

interviewed the developers that submitted bids in response to their respective Request for Proposals (RFPs). The Joint Utilities reviewed this feedback and also held a technical conference with energy storage industry stakeholders on September 24, 2020 to discuss the procurement process, review several proposed RFP changes for consideration, and solicit additional feedback.⁴ Stakeholders provided feedback during and following this technical conference (including via a dedicated email address) and generally expressed support for making changes to improve the cost-competitiveness and cost-effectiveness of future solicitations. Based on this effort and discussions with NYSERDA and Staff, as explained below, the Joint Utilities hereby petition the Commission for modification of the requirements of the Energy Storage Order on these three points for utilities to incorporate into the next solicitation: (1) an extension of the in-service date for storage resources from December 31, 2022 to no later than December 31, 2025, (2) an extension of the maximum dispatch rights contract duration from the current “up to seven (7) years” to “up to ten (10) years,” and (3) the specification of an additional procurement option whereby the utility could solicit and purchase a storage project from a developer upon project operation and, after an established ownership period, seek to sell the storage project if the sale would produce a customer benefit.

I. Extension of In-Service Date

The Energy Storage Order specifies an in-service date of December 31, 2022 for the storage resources procured as part of the Joint Utilities’ bulk level storage solicitation requirements.⁵ While this in-service deadline was appropriate for the storage resources procured

⁴ Storage Proceeding, Letter Announcing Technical Conference (filed September 10, 2020).

⁵ Storage Proceeding, Energy Storage Order, p. 55.

in the first solicitation conducted in 2019, that deadline is not attainable for the next round of solicitations currently in development by several of the Joint Utilities.

As the Order contemplated,⁶ the Joint Utilities that did not reach their storage targets in their initial solicitations plan to issue a second RFP during the second quarter of 2021.

Assuming the utilities are able to select and complete contract negotiations with winning bidders in early 2022 for this second round of solicitations, those projects would have an in-service date well past December 31, 2022 – particularly for projects required to enter the New York Independent System Operator (NYISO) Class Year process. Therefore, the Joint Utilities urge the Commission to modify the applicable requirement to state that each utility is required to procure the dispatch rights to the minimum amount of storage specified in the Energy Storage Order to be operational no later than December 31, 2025, with the potential to begin dispatch earlier for any projects that can be in-service sooner. This extension will allow developers a sufficient planning and development horizon, while contributing to the State’s interim goal of 1,500 MW of energy storage by 2025.⁷

II. Extension of Contract Duration

The Energy Storage Order directs that the “RFPs shall request bids for contracts for up to seven years, during which the utility will have full dispatch rights to the asset.”⁸ Based on both the actual bids received and the post-solicitation bidder interviews, developers described significant uncertainty about realizable merchant revenues after the expiration of the seven-year contract, and thus submitted bids designed to recover a significant percentage of their costs over

⁶ *Id.*, p. 54.

⁷ *Id.*, p. 113.

⁸ *Id.*, p. 54.

that seven-year contract period. Developers indicated that extending the contract duration beyond seven years would permit the amortization of costs over a longer period of time and thereby provide the utilities a lower annual contract cost. Because the NYISO market rules for energy storage are under development and do not yet provide a certain enough revenue stream to finance merchant storage projects, the Joint Utilities believe a modest increase to the contract duration is appropriate and therefore respectfully urge the Commission to authorize the next RFPs to solicit bids for contracts for up to ten (10) years in duration.

III. Utility Ownership of and Subsequent Divestiture of Energy Storage

Given that the NYISO's market rules for energy storage systems are at an early stage, leading to consequent revenue uncertainty, the Joint Utilities recommend including an additional option for procuring energy storage resources in the next round of RFPs. Specifically, the Joint Utilities urge the Commission to allow the utilities to solicit bids from energy storage providers to develop turn-key projects that the utility would purchase and own for an appropriate period, for example, five years, upon consultation with Staff, at the end of which time the utility would conduct a two-step request for information (RFI)/RFP process to evaluate interest from and execute contracts with third parties to purchase the storage assets.⁹ Prior to initiating the RFI/RFP process, the utility would develop with Staff a bid floor to help in providing a fair price for utility customers. In the event of insufficient interest in the RFI stage or bids in the RFP stage below the bid floor, the utility would retain ownership for two additional years at the end of which time the utility would repeat the RFI/RFP process.¹⁰

⁹ Utility lease or sale of real or personal property will require Commission approval under Public Service Law Section 70.

¹⁰ The Joint Utilities will work collaboratively with Staff to determine the maximum number of times to repeat the RFI/RFP process.

The option to sell the project to the utility would address concerns regarding the uncertain revenues from energy storage projects and could appeal to entities more interested in developing than owning energy storage systems such as engineering, procurement, and construction (EPC) firms that have been a vital component of New York’s commercial and utility-scale energy storage project market. Under this approach, the utility would also contract with the developer to provide the project with operational and maintenance (O&M) services for the initial contractual period, with optional two-year extensions. The Joint Utilities propose this utility ownership model as an additional pathway to developing energy storage projects that would ultimately be owned and operated by competitive market participants.

During the period of utility ownership, the utility would capitalize and recover in base rates from all customers the revenue requirement of the storage project and would similarly credit net revenues received from operating the storage project to all customers.¹¹ Upon sale of the storage project, any resulting net gains or losses would be distributed to or recovered from all customers.¹²

Accordingly, the Joint Utilities request that the Commission modify the requirements of the Energy Storage Order to authorize the utilities to include, as one option among others, solicitation of bids to purchase new energy storage projects from developers, with utility ownership to begin upon project operation, and continue for an initial period, such as five years as described above. Under this model, the developer would provide O&M services to the utility throughout the period of utility ownership. After the initial contractual period, the utility would sell the storage resource through a competitive RFI/RFP process if the highest offer is above the

¹¹ The utility may also request a deferral of the revenue requirement of the storage project until the utility’s next opportunity to reset base rates.

¹² The utility’s PSL Section 70 petition would provide the accounting details for the transaction.

utility's established offer floor. Otherwise, the utility would continue its ownership for continued customer benefit for two additional years at which time another RFI/RFP process would be conducted.

IV. Conclusion

The Joint Utilities reiterate their support of New York's energy storage goals and will continue their efforts to solicit energy storage projects that also provide value to their customers. To improve energy storage procurements, the Joint Utilities urge the Commission to extend the in-service date from December 31, 2022 to no later than December 31, 2025, extend the contract duration from up to seven years to up to ten years, and allow a utility to include as a procurement option utility ownership of energy storage projects starting with project operation and continuing for an appropriate period after which the utility would offer to sell the project through a competitive process.

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Respectfully submitted,

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