NEW YORK STATE
PUBLIC SERVICE COMMISSION

Case 15-E-0302 - In the Matter of the Implementation
of a Large-Scale Renewable Program.

REPLY COMMENTS OF INDEPENDENT
POWER PRODUCERS OF NEW YORK, INC.

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Pursuant to the Secretary's notices soliciting, and extending the deadline to file, initial and reply comments, in the above-captioned proceeding, Independent Power Producers of New York, Inc. ("IPPNY") hereby offers its reply comments to certain initial comments that were submitted on the report, entitled "Large-Scale Renewable Energy Development in New York: Options and Assessment" ("Report"), filed with the New York State Public Service Commission ("Commission") by the New York State Energy Research and Development Authority ("NYSERDA").[1] Specifically, IPPNY has limited its reply comments to responding to the comments of a small subset of parties, the Indicated Joint Utilities,[2] which advocated that electric distribution companies ("EDCs") should be allowed to re-enter the generation business and own large scale renewable resources ("LSRs"), and to the comments of H.Q. Energy Services (U.S.) Inc. ("HQUS"), which advocated that large imported hydropower owned by the Canadian state government should be eligible for New York State LSR incentives. As discussed below, the Commission should reject the arguments supporting utility-owned generation ("UOG") and incentives for Canadian government-owned hydropower.

[1] IPPNY's comments do not necessarily reflect the views of individual members of IPPNY.

[2] The Indicated Joint Utilities are Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc. ("Con Edison"), Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid"), and Orange and Rockland Utilities, Inc.

I. EDCs Should Not Be Permitted to Own LSRs.

Generally, the Indicated Joint Utilities pointed to the same faulty grounds to justify UOG that EDCs have made, and the Commission rejected, in the past. Tellingly, of the approximately 40 parties that submitted comments, only the EDCs strongly supported UOG. As IPPNY addressed in its initial comments on the Report, allowing UOG would be a major step backward from years of Commission policy that (i) private investors have a greater incentive to lower costs than EDCs under cost of service regulation, (ii) private investors and their shareholders should bear the risks of generation ownership, and (iii) transmission and distribution ("T&D") should be separated from generation to eliminate the potential that EDCs that own generation could exercise vertical market power ("VMP") to the detriment of wholesale competitive electricity markets and consumers.[3] Not surprisingly, the Indicated Joint Utilities completely ignore the Commission's long-standing policies as if they never existed.

The Indicated Joint Utilities oppose being required to enter into contracts with private developers,[4] asserting that NYSERDA found that UOG is "the most cost-effective option for customers."[5] In fact, NYSERDA stated that its "current financial analysis shows privately-owned projects with bundled PPAs deliver the lowest-cost solution and that financial tools such

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[3] Case 96-E-0900 *et al.*, *In the Matter of Orange & Rockland Utilities, Inc.'s Plans for Electric Rate Restructuring Pursuant to Opinion 96-12*, Appendix I, Statement of Policy Regarding Vertical Market Power (July 17, 1998) ("VMP Order"); Appendix I ("VMP Statement").

[4] The Indicated Joint Utilities also argued that power purchase agreements ("PPAs") burden EDCs with extensive risk that lower their credit ratings and raise their cost of capital. While IPPNY opposed bundled PPAs for LSRs in its initial comments, it advocated for long-term contracts for renewable energy credits ("RECs") for private developers of LSRs. If the Commission orders EDCs to meet a REC procurement obligation, the risks of long-term REC contracts can be mitigated by adopting policies that guarantee that EDCs will recover the costs of such contracts at the time of contract execution. New York State Electric and Gas Corporation ("NYSEG") and Rochester Gas & Electric Corporation ("RGE") advocated for such policies in their initial comments. See NYSEG/RGE Comments at 9.

[5] Indicated Joint Utilities Comments at 2.

as YieldCos can drive costs down further."[6] While NYSERDA theorized that at some future time circumstances may exist where UOG could achieve the lowest costs,[7] it stated that "greater competition among all types of project developers and owners is likely to result in the selection of the lowest-cost projects."[8] Thus, EDCs must be driven by competition to lower costs.

Although competition was a central element in NYSERDA's recommendations, the Indicated Joint Utilities objected to having to compete against private developers to build projects, arguing that comparing UOG to PPAs is an "apples-to-oranges" exercise that does not allow for a fair comparison."[9] Instead, the Indicated Joint Utilities proposed that they could work cooperatively with private companies that would compete against each other to develop projects for the EDCs which would own them. The Indicated Joint Utilities provided no evidence that companies that have the expertise and experience developing LSRs will be interested in developing projects and then walking away from them upon completion of project construction. The Indicated Joint Utilities' proposal is not realistic as private developers are in the business of owning and operating projects and will be competing for long-term contracts to develop projects that they will own and operate in the State. Indeed, the Indicated Joint Utilities recognized this as major concern. They stated that "conducting both processes in parallel may encourage developers to selectively bid projects to the detriment of customers, by offering only the best performing, more profitable sites in the PPA solicitation, while at the same time bidding only those less economic projects to the utility purchase solicitation."[10] The Indicated Joint

[6] LSR Report

[7] *Id.* at 4.

