STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 19-E-0735 - Petition of New York State Energy Research and Development Authority Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025.

CASE 18-M-0084 – In the Matter of a Comprehensive Energy Efficiency Initiative.

CASE 14-M-0094 - Proceeding on Motion of the Commission to Consider a Clean Energy Fund.

CASE 13-M-0412 - Petition of New York State Energy Research and Development Authority to Provide Initial Capitalization for the New York Green Bank.

ORDER APPROVING CLEAN ENERGY FUND MODIFICATIONS

Issued and Effective: September 9, 2021

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At a session of the Public Service Commission held in the City of Albany on September 9, 2021

COMMISSIONERS PRESENT:

John B. Howard, Chair
Diane X. Burman, concurring
James S. Alesi
Tracey A. Edwards
David J. Valesky
John B. Maggiore
Rory M. Christian

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BY THE COMMISSION:

INTRODUCTION

In 2016, the Public Service Commission (Commission) established the Clean Energy Fund (CEF) as a commitment to clean energy and efficiency measures, recognizing that deploying programs at scale holds the potential to address the pressing environmental and energy challenges of our time, while providing enormous economic opportunity for New York.[1] The CEF was designed with four program portfolios that are administered by the New York State Energy Research and Development Authority (NYSERDA), including: Market Development; Innovation & Research; New York-Sun (NY-Sun); and the NY Green Bank (NYGB). Collectively, these portfolios are intended to work in conjunction with utility-administered clean energy programs to further foster innovation in energy markets by testing new business models, attracting private capital to New York energy markets, facilitating new customer engagement and choice for clean energy services, and extracting value from distributed energy resources that improve system efficiency and reduce consumer energy costs.

While the original premise that led to the initiation of the CEF in 2016 remains true today, the Commission indicated that periodic review of the CEF was necessary to ensure proper oversight. To carry out this review, NYSERDA filed a petition on December 29, 2020 (the Petition), which assesses the CEF performance to date and recommends that the Commission undertake various actions to optimize the CEF portfolios in the context of today's market realities and State mandates, including the Climate Leadership and Community Protection Act (CLCPA).[2]

In this Order, the Commission addresses the Petition and adjusts the goals and metrics framework under which the CEF operates to further align them with State policy objectives and to enhance the performance of the CEF. The Commission also identifies the source for the remaining NY-Sun budget, modifies

[1] Case 14-M-0094, Order Authorizing the Clean Energy Fund Framework (issued January 21, 2016) (CEF Framework Order).

[2] See Chapter 106 of the Laws of 2019.

the timing of previously authorized collections, and identifies other administrative improvements based on lessons learned. These actions will further refine and support the CEF as a critical component necessary to achieve New York State's ambitious clean energy and environmental objectives.

BACKGROUND

CEF Framework

The Commission's CEF Framework Order authorized the CEF as a ten-year, $5.322 billion commitment to clean energy programs in New York State to be administered by NYSERDA. The Commission established four primary objectives for the CEF, including: (1) greenhouse gas (GHG) emission reductions, as measured in tons of Carbon Dioxide Equivalent (CO_2e) reduced; (2) affordability, as measured by reductions in customer energy bills; (3) Statewide penetration and scale of energy efficiency and clean energy generation, as measured by the total increase in energy efficiency savings and renewable energy generation, expressed in Megawatt-hours (MWh) and trillion British thermal units (TBtu); and (4) growth in the State's clean energy economy, as measured by private investment in clean energy technologies and solutions. The CEF Framework Order established minimum goals collectively across the four CEF portfolios of: (1) 10.6 million MWh and 13.4 TBtu of energy efficiency reductions, (2) 88 million MWh of renewable energy generation, (3) 133 million tons of CO_2e reductions, (4) $39 billion in customer bill savings, and (5) $29 billion in private investment.

The $5.322 billion in program authorization for the four CEF portfolios consisted of the reallocation of $1.162 billion previously authorized ratepayer collections for certain legacy NYSERDA programs, incremental ratepayer collections of $3.9 million, and $250 million of Regional Greenhouse Gas Initiative (RGGI) funds.[3] The resulting collection schedule took account of the projected financial obligation of previously authorized programs and the assumed trajectory of the four CEF portfolios and resulted in an immediate $91 million decrease in collections from 2015 levels and a declining collections schedule thereafter through 2036.

The CEF Framework Order also established a series of planning, programmatic, and reporting requirements that included: 1) an Investment Plan process for the Market Development and Innovation & Research portfolios requiring all investments to be detailed in accordance with the requirements established by the Commission and approved by Department of Public Service Staff (Staff); 2) a requirement for at least $234.5 million of Market Development Funds to be invested in Low-to-Moderate Income (LMI) initiatives over the initial three year period; 3) an updated NY-Sun Operating Plan; 4) development of an NYGB Metrics, Evaluation, and Reporting Plan; 5) $150 million to be allocated to a 2016 Renewable Portfolio Standard Main Tier solicitation; 6) quarterly and annual progress reports; 7) annual briefings to the Commissioners; and 8) an initial review by the Commission in 2017 and every three years thereafter.[4]

To carry out the CEF objectives, the CEF Framework Order identified four portfolios that provide distinct but

[3] The legacy programs are the System Benefit Charge III and IV programs, the Renewable Portfolio Standard, and the Energy Efficiency Portfolio Standard I and II programs.

[4] The 2017 review was deferred to allow more time for the portfolio to be built out and provide more substantive in-field experience and progress from which to conduct a review.

complementary services. While each of the portfolios undertakes a wide breadth and depth of programmatic activity, each is described as follows, noting several illustrative examples of the key initiatives.

1. Market Development Portfolio

The CEF Framework Order authorized a ten-year budget of $2.7 billion for the Market Development portfolio.[5] This portfolio consists of initiatives that seek to address market gaps and non-monetary barriers within clean energy sectors. These initiatives are designed to enable the delivery of energy efficiency and clean energy solutions, with a strong focus on energy efficiency and decarbonizing buildings, as well as specific support for LMI households. This portfolio provides financial support, technical knowledge, data, education, and workforce training to serve providers and customers. Activities include development of on-site, behind-the-meter clean energy solutions including energy efficiency, distributed generation, renewable thermal, and energy storage, as well as large-scale renewables.

The Market Development portfolio includes Workforce Development activities, which have significantly ramped up with a focus on priority populations. Another program is the Clean Energy Communities, which is working with 608 communities, representing over 90% of the state's population, to help them develop and implement high impact actions to improve their communities carbon footprint.

[5] The CEF Framework Order authorized administration and evaluation costs combined for the Market Development and Innovation & Research portfolios. The budgets described in this section for Market Development and Innovation & Research include a pro-rata share of these cost as well as $250 million in RGGI funds.

2. Innovation & Research Portfolio

The CEF Framework Order authorized a ten-year budget of $712.6 million for the Innovation & Research Portfolio. This portfolio is designed to drive innovation by investing in cutting edge technology development/demonstration and early-stage company support through incubators, accelerators, prize competitions, and similar programs that support a green economy. In addition, the portfolio includes energy-related environmental research studies to provide objective information to help inform policy making and identify strategies to mitigate environmental impacts.

The Innovation & Research Portfolio supports the development of innovative solutions to meet the State's climate targets, demonstration of grid modernization solutions, as well as accelerating the commercialization of existing solutions on their path to mass market adoption. Through its work, the portfolio also supports employment and economic development in the State.

3. NY-Sun Portfolio

The Commission authorized $1.2 billion in ratepayer funds towards the initial NY-Sun goal of 3 Gigawatts (GW). This funding includes the $960.6 million allocated in the CEF Framework Order, $216 million allocated in the 2013 Redesign Order, and $44 million allocated in the 2018 Value of Distributed Energy (VDER) Phase 2 Order.[6] NY-Sun offers

[6] Case 03-E-0188, Retail Renewable Portfolio Standard, Order Authorizing the Redesign of the Solar Photovoltaic Programs and the Reallocation of Main-Tier Unencumbered Funds (issued December 19, 2013) (2013 Redesign Order); Case 15-E-0751, Value of Distributed Energy Resources, Order Regarding Value Stack Compensation (issued April 18, 2019) (2018 VDER Phase 2 Order).

financial incentives to install solar panels for residential, non-residential, large commercial and industrial projects, as well as Community Solar projects. In response to the CLCPA, the Commission issued the 2020 NY-Sun Order, which increased the NY-Sun target to 6 GW and extended the NY-Sun program term from 2023 to 2025.[7] The 2020 NY-Sun Order authorized an additional $573 million for NY-Sun activities through 2025, while the Commission only identified the funding source for two-fifths of the authorized budget, or $230 million, from uncommitted NYSERDA legacy program funds. The 2020 NY-Sun Order indicated that the Commission would consider the appropriate source of funding for the remaining three-fifths of the authorized budget, or $343 million, as part of its review of the CEF. NY-Sun has provided incentives for community solar projects, the development of projects pairing battery storage with solar, and the ongoing support for LMI households and affordable housing providers.

4. NYGB Portfolio

The Commission has authorized a total of $947.1 million in ratepayer funds for the NYGB. This funding includes the $631.5 authorized in the CEF Framework Order, $165.6 million in the 2013 Initial Capitalization Order, and $150 million in the 2015 Additional Capitalization Order.[8] NYGB was established with the objectives to mobilize private sector capital to finance the transition to a more cost-effective, resilient, and

[7] Case 19-E-0735, Order Extending and Expanding Distributed Solar Incentives (issued May 14, 2020) (2020 NY-Sun Order).

[8] Case 13-M-0412, Order Establishing New York Green Bank and Providing Initial Capitalization (issued December 19, 2013) (2013 Initial Capitalization Order); and Case 13-M-0412, Order Approving Additional Capitalization with Modification for New York Green Bank (issued July 17, 2015) (2015 Additional Capitalization Order).

clean energy system and leverage public and private financing to further develop the energy efficiency and clean energy economy in the State. The NYGB accelerates the deployment of clean energy through a variety of financing tools such as credit enhancements, construction financing, warehousing and aggregation, preferred equity, and specialized term loans and investments.

The NYGB has been instrumental in its support of the NY-Sun initiative, enabling accelerated market development within the State's PV economy, further facilitating the State to meet its distributed renewable generation goals. NYGB has experienced continued revenue growth and has earned $116.6 million in cumulative revenue since 2017. This revenue has covered its operating expenses and allowed it to operate at no additional administrative cost to New York State ratepayers. The net income earned by NYGB has been reinvested into sustainable infrastructure projects across New York State. NYGB has continued to drive year-over-year growth in investment activity with a current active pipeline of $901.8 million. As of March 2021, $2.3 billion in investments have progressed through NYGB's Greenlight Committee approval process.

New Efficiency: New York (NE:NY)

In December 2018, the Commission issued its Order Adopting Accelerated Energy Efficiency Targets, which found that a statewide goal of 185 TBtu of customer-level energy reduction by 2025 was reasonable and adopted an incremental target of 31 TBtu of reduction by the State's utilities, along with utility programs and a process to authorize utility-specific budgets and targets.[9] In its January 2020 Order Authorizing Utility Energy

[9] Case 18-M-0084, Order Adopting Accelerate Energy Efficiency Targets (issued December 13, 2018) (2018 NE:NY Order).

Efficiency and Building Electrification Portfolios through 2025, the Commission adopted utility-specific energy efficiency and building electrification targets and budgets that, when combined with NYSERDA's targets established in the CEF Framework Order, are projected to achieve over two-thirds of the 185 TBtu statewide goal.[10]

The 2018 NE:NY and 2020 NE:NY Orders recognized the interrelationship between the utilities and NYSERDA activities and directed collaborative approaches to best utilize each organizations' respective strengths in delivering comprehensive services. The Commission further required the Joint Utilities (JU) and NYSERDA to make fundamental shifts to the approach to implementing programs in two high priority areas.[11] The first of which is building electrification whereby electric utilities offer financial incentives for the installation of heat pumps in conjunction with Market Development services provided by NYSERDA under the umbrella of the NYS Clean Heat Program.[12] The second is the Statewide Low-to Moderate-Income Program whereby the

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[10] Case 18-M-0084, Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025 (issued January 16, 2020) (2020 NE:NY Order).

[11] The JU includes: Central Hudson Gas and Electric Corporation; Consolidated Edison Company of New York, Inc.; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation.

[12] Market Development services include workforce development; consumer education and engagement; marketing and community campaigns; technical assistance; technology demonstrations; supply chain improvements; customer incentives; and development of a long-term building electrification roadmap.

Commission required the JU and NYSERDA to substantially modify the business-as-usual approach to collaborate and streamline program offerings among the program administrators to maximize the impact of available resources and leverage existing program infrastructures to maximize statewide cost reduction potential. These approaches are envisioned to improve access to programs and the overall customer experience while scaling substantive services to this sector.

THE PETITION

The Petition, filed by NYSERDA on December 29, 2020, requests certain Commission actions to optimize and continue the CEF. Specifically, NYSERDA requests the following:

1. Approval of the CEF strategy and future plans for the Market Development, NY Green Bank, and Innovation & Research portfolios;
2. Confirmation of the CEF budget (including a 20% budget flexibility at the focus area level of Market Development and Innovation & Research) and coinciding updated performance targets and metrics for the entire CEF portfolio;
3. Adoption of an aggregate goal that includes 40% of the benefits of spending for disadvantaged communities, in accordance with the CLCPA;
4. Modification of the CEF collections by year (not in aggregate) to address prior and expected changes in timing of expenditures;

5. Addressing any projected shortfalls in aggregate CEF Program funding of up to $125.7 million;[13] first by repurposing funding from any available uncommitted System Benefit Charge/Renewable Portfolio Standard funds and then from collections approved in the CEF Framework Order for NYGB's capitalization;
6. Authorization for the existing uncommitted System Benefit Charge/Renewable Portfolio Standard/Energy Efficiency Portfolio Standard funds to support the remaining three-fifths of the previously approved NY-Sun expansion program;
7. Approval for the revised Market Development and Innovation & Research investment plan approach;
8. Affirmation of the reporting components for common quarterly reporting; and
9. Authorization for a formal role for NYSERDA in the Technical Resource Manual Management process.

Progress & Performance through 2020

Within the Petition, NYSERDA identifies CEF progress and performance for the calendar year period of 2016 through 2019. The Petition expresses this performance both in terms of percentages of the overall goals and targets of the CEF, as well as by listing specific achievements of the individual portfolios. Subsequent to the Petition, NYSERDA provided updated figures reflecting performance through calendar year 2020.

[13] Subsequent to the Petition, the projected shortfall was reduced to $118.2 million due to the availability of additional uncommitted funds as described in NYSERDA's June 23, 2021 filing.

Through 2020, the CEF's overall progress includes: 2.9 million MWh and 17.4 TBtu of annual energy savings from committed projects, representing 27% of its 10-year goal for electricity and 130% of its 10-year goal for fuel efficiency; 107 million lifetime MWh of energy generation from committed projects, or 122% of its 10-year goal; 89 million metric tons of lifetime CO_2e reduction from committed projects, representing 67% of its 10-year goal; $22 billion of participant bill lifetime savings, representing 57% of its 10-year goal; and $10.6 billion in leveraged funds, representing 36% of its 10-year goal.[14]

Financial expenditures and commitments through 2020 are as follows: NY-Sun - $1.2 billion, representing 83% of the approximately $1.450 billion authorized funding; Market Development and Innovation & Research - $1.4 billion representing 41% of the approximately $3.4 billion in authorized funding; and NYGB has over $1.2 billion of committed investment activities including transactions that have closed, as well as those that are in its active pipeline but not yet closed.

Meeting the Evolving Public Policy and Market Context

NYSERDA states that the Petition comes at a juncture that affords the ability to take stock of recent public policy outcomes, such as the goals mandated by the CLCPA, and market evolutions shaping the energy landscape in New York State, including the transition away from natural gas, which ties directly into the long-term goals for decarbonization codified in the CLCPA. Other recent changes collectively drive the State's policy and planning efforts to pursue deeper decarbonization, greater emphasis on disadvantaged communities and LMI customers, elevated focus on green jobs and economic

[14] Case 14-M-0094, NYSERDA CEF 2020 Annual Investment Plan, filed March 31, 2021.

development, and more targeted technology/resource offerings. NYSERDA asserts that these factors signal a need for calibration to align the CEF portfolio with the most current policy objectives and accurately reflect new market realities.

NYSERDA's petition also identifies that the impacts of the COVID-19 pandemic on State energy policy efforts will likely not be fully known for some time. The Petition states NYSERDA will continue active monitoring of relevant market segments but notes it will likely need to take on additional risk in certain areas and will likely need to pay more per unit of clean energy and emission reduction during this recovery, both of which will be challenging propositions. NYSERDA notes it will continue to track several anticipated impacts from the COVID-19 pandemic that have bearings on CEF programming and adjusting accordingly. NYSERDA intends to monitor and track acute economic hardship of various sectors; impacts related to prolonged work-from-home situations, which may affect the realization of savings and benefits in certain programs and customer segments; as well as the impacts of COVID-19 on indoor air quality and building energy use, which as impact and performance of CEF programs continue may lead to additional recalibration of CEF program and metric calibration.

CEF Programmatic Directions and Strategic Refinement

To comply with the CLCPA directives regarding Disadvantaged Communities (Disadvantaged Communities), the Petition commits the CEF in total, across the four portfolios, to achieve the goal for disadvantaged communities to receive 40% of overall benefits of future spending, and to dedicate substantially increased funding and resources in a concrete set of actions and programs that will fall clearly within the future definition of disadvantaged communities. The Petition further states a commitment for NYGB to invest at least 35% of its capital after 2019 in projects to benefit disadvantaged communities.

Further, based upon the evolving policy and market conditions and the CEF's performance to date, NYSERDA proposes budgetary allocations for the Market Development and Innovation & Research portfolios by focus area through 2025.

The Petition indicates that the Market Development portfolio will consist of 11 focus areas and provides the funding, by focus area, allocated through 2019 as well as the proposed funding allocations for the remainder of the CEF period through 2025, as reflected in the table below.

