Zone J as designated by the NYISO. In addition, such a requirement would help promote harmony between the Clean Energy Standard and New York City's Local Law 97, which requires that the RECs acquired by building owners as adjustments to their building emissions limit come from zone J capacity resources.

d. Should Tier 4 procurement costs be capped in relation to Tier 1 costs? If so, how should NYSERDA calculate the Tier 1 reference price that would serve as a cost cap for Tier 4 procurements?

The answer to this question depends on the details of an individual project. Specifically, if an upstate renewable resource seeks to participate in Tier 4 via a transmission line that receives socialized cost recovery, such as through the NYISO's public policy transmission planning process, the Tier 4 REC price should be the same as the Tier 1 REC price.

In contrast, if an upstate renewable resource seeks to participate in Tier 4 via a new merchant transmission line and bears some or all of the costs of that line, such as through negotiated rates with the developer, the Tier 4 REC price should be adjusted to reflect those additional costs. As the costs of transmission projects could vary significantly, setting a single price cap in this scenario is not appropriate.

Rather, there should be a cap specific to RECs associated with each transmission project. In the same manner as Tier 1 RECs are set to recover the difference between market revenues and project costs, the Tier 4 price cap should be set to recover the equivalent of the Tier 1 REC price plus the transmission cost borne by the Tier 4 REC provider.

For renewable resource projects developed within zone J, it is important to be mindful that such projects will incur higher costs than upstate projects due to higher land costs, higher labor costs, and challenges associated with construction in a densely-populated urban environment. The Tier 4 REC price for such projects should take these factors into account.

e. The White Paper proposes a possible alternative under which the price for the Tier 4 REC could be set via standard offer or directly negotiated between NYSERDA and a potential developer. Under what circumstances would such an approach be reasonable? If pursued, what policies and procedures should the Commission establish to guide such an approach?

REBNY encourages the Commission to be flexible in how it chooses to establish pricing for Tier 4 RECs. Given the potential for projects that combine both generation and transmission to bid for Tier 4 RECs, it would be prudent to retain the ability to directly negotiate pricing with potential projects. In addition, the Commission may want to consider whether a partnership with an Energy Service Company could help generate more advantageous pricing by reducing some of the risk of the project.

f. Should Tier 4 RECs be made available for re-sale? If so, how should Tier 4 RECs be priced for re-sale? Should a price floor calculated based on the social cost of carbon be imposed? Further, if NYSERDA receives revenue from the re-sale of Tier 4 RECs that exceed its procurement costs, how should such excess revenues should be directed?

REBNY strongly supports the ability for Tier 4 RECs to be re-sold to voluntary purchasers. As noted in the White Paper, under New York City law, many buildings over 25,000 square feet will be subject to carbon emissions limits beginning in 2024 and increasing in stringency in 2030 and later. One of the ways that building owners can comply with this obligation is through the purchase of certain RECs. However, there is currently no meaningful supply of RECs available to purchase in large part due to the inability of NYSERDA to re-sell RECs to voluntary purchasers. The ability for NYSERDA to re-sell Tier 4 RECs would address this challenge head on.

Importantly, allowing RECs to be re-sold to voluntary purchasers will advance the goals of the CLCPA. Expanding the market for RECs to include consumers could increase demand, which in turn could attract additional renewable resource development. Moreover, to the extent consumers purchase RECs directly from resources or indirectly via NYSERDA, the burdens on the general body of ratepayers will be reduced. For these reasons, we believe it is appropriate for NYSERDA to provide the first opportunity to buy Tier 4 RECs to purchasers other than the load serving entities, including building owners.

Another valuable aspect of the proposal is to allow NYSERDA to enter into multi-party agreements related to the procurement of Tier 4 RECs. Allowing such flexibility will create opportunities to leverage private capital in the development of renewable resources. Such leverage should result in an increase in the size and scope of renewable resource capable of serving New York City beyond what would be created if private dollars were not able to be used at all.

While we are supportive of the proposals to resell RECs, we do not believe that NYSERDA should generally look to charge building owners or other voluntary purchasers a premium price for the Tier 4 RECs. Building owners seeking Tier 4 RECs will be doing so as part of their overall efforts to reduce carbon emissions in line with New York City law. Consequently, they should not be charged a premium by NYSERDA for taking steps to meet legally obligated mandates. Accordingly, the PSC should require that resales of Tier 4 RECs be at prices that are no greater than the sum of the costs NYSERDA incurs to procure and resell them.

In the event the PSC determines that NYSERDA should be permitted to sell Tier 4 RECs at a premium, we recommend that all excess revenues be used to support clean energy measures within disadvantaged communities within New York City. These communities have been greatly affected by the existing generating facilities and more recently have been disproportionately impacted by the COVID pandemic. It is appropriate as they seek to recover from the pandemic that actions be taken to reduce their energy burdens through measures including, but not limited to, building retrofits and building envelope improvements to achieve deep energy savings, replacement of oil-fired boilers and furnaces with heat pumps to improve air quality and equipment efficiencies, support community clean distributed generation projects, and provide clean energy job training to increase good-paying employment opportunities for these community members.

Section II.c.4 describes a petition (Tier 2 Petition) NYSERDA filed on January 24, 2020 proposing a Competitive Tier 2 Program for baseline renewable generation.

a. The Tier 2 Petition proposed to size the overall program to include the majority of eligible generation, but to limit annual procurement volumes so as to promote competition and lower-cost bids. Unpurchased RECs would be available for voluntary market purchase by CCAs, ESCOs, or any other interested entities. Should NYSERDA be authorized to re-sell Tier 2 RECs to such entities?

As with the Tier 4 REC proposal, REBNY believes NYSERDA should be permitted to resell Tier 2 RECs. Similarly, the potential counter-parties should include CCAs, ESCOs, and consumers. That is, to the extent there is demand from consumers for Tier 2 RECs, NYSERDA and consumers should be permitted to engage in voluntary transactions for their sale and purchase. As with Tier 4 resales, Tier 2 resales would lower the costs imposed on ratepayers and could increase the market for RECs from existing resources. Increasing the demand for these RECs should provide revenues to the resources so that they continue to be deployed in New York and help to achieve the overall CLCPA goals.