



Public Service Commission

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September 9, 2016

The Honorable James Brennan
New York State Assembly
Rm 713 Legislative Office Building
Albany, NY 12248

The Honorable Amy Paulin
New York State Assembly
Rm 422 Legislative Office Building
Albany, NY 12248

The Honorable Jeffrey Dinowitz
New York State Assembly
Rm 941 Legislative Office Building
Albany, NY 12248

The Honorable Charles Lavine
New York State Assembly
Rm 441 Legislative Office Building
Albany, NY 12248

The Honorable Steve Englebright
New York State Assembly
Rm 621 Legislative Office Building
Albany, NY 12248

Re: **Case 15-E-0302** – Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard

Case 16-E-0270 – Proceeding Petition of Constellation Energy Nuclear Group LLC; R.E. Ginna Nuclear Power Plant, LLC; and Nine Mile Point Nuclear Station, LLC to Initiate a Proceeding to Establish the Facility Costs for the R.E. Ginna and Nine Mile Point Nuclear Power Plants

Via E-mail and U.S. Mail

Dear Assemblymembers Brennan, Paulin, Dinowitz, Lavine, and Englebright:

This is in response to your September 7, 2016 letter. At the outset, it is critical to address a number of fundamental errors in your understanding of how our power system works, the design of the Clean Energy Standard (CES) and the efforts that Governor Andrew M. Cuomo has made and is making to manage the price impacts of securing our environmental future.

First, addressing climate change is a global challenge and societal necessity. As UN Secretary-General Ban Ki-moon has observed, we are the last generation on earth to be able to combat the harmful effects of carbon emissions. Governor Cuomo's establishment of the 50 percent renewable target as part of a strategy to reduce statewide greenhouse gas emissions 40 percent by 2030 and his directive to the Commission that we achieve this target through means that truly reduce emissions from the power sector represents the leadership that is needed if we are serious about protecting the environment. Indeed, New York's Clean Energy Standard is being held up by national experts as a model for the rest of the country.

The payments that are being made under the CES are of two types, but both types are environmental attributes purchase programs that are carefully designed to not conflict with Federal jurisdiction. There is however a necessary pricing difference between the Renewable Energy Credits (RECs) methodology and the Zero-Emission Credits (ZECs) methodology. For RECs, we have the benefit of many developers that are willing to compete to be awarded RECs contracts such that the price of the added value to society of the project attributes can be determined in open procurement solicitations. For ZECs, there are too few potential bidders to rely on a competitive process to set prices, so the only real alternative is to establish the value of ZECs administratively. The value of ZECs is based upon the federally established societal cost of carbon and represents the avoided carbon benefits they produce. While societal carbon costs are projected to increase over time, so too will the benefits of avoiding carbon emissions. Further, the program also anticipates that payments will be adjusted downwards if overall electric prices increase, as currently forecasted. In neither event are the RECs or ZECs prices based upon a determination of the cost of operating the associated units. The payment amount is premised on the value of the environmental and carbon benefits to the State and society at large that they produce.

Second, it is simply wrong for anyone to suggest that we can achieve targeted emission reductions by 2030 if we were to lose the zero-emissions attributes of the three upstate nuclear plants. Experience and fundamental economics show that the zero-emissions attributes they produce and New York needs will be replaced by adverse air emissions from existing coal and new natural gas-fired fossil units that can be dispersed throughout the State or come from out-of-state imports. Even if it were physically possible to replace all of the lost nuclear zero-emissions attributes with renewables, the cost to develop new renewables is greater than the cost to preserve the existing zero-emissions nuclear attributes. Thus, the CES as designed is the least cost mechanism for your constituents and all New Yorkers to achieve our shared climate objectives.

