RENEWABLE PORTFOLIO STANDARD CUSTOMER-SITED TIER FUEL CELL PROGRAM

Program Opportunity Notice (PON) 1150
Total Program Funding up to $11.2 million

$11.2 million is available for financial incentives to support the installation and operation of fuel cell systems in New York State, with up to $1 million available per Fuel Cell System. Funding is on a first-come, first-served basis until *May 29, 2009 at 5:00 PM* Eastern Daylight Time, or until all funding has been fully committed, whichever comes first.

The New York State Energy Research and Development Authority (NYSERDA), administrator of the New York Renewable Portfolio Standard (RPS) Program, is accepting applications to receive financial incentives to support the purchase, installation, and operation of stationary Fuel Cell Systems in New York State. Both capacity and performance-based electricity production incentives are available, subject to the limitations described in this PON. Generally, only electric customers that pay the RPS Program Surcharge are eligible to receive funding through this program. Project Sites wishing to participate that do not pay the RPS Program Surcharge will be evaluated on a case by case basis.

In order to participate in PON 1150, Applicants must comply with all program rules, procedures, and eligibility requirements, submit all required forms and supplemental documentation, and enter into a Standard Performance Agreement (SPA) with NYSERDA. Applicants must also adhere to the measurement and verification requirements throughout the term of the SPA.

Application Submission: A digital copy of the Application Package on CD-ROM plus two (2) printed copies (one of which must contain an original signature) of all Project Application materials must be sent to the following address:

Roseanne Viscusi, PON 1150
NYS Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

All Program Questions should be directed to the following Project Managers: Scott Larsen, (518) 862-1090 ext. 3208, LSL@nyserda.org, or Ed Kear, (518) 862-1090 ext. 3269, ebk@nyserda.org

All Contractual Questions should be directed to: Doreen Darling, (518) 862-1090 ext. 3216, DJD@nyserda.org.

Applications lacking the appropriate completed and signed Application Checklist will be returned. Faxed or e-mailed applications will not be accepted. Applications will not be accepted at any NYSERDA location other than the ***Albany*** *address above. If changes are made to this solicitation, notification will be posted on NYSERDA's web site at www.nyserda.org.*

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I. INTRODUCTION

The Customer Sited Tier Fuel Cell Program seeks to support the purchase, installation, and operation of stationary fuel cell electric power generation equipment in New York State. This is one of several Customer-Sited Tier (CST) programs of the New York State RPS. The CST, commonly described as "behind the meter" generation, refers to generation that is sited at the electric customer's location and used primarily to serve the electric customer's load (i.e., not primarily exported to the utility grid).

NYSERDA has a dedicated CST program for providing funding support for the procurement and installation of power generation systems using anaerobic digester gas (ADG) as a fuel to produce electricity (PON 1146). **Fuel cell projects which will operate exclusively on anaerobic digester gas are directed to apply to NYSERDA under PON 1146 while funds are available in PON 1146. Fuel cells that will be operated exclusively on ADG fuel will be allowed to apply under PON 1150 only when NYSERDA's program funds in PON 1146 have been depleted.** Please contact Kathleen O'Connor at (518) 862-1090, ext. 3422, kmo@nyserda.org for information regarding PON 1146. **Fuel cell projects operating on ADG blended in any combination with another fuel are directed to apply under PON 1150.**

For the purposes of PON 1150, a fuel cell module with nameplate capacity rating of less than 25 kW shall be considered "small", and a fuel cell module with nameplate rating greater than or equal to 25 kW shall be considered "large". A "fuel cell system" may consist of one or more large fuel cell module(s) and/or one or more small fuel cell module(s) installed at a project site. The amount of funds available under this PON to any project site shall be capped as follows: if the site's fuel cell system includes only small fuel cell modules the cap is a maximum of $50,000, otherwise the cap is a maximum of $1 million.

Up to $11.2 million is available on a first-come, first-served basis. Of this $11.2 million, a "set aside" of $1.5 million is reserved for eligible projects under the Small Fuel Cell category, and the remaining $9.7 million will be disbursed through the General Fuel Cell Category, which will be available to both small and large fuel cells. Different pools of funds, monitoring protocols, and incentives will be applicable to fuel cell systems of less than 25 kW (Small Fuel Cell Track) and fuel cell systems 25 kW or larger (Large Fuel Cell Track). Detailed incentive levels, project caps, and monitoring protocols for each track are described below.

The CST Fuel Cell Program is aimed at quickly maximizing the amount of electricity produced by fuel cells in New York State, and therefore addresses rapid installation and long-term operation of mature,

commercially-available fuel cell modules. NYSERDA has other programs that are aimed at the development and product-testing of fuel cell prototypes. NYSERDA will maintain a list, by make and model, of fuel cells which are eligible to participate in this solicitation (see Appendix E – check NYSERDA's website for periodic updates to Appendix E).

