

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on February 16, 2017

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair  
Patricia L. Acampora  
Gregg C. Sayre  
Diane X. Burman, abstaining

CASE 15-E-0302 - Proceeding on Motion of the Commission to  
Implement a Large-Scale Renewable Program and a  
Clean Energy Standard.

ORDER DIRECTING TARIFF AMENDMENTS

(Issued and Effective February 22, 2017)

BY THE COMMISSION:

INTRODUCTION

On August 1, 2016, the Public Service Commission issued an Order Adopting a Clean Energy Standard (CES Order).<sup>1</sup> The Clean Energy Standard (CES) is consistent with the State Energy Plan goal that 50 percent of the electricity consumed by New Yorkers is to be generated by renewable sources by 2030 as part of a strategy to reduce statewide greenhouse gas emissions by 40 percent by 2030. The CES Order requires the following: 1) all Load Serving Entities (LSEs) procure Renewable Energy Credits (RECs) and Zero-Emission Credits (ZECs) and pay an Alternative Compliance Payment (ACP) for any shortage of RECs in their compliance amount at the end of a CES compliance year; 2) utilities collect and transfer funds to cover the costs associated with contracts signed by the New York State Energy

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<sup>1</sup> Case 15-E-0302, Proceeding to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Adopting a Clean Energy Standard (issued August 1, 2016).

Research and Development Authority (NYSERDA) to maintain certain baseline renewable energy resources at risk of attrition (Tier 2 Maintenance Contracts); and 3) utilities collect and transfer any funds required by NYSERDA to resolve cash shortages that may have resulted from its CES activities (Backstop Charges).

On September 30, 2016, the Clean Energy Standard Implementation Proposal (the Proposal) was filed by the Department of Public Service Staff. The Proposal outlines the framework for the recovery of costs that will be incurred by the utilities, as part of their compliance with the CES Order. The Proposal recommends that the utilities recover costs associated with RECs, ZECs and any ACP payments through a volumetric per kilowatt-hour (kWh) surcharge billed to their retail commodity customers.<sup>2</sup> The Proposal further recommends that costs associated with Tier 2 Maintenance Contracts and Backstop Charges be recovered through a volumetric kWh delivery charge billed to all delivery service customers, including customers who receive their energy supply from the New York Power Authority (NYPA).

By this Order, the Commission directs the six major electric investor-owned utilities<sup>3</sup> to file tariff amendments that

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<sup>2</sup> The Proposal addressed only the necessary tariff filings of the Utilities. Competitive ESCOs are also required to collect the cost of RECs, ZECs and ACPs from their customers, but they are not required to file tariff amendments to implement that collection.

<sup>3</sup> Consolidated Edison Company of New York, Inc. (Con Edison); Central Hudson Gas and Electric Corporation (Central Hudson); New York State Electric & Gas Corporation (NYSEG); Niagara Mohawk Power Corporation d/b/a National Grid (National Grid); Orange and Rockland Utilities, Inc. (O&R); and Rochester Gas and Electric Corporation (RG&E).

permit the recovery of the costs associated with the implementation of the CES as discussed herein.<sup>4</sup>

NOTICE OF PROPOSED RULEMAKING

Pursuant to the State Administrative Procedure Act (SAPA) §201(1), a Notice of Proposed Rulemaking regarding the Proposal was published in the State Register on October 12, 2016 [SAPA No. 15-E-0302SP24]. The time for submission of comments pursuant to the SAPA Notice expired on November 28, 2016. However, in response to a request from the Joint Utilities for additional time to submit comments, on November 23, 2016, a notice was issued indicating that comments would be accepted through December 2, 2016. On December 2, 2016, four comments were submitted by Central Hudson; Con Edison and O&R (filed jointly); National Grid; and NYSEG and RG&E (filed jointly), (collectively referred to as the Utilities).

SUMMARY OF COMMENTS

On December 2, 2016, the Utilities submitted comments that provide various proposals for the recovery of costs to be incurred as part of compliance with the CES Order. The comments provide proposals regarding the recovery of (1) costs associated with RECs, ZECs, and any ACPs; and (2) costs associated with Tier 2 Maintenance Contracts and Backstop Charges.

RECs, ZECs and ACPs:

Central Hudson

Central Hudson supports the Proposal's recommendation that costs associated with RECs, ZECs, and ACPs be collected on a volumetric basis from the Utilities' retail commodity service

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<sup>4</sup> Contemporaneously, in an Order in Case 16-E-0693, Tariff Filings to Implement the Clean Energy Standard, the Commission addresses the tariff amendments of the jurisdictional municipal electric systems.

customers. Central Hudson proposes to recover REC, ZEC, and ACP costs, inclusive of working capital carrying charges and an allowance for uncollectibles, from full service customers through either electric supply charges, the Market Price Charge (MPC) or the Hourly Pricing Provision (HPP) charge. Central Hudson states that these costs would not be separately identified on customer bills, however the relevant rate would be separately identified on the monthly MPC statement. The applicable charge would be the same for all service classifications and would be stated as a rate per kWh with variations in the annual obligation recovered through the MPC and HPP. According to Central Hudson, the recovery mechanism could be implemented as early as February 2017, with the MPC statement effective with the 8<sup>th</sup> billing batch in February.

Con Edison and O&R

Con Edison and O&R propose to collect charges incurred for RECs, ZECs and ACPs from their full service electricity supply customers on a volumetric basis via their Market Supply Charge (MSC). RECs, ZECs and ACPs would be tracked as a separate factor, similar to the NYPA Transmission Access Charges (NTAC) and Ancillary Services Charges. For Con Edison, these charges would be published on the Company's website and would also be included in its Market Supply Charge Calculator, and its retail access price-to-compare. For O&R, these charges would be included on its monthly MSC statement for non-hourly priced customers, and would be added to the "Adder" charge listed on the MSC statement for hourly-priced customers. These charges would be published on O&R's website and included in O&R's price-to-compare. On customer bills, all existing and new MSC charges would be rolled up and presented as a single-line item.

Con Edison and O&R propose to track all REC costs beginning in January 2017 and defer recovery of these costs

until necessary changes to the Con Edison and O&R billing systems can be properly completed and tested. Con Edison and O&R expect that the REC charges will be initially small, and they do not anticipate this approach will have a significant impact on customers.

National Grid

National Grid concurs with the Proposal's recommendations for cost recovery. National Grid proposes to track and collect REC, ZEC, and ACP charges as a separate line item in the supply charge section of customer bills.

National Grid proposes a new surcharge, entitled the Clean Energy Standard Supply Surcharge (CESS), to recover costs from retail customers associated with the CES Order. According to National Grid, the CESS would appear as a separate line item on the supply portion of the customer retail bills and likely be displayed as "Clean Energy Standard Supply". According to National Grid, the CESS would enable National Grid to recover costs associated with the REC and ZEC programs via a per kWh volumetric rate collection from full service customers. Every year, National Grid would set one fixed twelve-month rate for all full service customers, calculated on a forecast basis. It would be effective in the first billing cycle for April 2017 customer bills. National Grid notes that, in the event the Commission does not authorize the display of the CESS surcharge as a separate line item, National Grid proposes to include the CESS in the Electricity Supply Reconciliation Mechanism (ESRM) line item on the supply portion of customer retail bills. In addition, National Grid proposes to modify the Merchant Function Charge (MFC) calculation for the costs of Electricity Supply Uncollectible Expense and the Working Capital on Purchased Power Costs to include the CESS surcharge.

National Grid proposes that tariff amendments become effective no later than February 28, 2017 to enable collections from customers to begin promptly on April 1, 2017 when ZEC charges will begin to accrue. National Grid states that it would track and defer collection of REC charges accrued between January 1 and April 1, 2017, and it would incorporate these into the costs to be collected over the next annual period. National Grid does not expect a significant bill impact to be realized by its customers from the cost incurred during the January 1 through April 1, 2017 period.

NYSEG and RG&E

NYSEG and RG&E concur with the Proposal to collect RECs, ZECs, and ACPs from commodity customers on a volumetric basis. NYSEG and RG&E propose to collect these costs through the Supply Adjustment Charge, a component of the Supply Charge. The amount collected for the RECs and ZECs would be reconciled annually. NYSEG and RG&E propose to begin collection no later than March 1, 2017. NYSEG and RG&E would track and defer collection of REC charges incurred in 2017 prior to the authorized tariff changes and spread those costs over the remainder of 2017.

Tier 2 Maintenance Contracts and Backstop Charges

Central Hudson

Central Hudson proposes to recover Tier 2 Maintenance Contract and Backstop Charge costs via a newly-created non-by passable delivery charge applicable to all deliveries and appearing as a separate line item on customer bills. The charge would be the same for all service classifications and would be stated as a rate per kWh. Central Hudson proposes that the charge would be set annually based on forecasted Tier 2 Maintenance Contract expenses that it expects to incur over the forthcoming twelve-month period. The charge would include any

costs incurred, with carrying charges, prior to the effective date of the first charge. Central Hudson states if at any time during the twelve-month collection period NYSERDA issues an invoice for Backstop Charges, it would reset the surcharge factor for the remainder of the collection period, or a longer period not to exceed twelve-months, to collect such additional charges. Central Hudson, intends to publish the charge on a statement to be filed with the Commission, not less than 15 days prior to the proposed effective date.

Con Edison and O&R

Con Edison and O&R propose to collect costs incurred for all Tier 2 Maintenance Contracts and Backstop Charges via a new clean energy charge that would replace the existing System Benefits Charge (SBC) line item. The new clean energy charge would include all of the current SBC components, as well as the CES charges. The CES related charges (Tier 2 Maintenance Contracts and Backstop Charges) and SBC charges would be handled through separate statements filed with the Commission, tracked and reconciled separately. Con Edison would separately collect these charges from NYPA customers, through its NYPA Other Statement. Con Edison and O&R propose that tariffs become effective no later than February 28, 2017 to enable collections from customers to begin in April 2017, when ZEC charges need to begin to be collected from customers.

National Grid

National Grid proposes to collect costs associated with Tier 2 Maintenance Contracts and Backstop Charges through a newly-created line item in the delivery charge section of customer bills. The proposed charge would be named the Clean Energy Standard Delivery Surcharge (CESD).

The CESD would be collected as a per kWh volumetric rate from all delivery customers. The CESD rate would be set

annually based on Tier 2 Maintenance Contract expenses expected to be incurred over the next twelve-month period. The rate would be developed as a fixed per kWh rate for the twelve-month period. It would be effective in the first billing cycle for April 2017 customer bills. National Grid states that, if at any time during the twelve-month period it receives an invoice from NYSERDA for the Backstop Charge, it would reset the CESD rate for a limited period to collect these additional charges.

National Grid would reserve the right to collect the Backstop Charge in the next month or over a longer period of months, but not greater than twelve months. The CESD charges collected from customers would be reconciled to the associated costs incurred by National Grid on an annual basis, including carrying charges.

NYSEG and RG&E

NYSEG and RG&E propose collecting costs for Tier 2 Maintenance Contract and any Backstop Charges volumetrically, through its existing Transition Charge (Non-Bypassable Charge [NBC]), which would collect these costs from all delivery customers. NYSEG and RG&E propose to have the tariffs become effective no later than February 28, 2017 to enable collections from customers beginning March 1, 2017. This would allow NYSEG and RG&E to collect any required funds from customers on behalf of NYSERDA and minimize any cash flow implications.

Due to system constraints, NYSEG and RG&E are not proposing to show the charges as a separate line item on customers' bills until 2018. During 2017, NYSEG and RG&E would educate customers regarding these charges by posting the costs and resulting surcharge values in a bill message and/or on their website.

Triennial Process and Backstop Charge Mechanism:

Central Hudson, Con Edison and O&R, and NYSEG and RG&E recommend that the CES collection mechanism be reviewed as part of the CES Program's triennial process. National Grid remains open to discussion concerning its approach to collecting costs.

DISCUSSION AND CONCLUSION

RECs, ZECs and ACP

The Utilities propose reasonable methods of recovery of the RECs, ZECs and ACP charges, via new or existing volumetric supply charges that are, or would be billed, to all of their full service retail customers, consistent with the Staff Proposal. The Commission has already determined that CES compliance costs should be primarily applied to generation supply charges on a volumetric basis in order to encourage efficiency, support voluntary hedging and power purchase agreements, and help to develop markets at the retail level, by encouraging competitive LSEs to develop innovative products.<sup>5</sup> In an effort to maintain general consistency among the Utilities and limit customer confusion resulting from the addition of new lines on customers' bills, the Commission finds it preferable to recover the costs of RECs, ZECs, and ACPs, through existing supply mechanisms and bill lines. The Utilities should however track these costs separately and file the effective rates on statements and have them available through their websites, so the charges and rates associated with the recovery of costs related to RECs, ZECs and ACPs may be reviewed by customers.