[8] *Id.*

[9] Indicated Joint Utilities Comments at 10.

[10] *Id.*

Utilities are silent on what role private LSR developers will have, other than acting as construction contractors for projects that the EDCs will buy and own.

Essentially, the Indicated Joint Utilities want to dominate the ownership of LSRs, returning the EDCs to the vertically integrated monopolies they were before the Commission's transition to competitive markets. If EDCs are allowed to own LSR and recover costs via cost-of-service rates, it will chill private investment in the State, which would do immense harm to the market. As private investment is discouraged, EDCs, which are typically unresponsive to price efficiencies and reluctant to innovate, will dominate the development of LSRs. Once this cycle begins, it will become a self-fulfilling prophecy. Less merchant involvement will produce more monopoly domination, which, in turn, will produce even less merchant investment. As the Commission has found and IPPNY has consistently demonstrated in various proceedings,[11] energy services should be provided cost-effectively by private developers on a competitive basis rather than by EDCs through rate-of-return regulation. This approach ensures that private investors, not captive ratepayers, bear investment risks and that uneconomic projects—whose suppressive impacts may harm the private developers that must rely on competitive markets for their survival—are not developed.

As the New York Independent System Operator, Inc. ("NYISO") discussed in its comments, UOG also effectively insulates LSRs from wholesale market pricing signals, adversely impacting both the functioning of the wholesale markets and reliability of the State's

[11] *See* Case 14-E-0302, *Petition of Consolidated Edison Company of New York, Inc. for Approval of Brooklyn Queens Demand Management Program*, Comments of Independent Power Producers of New York, Inc. (Oct. 6, 2014), at 2–3, 14–15; Case 14-M-0101, *Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision*, IPPNY Comments (Sept. 22, 2014), at 6, 12–15; Case 14-M-0101, *supra*, IPPNY Comments (July 18, 2014), at 8–16.

electric system.[12] Prohibiting UOG also ensures that EDCs are not able to exercise VMP to the detriment of competitive markets and consumers. Thus, the Commission should reaffirm its commitment to these principles by continuing its long-standing prohibition on UOG.

II. Canadian Government-Owned Large-Scale Hydropower Should Remain Ineligible for New York State LSR Incentives.

In its comments, HQUS, the United States subsidiary of the Canadian state-owned Hydro-Québec ("HQ"), advocates for New York State incentives for large hydropower resources, such as those owned by HQ. HQUS describes HQ as a company operating 37,000 MW of installed capacity, 99% of which is hydro.[13] It claims that providing incentives to Canadian hydropower "can improve the value of new transmission projects to New York in two ways."[14] In prior comments to the Commission in the Renewable Portfolio Standard ("RPS") case, HQUS stated that RPS incentives could assist the completion of the proposed Champlain Hudson Power Express transmission project ("CHPE").[15] The CHPE is a 1,000 megawatt high-voltage merchant transmission line being proposed to interconnect Quebec, Canada with New York City.

IPPNY opposes HQUS's proposal for New York to provide incentives to subsidize Canadian government-owned hydropower and costly new transmission facilities to wheel this government-owned hydropower from Canada to New York. The Commission should not adopt policies requiring New York State ratepayers to subsidize the Canadian government to build hydroelectric plants. HQ's government-owned resources are on an un-level playing field in

[12] Comments of the NYISO, at 4.

[13] Comments of HQUS, at 2.

[14] *Id.* at 3.

[15] Case 03-E-0188, *Proceeding on Motion of The Commission Regarding a Retail Renewable Portfolio Standard*, Comments of H.Q. Energy Services (U.S.) Inc. (Oct. 28, 2013), at 3.

relation to the resources provided by the independent power producers that are developed by private investors in New York. The developer of CHPE has committed to the Commission to develop the project on a merchant basis rather than at ratepayer expense.[16] In fact, such commitment is a condition to the Certificate of Environmental Compatibility and Public Need that the Commission granted to the project pursuant to Article VII of the Public Service Law. If the developer of the CHPE project needed New York State incentives, which necessarily would be funded by ratepayers in New York, it would not have made this commitment.

Respectfully submitted,

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[16] Case 10-T-0139, *Champlain Power Express, Inc*., Order Granting Certificate of Environmental Compatibility and Public Need (Apr. 18, 2013), Joint Proposal ¶ 122.