

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 26, 2014

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman

CASE 03-E-0188 - Proceeding on Motion of the Commission
Regarding a Retail Renewable Portfolio
Standard.

ORDER AUTHORIZING REALLOCATION OF UNENCUMBERED
2013 CUSTOMER-SITED TIER (CST) PROGRAM FUNDS
AND THE CREATION OF A GENERAL FUNDING POOL

(Issued and Effective July 2, 2014)

BY THE COMMISSION:

INTRODUCTION

The Customer-Sited Tier (CST) is a component of the Renewable Portfolio Standard (RPS) program administered by the New York State Energy Research and Development Authority (NYSERDA). It allows customers to participate directly in the promotion of certain technologies using self-generation, "behind-the-meter" facilities located in New York. The five standard offer incentive programs are the Solar Photovoltaic Program (Solar PV Program); Anaerobic Digester Gas-to-Electricity Program (ADG Program); Fuel Cell Program; On-Site Wind Program; and, the Solar Thermal Program. All programs operate on a rolling-admission, first-come, first-serve basis with program rules described in each technology's Program Opportunity Notice (PON) posted on NYSERDA's website.

In this Order, the Commission authorizes NYSERDA to reallocate \$20,825,594 of unencumbered RPS CST 2013 program funds by returning \$11,600,000 directly to the ADG Program to address the anticipated demand that is expected to result from changes made to that program in 2013¹ and to create a new CST General Funding Pool with the remaining \$9,225,594, to be drawn from throughout the year to fund CST projects in other non-solar PV technologies, as needed. The General Funding Pool will be allocated at NYSERDA's discretion during 2014 to fund Solar Thermal, Fuel Cells, On-site Wind and ADG projects, in response to program demand and upon fully encumbering each program's 2014 budgets.²

Also, the Commission grants NYSERDA the flexibility to allocate unencumbered 2014 CST budget funds to a similar Funding Pool at the beginning of 2015, with NYSERDA to file a report in lieu of a petition.

BACKGROUND

On April 2, 2010, the Commission issued an Order that, among other things, authorized budgets from 2010 through 2015 for the five standard offer technology-based incentive programs

¹ Case 03-E-0188, Order Authorizing the Increase of Maximum Project Incentive for the Anaerobic Digester Gas-to-Electricity Program (issued January 23, 2013).

² The standard-offer and competitive solar PV programs in the Customer-Sited Tier would not have access to the General Funding Pool since they are already funded through the modifications approved by the Commission in its December 19, 2013 Order Authorizing the Redesign of the Solar Photovoltaic Programs (December 2013 Order) and the Reallocation of the Main-Tier Unencumbered Funds and April 24, 2014 Order Authorizing Funding and Implementation of the Solar Photovoltaic MW Block Programs in this proceeding (April 24 Order).

in the Customer-Sited Tier.³ That Order required NYSERDA to determine, at the end of each calendar year, the unencumbered balance in each of the five programs and to file a petition as to whether such unused funds should remain in each respective program, or should be transferred to different programs to satisfy the demand for other technologies.⁴ On January 30, 2014, NYSERDA submitted a petition presenting its unencumbered balance calculations for the end of calendar year 2013, and its recommendations for the disposition of such funds.

NYSERDA'S CURRENT PETITION

NYSERDA calculates the end of calendar year 2013 unencumbered balance in each of the five Customer-Sited Tier programs as follows.

RPS Customer-Sited Tier - 2013 Unencumbered Program Funds

Solar Photovoltaic	\$78
Fuel Cell	\$650,000
Anaerobic Digesters	\$16,595,133
On-Site Wind	\$2,023,674
Solar Thermal	\$1,556,709
Total	\$20,825,594

NYSERDA recommends that the 2013 CST unencumbered program funds be allocated as set forth below.

³ Case 03-E-0188, Order Authorizing Customer-Sited Tier Program through 2015 and Resolving Geographic Balance and Other Issues Pertaining to the RPS Program (issued April 2, 2010), pp. 20-21.

⁴ NYSERDA calculated the unencumbered funding balances in accordance with the Commission's directive in Case 03-E-0188, Order Authorizing Reallocation of Unencumbered Customer-Sited Tier Program Funds Through 2010 and Resolving other issues (issued September 19, 2011), p. 17.