This solicitation offers funds on a first-come/first-served basis in order to promote the rapid installation of fuel cells. NYSERDA will place applicants in a queue for contracting, and once contracted, projects will be in the program. An applicant can reserve their spot in the queue only when NYSERDA deems their application package to be full and complete. Thereafter, the applicant must adhere to a rapid-paced timeline in order to remain in the program. Projects should be "ready to go" when reserving their place in the queue, applicants failing to achieve required milestones on time may be ejected from the program and will be eligible to re-enter the rear of the queue and seek re-admittance to the program contingent upon the availability of funds. In order to ensure a rapid pace of projects, an application package must specify the make and model of the fuel cell(s) being pursued, include documentation from the fuel cell manufacturer(s) confirming the timely availability of module(s) to the project, and demonstrate the ability to meet local siting and permitting requirements that might exist (e.g., issues regarding storage of bottled hydrogen, NYC Department of Buildings Material Equipment Acceptance (MEA) Numbers if applicable). For projects involving large fuel cells, due to the limited number of projects that can be contracted based on the available funds, NYSERDA seeks diversity of equipment in order to improve the chances for success. Therefore, during the first six (6) months of the solicitation, large fuel cell products from any single original equipment vendor will be admitted to the queue and/or program only to the extent that collectively such projects request less than or equal to half of the $9.7 million funds allocated to the General Fuel Cell Track.

Since the CST Fuel Cell Program is aimed at electric generation, the recovery and beneficial use of heat produced by the fuel cell is not mandated under this program, however, applicants are advised to consider maximizing the efficiency of their systems by including heat recovery features as an approach to optimizing the economic life cycle of their projects. Furthermore, the applicant is not prohibited from seeking support from other NYSERDA programs for certain benefits attributable to heat recovery, such as the electric peak load reduction which would occur if the recovered heat were used to drive an absorption chiller which displaces electric-driven chilling.

Two types of incentive payments may be made under contracts resulting from this solicitation: "Capacity Payments" based on the kW nameplate rating of the fuel cell system, and annual "Performance Payments" based on actual kWh production during each of three annual periods following commissioning of the fuel cell system. Only new (not pre-existing, not restacked, not refurbished) fuel cell systems installed on or after February 12, 2007, are eligible for capacity payments, and such systems are also eligible for performance payments. Pre-existing fuel cell systems, which have boosted their performance commencing on or after February 12, 2007, are eligible for performance payments regarding that portion of their output which can be shown to have been so boosted. Capacity payments will be made in two or three allotments: portions of a basic capacity allotment will be paid (1) when the fuel cell is verified to be at the site, permits are obtained and (2) when the fuel cell is commissioned. Fuel cells which have secure power/stand-alone capability and are installed at sites of essential public services (as defined in Section II) will receive a bonus capacity payment when the fuel cell is commissioned. Performance payments will be made at two incentive levels: during a given year a system with a high capacity factor (a measure of actual performance compared to its theoretical maximum capability) will be paid at a high incentive rate, and during a given year a system with a low capacity factor will be paid at a low incentive rate. This payment structure is intended to encourage right-sizing of systems and installation of systems with extensive runtimes.

In order to participate in this program, Applicants must comply with all program rules, procedures, and eligibility requirements, submit all required forms and supplemental documentation, and enter into an SPA with NYSERDA. Applicants must also adhere to the measurement and verification requirements throughout the term of the SPA.

NYSERDA will own the rights, and any and all claims, to RPS Attributes associated with electricity produced with the support of this PON, as specified elsewhere in this solicitation.

II. INCENTIVES

CAPACITY INCENTIVES

A Capacity Incentive is offered to cover a portion of the total purchase and installation costs of NEW Fuel Cell Power Generation Equipment (New Equipment), including but not limited to: fuel, water and exhaust piping and venting, reformers, fuel storage tanks and appurtenances, fuel cell stacks, electric power conditioning equipment, essential heat management systems, controls, meters, and interconnection equipment; as well as costs associated with engineering design. New Equipment is defined as a previously unused full-and-complete fuel cell system purchased and installed after the February 12, 2007 approval date of the Customer Sited Tier Operating Plan (installation of replacement parts on a pre-existing fuel cell is not NEW equipment and will not be eligible for any capacity incentive payments).

Equipment sizing should be selected to achieve one or more of the following principles: optimization of project economics, maximization of system efficiency, maximization of utilization of the equipment, establishment of capability to serve a mission-critical load, or other influential features. Baseloaded systems (those sized *below* the customer's *minimum* load) may prove to have the most-stable operation. While NYSERDA will provide capacity incentives to support only a certain amount of fuel cell capacity at any given site (typically, an amount that does not exceed the program participant's approximate peak connected load at the customer's meter), this Program does not prohibit the site from installing excess capacity at their own expense. On a case-by-case basis, capacity incentives may be approved for projects that are sized larger than the customer's load (such as where there are recognized public benefits, where the sizes of available fuel cell modules do not exactly match the customers need, or where practical considerations suggest). Under all circumstances, the amount of fuel cell capacity NYSERDA will support via capacity incentives at any given site shall not exceed any established capacity incentives caps discussed below. Applicants installing excess capacity at their own expense may opt to receive performance incentive payments for the production from all installed fuel cells, including the excess capacity.

Applicants should consider the impact of system size on the forecast of performance-based incentives for electricity generation so that life cycle economics are assessed. Applicants should also consider the quality and availability of local pipeline natural gas when selecting a particular fuel cell; certain natural gas pipeline operators periodically augment the pipeline fuel with a mixture of propane and air, and some fuel cells may not tolerate such fuel additives.

