

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on January 22, 2026

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
James S. Alesi
David J. Valesky
John B. Maggiore
Uchenna S. Bright
Denise M. Sheehan, recusing
Radina R. Valova

CASE 15-E-0302 - Proceeding on Motion of the Commission to
Implement a Large-Scale Renewable Program and a
Clean Energy Standard.

CASE 17-E-0603 - In the Matter of Maintenance Tier Applications.

ORDER MODIFYING MAINTENANCE TIER PROGRAM

(Issued and Effective January 23, 2026)

BY THE COMMISSION:

INTRODUCTION

On August 18, 2025, Department of Public Service (DPS) Staff submitted a proposal to revise the calculation of the award cap for Renewable Energy Standard (RES) Maintenance Tier awards.¹ The DPS Staff Proposal recommends shifting away from the Tier 1 average weighted Renewable Energy Certificate (REC) price of the latest Tier 1 solicitation, to 75% of the current Value of Distributed Resources (VDER) Environmental Value (E-Value). This value is consistent with what the Public Service Commission (Commission) approved for the H-Value for

¹ Case 17-E-0603, et al., Department of Public Service Staff Proposal (filed August 18, 2025) (DPS Staff Proposal).

hydroelectric facilities interested in becoming a Community Distributed Generation (CDG) project.² In this Order, the Commission adopts the DPS Staff Proposal to set the maximum Maintenance Tier award at 75% of the current VDER E-Value, which will apply for the duration of any awarded contracts.

BACKGROUND

On April 14, 2005, the Commission approved an Implementation Plan for the Renewable Portfolio Standard (RPS) Program.³ In October 2005, the Commission adopted the RPS Maintenance Tier program in order to provide financial assistance to existing run-of-river hydroelectric facilities of 5 megawatts (MW) or less, wind facilities, and biomass direct combustion facilities that are at risk of ceasing operation or being abandoned based on the specific circumstances of the facility.⁴ To be eligible under the original program, facilities must have begun commercial operation any time prior to January 1, 2003, and have been included in New York's baseline of renewable resources calculated when the former RPS program was first adopted. The purpose of the maintenance resource category is to avoid losing valuable baseline renewable resources that may be financially unable to continue operations. The Commission established the case-by-case review approach to determine the financial viability of certain existing renewable

² Cases 15-E-0751 et al., Value of Distributed Energy Resources, Order Approving Compensation for Hydroelectric Baseline Generation Facilities (issued October 17, 2024) (H-Value Order).

³ Case 03-E-0188, Retail Renewable Portfolio Standard, Order Approving Implementation Plan, Adopting Clarifications and Modifying Environmental Disclosure Program (issued April 14, 2005).

⁴ Case 03-E-0188, supra, Order Approving Modifications to Maintenance Resource Category (issued October 31, 2005).

resources and determine the specific financial conditions under which such facilities would be at risk. The Commission stated that the level of support should not exceed the level required to encourage new renewable generation development.

The Commission continued the Maintenance Tier program with the adoption of the Clean Energy Standard (CES) in 2016, with program requirements remaining the same as under the RPS.⁵ In March 2018, the Commission adopted revisions to the Maintenance Tier program by: (1) expanding eligibility to include facilities in operation prior to January 1, 2015; (2) establishing delivery requirements consistent with those for Tier 1 of the CES; (3) increasing the size of eligible hydroelectric facilities from 5 MW to 10 MW; (4) revising the "to-go-cost" standard; (5) providing for a streamlined review process, while also maintaining a more detailed review process to suit the various needs of individual facilities; and (6) establishing a standard contract term of three years with the potential for contract renewals.⁶ The Commission reiterated that the main objective of the Maintenance Tier program is to avoid the cost of replacing an existing facility with a new facility. Because paying more to maintain an existing facility than the cost of a new facility contravenes this cost savings objective, the Commission capped Maintenance Tier awards at the most current Tier 1 REC price, per the most recently published large-scale renewable solicitation.

On January 16, 2020, the Commission adopted the Tier 1 Index REC Order, which included changes to the Tier 1 REC

⁵ Cases 15-E-0302 et al., Order Adopting a Clean Energy Standard (issued August 1, 2016).

⁶ Case 15-E-0302, Order Adopting Measures for the Retention of Existing Renewable Baseline Resources (issued March 16, 2018) (March 2018 Order).

procurement process and adopted the use of Index-RECs instead of the then existing Fixed-Price REC structure.⁷ Because the design of the Index-REC makes it difficult to calculate the average-weighted price of the Tier 1 RECs due to the variable nature of an Index-REC, a less complex method of calculating a Maintenance Tier cap, based on some other factor than Tier 1 REC prices, was necessary following the Index REC Order. Accordingly, the Commission adjusted the Maintenance Tier cap calculation in recent awards, directing that the cap shall be calculated using the average strike price from the most recent RES solicitation, minus forecasted New York Independent System Operator, Inc. (NYISO) energy and capacity prices for the NYISO Zone in which the facility is located.⁸

On October 15, 2020, the Commission adopted the CES Modification Order to comply with the requirements of the Climate Leadership and Community Protection Act (CLCPA).⁹ Among the changes adopted in the CES Modification Order, the Commission aligned Maintenance Tier eligibility with the CLCPA definition of renewable energy systems by limiting eligible resources to existing, non-state-owned run-of-river hydropower and wind generators.

On October 17, 2024, the Commission issued the H-Value Order, which provides a compensation mechanism for baseline/legacy hydroelectric renewable facilities as part of the E-Value portion of the VDER Value Stack. Instead of providing baseline hydroelectric renewable facilities with the

⁷ Case 15-E-0302, Order Modifying Tier 1 Renewable Requirements (issued January 16, 2020) (Index REC Order).

⁸ Case 17-E-0603, Order Approving Maintenance Tier Support (issued October 7, 2021).

⁹ Case 15-E-0302, Order Adopting Modifications to the Clean Energy Standard (issued October 15, 2020) (CES Modification Order).

same E-Value as new generation facilities, the Commission directed that eligible hydroelectric generating facilities have the opportunity to receive a modified form of the E-Value, called the H-Value, set at 75 percent of the current E-Value.

On May 15, 2025, the Commission adopted the CES Biennial Review which, among other things, increased the term of Maintenance Tier contracts from three to ten years.¹⁰ This longer ten-year contract term offers eligible facilities better financing options needed to address the additional and often extraordinary repair expenses of hydroelectric generation facilities.

DPS STAFF PROPOSAL

The DPS Staff Proposal recommends modifying the calculation of the Maintenance Tier award cap. The DPS Staff Proposal asserts that the current method of calculating the Maintenance Tier award cap by utilizing the average strike price from the most recent RES solicitation, minus forecasted energy and capacity prices for the NYISO Zone in which the facility is located, is not an accurate characterization of the current Tier 1 REC price due to the variable nature of the components that make up the strike price - energy, capacity, and the REC - making it difficult to accurately calculate the average REC price from the latest solicitation. The DPS Staff Proposal further asserts that the Index-REC approach relies on forecasted values instead of the true REC value, inserting additional uncertainty regarding the Maintenance Tier award cap.

To address this problem, the DPS Staff Proposal recommends that the Commission instead utilize the Commission-

¹⁰ Case 15-E-0302, Order Adopting Clean Energy Standard Biennial Review as Final and Making Other Findings (issued May 15, 2025).

approved H-Value as the Maintenance Tier award cap, which is set at 75 percent of the current VDER E-Value. The DPS Staff Proposal asserts that capping maintenance awards at the H-Value should provide transparency to potential Maintenance Tier applicants and more certainty in compensation that they may receive for the length of the contract, as well as bring consistency among programs that support existing renewable facilities.

PUBLIC NOTICE

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on September 10, 2025 [SAPA No. 17-E-0603SP12]. Additionally, on September 4, 2025, the Secretary to the Commission issued a Notice Soliciting Comments seeking comments on the DPS Staff Proposal. The time for submission of comments pursuant to the SAPA Notice and the Secretary's Notice expired on November 10, 2025. Comments were received from the Alliance for Clean Energy of New York (ACE NY), the Joint Utilities,¹¹ and Patriot Hydro, LLC (Patriot), and are summarized below.

SUMMARY OF COMMENTS

ACE NY

ACE NY argues that the proposed use of the H-Value as a cap is inappropriate and misaligned with the Maintenance Tier's core purpose. ACE NY states that the H-Value, set at 75% of the E-Value, is a policy-driven discount applied to legacy

¹¹ The Joint Utilities are Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

hydro facilities under VDER, not a reflection of their full avoided cost or carbon value. Therefore, ACE NY suggests that using this discounted rate as a cap for Maintenance Tier awards undermines the needs-based intent of the Maintenance Tier program. ACE NY argues that the cap should reflect the full avoided carbon value of the resource – not a discounted proxy from a separate program that aligns with the Commission’s original intent to not pay more to retain a facility than it would cost to replace it. ACE NY adds that the H-Value is intended to support distributed generation and not to assess financial viability or prevent asset retirement of large-scale facilities.

ACE NY suggests that a more effective and appropriate reform would be to revise the financial need assessment criteria to focus solely on the financial condition of the applying facility or unit, rather than the upstream company, affiliates, or broader corporate ownership. ACE NY adds that a facility-specific approach would better reflect the Maintenance Tier’s intent and ensure that support is directed where it is truly needed. Also, ACE NY asserts that longer contract terms alone are insufficient if the compensation is capped at a level that does not reflect the true value or financial need of the resource.

Joint Utilities

The Joint Utilities support DPS Staff’s Proposal to adopt the H-value methodology for setting the Maintenance Tier award cap. The Joint Utilities comment that the Commission’s adoption of the ten-year contract tenor provides valuable certainty for generators and supports the retention of RECs in New York State, and that together with DPS Staff’s recommended H-value methodology, would enhance price transparency and predictability for eligible Maintenance Tier facilities. The

Joint Utilities argue that this methodology harmonizes the treatment of all Maintenance Tier resources with legacy power, promoting consistency across all programs that support legacy facilities.

Patriot

Patriot supports modifying the Maintenance Tier award cap from the Indexed REC Value to the H-Value, but suggests that the Commission should also increase the H-Value to align with the full E-Value of the VDER Value Stack. Patriot adds that this increase would more appropriately compensate hydroelectric resources for the critical role they play in supporting New York State's energy and environmental policies and better align their compensation with other resources that provide similar environmental benefits. Patriot asserts that New York's existing hydroelectric facilities are a cornerstone of the State's clean energy transition as an integral part of the baseload renewable resource mix. Patriot states that the NYISO's 2025 Power Trends report states that only hydropower and existing fossil-fired facilities currently "deliver the full array of services needed to balance a dynamic grid."¹² Further, Patriot asserts that hydropower generates the most power during the winter and spring, precisely when other clean resources like solar generate the least.

Patriot argues that legacy hydroelectric facilities face increasing economic strain due to operations and maintenance costs that continuing to rise, while at the same time compensation mechanisms such as the "Voluntary Hydropower Environmental Disclosure Program" have declined sharply.¹³ Patriot also claims that, under the CLCPA mandate, the State

¹² Patriot comments (filed November 10, 2025), p. 3 (citing NYISO 2025 Power Trends, issued June 2, 2025, pp. 13-14).

¹³ Id., p. 3.

must explore all opportunities to send appropriate price signals to retain existing hydroelectric facilities by providing reasonable compensation mechanisms that reflect their reliability and environmental benefits. Patriot suggests that the reduced H-Value does not fully reflect the environmental, reliability, and capacity value that existing hydropower contributes to New York's electric system. Patriot maintains that Maintenance Tier applications demonstrate that existing hydroelectric facilities require compensation levels well above the current award cap to remain financially viable due to the need for substantial capital investments to modernize hydropower assets.

Patriot states that their assets currently seeking financial support under the Maintenance Tier program require an average of approximately \$60 per megawatt hour (MWh) in Maintenance Tier awards to offset projected losses over the next three years. Patriot argues that the current award cap fails to cover costs and a modest \$7 per MWh increase to align the H-value with the E-value would better reflect the real-world operational and environmental attributes of hydropower. Patriot suggests that increasing costs and delays to the timelines for developing new renewable projects are likely to remain. Therefore, it maintains that the State should focus on maintaining and supporting its renewable resources to ensure reliability and progress toward its clean energy goals.

LEGAL AUTHORITY

The Commission's authority derives from the Public Service Law (PSL), through which numerous legislative powers are delegated to the Commission. Pursuant to PSL §5(1), the "jurisdiction, supervision, powers and duties" of the Commission extend to the "manufacture, conveying, transportation, sale or

distribution of ... electricity." PSL §5(2) requires the Commission to "encourage all persons and corporations subject to its jurisdiction to formulate and carry out long-range programs, individually or cooperatively, for the performance of their public service responsibilities with economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources."

In addition, PSL §66(2) provides that the Commission shall "examine or investigate the methods employed by [] persons, corporations and municipalities in manufacturing, distributing and supplying ... electricity ... and have power to order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such ... electricity." Further, PSL §65(1) provides the Commission with authority to ensure that "every electric corporation and every municipality shall furnish and provide such service, instrumentalities and facilities as shall be safe and adequate and, in all respects, just and reasonable." PSL §4(1) also expressly provides the Commission with "all powers necessary or proper to enable [the Commission] to carry out the purposes of [the PSL]" including, without limitation, a guarantee to the public of safe and adequate service at just and reasonable rates,¹⁴ environmental stewardship, and the conservation of resources.¹⁵

¹⁴ See International R. Co. v Public Service Com., 264 AD 506, 510 (1942).

¹⁵ PSL §5(2); see also Consolidated Edison Co. v Public Service Commission, 47 NY2d 94 (1979) (overturned on other grounds) (describing the broad delegation of authority to the Commission and the Legislature's unqualified recognition of the importance of environmental stewardship and resource conservation in amending the PSL to include §5).

In addition to the PSL, the New York State Energy Law §6-104(5) (b) requires that “[a]ny energy-related action or decision of a state agency, board, commission or authority shall be reasonably consistent with the forecasts and the policies and long-range energy planning objectives and strategies contained in the plan, including its most recent update.”

DISCUSSION

The intent of the Maintenance Tier program has been consistent since the early days of the RPS to now under the CES; it is designed to assist baseline renewable resources not otherwise eligible for the Tier 1 program to continue operations by improving their financial situation. The Commission recognizes that these baseline facilities are an important part of the State’s renewable portfolio to meet its clean energy goals and that the maintenance resource category is an important component of the CES Program as it keeps baseline resources operating and generating RECs in New York. To minimize ratepayer costs and ensure just and reasonable rates, the level of support should be no more than the amount necessary to assist in the continued operations of facilities.

The Maintenance Tier program provides a case-by-case thorough review of a facility’s financial records to determine financial hardship. As the DPS Staff Proposal states, the maximum award cap for the Maintenance Tier program was based on the average-weighted Tier 1 REC price from the most recent Tier 1 solicitation. This policy was set when the RPS and Tier 1 bids were awarded as Fixed-Price RECs. However, since the transition to the Index-REC price bid, calculating an average REC price is more complex. The Index-REC price is designed to approximate the difference between what a facility is forecasted to receive from the energy and the capacity markets and then

subtracting that from the total strike price (Tier 1 bid). Since the energy and capacity market prices are constantly changing, it is difficult to forecast the potential REC price for each awarded solicitation. The Commission finds that DPS Staff's Proposal to utilize the H-Value as the Maintenance Tier award cap is a reasonable approach and is therefore adopted.

ACE NY and Patriot are opposed to using the H-Value approach to set the award cap. ACE NY sees the proposed use of the H-Value as inappropriate and misaligned with the Maintenance Tier's core purpose. ACE NY adds that the H-Value is to support distributed generation, not to assess financial viability or prevent asset retirement.

The Commission disagrees with ACE NY that the H-Value approach is in misalignment with the core of the Maintenance Tier program. The Maintenance Tier program provides financial assistance to existing renewable facilities, based on the principle of not paying more to maintain existing facilities than to develop a new renewable project. Since the Index-REC approach was adopted, only one Maintenance Tier award was approved, at which time DPS Staff and NYSERDA forecasted the Index-REC price to the best of their ability using market data from various sources. However, as more Maintenance Tier applications have been filed, DPS Staff reviewed that policy and recommended that the award cap should not be based on REC prices resulting from forecasts of variable energy and capacity prices, but instead should rely on a more concrete and transparent approach. The DPS Staff Proposal provides a balanced and fair mechanism that provides necessary support to the baseline resources while still maintaining the core principles of the program.

As noted by the Joint Utilities, the extended ten-year contract term provides baseline resources valuable certainty for

generators and supports the retention of RECs in New York State, while utilizing the H-value as the Maintenance Tier award cap enhances price transparency and predictability for eligible Maintenance Tier facilities. The H-Value is a recognition of the value the baseline renewable resources provide to the electric grid and to meeting the State's clean energy goals.

ACE NY contends that a more effective and appropriate reform would be to revise the financial need assessment criteria to focus solely on the financial condition of the applying facility or unit, rather than the upstream company, affiliates, or broader corporate ownership. The Commission points out that the Maintenance Tier program is a needs-based assessment of the financial situation of each independent facility and not the corporate or affiliate ownership. Therefore, each facility under consideration must already submit individual facility financial statements, not higher-level financial statements comprising a large corporate portfolio.

Patriot opposes the H-Value approach, adding that the Commission should increase the H-Value to align with the full E-Value of the Value Stack. Patriot argues that the legacy hydroelectric facilities face increasing economic strain due to operations and maintenance costs continuing to rise, while compensation in the voluntary market has declined sharply. However, as stated in the H-Value Order, the E-Value is for incremental, new renewable generation and is designed to incent the new development of renewable resources, not to maintain what is already in operation. The full E-Value, therefore, is not an appropriate mechanism for the Maintenance Tier program. The majority, if not the totality, of the underlying investments required to develop the baseline resources has already occurred and these facilities do not incur the same types of development

costs a new facility incurs, such as interconnection and permitting costs.

The H-Value provides cost consistency and containment to the program as well. With the ten-year contract term recently approved, total program costs that are ultimately borne by ratepayers will increase. Capping Maintenance Tier awards at the H-Value will promote the Commission's affordability goals and promote effective utilization of ratepayer dollars. We are at a time when ratepayers are facing affordability challenges on every front, and the Commission needs to be cognizant of every program approval that affects ratepayers.

Regarding compliance with applicable environmental laws, the action taken in this Order relates to the adoption of regulations, policies, and procedures in connection with maintaining, repairing, replacing, rehabilitating, or reconstructing existing structures or facilities. Accordingly, this constitutes a "Type II action," not subject to review under the State Environmental Quality Review Act.¹⁶ Similarly, the decision herein is in compliance with CLCPA §§7(2) and (3), as it relates to supporting the continued operation of existing renewable facilities and will neither result in increased greenhouse gas emissions nor create a disproportionate burden on disadvantaged communities.

CONCLUSION

The Commission finds that the DPS Staff Proposal to set the Maintenance Tier award cap at the H-Value, equal to 75 percent of the E-Value, is a just and reasonable approach that will assist in maintaining existing renewable facilities and advancing the State's clean energy goals. Accordingly, the DPS

¹⁶ 6 NYCRR 617.5(c)(1), (2), and (33).

CASES 15-E-0302 et al.

Staff Proposal is adopted and all future Maintenance Tier awards shall utilize the current H-Value as the award cap for the duration of the applicable contract.

The Commission orders:

1. The August 18, 2025 Department of Public Service Staff Proposal to set the Maintenance Tier program award cap at the H-Value is adopted, as discussed in the body of this Order.
2. These proceedings are continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary