STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on July 12, 2018

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Gregg C. Sayre
Diane X. Burman, concurring
James S. Alesi

CASE 15-E-0751 – In the Matter of the Value of Distributed Energy Resources.

CASE 15-E-0082 – Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions For Implementing a Community Net Metering Program.

# ORDER ADOPTING LOW-INCOME COMMUNITY DISTRIBUTED GENERATION INITIATIVES

(Issued and Effective July 12, 2018)

BY THE COMMISSION:

## INTRODUCTION

In the Value of Distributed Energy Resources (VDER) Transition Order, the Public Service Commission (Commission) directed Department of Public Service Staff (Staff) to work with utilities and stakeholders to develop solutions to encourage low-income participation in community distributed generation (CDG) under the VDER Phase One tariffs.[1] In accordance with that directive, a Low-Income Working Group was established and met

[1] Cases 15-E-0751, et al., In the Matter of the Value of Distributed Energy Resources, Order on Net Energy Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters (issued March 9, 2017) (VDER Transition Order).

over the course of several months to address barriers to access and develop recommendations. Using information and suggestions from that collaboration, a Staff Report on Low-Income Community Distributed Generation Proposal was submitted on December 18, 2017.[2] This Order adopts certain recommendations in the Staff Report, including a Bill Discount Pledge program, in order to continue progress in increasing solar access for low-income customers.

## BACKGROUND

The VDER and CDG initiatives form part of New York's Reforming the Energy Vision (REV), which seeks to build a clean, resilient, and affordable energy system for all New Yorkers.[3] These initiatives also support the Clean Energy Standard, a comprehensive clean energy mandate which requires that 50 percent of New York's electricity come from renewable energy sources, such as wind and solar, by 2030.[4]

CDG projects are defined as eligible generating facilities located behind a nonresidential host meter coupled with a group of off-takers who receive bill credits based on the generation of that facility.[5] CDG is designed to offer the

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[2] Cases 15-E-0751, et al., supra, Staff Report on Low-Income Community Distributed Generation Proposal (filed December 15, 2017) (Staff Report).

[3] Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision.

[4] Case 15-E-0302, et al., Proceeding to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Adopting a Clean Energy Standard (issued August 1, 2016) (CES Framework Order).

[5] To be eligible, a generating facility must have a rated capacity of 5 megawatts or less and meet the technology and operational standards set in the VDER proceeding.

benefits of clean energy and distributed generation to customers unable to take advantage of on-site clean generation, including renters and other customers who do not have access to rooftops suitable for solar panels. CDG projects are subject to eligibility rules, as described in the Commission's CDG Order and subsequent orders regarding VDER.[6] As of May 31, 2018, 304 community solar projects totaling 677.9 MW have been approved for NY-Sun incentives, and 18 projects totaling 10.1 MW have been completed. The New York State Energy Research and Development Authority (NYSERDA), which administers the NY-Sun program, anticipates that a significant portion of the projects currently under development will be completed in 2018-2019.

In New York, a "low-income" customer is generally defined as a customer who is eligible to receive benefits under the Home Energy Assistance Program (HEAP), determined as at or below 60% of state median income.[7] As discussed in the Staff Report, extending solar access to these low-income customers remains a challenge for several reasons, including a general lack of homeownership, insufficient access to capital, and an inability to benefit from tax incentives for solar investments. CDG offers potential solutions to these issues and the recommendations set forth in the Staff Report offer proposals to overcome some of the remaining barriers facing participation of low-income customers.

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[6] Case 15-E-0082, Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions For Implementing a Community Net Metering Program, Order Establishing a Community Distributed Generation Program and Making Other Findings (issued July 17, 2015) (CDG Order).

[7] Case 14-M-0565, Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers, Order Instituting Proceeding (issued January 9, 2016).

## SUMMARY OF STAFF REPORT

The Staff Report outlines three proposals for market interventions that have the potential to encourage and support low-income customer participation in CDG. These proposals include: 1) a Bill Discount Pledge (BDP) program; 2) an Income Verification Service; and, 3) a Loss Reserve fund. Each of these is summarized below.[8]

### Bill Discount Pledge

As a principal strategy to expand opportunities for low-income households to subscribe to CDG projects, the Staff Report proposes to create a BDP program to subsidize subscription fees for low-income customers. This program would reduce or eliminate the need for low-income customers to pay CDG subscription fees out of pocket and is intended to incentivize CDG developers to serve low-income customers by addressing the concern that low-income customers may be unable to pay their subscription fees.