For projects receiving capacity-based incentives, NYSERDA or NYSERDA's agents will inspect a sufficient number of the installations to confirm that the appropriate equipment was properly installed and is performing at optimum levels.

BASIC CAPACITY PAYMENT

Capacity incentives ($/kW) will be based on the manufacturers nameplate rating of the fuel cell. Only new generation equipment purchased or installed after the approval date of the CST Operating Plan will be eligible for Capacity Incentives. Fifty percent of the approved basic capacity payment will be disbursed when the equipment is verified to be on site and permits are obtained. The remaining 50% of the basic capacity payment will be disbursed when the system is commissioned and approved by NYSERDA. Large fuel cells will have a basic capacity incentive of $1,000 per kW of installed capacity with an upper limit of $200,000 per project site. Small fuel cells will have a basic capacity incentive of $2,000 per kW of installed capacity with an upper limit $20,000 per project site.

BONUS CAPACITY PAYMENT

An additional incentive of $500 per kW (up to $100,000 per Project Site for large systems and up to $2,500 per unit, or $5,000 per Project Site for small systems) will be paid for approved systems that provide secure power/standalone capability at sites of Essential Public Services, such as police stations and hospitals, or where the fuel cell system will be an integral part of a documented and verifiable "facility of refuge" may be eligible for the Bonus Capacity Payment. A facility of refuge is a structure or facility capable of providing shelter for a significant portion of the local population during times of man-made or natural disaster, and is cooperating and coordinated with county or city emergency management officials, as appropriate.

Bonus Capacity Payments will be disbursed upon commissioning of the system. Project sites wishing to be considered for the Bonus Capacity Payment must fill out the appropriate question box (*see Section FC.2 of the Application Form Worksheet*) to request a determination as to whether the Project Site constitutes a Site of Essential Public Services and/or a facility of refuge.

LIST OF ESSENTIAL PUBLIC SERVICES UNDER PON 1150

Emergency Services:
Emergency Communication Services
Repeaters and Communication Infrastructure
Police
Fire Services
Ambulance/Emergency Medical Services
Emergency Management Services
Facilities of Refuge
Emergency Shelters and Rest Centers
Public Utilities (Water, Gas, Electricity)

Health Care Services
Hospitals
Managed Care Facilities

Communication Services
Broadcasting/Public Information
Telecommunications

Project sites wishing to be considered for the Bonus Capacity Payment must provide any necessary supporting documentation to substantiate the request with their completed application package. Determination of Host Site eligibility is at NYSERDA's discretion.

PERFORMANCE-BASED INCENTIVES

Performance-based incentives are available to new fuel cells (new is defined as a previously unused, full-and-complete fuel cell system purchased and installed after the February 12, 2007 approval date of the Customer Sited Tier Operating Plan, new fuel cells can include equipment purchased using NYSERDA administered RPS funds as well as equipment purchased without NYSERDA administered RPS funds), and to that portion of post-February 12, 2007 expanded output from other fuel cells.

Performance-based Incentive payments (cents/kWh) are offered through this program for that portion of verified fuel cell electricity generation, which exceeds the fuel cell system's parasitic consumption (i.e., net production) and may be provided for up to three operating years subsequent to commissioning. Two levels of Performance-based Incentives are offered based on *verified* net kWh of generation:

- For any given year, *Full* performance based payments of $0.15 per net kWh will be made to those facilities operating with an annual capacity factor greater than or equal to 50%, or

- For any given year, *Reduced* performance-based payments of $0.05 per net kWh will be made to those facilities operating with an annual capacity factor of less than 50%.

Performance-based incentives will be paid annually for three operating years. A performance payment, where the site's fuel cell system includes only small fuel cell modules, is capped at a maximum of $10,000 per year per project site; otherwise, a performance payment is capped at a maximum of $300,000 per year per project site.

Annual Capacity factors (ACF) will be determined by dividing the net output of the fuel cell system during a one-year period by the maximum rated output (nameplate rating) of the fuel cell times 8760 hours per year (see Equation 1 below).

Eq. 1: $$ACF = \frac{Actual\,Net\,Annual\,Output}{Annual\,Theoretical\,Maximum\,Capacity}$$ where;

- *Net Annual Output* is the total energy delivered to the site per year (i.e., fuel cell stack production minus parasitic consumption), and;
- *Annual Theoretical Maximum Capacity* is the Maximum Rated (Nameplate) Output x 8760 hours per year.

Sites with existing fuel cells are eligible to receive performance-based incentives from the program. Performance based incentives for sites with existing fuel cells will be calculated based on verified electricity generation beyond the baseline performance of the existing fuel cell (i.e., the expanded output). Baseline performance of the existing fuel cell is defined as the documented average annual generation of the existing fuel cell from the date of commissioning to the date of application to the CST Fuel Cell Program, however, if documentation is not available, it will be presumed that the fuel cell operated continuously at its original nameplate rating until modified to expand its output (*see Appendix A, Section FC.3 of the Application Form*).

