August 21, 2023

VIA ELECTRONIC FILING
Hon. Michelle L. Phillips
Secretary to the Commision
New York State Public Service Commission
Three Empire Plaza
Albany, New York 12223

Re: Case 14-M-0224 – Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs.
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 2023.

Dear Secretary Phillips:

NineDot Energy (NineDot) appreciates the opportunity to provide these brief comments on the above-referenced Cases regarding the Department of Public Service Staff Proposal on a Statewide Solar for All (S-SFA) Program.

We are available to discuss these comments further and can be reached at adam@nine.energy or +1-516-398-9482.

Respectfully submitted,

Adam B. Cohen, Ph.D.
Co-Founder and Chief Technology Officer
adam@nine.energy

Linda Tatlow
Senior Manager
linda@nine.energy

About NineDot Energy

NineDot is a leading community-scale, clean energy developer with a growing portfolio of projects across a range of technologies across New York City, Long Island and Westchester. NineDot is creating innovative energy solutions that support a more resilient electric grid, deliver economic and environmental justice benefits and reduce carbon emissions. We plan to develop, build and operate more than 400 megawatts of battery energy storage systems by 2026 that will strengthen the local power grid infrastructure and provide clean, reliable and resilient power to tens of thousands of New York homes and businesses.

NineDot's Comments on the Statewide Solar for All Proposal

NineDot commends the DPS and NYSERDA Staff for their efforts to ensure that the mechanisms are in place to provide benefits to New York's low-income households with the Statewide Solar for All (S-SFA) proposal. NineDot supports the proposal as it will begin to address the dire need to alleviate the energy affordability crisis in New York State. NineDot proposed a similar program (termed the Clean Energy For All [CEFA] Program) in our comments on the New York's 6 GW Energy Storage Roadmap: Policy Options for Continued Growth in Energy Storage (DPS Case 18-E-0130) on March 20, 2023. In our Roadmap comments, with an excerpt attached here for reference, we highlighted the inequity in the lack of available clean energy cost savings options for ratepayers in Downstate utility territories. As the majority of NineDot's portfolio is in New York City, we will focus our comments on Con Edison customers (Zone J), though we support a statewide program.

There is an acute energy affordability crisis facing New York City, which has the third highest electric rates of any utility with more than 100,000 ratepayers in the country.[1] These rates are projected to rise 4% per year following the most recent rate case, to over $0.30/kWh by 2026. According to a 2017 study published by the NYC Mayor's Office, over six hundred thousand NYC families were considered energy burdened, defined as those that pay more than 6% of their

[1] According to 2021 data published by the U.S. Energy Information Administration (EIA), of utilities with more than 100,000 clients, Con Edison residential electricity rates of over $0.273 are the third highest in the country, and its residential rates are 16% higher than the average commercial rate of $0.235.

incomes toward energy bills. Of those, over 460,000 were considered low income under federal definition (less than 200% of the federal poverty level).[2] This energy affordability crisis has worsened throughout the Covid pandemic and its aftermath, as has been borne out in the significant state aid required to cover past-due electricity bills. Governor Hochul has announced more than $1.2 billion in utility bill relief across the state since June 2022. Focusing in on New York City, Con Edison reported $1.3 billion in accounts receivables that were more than 60 days in arrears as of December 31, 2022. This follows a write-off of $369 million in past-due accounts with State and ratepayer funding during the year.[3]

The high level of arrears is likely to worsen during the summer months. Energy assistance programs do not provide sufficient funding for cooling needs, which have become more pronounced and continuous with rising temperatures. According to the National Assistance Directors Association (NEADA), approximately 85 percent of LIHEAP benefit funds are used to address winter energy needs.[4] Governor Hochul directed the establishment of an Extreme Heat Action Working Group (EHAPWG). The group released interim recommendations of actionable ways to deal with extreme heat on August 18, 2023. Among the recommendations, the group highlighted the lack of sufficient funding for cooling needs and called for increasing utility bill assistance for eligible New Yorkers.[5]

S-SFA is a major step in achieving the community protection goals mandated in the Climate Leadership and Community Project Act (CLCPA). The cost-savings benefits of shared, local, clean energy generation and energy storage can be harnessed as an immediate, effective tool to help

---

[2] "Understanding and Alleviating Energy Cost Burden in New York City," NYC Mayor's Office of Sustainability and the Mayor's Office for Economic Opportunity, August 2019.

[3] According to Con Edison's 2022 Annual Report, Con Edison Corporation of NY issued total credits of $359.9 million, towards reducing customers' accounts receivable balances for the year ended December 31, 2022, broken down as follows: $164.5 million pursuant to the NY funding; $108.4 million that will be recovered via a surcharge mechanism that began September 1, 2022, $80.0 million, in qualified tax credits and payments pursuant to the OTDA Program and the $7 million reserve. Pages 55, 146.

[4] States Call for Utilities to Suspend Shut-Offs During the Heat Emergency, Providing Emergency Funding to Pay Cooling Bills and the Develop a National Cooling Strategy for Low Income Families, https://neada.org/wp-content/uploads/2023/07/cooling2023pr.pdf

[5] Protecting New Yorkers from Extreme Heat, NYSERDA, August 18, 2023, https://www.nyserda.ny.gov/Featured-Stories/Protecting-New-Yorkers-from-Extreme-Heat/

alleviate the needs for our community members least able to afford it. NineDot supports the proposal to begin with ratepayers currently enrolled in Energy Assistance Programs (EAP) and encourages the DPS to look for ways to expand the program and serve additional low-income community members and supportive organizations. S-SFA also aligns with the stated goals of the utilities, including Con Edison as noted in a recent news article "Con Edison's Clean Energy Commitment prioritizes energy affordability, especially for those customers most vulnerable to rising costs".[6]

Clearly, New York State requires an all-hands-on-deck approach to address this growing energy affordability crisis. NineDot applauds the opt-in community solar industry for its success in creating a vibrant market that allows for the benefits of clean energy to be distributed to New York State's residents and low income communities. Given this success, NineDot believes an S-SFA program should be structured to ensure it is additive to this program.

NineDot welcomes the opportunity to make the following recommendations with respect to the program design:

<u>Eligibility of Storage Projects</u>: NineDot strongly agrees with Staff proposal that expanding project eligibility to include distributed energy storage projects will help address the disparity in clean energy cost savings available to low-income New Yorkers in Con Edison territory. As was noted, while the community distributed generation (CDG) solar market is thriving in New York State with over 1.6 GW of projects installed and an active queue with over 7.4 GW, more than 95% of those are located outside of NYISO Zone J.[7] **<u>As a result, low-income New York City residents are largely excluded from clean energy cost savings despite representing more than half of the State's</u>**

Figure 1: Con Edison June 2023 Interconnection Queue

	Solar (MW AC)	Energy Storage (MW AC)
Zone H-I	99	143
Zone J	134	643
Total	233	786

Includes all projects greater than <25kW (AC)

[6] This program could save low-income New Yorkers $158 on monthly Con Edison bills, silive.com, August 21, 2023
[7] DPS Statewide Solar for All Proposal, Con Edison Interconnection Queue as of June 2023

<u>low-income residential population</u>. This is a market dynamic which will not change, given the limited available land to site solar projects within the dense urban environment of New York City. As has been spelled out in the Climate Action Scoping Plan and the 6.0 GW Roadmap, battery energy storage systems (BESS) represent an outsized opportunity to bring clean energy to NYC residents, and is unique among clean energy technologies in its relatively small footprint.

As cited in the DPS' proposal, there were nearly half a million (486,787) customers currently in Con Edison's EAP programs in 2022, and even with full participation from community-scale solar projects, the pool of credits to service this customer base will be inadequate. With an active pipeline of community-scale energy storage projects in the interconnection queue (distribution-connected projects up to 5 megawatts participating in the VDER Value Stack tariff), energy storage projects are ideally positioned to pass on bill savings to low-income consumers in New York City. As can be seen in Figure 1, the pipeline of current BESS projects in Con Edison Zone J is nearly five times that of solar projects. Unlike solar projects, there are currently no incentives or programs available for standalone energy storage projects to provide clean energy savings to mass-market or residential service classes or low-income households. The S-SFA program represents an efficient and immediate way for energy storage projects to pass on cost savings to the low income customers.

<u>Program Size Cap</u>: Given the dire need for energy cost reductions among low-income New Yorkers, NineDot does not recommend any capacity caps on a program within Con Edison territory. As previously highlighted, S-SFA programs within Con Edison territory (NYISO Zone J) are likely to receive credits primarily from energy storage projects given the limited number of community solar projects. These pools will be insufficient to address the energy affordability issues in New York City and should not be capped. <u>On the contrary, the DPS should ensure that the program is structured to ensure maximum participation from community-scale standalone energy storage projects</u>. Under current Remote Crediting rules, energy savings are passed onto large commercial customers with multiple accounts, given lower customer acquisition and management soft costs and financing and credit risk costs. Support for the current market structure is completely contrary to the goals of the CLCPA.

Dual Participation: NineDot supports the ability of customers to participate in S-SFA as well as an opt-in Community Distributed Generation (CDG) project. This allowance will ensure that low- and moderate-income (LMI) customers who are auto-enrolled in S-SFA will also have the ability to participate in a local community solar project, benefit from greater utility bill savings, and be active participants in local, clean energy marketplaces.

No Harm Participation: NineDot urges Staff to ensure that participation in an opt-out S-SFA program will not inhibit a customer's ability to participate in any other public benefit programs, including utility assistance funding such as HEAP, LIHEAP or emergency debt relief. In addition, participation should not result in negative impacts on enrolled customers' rent calculations for affordable housing programs or any other public assistance program. See HUD guidance for community solar credits for reference.

Standard Offer Approach: NineDot agrees with the Staff Proposal recommendation of using the Standard Offer rather than competitive solicitations. A Standard Offer will provide greater clarity and market certainty to solar and storage developers considering S-SFA as an alternative to traditional opt-in community solar or Remote Crediting enrollment strategies.

Compensation Levels: NineDot agrees with the proposal that the Standard Offer "take the form of a specified percentage of a project's total Value Stack compensation that would be paid to the project for its monthly generation via the net crediting mechanism, with the remaining portion added to the customer credit pool, less utility administrative fees".

Compensation levels should be based on underlying project economics. DPS Staff and NYSERDA should work with stakeholders to establish an appropriate percentage for developer payment. Importantly, compensation levels and program design should be designed to maximize the ability for developers to leverage Federal funding, including but not limited to the low-income adder to the Investment Tax Credit (ITC) and programs supported by the EPA Greenhouse Gas

Reduction Fund. In addition, the S-SFA should offer the flexibility to sell a percentage of the project's total Value Stack credits into the program (e.g., 25%, 50%, 75%), giving developers the ability to keep a portion for opt-in participants of CDG or Remote Crediting. This will be particularly important in Zone J, as New York City's Climate Mobilization Act (Local Law 97) compliance commences, given that energy storage project remote subscribers can offset carbon penalties with BESS project subscriptions.

NineDot agrees that Compensation Levels for new project enrollment should be monitored and revised from time-to-time in response to market conditions and program participation, however, once a compensation level for a project is set, it should not be modified for an S-SFA term of 25 years (to be co-terminus with the VDER term). NineDot recommends that this process be transparent and predictable for parties that participate in the program.

Utility Compensation: NineDot agrees that the administrative fee available to the utility should be capped at 1.0%.

Project Enrollment Process: NineDot agrees that the 25% interconnection deposit is the appropriate milestone for Solar for All tariff enrollment, allowing developers to proceed with more certainty as they move to financing their projects.

However, given the significant time between the interconnection deposit and commercial operation, NIneDot recommends that program participants have an option to disenroll from the program prior to the commercial operation date. In addition, guidelines should be established for how projects can disenroll from the program in the future.

Program Structure: The program should be designed with an appropriate structure and consumer protections to ensure a smooth roll out and program administration by the utilities. It is critical that there are built-in mechanisms that ensure timely and accurate payment to project developers and allocations of bill credits given the ongoing issues experienced by CDG developers and customers in recent years. Bill mismanagement over the past two years has resulted in reduced and delayed customer savings, customer confusion, lower revenue realization for CDG developers, and increased clean energy program costs for New York State. CDG developers, opt-in customers and subscriber managers have a vested interest in ensuring that the utilities issue timely and accurate credits, whereas there are no similar interested parties for S-SFA to drive accountability for timely and accurate payment and customer crediting.

Staff should apply lessons learned from the opt-in community solar programs to ensure timely and accurate bill crediting. The utility should buy credits the month they are generated by clean energy projects with certifications that they are being correctly allocated, reinforced with publicly-available monthly allocation reports to the DPS. Consumer protections could include lifetime fixed caps on administrative fees and interest payable on unallocated credits so that the utilities make prompt payments to consumers. Utilities should also face appropriate penalties for late payment and bill credit allocation.

Inter-Utility Credit Pooling: NineDot does not believe that inter-utility credit pooling represents a viable path to providing energy bill savings to low-income consumers given the regulatory and operational complexities involved. In addition, this type of arrangement would likely result in more territorialism in the siting of renewable energy projects in areas where local residents are not benefiting from the utility savings.

Appendix: NineDot Energy’s Roadmap Comments

Recommendations for Low Income Economic Benefits:

7.5 Questions for Stakeholder Comment

1. For programs supporting bulk and off-site retail projects, how should incentive programs and procurements be best designed towards ensuring that at least 35% of proposed program funding is utilized to benefit disadvantaged communities and drive peaker plant emissions reductions, beyond a program focus on Zone J as proposed in Section 7.2?

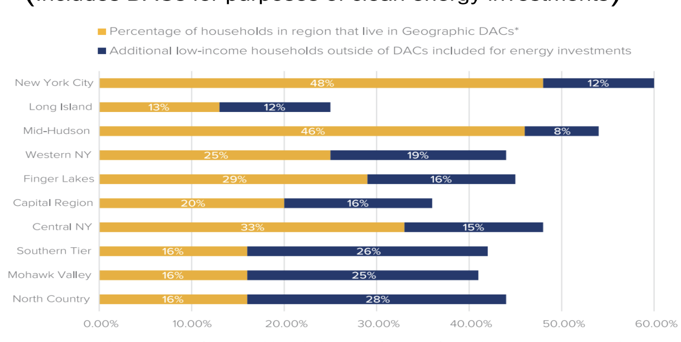
Table 1: Draft DAC Tracts by Region

Region	% of tracts identified as draft DACs
New York City	45%
Long Island	12%
Mid-Hudson	45%
Western NY	32%
Finger Lakes	35%
Capital Region	22%
Central NY	36%
Southern Tier	18%
Mohawk Valley	19%
North Country	15%
Total	**35%**

Source: New York State’s Draft Disadvantaged Community Criteria, www.climate.ny.gov

The CLCPA includes a requirement that disadvantaged communities receive at least 35 percent of the benefits of clean energy programs. Several community solar programs allocate ***economic benefits*** to disadvantaged communities by passing on guaranteed bill savings to utility customers. However, project subscribers are required to be customers within the same utility territory as the project. As more than 95% of the 1 GW of community solar has come online upstate, **ratepayers within Zone J are largely excluded from the economic benefits of clean energy.**

Figure 2: Percentage of Draft DACs by Region (Includes DACs for purposes of clean energy investments)

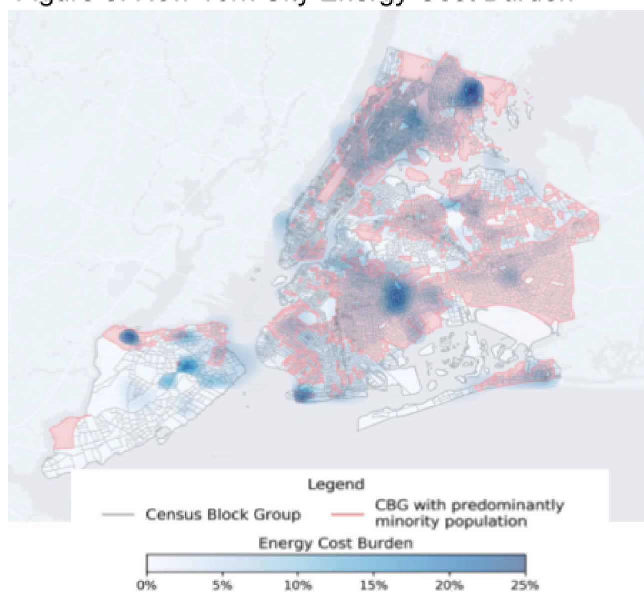


Source: New York State’s Draft Disadvantaged Community Criteria, www.climate.ny.gov

At the same time, New York City (Zone J) has the highest level of DAC census tracts within NYS, with 45% of all census tracts considered DACs versus 35% for the State, as can be seen in Table 1. When census tracts that qualify as DACs for energy efficiency and clean energy investments are included, this number rises to 60% for New York City, significantly higher than the average for all other NYS regions of 42% (shown in Figure 2).

Energy affordability issues are particularly pronounced in New York City as has been shown in several studies. According to research published by the NYC's Mayor's Office, 609,850 families were considered energy burdened, defined as those that pay more than 6% of their income towards energy bills, in 2017. Of those, over 460,000 were considered low income under federal definition (less than 200% of the federal poverty level).[8] The spatial map in Figure 3 also demonstrates how widespread the issue is across the city. This problem has grown over the past few years with the Covid pandemic. **The lack of direct clean energy savings programs available for disadvantaged communities within NYC is a major shortcoming in NYS's clean energy policy and needs to be addressed.**

Figure 3: New York City Energy Cost Burden



Source: Constantine Kontokosta, Vincent Reina, Bartosz Bonczak, Energy Cost Burden for Low Income and Minority Households, 2020

Establish a Clean Energy For All (CEFA) opt out program for disadvantaged communities

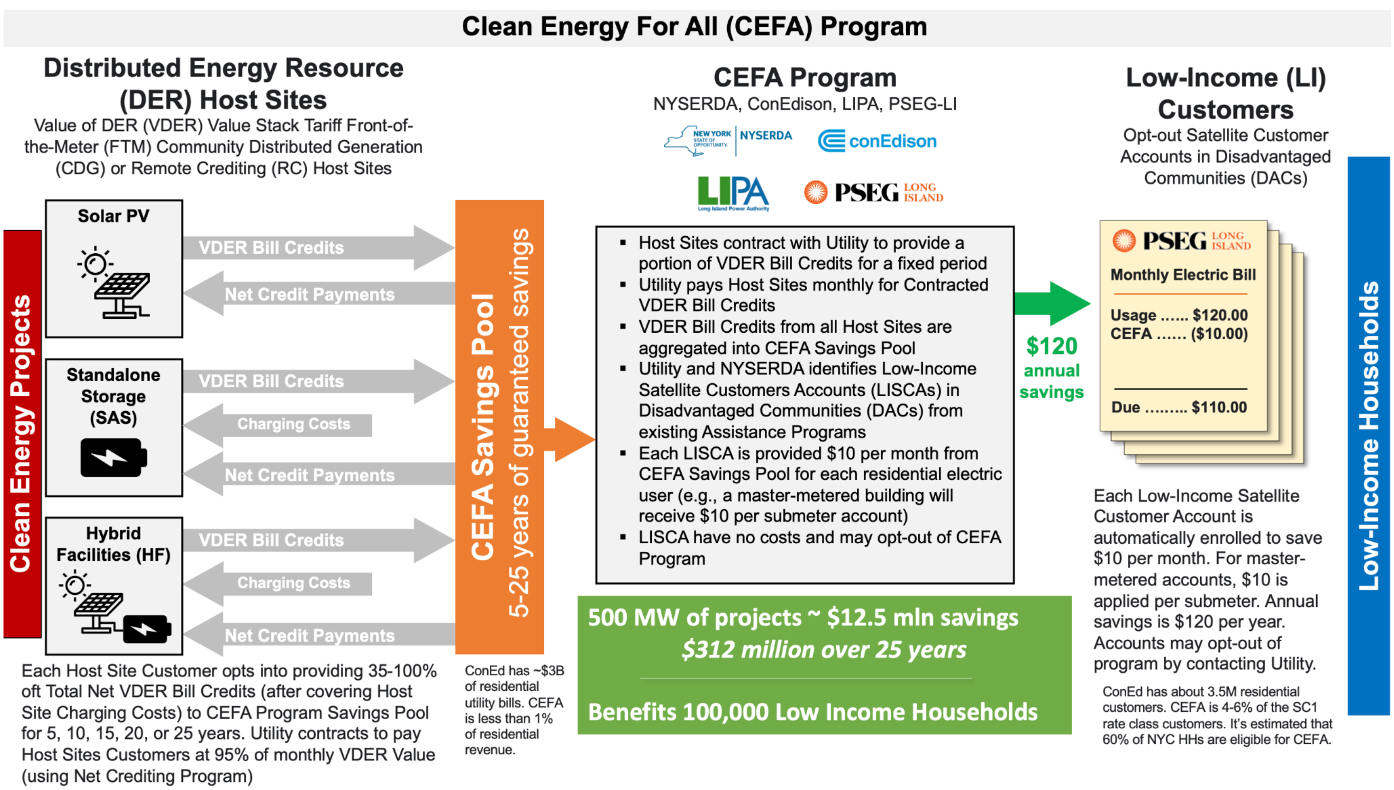
Currently, there are no established incentives or mechanisms in place to pass on the benefits from community storage projects to disadvantaged populations in New York State, a major objective of the State's energy policy. Mechanisms should be put in place that incentivize storage projects to provide economic benefits to low income communities; this would solve the problem of the lack of access of Zone J ratepayers to equitable economic benefits.

NineDot recommends the development of a state-wide low income opt out program managed by the utilities, "Clean Energy For All", which could be modeled after the Expanded Solar For All

[8] Understanding and Alleviating Energy Cost Burden in New York City NYC Mayor's Office of Sustainability and the Mayor's Office for Economic Opportunity August 2019

(E-SFA) program launched by National Grid in October 2022. This type of program could potentially provide benefits to a larger number of low-income customers across the state. The first two phases of the E-SFA program are expected to generate $720 million in savings to low income subscribers over the next 25 years[9]. In a Statewide E-SFA program all low-income customers within a given utility territory – whether in a Community Choice Aggregation (CCA) community or not – would be automatically enrolled to benefit from Community Distributed Generation (CDG) savings and could instead opt-out at their discretion. This differs from opt-out CDG programs which serve low-income customers in a defined CCA community.

The utilities are the most appropriate party to manage such a program and pass on benefits to low income subscribers given that the billing framework already exists, including ratepayers enrolled in energy affordability programs and other qualifying data. In addition, housing the program within a known utility will likely garner wider acceptance among low income



[9] NYSERDA and National Grid Announce Round One Results of Community Solar Program Offering for Underserved New Yorkers: Expanded Solar For All Program to Serve Nearly 175,000 Income-Eligible National Grid Customers

populations given that it alleviates administrative burdens and is an existing, known entity, alleviating subscribers' fears of fraud.

The program should be designed with an appropriate structure and consumer protections to ensure a smooth roll out and administration by the utilities. The utility should buy credits the month they are generated by clean energy projects with certifications that they are being correctly allocated. This could be reinforced with publicly-available monthly allocation reports to the DPS. Consumer protections could include lifetime fixed caps on administrative fees and interest payable on unallocated credits so that the utilities make prompt payments to consumers. These measures should help avoid problems experienced with consolidated billing for solar projects.