STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on May 14, 2020

COMMISSIONERS PRESENT:

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

CASE 19-E-0735 - Proceeding on Motion of New York State Energy Research and Development Authority Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025.

ORDER EXTENDING AND EXPANDING DISTRIBUTED SOLAR INCENTIVES

(Issued and Effective May 14, 2020)

BY THE COMMISSION:

INTRODUCTION

New York State has established clean energy goals that are both ambitious and necessary to respond to the challenge of climate change, including to transition to a distributed, dynamic, and carbon-free grid of the future. Meeting those goals will require the implementation of sustained, coordinated, and vigorous programs by all participants in the State's energy system. The NY-Sun program, administered by the New York State Energy Research and Development Authority (NYSERDA), is just such a program. To date, the NY-Sun program has resulted in the deployment of distributed solar photovoltaic (PV) generation in New York at a tremendous pace. Distributed solar, installed on residential rooftops, at businesses, or as Community Distributed

Generation (CDG), creates substantial benefits for customers, utilities, and society.

Currently, New York State is approaching achievement of the original NY-Sun goal of 3 gigawatts (GW) of distributed solar installed by 2023, with more than 2,200 MW of distributed solar in service in New York and more than 1,200 MW of distributed solar currently in advanced stages of development. This represents more than 130,000 solar projects, ranging from small residential rooftop systems with a capacity as small as 5 kW to large CDG systems with a capacity of 5 MW serving hundreds of customers.

On November 25, 2019, NYSERDA filed a Petition Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025 (the Petition). The Petition seeks an expansion of the NY-Sun program, to both build on its success and to meet the target established under the Climate Leadership and Community Protection Act (CLCPA), to develop a total of 6 GW of distributed solar by 2025. An additional 3 GW of distributed solar needs to be built to achieve this target. The Petition outlines NYSERDA's proposal for funding that additional capacity, in part by ensuring that the next phase of the program benefits low-income New Yorkers and disadvantaged communities.

This Order approves NYSERDA's Petition. The Commission finds that the NY-Sun program has been a successful means of achieving New York's distributed solar goals and should be expanded and extended to match the breadth of those goals. Further, the Petition proposes promising strategies to increase participation in and benefit from distributed solar programs by low-income individuals and disadvantaged communities. To support the expanded goals while also appropriately stewarding ratepayer funds, the Commission directs that initial funding of the expanded NY-Sun come from existing uncommitted funds held by

NYSERDA, with extra funds to be designated as part of an overall review of the Clean Energy Fund. The Commission also directs modification of utility tariffs with respect to remote net metered projects consistent with the requirements of this Order.

BACKGROUND

The Commission initiated the Retail Renewable Portfolio Standard (RPS) administered by NYSERDA in 2004, with a Main Tier for large resources and a Customer-Sited Tier (CST) for smaller resources, including distributed solar PV.[1] The Order in that proceeding included a target of 16.31 MW of distributed solar PV by 2013. Following a series of modifications to the RPS program, in 2012, the Commission authorized NYSERDA to expand the solar PV programs in the CST and increase the annual budget to a total of $108 million per year through 2015 to support the goals of the NY-Sun,[2] an initiative announced by Governor Cuomo in his 2012 State of the State Address. Through its December 19, 2013 Redesign Order, the Commission directed NYSERDA to transition the PV incentive programs operating under the CST to a MW Block structure with declining incentives.[3] The Redesign Order also authorized NYSERDA to reallocate $216 million of unencumbered RPS funds

[1] Case 03-E-0188, Retail Renewable Portfolio Standard, Order Regarding Retail Renewable Portfolio Standard (issued September 24, 2004).

[2] Case 03-E-0188, Retail Renewable Portfolio Standard, Order Authorizing the Expansion of the Solar Photovoltaic and Geographic Balance Program From 2012 Through 2015 and the Reallocation of Main-Tier Unencumbered Funds (issued April 24, 2012).

[3] Case 03-E-0188, supra, Order Authorizing the Redesign of the Solar Photovoltaic Programs and the Reallocation of Main-Tier Unencumbered Funds (issued December 19, 2013) (Redesign Order).

from the Main Tier to the CST for the operation of NY-Sun during program years 2014 and 2015.[4] Following a filing by NYSERDA describing the proposed redesign, the Commission issued the MW Block Order on April 24, 2014, authorizing NYSERDA to implement the NY-Sun MW Block Program for the period of 2016 through 2023 with a target of 3 GW of distributed solar in New York State and an incremental budget of $960.6 million.[5]

In January 2016, the Commission through its Clean Energy Fund Order (CEF Order) consolidated all post-2015 NYSERDA clean energy activities and ratepayer funding under the Clean Energy Fund, with a 10-year program authorization and associated minimum targets, including (i) 10.6 million megawatt hours (MWh) and 13.4 million British Thermal units (MMBtu) of energy efficiency, (ii) 88 million MWh of renewable energy, (iii) 133 million tons of Carbon Dioxide Equivalent (CO_2e) reductions, (iv) $39 billion in customer bill savings, and (v) $29 billion in private investment.[6] The NY-Sun initiative, 3 GW distributed solar goal, and post-2015 funding elements were included as part of the Clean Energy Fund.

