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Key Elements Of NY Agencies' Renewable Energy Plan: Part 2

By **Kevin Blake** (July 8, 2020, 3:32 PM EDT)

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Just over six months after New York's Climate Leadership and Community Protection Act, or CLCPA, went into effect, the staff of the Department of Public Service of the New York Public Service Commission, along with the New York Energy Research and Development Authority, or NYSERDA, have published a groundbreaking white paper proposing a framework and regulatory pathway for decarbonizing New York's power grid.

The CLCPA white paper is the first step in a process that will ultimately lead to the Public Service Commission establishing a CLCPA-mandated program by June 30, 2021, requiring 70% of electric load to be served by renewable energy by 2030 — known as the 70x30 target — and achieving a zero carbon emission statewide electric grid by 2040. The white paper is densely packed with policy proposals that shed light on how those ambitious targets might be achieved.

At its core, the white paper proposes to rely on a modified version of the Clean Energy Standard, or CES, procurement structure — first adopted in 2016 — to meet the 70x30 and 2040 zero emissions targets. But while the original CES contemplated a 50% renewables target by 2030, meeting the CLCPA's 70x30 target will require significant enhancements to the CES structure.

Some of those enhancements include aligning currently conflicting definitions of renewable energy, evaluating the state's load forecast to develop renewable procurement targets, creating new Renewable Energy Standard, or RES, tiers, redefining the parameters of existing RES tiers, and addressing the role and obligations of load-serving entities.

The first part of this two-part article discussed the CLCPA white paper's treatment of biofuels, fuel cells and hydropower, and looked at the 70x30 target in detail. This installment covers the white paper's recommended changes to the CES procurement process, its discussion of impacts on load-serving entities, and how issues of supply, demand and delivery, the needs of disadvantaged communities, and the role of the Climate Action Council figure into the planning for New York's energy transition.

Modernizing the CES

Meeting the 70x30 target will require an enormous increase in Tier 1 RES procurement. The CLCPA white paper projects that NYSERDA will need to ramp up its procurement efforts by an additional 40% from the previous three years to secure 24,990 gigawatt-hours of new renewable resources by 2026, in order to be operational by 2030.

To meet those tight timeframes, New York will need to emphasize viable projects, and ensure the newly passed Accelerated Renewable Energy Growth & Community Benefit Act provides an efficient and streamlined review and approval process. In the previous decade, only six large-scale renewable energy projects successfully made it through the Article 10 gauntlet to receive certificates of completion.

The newly created Office of Renewable Energy Siting will need to develop streamlined siting standards to course-correct and set New York on a path that unlocks investment and economic development initiatives in a timely manner. The white paper recommends the Public Service Commission adopt a multitude of changes to the CES procurement process, several of which are described below.

Flexible Targets

While the CLCPA white paper projects that 4,500 GWh of new procurements per year will be needed to meet the 70x30 target, it recommends that NYSERDA have significant flexibility to revise and adjust annual procurement targets in response to market conditions.

While flexibility may provide some economic efficiencies, a lack of rigidity may dampen market and financial certainty.

Emphasis on Viability

The white paper recommends giving NYSERDA unprecedented veto power to outright reject a project that is deemed nonviable by a unanimous decision of the Technical Evaluation Panel.

It also recommends merging the "project viability" and "operational flexibility and peak coincidence" metrics into one category, weighted at 20%, on the theory that these two metrics will become increasingly intertwined over the next decade.

Interactive Effects and Risk Factors

The CLCPA white paper recognizes that efficient operation of a 70% renewable electric grid requires careful planning to avoid curtailment, congestion or adverse reliability impacts.

It recommends tasking NYSERDA with developing new portfolio risk factors that may evaluate the geographic concentration of projects with similar generation profiles; overdependence on certain technology types; and anticipated curtailment, congestion or transmission constraints.