The BDP program would allow low-income customers to use a share of their monthly Affordability program bill discount towards the purchase of CDG subscriptions.[9] While foregoing the benefit of the discounted bill, the participating low-income customers would instead offset a portion of their monthly bills through CDG bill credits.

The BDP program would rely on Affordability program bill discount funding to support CDG investment. An important feature of the BDP program is that it seeks to maintain the rate

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[8] The Staff Report also notes that several NYSERDA initiatives to support low-income participation in DER programs already exist or are in development. In particular, the Low-Income Community Solar initiative will offer community solar subscriptions to low-income participants at low or no cost.

[9] Case 14-M-0565, supra, Order Approving Implementation Plans with Modifications (issued February 17, 2017).

levels and benefits of the current Affordability programs while remaining revenue-neutral for other ratepayers.

Another key feature of the BDP program is that participating CDG developers would have to guarantee that CDG credits, on an annual basis, would be equal to or greater than the foregone portion of the bill discount. The Staff Report suggested that this could be accomplished in one of two ways: (a) CDG developers would sign up interested low-income customers only after evaluating whether, based on their past 12 months of energy consumption, they would save the same or more than they would have under the traditional Affordability programs; or (b) CDG developers would be required to provide a guaranteed savings to low-income consumers, similar to the guarantee required for Energy Service Companies (ESCOs).[10]

The Staff Report suggested that additional program-specific rules and consumer protection measures, disclosures, and accountability measures would be needed to protect the financially vulnerable customers served under the BDP program. These could include, among others, the following:

- Clear qualifications for participating developers and partner community organizations;
- Appropriate subscription terms and rules and fees for early termination;
- Protections against hidden fees or unreasonable fee or rate escalators; and
- Availability of Commission Helpline assistance to BDP subscribers.

The Staff Report noted that outcomes for BDP are likely to vary across utility service territories, and that some

[10] Case 12-M-0476, Retail Access, Order Adopting a Prohibition on Service to Low-Income Customers by Energy Service Companies (issued December 16, 2016).

low-income customers may be more attractive to CDG developers as BDP subscribers than others. Factors contributing to such variability include whether low-income customers are located in utility service territories with higher levels of VDER Value Stack compensation and the level of Affordability discounts offered.[11] In cases where the BDP amount is insufficient to fully cover subscription costs, some additional customer contribution may be required.

The Staff Report also proposed that enrollment in the BDP program could extend beyond each utility's existing Affordability program participants. Among other things, CDG projects may be developed to serve a particular geographic area (e.g., within a disadvantaged community). This suggests a potential role for community-based organizations in identifying and enrolling eligible customers who are not currently enrolled in the utility's Affordability program. Such customers would be enrolled in the utility's Affordability program as well as the BDP program, provided they can demonstrate eligibility.

In addition, some CDG developers indicated challenges qualifying, recruiting, and retaining eligible customers. The Staff Report suggested that CDG developers may be interested in maintaining a wait-list of backup subscribers with the ability to assume the subscription if customers drop out. This would help reduce initial customer acquisition costs as well as re-marketing costs associated with customer turnover. It would also tend to reduce concerns about taking on subscribers otherwise deemed risky by lenders.

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[11] Under the Affordability programs, discounts vary between heating and non-heating service, and within those, among four discount levels (monthly discounts statewide range from $4 to $76).

The Staff Report sees an important role for utilities in BDP implementation and administration. Among other things, in addition to application of CDG bill credits to customer accounts, the utilities would be called upon to enroll any eligible customers identified by the CDG developer or their partner organizations not currently enrolled in the Affordability programs, make payments to CDG developers of funds pledged by low-income customers to cover subscription fees, and possibly maintain the wait-list described above.

NYSERDA Income Verification Service

As noted above, CDG developers may identify eligible households that are not currently enrolled in the utility Affordability programs. To facilitate serving such customers, the Staff Report proposes that NYSERDA extend its income verification service to CDG developers seeking to verify eligibility of low-income subscribers.