The CEF Order established utility collections from ratepayers to support the $960.6 million funding requirement. The CEF Order required NYSERDA to report all NY-Sun specific financial and programmatic metrics through NY-Sun specific reports and to update the NY-Sun Operating Plan to incorporate any previous addendums and other necessary adjustments, as

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[4] Id.

[5] Case 03-E-0188, supra, Order Authorizing Funding and Implementation of the Solar Photovoltaic MW Block Programs (issued April 24, 2014).

[6] Cases 14-M-0094 et al., Clean Energy Fund, Order Authorizing the Clean Energy Fund Framework (issued January 21, 2016) (CEF Order).

outlined in the CEF Order. In addition, the CEF Order directed NYSERDA to identify specific uses for unspent, uncommitted funds from legacy portfolios, including RPS, at the end of 2015 and subsequent years. Further, the CEF Order allowed for the NY-Sun budget allocation for the 2016 to 2023 period to be fully retained in the case of project attrition.[7]

In 2019, Governor Cuomo announced a NY-Sun goal of 6 GW by 2025 as part of a plan for 100% carbon-free electricity in his 2019 State of the State Address. The subsequently enacted CLCPA codifies New York's ambitious clean energy goals, including the target for 6 GW of distributed solar by 2025.

THE PETITION

The NY-Sun Expansion Petition requests additional NY-Sun program funding and extension of the program term to support the new 6 GW-by-2025 target. The Petition specifically requests that the Commission authorize an additional $573 million in funding to support the 6 GW policy goal and extend the NY Sun program term to 2025. The additional $573 million in funding is made up of approximately: 1) $290 million for the MW Block incentive program; 2) $111 million for a Community Adder incentive; 3) $135 million for additional incentives for projects benefiting low-to-moderate income (LMI) customers, affordable housing, and environmental justice and disadvantaged communities; 4) $19 million for incentive adders for projects

[7] By Order issued on September 14, 2018, the Commission clarified that the overall NY-Sun program funding included the funding previously authorized for the CST-PV programs for 2014 and 2015, for a total funding level of approximately $1.18 billion to support the 3 GW goal. Cases 14-M-0094 et al., supra, Order Regarding NY-Sun Funds (issued September 14, 2018); see also Case 03-E-0188, supra, Renewable Portfolio Standard Customer-Sited Tier Operating Plan Addendum (2014-2023) (filed August 12, 2014).

that meet certain specific criteria, such as being sited on brownfields or landfills; and, 5) $16.8 million for customer education, the New York State Cost Recovery Fee, and program administration.

NYSERDA explains that it completed an in-depth analysis to design an expanded NY-Sun Program and associated budget to meet the 6 GW goal. Its analysis indicated that the most cost-effective means to reach the 6 GW goal is through a focus on the Upstate Commercial & Industrial MW Block, which supports projects that are primarily ground mounted, sized at approximately 5 MW, and located in upstate utility territories. Additional incentive funding is also needed for the Upstate Residential MW Block. The analysis showed that the current Upstate Nonresidential MW Block, which supports projects sized up to 750 kW, as well as the Nonresidential MW Blocks in the Consolidated Edison Company of New York, Inc. (Con Edison) territory, which support projects sized up to 7.5 MW, are sufficiently funded to support all projected capacity in those sectors through 2025. The analysis also indicated that the residential solar market in the Con Edison territory will continue to grow and will contribute approximately 120 MW without any further incentives.

The funding requested for the MW Block incentive program has the following components: $199 million to be added to the Upstate Commercial/Industrial Block; $48 million to be added to the upstate Residential MW Block; and an unallocated $44 million to be set aside and used for additional or increased incentives that may be required due to changing economic conditions, policies, and technology. Any additional funding that becomes available due to project cancellations will be reallocated to support market segments that demonstrate potential and need as described in the NY-Sun Operating Plan.

The Community Adder is an additional incentive for CDG projects in service territories where the Market Transition Credit (MTC) and Community Credit incentives funded by the utility have been exhausted. The Commission previously authorized its use in the Central Hudson Gas & Electric Corporation (Central Hudson) and Orange and Rockland Utilities, Inc. (O&R) service territories. NYSERDA requests $111 million in funding to expand the Community Adder to the other upstate utility territories at a rate of $0.18/Watt DC.

NYSERDA explains that additional incentives will be available to projects that meet certain criteria and achieve other State policies and objectives. This includes potential extension or expansion of current incentives for projects sited on a brownfield or landfill and projects utilizing a parking or rooftop canopy design. NYSERDA will also consider and employ strategies to further encourage the positive impact of solar development on agriculture and New York's rural economy.