As the Brattle Study filed in the CES proceeding shows, premature closure of the Upstate nuclear fleet would substantially increase our energy emissions, but would also have substantial impacts on power prices that would be felt throughout the State. As the Commission has noted, the annual direct economic cost of allowing the plants to close is estimated to be \$1.7 billion, more than 3 times higher than the near-term annual projected payments to preserve them under the CES program. It is also noteworthy that the average residential customers in the communities that you represent will pay less than \$2 a month under the CES. While none of us want to increase electric prices, compared to the cost of climate change that we have already experienced in the State, this is a very modest burden.

Finally, it is simply not accurate that downstate customers do not benefit from the presence of the upstate nuclear plants. We in New York are part of a single power pool. Any substantial change in the makeup of the pool will impact the entire State. More importantly, carbon emissions themselves are not geographically bounded. The CES allocates the obligation to meet the 50 percent renewables goals and zero-emission credits to all of the consumers of the State because all consumers will benefit from reducing carbon emissions. That is why we also compel equal contributions to Regional Greenhouse Gas Initiative (RGGI) and the State-sponsored Clean Energy Fund. It is worth pointing out that the compliance obligation approach that treats all consumers equally under the Clean Energy Standard is effectively the same as that proposed in legislation passed by the Assembly earlier this year to eliminate greenhouse gases by 2050 (A.10342, sponsored by Assemblyman Englebright and co-sponsored by Assemblywoman Paulin).

To suggest that downstate consumers should be less responsible for maintaining the nuclear zero-emissions attributes would undoubtedly require us to apply the same logic to allocate responsibility to reduce the harm caused by fossil-fuel combustion. Not only would that fly in the face of sound thinking regarding our responsibility to the environment, it would suggest that because most of our fossil fuel emissions are caused by downstate power generation, we would assign a higher responsibility to downstate customers for the CES based upon the local energy mix. The benefits of addressing climate change are also significant for the downstate, coastal region. You represent areas that were devastated by Superstorm Sandy, an event that we know will become more frequent if climate change emissions are not dramatically reduced. The damage caused by Superstorm Sandy exceeded \$30 billion in New York.

In addition to explaining the sound regulatory rationale that underpins our CES strategy, I would like to offer responses to the other issues that you raised in your letter:

- With regard to your concerns about a lack of access to the record in Case 16-E-0270, which is the Exelon cost case, please know that the Commission has not “blocked public access” to the cost data. Anyone could have become a party to the case, once they agreed to keep the data confidential, which is a standard regulatory practice to protect legitimate competitive commercial interests. Multiple customer groups and/or individual electric customers agreed to this and had full access to the cost data, as well as the ability to ask Exelon questions regarding the data. Multiple working group meetings were held where Exelon explained the costs in detail. Furthermore, the high-level cost data was public, and detailed Ginna cost data was filed in the recently-approved reliability support services agreement (RSSA) case, and is publicly available at the Federal Energy Regulatory Commission (FERC).
- With regard to the purchase of zero-emissions attributes from Nine Mile Two, please note that Nine Mile Two is operated jointly with Nine Mile One and Exelon showed that the costs of the overall Nine Mile Plant were not being covered by anticipated market revenues. Additionally, all at-risk plants are providing the same carbon savings per MWh, and the program was put in place to ensure all of the zero-emissions attributes would be preserved. This means that the State’s low carbon emission level statewide will be maintained as a large amount of additional renewable energy projects are developed under the RES over time.

- With regard to your question about how the Commission accounted for Exelon's receipt of payments back to April 2015, please note that the payments discussed by Exelon are payments being made under the RSSA agreement, which was recently approved by both the Commission and FERC. These payments cover the period April 2015-March 2017, and are being made to keep Ginna open until April 2017. This effort was needed as it was determined that there would be a reliability issue if Ginna was to close prior to April 2017. All ZEC payments are for zero-emission attributes in the future (starting in April 2017), and there is no payment for prior expenses.

I hope these responses will help further your understanding of our landmark CES strategy. In the meantime, please do not hesitate to contact me if you have any additional questions.

Sincerely,

A handwritten signature in blue ink that reads "Audrey Zibelman". The signature is written in a cursive, flowing style.

Audrey Zibelman
Chair