The Staff Report explains that NYSERDA currently conducts income verification for its income-eligible programs, and that it is currently examining ways to lower the costs of income verification. The Staff Report notes that the New York State Office of Temporary and Disability Assistance (OTDA) maintains a system that allows telephone companies to determine subscriber eligibility for the telephone Lifeline Program. The system is able to access information on households enrolled in a variety of OTDA assistance programs. The Staff Report proposes that NYSERDA explore the potential to access this system as an efficient way to verify customer income eligibility.

Loss Reserve

The Staff Report notes that credit scores are typically used by lenders to evaluate the risk of financing a solar project. While credit requirements vary among lenders and programs, scores of at least 650-680 are often required, which may exclude most low-income customers. To address this barrier, the Staff Report proposes creation of a loss reserve.

A loss reserve is defined as funds set aside to cover eligible losses incurred under a portfolio of loans over a determined period. The Staff Report notes that loss reserves have long been used to reduce risks from both conventional and novel investments, and could be used here to attract financing for CDG projects serving low-income participants.

Specifically, the Staff Report proposes that public funds be held in reserve to cover potential losses that CDG project owners and/or their lenders may incur, if low-income CDG subscribers default on or terminate CDG subscriptions at a higher rate than other customers. The loss reserve would mitigate perceived risks and reduce financing barriers for CDG developers seeking to serve low-income customers. This, in turn, would reduce the necessary subscriber credit requirements, and make it easier for low-income customers with no or low credit scores to purchase a CDG subscription.

While the precise amount of funding required for such a loss reserve was not determined, the Staff Report stated that a relatively modest amount could provide surety for hundreds or even thousands of subscriptions.

## NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rule Making relating to the Staff Report was published in the State Register on January 3, 2018 [SAPA No. 15-E-0751SP12]. The time for submission of comments expired on March 5, 2018.

Comments were submitted by the Aligned Parties; the Coalition for Community Solar Access (CCSA); the City of New York (NYC); the Joint Utilities (JU); and the Department of

State Utility Intervention Unit (UIU).[12] The comments received regarding the Staff Report are summarized below.

## COMMENTS

### Aligned Parties

The Aligned Parties[13] noted that the Staff Report offers program ideas outside of the VDER process that may be insufficient to fully address policy goals for low income and environmental concerns. Rather, the Aligned Parties recommend that the Commission consider the signals that are being sent to the market through VDER mechanism and the components of the value stack and ensure those signals are not counter to the Commission's environmental, economic, and social policy goals. The Aligned Parties request that the Low-Income Working Group be restarted with a better integration with the Rate Design and Value Stack groups to address incentives for economic and environmental justice as a fundamental piece of remaking the energy system under REV. Additionally, the Aligned Parties suggest that the Commission provide clear guidance to Staff regarding what kinds of values that are appropriate for consideration in this process.

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[12] The Joint Utilities include Central Hudson Gas & Electric Corporation (Central Hudson), Consolidated Edison Company of New York, Inc. (Con Edison), New York State Electric & Gas Corporation (NYSEG), Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), Orange and Rockland Utilities, Inc. (Orange & Rockland), and Rochester Gas and Electric Corporation (RG&E).

[13] The Aligned Parties include Alliance for a Green Economy, Association for Energy Affordability, Azure Mountain Power, Binghamton Regional Sustainability Coalition, Citizens for Local Power (in support of the Aligned Parties), Natural Resources Defense Council, New York City Environmental Justice Alliance, New York Lawyers for the Public Interest, Pace Energy and Climate Center, PUSH Buffalo, Solstice, Vote Solar, and WE ACT for Environmental Justice.

The Aligned Parties are supportive of an approach that allows customers the option to use bill discounts to participate in CDG, noting that to ensure customer protection, participant's electricity bills should be required to be the same or lower than they would be without participation to prevent predatory practices. Furthermore, the Aligned Parties support an approach that includes partnerships with organizations grounded in communities to facilitate the enrollment of new customers, encourage coordination of all programming available to low to moderate income utility customers, and provide for the development of materials and outreach strategies. While supportive of the BDP option moving forward, the Aligned Parties have concerns that the program is not enough of an incentive as a standalone option, and recommend the following points be addressed:

- Expansion of participation beyond existing members of utility's assistance program, including by allowing income verification through NYSERDA;
- Avoidance of requiring customers to make up any shortfall between the BDP and the full cost of the CDG subscription, which may discourage uptake by low to moderate income participants;
- Consideration of how to make the benefit of participating in the program more uniform across the State; and,
- Consideration of how low-income customers who do not pay their bill directly, such as master-metered or submetered low-income customers, can be included.