With respect to funding for LMI customers, affordable housing, and environmental justice and disadvantaged communities, NYSERDA proposes $135 million in incremental funding. NYSERDA notes that projects dedicated to these segments will also receive base MW Block incentives and Community Adder incentives, such that a total of at least $200 million will be dedicated to support low-to-moderate customers, affordable housing, environmental justice communities and disadvantaged communities. At a rate of approximately $34 million per year through the end of 2025, this will increase funding dedicated to these market segments by twenty-fold as compared to previous commitments.

To ensure that the funding for these communities is used effectively, NYSERDA proposes a Framework for Solar Energy Equity. Major components of the Framework include:

(1) continued support of community organizations, local governments, housing providers, and other entities to advance solar initiatives in their communities through the Affordable Solar Predevelopment & Technical Assistance Program; (2) continued support for a no-cost (or guaranteed savings) community solar option for low income households; (3) new targeted intervention and support to make the community solar market more broadly accessible to LMI households, affordable housing providers, and facilities serving disadvantaged communities; (4) incentive adders for projects sited on regulated affordable housing properties and to LMI homeowners to install rooftop solar; (5) incentive adders for projects that pair solar and energy storage and provide resiliency or financial benefits to LMI customers and affordable housing; and (6) incentive adders and technical support to solar deployments that can support the reduction of local pollutants from fossil fuel peaking units, which will provide significant health and environmental benefits, particularly to environmental justice communities where many peaking units are located.

NYSERDA requests that the program term be extended from 2023 to 2025 in order to meet the 6 GW goal. While no program incentive commitments will be made after 2025, as the program comes to an end, commitments made prior to the end of 2025 will remain in the queue until the project is completed or becomes uncommitted, such that some funds will be committed by the end of 2025 but expended in subsequent years.

NYSERDA outlines additional Commission actions that could support distributed solar in New York and enhance NY-Sun’s cost effectiveness and the benefits that solar customers receive. Specifically, the Petition proposes that the rules for remote net metered projects be modified such that one project can serve multiple large customers. NYSERDA also proposes additional measures be taken to facilitate CDG enrollment, including consideration of opt-out opportunities for Community Choice Aggregation (CCA) customers and utility-administered community solar enrollment for low income customers.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on December 11, 2019 [SAPA No. 19-E-0735SP1]. The time for submission of comments pursuant to the Notice expired on February 10, 2020. The comments received are summarized addressed below.

SUMMARY OF COMMENTS

BlueWave Solar proposes a dual-use solar and agricultural adder and recommends that NYSERDA operate the concept as a pilot program in order to optimize and correctly incent the dual-use market. BlueWave Solar states that offering incentives for dual-use solar on agricultural properties provides the landowners the incentives necessary to maintain the farming community for regenerative farming which can also, among other things, build healthy soils, promote carbon sequestration, facilitate sustainable grazing, promote water conservation, and enhance species diversity.

Bright Power strongly supports the Petition and NYSERDA’s efforts to deploy solar to LMI and disadvantaged communities. Bright Power expresses concern about the increasing payback periods of CDG projects in the LMI/affordable housing space and asserts that payback periods of 7 years or less are more appealing and can attract more developers. Bright Power suggests additional incentives for CDG projects targeting LMI customers or affordable housing in the downstate regions.

Additionally, Bright Power requests consideration of increased funding for projects sited in the Con Edison nonresidential market as part of the NY-Sun MW Block program allocation as these projects are crucial in achieving the renewable deployment, workforce, and community development targets detailed in the CLCPA.

Solar Energy Industries Association, the Alliance for Clean Energy New York, the Coalition for Community Solar Access, the Natural Resources Defense Council, the New York Solar Energy Industries Association, Pace Energy and Climate Center, and Vote Solar, collectively filing as the Clean Energy Parties (CEP) express support for the Petition. CEP states that a portion of the overall budget requested by NYSERDA should remain unallocated, as the Petition suggests, because it provides NYSERDA with the flexibility to respond to changing policy and market conditions. CEP advises NYSERDA to use caution on several issues it claims affect the calculations of savings: (1) when calculating the savings associated with consolidated billing; (2) using estimated Capacity Values that are too high; and (3) overestimating the viability of trackers. Based on these factors, CEP suggests additional market intelligence may be needed to properly reflect actual costs experienced in the marketplace, arguing that the proposed Community Adder of $0.18/W is insufficient for financing upcoming projects. CEP also proposes expanded incentives in Con Edison’s territory as solar development there could have a substantial impact on goals but has been slow to materialize.

CEP proposes that the Long Island Power Authority (LIPA) develop a program to incentivize the deployment of larger solar projects paired with energy storage in the Long Island territory. CEP states that they are supportive of the adders for solar projects to be developed on landfills and brownfield sites but recommends a higher incentive to attract more development. CEP also recommends introducing a public adder for solar projects that benefit cities and town as these projects can be more costly than private projects. CEP expresses support for the increased funding for disadvantaged communities. CEP also supports a dual-use solar incentive for agricultural properties.