The Commission also finds it preferable to have one calculation method of the RECs, ZECs and ACP costs; that is for the rate to remain constant throughout the year, in order to minimize potential volatility associated with monthly rate

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<sup>5</sup> Ibid., p. 93.

adjustments and reconciliations. The Commission adopts the calculation and reconciliation methods proposed by National Grid and Central Hudson except for the inclusion of working capital, and therefore will require each utility to set a fixed rate for a twelve-month period, on a forecast basis, for the recovery of RECs, ZECs and ACP costs, inclusive of uncollectibles. Prior to the following twelve-month period, the surcharge recoveries received from customers will be compared to actual costs, and reconciled in the following twelve-month period. Central Hudson and National Grid's proposals to apply working capital and/or carrying charges is rejected because recovery of the surcharged amounts each month will occur during a period of a few weeks before, to a few weeks after, the date when the payment is due to NYSERDA. Thus, on average, the Utilities will not have to pay NYSERDA a material amount prior to collections from customers.<sup>6</sup>

#### Tier 2 Maintenance Contracts and Backstop Charges

NYSEG and RG&E propose to bill customers under existing mechanisms and bill lines; Con Edison and O&R propose a new Clean Energy Charge that would replace the existing SBC line; Central Hudson and National Grid propose to recover the costs under new mechanisms and bill lines. Again, the Commission prefers consistent treatment of the recovery of these costs and therefore directs the Utilities to recover the cost of the Tier 2 Maintenance Contract and Backstop Charges through

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<sup>6</sup> In addition, Staff has analyzed the expected month-to-month balances which might be present if a carrying charge calculation was instituted, and found the amounts (and resulting carrying charges) to be immaterial over the course of a year.

their existing SBC bill lines for energy usage subject to the SBC.

For the energy usage that is subject to SBC charges, the Commission directs the Utilities to combine their existing SBC rate with the new Tier 2 Maintenance Contract and Backstop Charges rate, and bill all energy usage not exempt from the SBC this combined rate, on the SBC line of customers' bills. Under certain economic development programs, some or all of certain customers' energy usage is exempt from the SBC. In these instances, Utilities have no option but to create a new line on these customers' bills. In these instances, the Utilities will bill these customers under a new volumetric charge for energy usage that is exempt from the SBC. The Utilities should, however, track these costs separately and file the effective rates on statements and have them available through their websites, so the rate associated with the recovery of Tier 2 Maintenance Contract and Backstop Charges may be reviewed by customers. Con Edison's proposal to separately collect these charges from NYPA customers, through its NYPA Other Statement is reasonable and is approved.

The Commission also finds that the Tier 2 Maintenance Contract and Backstop Charges rate should be calculated in a similar manner by the Utilities. Central Hudson and National Grid both filed proposals in their comments regarding Tier 2 Maintenance Contract and Backstop Charges rate calculation methodology. They propose that a rate be set annually based on expected Tier 2 Maintenance Contract costs. In order to mitigate bill volatility Central Hudson and National Grid propose that if during the recovery period, Backstop Charges are billed by NYSERDA, they have the flexibility to recover such costs over one to twelve months, depending on the size of the bill. The Commission finds this to be reasonable and directs

the Utilities to file tariff amendments to effectuate the recovery of the Tier 2 Maintenance Contract and Backstop Charges, including allowance for uncollectibles, but not working capital or carrying charges.<sup>7</sup>

The Commission orders:

1. Central Hudson Gas and Electric Corporation; Consolidated Edison Company of New York, Inc.; Orange and Rockland Utilities, Inc.; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corporation; and Rochester Gas and Electric Corporation are directed to make tariff filings designed to implement the provisions set forth in this Order no later than March 16, 2017 to become effective on April 1, 2017.

2. The requirements of Public Service Law §66(12)(b) and 16 NYCRR §720-8.1 concerning newspaper publication of the tariff amendments directed in Clause 1 are waived.

3. The Secretary in her sole discretion may extend the deadline set forth in this Order. Any requests for an extension must be in writing, must include a justification for the extension and must be filed at least one day prior to the deadline.

4. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS  
Secretary

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<sup>7</sup> Whether it is appropriate to include the recovery of working capital and/or carrying charges for Tier 2 Maintenance Contract and Backstop Charges will be taken up part of the upcoming financial backstop mechanism collaborative, as discussed in our November 17, 2016 Order in this proceeding.