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John B. Rhodes, Chair

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PSC Strengthens Consumer Protections for Distributed Energy Resources — Developing and Maintaining Market Integrity Key to Meeting Renewable Energy Goals —

ALBANY — The New York State Public Service Commission (Commission) today strengthened the consumer protection standards for the State’s rapidly expanding distributed energy resource market. Specifically, early termination fees for community distributed generation project members are capped, production guarantees will be required for on-site mass market solar projects and escalation clauses in contracts between customers and developers must be clearly disclosed.

“Governor Cuomo’s Reforming the Energy Vision strategy to create a cleaner, affordable and more-resilient energy system is working,” **said Commission Chair John B. Rhodes.** “Consumers are being presented with new ways to save money and conserve energy through Distributed Energy Resource providers. As these new energy resources help create a cleaner and more resilient power system here in New York, we must ensure that consumers are protected from potential fraud and unscrupulous contract provisions, aiding consumers while ensuring the integrity of this burgeoning market.”

Distributed energy resources are technologies that generate or manage the demand of electricity at different points of the grid, such as at homes and businesses, instead of centralized exclusively at power plants. Distributed energy resources can include solar, wind, combined heat and power, electricity storage, electric vehicles and anaerobic digesters. These resources are typically smaller in scale than the traditional generation facilities. Community Distributed Generation allows customers who cannot site solar, small wind, or other distributed generation on their own property to participate directly in off-site projects and reap the benefits of these sources of clean energy.

As the costs of these clean technologies continue to fall, the Commission anticipates increased penetration of Community Distributed Generation. The Department of Public Service has previously made recommendations with the aim of creating additional opportunities for customers to participate in these arrangements. With the anticipated growth of these technologies, the Commission will continue to ensure that these customer opportunities are balanced with appropriate oversight measures.

The Commission’s experience in regulating energy services companies (ESCOs) in the gas and electric supply market has demonstrated that oversight is needed to prevent false promises, exploitative and predatory pricing, and other deceptive or intentionally confusing behavior in marketing to residential customers and small businesses. In October 2017, the Commission issued

an order adopting rules, requirements, and business practices for distributed energy companies to protect customers and ensure market fairness.

These rules were collected in the Uniform Business Practices for Distributed Energy Resource Suppliers (UBP-DERS). The UBP-DERS applies to companies that provide residential rooftop solar systems, on-site generating systems for small business, large community-solar projects or other Community Distributed Generation systems. The order approved by the Commission today will ensure that customers do not face unreasonable clauses in their contracts while still allowing for flexibility and innovation in those markets.

The Commission approved additional provisions to the UBP-DERS regarding termination fees, production guarantees, and annual escalation costs. Termination fees for Community Distributed Generation projects will be capped at no more than \$200. Additionally, termination fees must be waived where the customer provides appropriate notice and finds a replacement; companies are also encouraged to waive termination fees where a replacement customer is available on a wait-list.

The new rules require that a production guarantee must be included in the contract for any project where the customer pays a fixed amount regardless of actual generation, including purchase contracts and lease contracts with a fixed monthly fee. A production guarantee is the installer's commitment that the project's design is accurate. It ensures that all relevant factors are factored into the design process, and that all variables were accounted for. This guarantee is often backed up by monetary compensation if the target kWh is not met for one year of the system's production.

Finally, the new rules require clear disclosure of the escalation rate, methodology and or formula, including illustrative examples of the resulting rates. Escalation rates are a common feature of long-term distributed energy resources contracts.

These rules will be effective for new contracts signed after May 1, 2019. Today's decision updates the UBP-DERS to reflect these new rules and directs the utilities to update their tariffs to include the new UBP-DERS.

New York State's Green New Deal

Governor Andrew M. Cuomo's Green New Deal, the nation's leading clean energy and jobs agenda, will aggressively put New York State on a path to economy-wide carbon neutrality. This initiative will provide for a just transition to clean energy, spurring the growth of the green economy and mandating New York's power be 100 percent clean and carbon-free by 2040, one of the most aggressive goals in the U.S. The cornerstone of this newly proposed mandate is a significant increase of New York's successful Clean Energy Standard to 70 percent renewable electricity by 2030. As part of the unprecedented ramp-up of renewable energy, New York has already invested \$2.9 billion into 46 large-scale renewable projects across the state as it significantly increases its clean energy targets, such as: quadrupling New York's offshore wind target to a nation-leading 9,000 megawatts by 2035; doubling distributed solar deployment to 6,000 megawatts by 2025; and deploying 3,000 megawatts of energy storage by 2030. To support this ambitious work, NY Green Bank intends to use its expertise in overcoming financing gaps to foster greater environmental impacts per public dollar by raising over \$1 billion in third party funds to expand climate financing availability across New York and the rest of North America.

Reforming the Energy Vision

The Green New Deal builds on Governor Andrew M. Cuomo's landmark Reforming the Energy Vision strategy to lead on climate change and grow New York's economy. REV is building a cleaner, more resilient and affordable energy system for all New Yorkers by stimulating investment in clean technologies like solar, wind, and energy efficiency. Already, REV has driven growth of nearly 1,500 percent in the statewide solar market, improved energy affordability for 1.65 million low-income

customers, and has led to more than 150,000 jobs in manufacturing, engineering, and other clean tech sectors across New York State.

To learn more about the Green New Deal and REV, visit rev.ny.gov, follow us on [Twitter](#), [Facebook](#), and [LinkedIn](#).

Today's decision may be obtained by going to the Commission Documents section of the Commission's Web site at www.dps.ny.gov and entering Case Number 15-M-0180 in the input box labeled "Search for Case/Matter Number". Many libraries offer free Internet access. Commission documents may also be obtained from the Commission's Files Office, 14th floor, Three Empire State Plaza, Albany, NY 12223 (518-474-2500). If you have difficulty understanding English, please call us at 1-800-342-3377 for free language assistance services regarding this press release.