The City of New York (the City) states that it supports the Petition’s requests for increase in NY-SUN funding and program term. The City states that there is a need for greater investment in local outreach to increase awareness of solar, suggesting the NYC Retrofit accelerator as a model that can be responsive to local needs. The City expresses support of NYSERDA’s commitment to energy equity and recommends a robust technical assistance program that will assist in bringing solar projects to disadvantaged communities. The City also recommends developing solar projects in the NYC area as it can lessen the energy burden of customers who pay the highest energy costs in the State, benefit local environmental justice communities, and alleviate the constrained and carbon-intensive downstate grid. The City states that it also supports utility-administered community distributed generation programs for low-income customers and reduced restrictions on remote net metering.

Albany Engineering Co, Azure Mountain Power, Boralex Hydro Operations, Brookfield Renewable, Eagle Creek Hydro, Gravity Renewables, Kruger Energy, Natural Power Group, Northbrook Energy, Northern Power & Light, and Oakvale Hydro, filing as the Interested Hydroelectric Parties (IHP), express concern that the Community Adder excludes small hydroelectric CDG resources. IHP suggests several possible solutions, including: (a) extension of Community Credit availability for non-solar CDG; (b) extension of Environmental Value compensation to pre-2015 resources; (c) development of a separate Community-Adder-like program for non-solar resources; or (d) development of a comprehensive technology neutral program to replace the Community Adder.

The Joint Utilities (JU) state that they are supportive of the Petition's request for an additional $573 million of funding to support the 6 GW target and a program term through 2025. The JU recommend the program undergo a midpoint review process to determine its effectiveness. The JU states that other issues raised in the Petition, such as remotely metered distributed energy resources, CDG and CCA, and utility-administered low-income solar enrollment, should not be considered in this proceeding because they have already been or are currently being addressed in other more appropriate proceedings.

Multiple Intervenors (MI) opposes the Petition based on the magnitude and timing of the request for increased funding from ratepayers. MI states that NYSERDA did not adequately justify the increased dollar amount that is requested especially given the existence of unspent, unencumbered program funds. MI also argues that, because the current program has been authorized to 2023, it is premature to request extension of the program to 2025. In addition, MI recommends that all requests for additional clean energy funding be assessed holistically with existing funding with the goal of minimizing rate and price impacts. MI also proposes reconsideration of how funds are collected.

In its comments, the New York Energy Democracy Alliance (EDA) states that it supports the goal of 6 GW of distributed solar and believes additional action is appropriate to ensure that CDG benefits LMI customers and disadvantaged communities. EDA expresses concerns that the Community Adder will not be a sufficient replacement for the Community Credit, and potentially result in solar development slowing down. EDA states that the Value of Distributed Energy Resources (VDER) tariff needs improvement so that the solar community perceives a stable and reliable market to maintain a robust marketplace. EDA expresses concern that sufficient funds have not been historically spent on LMI customers and disadvantaged communities and request that 40% of current uncommitted funds be allocated to meeting the needs of disadvantaged communities with solar energy. Additionally, EDA proposes development, with the input of several stakeholders, of a well-defined Solar Equity Roadmap that outlines clear goals to reach the solar equity objectives.

The New York Power Authority (NYPA) expresses support for the Petition. NYPA argues that NYSERDA’s proposal to provide additional flexibility to remotely-metered DERs would provide customers with increased choice and would support additional development at better economies of scale. NYPA requests that the Commission identify other market barriers that may prevent participants with substantial load from benefiting from DERs, including the amount of clean energy credits that they are eligible to receive through a remote metered DER arrangement. NYPA states that it supports the proposal for additional incentives for projects that are sited on brownfield or landfill sites and projects with a parking or rooftop canopy design.

New York City Environmental Justice Alliance (NYC-EJA) states that the $135 million allocated to LMI customers, affordable housing, environmental justice communities, and disadvantaged communities is not sufficient to meet the CLCPA requirements or the needs of those communities. NYC-EJA recommends that the Petition be denied on this basis.

Omni Navitas Holding LLC (Omni) supports the CEP comments and offers additional recommendations for a gradual step down in the Community Credit and Community Adder incentives to reach the $0.18/Watt DC target over period of two years.

RIC Development, LLC (RIC) supports the CEP comments and states that a transition to a Community Adder with gradual steps down to the proposed $0.18/Watt DC would provide the solar development community the certainty it needs to continue its momentum in meeting New York State's 6 GW solar goal.

LEGAL AUTHORITY

The Commission has the responsibility and the authority under the Public Service Law (PSL) to ensure that utilities carry out "their public service responsibilities with economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources."[8] Pursuant to the State Energy Law, the Commission is required to consider actions to effectuate State energy policy and the New York State Energy Plan.[9] In fulfilling the mandates of the PSL and the Energy Law, the Commission has directed the development and implementation of a number of programs to increase the deployment of energy efficiency resources in New York, including the Clean Energy Fund, the Energy Efficiency Portfolio Standard, and the Energy Efficiency Transition Implementation Plans. The activities directed and authorized in this Order will continue and build upon the progress made through those programs.

