



Institute for
Policy Integrity
NEW YORK UNIVERSITY SCHOOL OF LAW

July 22, 2016

Hon. Kathleen H. Burgess, Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

VIA ELECTRONIC SUBMISSION

Attn: Case No. 15-E-0302, Proceeding on Motion of the Commission to Implement
a Large-Scale Renewable Program and a Clean Energy Standard
Subject: Party Comments on Staff's Responsive Proposal for Preserving Zero-
Emissions Attributes, Docket No. 299 (July 8, 2016)

Dear Secretary Burgess:

The Institute for Policy Integrity at New York University School of Law¹ ("Policy Integrity") respectfully submits the following comments on the New York State Department of Public Service Staff's Responsive Proposal for Preserving Zero-Emissions Attributes. Policy Integrity is a non-partisan think tank dedicated to improving the quality of government decisionmaking through advocacy and scholarship in the fields of administrative law, economics, and public policy. Policy Integrity has extensive experience advising stakeholders and government decisionmakers on the rational, balanced use of benefit-cost analysis, both in federal practice and in New York.

We are grateful for the Commission's consideration of these comments.

Sincerely,

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¹ No part of this document purports to present New York University School of Law's views, if any.

POLICY INTEGRITY COMMENTS ON STAFF'S RESPONSIVE PROPOSAL FOR PRESERVING ZERO-EMISSIONS ATTRIBUTES

The 2015 New York State Energy Plan set an ambitious clean energy target for the state: 50 percent of all electricity used in the state by 2030 should be generated by renewable energy sources.² At the Commission's request, the Department of Public Service Staff ("Staff") prepared its White Paper on Clean Energy Standard ("White Paper"), with recommendations on how to achieve this target, and submitted it for public comments on January 25, 2016.³ In response to the public and party comments submitted during the comment period, Staff revised its approach to value and compensate for the zero-emissions attributes of nuclear plants and submitted its Responsive Proposal for Preserving Zero-Emissions Attributes ("Responsive Proposal") for comment on July 8, 2016.⁴

Initially, in the White Paper, Staff had proposed that the price of zero emission credits ("ZECs") be administratively set at the difference between the anticipated operating costs of each nuclear facility and the forecasted wholesale energy price.⁵ In the Responsive Proposal, Staff has moved away from this approach and instead suggested a new formula that is based on the portion of the Social Cost of Carbon ("SCC") that is uninternalized in the energy markets. This is a step in the right direction, but the Commission should move toward consistency in the way it values all types of clean energy resources, in order to avoid distorting the market incentives for developing low-emitting generation.

Using the Social Cost of Carbon to value the zero-emission attributes of energy resources is the economically correct approach, but the Commission should endeavor to promote consistency in the way it values these attributes in both nuclear and other clean energy resources, in order to avoid artificially distorting the relative value of different clean energy resources.

As Policy Integrity noted in prior comments,⁶ the goal of compensating a nuclear plant for its zero-emission attribute can be best achieved by calculating the actual monetary value of this attribute. By definition, the cost of an externality such as carbon emissions is not borne by an acting party in the market, and hence valuations of clean energy attributes of energy

² NEW YORK STATE ENERGY PLANNING BOARD, 1 NEW YORK STATE ENERGY PLAN STATE ENERGY PLAN 112 (2015).

³ Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Case No. 15-E-0302 (Jan. 25, 2016) [hereinafter "White Paper"].

⁴ Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Case No. 15-E-0302 Filing No. 229, Staff's Responsive Proposal for Preserving Zero-Emissions Attributes (July 8, 2016).

⁵ White Paper, at 30-31.

⁶ Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Case No. 15-E-0302 Filing No. 141, Institute for Policy Integrity Comments on Staff White Paper on Clean Energy Standard 15 -17 (Apr. 22, 2016).

resources cannot depend on the values created by the market transactions of private actors in the energy markets. The correct value of the zero-emissions attribute is the monetized value of the external benefit that a nuclear plant provides by avoiding the carbon emissions that would have been emitted if the power it provides was generated by another generator.

Staff's decision to move away from an approach that relied on the difference between a plant's revenue and its operating cost and instead to use a compensation formula based on the SCC, which is the best available estimate of the marginal external damage caused by carbon dioxide emissions, is a step in the right direction. However, the Commission should take additional steps to ensure that the Responsive Proposal does not create an unfair advantage for nuclear energy by valuing the zero-emissions attribute of nuclear energy differently than the zero-emissions attributes of other clean energy resources.

As Policy Integrity noted in earlier comments,⁷ the first-best public policy tool to promote clean energy resources and achieve greenhouse gas reductions is to use a carbon price that would lead *all* power generators that use dirtier energy resources to fully internalize the externalities caused by greenhouse gas emissions. A carbon price that is applied uniformly to all emitting resources would ensure that the economically efficient market outcome can be achieved without distorting relative values of resources, picking winning technologies *ex ante*, and unnecessarily rewarding uneconomic technologies. When such a carbon price is not available as a policy tool, or when the existing carbon price, like that provided by the Regional Greenhouse Gas Initiative auctions, is not sufficiently high to fully internalize the externality, additional subsidies for non-emitting resources are required to achieve economic efficiency. Ideally, such subsidies should *uniformly* apply to all resources to ensure that the same zero-emissions attribute provided by different resources is valued commensurately, and that the relative values of different resources are not distorted by artificial differences in subsidies for the same attribute.

The Responsive Proposal administratively sets the ZEC price using a formula based on the uninternalized portion of the SCC, but it does not suggest any changes in the initially proposed tradeable Renewable Energy Credits ("RECs") for renewable energy resources. The fundamental difference in the mechanics of these two approaches creates a dissonance between the compensation that renewable energy resources receive and the compensation that nuclear plants receive for the same zero-emission benefit. As REC prices will be determined by the market and will vary depending on demand and supply conditions, it is possible that they will fall below the administratively set ZEC at times, creating an unfair advantage for nuclear plants over renewable energy resources. If the emission-free energy generated by renewables is compensated at an artificially lower value because of the differences in policy tools, it would distort relative price signals, hurt economic efficiency,

⁷ *Id.* at 3.

and hinder important policy goals of the Clean Energy Standard, such as fostering new renewable generation in state.