Market Development Focus Area	**2016-2019 Actual Encumbered and/or Expended Funds ($M)**	**2020-2025 Proposed Encumbered and/or Expended Funds ($M)**	**Total Budget Allocation ($M)**
LMI	$221	$540	$761
Single Family	$32	$77	$109
Multifamily	$5	$66	$71
Commercial, Industrial, & Agriculture	$199	$302	$501
New Construction	$63	$117	$180
Communities	$20	$63	$83
Transportation	$23	$24	$47
Clean Heating/ Cooling	$56	$68	$124
Workforce Development	$17	$91	$108
Codes and Standards, & Other	$25	$110	$135

Multisector Initiatives			
Renewables/ Distributed Energy Resources (DER)	$152	$37	$189
Reserve	N/A	$52	$52
Total Market Development	**$813**	**$1,547**	**$2,360**

The Petition indicates that the Innovation & Research portfolio will consist of nine focus areas and indicates the funding, by focus area, allocated through 2019 as well as the proposed funding allocations for the remainder of the CEF period through 2025, as reflected in the table below.[15]

Innovation and Research Focus Area	**2016-2020 Actual Encumbered and/or Expended Funds ($M)**	**2020-2025 Proposed Encumbered and/or Expended Funds ($M)**	**Total Budget Allocation ($M)**
Technology to Market	$48	$93	$141
Buildings Innovation	$9	$64	$73
Clean Transportation Innovation	$14	$40	$54
Energy Focused Environmental Research	$14	$33	$47
Grid Modernization	$53	$81	$134
Renewables Optimization	$18	$45	$63

[15] This table reflects updates to the proposed Innovation & Research focus area budgets included in the petition which were provided by NYSERDA in reply comments.

Negative Emissions Technologies	N/A	$32	$32
Gas Innovation	N/A	$40	$40
Climate Resilience Innovation	N/A	$20	$20
Reserve	N/A	$16	$16
Total Innovation and Research	**$156**	**$466**	**$622**

As a supplement to the Petition, NYSERDA filed a Portfolio Summaries document which describes in more detail the goals, objectives, and past learnings of each of the proposed going-forward focus areas.[16]

NYSERDA notes that the CEF Framework Order established specific budgets for each of the four distinct CEF portfolios. The Petition, in laying out focus area budgets for Commission consideration for Market Development and Innovation & Research, requests the latitude to make cumulative changes between focus area budgets within a portfolio of up to 20% of the 10-year focus area funding levels. The 20% threshold would apply similarly to both removal and addition of funds to focus areas. Each of the proposed budget allocations for Market Development and Innovation & Research include a reserve that would be utilized to supplement any of the focus areas of the portfolio based on progress and market conditions. These reserves would not be subject to the 20% threshold, although reserve funds would not be shifted from one portfolio to a focus area of another portfolio.

[16] Case 14-M-0094, NYSERDA CEF Portfolio Summary (filed December 29, 2020).

With regard to NYGB, in addition to the investment commitment associated with Disadvantaged Communities, the Petition identifies the following specific investment commitments for the period 2020 through 2025: $200 million toward energy storage-related investments; $150 million for clean energy improvements in affordable housing properties; and $100 million in financing to help clean transportation businesses locate or expand in New York.

Goals Framework and Metrics

NYSERDA proposes adopting targets to be based on expended dollars and acquired benefits rather than on commitments in these areas. NYSERDA proposes adding 2030 performance targets of 79 trillion British thermal units (TBtu) of acquired cumulative annual gross site energy efficiency savings and emission reductions of 12 million metric tons of CO_2e per year. The Petition does not propose a 2030 performance target for renewable energy distributed solar capacity installed, noting any post-2025 target is yet to be determined and proposed.[17] NYSERDA proposes removing the production metric for renewable energy MWh in favor of adopting the 6 GW capacity goal for statewide distributed solar. NYSERDA proposes adding clean energy jobs and local air quality metrics to those already being tracked and reported. In addition to its primary performance targets, NYSERDA proposes to continue to track and report other metrics related to additional benefits such as

[17] Neither the Petition nor this Order address any funding associated with distributed solar installed capacity beyond the current 6 GW goal. Staff anticipates the release of a whitepaper later in 2021 to begin deliberations on any incremental ratepayer supported activities and associated goals. Notice will be provided under Case 03-E-0188 and Case 15-E-0751.

participant bill savings, leveraged funds, and carbon emissions reduction.

The Petition further proposes adding equity as a primary performance target around which the CEF will be managed, and indicates that CEF programming for 2020-2025 will target Disadvantaged Communities by focusing on equity issues identified in the CLCPA that can be most directly addressed by clean energy programs, including energy affordability, clean energy jobs for priority populations, reduced pollution from fossil fuel combustion for environmental justice, and enhanced community-level engagement and capacity building.

Financial Matters

NYSERDA requests that the Commission amend its previously approved collection schedule by modifying annual collections but preserving the total collections from what was authorized in the CEF Framework Order. NYSERDA filed a supplement to the Petition on June 23, 2021, indicating that, as of December 31, 2020, actual CEF expenditures were \$2.8 billion, which is \$873 million or 24% lower than the original projections. Cash balances were estimated at approximately \$1.2 billion, which is \$895 million or 260%, higher than originally projected.

According to NYSERDA, this variance was primarily due to three factors: (1) lower than original anticipated NYGB capitalization funding requests resulting from capital committed and deployed, and net of capital repayments; (2) lower than anticipated expenditures in previously authorized, legacy programs (System Benefit Charge/Renewable Portfolio Standard/Energy Efficiency Portfolio Standard) due to project attrition and timing of expenditures; and (3) lower than anticipated expenditures in the Market Development, Innovation &

Research, and NY-Sun portfolios, resulting from differences in project uptake and timing of program expenditures.

Due to the need to expedite market penetration of its programs and new authorizations, including Commission actions taken to repurpose uncommitted funds, NYSERDA is expecting to complete expenditures associated with the four CEF Portfolios, legacy programs, and repurposed funds in full by 2029, rather than the previously identified 2036 schedule approved by the Commission in the CEF Framework Order. As a result, NYSERDA proposes reducing collections to a fixed amount for 2022 through 2025, thereby reducing the existing cash balance, adjusting collections for 2026 through 2029, and eliminating collections from 2030 through 2036 to align collections with projected expenditures while ensuring NYSERDA maintains a minimum of a two-month working capital balance.

NYSERDA's June 23, 2021 supplement also updated their cash flow analysis (Appendix 5 and 7 of the original petition) to reflect actual expenditures through calendar year 2020 and revised budget projections as adopted by NYSERDA's Board of Directors in January 2021.[18]

NYSERDA requests that the Commission authorize the use of uncommitted funds for the remaining $343 million of NY-Sun funding, as detailed in the 2020 NY-Sun Order. NYSERDA estimates that the incentive budget associated with the initially approved $230 million in program funding is anticipated to be fully committed during the third quarter of 2021.

[18] NYSERDA originally filed the updated cash flow analysis in Case 14-M-0094 on June 3, 2021, and updated to correct an error on June 23, 2021.

The Petition indicates that if the Commission authorizes the use of uncommitted funds for both the Electric Generation Facility Cessation Mitigation Program and the remaining budget authorized for NY-Sun, a funding shortfall of approximately $125.7 million would occur. Subsequent to the Petition, as documented in NYSERDA's June 23, 2021 filing, the estimated funding shortfall has been reduced to $118.2 due to additional attrition from legacy programs. NYSERDA requests Commission approval to address this shortfall through use of any additional uncommitted System Benefits Charge/Renewable Portfolio Standard funds which may materialize in the future from project attrition, and by repurposing previously approved CEF collections associated with NYGB authorization.

Additional Portfolio Management Refinements

1. Performance Management & Improvement

NYSERDA views the triennial CEF review as an opportunity to undertake adjustments and updates to improve portfolio performance, engagement, and measurement/reporting. The Petition presents improvement actions that will be undertaken to continually optimize program design and delivery. The improvement actions include measures to improve transparency and management of performance for both portfolio impact and timeliness, adjustment of metrics to set appropriate goals, establishment of updated go-forward plans for collections/cash-flow management to preserve funding stability while better balancing cash reserves and program expenditures, steps to enhance collaboration and alignment with electric and gas utilities and housing agencies, and full participation in the Performance Management & Improvement Process described in the 2018 NE:NY and 2020 NE:NY Orders.

2. Investment Plan Approach and Format

NYSERDA proposes revising the format of CEF Investment Plans to include a description of objectives, the market to be served, information on related investments, as well as detail related to the initiative scope and expected impact, the initiative budget, and performance monitoring and evaluation plans.

3. Updated Quarterly Performance Reporting Requirements

NYSERDA requests changing the frequency of milestone reporting for the Market Development and Innovation & Research portfolios from quarterly to annually going forward.

4. Technical Resource Manual Management Committee and NYSERDA Role

NYSERDA proposes its role on the Technical Resource Manual Management Committee should evolve from consultative to that of a voting member.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking (Notice) was published in the State Register on January 27, 2021 [SAPA No. 14-M-0094SP11]. The time for submission of comments pursuant to the Notice expired on March 29, 2021. However, in a Notice Extending Comment Period, issued on March 25, 2021, an extension was granted whereby initial comments were solicited by April 5, 2021, with reply comment due April 19, 2021. In response to the notices, ten sets of initial comments and five sets of reply comments were filed. The comments received are summarized and addressed below.

SUMMARY OF COMMENTS

The Adirondack Council

The Adirondack Council supports the important role of the CEF to provide critical market development, long-term monitoring and research, and funding streams to accelerate New York's transition to a clean energy economy. The Adirondack Council notes specific support for the Community Energy Engagement program providing critical services to rural households; the $350 million investment goal for NYGB for Disadvantaged Communities; the clean heating and cooling strategies, including workforce development, supply chain, consumer awareness and cost-reduction strategies noting technical expertise in these and other clean energy technologies are in great need in rural areas; and the Advancing Agriculture Energy Technologies initiative, suggesting NYSERDA consider an equitable granting system to incentivize farms of all scales to adopt these technologies. The Adirondack Council further requests that NYSERDA consider prioritizing transportation electrification in rural areas, particularly due to the influx of new residents and visitors to these regions spurred by the COVID-19 pandemic. Lastly, the Adirondack Council supports the Energy Related Environmental Research focus area, citing several research recommendations, including a study to determine the best management practices that promote and prioritize environmental protection related to solar practices.

Clean Energy Parties

Natural Resources Defense Council, Alliance for Clean Energy New York, New Yorker's for Clean Power, and the Nature Conservancy (collectively, the Clean Energy Parties), strongly supports the continued financial support of the CEF and notes the CEF programs will play an essential part in achieving the

CLCPA’s climate and clean energy goals, noting its role in helping with the post-pandemic economic recovery and ability to leveraged funding for any future federal investment and private capital. The Clean Energy Parties support the adoption of a goal for CEF to achieve 40% of benefits related to investments for Disadvantaged Communities. The Clean Energy Parties urge the Commission to authorize the remaining $343 million in NY-Sun funding citing the program’s success and concern that budget uncertainty may disrupt the solar market.

The City of New York

The City of New York (NYC or the City) agrees some refinements and expansions are needed to align with the State’s evolving policy objectives. The City supports the focus on Disadvantaged Communities as well as the addressing the needs of LMI customers and those in multifamily housing. The City recommends efforts including capacity building for community-based organizations, Women and Minority-Owned Businesses, social enterprises, and worker-owned businesses within Disadvantaged Communities. Additionally, the City acknowledges the impact that the CEF can have on supporting the State’s economic recovery from the COVID-19 pandemic. The City notes improvements to the pace of expenditures is necessary to accomplish the CEF’s long-term objectives.

The City expressly states its support for a new focus area within the Innovation & Research portfolio, climate resilience innovation, and suggests NYSERDA support the development of community climate resilience centers as part of this effort. The City recommends the Commission increase specific funding within certain focus areas, including suggesting that the transportation sector warrants additional funds to correlate to the share of GHG the industry is responsible for, noting that NYGB's allocation to clean transportation of $100 million is sizable but insufficient given the size of the sector's contribution to emissions. The City suggests that increased allotments of CEF funding also be directed to the following areas: building codes and standards; building innovation and efficiency measures; and energy storage advances. The City notes CEF funding for building efficiency should be strategically targeted towards initiatives with the greatest benefit, particularly noting heat pump deployment should be geared towards specific fuel conversions, including buildings with electric resistance heating and the over 250 public schools and 1,000 multifamily buildings which currently use #4 heating fuel.

The City supports NYSERDA proposed performance metrics and states its support for NYSERDA's creation of a dashboard to monitor program performance. The City recommends tracking the spending on certified Women and Minority-Owned Businesses, and further suggests metrics be tracked at the portfolio and focus area level to better understand progress and effectiveness of each portfolio and focus area. The City also recommends NYSERDA be directed to track spending at the geographic level and posits New York City customers should benefit from program opportunities and spending in a roughly commensurate ratio as their contributions to program funding.

Lastly, with regard to financial matters, the City recommends NYSERDA should exhaust existing uncommitted funds before increasing costs to customers, particularly given the economic impacts resulting from the COVID-19 pandemic.

The Green & Healthy Homes Initiative

The Green & Healthy Homes Initiative comments support NYSERDA's market development portfolio, noting that the programs have been critical to increase access to energy efficiency and clean energy resources within low-income communities and residents within affordable housing. However, it requests a larger proportion of spending on energy efficiency for low-income consumers be allotted from CEF funds, such as an increase to at least 40 percent. The Green & Healthy Homes Initiative supports the expansion of low-income programs beyond energy efficiency and clean energy retrofits across more low-income initiatives, similar to its involvement with the Healthy Homes Pilot, by further expanding NYSERDA financial availability for additional health and safety measures, paired with energy efficiency. Further, the Green & Healthy Homes Initiative supports systematized alignment of NYSERDA's EmPower NY program statewide, noting it would like to see increased interagency coordination amongst NYSERDA and the utilities, including aligning eligibility criteria, application, and program components for simplified and more impactful benefits. The Green & Healthy Homes Initiative also notes its support for NYSERDA's proposed workforce development endeavors.

Multiple Intervenors

Multiple Intervenors (MI) generally supports the primary goal of the CEF to transition New York from a reliance on customer-funded subsidies to market-based approaches for achieving the State's energy and environmental goals. MI does not oppose NYSERDA's focus on delivering more meaningful benefits to Disadvantaged Communities but recommends that NYSERDA continue to support investments and initiatives geared toward large commercial and industrial customers, particularly given the costs of these programs borne by this class. MI recommends the methodology for collecting CEF-related costs on a purely volumetric basis be modified as it views the current methodology to be inequitable to high-load factor customers. MI supports NYSERDA's proposal to satisfy any future funding shortfalls by repurposing already collected customer funds and avoiding any incremental customer collections. Lastly, MI opposes NYSERDA's proposed adjustments to the CEF collection schedules by citing the large increases from scheduled collections that would occur from 2024 through 2029. MI requests that if the Commission adopts NYSERDA's proposed collection schedule than it should expressly rule that the acceleration of CEF collections is not intended to result in new incremental CEF collections after 2029 and that the CEF will otherwise terminate at the end of that year.

Audubon New York, et al.

Audubon New York, National Wildlife Federation, National Audubon Society, Natural Resources Defense Council, The Nature Conservancy, and Wildlife Conservation Society, who all serve on New York's Offshore Wind Environmental Technical Working Group (E-TWG), collectively filed comments supporting New York's ambitious off-shore wind goal and stating the CEF has played a leadership role in facilitating funding and research needed to avoid, minimize, or mitigate the potential impacts off-shore wind energy development. This group supports continued and expanded efforts in these areas and also suggests targeting offshore wind job training programs that can further social equity and support inclusive hiring programs.

New York Offshore Wind Alliance

New York Offshore Wind Alliance (NYOWA) comments the CEF has and should continue to provide an essential role in achieving the CLCPA objectives. Specifically, NYOWA notes the CEF was instrumental in the development of offshore wind in New York, citing the value of the award-winning NYS Offshore Wind

Master Plan and the pre-development activities that have been conducted. NYOWA emphasizes the importance of communicating the results of this work with the scientific community, stakeholders, and the public. NYOWA supports the continued use of CEF funds for grid modernization as well as funding for National Offshore Research and Development Consortium related work.

The National Association of Energy Service Companies

The National Association of Energy Service Companies (NAESCO) urges the Commission and NYSERDA to coordinate and leverage CEF and utility programs, available incentives with other State and federal grant programs, as well as private capital to retrofit buildings through comprehensive projects, specifically those utilized for education, housing, municipal buildings, and hospitals. NAESCO suggests that NYSERDA could serve as lead coordinator between various programs, as well as provide technical assistance to the various stakeholders.

NY Renews

NY Renews, a coalition of over 250 environmental, justice, faith, labor, and community groups across New York, strongly supports the goal for the CEF (in aggregate) to achieve 40% of benefits of spending for disadvantaged communities but notes the commitment for NYGB to invest 35% of funding to disadvantaged communities is 5% below the CEF’s self-ascribed goal. NY Renews requests NYSERDA be directed to develop a 2021 – 2025 implementation plan for achieving the CEF’s ambitious goals, including the requirement of program co-creation with stakeholders and participatory budgeting, as well as identification of barriers with plans and processes for addressing. NY Renews supports the metric of tracking spending for Disadvantaged Communities but states this single metric is insufficient and calls for NYSERDA to reflect the criteria NYSERDA will use in the near term for investments in Disadvantaged Communities in its metrics. NY Renews further states concerns regarding the approximate $40 million proposed allocation under the Innovation & Research focus area of Renewables Utilization for "liquid and gaseous combustion fuels" citing a lack of transparency and apparent inconsistency with the CLCPA.

NY Renews submitted reply comments in opposition of MI's initial comments stating that based on the Petition, NYSERDA does not appear to be inattentive to the Commercial & Industrial sector. Therefore, according to NY Renews, the issue MI raises is immaterial.

Joint Utilities (JU)

The JU supports the realignment of the CEF and NYSERDA's proposal to make programmatic adjustments to better align with the State's goals under CLCPA. The JU calls for continued coordination with utilities and other channel partners to better align utility and NYSERDA offerings with customer needs. The JU also supports the goal of 40% of benefits of spending for Disadvantaged Communities as necessary, while ensuring that work in this area is complementary and in collaboration with the utility-administered programs. The JU concurs with the proposed goals and metrics framework and notes that this will help to ensure CEF dollars are allocated to essential programs and completed in a timely manner.

With regard to financial matters, the JU recommends that the Commission: (1) approve NYSERDA's over-all total budget of $7.357 billion for CEF activities;[19] (2) adopt NYSERDA's proposal for use of future uncommitted funds or a portion of the NYGB capitalization to fund any anticipated funding shortfall; (3) authorize the remaining $343 million of NY-Sun funds; (4) adopt NYSERDA's proposed annual collections for 2021 through 2024;(5) revisit NYSERDA CEF budget and collections in early 2024 to determine if additional modifications are needed based on progress towards CLCPA goals; and (5) authorize NYSERDA's focus area budgets for Market Development and Innovation & Research portfolios with flexibility of movement between focus area of up to 20% on a cumulative basis without requiring additional authorization.

The JU agrees with NYSERDA's proposed approaches for improved performance management and recommend some additional simplifications regarding the format of investment plans, as well as reporting related to cash flow and uncommitted funds. The JU also recognizes the need for transparency of CEF monies used, as well as the outcomes, and notes that it is imperative that reporting on such outputs is accessible, consistent, and transparent.

The JU, however, oppose NYSERDA's request for its role on the Technical Resource Manual Management Committee to evolve to that of a voting member because, in their view, the Technical Resource Manual's standardized program savings methodology is applicable only to the administration of the JUs' energy efficiency programs.

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[19] This figure includes the $5.372 billion for the four CEF portfolios; $1.066 billion of remaining legacy program funding commitments; $576 million of uncommitted funds previously repurposed by the Commission; and the remaining $343 million authorized by the Commission for NY-Sun.

In reply comments, the JU furthered their comments by recommending that the Commission encourage NYSERDA to undertake additional remediation activities to improve existing conditions of buildings and ready buildings for adoption of energy efficiency and electrification upgrades. The JU proposes NYSERDA consider researching and developing new technologies to test envelope solutions and reduce upfront costs of implementing solutions for various building typologies, especially multifamily dwellings. Further, the JU recommends NYSERDA continue to review opportunities to expand financing options of energy efficiency measures available to LMI customers.

The JU's reply comments also support the City's recommendations of increasing NYSERDA's allocated budget to EV initiatives and the City's recommendation to provide storage developers with additional technical assistance related to permitting and related administrative tasks. The JU urges the Commission to direct NYSERDA to focus on marketing efforts to increase awareness of the benefits of EVs to all customers and proposed NYSERDA consider increased rebates for EVs to boost market adoption.

The Nature Conservancy

The Nature Conservancy supports NYSERDA's continued investment in environmental research, support for offshore wind, and encourages expanding research to include further research on renewable energy siting, design, and construction approaches that minimize the environmental impact of renewable energy development, as well as research and pilots that create creative solutions to overcome barriers to implement both onshore and offshore energy transmission, which it believes will be necessary for the State to meet its climate and energy goals. The Nature Conservancy submitted comments recommending NY-Sun be maintained and that incentives be expanded to offset the cost of installing solar on low-impact sites, such as parking lots, rooftops, and previously developed areas.

National Biodiesel Board

In reply comments, the National Biodiesel Board rebutted the comments of NY-Renews related to the applicability of waste-to-energy and biofuel limitations prohibited under the Climate Act.

NYSERDA

In reply comments, NYSERDA also responded to the comments of NY-Renews by explaining that the CEF plans to assess the opportunity for clean liquid and gaseous combustion fuels, and how such fuels play a role in meeting the Climate Act policies and goals. However, NYSERDA notes that it is still developing those activities and that the development will be informed by, and consistent with, the CLCPA goals.

NYSERDA's reply comments further clarified its proposals for modification to the collection schedule, updated its proposed focus area budgets, and replied to several commenters' initial comments. In response to MI, NYSERDA clarifies that its Petition is not seeking to expand additional collections beyond 2025, and the modifications to collection schedule would be a shift to the timing of the original collections schedule adopted by the Commission in the CEF Framework Order and is not intended to expand or extend the CEF beyond its current budget or expiration date. NYSERDA notes that it does not believe the Commission needs to expressly opine on authorizing NYSERDA budgets beyond 2025 at this time.

In addition, NYSERDA responded to the JU and NYC clarifying that the proposed modifications to the collection schedule do not address the projected funding shortfall, instead the modification is intended to better align collections with the revised projections for the pace and timing of expenditures. NYSERDA restates its proposed resolution to address the total funding shortfall is not to increase collections but to utilize additional uncommitted funds that may become available in the future, and if insufficient, to repurpose a portion of NYGB's capitalization funds.

Further, NYSERDA clarifies its proposed focus area budgets. The Petition identified various accounting reclassifications and minor corrections to the proposed focus area budgets. NYSERDA's reply comments identified the revised focus area budgets. Additionally, NYSERDA responds to comments submitted by the Nature Conservatory clarifying its ability to increase funding for the Environmental Research focus area without significant adjustments to other focus areas or impacting outcomes of the CEF requirements.

LEGAL AUTHORITY

The Commission has the responsibility and authority under the Public Service Law (PSL) to ensure that utilities carry out their public service responsibilities with economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources.[20] Pursuant to the State Energy Law, the Commission is required to consider actions to effectuate State energy policy and the New York State Energy Plan,[21] which includes increased energy efficiency as a major contributor to New York's energy future. In fulfilling the mandates of the PSL and the State Energy Law,

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[20] PSL §5(2); see also PSL §66(3).

[21] State Energy Law §§3-103 and 6-104.

the Commission has directed the development and implementation of a number of programs to increase the deployment of energy efficiency resources in New York State, including the CEF. The activities directed and authorized in this Order will continue and build upon the progress made through those programs. Furthermore, these actions are in accordance with the CLCPA, which specifically authorizes the Commission, as well as other state agencies, to take actions to contribute to achieving the statewide greenhouse gas emission limits.

DISCUSSION

CLCPA Implementation

NYSERDA's Petition discusses the evolving state policy construct and highlights the passage of the CLCPA. As the Commission conducts this review of the CEF, it is cognizant of how the CEF's four distinct portfolios provide foundational strategies that serve as the underpinnings of New York's ambitious climate goals and relate to matters addressed within the CLCPA. Specifically, the CLCPA directs the Commission to establish programs for 6,000 Megawatts (MW) of distributed solar by 2030. The CEF's NY-Sun portfolio provides a significant funding vehicle driving progress towards this goal. The NYGB has also advanced innovative financing models that have accelerated community solar, the fastest growing element of the solar industry in the State.

In addition, the CLCPA calls for 3,000 MW of energy storage by 2030. The CEF's Market Development Portfolio supported the development of New York's Energy Storage Roadmap,[22] which described the policy and programmatic actions needed to be

[22] Case 18-E-0130, Energy Storage Deployment Program, New York State Energy Storage Roadmap (filed June 21, 2018).

taken by the Commission to achieve an interim objective of 1,500 MW and 3,000 MW of installed energy storage in New York State by 2025 and 2030, respectively. NYSERDA's activities have included work to reduce barriers to energy storage siting, such as technical assistance and support with permitting and siting energy storage systems, understanding tariffs and wholesale market requirements, and supporting feasibility studies at potential customer sites. These efforts work in parallel with utility incentives to deploy storage. Additionally, NYGB is targeting $200 million towards investments in storage.

The CLCPA also directs a program for at least 9,000 MW of Offshore wind by 2025. The CEF's Market Development portfolio developed the OSW Master Plan charting a bold course of action for New York including positioning the State as a hub for wind industry activity.[23] The CEF supports critical environmental field studies that can reduce the barriers to OSW and support responsible siting.

Beyond these specific technology objectives, the CLCPA calls for the Commission to have a program to achieve a minimum of 70% renewables by 2030 and 100% clean power by 2040. The CEF is supporting a variety of power grid studies that demonstrate that significant increased amounts of intermittent resources can be reliably integrated into the power grid, as well as examining innovative solutions that provide for flexibility to accommodate these resources.

With respect to energy efficiency, the CLCPA calls for a 185 TBtu reduction from the 2025 forecast. The CEF is anticipated to deliver almost 30% of those efficiency savings,

[23] https://www.nyserda.ny.gov/-/media/files/publications/research/biomass-solar-wind/master-plan/offshore-wind-master-plan.pdf

while the CEF combined with utility programs will deliver over 2/3rds of those savings and represents the primary vehicle by which New York is working to decarbonize the building stock. While this level of energy efficiency was codified in the CLCPA, it represents only a near term marker to accelerate progress from historic levels of programmatic activity and does not reflect the level of ambition necessary to achieve the CLCPA's overall goals. For example, NYSERDA currently retrofits approximately 20,000 buildings per year, while the Climate Action Council's Energy Efficiency & Housing Advisory Panel[24] estimates New York will need to achieve a pace of 200,000 buildings per year by 2030 and maintain that pace through the end of the decade to achieve the level of decarbonization envisioned by the CLCPA.[25] This illustrates that ratepayer-supported programs have been and will continue to be instrumental in advancing on-site energy-efficiency and electrification, but that those programs will likely be need to be supplemented with additional State actions to fully realize these goals.

Lastly, the CLCPA calls for no less than 35%, with a goal of 40%, of the overall benefits of spending on clean energy and energy efficiency programs to be in Disadvantaged Communities. As articulated in the Petition, NYSERDA has proposed the adoption of this goal for the CEF along with accompanying modifications to the portfolios to meet this goal.

The Commission recognizes that implementing the CLCPA mandates will be informed by the Scoping Plan that is being developed by the Climate Action Council. The Scoping Plan is

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[24] https://climate.ny.gov/Advisory-Panel

[25] Energy Efficiency and Housing Advisory Panel Recommendations presented to Climate Action Council, May 3, 2021.

anticipated to be finalized by January 1, 2023, and will include the full breadth of recommended actions to achieve the CLCPA goals. At that time, the Commission will be better informed to determine what role and scale ratepayer-supported programs, including the CEF, will play going forward. The actions taken in this order are an interim measure to advance the CLCPA's directives and provide direction for further improvements to the CEF's operations, pending the outcomes of Climate Action Council's Scoping Plan. Accordingly, the Commission will require the next CEF review to commence in 2023, and to include a full assessment of performance to date, along with a proposal for modifications necessary for how CEF will support and further align with the CLCPA, including relevant post-2025 targets and budgets. However, the Petition before us offers a number of proposed modifications to further align the CEF with the State's goals as articulated in the CLCPA and improve performance which are discussed topically below.

CEF Performance Review

Since the CEF Framework Order, NYSERDA has undergone a transition from its prior legacy energy efficiency and research & development programs to those developed and initiated under the Market Development and Innovation & Research portfolios, which are beginning to take hold in the market. NYSERDA has also experienced exponential growth in the solar industry, while NYGB has reached self-sufficiency ahead of schedule. As envisioned in the CEF Framework Order, this period witnessed the four portfolios begin to work in tandem towards the overall goals established by the Commission.

The CEF Framework Order adopted the primary goals of MWh, TBtu, and Carbon reductions, distributed solar lifetime MWh production, as well as participant bill savings and leveraged funds over the ten-year period through 2025. The performance of the CEF during this initial period should be assessed against those goals established by the Commission. Given that the CEF Framework Order established ten-year commitment-based goals for the CEF portfolio, the most appropriate gauge of progress is performance to date compared to a prorated view of the goals. In other words, calendar-year ended 2020 represents 50% of the initial CEF performance period (2016-2025) generally speaking, so the metrics should be trending near the 50% level to reflect being on-track towards achievement of the 10-year goals.

Based on NYSERDA’s reported figures, from a financial perspective, the CEF has expended or encumbered \$3.7 billion on specific projects, which is approximately 60% of the authorized budget.[26] An additional \$1.1 billion dollars of forecasted encumbrances have been included in various Investment Plans for the Market Development and Innovation & Research portfolios for which specific projects or activities have not yet been identified or contracted. Therefore, 87% of the funds are programmed at this half-way point through the CEF performance period. Funds programmed through the Investment Plans detail the initiatives and activities that are then deployed through various means, such as competitive solicitations or open-enrollment programs. The Commission finds that 87% of the funding being programmed and available to the marketplace at

[26] In this context, expended represents actual expenditures while encumbrances represent financial commitments to specific projects or activities for which the funds are dedicated but for which expenditures have not yet occurred. Encumbrances are an informative data point to represent the pipeline of various programs. For example, a new construction project may have encumbered funds, however expenditures will happen over a multi-year period as the project passes various stages of completion.

this stage of the CEF is favorable. However, as discussed herein, a greater emphasis must be placed on putting this money to work in the marketplace.

NYSERDA's electric energy efficiency savings, as measured by MWh reductions, on an acquired and committed basis reflects 27% of the CEF Framework Order goal.[27] Factoring in the projected benefits from future activities included in active Investments Plans, if these savings come to fruition, the programmed funds would result in nearly 80% of the 10-year goal. Non-electric energy efficiency savings as measured by TBtu reductions, on an acquired and committed basis, reflect almost 130% of the Framework Order goal, while factoring in Investment Plans reflects that over 300% of the 10-year goal would be attained if projected savings materialized as projected. While the investment plan forecasts represent an interesting data point, the corresponding energy savings metrics, while informed by historic performance, are somewhat speculative. The Commission acknowledges that additional energy savings will result from these programmed funds, but at this time our review of performance to date is focused on the acquired and committed progress.

As described above, NYSERDA's electric energy savings progress to date is lagging. However, the non-electric energy savings have far exceeded expectations. This is, in part, a function of market response. Additionally, the CEF's programs,

[27] In this context, acquired savings represent savings for which projects are completed and operational. Committed savings represents savings for projects that are underway but not yet completed. In general, expenditures and acquired savings are reported when projects are completed. Encumbrances and committed savings are reported when projects are contracted or otherwise accepted in the program(s).

in many instances, provide comprehensive energy solutions for customers rather than siloed approaches of the past that targeted only electric-saving, or only gas-saving, measures. As a result, the projection of total fuel savings requires assumptions of consumer behavior and corresponding economics. However, the combined effect is likely a better measure against our ultimate policy objectives. From this perspective (combining electric and non-electric acquired and committed savings), NYSERDA stands at 55% of the combined goal of 50 TBtu. The Commission finds, at this stage of the CEF, this performance to be reasonable. Notwithstanding, electric energy savings remain important to the overall system and policy goals. This becomes ever more critical as we move toward electrification of transportation and building Heating, Ventilation, and Air Conditioning in New York State, as we will need an electric system that is as efficient and economic as possible. As such, NYSERDA should continue to refine program offerings to ensure electric savings are a critical component of the work.

NYSERDA's performance on renewable energy benefits, as measured in lifetime MWh production, totals 127% of the initial 10-year goal, on an acquired and committed basis. The Commission notes this performance includes program activity resulting from the 2020 NY-Sun Order, which effectively doubled the NY-Sun goal from 3 GW to 6 GW of installed capacity.[28] However, the 2020 NY-Sun Order did not officially update the CEF's renewable energy goal, deferring such action to this CEF

[28] The "6 GW by 2025" distributed solar goal codified in the CLCPA represents all solar capacity installed statewide. While the CEF funding will directly support the large majority of expected capacity to meet this goal, the 6 GW goal is also achieved through additional capacity installed without direct NYSERDA CEF funding support.

review. When accounting for the increased 6 GW goal, performance to date reflects approximately 63% of the 10-year goal.

NYSERDA's performance on GHG emission reductions, as measured in lifetime CO_2e metric tons, totals 68% of the 10-year goal on an acquired and committed basis. The Commission notes, as reflected in NYSERDA's reporting, the emission factors utilized to report GHG emission reductions for electricity savings have been updated since the CEF Framework Order for consistent reporting across all Program Administrators.[29] Applying the new factor to the original energy savings goals increases the lifetime GHG emission reduction goal from 133 million to 174 million metric tons of CO2e reductions. NYSERDA's performance to date, when compared to the revised GHG emission reduction goal, reflects 52% progress towards the ten-year goal.

NYSERDA's performance on lifetime customer bill savings, as measured in dollar savings over the lifetime of the measures installed, on an acquired and committed basis, reflects 59% progress towards the ten-year goal.[30]

The Commission finds the renewable energy, GHG emission reduction and customer bill savings, on an acquired and committed basis, to be trending positively towards the ten-year goals established in the CEF Framework Order.

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[29] Matter No. 16-00561, Clean Energy Advisory Council, MTPA Phase 1 Report (issued July 19, 2017).

[30] Customer bill savings in this context represents the bill savings experienced by participants of the programs over the life of the measures installed due to the decreased energy usage. These bill savings do not reflect the participating customers' costs of purchasing energy efficient equipment and services.

NYSERDA’s performance on lifetime leveraged funds, measured in dollars over the lifetime of the programs, reflects 38% progress towards the ten-year goal, on an acquired and committed basis. NYSERDA details in the Petition that one of the factors leading to the lower than anticipated leveraged funds relates to the rapidly declining cost of solar from what was assumed at the time of the CEF Framework Order. These cost declines, if taken in isolation, negatively impact the CEF’s leveraged funds metric, but are a testament to the overall success of the collective initiatives supported by ratepayers for distributed solar to realize such rapid cost declines. Therefore, the Commission finds NYSERDA’s performance under this metric to be reasonable.

Lastly, the CEF Framework Order required NYSERDA to invest at least $234.5 million, including administration and evaluation, of Market Development funds in LMI initiatives over the three-year period (2016-2018). As of December 2018, NYSERDA had included $378 million in Investment Plans for LMI initiatives for the full period through 2025, with $208 million anticipated to be expended or committed through 2018. For the same period, NYSERDA had encumbered or expended dollars to specific projects totaling $165 million, representing approximately 80% of projections for that period. The Commission finds these program funds to be in compliance with the requirements of the CEF Framework Order, but we reiterate the importance of spending these funds with purpose and to achieve the greatest impact, particularly in addressing energy affordability challenges faced by the LMI sector.

As discussed above, the CEF’s performance to date is trending positively towards the ten-year goals established in the CEF Framework Order. Notwithstanding this assessment, expenditures of funds, and associated project completions, have lagged from initial projections developed at the time of the CEF Framework Order. This has resulted in a larger than anticipated cash balance on hand at NYSERDA. The Petition notes various contributing factors which ultimately caused this situation, including: 1) lower than anticipated flow of expenditures for the Market Development, Innovation & Research, and NY-Sun programs due to a slower than anticipated market uptake of programs; 2) lower than originally anticipated NYGB capitalization funding resulting from initially slower uptake of NYGB capital; and 3) lower than anticipated expenditures for previously authorized programs including System Benefit Charges, Energy Efficiency Portfolio Standard, and Renewable Portfolio Standard, due to project attrition and the timing of certain project expenses. It is notable that while the cash balance is significant, it is anticipated that by 2024, based on revised expenditure projections, the cash balance will reach the appropriate two-month working capital level.

The Commission acknowledges this review includes program year 2020, that saw unprecedented challenges in New York State, and society as a whole due to the COVID-19 pandemic. Customer-facing programs ceased operation for at least one quarter during 2020 while other program areas faced substantial delays advancing program activities. While the long-term impacts of the pandemic are yet unknown, New York is starting to see the economic rebound as the State re-opens after a period of necessary restrictions for public health. The Commission agrees with commenters who advocate for these programs to be a part of the rebound, particularly for those most impacted by the pandemic. To meet the State’s energy and climate goals, it remains imperative that NYSERDA continue to advance market development initiatives, transition programs as necessary to be more efficient and impactful, and to continue to deliver benefits to electric and gas ratepayers. Therefore, the Commission finds while cash balances are larger than anticipated in the CEF Framework Order at this time, as discussed more fully in the Financial Matters section below, all collections and associated program activities should continue with increased emphasis on delivering benefits at this time.

CEF Programmatic Directions and Strategic Refinement

As discussed above, during its initial term, the CEF has performed well against the metrics originally established by the Commission. However, as noted in the Petition, State policy has evolved since the CEF's inception and this review marks an appropriate time to solicit stakeholder input and Commission affirmation or redirection of the CEF. Given the process established by the CLCPA, the work of the Climate Action Council is underway with a Draft Scoping Plan anticipated for later this year, which will then undergo a public input process. While the results of that process may warrant further deliberation by the Commission regarding the CEF, the Commission will not pre-judge the outcomes of the Climate Action Council. Rather, the Commission intends to conduct the next CEF review in 2023, which will allow proper notice and deliberation of any proposed modifications to the CEF based upon the Scoping Plan developed by the Climate Action Council. Until such time, the Commission has a responsibility to exercise proper oversight of and guidance to NYSERDA in its administration of the CEF that are in alignment with the CLCPA, to the benefit of ratepayers, and based on the Commission's judgement of balancing the CEF's resources in the most efficient way towards advancing the multitude of clean energy objectives. For these reasons, we address each of NYSERDA's proposed recommendations below.

1. Disadvantaged Communities

Specifically, the Commission adopts NYSERDA's proposal for the CEF, in total, to achieve 40% of the benefits of post-2019 spending going to Disadvantaged Communities. In establishing the Disadvantaged Communities goal, the CLCPA recognized the disproportionate impacts of our energy system on Disadvantaged Communities, as well as historically low participation rates from customers in these communities in many existing programs. NYSERDA identifies numerous admirable pathways to begin advancing substantive benefits to Disadvantaged Communities through the CEF portfolio including: targeting energy efficiency and building electrification support, technical assistance and financing to LMI households, P-12 schools, affordable housing; workforce development including training programs for priority populations; supporting advanced Heating, Ventilation, and Air Conditioning solutions for common LMI building types; accelerating localized air pollution remediation techniques; Solar for All, whereby NYSERDA provides subsidized subscriptions to community solar projects to LMI homeowners and renters unable to directly access solar; incentives to advance Photovoltaic (PV) and storage projects within targeted communities; incentive adders for community PV installations; as well as deployment of PV and energy storage projects which replace or repower electric generating peaker units within disadvantaged communities.

This suite of offerings is projected by NYSERDA to allow the CEF to achieve 40% of benefits of spending for Disadvantaged Communities while being able to deliver the overall energy metrics established by the Commission in the

Framework Order, discussed further in the Goals Framework & Metrics Section.

Most commenters support this additional goal for the CEF as well as the requisite adjustments to the portfolio to achieve it. MI's concerns relate to the detrimental impact this new focus will have on programs targeting large commercial and industrial customers, particularly given the relative amount of the CEF budget collected from such customers. MI's concern does not negate the Commission's responsibility to ensure the CEF is in compliance with the CLCPA. Further, while MI argues for cost-causation principles in not only programming but in the methodology used to collect funds from ratepayers, the Commission notes the CEF is envisioned to provide overall societal benefits and does not have the requirement of dollar-for-dollar parity in developing its portfolio based on the customers from whom the funds were collected. MI's desires to not be left out of the clean energy progress being made in New York is noted, by their own comments indicate that large Commercial & Industrial customers are often motivated to undertake cost-effective energy improvements, without NYSERDA incentives, due to the economic benefit that results. The CEF will continue to offer initiatives for these large Commercial & Industrial customers such as Energy Management Practices, On-site Energy Manager, and the Commercial & Industrial Carbon Challenge.[31]

NY Renews suggests the proposed 35% of post-2019 NYGB investments benefiting Disadvantaged Communities be increased to

[31] See, https://www.nyserda.ny.gov/All-Programs#category=manufacturing-industrial; see also, https://www.nyserda.ny.gov/All-Programs/Programs/Industrial-Programs.

40%. The Commission declines to adopt this modification as the CEF, in totality, is expected to deliver 40% of benefits of the spending for Disadvantaged Communities and not any one of the discrete portfolios, as clarified in NYSERDA's reply comments. Further, the Commission notes that the CLCPA requires the benefits of spending to be the metric, and therefore it should be applied at the combined CEF portfolio level, inclusive of NYGB's contributions. The Commission views NYGB's commitment of 35% of post-2019 investments as an additional financial metric and an appropriate mechanism in which to steer NYGB investments. NYGB is directed to include transparent tracking of investments in Disadvantaged Communities as part of their reporting.

The Commission notes the formal criteria for defining Disadvantaged Communities as well as associated benefits is expected to be established by the Climate Justice Working Group by the end of 2021. For purposes of this Order, the Commission adopts the interim criteria, as articulated by NYSERDA as communities located within census block groups that meet the US Housing and Urban Development (HUD) 50% Adjusted Median Income threshold, that are also located within the DEC Potential Environmental Justice Areas; or are located within New York State Opportunity Zones.[32] The Commission expects benefits to Disadvantaged Communities to be derived across the portfolio of actions and not solely from LMI-specific programs. Although Disadvantaged Communities is purposefully broader than LMI, it is the Commission's view that the benefits associated with the

[32] The HUD 50% Adjusted Median Income threshold includes the top quartile of census block groups in New York, ranked by the percentage of LMI Households in each census block. LMI Households are defined as households with annual incomes at or below 50% of the Area Median Income of the County or Metro area where the Census Block Group resides.

CEF's full LMI spending will contribute towards the goal of 35% of benefits for Disadvantaged Communities metric, as adopted herein. This is particularly important for rural low-income New Yorkers and for low-income New Yorkers who have been subject to gentrification of their neighborhoods and for whom these programs are critical in helping improve energy affordability and their ability to access the benefits of clean energy. The benefits tracked are expected to include but not be limited to: (1) the level of direct investment; (2) energy savings; (3) energy bill savings; (4) measures of economic development, such as workforce training and jobs supported; and (5) air quality improvements directly resulting from clean energy investments in Disadvantaged Communities. The Commission expects that NYSERDA will track and report benefit metrics related to Disadvantaged Communities pursuant to CLCPA requirements.

NYSERDA is directed to make a filing within 60 days of the finalization of the Climate Justice Working Group criteria, after consultation with Staff, describing how the Disadvantaged Communities criteria will be integrated into CEF operations and the methods that will be utilized in tracking the corresponding benefits delivered to these communities. NYSERDA is also directed to provide an opportunity for meaningful input from stakeholders, including representatives of Disadvantaged Communities, to inform this filing. Staff is instructed to update the Reporting Guidance associated with NYSERDA and Utility reporting to appropriately address reporting against these metrics, as applicable, within 60 days of NYSERDA's filing.[33]

2. Market Development and Innovation & Research Focus Areas

The focus areas and corresponding budgets presented within the Petition, as revised, and restated in NYSERDA's reply comments, seek to address the primary policy objectives necessary to advance the State's energy and climate goals, while taking account for investments made during the initial CEF performance period.

In the CEF Framework Order the Commission adopted the overall strategy for the Market Development and Innovation & Research Portfolios, however the Commission did not specify individual market focus areas or related budgets. In part, this was a result of the limited market information available at the time regarding the nascent markets NYSERDA proposed to engage in and how NYSERDA's would evolve their historic activities in a fully complementary way to utility offerings being advanced concurrently. Rather, the Commission directed NYSERDA to apply strong analytics to identify and locate the opportunities where the CEF could most successfully drive market transformation which would support cost reductions in clean energy deployment, independent market adoption to scale such measures, as well as deliver programs that provide consumer benefit and achieve State policies, including delivering energy efficiency to LMI customers. The Commission directed NYSERDA to continuously find and terminate efforts that are duplicative to those of the

[33] Staff is further instructed to work with the utility program administrators to baseline current program operations against Disadvantaged Communities criteria and benefits, and to develop a process for addressing any associated program modifications, including additional Commission action, as necessary.

utilities, those already existent in the marketplace, or those that fail to create benefits in line with their costs. In doing so, the Commission adopted a Test-Measure-Adjust approach within the CEF Framework Order for NYSERDA to follow.[34]

Given NYSERDA has had over four years' experience in actively researching, analyzing, developing, implementing, and managing the Market Development and Innovation & Research portfolios, it is reasonable at this time for the Commission to assess the merit of each of the focus areas proposed against current policy objectives and market conditions and adopt a focus area budget authorization approach as a reflection of priority.

Commenters expressed support for the focus area budgeting approach with some stating preferences for specific focus areas or recommending examples of discrete uses of funds within a focus area. Focus areas, or elements within, that were highlighted by commenters include: Communities, Agriculture, Transportation, Energy Related Environmental Research, Off-Shore Wind, Energy Storage, Clean Heating & Cooling, Resiliency, Building Energy Efficiency, Commercial & Industrial, and LMI.

The City and JU recommended increased funding for transportation, while The Green & Healthy Homes Initiative requested increased funding for LMI Energy Efficiency. However, while requesting increased funding for specific focus areas, the commenters failed to identify which focus area budgets should be reduced. As a result, the Commission is faced with increasing the overall budget authorizations at this time or re-allocating resources without the ability to fully weigh a proposal or the

[34] CEF Framework Order, p. 25.

consequences of such reallocations. Neither of which the Commission will pursue at this time.

The Commission understands the urgency expressed by some parties to invest in electrification of the transportation sector given the level of GHG emissions attributable to this sector as articulated in the parties' comments. Specifically, the City, JU, and Adirondack Council, although interests vary from urban to rural issues, all recommend increasing funding for the transportation sector to enhance support for electric vehicles through greater spending on the deployment of charging stations, increasing point of sale rebates, and increasing marketing efforts. At the present time, we believe the overall CEF portfolio provides targeted support for the transportation sector that should be viewed as complementary and supplementary to other transportation-related funding authorized by the Commission and Federal Government that is in line with the objectives of these portfolios. Additional financial support for this should be considered comprehensively in the generic EV proceeding: Case 18-E-0138, Proceeding on Motion of the Commission Regarding Electric Vehicle Supply Equipment and Infrastructure (EV Proceeding).

The Commission takes note of NY Renews' questions regarding the appropriateness of the CEF investing in "liquid and gaseous combustion fuels" as part of the $40 million Innovation & Research portfolio's Distributed Energy Resource Utilization focus area, as well as the National Biodiesel Board's reply comments that note the CLCPA does not expressly prohibit the general use of biofuels for space heating or transportation.[35] The Commission is also cognizant that the Climate Action Council is considering what role, if any, cleaner versions of liquid and gaseous combustion fuels, and the associated criteria for feedstock, can play in meeting the State's objectives. Accordingly, the Climate Action Council's Scoping Plan, which is expected to be finalized by January 1, 2023, will provide NYSERDA with guidance on investments in this category of fuels. In the interim, the Commission agrees with NY Renew that more details are necessary prior to NYSERDA proceeding with this work. These details will appropriately be identified in the Investment Plan process and include the activities to be undertaken, outcomes anticipated, budget, and associated metrics, as well as explicit justification for how these activities will align with the CLCPA and future guidance established through the Climate Action Council process.

While the Commission encourages and expects the CEF to gravitate towards the areas of greatest promise, it is reasonable for stakeholders to have an expectation of the approximate level of investment, both in a particular focus area and in relation to others. The Commission adopts the focus area budget approach, as reflected in Appendix B, and finds that it is a reasonable approach for allocating the Market Development and Innovation & Research resources in a way that reflects NYSERDA's complementary role and focus in delivering on the State's overarching climate goals, inclusive of its potential beneficial impact on LMI customers and disadvantaged communities.

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[35] The CLCPA does exclude the use of biofuels as an eligible renewable technology and prohibits the DEC from allowing biofuels, as may be used in the energy or transportation sectors, from serving as an alternative compliance mechanism to achieve net zero GHG emissions goals.

The Commission recognizes that the energy industry is rapidly transforming, and it can be expected that focus area funding adjustments may be warranted to respond to evolving market conditions and needs and to best meet the overall CEF performance targets and expectations. The allocation of the focus area funding should be flexible in order to accommodate forthcoming direction from the Climate Action Council. As such, NYSERDA will be provided with limited ongoing budgetary flexibility to optimize portfolio design based on learnings to date as well as to calibrate for adherence to newly emerging policy priorities and directives.

NYSERDA’s request for budgetary flexibility, however, must be balanced with accountability and transparency as well as consideration for providing a level of market certainty. While no comments were received that oppose NYSERDA’s request for limited budgetary flexibility within the respective Market Development and Innovation & Research portfolios, the Commission concurs with the JU that such flexibility needs more clarity than was provided in the Petition to improve the transparency of the process. The following conditions shall therefore be placed upon this flexibility, including: (1) funding shall not be reallocated between the Market Development and Innovation & Research portfolios; (2) any funding committed to a focus area within the 2016-2019 period that should become uncommitted for any reason, including project attrition, shall remain within that focus area and be available for activities within the 2020-2025 period; (3) cumulative reallocations from any one focus area to another may not exceed a 20% threshold of the total 10-year budget reflected in Appendix B, with the exception of the LMI focus area which may be added to, but not reduced; (4) the 20% threshold will apply similarly to both removal and addition of funds to focus areas; (5) funding from the reserve shall not be subject to the 20% threshold as it is intended to be available to meet needs identified in the future; and (6) all such reallocations shall be documented in the quarterly revision and Investment Plan process as further detailed herein.

The focus area budgets, as proposed, are not inclusive of the New York State Cost Recovery Fee. The Cost Recovery Fee is assessed by the Director of the Division of the Budget per section 2975 of Public Authorities Law and is assessed on NYSERDA's allocated overhead cost across NYSERDA's program activities in proportion to its total annual expenses. NYSERDA's actual Cost Recovery Fee assessments are reported within NYSERDA's quarterly and annual reporting and through calendar year end 2020, have totaled $8.8 million for the combined Market Development and Innovation & Research portfolios. The CEF Framework Order acknowledged it is not possible to know with certainty the 10-year Cost Recovery Fee costs. At the time of the CEF Framework Order, NYSERDA estimated Cost Recovery Fees for the Market Development and Innovation & Research portfolios to be approximately 2.2% of annual expenditures, based upon historic averages. Given this uncertainty, the CEF Framework Order directed Cost Recovery Fees be included within the respective Market Development and Innovation & Research program authorizations and further noted Cost Recovery Fees more than the estimated 2.2% shall come from the program authorizations and not be incremental. The Commission also noted that if Cost Recovery Fees were less than the estimated 2.2% the difference would be used to support program activities.

According to NYSERDA, recent Cost Recovery Fee assessments have been lower than originally forecasted, and it believes the original 2.2% may be overly conservative. It is likely that some level of this funding will be made available for program activities and therefore should be reflected in the focus area budgets. To effectuate this, NYSERDA is directed to reflect the revised total Cost Recovery Fees within the Budget and Benefit tables filed as part of the Compiled Investment Plans for the Market Development and Innovation & Research portfolios due December 1, 2021, as discussed below. The difference between the original Cost Recovery Fee estimates and revised Cost Recovery Fee estimates shall be added to the reserve for each respective portfolio. NYSERDA shall document the increased reserves and totals in a filing to the Secretary concurrent with the December 1, 2021 filing. These funds will therefore be treated in the same manner as the reserve that was previously discussed. To the extent future reductions in Cost Recovery Fees arise or if Cost Recovery Fee estimates increase, NYSERDA is authorized to reflect these changes in future Budget and Benefit filings and Focus Area Budget Tables filed with the Secretary.

3. NY Green Bank Activity 2020-2025

Beyond the aforementioned requirements for NYGB to ensure that 35% of investments benefit Disadvantaged Communities, the Commission supports specific additional financial commitments as identified in the Petition. These include: (1) $150 million for clean energy improvements in affordable housing properties; (2) $100 million for clean transportation businesses to locate or expand in New York; and (3) $200 million in energy storage related investments. While NYGB has played an important role in spurring the development of solar PV installations, investments to date have been predominantly in the solar sector. The Commission finds it is appropriate and necessary to target specific investment levels for other technologies and focus areas to aid in the diversification of NYGB and the achievement of CLCPA goals. Therefore, the proposed investment levels described above are adopted as minimum investments in these areas through 2025. NYGB is directed to update its reporting to transparently reflect progress towards these individual financial commitments.

Additionally, the Commission restates the minimum requirements for investment criteria, as established by the Commission in its 2013 Initial Capitalization Order.[36] Investment criteria include: (i) transactions will have expected financial returns such that the revenues of NYGB on a portfolio basis will be in excess of expected portfolio losses; (ii) transactions will be expected to contribute to financial market transformation in terms of scale, improved private sector participation, level of awareness and confidence in clean energy investments, and/or other aspects of market transformation; and (iii) transactions will have the potential for energy savings and/or clean energy generation that will contribute to greenhouse gas reductions in support of New York's clean energy policies.

As articulated in these investment criteria, the Commission has not specifically identified the minimum rate of return that must be achieved by NYGB in use of the ratepayer funds allocated to it by the Commission. The Commission notes that NYGB has dutifully maintained a conservative level of risk in its investments to date. The Commission does not believe these investment criteria limit NYGB's undertaking of transactions, as part of a diverse portfolio, in sectors that it

[36] Case 13-M-0412, Order Establishing New York Green Bank and Providing Initial Capitalization (issued December 19, 2013).

hasn’t been particularly active within to date. The Commission does anticipate NYGB will need to broaden its approach and proactively seek new market partners to further develop transformative financing opportunities, specifically in pursuit of its goal of investing at least 35% of its investments to benefit Disadvantaged Communities. For example, NYGB may need to offer lower interest rates of other terms than it seeks from other sectors.

NYGB’s 2021 Business Plan identifies financial solutions benefiting Disadvantaged Communities as one of its objectives for this year, including the release of a Request for Proposals targeting affordable housing, working with community development financial institutions, nonprofits and other specialty finance companies that are focused on Disadvantaged Communities, and incorporating impacts on residents of Disadvantaged Communities as a key investment goal in transaction screening and proposal scoring as part of its capital allocation decision-making process.

These all represent valuable steps towards expanding NYGB’s reach. However, it will be important to continue to assess NYGB’s offerings to ensure they meet the needs of and deliver true benefits to Disadvantaged Communities and adjust as necessary. This assessment should include the opportunity for stakeholder input, including representatives of Disadvantaged Communities. Within 6 months of the issuance of this Order, NYGB shall conduct such a process and document the results of the process in an update to its Metrics, Evaluation, and Reporting Plan and supplement its 2021 Business Plan. These updates should include descriptions of the targeted investment types and products NYGB intends to undertake and the associated financial metrics and tracking to assure benefits to

Disadvantaged Communities. The Commission believes this process will help to ensure NYGB's investment in these new areas can and will reduce perceived risk, reduce cost of financing, and stimulate adoption and implementation of technologies, while supporting NYSERDA's objectives towards its CEF goals and Statewide policy objectives.

4. Utility Coordination

The Commission notes the JU's comments regarding the importance of coordination with utilities and other channel partners to better align utility programs and NYSERDA offerings with customer needs. The ambition of our clean energy goals requires an all-hands-on-deck approach which leverages the relative strengths of each organization. However, true success in this area cannot be achieved by NYSERDA alone. It is an unfair expectation to place upon NYSERDA that its offerings merely fill the gaps in the marketplace from the patchwork of utility offerings. Rather, NYSERDA and utility offerings should be developed and implemented with the full awareness of each other's offerings and how they complement each other in the marketplace. Not taking this approach runs the risk of confusion in the marketplace, duplicative or redundant services, and an inefficient use of ratepayer funds. NYSERDA's Investment Plans for Market Development and Innovation & Research have, since inception, included a section to describe the relationship to utility programs. However, no comparable requirement has been placed upon the utilities. To further effectuate the efficient use of ratepayer funds across the multitude of offerings, the Commission will require utilities to describe the relationship to NYSERDA programs in any proposal for new funding as well as in their annual System Energy Efficiency Programs filings. These descriptions will ensure the offerings are complementary and not redundant and detail any modifications necessary to achieve this objective with an associated timeline. This requirement will take effect with the next scheduled filings following the date of this Order.

As described earlier, NYSERDA and the utilities' efforts are intended to be complementary, not duplicative, and therefore achieve greater scale than either could achieve unilaterally. The Commission maintains that the utilities and NYSERDA offer relative strengths in delivering these programs and therefore, approaches should continue to be explored and refined to make the most efficient use of the totality of ratepayer funds, as well as eliminate confusion in the marketplace and provide streamlined access to customers. To better inform stakeholders, Staff, and the Commission, Staff is directed to align the efforts of the 2022 Interim Review called for in the 2020 NE:NY Order, with the efforts of the next CEF review to occur in 2023, so that deliberations of each Program Administrator's role can be undertaken in the context of one another's and informed by the actions of the Climate Action Council.

With regard to LMI programming, NYSERDA has been the primary administrator of LMI energy efficiency programs since 2003, when the Commission transferred the administration of low-income energy efficiency programs to NYSERDA due to the administrative and operational efficiencies of a statewide program.[37] Since this time, NYSERDA has served over 383,000 households through programs targeting small homes, affordable

[37] Case 94-E-0952, et al., Competitive Opportunities, Order Establishing Conditions for the Continuation and Transfer of Low-Income Programs and Establishing System Benefits Charge Funding (issued May 30, 2003).

multifamily buildings, and the new construction of high-performance affordable housing. In addition, NYSERDA has been responsible for piloting new and innovative approaches to increasing access to clean energy solutions for LMI households and communities and has played a lead role in engagement and outreach through initiatives such as the Low-Income Forum on Energy. NYSERDA has also been responsible for collaboration with other State agencies to align efforts to increase the impact of other publicly funded programs.[38] NYSERDA regularly engages with local community-based organizations on community-based outreach and is expected to work more closely with such organizations to build local capacity to meet the objectives of the CLCPA to benefit Disadvantaged Communities and advance an inclusive clean energy economy.

In the 2020 NE:NY Order, the Commission recognized the need to further scale services to this sector by allocating specific budgets for utility Energy Efficiency programs, totaling over $289 million through 2025, and requiring the utilities to work with NYSERDA to deploy a comprehensive statewide LMI portfolio. This statewide approach is envisioned

[38] NYSERDA partners with the NYS Office of Temporary and Disability Assistance in the administration of Home Energy Assistance Program funding, to expand the reach of the State's low-income energy efficiency and weatherization services; works with NYS Homes and Community Renewal on the coordination between federal Weatherization Assistance Program and rate payer-funded EmPower NY; partners with NYS Department of Health to coordinate health and energy resources, as evidenced in the Healthy Home Value Based Payment Pilot; plays a lead role in the Governor’s Raise the Green Roof Initiative to advance solutions for increasing the performance of the State's affordable housing stock, in partnership with NYS Homes and Community Renewal; and plays a role in the Low-Income Energy Task Force, which works to align the State-administered low-income energy programs.

to take advantage of each Program Administrators' relative strengths, including NYSERDA's leadership and experience in this sector, existing program infrastructure, and ability to partner with other State agencies alongside the utilities to ensure direct access to customers and the ability to best target services to those high-use customers, and to further support the Commission's affordability goals.

As required by the Commission, NYSERDA and the utilities have: (1) formed a LMI Joint Management Committee; (2) filed a Joint Statewide LMI Portfolio Implementation Plan[39] (LMI Implementation Plan) detailing their collective approach to improving the scale and comprehensiveness of services to this historically underserved customer sector; (3) conducted a number of stakeholder engagement sessions; and (4) have begun to address key complex coordination issues.[40]

The LMI Implementation Plan recognized 2020 as a transition year and described the shift from offering separate energy efficiency programs to a coordinated approach to advance energy affordability and increase access to energy efficiency among NY's LMI households. The Commission recognizes the level of change to standard operating practices this coordinated approach represents for the Program Administrators. Nonetheless, the Commission is concerned with the level of progress that has been demonstrated to date, particularly

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[39] In addition, there were three subsequent compliance filings required to provide Staff with further levels of detail: the LMI Joint Management Committee Manual; the LMI Coordination Plan; and the LMI Verified Gross Savings Specifications.

[40] Key complex coordination issues were identified in the LMI Implementation and include Data Sharing, Evaluation Measurement & Evaluation, Implementation Contractor Procurement, Marketing, and the Single Application Process.

regarding the development and implementation of enhanced offerings envisioned with the increased funding provided through utility budgets. The Commission anticipates assessing further performance of the collective Program Administrators during the 2023 Review called for in the 2020 NE:NY Order and revisiting whether this model is best suited to serving the needs of the LMI customer sector or if an alternative model and approach should be pursued.

Prior to the 2023 Review, one action that the Commission finds could help to support progress is the institution of an LMI Joint Management Committee Executive Council to advise and hold the LMI Joint Management Committee accountable. This Executive Council shall include a senior-level management representative, with decision making authority on behalf of their respective organization, from each Program Administrator, as well as Staff representation. The Executive Council is charged with preventing protracted debates on various issues without commensurate benefit for the time being invested. The Executive Council's purpose shall be to swiftly move to agreement among the Program Administrators and to ensure decisions are properly communicated to all necessary members of their respective organizations. To the extent the Program Administrators are unable to reach a timely decision, Staff will provide guidance for a resolution based on the information made available to them to best meet the objectives as laid out in the Commission Orders. The Executive Council is expected to meet at least once per quarter and more frequently, as necessary. The Program Administrators are directed, within 60 days of this Order, to reflect the formation of the Executive Council and interaction with the LMI Joint Management Committee. If, in Staff's view, demonstrable progress is not being made, Staff is directed to raise these concerns to the Commission for deliberation on an alternative approach in advance of the aforementioned 2023 Review.

Regarding NYSERDA's EmPower program, we recognize that it was designed around utilities referring their low-income customers to NYSERDA for services utilizing available utility records to facilitate targeting of customers for beneficial energy efficiency services. While this has been, and continues to be, a critical component of the EmPower program design, the efficacy of the referral process has varied over the years and among utility companies. Not only is this a disservice to low-income customers, but it leads to inefficiencies in the program's operation. The Commission views an efficient referral process that emphasizes quality referrals, including the prioritization of high-use customers, as a priority. Coupling bill discounts with permanent usage reductions via energy efficiency is the best approach to furthering longer-term energy affordability for low-income households. Therefore, each utility is directed to make a filing within 45 days of this Order describing, in detail, its current referral process, identifying what steps it will take to improve this process, including identification of high-use customers and a timeline for implementation. The utilities shall report on the number of and the efficacy of these referrals, as detailed further in the EAP Order.[41] The Commission further notes that the improvements it seeks in data-sharing or file-matching processes between the utilities and the Office of Temporary and Disability Assistance

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[41] Case 14-M-0465, Energy Affordability for Low Income Utility Customers, Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings (issued August 12, 2021) (EAP Order).

as part of the Affordability Program will, once implemented, provide additional benefit here as a larger pool of eligible customers will be subject to this referral process. However, enhancements to the existing EmPower referral process are not contingent upon these broader improvements and should be pursued expeditiously.

Goals Framework and Metrics

As recognized in the CEF Framework Order, no single goal can be established, or corresponding metric tracked, to assess the full performance of the CEF across all four portfolios. Rather, the CEF portfolios are designed to work in tandem with one another to achieve the overall goals. One primary modification proposed in the Petition is to shift from commitment-based goals to acquired-based goals.[42] The Commission's actions in the CEF Framework Order recognized that many of the new offerings to be implemented under the CEF would have longer lead times and be multi-year offerings. Similarly, with respect to the investments of NYGB and NY-Sun, a commitment-based approach provides insights into the capital that is being made available and the solar projects that are in the process of being built. While this view remains important to illustrate the pipeline of activities, the Commission finds that a singular focus on a commitment-basis lacks transparency

[42] Commitment-based goals are those with targeted dollars to be encumbered, or attributable benefits to be committed, to approved projects by a specific date, without respect to the dates of the actual expenditures of the dollars or the actual acquisitions of the benefits. Achievement towards commitment-based goals, however, does include dollars expended and benefits acquired as of the date of the goal. Acquired-based goals are those with targeted dollars to be expended, or attributable benefits to be acquired, to approved projects by a specific date, with the corresponding projects completed.

as to when these goals will actually be achieved, in other words, acquired. As discussed herein, NYSERDA must place greater emphasis on putting this money to work and acquiring energy efficiency savings, and the proposed shift to acquired-based goals will further support this objective. The Commission finds this will further align the CEF metrics with those required of the investor-owned utilities for energy efficiency and building electrification programs, as noted by JU, thereby making it easier to track our total progress across all ratepayer funded programs. This shift allows the Commission to adopt a goal for the CEF for benefits to be achieved by 2025. However, it is important to note that investments will be made through 2025 for which savings will materialize, or be acquired, after 2025. The Petition proposes performance targets for acquired benefits through 2030 to meet this need and therefore are adopted, as reflected in Appendix C.

The remaining modifications to the goals and metrics framework, not previously discussed, include: (1) providing greater granularity of the TBtu savings anticipated to be derived from natural gas versus other fuels; (2) shifting the renewable energy goal from a lifetime production goal measured in MWh to an installed capacity goal measured in GW; (3) reduction of the Mobilization/Leveraged Funds goal from $29.4 billion to $20 billion; (4) shifting emission reductions and participant bill savings to metrics that are tracked rather than standalone goals; and (5) adding clean energy jobs and local air quality metrics that will be tracked and reported. Commenters were supportive of the proposed shifts outlined in the Petition and the Commission provides its view on each of the proposed modifications below.

The Commission finds the goal of Cumulative Annual Energy Efficiency savings totaling 53 TBtu by 2025 and 70 TBtu by 2030, to be reasonable and therefore is adopted.[43] We note that this represents over 28% of the 185 TBtu called for in the New Efficiency New York Whitepaper and codified in the CLCPA, to be derived by NYSERDA's activities. While the CLCPA does not distinguish the fuel type in its adoption of the overall TBtu goal, the Commission finds it is appropriate for the CEF goals to consider this level of granularity and accepts NYSERDA's proposed allocation, on a cumulative annual basis, of 22.9 TBtu (6.7 million MWh) electric, 25 TBtu natural gas, and 15 TBtu other fuel savings acquired by 2025; and a total of 34.1 TBtu (10 million MWh) electric, 38 TBtu natural gas, and 17 TBtu other fuel savings acquired by 2030.[44]

The Commission agrees that the Renewable Energy Goal for the CEF is best expressed in terms of Distributed Solar Installed Capacity to align with the CLCPA. The Commission does not adopt a 2030 Performance Target related to Distributed Solar Installed Capacity at this time, as further deliberation is necessary for what ratepayer-supported programs should be

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[43] The Petition uses the term "Gross" in describing the Energy Efficiency Savings goal. However, these activities and ultimate reporting against the goal will be subject to Evaluation, Measurement, and Verification, and therefore "Gross" is not used in describing the goal.

[44] These fuel specific savings targets do not sum to the total cumulative annual EE savings of 53 TBtu by 2025 and 70 TBtu by 2030 due to the netting out of incremental usage associated with electrification and other fuel switches.

pursued beyond the 6 GW goal adopted in the CLCPA beyond 2025. These deliberations will occur in Case 19-E-0735.[45]

NYSERDA's proposed reduction in mobilization/leverage funds, from $29 billion to $20 billion, is attributed to the rapid decline in solar cost, NYGB covering a larger proportion of total project costs than anticipated, and better understanding of how the various elements of the CEF work together to support the market needs. For example, since 2016 NYGB and NY-Sun have worked collaboratively to mobilize investment and uptake in the PV and renewables sector, which has expeditiously facilitated market transformation of private-sector financial markets and increased adoption of PV technologies across the state. The Commission recognizes that the decline in solar costs from those assumed at the time of the CEF Framework Order would result in less leveraged funds than originally anticipated as total costs decrease. While detrimental to this metric, it is, in fact, a testament to the overall success of the collective initiatives supported by ratepayers for distributed solar to realize such rapid cost declines.

The CEF Framework Order adopted a target of $29 billion which was inclusive of $8 billion originally anticipated by NYSERDA for NYGB. The revised recommended leverage funds target of $20 billion over the ten-year period proposed by NYSERDA represents a decrease in NYGB's contribution from $8 billion to $4.8 billion.

While the Commission did not adopt an independent mobilization/leveraged funds target for NYGB in the CEF

[45] Case 19-E-0735, Petition of New York State Energy Research and Development Authority Requesting Additional NY-Sun Program Funding and Extension of Program Through 2025.

Framework Order, NYGB has documented in public filings its expectation of an 8:1 mobilization ratio by 2025.[46] Notwithstanding other successes achieved by NYGB, as previously discussed, NYGB's annual reports for each year since inception reflect that it is below the pace necessary to achieve the 8:1 ratio by 2025. NYGB's mobilization rate is comprised of both the rate at which NYGB recycles capital and the percentage of total project costs that non-NYGB dollars contribute towards individual transactions. As presented in NYGB's quarterly reports, since 2016 NYGB's estimated range for mobilization ratio fluctuated between 2.6:1 and 3.3:1.

Consistent with the CEF Framework Order, the Commission will adopt an overall leveraged funds goal for the CEF, inclusive of NYGB activities. Given NYGB's unique ability to recycle its capital, its ability to increase its mobilization ratio of ratepayer funds will continue to climb. To that end, NYGB is directed to continue to monitor and report its mobilization ratio in its ongoing quarterly and annual reporting.

The Commission expects tracking and accounting across the various CEF activities should be prioritized and directs NYSERDA to ensure overlap is recognized and addressed in all investment plans and subsequent reporting. While not explicitly addressed in the Petition, the Commission anticipates the increased focus on benefits to Disadvantaged Communities may also negatively impact the mobilization/leverage metric. Therefore, the Commission finds a balance must be struck between the various objectives to be achieved through the CEF portfolio and accepts the revised mobilization/leverage funds goal as put

[46] Case 13-M-0412, NY Green Bank Organization Plan (filed February 18, 2014).

forth in the Petition. Adoption of this reduced goal should not be interpreted as reduced importance of this metric and NYSERDA should continue to seek all opportunities to ensure the ratepayer funds are used as efficiently as possible and as a catalyst to driving additional investment in clean energy.

Lastly, the final modifications relate to shifting participant bill savings and emission reductions to metrics that are tracked and reported rather than standalone goals, as well as the addition of clean energy jobs and local air quality as metrics to be tracked and reported. The Commission supports the proposed shifts noting that participant bill savings and emission reductions in this context are wholly dependent upon the primary goals of energy savings and renewable energy installed capacity with factors that will continue to be adjusted over the remainder of the CEF performance period and reflected in Staff Reporting Guidance. The two additional metrics to be tracked and reported, Clean Energy Jobs and Local Air Quality, have merit and will provide the Commission, Staff, and stakeholders with more information on the true benefits of the CEF portfolio. Therefore, the Commission adopts the Goals and Metrics Framework, as detailed in Appendix C.

Financial Matters

1. Remaining NY-Sun Funding & Projected Funding Shortfall

The Commission recognizes that distributed solar resources are a vital component of New York's clean energy system. The 2020 NY-Sun Order authorized the increased goal of 6 GW of installed capacity by 2025, as codified in the CLCPA, and the associated incremental $543M budget. The level of funding was established at that time and is not revisited here. However, the 2020 NY-Sun Order indicated that the Commission would determine the extent to which overall collections should be modified to ensure that the full suite of NYSERDA's CEF activities are sufficient and appropriately directed to meet the State's clean energy goals, while also considering the cost of those programs to ratepayers during the CEF review.

The Petition requests that the funding source for the remaining three-fifths ($343 million) budget for NY-Sun authorized in the 2020 NY-Sun Order include uncommitted legacy funds, but also notes the potential for an overall funding shortfall if authorized and proposed uses of funds exceed the available uncommitted legacy funds. Due to decisions made by the Commission, to date, to repurpose uncommitted legacy funds for a variety of uses, the total need is greater than the available uncommitted legacy funds.[47] The Petition recommends addressing this potential funding shortfall of $118.3 million by first utilizing additional uncommitted legacy funds due to additional project attrition, and second by repurposing funds previously authorized for NYGB. Commenters strongly support the proposed solution to mitigate any additional obligations being placed upon ratepayers at this time, particularly in light of the economic impacts suffered because of the COVID-19 pandemic. The Petition states approximately $188 million remains committed in legacy funds as of June 2020. According to NYSERDA, as of December 31, 2020, remaining commitments total approximately $153 million due, in part, to additional project attrition. As evidenced by this development, relying, in part, on future

[47] In addition to actions taken by the Commission prior to and summarized in the Petition, the Commission's February 2021 Order Authorizing Funding for Electric Generation Facility Cessation Mitigation Program in Case 20-E-0473 earmarked the use of $112.5 million in uncommitted funds for the Cessation Mitigation Program. Further, the Commission's July 2021 Order Approving Request for Maintenance Tier Support in Case 17-E-0603 authorized the use of $98,000 uncommitted funds.

uncommitted funds due to project attrition to help satisfy the funding shortfall is a practical approach. However, it would require 77% of the remaining legacy funds currently committed to various projects to attrit to fully satisfy the funding shortfall, which the Commission finds is unlikely. NYSERDA's proposal to repurpose funds previously allocated for NYGB is predicated on this action not jeopardizing the NYGB's ability to operate and meet its objectives. This is mitigated, in part, by NYGB putting a debt facility in place to provide additional funded capital to supplement ratepayer funds. NYGB closed an initial portfolio monetization transaction on July 28, 2021, which provides $314 million of incremental capital.

The Commission finds this approach to be in the ratepayer interest and therefore authorizes uncommitted funds of up to $343 million to be used to fully fund NY-Sun. In the event uncommitted funds are not sufficient, NYSERDA is authorized to reallocate up to $118.3 million of NYGB funding to satisfy any shortfalls that should materialize because of fully funding the NY-Sun expansion called for in the 2020 NY-Sun Order. To effectuate this, NYSERDA shall continue to monitor and report on balances of uncommitted funds each year, as discussed herein. These uncommitted funds reports shall be filed no later than 60 days after the calendar year end. This report shall clearly indicate the amount of incremental uncommitted funds that materialized during the year and be reflected as funding to be utilized for the remaining authorization for NY-Sun. Should NYSERDA's working capital projections demonstrate a need for reallocation of NYGB capitalization, NYSERDA shall file a letter with the Secretary identifying the amount of NYGB funds that will be reallocated to address the funding shortfall. NYSERDA will illustrate such transfer of funds through the Bill-as-you-Go process, which includes transparent accounting of NYSERDA's gross receipts and expenditures to the utilities and Staff monthly.

2. CEF Collection Schedule

The CEF Framework Order authorized CEF collections to support the four distinct CEF portfolios for their active performance periods (i.e., through 2025 for the Market Development, Innovation & Research, and NYGB portfolios, and through 2023 for NY-Sun).[48] The CEF Framework Order also acknowledged previously authorized collections related to legacy programs, including the System Benefit Charge, Renewable Portfolio Standard, and Energy Efficiency Portfolio Standard, which remained to be collected. This was done for two primary reasons. First, while the active performance period for these programs had expired, scheduled collections to support financial commitments made by these programs were still necessary. Second, previously authorized collections for legacy programs for which no commitments remained, in other words uncommitted funds, totaled $1.162 billion at the time of the CEF Framework Order. These uncommitted funds were considered by the Commission in authorizing the CEF and utilized to mitigate incremental collections being placed upon ratepayers at that time. The resulting collection schedule adopted by the Commission in the CEF Framework Order took account of: (1) projected expenditures for the four discrete CEF portfolios, as well as legacy programs, as presented by NYSERDA; (2) the totality and timing of previously authorized collections; and

[48] The active performance period in this context refers to the time period established in the CEF Framework Order in which the programs would be actively committing funds to projects. Expenditures of these funds and completion of projects would occur, in many instances, after the active performance period.

(3) the amount and timing of incremental collections necessary to satisfy the projected cash flow needs while adhering to a cap and decline on overall collections for this suite of NYSERDA programs.

As discussed herein, CEF and legacy expenditures have not matched expectations resulting in a cash balance of $1.236 billion as of year-end 2020, compared to the approximately $344 million anticipated at the time of the CEF Framework Order. While reasons for this have been previously discussed, the existence of this cash balance and desire to reduce it expeditiously is noted by several parties.

The Commission appreciates the concerns raised by parties regarding collections of ratepayer funds sitting idle for a protracted period until expenditures occur. However, it is important to note that some level of cash balance is required to provide working capital to ensure the continued operation of the CEF in meeting the current and remaining legacy programs' financial obligations. Nonetheless, the current cash balance does exceed a working capital need.

The Commission has taken additional actions to ensure that these cash balances are treated in the ratepayers' interest. As required by the CEF Framework Order, all cash balances accrue interest charges at the "other customer cost of capital," to be segregated on the books of each utility and used for the benefit of ratepayers. Specifically, as directed in the 2020 NE:NY Order, interest earnings accrued on cash balances residing at the utilities associated with collections for NYSERDA-administered programs have been, and will continue to be, used to offset the increased funding authorized for utility-administered energy efficiency and building electrification programs. Additionally, over the initial CEF period, the

Commission sought to best utilize the existence of the CEF cash balance prior to initiating additional ratepayer collections. Two specific instances of this were: (1) in the Commission's Order Approving Administrative Cost Recovery, Standardized Agreements and Backstop Principles,[49] the Commission allowed for the temporary use of NYSERDA cash balances to cover any cash shortfalls associated with the Clean Energy Standard's Renewable Energy Credits (REC) and Zero Emission Credits (ZEC) programs; and (2) in the Commission's Order Approving Build-Ready Program,[50] the Commission authorized the use of up to $50 million of CEF cash balances to satisfy Build-Ready Program cash payments until such funds are replenished and restored to the CEF through ongoing Build-Ready site disposition.[51]

Due to the nature of the declining collection schedule established in the CEF Framework Order, along with the increasing and forecasted expenditures over the next several years that exceed the authorized collections for 2020 through

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[49] Case 15-E-0302, Large-Scale Renewable Program and a Clean Energy Standard, Order Approving Administrative Cost Recovery, Standardized Agreements and Backstop Principles (issued November 17, 2016).

[50] Case 15-E-0302, supra, Order Approving Build-Ready Program (issued October 15, 2020).

[51] In April 2020, the Accelerated Renewable Energy Growth and Community Benefit Act was passed into law as part of the fiscal year 2020-2021 State budget (Ch. 58 (Part JJJ) of the Laws of 2020). Under the Act, NYSERDA is tasked with implementing the Build-Ready Program wherein NYSERDA will work with other State agencies, Authorities, private developers, and local communities to advance property sites that may be suitable for renewable energy and transmission facilities. Property sites to be prioritized include existing or abandoned commercial or industrial locations, brownfields, landfills, and dormant electric generating sites. Once the Build-Ready sites are prepared for facility advancement, NYSERDA will competitively auction the sites to private developers.

2025, the cash balance reached a peak at the end of 2019 and since has been, and will continue, declining as shown in Appendix E of this Order and Appendix 7 of the Petition.

The Petition includes an adjusted collection schedule in which NYSERDA offers a stable level of collections and provides a $78.3 million (or 14.5%) reduction to 2020-level collections. While this proposal does not eliminate the cash balance, it reduces the balance in the near-term and, based on expenditure projections at the time of the Petition, eliminates a cash balance that is well in excess of the necessary working capital in 2024.

NYSERDA's June 23, 2021 filing provides an updated cash flow projection from what was presented in Appendix 7 of the Petition. This revised projection recognizes actual expenditures through 2020, as well as updated expenditure projections across the NYSERDA suite of offerings, as adopted by the NYSERDA Board of Directors in January 2021. If the Commission were to adopt NYSERDA's proposed modified collection schedule, assuming the projected expenditures meet expectations, NYSERDA would have insufficient funds to meet its projected expenditures beginning in 2024. Even though NYSERDA's expenditure projections have historically been more ambitious than what has occurred, the Commission declines to adopt a collection schedule that would result in insufficient funds or could have the unintended consequence of slowing expenditures and program activities down to avoid such a situation. Rather, as discussed herein, the scale and ambition of New York State's climate goals require NYSERDA to expedite performance and, as a result, dramatically increase the level of expenditures compared to prior periods.

The shift of expenditure projections from the time of the Petition to the June 23, 2021 filing illustrates the uncertainty of such projections. While NYSERDA should further refine their estimation approaches, the Commission notes the total cash flow is a compilation of nearly one hundred unique initiatives, many of which are relatively new endeavors with little or no history from which to base such projections. Additionally, for some existing initiatives, NYSERDA has experienced somewhat volatile and unpredictable historic expenditures from quarter to quarter, presenting further challenges in forecasting future expenditures. At this time, the Commission accepts the expenditure projections as detailed in the revised Appendix 7 of the June 23, 2021 filing. However, the Commission does not accept the adjustments to collections, as detailed in the revised Appendix 7 of the June 23, 2021 filing. The Commission does accept NYSERDA's proposal to provide updates to CEF cash flows no later than 60 days after the end of each calendar year. Staff is directed to monitor actual expenditures and the resulting revised cash flow analyses and bring back a proposal to the Commission to adjust collections before 2023 if NYSERDA's actions demonstrate such need.

One element of NYSERDA's proposed revised collection schedule is recognition that the bulk of post-2028 expenditures contemplated in the CEF Framework Order and their corresponding collections were associated with RPS contracts, including those anticipated for the 2016 Main Tier solicitation directed in the CEF Framework Order. Subsequent to the CEF Framework Order, nearly $505 million of these contracts were deemed eligible for CES – Tier One RECs and therefore collections associated with these funds became uncommitted. As articulated in Appendix 6 of the Petition, the Commission has taken several actions to repurpose these uncommitted funds rather than adding incremental ratepayer collections. The result of such actions is, in every instance, that the new uses of these funds have nearer-term expenditures than the originally contemplated Renewable Portfolio Standard's Main Tier 1 contracts. Therefore, these latter year collections must be adjusted. We decline to adopt MI's position to not accelerate CEF collections, which does not reflect these circumstances.

Some comments appear to conflate the overlapping, but separate, issues of the current surplus cash balance of ratepayer funds and the projected funding shortfall resulting from total uses exceeding current collections. While the current cash balance of ratepayer funds is in excess of current near-term expenditure needs, the funding shortfall projected is unrelated to such cash balances. To clarify, it is important to identify that the shortfall discussed in the Petition is related to a matching of CEF collections and Commission-authorized spending. Accordingly, the Commission has previously authorized the use of uncommitted funds for a variety of purposes and, along with the actions taken herein to fully fund NY-Sun, these purposes exceed total authorized collections. Therefore, comments suggesting the existing cash balance be utilized to satisfy funding shortfalls is not a workable solution as the level of cash balance is a function of timing while the funding shortfall recognizes the need for new, or reallocated funds, to solve the problem. However, we emphasize that this shortfall will be satisfied without additional total collections from ratepayers by repurposing additional uncommitted legacy program or NYGB funds.

The sentiment expressed by parties to utilize existing cash balances before collecting funds from customers would require pausing collections completely until cash balances were reduced to a working capital amount before restarting collections. The Commission has historically been sensitive to establishing volatility in surcharge collections, preferring to give customers more predictability and stability of collections to support these programs. For example, in the Commission's Order Adopting a Ratemaking and Utility Revenue Model Policy Framework in the Reforming the Energy Vision (REV) proceeding, the Commission stated that one of the rate design principles to guide reforms under REV was "stability" as detailed in Appendix A of, and discussed throughout, that Order.[52] Consequently, the Commission adopts the revised collection schedule, as reflected in Appendix E, which maintains the original collection schedule through 2024, modifies collections for 2025 through 2029, and eliminates collections from 2030 through 2036. Appendix D is provided to reflect the resulting Cash Flow Analysis inclusive of NYSERDA's expenditure projections and the Commission's adjustments to collection schedules. Appendix E identifies the restates the CEF Collection Schedule and supersedes the previously adopted collections as identified within Appendix J of the CEF Framework Order. Collections shall be recovered from all customer classes, notwithstanding exemptions previously discussed applied at the individual customer level.

MI further requests that the Commission, if adjusting the CEF collections, expressly assert that it does not intend for incremental collections after 2029 and that the CEF will

[52] Case 14-M-0101, Reforming the Energy Vision, Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (issued May 19, 2016).

otherwise terminate at the end of that year. The actions taken in this Order are to support the current CEF portfolios with active performance periods through 2025, as well as legacy financial commitments. It is outside the scope of this Order to rule on CEF activities beyond 2025. The Commission intends to deliberate on future CEF activities, including any post-2025 activity in the next review, as discussed herein.

3. Bill-As-You-Go

The CEF Framework Order authorized a Bill-as-you-Go structure whereby ratepayer funds are held at each of the utilities and transferred to NYSERDA as monies are necessary to meet near-term obligations. The Bill-as-you-Go structure has been utilized in recent years, per Commission Orders, as an efficient means to transfer funds as necessary between NYSERDA and utilities as uncommitted funds have been repurposed. Staff has worked with NYSERDA to ensure transparency of all funding transfers allowing for the ability to track against the various Commission actions. As required by the CEF Framework Order, monies held by the utilities accrue carrying charges held for ratepayer benefit. In the 2018 NE:NY Order, the Commission instructed that Bill-as-you-Go interest earnings should be utilized to offset the incremental utility energy efficiency programs. Staff has monitored the Bill-as-you-Go process and finds it is functioning as intended. For additional transparency, the Commission will require each utility to file, on an annual basis, the amount of carrying charges accrued, including an accounting of any uses or remaining funds available for use. These filings should be made no later than 60 days following the end of each calendar year.

Additional Portfolio Management Refinements

1. Performance Management Improvement

NYSERDA has complied with the requirements established in the Commission's CEF Framework Order associated with monitoring progress and improving performance, including quarterly metrics reporting, annual Investment Plan and Progress Reports providing a look forward as well as a look back to make modification to the portfolio, annual briefings of the Commissioners, investment planning development and approval process, annual NYGB Business Plans, numerous engagements with market participants, and regular engagement with Staff. The actions taken in this Order are not only intended to further align the CEF with current state policy objectives but to further enhance overall performance and focus of the CEF based on our collective experience to date. As discussed herein, this includes the purposeful build out of the remainder of the Market Development and Innovation & Research portfolios, as well as a shift of the targets from which the CEF will be measured from a commitment-basis to an accrual basis; annual revised cash flow analysis to enable Staff to better monitor the reduction of the existing cash balance; and improvements in streamlining and clarity of materials and reporting so all interested parties can better understand the breadth and depth of the initiatives contained within the CEF. Additionally, the Commission underscores the need to ensure NYSERDA and utility efforts are complementary and not duplicative with a focus on improving the customer's ease of participation. These issues should be further developed through the Performance Management & Improvement Process established by the Commission in the 2018 NE:NY Order.

2. Investment Plan Approach and Format

The CEF Framework Order outlined protocols necessary to ensure the Commission, Staff, and stakeholders have transparency into the initiatives, activities, and expected outcomes that NYSERDA is undertaking through the CEF. To effectuate this, the CEF Framework Order ascribed a progressively built Investment Plan approach, whereby NYSERDA files individual investment plans identifying the objectives, activities, outcomes, budgets, and other related criteria specifically identified in the CEF Framework Order. Once Staff confirms the Investment Plan(s) comport to the requirements established by the Commission, the Director of Office of Markets & Innovation provides a written letter of acknowledgement granting NYSERDA access to the budget detailed in the Investment Plan. Since 2016, NYSERDA has filed 25 individual chapters containing over 65 Investment Plans for the Market Development and Innovation & Research portfolios. As NYSERDA continued to build out these portfolios, it has exercised the test-measure-adjust approach authorized in the CEF Framework Order, filed revisions to existing chapters as necessary, as well as filed the annual compilation of all investment plans as part of its annual Investment Plan & Performance Report.

The current compilation of NYSERDA's Investment Plans totals well over 1,000 pages. This filing complies with the requirements of the CEF Framework Order regarding necessary components of the Investment Plans and provides a wealth of information related to every initiative. However, the sheer magnitude of this filing makes it far less useful in allowing interested entities to easily access information about the various initiatives underway, as noted by JU's comments. The Commission agrees in part with the Petition's characterization that the result of the process directed in the CEF Framework Order is that, in aggregate, the CEF investment plans are overly wordy, often redundant between initiatives, and not easily digestible for stakeholders.

While Staff has worked with NYSERDA to improve the presentation and quality of information put forth in the publicly filed Investment Plans, the Commission finds that it is time to revisit the directives contained in the CEF Framework Order, based on experience to date, to better articulate the necessary elements to improve upon the presentation of information. The Commission will address the Investment Plans in terms of content and approval process.

In terms of content, it remains a priority of the Commission for NYSERDA’s Investment Plans to clearly describe a sound investment strategy identifying the level of funding over the period the activities will be undertaken, the projected outcomes/milestones, and how NYSERDA plans to verify the outcomes, and the impact of the various initiatives. The proposed modifications to the Investment Plans include streamlining and restructuring the content of the current structure into the consolidated Investment Plan subsections that align to the proposed focus areas discussed previously. The Commission finds this consolidation of Investment Plans, structured by focus area to be necessary. The consolidation should be organized and presented to provide better clarity to stakeholders, allowing an understanding of how each focus area’s objectives will be attained, identification of the specific market intervention strategies, budgets by each respective sub-initiative and timing of such expenditures and acquired benefits. Staff is directed to issue a CEF Investment Plan Guidance Document, to be issued within 30 days following the issuance of this Order. The CEF Investment Plan Guidance Document will outline the necessary content and process elements for the Investment Plans that meet the Commission's priorities, as stated above. Further, NYSERDA is directed to file a compiled Investment Plan in compliance with the Investment Plan Guidance on, or before, December 1, 2021.

The CEF Framework Order requires Staff to conduct a compliance review whenever an Investment Plan is filed and for the Director of the Office of Markets & Innovation to issue a letter of acceptance, or to identify deficiencies to be corrected, within 30 days upon receipt. The CEF Framework Order allowed for non-material changes to be made to the CEF initiatives and activities within Chapters, through updates documented within the annual Investment Plan filings, without Staff approval. The Commission finds that it appropriate to retain this process given the level of funds yet to be programmed. Given the adoption of the Focus Area budgets in this Order, Staff's compliance review shall ensure budgets included in the Investment Plans are in compliance with the approach authorized herein.

3. Reporting Requirements

In addition to more standardized metrics, such as those related to energy savings and budgets, the CEF Framework Order required NYSERDA to identify activity milestones within each CEF Investment Plan.[53] The CEF Framework Order required NYSERDA to include progress towards initiative-specific milestones within its quarterly performance reports.

In the Petition, NYSERDA states that it has been reporting quarterly on these milestones as they are outlined in

[53] Matter No. 16-00081, In the Matter of the Clean Energy Fund Investment Plan.

its Investment Plans, but notes that, in its experience, the CEF Framework Order's quarterly reporting frequency is not well aligned with how progress is made toward these initiative-specific milestones. The Petition requests the Commission authorize NYSERDA to revise its reporting schedule of initiative-specific milestones from quarterly to annually. NYSERDA bases this request, in part, on the argument that the Clean Energy Dashboard was envisioned to minimize the administrative burden of compiling traditional quarterly reports.

The Commission applauds the efforts of NYSERDA, in consultation with Staff and the Utilities, to implement the Clean Energy Dashboard, as required by the CEF Framework Order. NYSERDA and the Utilities now file quarterly data files in a common format with consistent numerical metrics, which are then aggregated and, in part, presented as visual representations of the data on the Clean Energy Dashboard. This approach provides interested parties with the ability to view the progress of ratepayer supported programs collectively or to query the data for more granular views of performance, such as by program administrator or by program. The Commission notes that the Clean Energy Dashboard does not currently allow for reporting against the CEF initiative-specific milestones and therefore it is not a determinative factor in the decision to change the frequency of this reporting.

Nonetheless, Investment Plans identify milestones in terms of whole years, as opposed to quarters.[54] Given this systematic approach in increments of annual milestones, the Commission finds it is appropriate and adopts the proposal to shift the corresponding reporting to an annual basis. NYSERDA shall continue reporting, no later than 60 days following the end of each calendar quarter, all key standardized performance metrics for CEF programs through the Quarterly Scorecard process, as well as the quarterly CEF reports that provide performance metrics across all four CEF portfolios towards cumulative targets and budgets. The quarterly CEF reports shall continue to include: progress towards cumulative and annually prorated incremental targets and budgets for Market Development and Innovation & Research programs; progress towards the CEF's contribution towards NE:NY targets; a performance summary discussion of key CEF initiatives; and a summary of benefits acquired and projected benefits committed compared to investment plan projections. Additionally, the CEF Quarterly Performance Report will be expanded to include reporting of NY-Sun to identify progress, commitments, and spending against the goals and budgets for NY-Sun as identified within the NY-Sun operating plan. Should reporting components require adjustment over time, Staff will update and issue related guidance documenting the expectations for ongoing reporting.

[54] In the initial iterations the Investment Plans included varying increments for milestones to identify each initiative's trajectory for launch and market entry into new and existing target markets. As the CEF has developed, NYSERDA shifted its milestone increments for all Investment Plans to be in annual increments, as of the annual compilation of investments, filed June 15, 2020.

The Commission takes this opportunity to review and reconsider additional reporting dates for CEF Portfolios. First, as discussed earlier, NYSERDA files an annual compilation of all of the Market Development and Innovation & Research Investment Plans. The CEF Framework Order required this compilation to be filed May 1st of each year. In recognition of the Performance Management & Improvement Process discussed earlier, which includes the goal of aligning utility and NYSERDA filings, NYSERDA will be required to file its annual compilation of Investment Plan, as discussed above, December 1, 2021, and annually thereafter each November 1. Second, the CEF Annual Report, representing the four CEF portfolios, their individual and aggregated progress towards the goals and metrics framework adopted herein, assessment of performance, and reporting of progress towards directives, outputs, and related activities, as well as corresponding spending and commitments, are to be filed on each March 31st of each year, as identified in the 2020 NE:NY Order.

Additionally, as directed in the NYGB Order Establishing New York Green Bank and Providing Initial Capitalization, the Commission required NYGB to file an Annual Business Plan within one year of its NYGB Organizational Plan.[55] NYGB files its Annual Business Plan June 19th of each year. Staff review has identified NYGB's annual audited financial statements are released by the end of June each calendar year. Therefore, the Commission adjusts the date of NYGB's Annual Business Plan slightly, to July 1st of each year, to allow for the Business Plan to reference this information.

[55] Case 13-M-0412, NY Green Bank Organization Plan, filed February 18, 2014.

In regard to recommendations made by commenters, the Commission substantively agrees with the Utilities and the City that reporting of CEF programs must provide transparency and enable stakeholders and other program administrators to assess its progress in reaching CEF goals, while also providing clearly articulated information. To support this need, Staff is directed to, within 45 days of the issuance of this Order, revise and issue, as appropriate, reporting guidance detailing NYSERDA's CEF related reporting requirements, including but not limited to: an annual accounting of uncommitted funds; annual performance reports; annual updated cash flow analysis; quarterly metric and performance reports; reporting evaluation, measurement, and verification activities; quarterly error and material change reporting; and additional reporting requirements that may be necessary to monitor, evaluate, and provide transparency related to the CEF

With regard to the City's comments regarding NYSERDA's responsibilities under Article 15-A of the Executive Law as it pertains to Women and Minority-Owned Businesses, the Commission clarifies that, as a Public Authority, NYSERDA is required to track spending to NYS certified Women and Minority-Owned Business firms for those goods and services for NYSERDA's own account. These include Information Technology, professional services, marketing, facilities, West Valley and Saratoga Technology & Energy Park (STEP). NYSERDA's Women and Minority-Owned Business information is contained within an Annual Report published by Empire State Development.[56] Beyond this statutory reporting, NYSERDA has incorporated ways to engage Women and Minority-Owned Businesses into its programmatic activity including, higher

[56] https://esd.ny.gov/doing-business-ny/mwbe/mwbe-reports

incentives for Women and Minority-Owned Business firms,[57] and increased outreach to Women and Minority-Owned Business firms to participate in NYSERDA programs. Lastly, NYSERDA's efforts to build an inclusive clean energy economy extend beyond business ownership, and include workforce development initiatives to provide career pathways and opportunities with a focus on priority populations and Disadvantaged Communities. The Commission believes these are important actions and NYSERDA should continue to explore ways in which to engage Women and Minority-Owned Businesses and other priority populations.

4. Evaluation, Measurement & Verification

Pursuant to various Commission Orders, Staff have issued Clean Energy Guidance documents that provide information and direction to NYS electric and gas utilities and NYSERDA in the administration of their energy efficiency programs. The CE-05: Evaluation, Measurement & Verification Guidance provides the utilities and NYSERDA with direction on the conduct of evaluation, measurement, and verification activities associated with rate payer-funded programs.[58] The CE-08: Gross Savings Verification Guidance goes a step further and articulates a policy, whereas the verification of actual savings is required for the reporting of energy efficiency program performance.[59]

The reporting document, often referred to as an Evaluation Measurement & Verification (EM&V) Report, impact evaluation report, or Gross Savings Analysis Report identifies

[57] NYSERDA also provides higher incentives for Service-Disabled Veteran Owned Businesses (SDVOB), subject to Article 17-B, a companion program run through the Office of General Service.

[58] Case 14-M-0094, CE-05: Evaluation, Measurement & Verification Guidance (issued November 1, 2016).

[59] Case 15-M-0252, supra, CE-08: Gross Savings Verification Guidance (issued August 23, 2019).

the evaluation activities completed, including the analysis performed and the reported gross savings that have been realized. To align NYSERDA's EM&V reporting with those established for the utilities, and to increase transparency and understanding of NYSERDA's evaluation activities, NYSERDA shall include a high-level summary of the various EM&V activities planned or underway with associated dates on an annual basis. Additionally, NYSERDA will include a description of each filed EM&V Report on a quarterly basis within the CEF Quarterly Performance Reports and a compilation as part of their CEF Annual Report. Details shall be addressed in Staff's Reporting Guidance, although the descriptions are expected to include the program name, period of study, a summary of report findings, and recommendations, including how the study results will be, or have been, used to inform or modify program design and implementation.

5. Technical Resource Manual and NYSERDA Role

The primary purpose of the Technical Resource Manual (typically known as the TRM) is to provide a standardized, accurate, fair, and transparent approach for estimating gross energy savings.[60] To do so, the Technical Resource Manual provides standardized energy savings calculations and assumptions at the measure level for estimating energy savings, as well as measure-specific effective useful lifetimes.

[60] The New York Standard Approach for Estimating Energy Savings from Energy Efficiency Programs - Residential, Multi-Family, and Commercial/Industrial, known as the Technical Resource Manual (TRM) (2021) - Annual revision Version 8 effective January 1, 2021. https://www3.dps.ny.gov/W/PSCWeb.nsf/All/72C23DECFF52920A85257F1100671BDD

The Commission directed the investor-owned utilities to prepare a Technical Resource Manual Management Plan that would facilitate an effective transition, from Staff to the Utilities, of the functional responsibility for maintaining the Technical Resource Manual while ensuring that each Utility's and NYSERDA's input are considered.[61] The JU indicates the Technical Resource Manual Management Committee has an assurance that NYSERDA has some input into the maintenance of the Technical Resource Manual by inviting NYSERDA to participate in Technical Resource Manual Management Committee meetings and activities. However, with respect to the Technical Resource Manual Management Committee's voting structure, NYSERDA is unable to fully engage in the ultimate decision-making processes related to Technical Resource Manual updates and adjustments because it does not possess one of the Technical Resource Manual Management Committee votes shared by the Utilities and the Long Island Power Authority (LIPA).

The JU strongly opposes granting NYSERDA a voting role on the Technical Resource Manual Management Committee based on the primary argument that the Technical Resource Manual is only applicable to utility-administered programs. The Commission disagrees. It is true that the Technical Resource Manual is generally most applicable to mass-market energy efficiency incentive programs or programs that rely on prescriptive energy savings estimates for specific incentivized end-use measures. In the past, many of NYSERDA's programs had custom energy savings analysis and/or data that is project-specific, and which would not therefore typically rely on the Technical Resource

[61] Case 14-M-0101, Reforming the Energy Vision, Order Adopting Regulatory Policy Framework and Implementation Plan (issued February 26, 2015).

Manual. However, the overly simplified view put forth in the JU comments does not reflect the reality of the suite of ratepayers supported programs. Specifically, where a statewide standard approach for energy savings estimation can be utilized, the Technical Resource Manual is the appropriate source, regardless of whether a utility or NYSERDA are administering the program. It would be wholly inconsistent for two separate program administrators to utilize differing approaches and contrary to the purpose of the Technical Resource Manual. This standardization of approaches may be seen in the continued provision and enhancement of programs for LMI customers where the utility program administrators and NYSERDA, in response to a requirement of the Performance Management & Improvement Process 2020 Forum Annual Report, have undertaken a collaborative effort to ensure the Technical Resource Manual is revised appropriately to include an LMI baseline for applicable measures to align with current baseline policy approaches.[62] Similarly, for more complex offerings, including those the Commission has directed the Utilities to evolve their programs towards, they will require energy savings estimation approaches for which NYSERDA has ample experience and will be a valuable resource. All program administrators share the need to identify how to best approach custom projects in a credible and administratively streamlined manner in order for the energy efficiency and building electrification programs to scale. The Commission

[62] Market-rate energy efficiency baseline policy utilizes the applicable minimally compliant state or municipal code, or federal standard, that is applicable to the measure or system being installed, as the baseline from which savings are calculated. It has been the general practice for LMI programs to utilize an existing condition baseline on the premise that the energy efficient action would not have occurred absent the program's intervention.

expects and requires that these approaches be developed in a collaborative way and implemented by all based on use case rather than who is administering the program.

The Petition indicates that NYSERDA is now committed to implementing a larger number of increasingly collaborative programs with the Utilities which more routinely offer programs that use the calculations provided by the Technical Resource Manual to estimate energy savings.

The Commission finds JU’s comment that voting within the Technical Resource Manual Management Committee must be unanimous and that disagreements between NYSERDA and the Utilities could impede timely progress on Technical Resource Manual matters wholly unpersuasive. The Commission observes that any disagreement between any one current member of the Technical Resource Manual Management Committee and another current member could also impede timely progress on Technical Resource Manual matters in precisely the same manner, irrespective of NYSERDA’s involvement.

Accordingly, the Commission approves NYSERDA’s request to be a voting member of the Technical Resource Manual Management Committee. Supporting collaborative programming approaches between NYSERDA and the utilities alone warrants NYSERDA having an equally vested role in the Technical Resource Manual Management Committee. In this new role, NYSERDA will be able to properly introduce new measures, as well as to proactively participate with the Technical Resource Manual Management Committee in the update of measures in the Technical Resource Manual as market changes arise or as new information becomes available, including that from their evaluation studies. The Commission finds NYSERDA’s expanded role as well as its knowledge and experience will benefit the Technical Resource

Manual Management Committee and the entire suite of ratepayer supported programs.

The Utilities, LIPA, and NYSERDA are directed to jointly file a revised Technical Resource Manual Management Plan, updated to include NYSERDA as a member of the Technical Resource Manual Management Committee, with NYSERDA having the stature, rights, and responsibilities, including proportional sharing of associated costs, within the Technical Resource Manual Management Committee's voting structure that are equal to that of any one of the entities that has a share of the Technical Resource Manual Management Committee votes currently shared by the Utilities and LIPA. The revised Technical Resource Manual Management Plan shall be jointly filed no later than 60 days following the issuance of this Order.

CONCLUSION

The CEF and its respective portfolios have and will continue to be critical components enabling the State to meet its ambitious climate objectives. In this Order, the Commission further aligns the CEF with the State's policy objectives and calls for NYSERDA to expedite the delivery of these benefits by efficiently putting this funding to work. While more details will emerge regarding the implementation phase of the CLCPA, through the CAC process, the Commission must ensure continuity of the CEF and improvements where necessary. The actions contained in this Order not only focus on improved delivery of initiatives in support of our climate goals but ensure that the implementation of these initiatives provide benefits to Disadvantaged Communities.

The Commission orders:

1. The New York State Energy Research and Development Authority (NYSERDA) is directed to make a filing, within 60 days of the finalization of the Climate Justice Working Group criteria for Disadvantaged Communities, in consultation with Department of Public Service Staff, describing how the Disadvantaged Communities criteria will be integrated into CEF operations and the methods to be utilized in tracking the corresponding benefits delivered to these communities. This filing shall include an opportunity for meaningful input from stakeholders, including representatives of Disadvantaged Communities.

2. Department of Public Service Staff is directed to update Reporting Guidance, associated with NYSERDA and Utility reporting, as it relates to benefits to Disadvantaged Communities metrics, as described in the body of this Order, within 60 days of NYSERDA's filing detailed in Ordering Clause No. 4.

3. The focus area budgets, as reflected in Appendix B of this Order, are adopted for the Market Development and Innovation & Research portfolios with the budgetary flexibility described in the body of this Order.

4. The New York State Energy Research and Development Authority is directed to reflect the revised total Cost Recovery Fee costs within the Budget and Benefit tables filed as part of the Compiled Investment Plan (CIP) on December 1, 2021. The difference between the original Cost Recovery Fee estimates and revised Cost Recovery Fee estimates shall be added to the Reserve for each respective portfolio, and NYSERDA shall document the increased Reserves and Totals in a filing to the Secretary, concurrent with the December 1, 2021 CIP filing.

5. To the extent future reductions in Cost Recovery Fee costs arise or if Cost Recovery Fee estimates may increase, NYSERDA is authorized to reflect these changes in future Budget and Benefit filings and Focus Area Budget Tables filed with the Secretary.

6. The NY Green Bank is directed to make at least the minimum investments in the specific areas through 2025 and update its reporting to transparently reflect progress towards these financial commitments, as described in the body of this Order.

7. Within 6 months of the issuance of this Order, NY Green Bank should conduct a process, with input from relevant stakeholders, to assess New York Green Bank's offerings to ensure they meet the needs of, and deliver true benefits to, Disadvantaged Communities. The results of this process shall be documented in an update to its Metrics, Evaluation, and Reporting Plan and supplement to its 2021 Business Plan. These updates should include descriptions of the targeted investment types and products NYGB intends to undertake and the associated financial metrics and tracking to assure benefits to Disadvantaged Communities.

8. Central Hudson Gas and Electric Corporation; Consolidated Edison Company of New York, Inc.; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Orange and Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation shall describe the relationship to New York State Energy Research and Development Authority programs in any proposal for new funding as well as in their annual System Energy Efficiency Programs filings.

9. An Executive Level Committee of the Low- to Moderate-Income Joint Management Committee shall be instituted, as described in the body of the Order, and is expected to meet at least once per quarter and more frequently, as necessary. The Program Administrators are directed, within 60 days of this Order, to update the Low- to Moderate-Income Joint Management Committee Manual accordingly.

10. Each utility listed in Ordering Clause No. 8 is directed to make a filing within 45 days of this Order describing, in detail, its current referral process related to NYSERDA's EmPower program and identifying what steps it will take to improve the process, including a timeline for implementation.

11. The Goals and Metrics Framework, as detailed in Appendix C, are hereby adopted.

12. The New York State Energy Research and Development Authority is directed to monitor and report annually, 60 days following the calendar year end, the level and amount, by program, of uncommitted funds, as well as a summary of the Commission authorized uses of reallocated uncommitted funds, resulting from the previously authorized System Benefit Charge/Renewable Portfolio Standard/Energy Efficiency Portfolio Standard programs.

13. The New York State Energy Research and Development Authority is authorized to repurpose uncommitted funds as of July 31, 2021, in the amount of $224.7 million towards the remaining NY-Sun funding authorization of $343 million.

14. The New York State Energy Research and Development Authority is authorized to use additional uncommitted funds of up to $118.3 million or to reallocate funding from NY Green Bank to NY-Sun in the event uncommitted funds are not sufficient to

satisfy the remaining NY-Sun funding authorization. These reallocations shall be documented in the annual Uncommitted Funds Report, letter to the Secretary, and Bill-as-you-go monthly requisitions, as described in the body of this Order.

15. The New York State Energy Research and Development Authority shall file an updated Clean Energy Fund cash flow analysis, as described in the body of this order, no later than 60 days after the end of each calendar year.

16. The revised collection schedule, as reflected in Appendix E of this Order, is hereby adopted.

17. Central Hudson Gas and 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 shall file, on not less than 15 days' notice, revised electric System Benefit Charge tariff statements incorporating the directives contained in this Order, to become effective January 1, 2022, and each year thereafter.

18. No later than 60 days following the end of each calendar year, each utility listed in Ordering Clause No. 8 shall file the amount of carrying charges accrued on cash balances held by the utility for ratepayer collections supporting New York State Energy Research and Development Authority programs, including an accounting of any uses or remaining funds available for use.

19. Department of Public Service Staff is directed to issue a CEF Investment Plan Guidance Document for the Market Development and Innovation & Research portfolios, as described in the body of this Order, within 30 days of the date of this Order.

20. The New York State Energy Research and Development Authority is directed to file a Compiled Investment Plan for the Market Development and Innovation & Research Portfolios in compliance with the Investment Plan Guidance on or before December 1, 2021, and each November 1 every year thereafter, as described in the body of this Order.

21. The New York State Energy Research and Development Authority is directed to file NY Green Bank’s Annual Business Plan by July 1 of each year, as described in the body of this Order.

22. Within 60 days of the issuance of this Order, Staff is directed to revise and issue, as appropriate, Reporting guidance detailing New York State Energy Research and Development Authority reporting requirements, as described in the body of this Order.

23. New York State Energy Research and Development Authority’s request to be a voting member of the Technical Resource Manual Management Committee is approved. The utilities listed in Ordering Clause No. 8, the Long Island Power Authority, and the New York State Energy Research and Development Authority (NYSERDA) are directed to jointly file a Technical Resource Manual Management Plan, revised and updated to include NYSERDA as a member of the Technical Resource Manual Management Committee, as described in the body of this Order, no later than 60 days after issuance of this Order.

24. In the Secretary’s sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

25. These proceedings are continued.

By the Commission,

(SIGNED) MICHELLE L. PHILLIPS
Secretary

APPENDIX A: Clean Energy Fund Portfolios Funding Authorizations

Market Development and Innovation & Research (2016-2025)		
Administration (1)	$	274,400,000
Evaluation	$	124,200,000
Market Development Program and Cost Recovery Fee	$	2,399,728,000
Innovation and Research Program and Cost Recovery Fee	$	631,672,000
Total Program Authorization (1)	$	3,430,000,000
NY Green Bank (2)(2014-2025)		
Program	$	929,868,000
Administration and Cost Recovery Fee	$	13,248,000
Evaluation	$	4,000,000
Total Program Authorization	$	947,100,000
NY-Sun (3)(2014-2025)		
Program	$	1,718,500,000
Administration	$	46,000,000
Evaluation	$	2,500,000
Cost Recovery Fee	$	26,000,000
Total Program Authorization	$	1,793,000,000
Total Program Authorizations	$	6,170,100,000

(1) Total Program Authorization of $3.430 billion is inclusive of $250 million of RGGI funds pledged by NYSERDA to the CEF. Administration of $274.4 million is inclusive of $20 million of RGGI funds.

(2) In its Order Establishing New York Green Bank and Providing Initial Capitalization, issued in Case 13-M-0412 on December 19, 2013, the Commission authorized $165.6 million, including $13.248 million for Administration and Cost Recovery Fee and $4 million for Evaluation. In its Order Approving Additional Capitalization with Modification for New York Green Bank, issued in Case 13-M-0412 on July 17, 2015, the Commission authorized additional capitalization of $150 million for NYGB. In the CEF Framework Order, the Commission authorized additional capitalization of $631.5 million. As discussed herein, NYGB Program authorization (and CEF Total Program Authorization) may be reduced up to $118.3 million should additional uncommitted funds not be sufficient to fully fund NY-Sun.

(3) In Case 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, over a series of orders, the Commission allocated the following funding to NY-Sun: Order Authorizing the Redesign of the Solar Photovoltaic Programs and the Reallocation of Main-Tier Unencumbered Funds, issued December 19, 2013, $216 million for program years 2014 and 2015; Order Authorizing Funding and Implementation of the Solar Photovoltaic MW Block Program, issued April 24, 2014, $960.6 million; Order Regarding Value Stack Compensation, issued April 18, 2019, $43.3 million to provide up-front incentives as Community Adder Incentives for NY-Sun projects; and Order Extending and Expanding Distributed Solar Incentives, issued May 14, 2020, $573 million of incremental funding through 2025.

APPENDIX B: Focus Area Funding Authorizations

MARKET DEVELOPMENT FOCUS AREAS	2016-2019 Actual Encumbered and/or Expended Funds ($M)	2020-2025 Proposed Encumbered and/or Expended Funds ($M)	Total Budget Allocation ($M)
Low-to-Moderate Income	$221.22	$540.00	$761.22
Single Family Residential	$32.09	$77.11	$109.20
Multifamily Residential	$5.16	$66.00	$71.16
Commercial/Industrial/Agriculture	$199.23	$302.00	$501.23
New Construction	$63.39	$117.00	$180.39
Communities	$19.76	$65.92	$85.68
Transportation	$22.68	$24.00	$46.68
Clean Heating and Cooling	$55.83	$79.92	$135.76
Workforce	$16.94	$91.41	$108.34
Codes, Standards, & Multi-Sector Solutions	$24.29	$110.00	$134.29
Renewable/Distributed Energy Resources	$151.90	$37.00	$188.90
Market Development Reserve		$37.00	$37.00
	$812.51	**$1,547.36**	**$2,359.86**
INNOVATION & RESEARCH FOCUS AREAS	**2016-2019 Actual Encumbered and/or Expended Funds ($M)**	**2020-2025 Proposed Encumbered and/or Expended Funds ($M)**	**Total Budget Allocation ($M)**
Tech to Market	$48.00	$93.00	$141.00
Building Innovations	$9.00	$66.00	$75.00
Clean Transportation	$14.00	$40.00	$54.00
Energy Related Environmental Research	$14.00	$33.00	$47.00
Grid Modernization	$53.00	$81.00	$134.00
Renewables Optimization	$18.00	$44.00	$62.00
Negative Emissions	$0.00	$32.00	$32.00
Gas Innovation	$0.00	$40.00	$40.00
Climate Resilience	$0.00	$20.00	$20.00
Innovation & Research Reserve	$0.00	$16.00	$16.00
Total Innovation & Research	**$156.00**	**$465.00**	**$621.00**

*Values illustrated in Millions
** Totals do not include Cost Recovery Fee which are currently budgeted at $40.7 million for the Market Development Portfolio and $10.7 million for the Innovation & Research Portfolio. Any reductions in Cost Recovery Fee costs will be added to the respective portfolio’s Reserve budget, as detailed herein.

APPENDIX C: Goals & Metrics Framework

Metric and Definition		Performance Target 2025	Performance Target 2030	Calculated Lifetime Benefits of CEF Total Investment*
Energy Efficiency (EE)	Cumulative Annual Site EE Acquired**	53 TBtu	79 TBtu	1,150 TBtu
	Cumulative Annual Electricity Savings – approximate	23 TBtu (6.7 million MWh)	34 TBtu (10 million MWh)	440 TBtu (130 million MWh)
	Cumulative Annual Natural Gas Savings – approximate	25 TBtu	38 TBtu	490 TBtu
	Cumulative Annual Other Fuels Savings – approximate	15 TBtu	17 TBtu	220 TBtu
Renewable Energy (RE)	Renewable Distributed Solar Capacity Installed in NYS	6 GW	TBD CES 2.0 Under Development***	*n/a*
Mobilize Clean Energy Investment	Mobilization/Leveraged Funds	$20 billion	n/a	*n/a*
Equity for Disadvantaged Communities	Benefits of CEF Investments Accruing to Disadvantaged Communities	40%	40%	*n/a*

* Calculated Lifetime Benefits are not considered performance targets but are estimated and provided here to give a full understanding of the longer-term Return on Investment (ROI) of the CEF.

** Cumulative Annual Gross EE Acquired is less than the sum of Electricity, Natural Gas and Other Fuels savings due to netting out usage associated with electrification and other fuel switches.

*** Neither the Petition nor this Order address any funding associated with distributed solar installed capacity beyond the current 6 GW goal. Staff anticipates the release of a whitepaper later in 2021 to begin deliberations on any incremental ratepayer supported activities and associated goals. Notice will be provided under Case 03-E-0188 and Case 15-E-0751.

Metric and Definition		**2025**	**2030**	**Calculated Lifetime Benefits of CEF Total Investment**
Emission Reductions	Annual CO_2e Million Metric Tons (MMT)	9	12	190*
Clean Energy Jobs	Statewide Clean Energy Industry Jobs Priority Populations Trained and Employed in Clean Energy	To be tracked and reported		n/a
Participant Bill Savings	Energy Bill Savings for Participating Customers Energy Bill Savings for Participating LMI Households		To be tracked and reported	
Local Air Quality	Reduced On-Site Fossil Fuel Combustion in EJ Areas		To be tracked and reported	

*Calculated Lifetime Benefits are not considered performance targets but are estimated and provided here to give a full understanding of the longer-term Return on Investment (ROI) of the CEF.

APPENDIX D: Clean Energy Fund Cashflow Analysis

(Amounts in millions)	Actual 2016 (10 mos.)	Actual 2017	Actual 2018	Actual 2019	Actual 2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
COLLECTIONS																						
CEF Framework Authorized Collections	585.0	580.0	575.0	555.8	539.4	522.5	506.6	487.9	457.0	421.1	290.0	195.0	70.0	30.0	30.0	30.0	30.0	30.0	30.0	25.0	10.7	6,001.0
Adjustments						**-**	**-**	**-**	**-**	**128.9**	**20.0**	**(10.0)**	**20.0**	**26.8**	**(30.0)**	**(30.0)**	**(30.0)**	**(30.0)**	**(30.0)**	**(25.0)**	**(10.7)**	**-**
Adjusted CEF Collections	585.0	580.0	575.0	555.8	539.4	522.5	506.6	487.9	457.0	550.0	310.0	185.0	90.0	56.8	-	-	-	-	-	-	-	6,001.0
Bill As You Go Transfers to NYSERDA	(44.6)	(26.2)	(430.3)	(557.4)	(740.4)	(655.0)	(902.3)	(884.7)	(563.4)	(553.7)	(307.8)	(184.7)	(91.9)	(42.5)	(16.1)	-	-	-	-	-	-	(6,001.0)
Utility Cash Balances	**540.4**	**1,094.2**	**1,238.9**	**1,237.3**	**1,036.3**	**903.8**	**508.1**	**111.3**	**4.9**	**1.2**	**3.3**	**3.7**	**1.7**	**16.1**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	
REVENUES:																						
Bill As You Go Transfers to NYSERDA	44.6	26.2	430.3	557.4	740.4	655.0	902.3	884.7	563.4	553.7	307.8	184.7	91.9	42.5	16.1	-	-	-	-	-	-	6,001.0
RGGI transfers to CEF Fund	31.3	25.0	-	-	75.1	24.9	25.0	25.0	25.0	18.8	-	-	-									250.0
Total Revenues	75.9	51.2	430.3	557.4	815.5	680.0	927.3	909.7	588.4	572.5	307.8	184.7	91.9	42.5	16.1	-	-	-	-	-	-	6,251.0
EXPENDITURES																						
Previously authorized programs:																						
SBC3	9.4	4.6	3.4	14.1	3.6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	35.0
SBC4	44.9	36.2	16.0	30.6	6.0	8.6	5.0	5.2	1.5	0.0	-	-	-	-	-	-	-	-	-	-	-	154.0
EEPS1	4.7	10.2	7.9	5.6	1.2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	29.6
EEPS 2	105.5	69.2	39.6	43.9	12.6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	270.8
RPS	121.3	124.0	80.8	63.7	53.6	57.0	42.5	19.1	8.8	4.1	1.3	0	-	-	-	-	-	-	-	-	-	576.3
Subtotal	285.8	244.1	147.8	157.9	76.9	65.6	47.5	24.3	10.3	4.1	1.3	0.2	-	-	-	-	-	-	-	-	-	1,065.7
Clean Energy Fund Programs:																						
NY-Sun	29.7	49.2	64.4	102.0	127.3	178.0	329.8	372.9	25.7	-	-	-	-	-	-		-	-	-	-	-	1,279.2
NY Green Bank capitalization	150.0	96.2	133.4	20.7	255.4	125.8	-	-	-	-	-	-		-	-	-	-	-	-	-	-	781.5
Reallocate NYGB capitalization							-	-	(118.3)		-											(118.3)
Market Dev/Innovation & Research	43.4	107.6	162.6	210.8	255.3	295.9	442.6	494.0	449.9	396.2	266.0	151.3	84.8	40.5	29.3	-	-	-	-	-	-	3,430.0
Funded From Uncommitted Legacy Pgm Funds:																						
Energy Storage				2.0	2.9	46.4	75.6	60.6	44.3	37.5	35.8	31.4	13.6	4.1	-	-	-	-	-	-	-	354.3
Uncommitted funds transferred to CES		9.0	17.3	9.1	23.4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	58.8
Uncommitted funds transferred to Utilities					50.7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	50.7
Build Ready					0.0	4.5	9.8	11.0	11.0	11.0	(7.3)	(10.0)	(10.0)	(10.0)	(10.0)	-						0.0
NY-Sun expansion									146.4	159.8	20.8	16.0										343.0
July 2021 Maintenance Tier									0.1													0.1
Power Plan Cessation Mitigation (Approved 2/11/21)						12.5	12.5	12.5	12.5	12.5	12.5	12.5	12.5	12.5								112.5
Subtotal	223.1	262.0	377.7	344.6	715.0	663.1	870.2	950.9	571.6	617.1	327.8	201.2	100.9	47.1	19.3	-	-	-	-	-	-	6,291.8
Total Expenditures	508.9	506.1	525.5	502.5	791.9	728.8	917.7	975.3	581.9	621.1	329.1	201.4	100.9	47.1	19.3	-	-	-	-	-	-	7,357.4
Interest Earnings	5.5	4.7	2.3	3.4	1.1																	
NYSERDA Cash Balance (excl NYGB)	**661.9**	**211.7**	**118.8**	**177.1**	**201.8**	**152.9**	**162.5**	**97.0**	**103.5**	**54.9**	**33.6**	**16.8**	**7.9**	**3.2**	**(0.0)**	**(0.0)**	**(0.0)**	**(0.0)**	**(0.0)**	**(0.0)**	**(0.0)**	
Total NYSERDA+Utility Cash Balance	**1,202.3**	**1,305.9**	**1,357.7**	**1,414.4**	**1,238.1**	**1,056.7**	**670.6**	**208.3**	**108.4**	**56.0**	**36.9**	**20.5**	**9.6**	**19.3**	**(0.0)**	**(0.0)**	**(0.0)**	**(0.0)**	**(0.0)**	**(0.0)**	**(0.0)**	

NOTE: This Cash Flow Analysis reflects CY2020 actuals, NYSERDA's revised expenditure estimates for CY2021 and beyond as stated in their 6/23/2021 filing, and the projected expenditures associated with the Commission's July 2021 Order Approving Request for Maintenance Tier Support in Case 17-E-0603. Adjustments to existing collections and resulting revised annual collection amounts are established by the Commission and further detailed by utility in Appendix E. This analysis shall be updated by NYSERDA and filed on an annual basis no later than 60 days following the Calendar Year close.

APPENDIX E: Collection Schedule by Utility and in Total

	Central Hudson	Con Edison	NYSEG	Niagara Mohawk	O&R	RG&E	Total
2021	$28,265,156	$214,068,097	$66,834,157	$156,108,916	$21,060,475	$36,163,198	$522,500,000
2022	$27,490,200	$206,648,594	$65,087,755	$151,862,999	$20,479,730	$35,030,722	$506,600,000
2023	$26,588,564	$197,818,456	$63,066,845	$146,927,371	$19,803,627	$33,695,137	$487,900,000
2024	$25,001,191	$184,263,833	$59,398,465	$138,194,075	$18,617,587	$31,524,849	$457,000,000
2025	$30,234,700	$220,212,656	$71,977,908	$167,180,125	$22,509,191	$37,885,420	$550,000,000
2026	$17,041,376	$124,119,861	$40,569,366	$94,228,798	$12,686,998	$21,353,601	$310,000,000
2027	$10,169,854	$74,071,530	$24,210,751	$56,233,315	$7,571,273	$12,743,278	$185,000,000
2028	$4,947,496	$36,034,798	$11,778,203	$27,356,748	$3,683,322	$6,199,432	$90,000,000
2029	$3,122,420	$22,741,962	$7,433,355	$17,265,147	$2,324,586	$3,912,531	$56,800,000
Total	**$172,860,957**	**$1,279,979,786**	**$410,356,805**	**$955,357,494**	**$128,736,789**	**$218,508,168**	**$3,165,800,000**

Notes:

1) **The collection schedule presented here wholly replaces collection schedules as presented and referenced in Appendix H of the CEF Framework Order and Appendix J of the CEF Framework Order, as revised through an Errata Notice filed on February 11, 2016.**

2) **The collection schedule presented here does not change the total statewide collections or total collections by utility as authorized in the CEF Framework Order. As described herein, collections remain the same for the years 2021 through 2024, are adjusted for years 2025 through 2029, and are eliminated for 2030 through 2036.**