Furthermore, the CLCPA requires that the Commission, no later than July 1, 2024, "establish programs to require the

[8] PSL §5(2); see also PSL §66(3).

[9] State Energy Law §§ 3-103 and 6-104.

procurement by the state's load serving entities of . . . six gigawatts of photovoltaic solar generation by two thousand twenty-five."[10] By expanding NY-Sun to support 6 GW of distributed solar by 2025, funded by ratepayers through utility collections, this Order fulfills that requirement and ensures that the 6 GW goal will be met in a timely fashion.

DISCUSSION

Distributed solar resources are a vital component of New York's clean energy system. NY-Sun has been an effective means of driving distributed solar deployment and has demonstrated successful progress towards its goals. As the CLCPA targets a significant expansion of distributed solar in New York, it is appropriate to use the successful NY-Sun program to achieve that goal.

Most commenters, including the JU, environmental non-profits, solar industry groups, solar developers, low-income advocates, and governmental entities, offer general support for the establishment of a 6 GW goal and authorization of appropriate funding for NYSERDA to meet that goal. As noted, MI opposes approval of the Petition on the grounds that the request for increased funding is not sufficiently justified and that neither the increased budget nor the increased program term are necessary at this time. MI also requests holistic consideration of ratepayer costs associated with clean energy programs and collection methodologies. Other comments on the Petition fall into three broad categories: (a) comments on the level of the Community Adder incentive; (b) comments on funding and incentives for low-income individuals and disadvantaged communities; and (c) comments proposing modification to or

[10] PSL 66-p(5).

addition of specifically targeted incentives. Each of these comments will be addressed in appropriate sections below.

Program Extension and Expansion

Through the NY-Sun program, NYSERDA has effectively driven the adoption of distributed solar at a nation-leading rate, while also creating benefits for customers and spurring cost reductions in the solar industry. Based on projects installed and in active development, the NY-Sun goal of 3 GW will be reached before the targeted date of 2023. Given that the 3 GW goal will be achieved prior to the target deadline, it is appropriate to extend and expand the NY-Sun program now to meet the 6 GW goal established in the CLCPA.

The Commission has reviewed the funding proposed in the Petition and finds it is reasonable. NYSERDA has provided sufficient information to justify the need for $573 million in additional funding to meet the 6 GW target in a cost-effective manner, while also supporting overall State policy goals. As further discussed below, the proposals for Community Adder funding, LMI funding, and funding for specifically targeted incentives are also reasonable.

Importantly, the level of funding requested reflects the substantial cost reductions in solar development, substantial elements of which have been driven by Commission policy and NYSERDA programs. As discussed above, the Commission had approved a total of approximately $1.18 billion in funding in support of the achievement of 3 GW of distributed solar by 2023. That initiative has been successful, as reflected by the more than 2 GW of distributed solar current in service and the additional more than 1 GW currently in development. However, the Petition projects that NYSERDA will be able to double its distributed solar achievements with only an approximately 50% increase in funding. This cost reduction is even more dramatic when accounting for the fact that transitioning to VDER has substantially decreased the implicit subsidies often present in net metering, which were also funded by ratepayers through electric utilities. Through the establishment of a Community Adder in all utility territories other than Con Edison, large distributed solar projects built with the new incentives will receive compensation from the utilities strictly based on actual cost reductions, bringing the net revenue impact for those projects close to zero. In addition, distributed solar, especially when paired with storage, has the potential to create additional resiliency benefits and other benefits not fully accounted for through the Value Stack.

It is also notable that NY-Sun was planned to develop 3 GW of distributed solar over a period of more than ten years, while the 6 GW goal requires the development of the next 3 GW in less than five years. Based on the current status of NY-Sun, it is likely that many of the projects currently in development will be interconnected, and therefore the initial 3 GW goal reached, a year or more ahead of schedule. Nevertheless, with the CLCPA calling for the development of the next 3 GW in just five years, this abbreviated timeline emphasizes the importance of immediate action and not waiting until closer to 2023 as MI suggests. Indeed, increasing funding now will provide a price signal to the distributed generation market that adequate funding will be in place for the next five years which, in turn, will serve to further accelerate market expansion over that time period. While construction is currently stopped due to the COVID-19 pandemic, many planning activities are continuing and this Order will provide the certainty needed for solar developers to conduct multi-year planning.

For the above reasons, the Commission grants NYSERDA’s request to: (a) increase the NY-Sun target to 6 GW; (b) extend the NY-Sun program term to 2025; and (c) increase NY-Sun funding by $573 million. NYSERDA shall file an updated NY-Sun Operating Plan reflecting this program expansion approved in this Order by June 1, 2020.

Program Funding Sources

The Commission is mindful of the impact that collections for clean energy programs have on ratepayers. For that reason, the Commission agrees that (a) existing uncommitted funds collected for the same or a similar purpose should generally be exhausted before any new funds are collected, and (b) any new collections should reflect holistic consideration of the funds collected for and allocated to clean energy programs, including the overall requirements for meeting CLCPA targets and the overall impact on ratepayers.

