Consumer Power Advocates

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August 12, 2015

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

RE: 15-E-0302- Large Scale Renewables

Dear Secretary Burgess,

These are the comments of Consumer Power Advocates (CPA) regarding in the above captioned proceedings. Consumer Power Advocates' mission is to lower energy costs for our members through representation in energy-related regulatory and legislative proceedings. CPA is an alliance of large not-for-profit institutions in the greater New York region. Our membership is open to hospitals, universities, medical schools, and cultural institutions. CPA members include some of the largest employers and energy users in New York State. Six of our recent member hospitals are among the 15 largest regional health organizations including five of the ten largest. Six current CPA members are among New York City's 25 largest employers, according to Crain's New York Business.

CPA supports the Commission's efforts to develop a stable and self-sustaining renewable resources industry, and many of our members currently contract for large volumes of sustainable generation. We believe that a properly structured utility scale renewable program has the potential to both improves air quality, reduce greenhouse gas production and stabilize energy prices. These are our comments on NYSERDA's Final Report on Large-Scale Renewable Energy Development in New York (Report).

The Commission's Question 1 concerns the evaluation criteria for evaluating Large Scale Renewables (LSR) policies. The Report identifies six categories to evaluate:

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(1) Consistency with REV and the 2014 Draft State Energy Plan;

(2) Feasibility;

(3) Maximizing Generation;

(4) Minimizing Cost;

(5) Administrative; and

(6) Compatibility and Acceptability.

These criteria align with our concerns of bill impact and price volatility, and value creation for ratepayers. We also support the inclusion of process concerns among the administrative criteria. A transparent process is essential assure all the parties and the general public that these important policies are worthy of continued support.

Question 2 addresses issues related to possible Main Tier market design changes as described in Chapter 5 of the Report. Among these market design changes are the assignment of the LSR obligation to either Electric Distribution Companies (EDCs) or other Load Serving Entities (LSEs). We recommend that the obligation to procure LSRs should be placed on the most stable entities only. In this case, that is the EDCs. EDCs are the largest companies, with the greatest revenue security and most stable customer base. Because of this, EDCs typically are among the most credit-worthy entities, and this advantage leads directly to savings in all transactions requiring financing. In an emerging market based on large scale projects, we expect these savings to be substantial. CPA further believes that any revised market change should respect the commitments made to current participants. All resources currently receiving support should continue to be supported on substantially similar terms as they have historically enjoyed. Development of a sustainable, long-term LSR program requires that investors and developers remain confident that commitments to support new technologies will continue to be honored. Rule changes that reduce that support may not even provide short term savings for ratepayers if they cause financing costs to increase, but the perception that rule changes may reduce support for existing and future projects will inevitably increase financing costs.

Question 4 concerns the three general options for LSR development. These were 1) long term contracts between developers and NYSERDA, 2) long term contracts between developers and an unspecified State entity, and 3) State entity and/or electric distribution company (EDC) solicitations for long term purchased power agreements and (PPAs) and utility owned generation (UOG). Our conclusion is that UOG has the greatest potential and least risk to developers and ratepayers. EDCs are creditworthy counterparties, with the ability to finance relatively large projects without jeopardizing their own financial stability. For the LSR developer, this stability minimizes the risk of a counterparty default.

We agree with the Report's conclusion that the current Renewable Portfolio Standard (RPS) design severing the renewable attribute (REC) from the actual generation limits the possibility that renewables will stabilize energy prices. This REC market creates a fixed cost obligation that has no beneficial effect on price volatility. Restoring a bundled generation market provides a benefit of fuel diversity that may reduce volatility at little or no cost to ratepayers. This is an important consideration for our members.

We further believe that EDCs should be the entity obligated to procure LSRs. EDCs are responsible for distribution system reliability, and this requires sensitive system knowledge that is cannot be available to third parties. This granular information about distribution operations enables the EDC to best judge the most effective locations for LSRs of all types, and therefore maximizes the effectiveness of the resource while minimizing costs. No other entity has the complete knowledge base of the EDCs.