The Aligned Parties support NYSERDA's no cost subscription program and recommend considering factors to assist expanding the opportunities to reduce the energy burdens for low income customers. These factors include geographic diversity, varied project size, community ownership opportunities, and local workforce development. To address these factors, the parties recommend a demonstration project similar to NYSERDA's Solar For All. In addition, the parties continue to feel there is a need for a transitional value stack component for projects that serve low-income and environmental justice communities as a more precise analysis is underway. They propose an MTC-like component of 6¢ per kWh to serve as a place holder for incentivizing projects, and specific criteria for eligible projects. The Aligned Parties request that the Commission provide clarification on where, when, and how research on these values will be undertaken and considered, what the proper forum for discussion is, and that NYSERDA and the Commission dedicate resources to study and quantify these externalities.

CCSA

CCSA supports the idea of the BDP program as a good way to use ratepayer funds to reduce low and moderate-income customers energy expenditures, but does not believe BDP programs alone will ensure low-income participation. As such, CCSA recommends that the Commission:

- Ensure bill reductions are realized, and recognize that the extent to which low-income customers can achieve benefits beyond those offered through assistance programs depends on the value and financial viability of the VDER tariff;
- Ensure incentives to support low-income participation can be monetized by developers and that CDG sponsors have a creditworthy revenue source associated with low-income customers;
- Adopt interzonal crediting to help overcome the barrier of high project costs in some areas of the state;[14]

[14] An interzonal CDG credit program would provide benefits from CDG projects interconnected in service territories and load zones other than that of the low-income participant.

- Reduce minimum subscription size to 250 kWh per month in order to facilitate participation of customers with lower energy usage;
- Create a solution for utility billing and data flow concerns, such as consolidated billing; and,
- Use an independent program administrator would be more appropriate for tracking savings and removing customers that did not save, such as NYSERDA, given its potential role in managing customer subscriptions through their low-income backstop program.

JU

The JUs support the goal of increasing opportunities for low-income participation and providing CDG developers with a reliable revenue stream, but note the BDP program is complex and several issues need to be addressed before approval. Accordingly, the JUs recommend additional discussion and/or a technical conference to decide if further development is appropriate, as well as what may be required to implement a viable program. The JUs explain that there are currently utility CDG demo projects (Con Edison's Shared Solar and National Grid's Fruit Belt) that can serve as examples and provide lessons learned for future projects. The JUs recommend that the following issues be addressed regarding the BDP program:

- Regarding customer discount allocation, the customer could designate a set dollar amount or percentage of the utility low-income discount they receive to the developer, which could vary by customer, project, or developer;
- Guaranteed bill savings may allow developers to set the subscription amount to equal the expected bill credit and Staff should consider requiring subscriptions to actually lower the bill;

- Developers should manage the wait list to allow them to maintain their own relationship with the customer, reduce administrative complexity, and prevent unintentional sharing of customer information; and
- Because the Commission has already addressed the issue of customer consent and data privacy in past orders, most recently in the DER Oversight Order, the JUs caution against a BDP model that would require disclosure of customer information without customer consent.[15]

NYC

NYC recommends that the BDP program be rejected at this time or that Staff be directed to revise the proposal to address a number of unresolved issues concerning costs, eligibility requirements, implementation, and actual benefits to low-income customers. In addition, NYC states that the Commission has already approved CDG programs designed to allow for an increase in low-income participation and adding the BDP program runs the risk of crowding the new market with programs that are uneven in benefits and incompatible. According to NYC, if the proposal is adopted, efforts to minimize confusion and support effective interaction with current programs would need to be addressed. Further, if the proposal is to be considered, NYC recommends that the following issues should be addressed and resolved:

- Clarification is needed as to when and how customers would be enrolled, including availability of eligibility lists to developers, as well as how the program would interact with

[15] Case 15-M-0180, In the Matter of Regulation and Oversight of Distributed Energy Resource Providers and Products, Order Establishing Oversight and Framework and Uniform Business Practices for Distributed Energy Resource Suppliers (issued and effective October 19, 2017) (DER Oversight Order), pp. 1-2.

existing programs that pay the utility bill for the customer directly;

- Clarification is needed to ensure that customers will be saving the same or greater than the portion of the bill discount used and not have the customer paying more than they would without participating if the BDP amount is less than the subscription cost;
- Clarification is needed regarding what oversight rules would be necessary in addition to the Uniform Business Practices for Distributed Energy Resource Suppliers (UBP-DERs), as well as how they will be created and enforced;
- Clarification is needed as to what billing procedures would need to be in place for the BDP program to function, including whether is it possible or advisable to implement BDP without consolidated billing; and,
- Clarification is needed as to how wait lists will operate, including eligibility verification when reaching the top of the list, before being added as a subscriber versus continuous verification to remove ineligible customers from the wait list on a regular basis.

NYC states that clean energy prospects can be improved for low-income customers by providing developers with proper price signals to indicate where deployments of CDG projects are most beneficial for the public policy objective of increasing access to DER for communities that have historically been underserved with respect to clean energy opportunities. As such, NYC supports integrating an environmental justice (EJ) adder into the Value Stack calculation. To address the details of this adder, NYC recommends that the Commission convene an alternate forum to address this issue, as it has not been prioritized in the initial working groups. As NYC reports, a subgroup has been formed, but it is unclear when EJ issues will be addressed in the existing VDER working groups and if EJ related priorities would be more effectively advanced outside of the VDER proceeding. As such, NYC recommends that the Commission either direct Staff to focus on EJ issues in the VDER proceeding or institute a separate proceeding outside of the formal VDER proceeding to focus on EJ.

UIU

UIU recommends that the Commission establish a collaborative process to address the BDP program's complex implementation issues. According to UIU, the following issues should be addressed before the program is put in place:

- Additional consumer protections are necessary beyond UPB-DERs, which would be discussed in the collaborative;
- Low-income customers should be provided with guaranteed savings, similar to those required of ESCOs, and refunded if savings have not been achieved at the end of a quarter;
- Developers must apply for Commission approval to participate in BDP program and provide credible evidence that savings will be provided;
- Low-income customers should have no early termination fee with one billing cycle of notice to the project sponsor; and,
- CDG developers must clearly disclose the term of the subscription and process of contract renewal, as well as require affirmative customer consent.

## LEGAL AUTHORITY

As described in the VDER Transition Order, the Commission has the authority to direct the treatment of DERs and customers participating in DER programs by electric corporations pursuant to, inter alia, Public Service Law (PSL) Sections 5(2), 66(1), 66(2), and 66(3). Pursuant to the PSL, the Commission determines what treatment will result in the provision of safe and adequate service at just and reasonable rates consistent with the public interest.

## DISCUSSION

### BDP Program

The BDP program has the potential to directly address some of the market barriers facing CDG projects seeking to serve low-income customers and low-income customers seeking to participate in CDG. The BDP will furnish CDG developers with a reliable and creditworthy revenue stream associated with low-income customers, paid directly to the developer from the utility. It also has the potential to leverage low-income bill discounts to provide low-income customers with green energy and equal or greater bill savings. With regard to the sufficiency of the BDP program to fully meet goals for low-income CDG participation, the Staff Report notes that "the CDG market will need continued attention, including ongoing assessment of the effectiveness and impact of approaches that are implemented, and further development of efficient, impactful and novel approaches."[16] In order to facilitate such assessment, participation levels in the BDP will be regularly reported. If such assessment shows that the impact of the BDP program is uneven across the State or that additional market interventions are warranted, the Commission will take action as appropriate. Additionally, as discussed below, the loss reserve program will act to provide credit support to CDG developers seeking to serve low-income customers. Moreover, there is no reason to conclude that the program will cause confusion or crowd the underserved low-income market segment.

[16] Staff Report, p. 36.

