

December 5, 2016

**VIA ELECTRONIC MAIL**

The Honorable Kathleen H. Burgess  
Secretary  
New York State Public Service Commission  
Empire State Plaza, Agency Bldg. 3  
Albany, NY 12223-1350

Re: Case # 15-E-0751 – In the Matter of the Value of Distributed Energy Resources

Dear Secretary Burgess:

On behalf of 98 elected officials, organizations and businesses, I hereby submit these comments on the “Staff Report and Recommendations in the Value of Distributed Energy Resources Proceeding” in accordance with the December 5, 2016 deadline outlined in the “Notice Soliciting Comments on Staff Report and Recommendations” issued on October 28, 2016.

Respectfully submitted,

Jessica Azulay  
Steering Committee Member  
Energy Democracy Alliance

NEW YORK STATE  
PUBLIC SERVICE COMMISSION

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In the Matter of the Value of Distributed  
Energy Resources  
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Case # 15-E-0751

Comments on the “Staff Report and Recommendations in the Value of Distributed Energy Resources Proceeding” by  
Ulster County Legislator Manna Jo Greene, Tompkins County Legislator D.S. Kiefer, Suvannah Supervisor Michael Kolczynski, Town of Cairo Councilperson Douglas Ostrander, Town of Roseboom Councilperson Allegra Schecter, Ulysses Town Supervisor Elizabeth Thomas, Tully Village Trustee Kathryn Vernay, Fulton County Supervisor Gregory Young, 350Brooklyn, 64 Solar, Abundant Efficiency LLC, ACSweeps, Affordable Housing Partnership, AKRF Inc., All Our Energy, Allegro Power, Alliance for a Green Economy, BayWa r.e. Solar Systems, Beacon Climate Action, Bedford 2020, Best Energy Power (BEP), Binghamton Regional Sustainability Coalition, Bronx Climate Justice North, Broome Tioga Green Party, Campaign for Renewable Energy, Capital District Regional Planning Commission, Catskill Mountainkeeper, Center for Social Inclusion, Central New York Regional Planning and Development Board, Citizen Action of New York, Citizens' Environmental Coalition, Citizens for Local Power, Clean Energy Technology Resources, LLC, Climate Justice Coalition of WNY, Creating Change Consulting, Eco-Poetry.org, Environmental Justice Task Force of the WNY Peace Center, Finger Lakes Solar Co-op, Formosa PV, Freedom Solar Alliances LLC, Gas Drilling Awareness for Cortland County, Good Old Lower East Side, Green Education and Legal Fund, GreeningUSA Inc., Green Party of NY, Hudson River Sloop Clearwater, Hughesco of Rochester, Hunt Country Vineyards LLC, In the City Off the Grid LLC, Inside Track Solar Inc, Long Island Progressive Coalition, Neighbors of the Onondaga Nation, New York Lawyers for the Public Interest, New York State Sustainable Business Council, Nobody Leaves Mid-Hudson, North American Climate, Conservation and Environment (NACCE), Northwest Bronx Community and Clergy Coalition, Nuclear Age Peace Foundation, NY Friends of Clean Air and Water, NY-GEO, OnForce Solar Inc., Open Space Institute Inc., Partnership for Onondaga Creek, PAUSE (People of Albany United for Safe Energy), Priceless Consulting LLC WBE, PUSH Buffalo, Renovus Solar, Sane Energy Project, SEnRG, ShaleshockCNY, Sierra Club Niagara Group, Solarize Albany, Solstice, South Brooklyn Solar Cooperative, StopMCS, Sullivan Alliance for Sustainable Development, SunBlue Energy, Sunrise Solar Solutions, Sustainable Cortland, Sustainable McDonough, Sustainable Tompkins, Sustainable Warwick (SW), Sustainable Westchester, Syracuse Community Choir, Syracuse Cultural Workers, Syracuse Peace Council, Syracuse United Neighbors, Taitem Engineering PC, The WASH Project, Vestal Residents for Safe Energy (VerSE), Weather Medic Inc, Western New York Environmental Alliance, Wildcat Solar LLC, Wilder Balter Partners Inc, Albany County Legislator William Reinhardt, WNY Drilling Defense, WNY Peace Center, Workers' Center of Central New York

## Introduction

These comments are submitted by the 18 member organizations of the Energy Democracy Alliance along with 80 allies, collectively referred to in this filing as the “Energy Democracy Intervenors.” Together we represent community-based organizations, grassroots organizations, small businesses (including renewable energy businesses as well as businesses wanting to take advantage of renewable energy), elected officials, and policy experts. We collectively aspire to democratize our energy system,<sup>1</sup> and to achieve widespread affordable access to distributed renewable energy.