Projects receiving performance-based payments will require measurement and verification to ascertain appropriate payment. The site will be required to install and maintain on-site sensors and meters approved by NYSERDA or NYSERDA's designated agent, which will be used for monitoring and data acquisition to confirm the amount of energy production. All data acquired by NYSERDA will be made available to the general public.

- Large Fuel Cell Track projects will be responsible for the purchase and installation of necessary monitors and sensors (*e.g.*, revenue grade fuel and electric meters), and projects will provide the necessary instrumentation and communications systems (*e.g.*, phone lines, internet access) to monitor systems for remote data collection. If not provided by the project site, NYSERDA will arrange for connecting sensors and meters to data acquisition systems. Projects participating in the Large Fuel Cell Track must provide monitoring data for a minimum of three years through an automated data collection and remote transfer mechanism that will compile 15-minute interval data and at least once per day transfer such data to NYSERDA whereat NYSERDA will make such data available to the general public by posting at http://chp.nyserda.org.
- Small Fuel Cell Track projects will be allowed to select the option to provide monitoring data through a less-expensive method than large projects. Such option specifies that projects consisting of only small fuel cell modules will have the meter readings manually recorded by NYSERDA or NYSERDA's agent, typically on a quarterly schedule, with the readings noted in a written log and documented by digital photography; the project site shall grant reasonable access to NYSERDA and NYSERDA's agents to facilitate this activity.

CALCULATING INCENTIVES

The Application Form Worksheet will calculate the Maximum Total Incentive based on information supplied by the Applicant. The Application Form Worksheet is a Microsoft Excel Spreadsheet that must be downloaded from NYSERDA's website http://www.nyserda.org/funding/funding.asp, under the PON 1150 header (**1150appform.xls**). The Maximum Total Incentive, shown on Section FC.6 and FC.7 of the Application Form Worksheet will serve as the basis for the Applicant's request for funding from NYSERDA. Projects accepted into the program will be contracted based on the Maximum Total Incentive (MTI) as calculated by the Application Form Worksheet. As part of Section FC.6 of the Worksheet (the Incentive Estimation Report), Applicants will be required to include their Estimated Operating Hours/Year (Full Capacity Equivalent) based upon performance data from the fuel cell manufacturer and the project design operating scenario.

NYSERDA will encumber funds based on the Maximum Total Incentive upon execution of the SPA. Projects accepted into the program will be reviewed annually to evaluate the electricity generated and calculate performance-based incentive payments. After each annual performance payment, NYSERDA will calculate NYSERDA's residual maximum financial obligation and may reprogram any surplus funds for use in other projects.

Incentives will only be paid for systems installed as approved by NYSERDA. Any system modifications or equipment changes must be approved by NYSERDA in writing before a system is installed. Failure to get NYSERDA approval on any and all modifications may result in revocation of the incentive reservation or nonpayment of the incentive.

NYS Renewable Portfolio Standard Customer Sited Tier Fuel Cell Program Incentive Summary

Available Funding Through 12/31/2009 (applications must be received by 5/29/2009, contracts must be executed by 12/31/2009):

Total of $11.2 million available;

Small Fuel Cell set aside	$1.5 million
General : Large Fuel Cells and Small Fuel Cells	$9.7 million

Definitions: Large Fuel Cells (each module ≥ 25kW). Small Fuel Cells (each module < 25kW)

Project Funding Caps: If a site's fuel cell system includes only small fuel cell modules the cap is a maximum of $50,000 per project site, otherwise the cap is a maximum of $1 million per project site.

Basic Capacity Incentives:

Large Fuel Cells: $1,000 per kW of capacity with a cap of $200,000 per project site.

Small Fuel Cells: $2,000 per kW of capacity with a cap of $20,000 per project site.

50% of approved basic capacity payment disbursed when equipment is on site and permits are obtained.

Remaining 50% of basic capacity payment is disbursed when the system is commissioned and approved by NYSERDA

Bonus Secure Power/Standalone Capability Incentive for Sites of Essential Public Services:

Large Fuel Cells - $500 per kW of Capacity with a cap of $100,000 per project site.

Small Fuel Cells - $500 per kW of Capacity with a cap of $2,500 per unit, or $5,000 per project site.

100% of approved bonus capacity payment is disbursed when the system is commissioned and approved by NYSERDA

Performance Incentives (three annual payments, appropriate payment rate to be determined each year based on performance):

Large Fuel Cells

$0.15/kWh for operation with an annual capacity factor greater than or equal to 50%, or
$0.05/kWh for operation with an annual capacity factor of less than 50%

Maximum Performance payment for large fuel cell installations is $300,000 per year per project site

Small Fuel Cells

$0.15/kWh for operation with an annual capacity factor greater than or equal to 50%, or
$0.05/kWh for operation with an annual capacity factor of less than 50%

Maximum Performance payment for small fuel cell installations is $10,000 per year per project site

At the end of each operating year, for the three year period following commissioning, the actual Capacity Factor will be computed and the appropriate performance incentive rate will be determined.