Proposed Reallocation of Customer-Sited Tier Funds in 2014

	Current 2014 Budgets	NYSERDA's Estimated Reallocation of 2013 Unencumbered Funds	Proposed 2014 Budgets
Solar PV ⁵	\$64,800,000	--	\$64,800,000
Fuel Cell	\$3,600,000	--	\$3,600,000
ADG	\$10,200,000	\$11,600,000	\$21,800,000
On-Site Wind	\$3,100,000	--	\$3,100,000
Solar Thermal	\$4,300,000	--	\$4,300,000
General Funding Pool	--	\$ 9,225,594	\$9,225,594
Total	\$87,600,000	\$20,825,594	\$107,525,594

ADG Program

NYSERDA proposes that \$11,600,000, the amount of the original 2013 ADG program budget, be returned to that program and added to the authorized 2014 ADG program budget of \$10.2 million. This would provide for a total budget of \$21.8 million for the ADG program throughout 2014. NYSERDA justifies this request by noting that the ADG program was nearly unavailable in 2013 as it redesigned the program to respond to some of the market barriers encountered in the program. It believes that rolling over some of the unused funds from 2013 to the 2014 budget will address the "pent-up" demand that has accumulated as a result of those changes, thus preserving the 2014 budget for projects that are expected to materialize through the normal course of activities throughout this year.

General Funding Pool

NYSERDA proposes to create a General Funding Pool with the remaining \$9,225,594 of unencumbered 2013 funds, to be drawn

⁵ NYSERDA notes that the budget for solar PV only includes the standard-offer program for systems at or below 200kW and assumed a budget split of 60-40 of the authorized \$108 million annual solar PV funding between the standard offer program and the competitive PV program for systems above 200 kW.

from throughout the year for CST projects, as demand for each program dictates. During the remainder of 2014, the funding in the pool would be available to Solar Thermal, Fuel Cells, On-Site Wind and ADG after each of their 2014 budgets were fully encumbered.

NYSERDA also requests that the Commission authorize it to allocate all unencumbered 2014 CST funds to the same General Funding Pool at the beginning of 2015, with NYSERDA to file a report in lieu of filing a petition.

NYSERDA also presents its expected impact on program targets as follows:

CST Targets

Program	Actual 2006-2013	Forecasted 2014-2015	Total	Previous Forecasted Total
Solar PV MW	140.73	55.56	196.29	171.68
Solar PV MWh	165,190	65,213	230,403	201,516
Fuel Cell MW	5.02	2.19	7.21	5.44
Fuel Cell MWh	40,085	16,556	56,641	40,448
ADG MW	16.59	6.12	22.71	28.96
ADG MWh	118,920	40,208	159,128	201,305
Wind MW	5.74	7.39	13.13	14.46
Wind MWh	11,504	16,380	27,884	30,982
Solar Thermal MW	3.09	15.84	18.93	25.03
Solar Thermal MWh	3,621	18,060	21,681	28,529
Total MW	171.17	87.10	258.27	245.56
Total MWh	339,320	156,418	495,738	502,780

NYSERDA notes that it encumbered approximately \$20 million less than budgeted for 2006-2013 and as shown in the table above, the overall CST program is expected to deliver

approximately 13 MW more of capacity and approximately 7,000 less megawatt hours of energy than initially projected in its Operating Plan for a fully encumbered budget.⁶ NYSERDA states that if the Commission approves the CST General Funding Pool, it will update the 2014 values in its end of year report detailing the actual encumbrances of the pool.

NOTICE OF PROPOSED RULEMAKING

A Notice of Proposed Rulemaking (Notice) concerning NYSERDA's petition for the reallocation of unencumbered funds was published in the State Register on February 19, 2014, [03E0188SP46] pursuant to the State Administrative Procedure Act (SAPA). SAPA comments on NYSERDA's petition were due on April 7, 2014. The City of New York (NYC), and ClearEdge Power, LLC (ClearEdge) submitted comments which are summarized below.

SUMMARY OF COMMENTS

ClearEdge generally supports the petition, but does not support the reallocation of funds directly to the ADG program, noting that the proposal provides a substantial increase to a single technology and no specific increase of funds to the other technologies. ClearEdge recommends that the Commission direct NYSERDA to reduce the rollover amount for the ADG program and provide an increase for the fuel cell program, noting that in 2013, the number of fuel cell projects that submitted program applications exceeded the initial 2013 authorized funding by more than 100%. Alternatively, ClearEdge recommends that all unencumbered funds be placed in a general

⁶ NYSERDA notes that the increase in MW is due to the solar PV program performing above expectations, which made up for a shortfall from other technologies. Due to the different capacity factors between the technologies, PV did not make up the entire MWh difference.

funding pool to be fair and equitable to all the programs noting that applicants for the ADG program can take advantage of the general funding pool if the 2014 ADG budgeted funds become fully encumbered prior to the end of the year.

ClearEdge also supports NYSERDA's request to reallocate unencumbered funds at the end of 2014 to program year 2015 by filing a report rather than a petition to provide for administrative efficiency. It concludes that the petition process creates unnecessary uncertainty for longer because of the regulatory procedures necessary for processing a petition.

