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Hon. Michelle L. Phillips, Secretary
New York State Public Service Commission
Three Empire Plaza
Albany, New York 12223-1350

Re: Case 21-E-0629: In the Matter of the Advancement of Distributed Solar

Dear Secretary Phillips:

The \$1.474 billion investment proposed in this roadmap is significant and we support generous incentives to move the needle forward on renewable energy development. However, a proposal of this size, without comprehensively planning for equitable outcomes, could do more harm than good. Moreover, **an investment of this size must be compliant with the Climate Leadership and Community Protection Act (CLCPA)**, which requires that “disadvantaged communities to receive forty percent of overall benefits of spending on clean energy and energy efficiency programs, projects or investments in the areas of housing, workforce development, pollution reduction, low income energy assistance, energy, transportation and economic development...[and] no less than thirty-five percent of the overall benefits of spending.”

Given the statutory requirement for the 35-40 percent metric to apply to **overall benefits**, there is significant concern regarding how benefits are being defined in this proposal. Right now, the only benefit being accounted for and attributed to Disadvantaged Communities (DACs) is bill discounts of ten percent. The benefits of distributed solar are plentiful and bill discounts are one very small piece of that pie. Solar energy is an asset, which produces income and generates wealth. **In addition to profits, solar energy also generates tax benefits, jobs, clean energy, and greenhouse gas reductions**, all of which are benefits that deserve to be distributed equitably, and at the very least, in line with the statutory obligation set forth in the CLCPA.

As one of the largest proposed investments since the CLCPA was enacted and the draft scoping plan was released, it is imperative that we get this right. NYSERDA must comprehensively define all of the benefits being generated by this \$1.474 billion proposal and how they are making sure that at the minimum 35-40 percent of those **overall** benefits are getting to DACs. As it currently stands, this proposal does not meet its statutory requirement to distribute 35-40 percent of benefits to



disadvantaged communities, which have been historically disinvested in, excluded from economic development and overburdened with pollution and negative health externalities. **If accepted as is, this proposal would set a devastating and inequitable precedent that allows the continued exclusion of disadvantaged communities.**

Although this roadmap does not currently comply with the CLCPA, there are many areas of this proposal that warrant support and we have a series of recommendations that could help bring this proposal in line with the CLCPA requirements and enhance diversity, equity, inclusion and justice.

WE ACT for Environmental Justice Supports Key Aspects of the Roadmap

1. WE ACT for Environmental Justice supports continued incentives for solar development and using block incentives as a short-term solution.

Solar energy is a vital resource in our goal of decarbonizing our grid in a cost-effective and equitable way that produces health benefits, high-wage jobs, and mitigates climate change. NY-SUN block incentives, to date, have succeeded in spurring solar development. We agree that additional block incentives should create the necessary market conditions for projects to continue in pursuit of the 10 gigawatts (GW) target by 2030.

Advanced multi-technology, lowest-cost power system modeling performed by Vote Solar, Local Solar For All and analytics firm Vibrant Clean Energy have shown that the lowest-cost grid in 2030 is powered by approximately 12 GW of distributed solar, which the Roadmap seeks to approach via block incentives. Notably, this modeling found that the least-cost clean energy transition sites more than 60 percent of rooftop solar systems and almost 30 percent of battery storage in disadvantaged communities, especially in the New York metropolitan area. Moreover, focusing on distributed solar as well as battery storage in the electricity system will save New York more than \$289 billion by 2050 compared to achieving CLCPA goals without a focus on distributed energy.

Upfront costs of the distributed energy buildout pay off over time in dramatically reduced costs in 2030-2050 due to the more flexible available baseline of grid service resources and avoided transmission costs. Distributed solar, in particular, has the opportunity to drive socially just and CLCPA compliant outcomes, including:

- Distributed solar system owners and off takers reap direct benefits from the system via energy bill savings,



- Greens local grid mixes, and allows for replacement of fossil heating and transportation in areas overburdened with local pollution
- Drives local job and wealth creation, particularly in DAC-member owned businesses, cooperatives, or other socially equitable business models.

2. WE ACT for Environmental Justice supports targeting at least 40 percent of new solar capacity to serve low income and affordable housing residents within DACs as a necessary component of serving DACs.

WE ACT for Environmental Justice supports efforts to ensure that program investments result in projects that have a relationship with DAC members, LMI customers and affordable housing residents. In designing the roadmap, NYSERDA sought to account for incentive dollars that would ultimately be directed towards projects which serve LMI, DAC members, or residents of affordable housing - tracking dollars from the Solar Energy Equity Framework (SEEF) and other adders to count towards meeting the 40 percent DAC investment goal. While we support and applaud applying the metric of DAC members connecting with a proportion of project capacity, these metrics are insufficient.

3. WE ACT for Environmental Justice supports the Roadmap's robust investment in projects serving Con Edison service territory, and supports additional attention to this region.

Approximately 85 percent of the New York City (NYC) grid is powered by fossil fuels, whereas the upstate grid is approximately 88 percent clean energy. This disparity in renewable energy generation leads to disparate health outcomes for downstate residents ranging from increased respiratory infections, asthma, heart disease, and lung cancer.

In addition, Con Edison customers pay the highest rates in the state, which is one of the drivers of significant energy cost burdens for NYC residents. Low-income households in Con Edison's service territory are extremely energy cost burdened. One quarter of New York City households have a high energy burden. Moreover, these burdens are more significant for communities of color; 32 percent of Black households and 33 percent of Hispanic households have a high energy burden in NYC. The median energy burden among white households is 46 percent lower than Hispanic households. Among low-income households, 25 percent have an energy burden in excess of 17 percent.

As of January 2022, there are over 400,000 Con Edison ratepayers that are 60 days in arrears, and on average, their debt is \$1,990.



Roadmap funding set aside in the Solar Energy Equity Framework and Inclusive Community Solar Adder has the greatest potential to reach DAC residents, communities of color and low-income households, which are overwhelmingly located in NYC. According to the State's draft criteria, 60 percent of DAC-designated census tracts are in NYC alone.

4. WE ACT for Environmental Justice supports NYSERDA's adjustment of the prevailing wage requirement to apply to projects of 1 megawatt (MW) or above, and would support lowering the prevailing wage threshold to 500 kilowatts (kW).

We are grateful for NYSERDA's commitment to high-paying green job creation. We ask NYSERDA to consider how many of these jobs will reach downstate residents and ensure that 35-40 percent of the jobs created by this roadmap be provided to low-income residents in DACs. We also request that NYSERDA put more resources into enforcement and compliance of the prevailing wage requirements and prevent solar companies from creating artificial boundaries within a project to skirt the prevailing wage requirement.

5. WE ACT for Environmental Justice supports program reviews, and suggests that these reviews be held annually, rather than mid-program.

We support the proposed reviews in this project and would like NYSERDA to go a step further to review the program annually. It is crucial that this level of investment be transparently monitored, tracked, and that the program be dynamic and responsive enough to adjust to changing market conditions, trends, and community feedback.

In addition to these areas of support, WE ACT for Environmental Justice has several recommendations for the improvement:

1. WE ACT for Environmental Justice recommends a 400 MW carveout for LMI community-owned solar projects in DACs.

In the 10GW Solar Roadmap, NYSERDA acknowledges its requirement to "consider enhanced incentive payments for solar and community distributed generation projects, focusing in particular but not limited to those serving disadvantaged communities ... which result in energy cost savings or demonstrate community ownership models" (p. 24). Yet, community ownership models are entirely left out of this roadmap. **We firmly suggest that 10 percent of the overall capacity, or 400 MW, be set aside for projects owned by low-income community members in DACs, including residential rooftop solar PV.**



As earlier stated, the CLCPA requires that members of DACs receive 35-40 percent of overall benefits, but the reality is that 35-40 percent is the floor. The definition of DACs was limited, by necessity, because if it reflected the true scope of disadvantaged individuals and communities, the 40 percent of funding would be so spread out that it wouldn't have the intended impact. New York State has massive income and wealth inequality that goes well beyond 40 percent of the population, and there are even greater inequalities and cumulative burdens faced by the Black, Indigenous and People of Color (BIPOC) populations in the state. Even when controlling for income, white-majority census tracts have significantly more residential solar installed than their BIPOC counterparts; Black and Hispanic-majority census tracts had 69 percent and 30 percent less rooftop solar PV, respectively, than census tracts without a BIPOC majority.

Setting aside block incentives for low-income disadvantaged community members not only falls in line with NYSERDA's admitted requirements, but is also a necessary first step in preventing the replication of economic and environmental inequalities of the fossil fuel industry in our new clean energy economy. Currently the solar industry is following the same patterns, with vast underrepresentation of women and BIPOC workers. A 2019 study by The Solar Foundation and the Solar Energy Industries Association found that at the senior executive level, only 12 percent of workers are non-white. Community-owned projects take significantly more time to generate the required funding, so it is imperative to create a carveout that allows them to access incentives in their own time. To exclude BIPOC individuals and low-income DAC community members from owning a piece of this clean energy economy is to continue environmental racism and economic injustice.

2. WE ACT for Environmental Justice recommends incentivizing the use of community benefit agreements to transfer ownership to communities, cooperatives, land trusts, or other socially just entities.

We believe it is imperative for communities to have long-term democratic energy solutions. We strongly encourage NYSERDA to develop new paths of community ownership, including the transfer of new and existing solar developments to low-income DAC community members after certain periods of time, and to provide those communities with additional funding for the maintenance of those panels.

3. WE ACT for Environmental Justice recommends that minority and women-owned business enterprises (M/WBE) participation in the solar energy economy be tracked, funded and prioritized.



Access to long-term, high-wage jobs for communities of color is an environmental justice issue that must be addressed by the State. BIPOC and women are significantly underrepresented in clean energy industries, including solar energy. Despite comprising 13 percent of the overall workforce, only 8 percent of clean energy workers are Black; women make up 48 percent of the overall U.S. labor force, but only represent 27 percent of the clean energy workforce.

The disparities are even more staggering across subcategories - solar installers (6.1% Black, 31.7% Hispanic, 3.3% Asian, 4% women); clean energy electricians (6.4% Black, 16% Hispanic, 1.9% Asian, 3% women); electrical power line installers and repairers (7.1% Black, 9.6% Hispanic, .6% Asian, 2% women); clean energy project construction laborers (8.6% Black, 5% women, 2.6% Asian); clean energy project construction managers (3.2% Black, 10.4% Hispanic, 2.9% Asian, 11% women). In many cases, Indigenous workers fall below 1% of the overall composition of jobs.

The 2021 report, *Help Wanted: Diversity in Clean Energy*, found racial disparities in COVID-19 job losses as well: “Specific to the energy sector, Hispanic or Latino workers, who make up only 16 percent of all energy-related employment, accounted for about 23 percent of the sector’s COVID-related job losses in 2020.”

In order to remediate these injustices and inequalities, it is crucial that NYSERDA incentivize solar companies to address the longstanding issues of diversity, equity and inclusion in order to create racial and gender diversity in the solar industry. WE ACT for Environmental Justice suggests a three-pronged strategy to achieve this goal: track, fund, prioritize.

Track the participation of M/WBEs and workers of color.

NYSERDA should report on diversity metrics in a clear, timely, and easily accessible way. Beginning on the date that the roadmap was filed, December 17, 2021, NYSERDA should require that all solar companies receiving NYSERDA funding report on their workforce diversity once they hit the threshold of 15 projects or 5MW, whichever comes first. This reporting should include all full-time and part-time employees, as well as non-employees (i.e. independent contractors).

Fund the participation of M/WBEs and workers of color.

We recommend that NYSERDA sets aside additional funding for technical support and incubation of new M/WBE solar companies so that they can build and own projects in their own localities, with a focus on democratically



accountable, cooperative businesses. We suggest the support of the New York Green Bank in providing concessionary loans to projects developed by M/WBEs and that serve low-income DAC residents.

We also suggest two additional incentive adders:

- **Minority-Business Enterprise Adder (MBEA)** - The MBEA would result in an additional \$0.10 adder to projects that allocate at least 40 percent of the profits to approved MBEs and/or that hire approved MBEs for at least 40 percent of the project work.
- **Women-Business Enterprise Adder (WBEA)** - The WBEA would result in an additional \$.05 adder to projects that allocate at least 40 percent of the profits to approved WBEs and/or that hire an approved WBEA for at least 40 percent of the project work.

Prioritize the participation of M/WBEs and workers of color.

NYSERDA should develop workforce diversity requirements that differ based on the specific regions within the state. Solar companies should have a maximum threshold of allowable incentives if they are not meeting their region's diversity requirements.

4. WE ACT for Environmental Justice recommends that all adders be stackable.

Just as communities of color and low-income communities have borne the brunt of cumulative pollution burdens, we believe that these same communities should be able to benefit from cumulative benefits. If a project is serving LMI residents in affordable housing within a DAC and employing a W/MBE, it should be compensated properly to account for the multitude of benefits and cumulative beneficial impact. Stackable adders encourage projects to be as intersectional as possible.

5. WE ACT for Environmental Justice recommends that low-income households and low-income community-owned projects be exempt from the Customer Benefit Contribution (CBC) charge.

The aforementioned energy burden statistics are staggering. Low-income households are saddled with debt, high energy costs, and disproportionate pollution impacts. It is crucial that NYSERDA prioritizes energy affordability and does not add to the already unequal financial impacts plaguing low-income New Yorkers. For this reason, we suggest that LMI households be exempt from the CBC. The mechanics of this could be left up to NYSERDA, however, we assert that there are at least two ways to operationalize this exemption:



- Showing proof of low-income program participation to the utility (i.e. Home Energy Assistance Program, Supplemental Nutrition Assistance Program, etc.), or
- Mailing and/or digitally submitting the prior year's tax return

6. WE ACT for Environmental Justice suggests that the total MWs allocated to Con Edison should increase from 450 MW to at least 568 MW.

Increasing the block incentives in Con Edison's service territory to 568 MW will ensure that Con Edison receives 14.2 percent of all new solar capacity proposed by the Roadmap – a percentage that is equal to Con Edison's current share of statewide distributed solar capacity. As described in this document, the cost and pollution burdens are highest in Con Edison's territory, and it is crucial that parity is maintained in downstate solar capacity.

7. WE ACT for Environmental Justice recommends reducing proposed based incentives and restructuring incentive blocks to increase equitable outcomes.

Other comments have suggested alternative incentive allocation within the Con Edison service territory, and we support shifting higher incentives for remote net credited projects towards additional incentives for community solar projects that are better situated to serve affordable housing, LMI off takers, and DAC community members. We align most closely with the proposed restructuring set forth by the City of New York.

While rebalancing existing funding in order to optimize benefits is a key component of serving DAC populations with solar, we would like to reiterate that this alone is insufficient to comply with CLCPA's mandate to meaningfully deliver comprehensive benefits to DACs.

That is why we strongly urge NYSERDA to consider the above referenced recommendation to develop at least two new adders, the MBEA and WBEA.

8. WE ACT for Environmental Justice recommends that Con Edison projects should receive defined allocations from the Community Adder and Prevailing Wage Incentives.

The Roadmap proposes separate categories of incentive dollars for Prevailing Wage and Community Adder Incentives. These dollars would be available at a



statewide level on a first-come, first-served basis, with incentives paid out based on system size. We support the City of New York's propositions that:

- 60 percent of Community Adder incentives and approximately 20 percent of prevailing wage incentives be reserved for projects in Con Edison's service territory in order to prevent a rush of larger upstate projects from claiming a majority of these statewide funding allocations.
- Any project that agrees to pay prevailing wages should be able to access the new prevailing wage incentives, not just projects greater than 1 MW. NYC projects tend to be smaller than 1 MW so a 1 MW threshold likely excludes most NYC projects from using these funds.

9. WE ACT for Environmental Justice recommends that more funding be allocated to the Solar Energy Equity Framework (SEEF) and the Inclusive Community Solar Adder (ICSA) and that the subscriber requirements be amended to be more equitable.

We set forth the following recommendations to strengthen the intended impact of SEEF and ICSA funding:

- Increase SEEF and ICSA funding.
- Projects receiving SEEF funding have at least 40 percent LMI subscribers from DACs, in line with the language set forth in the CLCPA.
- Allow and recommend that a majority of SEEF funding be used to provide higher guaranteed bill savings to LMI customers.
- Forty percent of each block incentive is set aside for SEEF projects.

10. WE ACT for Environmental Justice recommends that NYSERDA develop a \$100 million development fund to assist LMI DAC members in owning and operating their own solar projects.

In order to ensure that the overall benefits of solar energy investments reach the entirety of the state, including DACs, NYSERDA should create a separate grant fund of 100 million dollars for community organizations that are structurally accountable to the communities that they serve, churches, or other organized groups representing, or comprising of low-income DAC members to purchase and control the proceeds of solar generation. An ownership grant program could cure the deficit in benefits for low-income DAC members that can't be relieved through more supply-side incentives. Such a grant fund would increase the rate of solar adoption toward state goals, as well as meaningfully increase the percentage of benefits flowing to low-income DAC members.



Conclusion

WE ACT for Environmental Justice is pleased to see NYSERDA taking steps in the right direction and we wholeheartedly support solar investments in New York State and the multitude of benefits that will arise out of these investments. As it was proposed, we do not believe that this roadmap meets the statutory requirements set forth in the CLCPA to provide at least 35-40 percent of overall benefits from clean energy investments to Disadvantaged Communities and we are concerned about this roadmap moving forward with such grave equity concerns.

As a leading voice on environmental justice in the state and nationally, we urge NYSERDA and the Commission to comprehensively review our equity concerns and revise the proposed roadmap to ensure that Disadvantaged Communities across the state are not unjustly left behind in our clean energy transition.

Sincerely,

A handwritten signature in black ink, appearing to read "Sonal Jessel", is written in a cursive style.

Sonal Jessel, MPH
Director of Policy
WE ACT for Environmental Justice