III. ELIGIBILITY

Generally, to participate in PON 1150, the following criteria must be met:

- Project Sites must be located in New York State;
- It is preferred that the Fuel Cell Electric Power Generation Equipment be located at Project Sites owned or operated by Customers who currently pay the NYS RPS Program Surcharge, however, projects located in New York State at Project Sites owned or operated by Customers who currently do not pay the NYS RPS Program Surcharge (either because the Customer has been excused from paying, or because the Project Site is not interconnected with the electric utility grid) may request special dispensation seeking eligibility (to be evaluated depending upon the circumstances involved and whether a sufficient amount of widespread benefit will result. Exceptions that demonstrate significant public benefit consistent with NYSERDA's program objectives may be considered on a

case by case basis. – *see Section FC.2 of the Application Form Worksheet*) Applicants are directed to fill out the appropriate question box on Section FC.2 and provide any necessary supporting documentation to substantiate the request. Determination of Host Site eligibility is at NYSERDA's discretion. Applicants will be notified in writing of NYSERDA's decision;

- Fuel Cell electricity must be generated and used primarily by the Project Sites, where the utility meter, which is interconnected with the grid, is located;
- Fuel Cell Systems must:
  - Consist of Commercially Available Technologies as listed at Appendix E,
  - Be covered by the original equipment vendor with a commercial warrantee for the duration of the project, and
  - Have an MEA number for New York City sites
- Applicants (and Project Sites, if different) must comply with all applicable:
  - Federal, State and Local codes, rules, and regulations;
  - Federal, State and Local permitting requirements; and
  - Federal, State and Local emissions limits

Eligibility Note: Third party ownership of a Fuel Cell System is permitted under this Program contingent upon: the System being located at an eligible Project Site as specified above, and a contractual relationship existing between the Project Site and the third party clearly indicating that the entire incentive payment is being passed on to the Project Site.

New construction sites wishing to deploy fuel cells to meet their energy demands are eligible to participate in this program provided they are able to meet the deadlines and milestones outlined in Section IV, Program Steps. It is strongly advised that new construction projects pay careful attention to the timing of their application package so that Program Steps are attainable. New construction sites applying to the program should include the major milestones of the construction project schedule as well as the estimated annual energy consumption at the proposed Project Site with their application package.

NYSERDA has a dedicated CST program for providing funding support for the procurement and installation of power generation systems using anaerobic digester gas (ADG) as a fuel to produce electricity (PON 1146). **Fuel cell projects which will operate exclusively on anaerobic digester gas are directed to apply to NYSERDA under PON 1146 while funds are available in PON 1146. Fuel cells that will be operated exclusively on ADG fuel will be allowed to apply under PON 1150 only when NYSERDA's program funds in PON 1146 have been depleted.** Please contact Kathleen O'Connor at (518) 862-1090, ext. 3422, kmo@nyserda.org for information regarding PON 1146. **Fuel cell projects operating on ADG blended in any combination with another fuel are directed to apply under PON 1150.**

IV. PROGRAM STEPS

This section describes the program steps for participation in the CST Fuel Cell Program. The steps and associated milestones are shown pictorially in *Figure 1*.

NYSERDA will place applicants in a queue for contracting. An applicant's spot in the queue will be secured only when NYSERDA deems their application package to be full and complete. Thereafter, the applicant must adhere to a rapid-paced timeline in order to remain in the program; timely execution of NYSERDA's SPA is essential for an applicant to maintain their spot in the queue for entering the

program. Applicants must meet all of the deadlines outlined in the Program Steps (see figure 1) to avoid being ejected from the program (if ejected, projects will be eligible to re-enter the rear of the queue and seek re-admittance to the program contingent upon the availability of funds).

1. Submit Application Package
The Applicant's first step is to submit a completed Application Package to NYSERDA. Procedures for submitting the Application Package are described in *Section V*. NYSERDA or its Agent may conduct a site inspection to verify the accuracy of the information in the Application Package.

2. Sign Standard Performance Agreement
Upon acceptance and approval of a completed Application Package, NYSERDA will offer the Applicant an SPA. The Standard Performance Agreement will specify the Maximum Total Project Incentive. The Applicant must sign and return the SPA to NYSERDA. Funds for a project will be encumbered only upon issuance of a fully-executed Standard Performance Agreement, a sample of which is included as *Appendix B.*

3. Develop Measurement and Verification Plan
The Applicant will develop a Measurement & Verification (M&V) Plan (as described in *Appendix C*) in conjunction with NYSERDA's Agent. The M&V Plan must be received and approved by NYSERDA prior to submittal to NYSERDA (or payment by NYSERDA) of any invoices.

4. Procurement
The Applicant *has 9 months* upon transmittal of the fully executed SPA to complete Procurement of all system equipment. If Procurement is not completed within this timeframe, the Applicant must request an extension from NYSERDA for continued reservation of the incentive funding that describes the reasons for the delay and the expected timeframe to complete Procurement. *Continuation will be at NYSERDA's option. Only a limited number of short term extensions will be granted. Requests for extensions will only be granted under duress.* NYSERDA will notify the Applicant in writing whether or not the extension has been granted.

5. Request First (Partial) Capacity Incentive Payment
After all major equipment is on-site and necessary permits and interconnection approvals are obtained, the Applicant may request a payment of up to 50% of the Basic Capacity Incentive stipulated in the Maximum Total Project Incentive. Documented expenditures such as equipment invoices/Bills of Lading must be presented to NYSERDA when the request for the Basic Capacity Incentive payment is made.

6. Installation and Commissioning
The Applicant *has 15 months* upon transmittal of the fully executed SPA to complete Installation and Commissioning of all system equipment. *Installation and Commissioning* is defined as the completion of construction of the Fuel Cell System, interconnection of the System with the utility grid (if appropriate), and at least one month of satisfactory operation of the system according to its design intent with electricity generation data flowing to NYSERDA's website. If Installation and Commissioning are not completed within this timeframe, the Applicant must request an extension from NYSERDA for continued reservation of the incentive funding, which describes the reasons for the delay and the expected timeframe for completion of this task. *Continuation will be at NYSERDA's option. Only a limited number of short term extensions will be granted. Requests for extensions will only be granted under duress.* NYSERDA will notify the Applicant in writing whether or not the extension has been granted.

7. Submit Project Installation Report
After Installation and Commissioning have been completed, the Applicant must submit a Project Installation Report to NYSERDA, which includes As-Built Drawings of the system. Details on the requirements for the Project Installation Report are located in *Appendix D*. NYSERDA's approval of the Report is contingent upon the result of a Post-Installation Site Inspection, which will confirm the information provided in the Project Installation Report, the post-installation inspection will be performed by NYSERDA and/or NYSERDA's designated agent.

8. Request Remainder Capacity Incentive Payment
Once the Project Installation Report is approved the Applicant may request a payment of the remaining 50% of the Basic Capacity Incentive. If the Project site is providing secure power for essential public services, the secure power/standalone Bonus Capacity Incentive payment may also be requested at this time.

9. Annual M&V Reporting
The Applicant can begin the clock for the annual performance period immediately following acceptance of the Project Installation Report, or can delay the start of the clock by a maximum of 4 months following Installation and Commissioning. Upon the start of the clock, NYSERDA will begin to compile the M&V data being uploaded to NYSERDA's CHP Data Integration Website (CHP Website). This will initiate the first year's (consecutive twelve (12) months) M&V period.

Within 60 days from the end of the first year's M&V period, the Applicant will submit an Annual M&V Report to NYSERDA, which will become the basis for the first Performance Incentive payment. Details on annual M&V reporting requirements are located in *Appendix C*. M&V data may be downloaded from the NYSERDA CHP Website. Likewise, within sixty (60) days from the end of the second and third year's M&V period, a second and third Annual M&V Report, respectively, will be submitted to NYSERDA by the Applicant. *The Applicant is responsible for ensuring that data provided in the Annual M&V Reports accurately represent the operation of the Fuel Cell System*.

10. Requesting Performance Incentive Payments
Based on the information provided in the three required Annual M&V Reports, three annual Performance Incentive payments will be made for the verified electricity generated. These payments will be made after the Annual M&V Reports have been approved by NYSERDA, and invoices have been submitted to NYSERDA for payment.

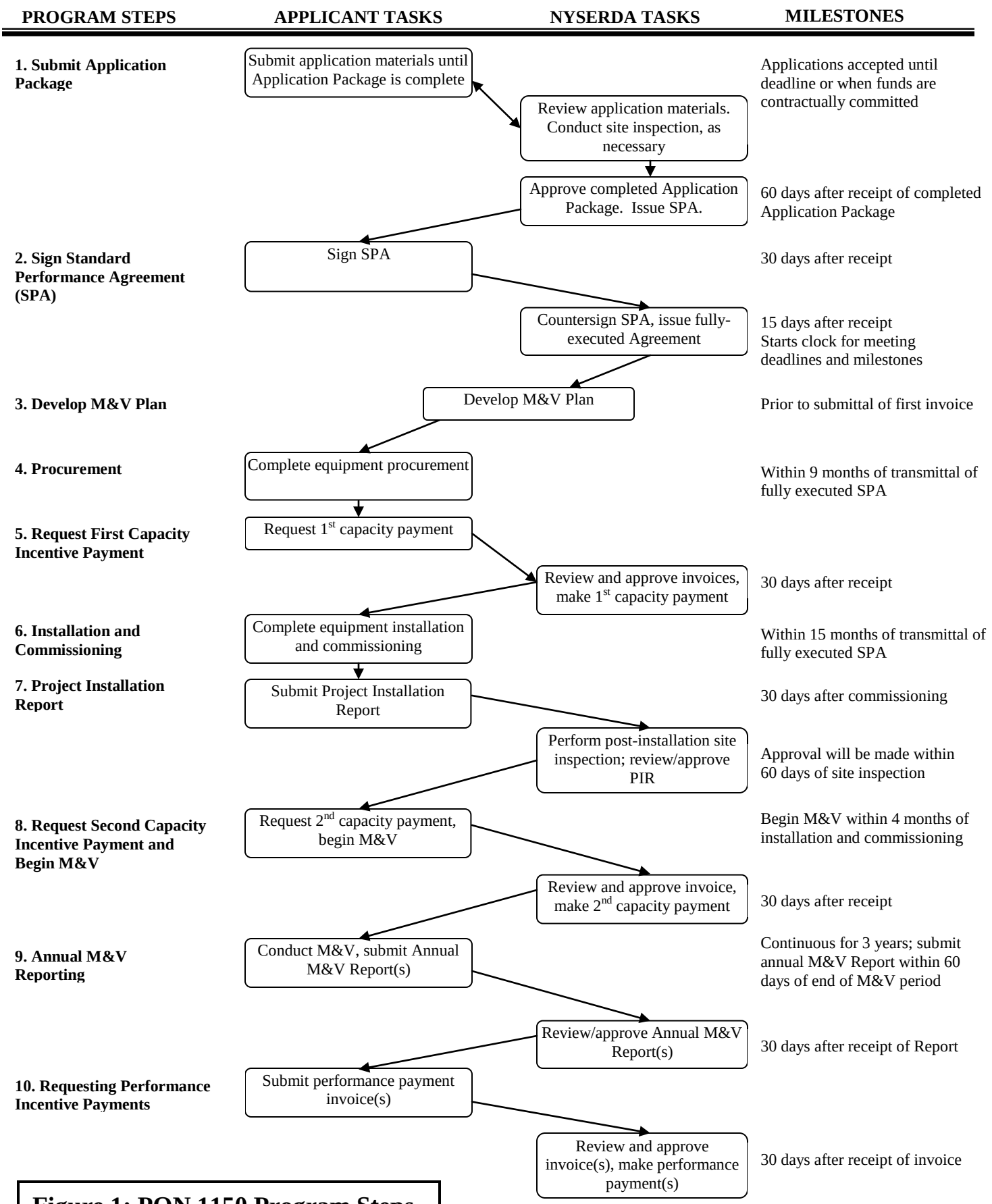

Figure 1: PON 1150 Program Steps

V. APPLYING FOR THE PROGRAM

APPLICATION PACKAGE

Detailed Application Package requirements are included in *Appendix A*. In general, the Application Package consists of the following:

- Application Form;
- Description of Tariff Impacts and Interconnection Requirements;
- Site Plan;
- Permitting;
- Environmental Assessment Form; and
- Other forms as applicable – Form Requesting Addition to the List of Eligible Fuel Cells

A hard copy of the Application Form is included in *Appendix A*. However, the Application Form should be completed electronically and subsequently printed, signed, as appropriate, and submitted with the other Application Package materials. The Application Form must be downloaded from NYSERDA's website http://www.nyserda.org/funding/funding.asp, under the PON 1150 header. All worksheet forms (FC.1 through FC.8) in **1150appform.xls** must be completed fully. A hard copy printout of each of these completed forms must be included with your Application Package and the digital version included on the CD-ROM in Microsoft Excel format.

A digital copy of the Application Package on CD-ROM plus two (2) printed copies (one of which must contain an original signature) of all Project Application materials must be sent to the following address:

Roseanne Viscusi, PON 1150
New York State Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

NYSERDA will date-stamp and log all program materials as they are received. NYSERDA recommends that all program materials be sent via delivery service, certified or registered mail. It is the sole responsibility of the Applicant to ensure that NYSERDA receives applicable program materials at the designated address by close of business on or before the applicable due date. Applicants should retain proof of delivery (such as a return receipt for certified, registered, or overnight mail) for all program materials submitted. NYSERDA will accept application packages until May 29, 2009 at 5:00 PM Eastern Daylight Time, or until all funding has been fully committed, whichever comes first.

APPLICATION PACKAGE REVIEW

Upon receiving all completed Application Package materials, NYSERDA and its Agent will review the materials to ensure the following requirements are met:

- The project meets the CST Fuel Cell Program requirements;
- The Application Package is complete and accurate; and
- The *Maximum Total Incentive* and *Estimated Annual Production* estimates (from *Section FC.6 of the Application Form Worksheet*) and related assumptions and projections are reasonable and supportable, and the supporting data and calculations are correct.

NYSERDA or its Agent may conduct a site inspection to verify the accuracy of the information in the Application Package.

APPLICATION PACKAGE APPROVAL AND NOTIFICATION OF PROJECT AWARD

After reviewing the completed Application Package, NYSERDA will either approve it as submitted, request clarification or additional information, or reject it. NYSERDA may reject an application that it determines does not meet the eligibility requirements, the requirements listed above under "*Application Package Review"*, or any other requirements of this PON. NYSERDA may work with the Applicant to make revisions to the package that NYSERDA deems necessary.

VI. ADDITIONAL INFORMATION AND REQUIREMENTS

RENEWABLE ENERGY CREDITS AND ENVIRONMENTAL ATTRIBUTES

NYSERDA will own the rights, and any and all claims, to RPS Attributes, as specified below:

- NYSERDA will own all RPS Attributes for any electric generation for which the Applicant is eligible for Performance Incentives under the Standard Performance Agreement.

- In the event that the Fuel Cell System is fueled in whole, or in part by landfill gas, biogas or anaerobic digester gas, the environmental attributes associated with any landfill gas, biogas or anaerobic digester gas methane destruction are considered to be separate from electric power based RPS attributes and will be retained by the Applicant (or Project Site as appropriate).

To provide flexibility and to foster voluntary green energy markets, NYSERDA will allow Applicants who receive only Performance Incentives (i.e., $/kWh only) to terminate these incentives on the condition that the Applicant can sufficiently demonstrate that the RPS Attributes are sold into a voluntary green energy market ***in New York State*** throughout the duration of the three-year performance period. However, the Applicant will be required to fulfill their obligation to provide NYSERDA with the prerequisite three years of annual M&V reporting.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)

NYSERDA is required under SEQRA to consider the environmental implications of all funded projects. All proposals must include a completed SEQRA Short Environmental Assessment Form (Appendix G).

VII. GENERAL CONDITIONS

Proprietary Information - Careful consideration should be given before confidential information is submitted to NYSERDA as part of your application. Review should include whether it is critical for evaluating an application, and whether general, non-confidential information, may be adequate for review purposes.

The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSERDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSERDA that the Applicant wishes to have treated as proprietary, and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to except it from disclosure, including a written statement of the reasons why the information should be excepted. See

Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501 www.nyserda.org/nyserda.regulations.pdf. However, NYSERDA cannot guarantee the confidentiality of any information submitted.

Omnibus Procurement Act of 1992 - It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises, as bidders, subcontractors, and suppliers on its procurement Agreements.

Information on the availability of New York subcontractors and suppliers is available from:

Empire State Development
Division For Small Business
30 South Pearl Street
Albany, NY 12245

A directory of certified minority- and women-owned business enterprises is available from:

Empire State Development
Minority and Women's Business Development Division
30 South Pearl Street
Albany, NY 12245

Contract Award – Applications will be processed on a first-come, first-served basis and will be accepted until May 29, 2009, or until funds are committed, whichever comes first. NYSERDA may request additional data or material to support applications including, but not limited to supporting invoices, and manufacturer's technical data sheets. NYSERDA may elect to inspect any and all projects prior to final approval. NYSERDA expects to notify Applicants in approximately four weeks from the date of receipt of a completed application whether an application has been selected to receive an incentive.

Limitation - This solicitation does not commit NYSERDA to award a contract, pay any costs incurred in preparing an application, or to procure or contract for services or supplies. NYSERDA reserves the right to accept or reject any or all applications received, to negotiate with all qualified sources, or to cancel in part or in its entirety the solicitation when it is in NYSERDA's best interest.

Disclosure Requirement - The Applicant shall disclose any indictment for any alleged felony, or any conviction for a felony within the past five years, under the laws of the United States or any state or territory of the United States, and shall describe circumstances for each. When an Applicant is an association, partnership, corporation, or other organization, this disclosure requirement includes the organization and its officers, partners, and directors or members of any similarly governing body. If an indictment or conviction should come to the attention of NYSERDA after the award of a contract, NYSERDA may exercise its stop-work right pending further investigation, or terminate the agreement; the contractor may be subject to penalties for violation of any law which may apply in the particular circumstances. Applicants must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or the New York State Department of Labor.

VIII. OTHER OPPORTUNITIES

NYSERDA PON 1097

Fuel Cell projects may be eligible to qualify for additional incentives from NYSERDA by making efficient use of the waste heat from the Fuel Cell System. NYSERDA will provide incentives for Peak Electric Demand Reductions (for example utilizing the waste heat from the fuel cell in an absorption chiller to displace electric chillers) as described in Program Opportunity Notice (PON) 1097 and subsequent offerings. Information can be found on NYSERDA's website at www.nyserda.org, by e-mailing info@nyserda.org or by telephoning toll free at 1-866-NYSERDA.

NYSERDA PON 1146

NYSERDA has a dedicated CST program for providing funding support for the procurement and installation of power generation systems using anaerobic digester gas (ADG) as a fuel to produce electricity (PON 1146). **Fuel cell projects which will operate exclusively on anaerobic digester gas are directed to apply to NYSERDA under PON 1146 while funds are available in PON 1146. Fuel cells that will be operated exclusively on ADG fuel will be allowed to apply under PON 1150 only when NYSERDA's program funds in PON 1146 have been depleted.** Please contact Kathleen O'Connor at (518) 862-1090, ext. 3422, kmo@nyserda.org for information regarding PON 1146

Potential non-NYSERDA Opportunities

Customers may be eligible for State and federal tax credits.

Tax Incentives: If the Applicant has been provided with information regarding the expected tax benefits (real property, federal or state tax incentives, or sales and use tax exemptions), as with any tax issue, the Applicant is encouraged to consult the Internal Revenue Service (See, www.irs.gov), the NYS Department of Taxation and Finance (See www.tax.state.ny.us) and with an accountant/tax adviser for details on eligibility for the credit provided in the law).

IX. APPENDICES

Appendix A: Application Form
- Section FC.1: Contact Information
- Section FC.2: Project Site
- Section FC.3: Fuel Cell System Definition
- Section FC.4: Environmental Questionnaire
- Section FC.5: Costs and Schedule
- Section FC.6: Estimated Incentive
- Section FC.7: Project Site Control Letter
- Section FC.8: Applicant Agreement

Appendix B: Sample Standard Performance Agreement

Appendix C: Measurement and Verification Requirements

Appendix D: Project Installation Report Requirements

Appendix E: List of Eligible Fuel Cell Modules by Manufacturer Make and Model

Appendix F: Instructions to Manufacturers of Fuel Cells – How to Request Addition of Your Equipment to the List of Eligible Fuel Cells

Appendix G: SEQRA Short Environmental Assessment Form