However, as described above, immediate action to increase the target and approve necessary expenditures is necessary to ensure that the 6 GW goal can be met in a timely manner. In short, waiting until existing funds are completely exhausted would result in a gap in incentive availability that would create market uncertainty and potentially freeze development.

For those reasons, the Commission directs that initial funding be sourced from existing uncommitted NYSERDA funds. Specifically, NYSERDA has uncommitted funds originally collected for the development of large-scale renewable generation. NYSERDA may commit and spend as much as two-fifths of the total expanded NY-Sun authorization, or $230 million, of those uncommitted funds as part of NY-Sun.

The Commission will consider the appropriate source of funding for the following period as part of its review of the Clean Energy Fund. That will give the Commission, following a public input and comment process, the opportunity to review all aspects of the Clean Energy Fund, including its performance, how its goals correlate with CLCPA targets, and funding status. At that time, the Commission will determine the extent to which overall collections should be modified to ensure that the full suite of NYSERDA’s Clean Energy Fund activities are sufficient and appropriately directed to meet the State’s clean energy goals, while also taking into account the cost of those programs to ratepayers. In its reporting on the Clean Energy Fund, NYSERDA is directed to provide the information needed to determine what uncommitted funds remain available, what additional funding may be needed, as well as any modification to collection schedules to better align collections with expenditures.

Community Adder

The Community Adder is an important step in the progress towards utility compensation of distributed generation resources based on the values those resources create. Under the initial VDER policy, the majority of the Value Stack bill credit provided by utilities to CDG customers as compensation for a CDG project’s generation was based on specific avoided utility costs, such that no net revenue impact was imposed on the utility by that compensation. However, the bill credit also included the MTC, which was an adder intended to ensure that CDG compensation did not undergo a sudden sharp reduction that could render continued CDG development nonviable. The MTC was subsequently replaced for new projects by the Community Credit, which similarly was an adder above the avoided-cost-based elements of the Value Stack.

The Commission recognized that both the MTC and the Community Credit would create net revenue impacts for the utilities and that the utilities would collect the cost of those impacts from other customers. To avoid unreasonable impacts on nonparticipating customers, the Commission limited the availability of the MTC and Community Credit through declining tranches with a fixed capacity, with a targeted maximum net revenue impact of 2%. As total tranche capacity is exhausted at each utility, the Commission has directed the establishment of a Community Adder. The Community Adder is an up-front incentive, paid by NYSERDA, designed to approximate the net-present-value of the final MTC or Community Credit available at a utility with a reduction similar to the reduction between tranches to reflect the continued cost reductions in the development and operation of distributed solar.

The Community Adder was initially established in O&R and Central Hudson with two levels in each utility territory, an initial level applicable to projects sufficiently far along in development at the time it was established and a second level applicable to newer projects. In O&R, those two levels were $0.25/Watt DC and $0.15/Watt DC, respectively; in Central Hudson, they were $0.40/Watt DC and $0.30/Watt DC, respectively.

Transitioning to the Community Adder allows for incentive value and funding to be uniform across New York, other than in the Con Edison and LIPA service areas.[11] This will stimulate the development of CDG in areas where it can create the most value at the least cost, rather than simply the areas with the most favorable preexisting utility rates. Furthermore, it will distribute the ratepayer costs of meeting the State's distributed solar and CDG policy goals fairly across the State and across ratepayer classes rather than focusing it within

[11] A Community Adder is not needed in Con Edison at this time due to significant remaining Community Credit availability. The Community Adder also will not be available in LIPA service territory, as LIPA customers do not contribute to the Clean Energy Fund and LIPA has established separate methodologies for incentivizing distributed solar, including CDG.

specific service classes at specific utilities. In particular, net metering and VDER have historically had the most significant impact on residential ratepayers at the two smallest electric utilities, Central Hudson and O&R. The Community Adder will fairly distribute costs while also continuing the gradual reduction in incentives.

A number of commenters argue that the $0.18/Watt DC Community Adder level proposed by NYSERDA for the new Community Adder, which will be available in the 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) territories once their Community Credit Tranches are full, is too low. Depending on assumptions used, the $0.18/Watt DC Community Adder equates to a 20% to 30% decrease from the net present value of the final Community Credit Tranche, which is a larger drop than has generally occurred between Tranches. In addition, unlike the Community Adder levels applicable to Central Hudson and O&R, the Petition proposes a single level applicable to all projects rather than an initial level and one or more stepped-down levels. The use of declining block incentives has been an effective mechanism to drive solar development while lowering costs and avoiding excessive incentive levels, including through the MW Blocks of NY-Sun and the Tranches of VDER.

Using this method for the Community Adder would be particularly appropriate given that a significant anticipated driver of cost-reductions for CDG developers is the implementation of Consolidated Billing, which both will not be available at most utilities until 2021 and may take some additional time to become fully implemented such that developers can have full confidence in the certainty and level of cost reductions it creates. The Commission also notes that projects currently in development may be subject to the greatest uncertainties, costs, and delays associated with the COVID-19 pandemic and related economic disruptions.

For those reasons, the Commission directs NYSERDA to establish the new Community Adder in two or more segments, with the rate declining in each segment. The first rate should be available to projects that qualified prior to the issuance of this Order that are otherwise eligible for the Community Adder, as well as projects that qualify for an initial period following this Order. The first rate should be set at a higher level than the proposed $0.18/Watt DC to reflect the factors discussed above. The later rates may be at $0.18/Watt DC or a lower level. NYSERDA shall include the level of and qualification for each rate in its filing of the NY-Sun Operating Plan.

The Commission recognizes the important role that non-solar distributed resources, and in particular small hydroelectric resources, play in the State’s clean energy mix. However, the limitation of the Community Adder to solar PV is appropriate given the goals of the NY-Sun Program. The Interested Hydroelectric Parties suggest that one alternative to Community Adder eligibility to maintain the viability of non-solar resources would be broadened eligibility for environmental compensation through a Clean Energy Fund Tier 2 or similar program. The Commission notes that a proposal by NYSERDA for such a program is currently under consideration in Case 15-E-0302.[12] Comments on that proposal are due on May 4, 2020.[13]

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[12] Case 15-E-0302, Clean Energy Standard, Petition Regarding Clean Energy Standard Competitive Tier 2 Program for Baseline Renewable Generation (filed January 27, 2020).

[13] Case 15-E-0302, supra, Notice Regarding Submission of Comments (issued April 2, 2020).

Incentives for LMI Customers and Disadvantaged Communities

The inclusion of LMI customers and disadvantaged and environmental justice communities in New York State’s clean energy programs is crucial both to the programs’ success and to their fairness. In recognition of this, Environmental Conservation Law (ECL) 75-0117 – added as part of the CLCPA – includes a requirement that disadvantaged communities receive at least thirty-five percent of the benefits of clean energy programs. Pursuant to ECL 75-0111, the identification of disadvantaged communities will be performed by the Climate Justice Working Group, which has yet to be performed. Thus, although it is not currently possible to identify the total amount of funding or benefits that will accrue to disadvantaged communities, the Petition commits to meeting this goal by dedicating at least $200 million, or thirty-five percent of total funding, to LMI customers, affordable housing, and environmental justice and disadvantaged communities. This includes $135 million for additional incentives for projects benefiting LMI customers, affordable housing, and environmental justice and disadvantaged communities as well as at least $65 million of MW Block and Community Adder incentives supporting the projects that receive those additional incentives. NYC-EJA’s opposition to the Petition is based on a failure to account for this additional $65 million, which will be crucial to the overall viability of projects supporting disadvantaged communities.

The Commission recognizes that NY-Sun has historically had only limited success in reaching LMI customers. Before the establishment of CDG, these communities could only be reached through rooftop solar, which faces significant barriers including the lower likelihood of home ownership, the potential for LMI customers moving more often, and the lack of suitable roofs. CDG has provided the opportunity for any customer who receives an electric utility bill to be served, regardless of whether that customer owns a residence suitable for the installation of solar. While NYSERDA has seen some additional success with CDG programs targeting LMI customers, LMI participation remains limited at this time. NYSERDA must substantially enhance its programs to drive the level of benefits to LMI customers that are needed.

The Framework for Solar Energy Equity provided in the Petition offers a number of promising new solutions, as well as enhancements to existing programs. The Commission is encouraged by the diversity of the strategies described and by their overall consistency with actions proposed by low-income advocates and solar developers. In executing the Framework for Solar Energy Equity, NYSERDA is directed to work closely with interested stakeholders to maximize its reach and effectiveness.

The CLCPA also requires that NYSERDA “develop and report metrics for energy savings and clean energy market penetration in the low and moderate income market and in disadvantaged communities . . . and post such information on the authority's website.”[14] NYSERDA is directed to detail its plans for such reporting in the NY-Sun Operating Plan and to include such reporting in its reports to the Commission on the NY-Sun program.

Other Specific Incentive Categories

The Commission supports NYSERDA’s inclusion of added incentives for projects that offer additional benefits to the achievement of State policies and objectives, including projects sited on a brownfield or landfill and projects utilizing a parking or rooftop canopy design. Consistent with the Petition

[14] PSL 66-p(7)(c).

and several proposals by commenters, the Commission also supports the establishment of an agricultural program to offer support and incentives to projects that are designed to maximize agricultural and environmental co-benefits.

Remote Crediting

While CDG allows the participation of a large number of customers in a single project, remote net metering rules have continued to limit participation to a single customer who must also own or lease the project site (though that customer may allocate credits to multiple accounts). This can limit the ability of developers to serve certain customer classes in the most cost-effective manner. For example, a customer with enough usage to take credits from a project sized at 2.5 MW would be limited to either taking a maximum of 2 MW from a 5 MW CDG project, based on the limit of large customers to 40% of a CDG project, or funding the development of a 2.5 MW project, even if the project site would support a significantly larger project. More broadly, it limits all nonresidential customers not able to support a single project on their own into CDG, even though remote net metered projects may in many cases be otherwise preferable for developers and nonresidential customers. These rules also make it difficult to transfer a remote net metered project or to address changes in customer load.

