



February 21, 2022

VIA ELECTRONIC MAIL

Honorable Michelle Phillips, Secretary
State of New York Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

RE: Case 15-E-0302: Reply Comments of Riverkeeper Regarding Proposed Tier 4 Contract Award to the Champlain Hudson Power Express Project

Dear Secretary Phillips:

Riverkeeper is a 501(c)(3) non-profit membership organization whose mission is to protect and restore the Hudson River from source to sea and safeguard drinking water supplies, through advocacy rooted in community partnerships, science and law. On behalf of our more than 3,000 members in the Hudson River watershed, we appreciate the opportunity to submit these reply comments regarding the award of Tier 4 credits to the Champlain Hudson Power Express (“CHPE”) Project. In these comments we show that New York State Energy Research and Development Authority (“NYSERDA”) erred when it chose CHPE as the second best bidder. We further show that the CHPE project does not actually deliver the benefits that many of its supporters believe. The contract allows Hydro Quebec (“HQUS”) excessive flexibility that means greenhouse gas emission reductions are uncertain and many other issues are not addressed.

A. Bid Scoring By NYSERDA was Flawed and Favored CHPE

There were seven bidders in this process with a number of alternate bids. The choice is not between CHPE and no second project, the choice is between CHPE and the other bidders that scored highly. NYSERDA made at least two important errors when it decided CHPE was the second highest scored project. First, not all these projects are equally effective at reducing

greenhouse gases (“GHGs”). CHPE provides very uncertain GHG reductions per unit of energy delivered. Awarding Renewable Energy Credits (“RECs”) based on the amount of energy delivered is misleading because RECs from projects using solar and wind provide greater benefits in terms of GHGs. NYSERDA should have adjusted its price comparisons to take this issue into account and compared the cost of GHG emissions avoided, which is the core purpose of the Tier 4 program.

Second, as others have noted, NYSERDA used its preliminary scoring as the final score. The petition states:

“NYSERDA considered the Revised Preliminary Ranking in the context of other factors that contribute to the achievement of the Clean Energy Standard (“CES”) mandate, the reduction of greenhouse gas emissions, and the objectives of the CES Modification Order. These program policy factors include:

- The efficient utilization of key transmission points of interconnection and Project selections that will promote the cost-efficient integration of renewable generation into New York City;
- Reliability and geographic benefits and/or costs in the NYCA, and the reduction of execution risk through diversity;
- Public health benefits of reducing local air contaminants by displacing thermal generation in New York City, and, in particular, in Disadvantaged Communities;
- The extent the Project contributes to grid reliability and enables reduced reliance on thermal generation in Zone J through its dispatchability and level of firm supply;
- *The extent to which the Project allows the State to accelerate the reduction of GHG emissions in furtherance of the Climate Act objectives;*
- *The extent to which a Project’s deliveries are not met through the re-directing of existing resources in a way that provides no net benefit to the State;*
- *The extent to which the proposed Project promotes delivery of renewable energy from upstate regions of the State into Zone J, eases the curtailment of upstate renewable resources, and optimizes deliverability of renewable resources throughout the entirety of the State; and;*
- The degree to which two or more smaller Projects provide more competitive benefits and potentially more timely achievement of Commercial Operation, versus the potential scale economy anticipated with a single large Project.

Following a detailed review of the Revised Preliminary Ranking results, NYSERDA determined to not apply Program Policy Factors and confirmed the Revised Preliminary Ranking as the Final Ranking.” (emphasis added). At least the highlighted three factors disfavor CHPE. The others are largely neutral. The dispatchability criterion could have favored CHPE if it had winter dispatch obligations, but it does not.

It is unclear why NYSERDA did not use these program factors. If it had, it is likely that CHPE would have scored lower than the preliminary ranking.

