

December 7, 2020

Via email to [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

Hon. Michelle L. Phillips, Secretary  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, New York, 12223-1350

**Re: Case 20-E-0249 - In the Matter of a Renewable Energy Facility Host Community Benefit Program**

Dear Secretary Phillips:

Pursuant to its September 23, 2020 Notice, the New York State Department of Public Service ("DPS") is requesting comments on its Draft Host Community Benefit Proposal. The proposal requires that future "major renewable energy facilities," which have executed a contract with the New York State Energy Research and Development Authority ("NYSERDA") for the sale of environmental attributes, provide bill credits annually to every residential electric utility customer equally, including those from municipal electric utilities, residing in each of the towns or cities of a renewable host community for the first ten years that the facility operates, and the amount would be \$500 per MW for solar facilities and \$1,000 per MW for wind facilities. The Independent Power Producers of New York ("IPPNY") offers the following additional comments to improve the implementation of DPS' proposal, in order to further the process for siting renewable energy facilities to meet the goals of the Climate Leadership and Community Protection Act ("CLCPA"). Our comments pertain to suggested improvements, in the areas of: the need to avoid harm to the economics of projects with agreements prior to the date of the Public Service Commission's ("PSC") approval of this program; allocation of the bill credit to more than one community; and an increased oversight role over the program by NYSERDA.

IPPNY submitted its July 2, 2020 comments on an earlier version of the Draft Host Community Benefit Program, and we appreciate that the DPS's proposal includes elements that we suggested, such as: providing the bill credit only to residential customers; that the credit is in dollars per megawatt; and the credit would appear as a specific line item on the customer's bill, indicating the associated renewable project. IPPNY also urged that the bill credit should be implemented as a requirement of renewable energy credit ("REC") contracts provided by NYSERDA, to address a jurisdictional concern about the PSC imposing fees on generators. We appreciate that the DPS proposal includes a provision that NYSERDA REC contracts require renewable project owners to prove that they have transferred the bill credit funds to the applicable utility, and, then, the REC payment would be released to the project owner.

IPPNY supports the siting of renewable energy facilities in this state to meet the goals of the CLCPA. We also supported the development of Section 94-c of the Executive Law and offered helpmate improvements. Our Member companies operate wind, solar and energy storage facilities, among other highly efficient and low- or non-emitting technologies. IPPNY Members

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currently are undergoing the review of their solar and wind projects under the Article 10 siting law. Our Members have received more than half of the contract awards for the purchase of RECs by NYSERDA and will continue to make investments to meet the State's goals.

### **1. Program Should Not Apply to Projects with Existing Agreements to Avoid Harm to Project Economics**

As discussed in IPPNY's July 2, 2020 comments, the Host Community Benefit Program should apply to projects, after the date of the PSC's order that approves the program, that receive an award under a NYSERDA 2021 Tier 1 REC Request for Proposals ("RFP"), to provide certainty for investments since contributing to this type of program is directly tied to a project's economics. Those with contracts already, prior to the date of the PSC's order to finalize the program's details, could have their economics materially harmed if required to contribute to the program. Bids were due under NYSERDA's 2020 Tier 1 REC RFP before the PSC has decided the amount of the fees that would be required to fund the bill credit program; as a result, those fees could not have been accounted for in the 2020 RFP bids. Therefore, projects with NYSERDA REC contracts prior to the date of the PSC's order (even if they are not constructed yet) should not be subject to the program's requirement.

Developers have a limited pool of monies with which to fund host community benefit programs, and some agreements, such as payment in-lieu of taxes ("PILOTs") or host community agreements with municipalities, already may have been negotiated for some projects. Accordingly, projects with previously negotiated PILOTs or host community agreements also should be exempt from the program's requirements.

### **2. Allocation of the Bill Credit to More than One Community**

IPPNY understands the importance of having a program that can be implemented easily by the utilities, but the program also should provide maximum benefit to the intended recipients of the bill credit. We ask the PSC to consider an alternative to the town line being the boundary for the area within which residential customers would receive the bill credit.

Having the bill credit payments dispersed equally across disproportionately affected towns does not make sense. The fee to fund the program should be payable within a radius around the project versus entire town boundaries. Consider the following example, which roughly represents a situation a few of our Member projects face: A project is located 90 percent in a rural farming community, but 10 percent of the project is on the outskirts of a larger, higher population, developed town. Under the DPS' proposal, adding the entirety of the larger developed town drops the bill credit per household very dramatically, potentially to a negligible amount. For a 100 MW solar project, total credits would be \$50k/year. Once more than 5,000 households are involved, the bill credit is negligible (\$10).

#### ***A. Radius for Bill Credit Distribution***

IPPNY urges the PSC to re-consider IPPNY's original proposal of a 5-mile radius for the host community payments to be distributed equally across all residents located in that zone. More specifically, in our July 2 comment letter, IPPNY recommended that:

"The geographical bounds of the host community, in relation to the location of the major renewable energy facility, should be residential customers residing within the municipality where the facility, or any portion thereof, has been proposed for development within a

radius up to, but no more than, five miles from the facility or within an area to be determined by alternative metrics, such as tax boundaries, to have ease of implementation of the program for communities, developers and utilities. As a benchmark for that radius, Article 10 of the Public Service Law allows party status for a municipality or resident of such municipality located within a five-mile radius of a proposed facility.”

IPPNY now proposes a more specific radius, considering the provisions of the Office of Renewable Energy Siting’s (“ORES”) draft Siting Rule and draft Uniform Standards and Conditions Rule, and the geographical bounds of the host community under the Draft Host Community Benefit Proposal should be conformed to the radius provisions of these draft rules. More specifically, IPPNY suggests the following radius for solar and for wind, based upon the definition below from the draft ORES Siting Rule: within 1 mile for solar and within 5 miles for wind, as noted within paragraph(bg) of Section 900-1.2 on Definitions within the ORES’ draft Siting Rule:

“(bg) Potential community intervenor means any person residing within a municipality within which a major renewable electric generating facility is proposed or residing outside the municipality within which the facility is proposed, but within *one (1) mile of a proposed solar facility or five (5) miles of a proposed wind facility* (as defined in subdivision (by) of this section) or any non-profit organization that can demonstrate a concrete and localized interest that may be affected by a proposed facility and that such interest has a significant nexus to their mission. For the purposes of this definition, the term “residing” shall include individuals occupying a dwelling within the geographical limitations described above.”

Additionally, paragraph (a) of Section 900-6.2 of the draft ORES Uniform Standards and Conditions Rule includes a provision for notifications by mail to host landowners and to adjacent landowners *within 1 mile of a solar facility and 5 miles of a wind facility*.

### **B. Bill Credit Distribution Prorated by Megawatts**

IPPNY also agrees with the alternative approach of allocating the bill credit based upon the amount of megawatts located in a municipality, as proposed by EDF Renewables in its recently submitted November 23, 2020 comments:

“For example, if the footprint of a facility is located in one municipality and the transmission line and sub-station are located in an adjacent municipality, there is an argument to be made that the community with the generating facility is entitled to a larger share of the fee payments ... We urge the Commission to consider a percentage allocation of the \$/MW formula when multiple municipalities are involved ... 80% of the benefit should be provided based on the number of megawatts of generating capacity in each municipality.”

### **3. Increased Oversight Role by NYSERDA**

In addition, IPPNY agrees with the proposal by EDF Renewables for increased oversight over the program by NYSERDA.

“NYSERDA should have greater visibility and oversight over the program than what appears to be contemplated ... NYSERDA is well-positioned to promote Program continuity across jurisdictions, stakeholders and agencies for the overall success of the renewable energy investments in the State.”

Thank you in advance for your consideration and inclusion of these helpmate improvements to DPS' proposal. IPPNY and our Members look forward to continuing to further enable private sector renewable energy investment to meet the State's goals and on realizing the environmental and economic benefits that investment will bring. If you have any questions or need additional information, please feel free to contact me.

Sincerely,

/s/Radmila P. Miletich

Radmila P. Miletich  
Legislative & Environmental Policy Director