UOGs are superior to PPAs for several reasons. In the past, PPAs have resulted in uneconomic long term contracts that, in some extreme cases, threatened the financial stability of the EDC. We are also concerned that less financially stable LSR owners may be unwilling or unable to meet their RPS obligations if the particular physical resource fails to perform as planned, or if unexpected market conditions make the terms of the PPA burdensome. For example, energy markets may create prices that make the PPA uneconomic for the seller. In that case, the unregulated seller may simply abandon the LSR plant. EDC ownership, by virtue of the EDCs' generally strong financial positions and comprehensive regulatory controls, will assure both ratepayers and LSR developers of continued performance for the long term.

UOG ownership will leave the UOG with the risk of an unexpected positive or negative residual value at the end of the life of the LSR. While CPA recognizes that utilities should not be subject to unnecessary risk, in this case the utility is the entity best able to bear the intrinsic risks of these new requirements. Moreover, ratepayers will lose the benefits of any positive residual value, while a negative residual value would tempt developers to abandon the LSR. In either case, ratepayers will be required pay more to maintain the same level of LSRs.

In question 11, the Commission asks whether debt securitization should be considered. According to the Report, securitization could achieve significant cost savings. If that finding is verified, the Commission should consider implementing securitization.

Question 13 covers several market design issues. First, on the issue of whether UOGs should be allowed to compete with privately owned projects, and whether there should be limits on the market share owned by a particular entity, CPA recommends that UOGs should be allowed to compete with privately owned projects, but we believe that it is premature to discuss limitations on ownership by any parties. It is not clear now what number of developers will enter the LSR market, nor is it clear that a high concentration of ownership result in market power abuse. The LSR market will remains a fraction of the total energy market, and we believe it is unlikely that LSR developers will have an opportunity to exercise market power. Nevertheless, the Commission should vigilantly monitor the markets to insure that excessive market power does not develop in the future.

We believe that each utility should conduct its own contracting process for LSRs, and that the Commission's ratemaking and auditing authority are adequate protection for ratepayers. A central procurement process may result in a one size fits all solution that ignores the particular regional needs of specific EDCs.

We recognize the EDC ownership violates NYISO wholesale market design principles. In general, EDCs cannot own generation because of the possibility that they would manipulate the operation of the transmission system to lock out competitive generators or otherwise increase the price for UOG, to the detriment of market generators and ratepayers. In the limited case of LSR, we believe these concerns can be addressed. Because the marginal cost of LSRs is zero, economic withholding from the wholesale market, which is a key technique for exercising market power to increase prices, would be immediately recognized. The more realistic concern for incumbent power producers is that LSRs will reduce prices. CPA views this as a favorable outcome, but recognizes that excessive price suppression may have unintended consequences on long term resource adequacy. The Commission should consult with all parties to develop measures to insure that price suppression does not threaten the provision of safe and adequate service.

The NYISO Market Services Tariff also includes rules restricting entry by new generators into the wholesale market. These rules were adopted primarily because of the concern that an EDC that is dominant in the retail market may have in interest in low energy prices, and may contract for generation in order to reduce wholesale prices. While these rules were adopted because of a perceived risk that EDCs would exercise market power, they apply to all new generators large enough to reduce New York City capacity prices. In the case of LSRs, these market rules may need to be revisited.

The last part of Question 13 asks whether LSR resources be integrated ends with storage and demand response to increase system benefits. On the face of it, the answer seems to be yes. On the other hand, bundling LSRs with various distributed resources may obscure the real cost of each component, and allow well-funded developers to engage in predatory practices with regard to demand response and/or distributed resources. The contracts between LSEs and the New York City divested generators load remain prohibited because the lack of price transparency in bundled services allows market dominant firms to collect excessive prices. The Commission should carefully consider what bundled services should be allowed.

Thank you for the opportunity to offer these comments.

Respectfully Submitted,

Catherine Luthin

Executive Director, Consumer Power Advocates