STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to Consider a Clean Energy Fund	**Case 14-M-0094**

Natural Resources Defense Council

Dated December 8, 2014

Natural Resources Defense Council

Response to New York State Energy Research and Development Authority

Clean Energy Fund Proposal – 2015 Reallocation Supplement

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I. Introduction

The Natural Resources Defense Council ("NRDC") appreciates the opportunity to comment on the New York State Energy Research and Development Authority's ("NYSERDA") 2015 Reallocation Supplement ("Supplement"), filed on November 17, 2014, to its Clean Energy Fund ("CEF") Proposal ("Proposal") filed on September 23, 2014 in Case 14-M-0094, Proceeding on Motion of the Commission to Consider a Clean Energy Fund ("CEF Proceeding"). The Supplement is intended "to clarify and provide corrections"[1] to NYSERDA's September 23, 2014 filing's requested reallocations of Energy Efficiency Portfolio Standard ("EEPS") and System Benefit Charge ("SBC") funds and "to provide further detail regarding the purpose and impact of those transfers."[2]

In its submission, NYSERDA states that its Supplement also "complements" its November 17, 2014 letter ("Letter") to the Department of Public Service's ("Department") Director of Energy Efficiency and the Environment regarding NYSERDA's proposed reallocation of EEPS 2 electric funds within the Commercial/Industrial and Multifamily sectors and EEPS 2 gas funds and savings targets between the Low-Income, Residential, Multifamily, and Commercial/Industrial sectors.[3] NRDC's comments also incorporate references to the proposals recommended in this Letter.

NRDC is an international not-for-profit environmental organization founded and headquartered in New York State. NRDC has more than 1.4 million members and online activists, including more than 110,000 in New York State. Since NRDC's founding in 1970, NRDC lawyers, scientists and other environmental specialists have worked to protect the world's natural resources, public health, and the environment. NRDC's top institutional priority is

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[1] Supplement at 1.
[2] *Id*.
[3] *Id*.

curbing global warming emissions and building the clean energy future - a priority that only can be realized through the bold leadership of states such as New York.

II. Guiding Principles

Any evaluation of NYSERDA's Supplement cannot be done without considering NYSERDA's more comprehensive CEF Proposal. NYSERDA is proposing a 10-year funding authorization to invest $5 billion in New York's clean energy initiatives. This is a funding commitment that, properly invested, can materially advance New York's goals for the Reforming the Energy Vision ("REV") proceeding, which is inextricably linked to the CEF Proceeding. The REV goals include significant reductions in greenhouse gas ("GHG") emissions, increased fuel diversity, greater system resiliency, deeper energy savings, and a cleaner environment.[4] The CEF Proposal, however, also represents a significant reduction in committed funding to clean energy programs in New York over time and a sharp pivot away from the way EEPS programs have traditionally been administered.[5]

NYSERDA's Supplement and Letter raise our concerns about the need for a genuine, detailed transition plan for energy efficiency investments under REV and the CEF. New York State needs a clear roadmap that describes the Public Service Commission's ("Commission") and NYSERDA's REV and CEF strategies to transition from the existing portfolio of energy efficiency (and distributed and utility scale renewable energy) programs to a future in which the utilities may become the primary, if not exclusive, administrators of energy efficiency deployment and utility scale renewable energy procurement in New York.[6] In this future,

[4] Case 14-M-0101, Order Instituting Proceeding, April 25, 2014 ("REV Order") at 2.
[5] CEF Proposal at 5.
[6] While we recognize that the focus of NYSERDA's reallocation proposal is energy efficiency, NRDC continues to hold the same position with respect to renewable energy programs—as it evolves, the CEF and REV transition must include a detailed plan that will ensure continued robust investment of both behind the meter and utility scale renewable energy, and should include a 50 percent by 2025 renewable portfolio standard goal.

NYSERDA would then focus on other aspects of the marketplace with the goal of "animating" greater private sector investment in efficiency through upstream market development initiatives.[7]

Currently, it remains unclear how the REV and CEF efforts are to be integrated. Even more importantly, it is critical that we realize the full contribution of energy efficiency to the future envisioned in REV, including the reduction in GHG and particulate matter emissions. This is critical to our economy, environment and public health. In order to do this, we will need an intelligent and prudent transition that does not abandon effective and successful state-supported efficiency programs until and unless we have clear and convincing evidence that the marketplace is willing and able to make such investments.