While not addressed in the white paper, it remains to be seen whether and to what extent the New York Independent System Operator will oversee or contribute to the development of those risk factors, based on its technical role as grid operator and reliability manager. NYSERDA's risk factors would be published in a particular request for proposals, to allow bidders to adjust their projects or respond appropriately to the identified concern.

As markets evolve, it is possible that developers will respond to identified risk factors with innovative market-based solutions, such as colocated storage or power-to-gas, to produce renewable hydrogen and/or renewable natural gas.

Offshore Wind

The CLCPA white paper recommends sending a clear investment signal to the offshore wind industry, by formally adopting the CLCPA target of 9 gigawatts of offshore wind by 2035, and allowing NYSERDA to procure additional offshore renewable energy credits to meet that goal.

It also recommends development of a $1M feasibility study to evaluate offshore wind opportunities in the Great Lakes region, and to consider whether and to what extent Great Lakes wind projects could compete in offshore renewable energy credit solicitations, or benefit from other procurement mechanisms.

While not referenced in the white paper, the New York Power Authority, or NYPA, previously sought and received several competitive solicitations in 2010 for a 150 megawatt offshore wind project in Lake Erie, but ultimately scrapped the proposals based on perceived project economics. A decade later, it appears the white paper proposes to start that process over from scratch.

It is unclear whether and to what extent the time, effort and resources that were dedicated to the original 2010 solicitation will be repurposed or revaluated to streamline the review and consideration of this emerging opportunity.

New Tier 4

In recognition of New York's "tale of two grids" — whereby the upstate region is powered by mostly zero-emission resources, but the downstate region is supplied by mostly fossil-fired resources — the CLCPA white paper proposes the creation of a new Tier 4 of the CES. Tier 4 would provide financial incentives for renewable energy delivered into New York City (Zone J), separate and apart from the Offshore Wind Standard.

To be eligible for Tier 4, a resource must meet the CLCPA definition of renewable energy; have a commercial operation date on or after the date of a commission order resulting from the white paper; and deliver that energy into Zone J subject to certain additionality requirements above historical baselines.

Hydropower appears to be given special treatment under the proposal such that the vintage requirements are reversed — existing hydropower appears to be eligible, but new hydropower impoundments not in existence or currently under construction would be ineligible.

The white paper recommends that NYSERDA initially procure up to 3,000 MW of Tier 4 resources, with the potential to increase its solicitation with approval from the commission. Tier 4 incentives would be funded by all load-serving entities, or LSEs, based on a percentage of their statewide load, similar to renewable energy credits, or RECs, and zero-emissions credits.

Modifications to Tier 2

Separate and apart from the white paper, NYSERDA has a petition currently pending before the commission for approval of a competitive Tier 2 program for baseline renewable resources.

The white paper, however, seeks comments on whether NYSERDA should be authorized to resell unused

Tier 2 RECs, and request further evaluation of how NYPA's hydroelectric resources should be treated under the Tier 2 program, given NYPA's portfolio and unique position compared to other LSEs.

Modifications to Tier 1 Repowered Facilities

The white paper proposes several modifications to the circumstances under which a repowered facility may be eligible for Tier 1, setting forth a formula that incorporates the project's useful life; the extent to which repowering includes replacement of prime mover components; and the time period in which the repowering occurs.

Eligible repowerings could deem an entire facility's output as Tier 1 eligible after its initial useful life.

Impact on Load-Serving Entities

As CES procurement requirements are adjusted, so too are LSE obligations. The CLCPA white paper acknowledges that LSEs will be subject to Tier 2 and Tier 4 REC procurement obligations if approved by the Public Service Commission — costs which are unknown and potentially substantial, and which will, of course, be passed to customers.

While the white paper recognizes that LSEs play a key role in supporting statewide policy, and suggests that LSEs will pass through those costs to customers, the ability of certain LSEs — namely, energy service companies — to pass through CES costs, among other things, has come under increased scrutiny, and could threaten the integrity of the retail marketplace.[1]

The white paper also recommends adjustments to the Tier 1 REC obligations for 2021 and 2022, to account for permitting and construction delays which have dampened quantities of available RECs. The updated Tier 1 REC obligations would be 2.04% in 2021; 5.61% in 2022; and 8.20% in 2023.

If adopted, this recommendation will have ripple effects on the quantity of renewable energy that energy service companies must provide in order to offer eligible "green" electricity products, as defined under the commission's Dec. 12, 2019, order adopting changes to the retail energy market.

Supply, Demand and Delivery

The CLCPA white paper is concentrated on CES procurements — and therefore, by its nature, is supply-focused. Nevertheless, it provides some surface-level acknowledgement that while new renewable generation is necessary and appropriate, the state must also actively pursue technologies which improve the functionality and economics of existing clean resources and/or opportunities to repurpose existing facilities.

A comprehensive pathway to the CLCPA mandates will require substantial and wide-ranging nongeneration solutions if the state is to achieve a decarbonized power grid in an economic and efficient manner. Supply is only one-third of the equation.

Demand reduction and delivery optimization efforts must also continue to be prioritized and incentivized, so that new resources are strategically procured and located in close proximity to load, to maximize efficiency and contain costs.

Disadvantaged Communities

It is critical to bear in mind the full name of the CLCPA: the Climate Leadership and Community Protection Act. New York has made an explicit and forward-thinking commitment to ensure that the decarbonization of its electric grid provides benefits to disadvantaged communities which have been historically and systematically burdened with an equal distribution of public health effects.

The CLCPA's modification to the state's Environmental Conservation Law requires that disadvantaged communities receive a minimum of 35% of "overall benefits" from spending on clean energy and efficiency programs. The manner in which those benefits are defined, where they will be distributed, and how they will accrue to disadvantaged communities remains to be seen.

Only a few days after the CLCPA white paper was published, the New York State Department of Environmental Conservation announced the appointment of the nine-member Climate Justice Working Group, which will develop criteria to identify disadvantaged communities and guide implementation of the CLCPA in accordance with its environmental justice directives.

When the white paper is opened for public comment, the newly formed Climate Justice Working Group, or other stakeholders, may advocate for more direct alignment of environmental justice initiatives with CES procurement — perhaps through the creation of a new tier of resource procurement or more concrete standards and benchmarks through which such benefits can be measured and tracked.

As the Climate Justice Working Group commences its important work, its findings and recommendations could fundamentally alter the landscape of New York's clean energy sector in several dimensions. Its mandate is broad, as it focuses not only on renewable energy and clean tech, but also workforce development, forestry and biodiversity, and urban planning.

Industry stakeholders should be focused on this unique aspect of New York's path to decarbonization, and identify opportunities to leverage these mandates in new and creative ways.

Climate Action Council

It is unclear what role the New York State Climate Action Council, formed to set policy and direct implementation of the CLCPA, will play relative to the refinement and implementation of the white paper, particularly as they were statutorily mandated to develop much of what is addressed therein.

The white paper proposes groundbreaking reforms to New York's procurement strategy, and provides insight into how DPS staff and NYSERDA envision what could be the most transformational decade of New York's power grid. It also recognizes the "vast economic opportunity" that is presented by the CLCPA, noting that New York has created 159,000 clean energy jobs in the last four years alone, representing a growth factor that is more than double that of the state's overall economy.

The public comment period for the white paper will soon commence, during which DPS staff, NYSERDA and others will likely provide additional detail on the proposals through technical conferences and webinars. Despite the extraordinary scope of what is proposed, the CLCPA requires the Public Service Commission to finalize and establish this renewable energy program no later than June 30, 2021.

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[1] See, e.g., Case 20-E-0243, Petition of UtiliSave LLC for a Declaratory Ruling Regarding ZEC Costs (filed May 26, 2020).