NYC supports NYSERDA's petition, stating that the proposed General Funding Pool should increase flexibility without impairing the performance of any particular program administrated under the CST. It also states that it believes that rolling-over funds specifically to the ADG program is not inconsistent with past practices and policies. The remainder of NYC's comments addresses the lack of transparency in reporting CST program progress and funding expenditures, specifically in the competitive PV program that is targeted to the downstate region. It notes that insufficient information is provided in NYSERDA's annual reports. NYC requests that the annual reports include: budgets and expenditures on an annual and cumulative basis; unencumbered, committed, and expended funds for each of the preceding annual periods; the amount of funds, if any, transferred into or out of each program annually; annual expenditures by county; end of year cash balances, as NYSERDA currently reports for the other CST technology programs; funds available for expenditure in the subsequent year; the number of executed contracts and installed capacity annually, by county. NYC states that these metrics should be regularly reported to provide better public understanding and acceptance of the CST programs.

DISCUSSION

NYSERDA's proposed reallocation of 2013 unencumbered funds is reasonable. As NYSERDA and commenters note, the creation of a General Funding Pool with all or a portion of unencumbered funds provides beneficial flexibility to fund additional projects in programs that have experienced demand above their allocated annual budgets.⁷ We also grant NYSERDA flexibility to transfer unencumbered CST funds at the end of 2014 to the General Funding Pool to be used for the four programs in 2015, without the need to file a petition. This measure will facilitate reallocation of the funds into the programs in an expedited manner. We will require, however, NYSERDA to file a report to us for the disposition of unencumbered funds.

We also approve NYSERDA's request to reallocate a portion of the \$16,595,133 unencumbered from the ADG program specifically to that program for 2014 to address demand that is forecasted to result from program redesign. As NYSERDA notes, the requested reallocation of \$11,600,000 represents the initial 2013 ADG program budget that was largely unavailable to program participants as the program was being redesigned in 2013 to address market barriers. We note that the remaining unencumbered funds from the program, approximately \$5.3 million, will be allocated to the General Funding Pool in addition to those funds unencumbered from the other three technologies for a total of \$9.2 million. This amount should be sufficient to satisfy any increase in demand for the fuel cell program, a concern expressed by ClearEdge, or any other technology for program year 2014 given past historic spending in each program. Also, in the event the ADG applications do not fully materialize

⁷ We concur with NYSERDA that solar PV be excluded from accessing funds from the general funding pool.

this year, as NYSERDA predicts, unencumbered funds from that program will be reallocated to the General Funding Pool in early 2015.

Therefore, we authorize NYSERDA to reallocate the \$20,825,594 of 2013 unencumbered CST funds as follows: \$11,600,000 will be returned to the ADG program, and \$9,225,594 for the creation of a General Funding Pool to be used for the solar thermal, on-site wind, fuel cells and the ADG programs upon fully encumbering their respective 2014 budget.

Approved Reallocation of Customer-Sited Tier Funds in 2014

	Current 2014 Budgets	NYSERDA's Estimated Reallocation of 2013 Unencumbered Funds	Proposed 2014 Budgets
Solar PV ⁸	\$54,000,000	--	\$64,800,000
Fuel Cell	\$3,600,000	--	\$3,600,000
ADG	\$10,200,000	\$11,600,000	\$21,800,000
On-Site Wind	\$3,100,000	--	\$3,100,000
Solar Thermal	\$4,300,000	--	\$4,300,000
General Funding Pool	--	\$ 9,225,594	\$9,225,594
Total	\$87,600,000	\$20,825,594	\$107,525,594

Finally, we note that the transparency sought by NYC is of benefit, not only with regard to current and past budgets, encumbrances, and expenditures but also helpful in analyzing the effect on the PV programs going forward under the proposed MW Block Programs for both the standard offer and competitive PV program. In this regard, NYSERDA has informed us that a large portion of the data NYC seeks has been provided on its website, but not in a single location or in a format that promotes the transparency desired. NYSERDA agrees that its reporting could

⁸ We have reduced the amount reflected in the solar PV program to correctly note the 50-50 split between the standard offer and the competitive PV program that currently exists based on our April 24 Order (Appendix A).

be more transparent and has recently been in contact with NYC to provide the data that it seeks. Further, NYSERDA reports that it is working to enhance its public data reporting on the status of budgets and program progress for the customer-sited tier, including the competitive PV program.

The Commission orders:

1. The New York State Energy Research and Development Authority (NYSERDA) is authorized to reallocate \$20,825,594 in unencumbered Renewable Portfolio Standard (RPS) Customer-Sited Tier (CST) 2013 program funds to 2014 budgets in the following manner: \$11,600,000 specifically to the Anaerobic Digester Gas-to- Electricity Program (ADG Program) and \$9,225,594 to be placed in a newly-created CST General Funding Pool, as described in this order.

2. NYSERDA is authorized to allocate unencumbered 2014 CST budget funds to the CST General Funding Pool for program year 2015, with NYSERDA to file a compliance report in lieu of a petition.

3. This proceeding is continued.

By the Commission,

KATHLEEN H. BURGESS
Secretary