Any transition plan must include clear and aggressive energy efficiency savings goals. Without specific savings goals, it will be impossible to judge the performance of efficiency program administrators and to measure progress in the implementation of REV. As stated in our previous REV Track I filing, NRDC believes ramping up utility energy efficiency obligations to a 2% annual savings level—over an appropriate time horizon such as three years to get there, and with continued complementary support from NYSERDA in that interim period to avoid backsliding— is entirely feasible and an appropriate metric to incorporate into the ultimate CEF/REV framework.[8]

III. 2015 Reallocation Supplement

In its November 17, 2014 letter, NYSERDA states that its submission is intended to provide "a bridge for NYSERDA's efforts beyond 2015 without disrupting the relevant markets

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[7] REV Order at 2.

[8] Case 14-M-0101, Natural Resources Defense Council Response to the "Developing the REV Market in New York: DPS Staff Straw Proposal on Track One Issues", September 22, 2014 ("NRDC REV Comments") at 16. *See also* American Council for an Energy-Efficient Economy, 2014 Energy Efficiency Scorecard, October 2014 at 33. (http://www.aceee.org/sites/default/files/publications/researchreports/u1408.pdf)

as NYSERDA finalizes the plans and transition schedule for the Clean Energy Fund."[9] We are encouraged by NYSERDA's recognition in its Supplement and Letter that we need a clear pathway for energy efficiency programs beyond 2015. NYSERDA is also correct that whatever programmatic decisions the Commission may make, it is critical that we not disrupt important efficiency markets.[10] NYSERDA notes that low-to-moderate income, multifamily, and industrial customers all face the prospect of program disruptions in 2015 unless the Commission approves its Supplement and Letter requests.[11] In making its recommendations, NYSERDA acknowledges that its proposed reallocations are designed to avoid market disruptions and preserve services in key customer sectors while transition planning by NYSERDA and the utilities is completed.[12]

In the Supplement, NYSERDA proposes to reallocate a total of $37 million in uncommitted funds from its EEPS 1 gas ($34.8 million) and SBC 3 ($2.2 million) portfolios to support: (1) the EmPower New York program ("EmPower NY"); (2) Assisted Home Performance with ENERGY STAR; (3) the low-income component and market rate components of the Multifamily Performance Program ("MPP-LI" and "MPP-MR"); and (4) the Industrial Process and Efficiency program ("IPE"). The reapportioned funds will be used entirely for customer incentives.[13]

In the Letter, NYSERDA also proposes to reallocate $18.8 million in EEPS 2 electric funds to support the Agriculture Energy Efficiency Program ("AEEP") ($8.2 million) and IPE ($10.6 million), in order to meet increased demand in these programs. In its Letter, NYSERDA

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[9] Letter at 1.
[10] *Id*.
[11] Supplement at 1.
[12] *Id*.
[13] *Id*. at 2.

also proposes to reallocate $21. 2 million in EEPS 2 gas funds to support six discrete transfer of funds into EmPower NY ($12.7 million), MPP-LI ($6.2 million), and IPE ($2.3 million).[14]

We strongly support NYSERDA's funding reallocation recommendations as proposed in both its Supplement and Letter. We commend NYSERDA for its proposal to increase funding for both EmPower NY and multi-family residential programs. These represent important, underserved markets. Low income households remain the most vulnerable populace when it comes to energy costs, so a renewed emphasis on addressing the efficiency needs of these households is important.

In addition, we commend NYSERDA for its recognition that it is critical, as we transition to the implementation of REV and the CEF, that we not disrupt important efficiency markets. We do believe that it would be productive if NYSERDA would clarify the bases for some of its recommendations as well as the basis for some of its projected energy savings. Specifically, we ask that NYSERDA clarify the following:

1. In its Supplement, NYSERDA states that funds are available "as a result of project attrition and associated funding de-commitments" in its EEPS 1 gas and SBC 3 portfolios.[15] NYSERDA, however, does not identify the specific SBC 3 and EEPS 1 gas programs that had uncommitted funds. That information should be provided to the Commission and made publicly available to the parties and others.

2. In its Supplement, NYSERDA states that all these reallocated funds will be used for customer incentives.[16] Does NYSERDA intend to conduct any evaluation, measurement, and verification ("EM&V") on these program expenditures? If so, what

[14] Letter at 1-3.
[15] Supplement at 2.
[16] *Id*.

funds, if any, will be used for EM&V? How will administration, program implementation, and outreach and marketing costs be covered?

3. In its Supplement, NYSERDA indicates that these reallocated EEPS 1 gas and SBC 3 funds will achieve savings of 1,824,134 dekatherms ("Dth") of which 1,726,378 Dth is described as "incremental" over the "Ordered aggregate savings for the affected programs."[17] What is the basis for this calculation? It is also unclear what NYSERDA is referring to when it uses the words "the Ordered aggregate savings targets for the affected programs."[18]

4. NYSERDA should provide additional information as to what it means when it states, in the Supplement, its intention to modify the MPP-MR program in a phased approach throughout 2015 and thereby increase the Dth savings achieved per program dollar.[19]

5. In its Supplement, NYSERDA is proposing to reallocate its entire uncommitted EEPS 2 gas budget balance of nearly $6 million in EM&V funds to provide direct gas program incentives. NYSERDA expects that this reallocation will result in an additional 361,797 Dth savings.[20] Once again, NYSERDA provides no basis for this estimate, nor does it explain how and whether it intends to conduct any EM&V on these programs, a questionable proposition if no funds remain available for EM&V.

6. Similarly, in its Letter, NYSERDA provides few, if any, details on how it calculated potential energy savings. In the case of reallocation of funds from the New Construction Program ("NCP") to AEEP and IPE, it appears that NYSERDA simply

[17] *Id*.
[18] *Id*.
[19] *Id*. at 3.
[20] *Id*. at 4.

transferred the aggregate energy savings projected for the NCP to AEEP and IPE.[21] We ask that NYSERDA clarify and substantiate this assumption.

We note that we endorse NYSERDA's request in the Supplement to transition its IPE to a more competitive, fixed incentive program that would award funding to projects based on energy and environmental savings and other relevant criteria, rather than on an open enrollment basis.[22]

IV. Fuel Neutrality

The Commission has identified reductions in GHG emissions as a key policy objective in its REV proceeding. Energy efficiency is the most cost effective strategy for achieving reductions in GHG emissions. In its CEF Proposal, NYSERDA contends that "program strategies must be allowed to capture all efficiency opportunities as they exist, in the pursuit of GHG emission reductions."[23] NRDC agrees.

To achieve this goal, a fuel neutral approach in the implementation of NYSERDA and utility energy efficiency programs is essential. "Fuel neutrality is the lynch-pin to providing truly customer-centric clean energy programs."[24]

A fuel neutral approach will allow efficiency service providers, including NYSERDA, to offer a truly comprehensive program that provides additional value to customers. A fuel neutral approach will also facilitate programs that are designed to achieve whole building savings, which will result in greater GHG emission reductions.

NYSERDA has recommended that a fuel neutral approach be applied to its efficiency programs under the CEF Proposal as well as utility efficiency programs under REV.[25]

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[21] Letter at 3.
[22] Supplement at 3.
[23] CEF Proposal at 41.
[24] *Id*.
[25] CEF Proposal at 7; Case 14-M-0101, NYSERDA Comments on DPS Staff Straw Proposal, September 22, 2014 at 2.

We strongly agree. Moreover, we see no compelling justification to delay adoption and implementation of NYSERDA's recommendation. As NYSERDA notes in its CEF Proposal, there is widespread stakeholder support for a fuel neutral approach for efficiency programs.[26] We strongly recommend that the Commission endorse NYSERDA's proposal for fuel neutrality and apply it to all efficiency funds reallocated under NYSERDA's Supplement and Letter.

V. Multi-Family Housing

The multifamily housing sector, beyond being historically underserved, represents significant untapped energy efficiency and GHG emission reduction potential.[27] The Commission must ensure that all New Yorkers, including those in multifamily housing, can participate in and enjoy the potential benefits of the REV vision. As we have stated previously in the CEF and REV proceedings, this is essential for REV's success.[28]

Multi-family housing presents its own set of challenges, often unique, to effective energy efficiency.[29] A successful strategy will require a multi-prong approach that addresses, among many factors, financing, education, behavior modifications, institutional barriers, and regulatory changes.

NYSERDA and the utilities will need to consider the impact of administrative burdens and financial structures when designing efficiency and demand management programs for multifamily buildings, particularly affordable multifamily buildings. Return on investment from energy efficiency measures is not a simple calculation for multifamily property owners and

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[26] CEF Proposal at 41.
[27] Case 14-M-0101, Reply Comments of The Center for Working Families, WE ACT for Environmental Justice, Enterprise Community Partners, and the Green and Healthy Homes Initiative, October 24, 2014 ("Energy Efficiency for All Reply Comments") at Exhibit A.

[28] NRDC REV Comments at 7.
[29] Energy Efficiency for All Reply Comments at 12-19. *See also* Case 14-M-0101, Energy Efficiency for All Response to New York State Department of Public Service Staff Straw Proposal on Track One Issues, September 22, 2014 at 6-9.

building managers. Administrative requirements viewed as burdensome and unique financial and tax considerations may dissuade property managers from acting even when a simple payback calculation appears to provide a positive outcome.

While NYSERDA and the utilities have been making some progress in this sector and program administrators should build on successful aspects of particular programs, more can and should be done to treat multifamily buildings as a distinct and discrete customer sector for analysis, program delivery and market development. Multifamily buildings contain residential units as well as common areas, and frequently include commercial tenants. Treating multifamily as a separate, independent sector will facilitate marketing and financing of products and services to multifamily buildings. It will also allow for easier tracking of achievements in capturing energy efficiency potential.

We applaud NYSERDA's recognition that we cannot allow the existing multifamily efficiency programs to terminate abruptly. The funding reallocations proposed by NYSERDA in its Supplement and Letter are necessary to ensure that NYSERDA is able to maintain critical multifamily program infrastructure.

VI. Conclusion

NYSERDA's Supplement and Letter once again demonstrate the challenges and limitations of the piecemeal approach to energy efficiency as presented in the REV and CEF proceedings. New York needs a clear and comprehensive roadmap that provides a better understanding of precisely how the Commission intends to transition NYSERDA's and the utilities' existing efficiency programs to REV's vision of an efficiency market place primarily "animated" by private investment.

A stable and successful transition includes the understanding that the development of new markets will take time. Once again, we encourage the Commission to clarify its integrated REV and CEF transition strategy. In particular, NRDC requests that the Commission adopt a strategy that, at a minimum, provides for a more gradual reduction in direct State support for efficiency (and renewables). It is necessary that State support for investment in energy efficiency is sustained while private markets are nurtured and allowed to mature and develop. During this transition period, the State must assure that New York does not unintentionally undermine the dramatic progress that its programs have already achieved on efficiency.

Respectfully submitted,

[Signatures to Follow]

Natural Resources Defense Council

Raya Salter
Senior Utility Advocate
(212) 727-4661
rsalter@nrdc.org
40 W. 20th Street
New York, NY 10011
Jackson Morris
Director, Eastern Energy
(570) 380-9474
jmorris@nrdc.org

Northeast Energy Efficiency Partnerships

Natalie Hildt Treat
Senior Manager, Public Policy Outreach
(781) 860-9177 ext. 121
ntreat@neep.org
91 Hartwell Ave
Lexington, MA 02421

Association for Energy Affordability

David Hepinstall
Executive Director
hepinstall@aea.us.org
Valerie Strauss
Director of Policy & Regulatory Affairs
vstrauss@aea.us.org
105 Bruckner Boulevard
Bronx, NY 10454

Pace Energy and Climate Center

Dave Gahl
Director of Strategic Engagement
(518) 487-1744
dgahl@law.pace.edu
John W. Bowie
Energy and Climate Law Advisor
(914) 422-4126
Jbowie@law.pace.edu
78 North Broadway
White Plains, NY 10603

Vermont Energy Investment Corporation

George Twigg
Director, Public Affairs
(802) 540-7633
gtwigg@veic.org
128 Lakeside Ave., suite 401
Burlington, VT 05401

The Nature Conservancy

Cara Lee
Senior Conservation Manager
(845) 255-9051
clee@tnc.org
108 Main Street
New Paltz, NY 12561