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March 4, 2021

Hon. Michelle L. Phillips
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

**Re: Case No. 18-E-0130 – In the Matter of Energy Storage Deployment Program
Case No. 16-M-0411 – In the Matter of Distributed System Implementation Plans**

Secretary Phillips:

Please find attached for filing in the above-referenced cases the comments of Independent Power Producers of New York, Inc. (“IPPNY”) in response to the “Petition of Niagara Mohawk Power Corporation d/b/a National Grid for Approval to Dispatch and Wholesale Market the Output from a Utility-Owned Energy Storage System Project” filed January 12, 2021 in the above referenced matters.

Respectfully submitted,

/s/ Matthew Schwall

Matthew Schwall
Director, Market Policy & Regulatory
Affairs
IPPNY

Cc: Service list

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**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

In the Matter of Energy Storage)	Case 18-E-0130
Deployment Program)	
)	
In the Matter of Distributed System)	Case 16-M-0411
Implementation Plans)	

**COMMENTS OF INDEPENDENT POWER PRODUCERS OF NEW YORK
ON PETITION OF NATIONAL GRID**

Independent Power Producers of New York, Inc. (“IPPNY”)¹ submits these comments in response to the “*Petition of Niagara Mohawk Power Corporation d/b/a National Grid for Approval to Dispatch and Wholesale Market the Output from a Utility-Owned Energy Storage System Project*,” filed January 12, 2021, in the above-referenced matters with the New York Public Service Commission (the “Commission”).² National Grid requests that the Commission approve the dispatch and wholesale market of the output of a National Grid-owned energy storage system (“ESS”) project located at National Grid’s East Pulaski Substation (the “Project”) to the New York Independent System Operator (“NYISO”). National Grid submits that such approval will aid its understanding of wholesale market transactions in advance of the deployment of two larger-scale, bulk ESS projects located in National Grid’s service territory

¹ IPPNY is a trade association representing companies involved in the development of electric generating facilities and the generation, sale, and marketing of electric power in the State of New York. IPPNY member companies produce a majority of New York’s electricity utilizing almost every generation technology available today, such as wind, solar, hydro, energy storage, nuclear, natural gas, oil, and biomass. These comments represent the position of IPPNY as an organization, but not necessarily the views of any particular member with respect to any issue.

² Case 18-E-0130 & 16-M-0411, National Grid Petition for Approval to Dispatch and Wholesale Market Utility-Owned ESS Project Output (January 12, 2021) (“Petition”).

with requested year-end 2022 in-service dates, the 20 MW/40MWh Old Forge Project and the 10 MW/20MWh North Lakeville Project.³

IPPNY opposes National Grid’s request for approval of its petition to dispatch and wholesale market the output of its distribution-level ESS to the NYISO. As IPPNY has time and again advocated, private developers are best positioned to develop power generation resources at lowest cost to consumers, including ESS projects, and instances of utility-owned generation participation in the wholesale markets operated by the NYISO should be limited to only the most-narrow of circumstances.

I. THE COMMISSION SHOULD REJECT NATIONAL GRID’S PETITION IN ITS ENTIRETY.

National Grid fails to compellingly demonstrate why the Commission should deviate from its long-held position of limiting instances of utility-owned generation participation in the wholesale markets. As the Commission has found in various proceedings, energy services should be provided cost-effectively by private developers on a competitive basis rather than by utilities through rate-of-return regulation.⁴ That is why the Commission *narrowly tailored* permissible exceptions to this general prohibition. In its REV Track One Order, the Commission found that “utility investment should not be exempt merely because it occurs on utility-owned property; rather, it will be exempt if it is directly integrated into *distribution service* (emphasis added),” and that it was the Commission’s expectation that a “market will develop through tariffs

³ Petition at p. 1.

⁴ See, e.g., Case 14-E-0302, *Petition of Consolidated Edison Company of New York, Inc. for Approval of Brooklyn Queens Demand Management Program*, Comments of Independent Power Producers of New York, Inc. (Oct. 6, 2014), at 2–3, 14–15; Case 14-M-0101, *Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision* (“REV Proceeding”), IPPNY Comments (Sept. 22, 2014), at 6, 12–15; Case 14-M-0101, *supra*, IPPNY Comments (July 18, 2014), at 8–16; Case 18-E-0071, *In the Matter of Offshore Wind Energy*, Order Establishing Offshore Wind Standard and Framework for Phase 1 Procurement (July 17, 2018).