B. The CHPE Project is Fatally Flawed and Potentially Illegal

Supporters of CHPE imagine the following project:

1. Has strong additionality criteria so energy can't just be moved around and backfilled by fossil fuel generation;
2. Uses impoundments that emit very little GHGs;
3. Does not lead to additional GHG emissions through the construction of new dams;
4. Has an effective mechanism to deal with environmental justice concerns;
5. Is dispatchable with guaranteed supply during times of high demand.

However, this is not the project that is actually proposed. The proposed project has the following attributes:

1. Has no Supplier Energy baseline so energy can just be moved around and backfilled by fossil fuel generation. Has a very weak Supplier GHG baseline that will allow HQUS to supply the contract through new supply from the dam to be completed at Romaine 4;
2. Uses impoundments that have some of the highest GHG emissions in the world;
3. Allows the completion of Romaine 4, a major new source of GHGs and fails to prevent further dam construction to supply other Hydro Quebec customers;
4. Has major environmental justice concerns in Canada due to impacts on First Nations with no commitment to deal with these issues;
5. Has no supply obligations in the winter, which is predicted to be a time of peak demand when space heating starts to switch from gas fired boilers.

Finally, as noted in our initial comments, the goal of Tier 4 is to increase delivery of clean energy into Downstate markets, including the cultivation of local renewables so that the state can meet its target of zero greenhouse gas emissions from the electricity sector by 2040.¹ As explained by that order PSL §66-p added to the PSL by the Climate Leadership and Community Protection Act ("CLCPA") requires zero emissions by 2040. *Id.* at 6. That requirement states "by the year two thousand forty (collectively, the "targets") the statewide electrical demand system will be zero emissions". PSL §66-p (2). Thus, there is a legal requirement for the state's electrical generation system to be zero emission by 2040 and the Tier 4 program is supposed to help make that happen. In practice, this gives rise to two requirements: 1) Tier 4 projects should reduce emissions; and 2) Tier 4 projects must not emit carbon after 2040. Even the selection criteria for the procurement require NYSERDA to evaluate if the project helps it meet the 2040

¹ PSC Order Adopting Modifications to Clean Energy Standard (CASE 15-E-0302, 15 October 2020) at 11

target.² As shown previously, the CHPE project cannot show that either of these conditions will occur and it is therefore potentially illegal to award a 25 year contract to CHPE as NYSERDA proposes.

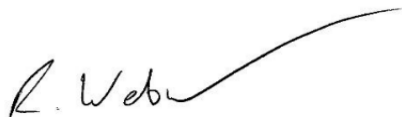
D. Conclusion

As shown above, NYSERDA has compared the bids on price as though CHPE reduces GHGs in a similar way to other projects that do not use hydropower. However, the weaknesses in the CHPE contract mean it may not reduce GHGs at all. Because of this problem, NYSERDA should review the price per ton of GHGs avoided rather than the bid price of RECs based on the amount of power supplied. Further, without explanation, NYSERDA did not use its program policy factors. Both of these errors mean that CHPE received more favorable treatment that is actually warranted. Furthermore, the CHPE project fails to meet the most basic requirement of a clean energy project, because it will not directly reduce greenhouse gas emissions and it will continue to emit greenhouse gases after 2040, when New York's climate laws require the electric grid to be emissions free.

Compounding the many negative impacts associated with this project, giving Hydro-Quebec a lucrative contract could induce the building of more dams and further injure indigenous peoples who have already been gravely injured by past and ongoing dam construction. More locally, using the Hudson as a conduit for an electric cable threatens to stir up PCB laden sediments, potentially damaging drinking water supplies, interfering with fish migration, and affecting shipping.

For these reasons, the Public Service Commission should reject NYSERDA's choice of this flawed project and instead urge NYSERDA to select a proposal that utilizes renewable resources other than hydropower, preferably generated in New York, and one that has selected a route that minimizes the use of the Hudson as a conduit for the cable. Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink that reads "R. Webster". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Richard Webster
Director of Legal Programs

² Petition Regarding Agreements For Procurement Of Tier 4 Renewable Energy Certificates at 14