While some implementation details require resolution, the BDP proposal is sufficiently developed to justify moving forward with it now. No additional collaborative processes are necessary; rather, the utilities are directed to make filings to implement the BDP program and to address in their filings procedures for making payments to CDG developers of funds pledged by low-income customers to cover subscription fees, as well as certain open issues and details of implementation, as further described below. The filings should also include reporting plans detailing how the utilities will report information on participation in the BDP each year. Such filings shall be due 60 days from the date of this Order. Interested parties will have an opportunity to review and comment on the utility implementation plan filings. After a comment period, the Commission will consider and act on those implementation plans.

All parties agreed that the BDP program must ensure that annual participant CDG credits would more than offset foregone bill discounts. The Staff Report suggested that this could be accomplished in one of two ways: (a) CDG developers would estimate whether enrolling customers would benefit from the program; or (b) if the customer did not achieve bill neutrality or savings, the CDG developer would be required to refund the difference. CCSA preferred the former approach, while most other parties strongly preferred the latter.

The Commission requires that ESCOs guarantee that low-income customers will pay no more than if they had purchased energy from the local utility; it is appropriate to require the same guarantee from CDG developers under the BDP program. The Commission authorizes approximately $260 million annually for the Affordability programs and the impact of these important assistance programs would be diminished if significant portions of such funds are merely passed through to CDG developers through the BDP program without corresponding value for the low-income customer. Further, lowering the value of these financial assistance programs in relation to low-income customers' bills will make it more difficult for those customers to pay their utility bills in full. The increased arrears and utility shut-offs that would result are detrimental to both customers and utilities and interfere with the Commission's interest in minimizing the unnecessary termination of electricity and natural gas service to residential customers.

CDG developers seeking to participate in the BDP program therefore must be able to demonstrate that they have mechanisms in place that are designed to guarantee that they are providing, on an annual basis, bill credits no less than the BDP amount pledged by the customer, and to promptly refund any difference. The Commission will hold each CDG developer individually responsible for ensuring such guarantee, rather than designating NYSERDA or another program administrator to do so. Such a demonstration shall be made in a petition to the Commission for authorization to serve low-income customers under the BDP program, similar to the authorization required for ESCOs to serve low-income customers. Similar to the showing required of ESCOs, such a petition must demonstrate: (a) an ability to calculate the difference between the Affordability program discounts pledged by the customer and the CDG credits received; (b) a willingness and ability to ensure that the customer will annually receive CDG credits and/or refunds totaling no less than the Affordability program discounts pledged; and (c) appropriate reporting and ability to verify compliance with these assurances.

The Commission previously issued its DER Oversight Order, which seeks to protect DER customers and create a market that will benefit all involved. The DER Oversight Order includes a manual of UBP-DERS. The CDG developer petitions described above shall include commitments to provide the protections required in the UBP-DERS, as well as other consumer protections specific to the BDP program as follows: (a) a certification that the CDG developer and its partner organizations will adhere to all applicable laws and regulations respecting sales and marketing, including any restrictions on door-to-door solicitation; (b) that no early termination fees shall apply to BDP program participants who leave the program due to termination of service for nonpayment, and (c) that affirmative customer consent is required for contract renewal at the end of the subscription term. CDG developers may immediately begin filing such petitions; they do not need to wait for the utility implementation plans to be finalized.

The JUs expressed concern that procedures would need to be established to protect against the disclosure of information without customer consent. To address this concern, CDG developers shall be required to identify to the utility the subscribers it has enrolled as BDP participants and shall maintain agreements signed by the customer, for production to the utility, which shall include a provision that the utility is authorized to notify the CDG developer if the customer becomes ineligible for the Affordability program. Customer Authorization records shall also be maintained for at least two years after the customer terminates his or her agreement with the CDG developer. The utility will only make payments to CDG developers for customers enrolled in its Affordability program, for whom it has received copies of such authorization.

The Aligned Parties are concerned that requiring some additional customer contribution, in cases where the BDP amount is insufficient to fully cover subscription costs, may discourage customer uptake. As noted in the Staff Report, electric discounts under the Affordability programs vary considerably, between $4 and $76 monthly. In some cases, the monthly discount may be greater than the monthly subscription fee required by the CDG developer; in others, the Affordability discount amount alone may be insufficient. While the Commission recognizes that CDG developers may be unwilling to serve the latter customers, we see no reason to limit the potential for CDG developers to serve them if they are willing to accept additional payments from these customers directly. The Commission will require, however, that the combined subscription fee paid by such customers shall not exceed the fee paid by customers who are able to pay the full subscription fee through BDP, for an equivalent share of CDG credits. This is intended to ensure that, while the guarantee above covers only the portion paid through BDP, these customers have a comparable opportunity to achieve bill savings. Such a commitment by a CDG developer, or alternatively, a declaration that the developer will not serve low-income customers whose subscription fee is only partially covered by BDP, shall be included in the CDG developer petitions described above. In either case, once enrolled, CDG developers shall be required to continue to serve a low-income subscriber if the customer’s discount decreases, or the customer subsequently becomes income-ineligible for the utility’s Affordability program, as long as those subscribers pay the required subscription fee directly to the developer.

The Staff Report suggested a potential role for utilities in maintaining a wait-list of backup subscribers with the ability to assume the subscription if customers drop out. JU and NYC raise several valid concerns with this proposal, including maintaining confidentiality of customer information, administrative complexity, and recovery of costs. The

Commission therefore declines to adopt this proposal. CDG developers will be responsible for developing and maintaining their own wait-lists, and obtaining the necessary customer authorizations; however, the Commission adopts the proposal from the Staff Report that such transfers shall be permitted to occur at the beginning of each billing cycle. This will help address concerns about taking on subscribers otherwise deemed risky by lenders, by allowing new low-income subscribers to quickly replace those who leave the program or default on payments.

JU seeks clarification regarding whether BDP participants would designate a set dollar amount or a percentage of their Affordability program discounts. The Commission clarifies that customers shall be permitted to pledge a set dollar amount. This will avoid confusion which might otherwise occur if the customer's Affordability program discount changes.

NYC seeks clarification regarding how the BDP program would interact with existing programs that pay the utility bill for the customer directly (so-called "direct voucher" programs), such as those offered by New York City Human Resources Administration, or whether customers enrolled in such programs are even eligible for BDP. NYC offers no reason why such customers should be considered ineligible; and indeed, in light of the guarantee required of participating CDG developers discussed above, such participants will receive the same or a better benefit than they would under the Affordability programs. The Commission therefore finds no reason to exclude such customers.

The Aligned Parties and NYC both argue that the Commission should authorize an additional value stack component to incentivize projects that serve low-income and environmental justice communities. The Commission declines to direct the implementation of such additional credits, because of the numerous unresolved issues surrounding such credits, as discussed in the Staff Report; and also because it would negate one of the cardinal features of the BDP program, namely, that it expands opportunities for low-income households to subscribe to CDG projects while remaining revenue-neutral for other ratepayers.[17] This decision does not preclude further examination of these matters; however, the effectiveness of the initiatives authorized herein will be evaluated before considering the need for further subsidies.

Parties made a number of other proposals that are beyond the scope of the Staff Report or are subject to other Commission action, and the Commission therefore declines to act on them at this time. These include proposals to implement consolidated billing, adopt interzonal crediting, apply the MTC to master-metered buildings, reduce the minimum subscription size to 250 kWh monthly, and increase the amount of value stack credits. While these steps might improve the effectiveness of the BDP program, the Staff Report and party comments thereon form an insufficient record to act on these proposals.[18] Those issues are therefore deferred for future Commission consideration.

<u>NYSERDA Income Verification Service</u>

The Staff Report included a strategy to extend low-income enrollment in CDG projects beyond the utilities' existing Affordability program participants, and suggested a potential

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[17] Unresolved issues related to an environmental justice adder listed in the Staff Report included the following: criteria for identifying eligible projects, calculation of appropriate incentive levels, how to allocate any such incentive between CDG developers and participating customers, and identifying a source of funding.

[18] CDG projects currently have a 1,000 kWh minimum annual threshold requirement for each subscriber, or approximately 83 kWh monthly.

role for community-based organizations as well. In order to facilitate the BDP program, Staff proposed that NYSERDA extend its income verification service to developers seeking to secure BDP subscribers for their CDG projects. Such customers would be enrolled in the utility's Affordability program, and thence into the BDP program. As discussed in the Staff Report, once determined to be qualified and enrolled in the utility's Affordability program, the customer would be subject to the Affordability program's rules for continuing eligibility; generally, that the customer must annually apply for and receive HEAP or another qualifying social services program.

