



CRS

center for
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[SUBMITTED BY EMAIL TO: secretary@dps.ny.gov]

December 5, 2016

Hon. Kathleen H. Burgess, Secretary
State of New York Public Service Commission (PSC)
Three Empire Plaza
Albany, New York 12223-1350

RE: Case 15-E-0751 – In the Matter of the Value of Distributed Energy Resources. Comments of Center for Resource Solutions (CRS) to the State of New York Public Service Commission (PSC) on the Value of Distributed Energy Resources (VDER)

Dear Hon. Kathleen Burgess:

CRS appreciates this opportunity to comment in response to the October 28, 2016 “Notice Soliciting Comments on Staff Report and Recommendations” on the Value of Distributed Energy Resources Proceeding (“Proceeding”) filed in Case 15-E-0715 on October 27, 2016.

Background on CRS and Green-e

CRS is a 501(c)(3) nonprofit organization that creates policy and market solutions to advance sustainable energy. To this end, we are committed to state, national, and international policies that support both voluntary and compliance renewable energy markets. CRS also administers Green-e® Energy, North America’s leading independent certification and consumer protection program for renewable energy sold in the voluntary market. Green-e Energy certifies and verifies over half of the U.S. voluntary renewable energy market and approximately 90% of U.S. voluntary renewable energy credit (REC) sales.¹ CRS’s role in this market is to protect the consumer against double counting and false claims, and ensure that the purchaser of renewable energy is receiving all of the attributes of renewable energy generation that they were promised. CRS also has a long history of working with state and federal agencies to design and implement consumer protection policies that ensure accurate marketing and avoid double counting of individual resources towards multiple end uses.

Introduction

CRS’s comments relate to Section “2.5.5 Environmental Value” of Staff’s Report and Recommendations, and focus on the assignment of RECs from renewable energy distributed energy resource (DER) generation projects. CRS’s comments are informed by over twenty (20)

¹ National Renewable Energy Laboratory. (2016). *Status and Trends in the U.S. Voluntary Green Power Market (2015 Data)*, p.3. Available at: <http://www.nrel.gov/docs/fy17osti/67147.pdf>; and Center for Resource Solutions. (2016). *2015 Green-e Verification Report*, p.4. Available at: <http://green-e.org/docs/2015%20Green-e%20Verification%20Report.pdf>.

years of working in compliance and voluntary REC markets. REC markets allow renewable energy on the grid to be allocated to specific customers, and therefore play an important role in driving demand for new renewables. REC market integrity is threatened when policies lead to double counting of RECs, ambiguous REC definitions, or unclear REC ownership.

Comments on Section 2.5.5 Environmental Value

CRS supports the effort being undertaken to establish a price that adequately compensates DER for the value it adds to the grid. The environmental, social, and other generation benefits associated with each megawatt-hour (MWh) of generation are an important component of the value of DER, and we support efforts to accurately and fully compensate DER for this value. CRS has outlined several key principles of RECs and net metering that are important for the NY PSC Staff (“Staff”) to consider in their efforts to promote renewable energy markets, and, in turn, the long-term growth of renewables.

For the purposes of these comments, CRS treats the CES goal and CES obligation as synonymous. Whether DER renewable energy can be used by customers for on-site consumption and also counted towards a CES voluntary goal while preserving regulatory surplus and the principle of exclusive REC ownership will depend on the details of the CES goal, both in terms of intent and compliance reporting. In order to ensure that the voluntary market continues to play a vital role in driving the development of new renewables, CRS strongly encourages the NY PSC to clearly differentiate the voluntary market from the CES compliance market.

1. RECs are the only instrument that represent the environmental and other generation attributes of a MWh of renewable energy, and should be used as such for the purposes of this Proceeding and the NY CES more broadly.

RECs are recognized by actors in the voluntary market and all thirty-five (35) states that require or have a goal to deliver renewable generation to users as the common instrument used to track and trade renewable energy and as the means of demonstrating renewable energy usage.² RECs represent the generation attributes associated with a MWh of renewable energy generation, and should be used as such in the Proceeding. Furthermore, the Proceeding should never decouple the value of the REC, or any portion of it, from contractual REC ownership. For example, Staff note in the proposal that, “because the customer-generator or CDG member is being compensated for the environmental value the DER provides, and is in fact being compensated based on the value of Tier 1 RECs, compensation under the Phase One Tariff (“Tariff”) precludes any DER generator from participating in the CES Tier 1 auctions administered by NYSERDA and the separate sale of Tier 1 RECs for CES compliance or other purposes.”³ If the state intends that the Tariff compensation transfers the environmental and

² Jones, et al. (2015). The Legal Basis of Renewable Energy Certificates. Available at: <http://resourcesolutions.org/wp-content/uploads/2015/07/The-Legal-Basis-for-RECs.pdf>.

³ NY PSC. (Oct. 27, 2016). *Case 15-E-0751, Staff Report and Recommendations in the Value of Distributed Energy Resources Proceeding*, p.35.

other generation attributes to the LSE, the Proceeding should in fact transfer the REC to the LSE. Otherwise, the payment transfers the value of a REC without contractually transferring the REC itself and thereby double counts.⁴

We recommend that Staff adopt a proposal that requires that RECs be transferred to the LSE or state in any instance where the LSE or state plans to use the renewable energy towards compliance with the CES. LSEs must only count renewable energy for which they own the RECs in NYGATS towards CES compliance. A proposal that requires REC ownership in order to claim usage of environmental benefits of generation provides all parties (state, LSE, and customer) clarity on REC ownership and renewable energy usage.

2. RECs associated with on-site generation, either with the exported electricity or the electricity used for on-site consumption, should not be automatically counted towards CES compliance.

CRS does not advise moving forward with a policy that automatically counts renewable energy generation from DER towards CES compliance. Staff has indicated such a policy in the Proceeding, where it states that, “NYGATS certificates associated with energy consumed on-site can be retired for the purpose of environmental and sustainability certifications. Whether or not retired for voluntary claims, the NYGATS certificates associated with non-exported behind-the-meter generation can be recognized as contributing to the state’s overall CES goal but not the CES Tier 1 obligation.”⁵ As it pertains to exported electricity, Staff similarly states in the Proceeding that “in the event the certificates tracked in NYGATS are claimed for the purpose of environmental and sustainability certifications, the exported generation can be recognized as contributing to the state’s overall CES goal but not the CES Tier 1 obligation.”⁶

Automatically counting renewable energy generation from DER towards CES compliance eliminates the value that individual customers expect when choosing to install on-site solar. Many customers who choose to invest in on-site DER do so to drive demand for renewable energy beyond what is required by the state—also referred to as “regulatory surplus.” This applies not just to the electricity used on-site but also to electricity that is generated and distributed to the grid. By not requiring that LSE’s own the RECs from this generation in order to count it towards the CES, Staff’s proposal implicitly allows double counting of attributes. Furthermore, many customers who invest in DER do so with an expectation of receiving the environmental benefits of that generation to use towards environmental and sustainability goals or certifications. Counting the renewable energy towards CES compliance disqualifies these customers from including the DER generation towards meeting these goals. As such, a policy that automatically counts DER generation towards the CES erodes the benefits of DER to the on-site customers, and is likely to reduce future investments in DER.

⁴ The nature of this payment, the transfer of REC ownership, and concerns of double-counting are explained in more detail in Point 3.

⁵ NY PSC, p.36.

⁶ Ibid., p.35.

3. Customers must be given a clear, real, and unambiguous choice on REC ownership, and clarity on how to make this choice.

In order for the proceeding to capture the full value of DER there should be clear undisputed ownership of RECs and unequivocal rights associated with ownership. Customers should be presented with a clear choice regarding selling or transferring RECs, straightforward disclosure of what the choice means in terms of renewable energy usage and regulatory surplus, and, where the LSE receives the RECs, fair compensation for the environmental attributes.

The proposed Tariff should incorporate two fundamental choices for DER customers. First, customers should be given an option that provides regulatory surplus. In order to preserve regulatory surplus, the state would need to provide two distinct options for the Tariff: one that leaves the REC with the customer, and one which assigns the REC to the LSE with appropriate compensation to the customer. Customers would need to be provided with disclosures that clearly and accurately explain the options and impacts.

Second, DER customers should be given an option that provides them with unequivocal ownership rights. The current option that allows DER customers to count renewable energy towards on-site usage risks double counting in two ways. First, it allows the state to count the renewable energy used on-site towards CES compliance (double counting between statewide customers and the onsite user). Second, it allows the state to count renewable energy towards CES compliance that may have been sold out of state (double counting between in-state and out-of-state users). Nothing precludes DER customers from selling RECs out of state for a voluntary purchase or for usage towards another state's compliance market. Therefore, this policy could lead to double counting where the state counts the REC towards CES compliance while a customer out of state claims usage or another state's LSE counts it towards their compliance targets.

CRS thanks you for accepting and considering our input. Please do not hesitate to contact us should you have any questions regarding these comments, or if we can otherwise be of assistance.

Sincerely,



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