that identify the fair and full value of reliable and fast responding storage.”⁵ More recently, in its 2017 Distributed System Implementation Plan Order, the Commission again found that utility ownership of distributed energy resources (“DERs”), including ESS projects “integrated into *distribution grid architecture* (emphasis added),” is a permissible exception to the basic presumption that utility ownership of DERs conflicts with REV’s underlying tenet that competitive markets and risk-based capital should fund asset development.”⁶

In its Petition, National Grid states that neither the 2017 DSIP Order nor the REV Track One Order address whether utilities bidding energy, capacity, and ancillary services from utility-owned ESS projects integrated with the distribution system into the NYISO wholesale markets is a permissible activity.”⁷ It is abundantly clear that the Commission’s intention in both orders was to narrowly limit instances of utility-owned ESS projects to those integrated at the *distribution* level to provide *distribution* level services as regulated assets. National Grid mischaracterizes the Commission’s statement that there is no need for a market power analysis for ESS projects directly integrated into distribution service.⁸ In its REV Track One Order, the Commission ruled that “the vertical market power concerns from the time of wholesale market restructuring” do not arise because “utilities will be paying for DER to support local reliability under preset tariffs approved by this Commission” and the ESS market will not use bid-based auctions.⁹ The Commission explained that “[u]ntil the markets are more established and there is sufficient asset development, the use of tariffs based on system value rather than a bid-based format will prevent both the utility and third parties from exercising market power and provide

⁵ REV Proceeding, REV Track One Order at pp 66-69.

⁶ Cases 16-M-0411 et al., *In the Matter of Distributed System Implementation Plans*, Order on Distributed System Implementation Plan Filings (issued March 9, 2017) (“2017 DSIP Order”) pp. 29-30.

⁷ Petition at pg. 3.

⁸ Petition at p. 3.

⁹ REV Track 1 Order at p. 66-67.

protection to consumers against market power abuses.”¹⁰ National Grid’s proposal is entirely inconsistent with the Commission’s REV Track One Order because it seeks to participate in the NYISO’s bid-based, wholesale energy and ancillary services markets.

Moreover, in its most recent Energy Storage Order, the Commission laid out a very specific program for competitive procurement of third-party owned utility-scale ESS for which the express purpose is wholesale market participation (the “bulk ESS projects” to which National Grid refers in its Petition), and stated that, “even in the case of electric grid-connected energy storage, utility ownership will be limited to compensating for failures in the marketplace and other specifically delineated situations.”¹¹ As of this writing, the procurements directed by the Energy Storage Order are ongoing, and it is far too premature to determine whether the market will fail to respond to the procurements, or, perhaps, whether there will be an unwillingness of the utilities to enter into contracts with developers for the bids received, for alternative reasons.

In its REV Track One Order, the Commission determined that, “because of their incumbent advantages, even the potential for utility ownership risks discouraging potential investment from competitive providers,” and that “markets will thrive best where there is both the perception and the reality of a level playing field, and that is best accomplished by restricting the ability of utilities to participate.”¹² If the Commission were to grant National Grid’s request to bid the services of the Project into the wholesale markets it would, at a minimum, create the perception of an unlevel playing field and could discourage potential investment. The Commission was correct to have established a separate program as part of its Energy Storage

¹⁰ *Id.* at 67.

¹¹ Case 18-E-0130, *In the Matter of Energy Storage Deployment Program*, Order Establishing Energy Storage Goal and Deployment Policy (December 13, 2018) (“Energy Storage Order”) at p. 44.

¹² REV Track One Order at p. 67.

Order for utility procurement of third-party owned bulk ESS projects. There is no compelling reason that the Commission should grant the Petition's request to offer the services of a utility-owned ESS into the wholesale marketplace in order to, as the Petition reasons, gain experience prior to the operation of the bulk ESS projects National Grid is contracting for. If National Grid contracts with a third-party developer for dispatch rights to a bulk ESS project, National Grid should not be afforded an advantage over other third-party developers who are also dispatching their own facilities into the wholesale markets for the very first time by permitting National Grid to experiment with, and take on the risk from, wholesale market sales of services provided by a ratepayer funded ESS projects.

II. CONCLUSION

IPPNY respectfully requests that the Commission reject National Grid's Petition requesting permission to dispatch and wholesale market the output of a National Grid-owned ESS project located at the East Pulaski Substation.

Respectfully submitted,

/s/ Matthew Schwall

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