Facilitating additional participation in remote net metered projects in Value Stack compensation will also benefit nonparticipating ratepayers. Because remote net metered projects are not eligible for the MTC, Community Credit, or Community Adder, they require less ratepayer funds for the same capacity as compared to CDG projects. While remote net metered projects serving multiple customers may slightly increase the complexity of utility billing activities, any required system changes should be minimal given that utilities can already support the crediting of multiple meters by a single remote net metered project, as long as they are owned by the same customer, or the crediting of multiple meters and multiple customers by a CDG project. To avoid the use of remote net metering where CDG would be more appropriate, each project shall be limited to serving ten total customers, though each customer may have multiple accounts, and only nonresidential customers and farm residential customers will be permitted to participate, consistent with current rules. To avoid the potential for greater cost shifts than anticipated, this change shall be limited to projects receiving Value Stack compensation; the current limitations will continue to apply to projects receiving net metering compensation.

This change shall be effectuated through the addition of additional tariff language governing these projects, which shall be described as “remote crediting” projects. Utilities shall work together and consult with Staff to ensure that consistent tariff language is used.

To provide time for any billing modifications needed, utilities shall update their tariffs consistent with this part of the Order to be effective on November 1, 2020. Given the substantial public process associated with this proceeding, the requirement related to newspaper publication is waived.

CDG Enrollment Proposals

As discussed in the Consolidated Billing Order, the implementation of Consolidated Billing will facilitate innovative enrollment methods that can reduce the cost and increase the benefits of CDG participation, as well as supporting increased LMI participation. The Petition discusses the integration of CDG into CCA programs as well as the potential for utility enrollment of LMI customers in guaranteed-savings CDG subscriptions. Both proposals have merit but require further consideration.

With respect to CCA, Department Staff is currently developing a proposal for Commission review related to integration of CDG and CCA. With respect to utility enrollment of LMI customers, the Commission encourages NYSERDA to collaborate with one or more utilities to propose a program for Commission consideration.

Future Action

The direct and indirect effects of the COVID-19 pandemic on businesses, including the critical clean energy economy of New York, have been severe. The distributed solar industry is facing impacts related to the necessary pause on non-essential work and the economic situation more broadly. Both the Commission and NYSERDA have taken action to address these impacts, including suspending interconnection deadlines and accelerating certain incentive payments.[15] However, COVID-19 pandemic impacts may create a need for further action to support distributed solar development. NYSERDA is well placed to monitor the performance and needs of the industry. Accordingly, NYSERDA is directed to file, no later than 30 days after the issuance of this Order, a report on any material changes resulting from the impacts of the COVID-19 pandemic on the distributed solar industry, and, particularly, its ability to support disadvantaged communities. Members of the solar industry and other interested parties will be invited to file comments on the report.

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[15] Case 20-E-0155, Interconnection Deadline Modifications, Order Suspending Certain Interconnection Payment Deadlines (issued April 6, 2020). Details regarding actions taken by NYSERDA are available at https://www.nyserda.ny.gov/ny/COVID-19-Response.

CONCLUSION

Continuing and accelerating the pace of distributed solar deployment in New York will support the continued development of a clean, distributed, dynamic, and efficient electric grid. The expansion of NY-Sun, as proposed by NYSERDA, will drive this development while continuing the trend of reduced prices and associated reduced incentives. The plans presented in the Petition will support substantially increased participation in and benefit from distributed solar by LMI customers and environmental justice and disadvantaged communities. They will also ensure that solar projects support other State policies wherever possible. The Commission encourages all energy market actors to continue to develop improvements and innovations that will reduce costs and maximize customer and system benefits.

The Commission orders:

1. As discussed in the body of this Order, the NY-Sun program administered by the New York State Energy Research and Development Authority is expanded and extended to have a target of 6 GW, to run through 2025, and to have its funding level increased by $573 million.

2. The New York State Energy Research and Development Authority is authorized to use uncommitted funds, in an amount of up to $230 million, for incremental NY-Sun activities.

3. The New York State Energy Research and Development Authority shall file an updated NY-Sun Operating Plan reflecting the decisions in this Order by June 1, 2020.

4. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and

Rochester Gas and Electric Corporation are directed to file, in conformance with the discussion in the body of this Order, tariff leaves modifying the description of projects currently described as “remote net metered” but compensated using the Value Stack to “remote crediting” and modifying the rules such projects to allow remote crediting projects to distribute credits among up to ten customers, on not less than 15 days’ notice to become effective on November 1, 2020.

5. The New York State Energy Research and Development Authority shall file a report on any material changes resulting from the impacts of the COVID-19 pandemic on the distributed solar industry, and, particularly, its ability to support disadvantaged communities, no later than 30 days after the issuance of this Order.

6. 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. 4, are waived.

7. 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.

8. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary