

Via Electronic Portal

August 25, 2023

Hon. Michelle L. Phillips
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, New York 12223-1350
Email: secretary@dps.ny.gov

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

Dear Secretary Phillips:

In response to the New York State Public Service Commission's notice of proposed rulemaking considering a petition filed by Alliance for Clean Energy New York, Inc. seeking modification to Clean Energy Standard Tier 1 Renewable Energy Certificate purchase and sale agreements, published in the above captioned proceeding on June 28, 2023, the New York Independent System Operator, Inc. hereby submits comments for consideration.

Respectfully submitted,
/s/ James H. Sweeney
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Rensselaer, NY this 25th day of August 2023.

/s/ *Elizabeth Rilling*

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**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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

**COMMENTS OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
ON THE TIER 1 PROJECTS AWARDED A RENEWABLE ENERGY CERTIFICATE
PURCHASE AND SALE AGREEMENT AND CURRENTLY UNDER DEVELOPMENT**

Pursuant to the New York State Public Service Commission’s (“PSC’s” or “Commission’s”) Notice of Proposed Rulemaking published June 28, 2023 (“Notice”),¹ the New York Independent System Operator, Inc. (“NYISO”) respectfully submits these comments for the Commission’s consideration. The PSC is considering a petition, filed on June 7, 2023 (“Petition”) by the Alliance for Clean Energy New York, Inc. (“ACE NY”), requesting that the Commission direct the New York State Energy Resource and Development Authority (“NYSERDA”) to incorporate an adjustment mechanism that modifies existing Clean Energy Standard (“CES”) Tier 1 renewable energy certificate (“REC”) contracts (“Tier 1 REC Contracts”).

According to the Petition, because of the economic impacts resulting from these circumstances, the portfolio of under development projects cannot proceed economically on existing contract terms. The Petition explains that developers cannot reasonably be expected to secure financing and proceed with projects that are no longer economically viable. Additionally, the Petition asserts that *some projects will fail to reach commercial operation*, jeopardizing the attainment of the State’s clean energy goals and, that even if projects re-bid into future NYSERDA solicitations, such bids would likely reflect significantly higher strike prices.²

¹ Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Proposed Rulemaking, NY Reg. June 28, 2023 at 33-34.

² *Id.* at 34 (emphasis added).

The Notice’s discussion of the Petition describes the proposed adjustment mechanism as a way to

ameliorate the unforeseeable, corrosive economic disruptions experienced by Tier 1 project that are currently under development, furnish substantial economic and environmental benefits to New York consumers, and restore the economic viability of the Tier 1 program, promoting the provision of safe and adequate electric service at just and reasonable rates on the trajectory designed to achieve the State’s clean energy goals.³

The State’s energy goals, largely driven by the CLCPA, are transforming New York’s electricity sector. The CLCPA directs the Commission to establish, among other things, a program to ensure that (1) by 2030, at least 70% of electric load is served by renewable energy (70 by 2030 Target), and (2) by 2040, there are zero emissions associated with electrical demand in the State (Zero-Emission by 2040 Target). The timely deployment of new electric generation resources, which satisfy the CLCPA targets and possess the attributes the electric system needs, is critical to achieving the State’s clean energy goals and to maintaining electric system reliability.

The NYISO is committed to operating an electric system that provides reliable service 24 hours a day, 365 days a year, and to planning a reliable system for the future grid.⁴ The Climate Action Council’s Scoping Plan accurately notes, “[w]hile transitioning away from fossil fuel use, maintaining reliable access to power, whether through centralized or distributed energy sources, is crucial for maintaining good public health in our energy-dependent society.”⁵ The NYISO

³ *Id.* at 34 (emphasis added).

⁴ The New York State Reliability Council (“NYSRC”) conducts an annual probabilistic assessment to determine the Installed Reserve Margin (“IRM”) required to maintain a “1-day-in-10-years” (“1-in-10”) loss of load expectation (“LOLE”). The NYSRC rules and Northeast Power Coordinating Council (“NPCC”) criteria define resource adequacy such that at any moment in time, the probability of the unplanned disconnection of firm electric load shall not exceed one occurrence in ten years, expressed as one day in ten years, or annually as maintaining a LOLE probability of 0.1.

⁵ *See* New York State Climate Action Council Scoping Plan, Full Report December 2022, at p. 105.

takes no position on the issue of whether, and if so how, REC Agreements should be modified as requested in the Petition and related dockets. The NYISO offers these comments to highlight the importance of developing and deploying generation resources that comply with the CLCPA requirements in a manner that is rationally coordinated with the retirement of existing fossil resources so that system reliability is not jeopardized.

COMMENTS

New Yorkers have long enjoyed reliable electric service and will expect the same level of service to continue. Reliable electric generation supports every aspect of New Yorkers' daily lives and is vital to the state's economy. Economic development within the state is driving the interconnection of large loads to the grid and increasing the demand for electricity. As transportation and building heat turn to the electric grid to drive the required economy-wide greenhouse gas emission reductions, people will become even more dependent on reliable electric service for their health, welfare, and safety. Reliable electric service is critical today and will become more critical to everyone's daily life and general well-being as other sectors of the economy electrify.

Reliable, dispatchable electric generation is in jeopardy as generation retires faster than new resources become operational. Electric system margins have decreased to unprecedentedly low levels.⁶ In fact, the NYISO's Short-Term Assessment of Reliability for 2023 Quarter 2 concluded that the New York City locality is deficient by as much as 446 MW for a duration of nine hours on the peak summer day under expected weather conditions, after accounting for

⁶ See 2022 Reliability Needs Assessment, *A Report of the New York Independent System Operator*, <https://www.nyiso.com/documents/20142/2248793/2022-RNA-Report.pdf/b21bcb12-d57c-be8c-0392-dd10bb7c6259?t=1669046152728> ("The margin to maintain reliability over the next ten years could be eliminated based upon likely changes in planned system conditions."). These margins measure the amount of generating capacity in excess of the absolute minimum needed to maintain reliability.

forecasted economic growth and policy-driven increases in demand for electricity. The deficiency would be significantly greater if New York City experiences a heatwave or an extreme heatwave. The narrowing margins and the identified deficiency in New York City demonstrate that the addition of new resources is timely and critical.

NYISO's ability to facilitate a reliable electric system, including delivery to consumers, requires that the introduction of new resources be coordinated with and occur prior to the orderly retirement of any existing generators. This order of operations is critical for maintaining reliability after such retirements. Electric system reliability margins are already close to minimum reliability requirements in certain areas across New York and continue to tighten, as discussed above. If these margins are totally depleted, the reliability of the grid would be at risk and power outages could disrupt normal life or negatively impact public health, welfare, and safety.⁷

The figures below demonstrate the trend of shrinking reliability margins. Figure 1 shows how resource retirements are beginning to outpace resource additions, notably over the last three years. Figure 2 depicts how this trend is leading to tighter reliability margins in the coming years. While the state's bulk electric system meets current reliability requirements, risks to reliability and system resilience remain. One key factor driving this risk continues to be resource retirements outpacing additions.

⁷ Federal and state reliability regulators expect the NYISO to comply with applicable reliability requirements to mitigate such risks to the power grid.

Figure 1 – Additions/Uprates and Deactivations Since the Enactment of the CLCPA (Nameplate Capacity)

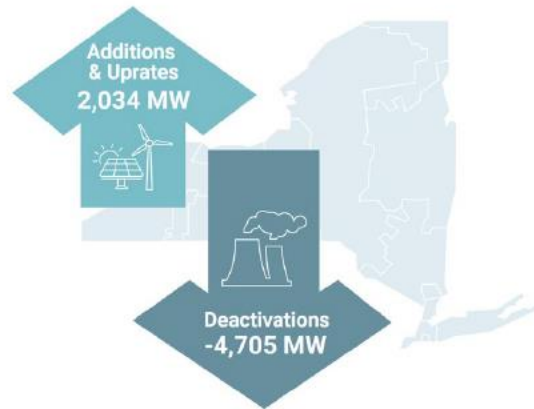
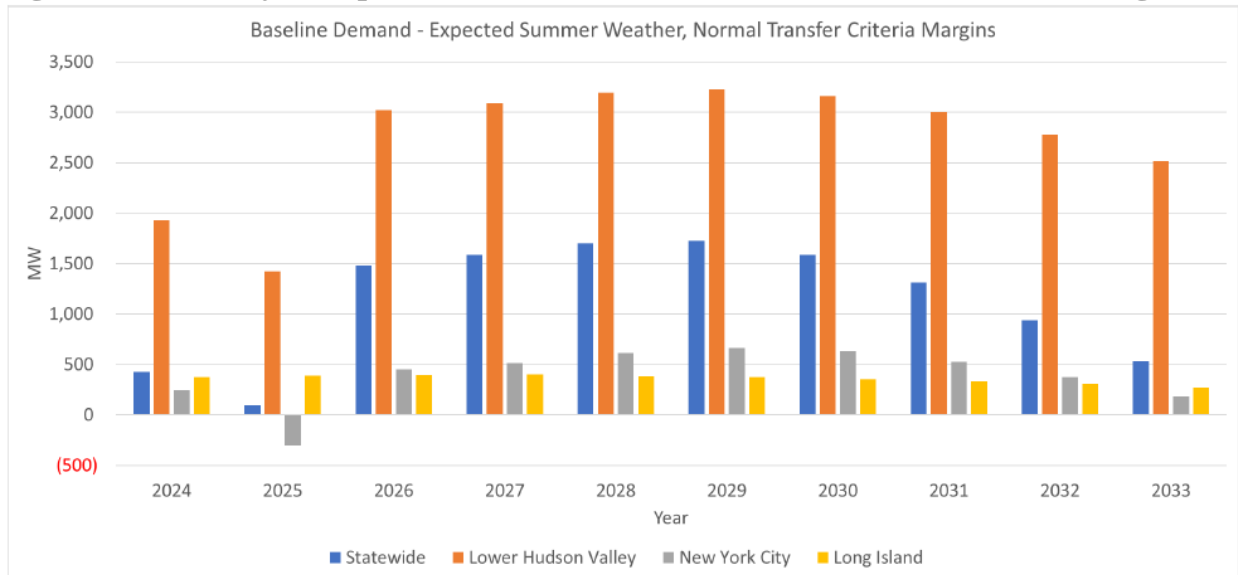


Figure 2 - Summary of Expected Summer Weather, Normal Transfer Criteria Margins



A sufficient fleet of new generation resources that satisfy the CLCPA *must* be available *before* more of the existing, traditional generators retire voluntarily or are forced out of service. New generation resources are required now to serve consumers’ needs and to maintain electric system reliability as load increases and existing generators retire. Large-scale renewable energy

generation, offshore wind generation, storage, and distributed energy resources are needed to satisfy CLCPA mandates and to support electric system reliability. Renewable energy generation must still increase substantially to achieve the CLCPA's 70 percent by 2030 renewable energy requirement and then increase further between 2030 and 2040. This transition will facilitate new renewable resources entering service in the near term, fossil generation will operate less and less prior to retiring, but remain available for when it is needed to serve load and maintain system reliability.

CONCLUSION

The NYISO appreciates the PSC's consideration of these comments and looks forward to working with the PSC, DPS Staff, and NYSERDA to protect electric system reliability for all New Yorkers throughout the transitions envisioned by the CLCPA.

Sincerely,

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