The continued development of distributed energy resources in New York is critical to the vision of the Energy Democracy Intervenors, as we seek to put the means of energy production into the hands of everyday New Yorkers and our communities. Shared renewable energy (also known as community solar, solar gardens, and community distributed generation), in particular, holds the promise of affordable solar and wind access and ownership for renters, people without access to financing or savings, and those who otherwise cannot install renewable energy on their own property. But renewable energy will not be automatically accessible to all people and all communities. State policy can and will determine whether or not there is continued development of renewables and whether the benefits of solar and wind energy, storage, and energy efficiency will actually be available for low-income people and people of color.

This Value of Distributed Energy Resources (“VDER”) proceeding will have a major impact on the future development of solar, wind, and other distributed energy in New York. In the near term, it will have the biggest impact on the development of shared renewable energy.

We do not, in principle, oppose a transition away from net metering and toward a policy that more fairly compensates distributed energy owners for the value of renewable energy production. In fact, we can envision scenarios in which a well-designed VDER policy could hasten the transition to sustainable energy, improve equitable access to renewables, and direct resources to communities most in need of the benefits of renewables development. That said, the policy proposed by the Department of Service Staff is not sufficient to achieve those results. Instead, the policy is likely to slow even further the development of much needed shared renewable energy, while creating anxiety and uncertainty even in areas of renewable energy development not included in the initial transition.

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<sup>1</sup> By “democratize the energy system” we mean:

- To rapidly transition to sustainable energy, based on energy efficiency and 100% renewable energy.
- To give individuals and communities meaningful decision-making power over how this transition is carried out and how it affect us,
- To transfer the ownership and control over our energy system away from investor-owned energy companies that are accountable to shareholders, not the public. Our energy resources should be owned and controlled by and for the people.
- To reverse and remedy the historical and contemporary inequalities and injustices that are embedded in our energy system.
- To ensure access to affordable energy, as a basic human need.
- To require a living wage, workers’ rights, and equitable hiring practices in the energy system.

In July 2015, when the Public Service Commission (“Commission”) approved the order that enabled the development of community distributed generation, the following statements were made:

“The Shared Renewables initiative will help people and communities across the state save money on local clean energy projects. This program is about protecting the environment and ensuring that all New Yorkers, regardless of their zip code or income, have the opportunity to access clean and affordable power.” – *Governor Andrew Cuomo*

“Democratizing the production of power allows individuals and communities to take control of their energy future and realize the economic, social, and environmental benefits of solar and other renewable resources. As a direct result of Governor Cuomo’s leadership and the Reforming the Energy Vision initiative, New York State is once again at the forefront of progressive energy policy by empowering millions of our residents, schools, and businesses to choose renewable power for the first time.” – *Richard Kauffman, Chairman of Energy and Finance for New York.*

“Under Governor Cuomo’s REV initiative, Shared Renewables expands consumer access to reliable, low-cost electricity generated from renewable energy facilities. Shared Renewables places customers who do not own homes on an equal footing with traditional single-home customers and creates opportunities for low- and moderate-income families who don’t have access to electricity generated from renewable resources.” – *Public Service Commission Chair Audrey Zibelman*<sup>2</sup>

Yet, more than a year after those statements were made, New York has seen little on-the-ground development of shared renewable energy. To date, only one shared renewable energy project has been connected to the grid.<sup>3</sup> According to GTM Research, New York has approximately 2 GW of proposed community solar projects, but progress has been sluggish.<sup>4</sup> There are many reasons for this slow pace, but policy uncertainty, lack of a clear NYSEERDA program and accompanying incentives, and long, expensive utility interconnection processes have been identified repeatedly by the development community as key problems.<sup>5</sup> The absence of a NYSEERDA program and accompanying incentives is particularly detrimental when it comes to the development of shared renewable energy projects designed to benefit low and moderate income people (who make up at least 40% of New York’s population).

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<sup>2</sup> Press release from Governor Cuomo’s office. “Shared Renewables Program Provides New Opportunities for New York Residents and Businesses to Access Clean and Affordable Energy” <https://www.governor.ny.gov/news/governor-cuomo-announces-expanded-access-renewable-energy-millions-new-yorkers>

<sup>3</sup> NYSEERDA Press Release. “NYSEERDA Announces Completion of State’s First NY-Sun Community Shared Solar Project” <https://www.nyserda.ny.gov/About/Newsroom/2016-Announcements/2016-10-18-NYSEERDA-Announces-Completion-of-States-First-Shared-Solar-Project>

<sup>4</sup> Tweed, Katherine. *GTM*. August 24, 2016. “New York Has Nearly 2 Gigawatts of Proposed Community Solar” [https://www.greentechmedia.com/articles/read/new-york-has-nearly-2-gigawatts-of-proposed-community-solar?utm\\_source=Daily&utm\\_medium=Newsletter&utm\\_campaign=GTMDaily](https://www.greentechmedia.com/articles/read/new-york-has-nearly-2-gigawatts-of-proposed-community-solar?utm_source=Daily&utm_medium=Newsletter&utm_campaign=GTMDaily)

<sup>5</sup> Also cited have been: a lack of capacity, lack of understanding of supportive local land use regulations, and lack of PILOT agreements.

We call on the Commission to adopt a Value of Distributed Energy Resources (“VDER”) policy that will uphold the promises made by the Cuomo administration and the Commission when the shared renewable energy policy was approved. If the Commission is to move forward with a transition away from net energy metering toward a VDER tariff, we respectfully insist that all of the benefits and costs of renewables should be included, not just those that utility companies value. Renewable energy, especially when designed to maximize positive community impact, provides a variety of benefits that can and must be taken into account in this proceeding.

Additionally, it is paramount that the adopted transition path provide simplicity and certainty for renewable energy customers and owners, so as not to jeopardize progress toward widespread renewable energy adoption.

Finally, it is critical that the Commission keep a focus on equitable and affordable access to the benefits of renewable energy for all people and all communities.

Below we provide detailed recommendations for improving the proposed VDER policy.

## **Detailed Recommendations**

### **1. Keep it simple, create predictability, and transition slowly.**

The rules should be able to be understood easily by customers considering going solar and solar developers. The Staff proposal is too complex, especially given how little is actually going to change within the next two years in terms of real value paid to solar developers and solar customers. Introducing complexity and confusion into the state’s policy framework at this time could have a detrimental effect on the solar market, even the residential market where little will change in the short term. If customers cannot easily understand the rules, they will worry about whether it is safe to go solar. Solar energy is already misunderstood in many ways and solar educators and sales people already have so many myths they have to dispel for people to become confident about going solar. In light of the state’s efforts to support grassroots education and outreach through the Community Solar NY Program, the Commission should avoid making it harder for people to find the confidence to invest in distributed generation. The Commission should simplify the policy so that there are only a few rules that can be quickly and easily explained.

One important way to simplify would be to eliminate the 20-year time frame proposed for the duration of whatever tariff a project ends up receiving. Many renewable energy installations are known to produce energy well beyond 20 years. Providing compensation certainty only for 20 years would leave customers wondering what will happen during the rest of the life of their system. Those of us with experience educating customers about the benefits of solar, and those of us with direct experience selling solar energy systems, know that this kind of uncertainty could easily deter adoption of renewable energy.

The policy should avoid other disruptions and policy uncertainty which discourage investment and the long-term commitments necessary to make renewable energy financially viable. The proposed Phase 1 Tariff is only meant to be in place for a short period of time and will be replaced by a future Phase 2 Tariff. This means that the value of solar could be in flux for quite some time. This kind of uncertainty about policy could deter investment (from customers and from investors) and grind distributed renewable energy development to a halt. This is particularly the case for large projects, like Community

Solar, which take longer to develop and are harder to finance. We are skeptical that the benefits touted by Staff as rationale for the transition to a Phase 1 Tariff actually outweigh the costs of a potential slowdown in Community Solar and other distributed renewable energy development. While we generally agree that the state should shift eventually to a value of distributed energy resources compensation program, we worry that it is premature at this time. Community Solar is already having trouble gaining a foothold in New York. Meanwhile, the vast majority of potential residential and business customers are locked out of solar access. In short, the proposed policy does not make Community Solar easier to develop but rather makes it harder because the value offered fluctuates, is complex to calculate, and is lower than net metering.

To remedy this situation, we suggest that until the Phase 2 tariff is developed or for a period of two years, whichever is greater, the Commission should allow any project to choose between net metering and the Phase 1 Tariff. This would accomplish four things:

First, it would start the process of moving toward a value of distributed resources methodology, but without forcing any customers or developers into the Staff's proposed multi-phase, multi-tranche policy process. By smoothing the transition and providing this simple choice, the Commission could avoid a further slowdown of the larger distributed renewable energy projects such as municipal projects and community distributed generation.

Second, it would familiarize developers, financiers and customers with what the value of distributed energy tariff might look like and what price signals it might offer, even if they are not yet acting on the price signals. This kind of transparency would be beneficial to customers, developers, utilities, and regulators and better prepare them for a time when net metering would no longer be an option. To the extent that the locational and peak avoidance portions of the tariff do create higher value for certain kinds of development, it is likely that developers and communities will become familiar with those opportunities and begin to take advantage of them.

Third, it would allow needed time for the consideration, evaluation and inclusion of additional costs and benefits in the VDER policy before it takes full effect. Without the incorporation of various social and community benefits that community distributed generation and onsite renewable energy can offer, the VDER methodology is deeply flawed. Time is needed to remedy this situation before any projects are forced into accepting a lower value for their energy production.

Fourth, it would create the simplicity necessary to instill confidence in renewable energy investments, while leaving room for incentivizing location value and peak reduction value.

Through this recommendation, we seek to make net metering the floor and not the ceiling for community distributed energy, during the initial phase of the transition to VDER. This has a similar effect as the Market Transition Credit proposed by Staff, but it is much simpler and would be in effect for a longer period of time, and would apply equally across all utility regions. Our proposal avoids guesswork, avoids the complexity of multiple tariff values over a short period of time, and prevents a stalling of projects in the Hudson Valley.

We further recommend that the Commission consider extending the option of net metering even into Phase 2. We will comment on this in more detail during the Phase 2 process.

## **2. Accelerate the transition to renewable energy.**

The state has acknowledged that the effects of catastrophic climate change are already being observed and felt. There is no time to waste. Solar energy is still less than 1 percent of New York's electricity generation and wind is less than 5 percent. We need to open the renewable energy floodgates, not restrict or constrain the growth of renewable energy. Many studies that have calculated the value of solar and found that the overall benefits to the energy system, the environment, and the economy outweigh the costs.<sup>6</sup> These studies bust the myth – largely propagated by utility companies – that adopters of renewables are somehow not paying their fair share of system costs.

Yet, the tranches combined with the flawed value stack proposed by the Staff would limit the new capacity of distributed energy that can be developed economically. With so much at stake for our climate and so much research supporting the principle of a higher VDER, the current proposal is insufficient and deeply flawed. We call on the Commission to put in place a policy that will accelerate renewable energy development, not hinder it.

## **3. Create price stability.**

One of renewable energy's greatest assets (beyond its ability to mitigate the devastating effects of climate change) is that the "fuel" is free. Wind and sunlight have no cost. Once the solar panels and windmills are installed, they cost little to operate. This means that nearly all the costs are up-front and are predictable. This predictability can benefit consumers by stabilizing their energy bills and eliminating the harm caused by the price spikes in the fossil fuel markets and the rising costs of nuclear power as reactors age. The predictability of renewable energy costs can also make financing of renewable energy projects easier, since investors don't need to worry about the risks of fuel price volatility. However, these benefits cannot be realized if the compensation mechanism for the value of solar is volatile. In other words, if solar customers and solar financiers cannot predict how they will be paid for the energy that the solar arrays produce, it will make financing projects much harder.

This can be remedied by creating a value of distributed energy resources tariff that is fixed for the life of the system. Even if the value changes from year to year for new projects, once a project is built, the value for that project should be locked in.

The only other Value of Solar policy in effect at the state level is in Minnesota. There, the value of solar is fixed for the life of the project, with a predictable escalator. This creates stability and certainty that will help attract customers and investments. New York should follow in Minnesota's footsteps and create a similarly stable value for projects.

## **4. Ensure equitable access and equitable outcomes.**

The outcome of the policy should be that solar access for all communities in New York is improved. This requires that the barriers blocking access for those who have historically been locked out of the economic and environmental benefits of solar must be eliminated. Community solar and other shared renewables promise a pathway to eliminate some of these barriers, but only if the policies and incentives are designed to make it so. Therefore, renters and those who cannot go solar on their own property should not receive a lower value for their investment when compared with homeowners. Small community-based and municipal developers should not be crowded out of the market by complex,

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<sup>6</sup> See, for instance: Hallock, Lindsey and Sargent, Rob. Environment America and Frontier Group. "Shining Rewards: The Value of Rooftop Solar Power for Consumers and Society" [http://www.environmentamerica.org/sites/environment/files/reports/EA\\_shiningrewards\\_print.pdf](http://www.environmentamerica.org/sites/environment/files/reports/EA_shiningrewards_print.pdf)

costly rules that favor large developers. Large commercial power consumers should not see higher benefits than residential customers. Upstate customers should not be short-changed or disadvantaged because the retail cost of electricity is lower than that of downstate customers.

This kind of equity was promised when shared renewables were enabled in New York. But the Staff proposal would backtrack on those assurances. It is critical that these inequities are remedied in the final VDER policy.

#### **5. Value community benefits and prioritize environmental justice.**

The VDER policy proposed by the DPS Staff focuses on maximizing benefits and reducing costs for utilities. To some extent, by reducing costs for utility companies, there might be a trickle down benefit for all consumers, especially once distributed energy resources reach a scale at which they could significantly reduce peak energy prices or distribution costs.

However, the proposal ignores important opportunities to design distributed energy resource policies to incentivize their development in ways that directly benefit local economies, local health, and local communities. The “Value Stack” proposed by the Staff does not include all of the benefits of distributed energy resources. The values excluded are the ones that most explicitly and immediately benefit our communities. These include reducing the energy burden on our poorest residents so that they can better afford the utility bills and other basic necessities; creating local jobs, especially jobs that pay a living wage and are available for constituencies facing high unemployment; eliminating pollutants that lead to asthma and environmentally linked illnesses; and addressing historical and ongoing environmental and social harm inequitably borne by certain communities, such as communities of color and poor communities, as a result of our energy system.

Any policy that purports to capture the costs and benefits of an energy resource must take into account the environmental, health, and economic development benefits provided by clean, locally-owned, distributed energy projects. It is unacceptable that the value stack proposed by the staff leaves out many of the values that are most important to everyday New Yorkers. The negative impacts of our energy system are not felt equally by all communities. Some communities, particularly communities of color and poor communities, are unjustly overburdened with pollution from fossil fuels and nuclear power. Those same kinds of communities are disproportionately vulnerable to the effects of climate change. This situation requires urgent remedy. New York’s value of distributed energy policy should be designed to encourage renewable energy development that reduces pollution in the most polluted communities and provides ownership and decision making power to the communities the currently have the least control over how the energy system impacts their lives.

No value of solar policy should be enacted until these factors are incorporated. These benefits have been calculated in various studies and they are mentioned in the Commission’s benefit-cost analysis and in the Staff’s report, but in both cases, they are left to the future for calculation and implementation.

The time to remedy this oversight is now, before a VDER policy goes into effect. By doing so, the Commission will incentivize distributed energy development in ways that provide locational and peak reduction benefits, as well as development in ways that directly benefit local communities in all regions of the state. At the least, the VDER policy should create additional values for:

- Reduced particulate air pollution, other contaminants, and toxins
- Reduced water use
- Environmental justice benefits

- Reduced energy burden for low-income people
- Local job creation
- Increased resiliency
- Ensuring geographical equity

**6. There should be no caps on Energy Democracy.**

The transition to a decentralized energy system, in which individuals and communities gain access to real decision-making power and ownership over our energy production, is the best possible outcome of the REV process. The environmental catastrophes we face, the economic crises in our communities, and the racial injustice that permeates our society are all exacerbated by the energy system as it stands today. Nearly all of our electricity generators and power lines are owned by multinational corporations with no accountability to anyone but their shareholders. While the Public Service Commission provides a regulatory check on some of that power, corporations must not continue to exercise an outsized influence in our political and regulatory systems.

We must move our state toward a better system, one in which residents have the right and the authority to determine our own energy future, to protect our most vulnerable populations, and to prevent the wholesale destruction of our precious ecosystems. Putting ownership and control over the means of sustainable energy production into the hands of everyday people, into the hands of municipalities, and into the hands of local businesses should be a priority for New York's regulators. The Value of Distributed Energy Resources policy, as proposed by Staff, would throttle this transition by placing caps on the number of shared renewable energy projects that could be economically viable at any given time. There should be no barriers to this transition. We need it yesterday.

Thank you for your consideration.

Respectfully submitted,

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