STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard	**Case 15-E-0302**
In the Matter of New York Independent System Operator, Inc. Proposed Public Policy Transmission Needs for Consideration for 2022	**Case 22-E-0633**

COMMENTS
OF
MULTIPLE INTERVENORS

Dated: April 24, 2026

MULTIPLE INTERVENORS
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PRELIMINARY STATEMENT

Pursuant to the Notice Soliciting Comments ("Notice"), the Notice Extending Deadline, and the Notice Further Extending Deadline issued by the New York State Public Service Commission ("Commission") in Cases 15-E-0302 and 22-E-0633 on January 27, February 5, and March 26, 2026, respectively, Multiple Intervenors hereby submits these Comments.[1] Multiple Intervenors is an unincorporated association of approximately 55 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State.[2]

By notice issued July 30, 2025, the Commission solicited comments herein on: (1) questions regarding utility ownership of renewable generation; (2) topics to consider as part of the comprehensive review of renewable solicitation practices; and (3) questions regarding offshore wind solicitations. On October 31, 2025, Multiple Intervenors submitted comments on each of those topics (hereinafter, "October 31st Comments"). Numerous other parties similarly submitted comments on those topics.

In its recent Notice, the Commission indicates that it is seeking "additional feedback to more fully comprehend issues regarding utility ownership of renewable generation including, but not limited to: (1) potential ratepayer impacts of utility ownership of renewable generation; (2) utility impacts/advantages or disadvantages of renewable generation siting; (3) Standardized

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[1] Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, and Case 22-E-0633, *In the Matter of New York Independent System Operator, Inc. Proposed Public Policy Transmission Needs for Consideration for 2022*.

[2] These Comments reflect the positions of Multiple Intervenors, and not necessarily the positions of each of its individual members.

Interconnection Requirements queue placement/management; (4) solicitation competitiveness; and (5) potential regulatory impacts of utility ownership of renewable generation." (Notice at 1.) Annexed to the Notice is an attachment prepared by New York State Department of Public Service Staff ("Staff") that advances specific questions pertaining to: (1) utility owned generation; and (2) wholesale energy and capacity market designs.

For the reasons set forth in its October 31st Comments (at pages 2-12) and below, Multiple Intervenors: (1) continues to advocate that the State's electric utilities should not be permitted to develop or own new generation (renewable or otherwise) in New York, and that modifying the Commission's decades-old policies prohibiting such ownership would be misguided and harm customers and the State's competitive wholesale electric markets; and (2) asserts that the solicitation of comments here on issues relating to wholesale energy and capacity market designs, which are the product of tariffs enacted, implemented, and modified from time to time as part of the New York Independent System Operator, Inc. ("NYISO") governance process and subject to regulation by the Federal Energy Regulatory Commission ("FERC"), is misplaced.

ARGUMENT

POINT I

THE COMMISSION SHOULD ADHERE TO ITS DECADE-OLD POLICIES PROHIBITING UTILITY OWNERSHIP IN NEW GENERATION

In the Notice, numerous questions are posed regarding different potential structures for utilities to develop and/or own renewable generation facilities. In response, Multiple Intervenors' position continues to be that: (1) the State's electric utilities should not be permitted to develop or own new generation facilities (renewable or otherwise) in New York; and (2) modifying the Commission's decades-old policies prohibiting utility ownership of generation would be misguided and harm customers and the State's competitive wholesale electric markets.

New York's electric utilities currently possess no particular or singular expertise in the development of renewable generation facilities or in the operation and maintenance of such facilities. In contrast, there are numerous, well-established companies that do possess such expertise. There are no compelling grounds to eliminate or modify the longstanding prohibition.

As Multiple Intervenors demonstrated in its October 31st Comments: (1) for decades utility development of generation facilities was marred by lengthy delays and large cost overruns; (2) barring very rare findings of imprudence, the consequences of such delays and cost overruns were borne by customers; (3) following Commission-directed divestiture of utility-owned generation, unit availability improved, often quite dramatically, thanks in large part to the incentives provided by competitive wholesale electric markets; (4) shifting the development, ownership, operation and maintenance of generation facilities from electric utilities to private developers was intended to protect customers from such risks; (5) authorizing utilities to develop and/or own new renewable generation facilities could shift some or all of those risks back to already-overburdened customers; and (6) the potential co-ownership of generation and transmission and distribution assets by utilities would unnecessarily raise a whole host of market power concerns that would need to be addressed (and, in some or many cases, may be incapable of being resolved satisfactorily). (*See* October 31st Comments at 2-12.)

The Commission also should recognize that the potential reversal of longstanding policies prohibiting utility development and ownership of generation facilities would necessitate a significant expansion of regulatory responsibilities for itself and Staff. For instance, all utility decisions, costs, and revenues related to generation development and ownership would need to be regulated actively by the Commission and Staff, and addressed and evaluated as part of rate – and possibly other – proceedings. The Commission also would need to establish policies addressing market power concerns as well as procedures for expeditiously addressing and resolving such concerns when advanced by interested parties.

A compelling case for utility development and/or ownership of renewable generation facilities has yet to be made. Importantly, there have been no analyses presented in these proceedings demonstrating that customers somehow would benefit by the Commission reversing its decades-old policies by allowing utilities to develop and/or own renewable generation facilities, presumably at customer risk and expense. Given the pressing need to improve affordability for customers of all types, the Commission should refrain from imposing a new set of risks and costs on customers, especially in the absence of transparent and unbiased analyses demonstrating that utility ownership of generation would in fact lower customer electric bills without harming competitive wholesale electric markets.

In response to the last question posed in this section of the Notice,[3] if, *arguendo*, the Commission reverses itself and allows utilities to develop and/or own renewable generation projects, the only effective way to ensure that such projects "are completed cost-effectively and timely" is to ensure that 100 percent of the risks of cost overruns and delays are imposed on utility shareholders. Such an imposition of risks would be entirely appropriate, and equitable, given that utilities would be responsible for deciding whether, when and where to develop and/or own renewable generation, the technologies to employ, the development schedule to utilize and how to

[3] Such question reads: "If Utility Owned generation were to be allowed, what approaches should be considered in order to optimally ensure projects are completed cost-effectively and timely. Identify the role competition should play, and how proposed approaches should be structured to leverage competition to arrive at least course resources." (Notice, Attachment at 3.)

maintain that schedule, the budget to utilize and how to stay on budget, *etc.* Importantly, if they elect to proceed, the utilities should not be afforded any advantages over non-utility generators, and placing these risks fully on the utilities under this undesirable scenario is absolutely necessary to protect customers.

The development and/or ownership of renewable generation by utilities is not needed for the safe and reliable provision of electric service; there are numerous private developers willing and able to undertake such tasks and responses to solicitations by the New York State Energy Research and Development Authority reportedly are robust. Thus, to the extent utilities are authorized to engage in the development and/or the ownership of renewable generation facilities, and their management teams elect to do so in furtherance of increased rate base and other potential financial incentives, then it is wholly appropriate to impose the risk of cost overruns and delays on utility shareholders.[4]

For the foregoing reasons, as well as those set forth in its October 31st Comments, Multiple Intervenors urges the Commission to retain and affirm its longstanding policies prohibiting utilities from engaging in the development and/or the ownership of new generation facilities (of any type).

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[4] If the utilities elect to enter the generation arena, the Commission and Staff should evaluate any proposed budgets and schedules proposed by such utilities to develop and/or own renewable generation to ensure that they do not overtly or subvertly allocate risks or associated costs to customers.

POINT II

POTENTIAL MODIFICATIONS TO WHOLESALE ENERGY AND CAPACITY MARKET DESIGN RULES SHOULD BE ADVANCED AND EVALUATED FOR CONSIDERATION IN THE NYISO GOVERNANCE PROCESS, NOT THESE PROCEEDINGS

In the Notice, a series of questions are posed regarding wholesale energy and capacity market design rules and potential changes thereto. (Notice, Attachment at 3.) Significantly, however, those rules are not within the direct purview of the Commission's jurisdiction. Wholesale energy and capacity market design rules, which are enacted and modified from time to time, are evaluated as part of the NYISO governance process and subject to FERC's exclusive jurisdiction.

Pursuant to the Federal Power Act ("FPA"), FERC has the authority to regulate "the transmission of electric energy in interstate commerce" and "the sale of electric energy at wholesale in interstate commerce." 16 U.S.C. § 824(b)(1). The U.S. Supreme Court has recognized that "the FPA obligates FERC to oversee all prices for interstate transactions and all rules and practices affecting such prices." *See Fed. Energy Regulatory Comm'n v. Elec. Power Supply Ass'n*, 577 U.S. 260 (2016). In contrast, the Commission possesses exclusive jurisdiction over retail electricity sales and prices in New York. The issues raised in the Notice, however, pertain to wholesale energy and capacity markets in interstate commerce and, therefore, are beyond the Commission's purview.

For instance, the first question posed in this section of the Attachment to the Notice inquires as to "what changes could be necessary with respect to, *inter alia*: "(1) Market Power Mitigation rules; (2) Bidding Requirements; [and] (3) Capacity Auctions and Capacity Requirements." Such matters are addressed through the NYISO governance process and are subject to FERC jurisdiction. The Commission's purpose in soliciting comments on issues outside of its direct jurisdiction is not clear.

The Commission, through Staff, participates in the NYISO's governance process. To the extent the Commission desires modifications to New York's existing wholesale competitive electric markets, Staff can and should advocate for such modifications as part of the stakeholder process, where those modifications can be explained with specificity, evaluated, and either adopted, modified, or rejected by stakeholders and/or the NYISO Board of Directors, subject to active oversight and regulation by FERC.

Importantly, if, *arguendo*, the Commission elects to take some action regarding current wholesale energy and capacity market design rules, its focus should be on: (1) maintaining, if not strengthening, electric reliability in New York; and (2) improving the affordability of electric service for customers of all types. Care should be exercised to ensure that the implementation of State policies – which are subject to change from time to time – do not exacerbate existing reliability and/or affordability concerns.

CONCLUSION

For the foregoing reasons, the Commission should: (1) continue to adhere to decades-old policies prohibiting utility ownership in new generation (renewable or otherwise); and (2) recognize that the NYISO governance process is the appropriate forum for advancing and evaluating for consideration potential modifications to wholesale energy and capacity market design rules.

Dated: April 24, 2026
Albany, New York

Respectfully submitted,

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