This mechanism would facilitate development of CDG projects designed to serve disadvantaged communities, and further would serve to expand the reach of our Affordability programs. NYSERDA is directed to develop, within 6 months of this Order, a proposal to allow developers to access an income verification system, in collaboration with OTDA, if feasible. It is anticipated that the NYSERDA service will be offered to CDG developers at no cost; however, NYSERDA may require that CDG developers exercise some due diligence in referring customers for credit verification, e.g., obtaining proof of income. In addition, for utilities with Affordability program plans that do not permit non-HEAP recipients to be enrolled, the utility filings discussed above shall include proposals to enroll eligible customers identified through the NYSERDA service into their respective Affordability programs.[19]

The Aligned Parties stated that other enrollment avenues should be developed. The NYSERDA service is intended to function as a low-cost, readily available way for CDG developers and their community partners to verify the eligibility of low-

[19] Where applicable, such filings shall also be made under Case 14-M-0565 (supra).

income customers. Its creation would not prohibit other means of income verification; however, customers may not be enrolled in the Affordability programs (or BDP) if not income-verified, and utilities will not be required to review and verify the eligibility of customers not processed through the NYSERDA service if their Affordability program plans do not currently provide for utility-conducted reviews.

Loss Reserve

Given that lack of access to capital is a major barrier for low-income customers to invest in renewable projects, policies that directly address the issue of financing and credit risk could have a significant impact on increasing low-income participation. A loss reserve could reduce the credit requirements necessary for low-income consumers to access subscriptions to CDG projects, as well as reducing financing barriers for CDG developers.

The Commission notes that the VDER Implementation Order explicitly directed Staff to "continue to explore [New York] Green Bank options, including but not limited to developing solutions to lower the cost of capital and provide credit support for CDG projects that are either fully or proportionally comprised of low-income customers."[20] This loss reserve fits well within NYSERDA's mission and specifically within the ambit of Green Bank activities. The Green Bank's Annual Business Plan for 2018 – 19 states that the Green Bank will issue a targeted solicitation for financing solutions that serve low and moderate income (LMI) communities, which may

[20] VDER Transition Order, page 140.

include "loss reserves, or other financial solutions, to CDG projects serving LMI communities."[21]

NYSERDA shall, through the Green Bank or other appropriate portfolio, create a loss reserve program for CDG projects serving low-income subscribers. NYSERDA shall engage with stakeholders in designing the program. NYSERDA is directed to file a report on the status of loss reserve program development within 6 months of this Order. Regular reporting on participation in the loss reserve program, once it is operational, shall be incorporated into the appropriate existing NYSERDA reporting activities.

## CONCLUSION

In this Order, the Commission takes major steps to ensure that the opportunities created by the VDER and CDG initiatives are available to all New Yorkers. The BDP program will ensure that low-income New Yorkers who do not have the ability to pay an additional monthly bill can participate in CDG programs and will also reduce the importance of credit quality by providing a guaranteed payment stream from the utility to the developer. The loss reserve will further ensure that credit quality does not serve as a barrier to CDG membership. Finally, the income verification service will support New York's goal of including all eligible customers in low-income programs and will support engagement of community-based organizations.

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[21] Case 13-M-0412, Petition of New York State Energy Research and Development Authority to Provide Initial Capitalization for the New York Green Bank, Annual Review and Business Plan (filed July 2, 2018).

The Commission orders:

1. Within 60 days of the issuance of this Order, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation shall file a proposed implementation plan or proposed implementation plans for a bill discount pledge program, as described in the body of this Order.

2. The New York State Energy Research and Development Authority shall, within six months of the issuance of this Order, file a proposal to allow Community Distributed Generation developers to access an income verification system.

3. The New York State Energy Research and Development Authority shall begin the development of a loss reserve program for Community Distributed Generation projects serving low-income subscribers and shall file a report on the status of development of that program, within six months of the issuance of this Order.

4. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request 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 affected deadline.

5. These proceedings are continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary