NEW YORK STATE
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to Address New York City Reliability Needs	)	**Case 25-E-0764**
In the Matter of the Value of Distributed Energy Resources	)	**Case 15-E-0751**
In the Matter of Modifications to the New York State Standardized Interconnection Requirements and Application Process for New Distributed Generators and/or Energy Storage Systems 5 MW or Less Connected in Parallel with Utility Distribution Systems	)	**Case 24-E-0621**
In the Matter of Energy Storage Deployment Program	)	**Case 18-E-0130**

COMMENTS OF NEW YORK SOLAR ENERGY INDUSTRIES ASSOCIATION (NYSEIA) ON CON EDISON'S DRAFT NEW YORK CITY RELIABILITY CONTINGENCY PLAN

I. Introduction

On July 17, 2026, Consolidated Edison Company of New York (Con Edison or CECONY) filed its draft New York City Reliability Contingency Plan (Draft Plan) for public comment, in accordance with the New York State Public Service Commission's (PSC or Commission) December 2025 Order Initiating Proceeding and Directing Reliability Contingency Plan.

New York Solar Energy Industries Association (NYSEIA) is a nonprofit trade association that represents approximately 250 companies actively developing, financing, constructing and operating distributed solar and battery energy storage systems (BESS) across the State, including New York City. NYSEIA appreciates the Commission's directives to Con Edison, which required the Company to issue a Request for Information (RFI) to solicit competitive proposals from market participants in order to identify a "comprehensive portfolio of solutions that prioritizes and leverages all available clean and non-emitting options, including, but not limited to, demand side management (e.g., energy efficiency, demand response, and virtual power plants, among other potential options), energy storage, distributed renewable resources, and other non-emitting generation resources."[1] We also appreciate the opportunity to provide comments on Con Edison's Draft Plan for the Commission's consideration.

[1] Case 25-E-0764. Proceeding on Motion of the Commission to Address New York City Reliability Needs. Order Initiating Proceeding and Directing Reliability Contingency Plan. December 18, 2025 ("Initiating Order").

II. Background

On December 18, 2025, the Commission instituted a new proceeding to address projected transmission reliability needs for the City of New York over the next decade or more using non-emitting resources. The Commission instituted this proceeding due to recent reports by the New York Independent System Operator (NYISO) which indicate that NYISO Zone J (all of New York City except Far Rockaway) may face reliability deficiencies over the next decade in light of electric load growth and generator retirements, which are projected to outpace capacity additions in the coming years. In its Initiating Order, the PSC directed Con Edison to develop an NYC Reliability Contingency Plan "to ensure that all appropriate steps are taken to address NYC's reliability needs and that safe and adequate service is continually maintained for the near- and long-term."[2]

In its Initiating Order, the PSC required Con Edison to identify its specific reliability needs, including capacity and timing, and file a report summarizing the reliability needs within 30 days of the Initiating Order and every 6 months thereafter.[3] The Initiating Order notes that the key reliability standard driving the projected needs is Con Edison's N-1-1-0 Transmission Planning Criteria for assessing the adequacy of its "Bulk Electric System (BES) and certain non-BES 138 kV and 69 kV systems (collectively, the Transmission System) to withstand design contingency conditions."[4]

Con Edison's RFI yielded 71 timely proposals from industry, a strong indication that there is interest and potential to meet the reliability needs with market-based resources. In July 2026, Con Edison filed its Draft Plan for public comment and consideration by the Commission.

Con Edison's Draft Plan includes two primary solutions to meet NYC's reliability needs, with two backup options. The primary solutions include transmission-connected BESS, operating under a utility-dispatch rights (UDR) framework and distribution-connected BESS under a UDR framework that Con Edison is referring to as Reliability Asset Dispatch Rights (RADR). Secondary solutions in Con Edison's Draft Plan include a technology-agnostic solicitation for other non-emitting reliability resources, and a 300 MW transmission cooling project as a backstop; a solution for which viability depends upon additional Upstate generation coming online to utilize the enhanced transmission capacity.

III. Comments

NYSEIA supports efforts to leverage BESS and other non-emitting resources to meet forecast reliability needs, and agrees that BESS are appropriate resources to meet Zone J reliability needs quickly and at-scale. However, we have significant concerns and reservations regarding the RADR proposal, which are outlined below for the Commission's consideration. Con Edison's Draft Plan should not be considered in isolation. In addition to considering Con Edison's Draft Plan, we urge swift action on matters before the Commission in related proceedings to address interconnection barriers to distribution-connected BESS deployment, which is a prerequisite to optimizing these resources to meet specific system needs.

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[2] Case 25-E-0764. Proceeding on Motion of the Commission to Address New York City Reliability Needs. Order Initiating Proceeding and Directing Reliability Contingency Plan. December 18, 2025 ("Initiating Order").
[3] Ibid.
[4] Ibid.

A. Distribution-Connected BESS Are a Key Reliability Solution: the Commission Should Direct Con Edison to Stop Blocking Their Timely and Cost-Effective Deployment

Distribution-connected BESS are powerful, flexible, and quick-to-deploy resources that can meet emergent system reliability needs. The potential to meet system needs with distributed BESS is not just hypothetical. There is a realistic path to near-term deployment and optimization of these resources at-scale based upon the pipeline of projects in Con Edison's interconnection queue, NYSERDA's Retail BESS incentive program, New York City's favorable zoning framework for BESS, and the availability of capital providers willing to underwrite BESS developed in Zone J using proven performance-based compensation frameworks, such as the Value of Distributed Energy Resources (VDER) tariff and the Dynamic Load Management (DLM) program.

Ironically, a significant portion of the distribution-connected BESS under development in Zone J are now at risk of cancellation due to recent unilateral, discretionary actions taken by Con Edison. The most notable actions taken by Con Edison that undermine BESS deployment are the utility's 2025 modifications to their BESS interconnection study methodology, including the establishment of a "two-part test" to screen substations for hosting capacity, which includes arbitrary and unsubstantiated assumptions regarding hosting capacity constraints and overnight BESS charging. These discretionary methodological changes by Con Edison significantly reduced the apparent cost-effective hosting capacity for distributed BESS in their service territory, resulting in higher estimated costs and fewer cost-effective BESS projects under development. This matter is described in detail in New York Battery Energy Storage Technology Consortium's (NY-BEST) January *Call for Immediate Relief*; Con Edison's subsequent *Notice of SIR Energy Storage*; NYSEIA and NY-BEST's joint *Motion for Emergency Rulemaking* pertaining to Con Edison's 2025 modifications to the Company's method for assessing available hosting capacity and overnight charging constraints for BESS; and intervening parties' comments.[5]

In parallel with Con Edison's unilateral modifications to its method to assess distributed BESS for interconnection, an apparent violation of the New York State Standardized Interconnection Requirements (SIR), Con Edison is also frustrating efforts by the Department to increase the reliability value of distribution-connected BESS in the VDER proceeding. In December 2025, the Department filed a *Staff Proposal on Updating DRV and LSRV for VDER Compensation* in which Staff proposes that Locational System Relief Value (LSRV) resources, dispatchable DERs in high-value locations based on the local Marginal Cost of Service (MCOS), be required to provide the "level of reliability and dispatchability that the utilities' planning engineers require to provide a capacity solution in those highest cost areas."[6] The Staff Proposal also included a list of terms and conditions that DPS proposed be included in the LSRV tariffs, and requested that the utilities file proposed tariff language to effectuate these enhanced

[5] Case 24-E-0621. In the Matter of Modifications to the New York State Standardized Interconnection Requirements and Application Process for New Distributed Generators and/or Energy Storage Systems 5 MW or Less Connected in Parallel with Utility Distribution Systems. NY-BEST, *Call for Immediate Relief*, January 2026; Con Edison, *Notice on SIR Energy Storage*, January 2026; NY-BEST and NYSEIA, *Motion for Emergency Rulemaking*, March 2026.

[6] Case 15-E-0751. In the Matter of the Value of Distributed Energy Resources. DPS. *Staff Proposal on Updating DRV and LSRV for VDER Compensation*. December 2025.

performance requirements for VDER-compensated BESS. The terms and conditions outlined by Staff in its 2025 VDER proposal include:

- Specification of the Amount of Load Relief Eligible for LSRV
- Duration of the LSRV Load Relief Obligation by the LSRV Project
- Duration and Timing of the Dispatch Events Callable by the Utility to Provide Load Relief
- Metering and Communications Equipment and Protocols Required for the LSRV Provider
- Installation Requirements for the LSRV Project
- Performance Testing Under Test Events
- Penalties for Failure to Perform Under Called Events
- Early Termination of Obligation Penalties
- Restrictions on Operating in Other Load Relief Programs
- Force Majeure Clauses[7]

The Clean Energy Parties, which includes NYSEIA and other clean energy trade associations, were broadly supportive of Staff's efforts to strengthen VDER, with an initial emphasis on increasing the reliability, and therefore local system deferral value, of dispatchable DERs in LSRV zones. Con Edison and the Joint Utilities declined to provide the requested tariff language in response to the Staff Proposal, and instead made broad arguments opposing efforts by the Commission, Staff, and stakeholders to modernize and improve the VDER tariff. In contradiction to their broad arguments, in response to DPS question 5 which requested "what specific language on non-price terms and conditions should be enumerated for LSRV eligibility" the Joint Utilities stated "the existing VDER tariffs and statements, which identify LSRV zones and remaining DER capacity needed to defer investments, are sufficient to implement the Staff Proposal."[8]

Con Edison's advocacy and lack of cooperation with Staff has resulted in material delays in the VDER proceeding, impeding community-scale solar and BESS development across New York State, jeopardizing New York's ability to leverage federal Investment Tax Credits to lower the cost of these resources to ratepayers. NYSEIA estimates that material deviations from the Staff Proposal or further delays in the adoption of 2025 MCOS rates in the VDER proceeding will jeopardize 1.5 GWac of community-scale solar and BESS in New York State, costing New York $3.6B in investment, including $1B in forgone federal ITCs. NYSEIA estimates that this would cost New York's economy 16,318 job-years – a detrimental outcome for New York's clean energy workforce, and for the ratepayers who would otherwise benefit from improved energy supply built with federal ITCs which lower the net cost of infrastructure to New York ratepayers.[9]

NYSEIA posits that Con Edison and the Joint Utilities' lack of cooperation with Staff's request for language to strengthen the VDER tariff to increase the reliability, and by extension the transmission and distribution (T&D) system deferral value, of participating resources may be due to misaligned incentives.

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[7] Case 15-E-0751. In the Matter of the Value of Distributed Energy Resources. DPS. *Staff Proposal on Updating DRV and LSRV for VDER Compensation*. December 2025.

[8] Case 15-E-0751. In the Matter of the Value of Distributed Energy Resources. Joint Utilities. *JU Comments on Staff LSRV DRV Proposal*. March 16, 2026

[9] Case 15-E-0751. In the Matter of the Value of Distributed Energy Resources. NYSEIA. Impact of VDER Decision on Investment and Jobs. August 2026.

While New York utilities are generally entitled to earn a guaranteed rate of return on traditional T&D system expansion, and earn a regulated return, or share in the profit of Non-Wires Alternative (NWA) projects, utilities do not enjoy significant profit opportunity from VDER-compensated resources, and in fact may forgo future profit opportunities because these resources defer the need for traditional system expansion. The issue of misaligned incentives is discussed further in Section H below. While NYSEIA urges the Commission to address this structural problem, we acknowledge that it will take time, and therefore encourage the Commission to prioritize near-term actions in the interconnection and VDER proceedings to support near-term DER deployment so the resources can be brought online well ahead of any forecast reliability needs, and maximally leverage available federal ITCs.

B. Distribution-Connected BESS can Deliver Reliability Value and Customer Savings through Wholesale Price Impacts, Direct Savings to Low- to Moderate-Income (LMI) Customers, and T&D System Expansion Deferral

While Con Edison correctly identifies distribution-connected BESS as a key reliability solution, it's important to note that these resources can deliver several additional value streams, and that these values can be stacked in a manner that maximizes value for ratepayers.

For example, a typical distribution-connected BESS operating under the VDER tariff lowers wholesale prices for ratepayers by charging when wholesale rates and congestion are low and exporting power to the grid during peak hours. This provides wholesale price suppression, delivering significant bill reduction to ratepayers across service classes. A recent study by Synapse Energy Economics found that deploying 20 GWdc of distributed solar and achieving New York's energy storage deployment goals by 2035 would deliver an estimated $1 billion in annual savings to ratepayers through wholesale price suppression alone.[10] The beneficial impact of wholesale price suppression on customers' bills is meaningful, and is a reflection of BESS' ability to balance supply and demand, relieving congestion and reducing reliance on the most expensive and polluting generators. A typical VDER-compensated BESS in Con Edison territory will also provide direct bill savings to Low- to Moderate-Income (LMI) customers through the Statewide Solar for All (SSFA) program, which steers bill credits to LMI customers enrolled in Con Edison's Energy Affordability Programs (EAP). Not only does this provide direct relief to the subset of customers who are most energy-burdened; it also reduces arrears for customers at the greatest risk of non-payment, reducing uncollectible costs for all ratepayers.

In addition to the energy supply cost benefits and direct bill savings that VDER-compensated resources provide, both VDER-compensated resources and BESS enrolled in the DLM program can provide meaningful ratepayer savings by deferring or eliminating the need for expensive traditional T&D system expansion. In DPS Staff's 2025 Proposal in the VDER proceeding, Staff proposed enhanced performance requirements for dispatchable DERs located in geographic zones where the utility's MCOS is significantly higher than the systemwide average. In essence, Staff is seeking to leverage the existing LSRV construct to steer dispatchable DERs to the highest value locations and optimize their performance

[10] Synapse Energy Economics. Sunlight and Storage into Savings. Evaluating Energy Cost Savings from Distributed Solar and Storage Additions in New York. https://www.synapse-energy.com/new-york-distributed-solar-and-storage-savings. January 2026.

based on grid needs – an approach that NYSEIA supports, and which could serve as the basis for leveraging VDER-compensated BESS to meet transmission security needs at a lower cost.

Rather than dedicating a fleet of BESS exclusively toward transmission security, as proposed by Con Edison in its Draft Plan, we urge the Commission to consider opportunities to strengthen the VDER tariff so community-scale BESS in NYC can meet Con Edison's forecast reliability needs and provide additional system services. By stacking values rather than deploying siloed resources to serve discrete functions, the Commission can increase resource utilization and deliver multiple streams of benefits, lowering the incremental program cost of the reliability resources for ratepayers while building upon a proven market-based construct.

C. Con Edison Has Not Provided Sufficient Evidence Regarding the Scale and Scope of its Forecast Reliability Needs

Despite carefully reviewing Con Edison's filings in this proceeding and actively participating in the technical conference, NYSEIA is unable to verify if and how the pipeline of distribution-connected BESS in the interconnection queue were incorporated into Con Edison's reliability needs forecast. Con Edison has a significant pipeline of BESS in the interconnection queue. If they are ultimately deployed, these resources can materially reduce local network peaks and the systemwide peak, which should by extension increase Zone J's reliability margin. NYSEIA urges the Commission to direct Con Edison to provide a detailed and transparent accounting of how DERs under development were incorporated into its load forecast, which is a prerequisite to accurately assessing system needs. Rather than relying solely on Con Edison's assumptions regarding VDER-compensated BESS deployment, NYSEIA recommends that the Commission seek oversight from DPS Staff and input from NYSERDA, as the agency charged with administering the Retail BESS incentive program in Con Edison service territory.

D. The Commission Can Facilitate Rapid Distribution-Connected BESS Deployment with Timely and Decisive Action in Related Regulatory Proceedings

NYSEIA appreciates the Commission's urgency in initiating this proceeding to meet New York City's forecast reliability needs. If the Commission agrees with Con Edison's conclusion that distribution-connected BESS are a key reliability solution, we urge the Commission to take timely and decisive action in related regulatory proceedings to expedite near-term BESS deployment. By directing Con Edison to restore a fair and transparent interconnection process, and to waive arbitrary or discretionary technical screens, the Commission can ensure that distributed-BESS deployment continues without cost-prohibitive and unnecessary interconnection costs.

By adopting the 2025 Staff Proposal in the VDER proceeding, which primarily replaces decade-old utility MCOS values with updated values from utilities' 2025 MCOS studies and establishes a standard method for designating LSRV zones and maximize the value of these resources, the Commission can steer distributed energy resources to the highest value locations, reduce reliance on NYSERDA incentives, increase LMI customer savings through SSFA, and demonstrate New York's commitment to providing regulatory certainty and predictability to market participants. Capital is portable, and right now it is being reallocated away from New York State due to the material and ongoing delays in the VDER proceeding.

Importantly, adopting Staff's 2025 Proposal does not preclude the Commission from implementing additional tariff modifications; in fact, the Commission could adopt Staff's proposal and direct Staff, the utilities, and DER stakeholders to convene technical conferences or working groups to advance rate design evolution in a transparent and predictable manner that elicits stakeholder participation and yields reliability improvements with minimal cost and minimal market disruption.

E. Con Edison's RADR Proposal Is Unproven, and Introduces Significant Ratepayer and Market Risks

RADR is Unproven

While NYSEIA supports leveraging distribution-connected BESS to meet New York City's projected reliability needs, we have significant concerns with regard to Con Edison's RADR proposal, and believe many of Con Edison's assertions about RADR are false and/or unproven. Perhaps most concerning, throughout the Draft Plan and at the in-person technical conference, Con Edison personnel explicitly referred to RADR as a replacement or successor to VDER. NYSEIA strongly objects to this characterization. The VDER tariff is a performance-based compensation mechanism that has successfully animated a multi-billion dollar market for distributed energy infrastructure investment in New York State over the last decade. Meanwhile, RADR is nothing more than a concept of a plan, with no demonstrated track record of success or even a completed pilot for the Commission, Staff or stakeholders to evaluate. Rather than building on a proven construct like VDER, the RADR proposal seeks to emulate Con Edison's Bulk Storage UDR program, which has significantly underperformed to date. In its 2018 *Order Establishing Energy Storage Goal and Deployment Policy*, the Commission required Con Edison to procure at least 300 MW of Bulk Storage with UDR, to be operational by December 31, 2022.[11] Con Edison had to adjust the program multiple times before contracting any projects, and as of today, there are no operational UDR BESS projects in the Company's service territory.[12]

The Commission is right to heed the NYISO's warnings regarding dwindling reliability margins, and to prioritize non-emitting resources to meet the forecast system needs. However, the stakes are high, and it would be premature and risky to hinge New York City's reliability plan for emergent needs on an unproven program. Instead, we recommend that the Commission direct Con Edison to build upon proven frameworks, such as VDER and DLM.

RADR Will Impose New Financial Risks and Costs on Ratepayers

As proposed by Con Edison, RADR will impose significant new financial risks on ratepayers in comparison to VDER or DLM-compensated resources. In its Draft Plan, Con Edison asserts that the "RADR program is designed to provide the greatest achievable value to customers, at the lowest achievable net cost, that was not available to them via the VDER tariff."[13] This is a false and unsubstantiated statement.

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[11] Case 18-E-0130. Order Establishing Energy Storage Goal and Deployment Policy. December 2018.
[12] NYISO. Interconnection Queue. October 2026.
[13] Case 25-E-0764. Proceeding on Motion of the Commission to Address New York City Reliability Needs. Con Edison. New York City Reliability Contingency Plan ("Draft Plan"). July 2026.

In fact, Con Edison is proposing that its shareholders earn a guaranteed profit on every single dollar spent on RADR-participating projects, including interconnection costs, BESS charging costs, and performance payments to the system owners over a 15-year period. For VDER-compensated resources, interconnection costs in Con Edison territory are exclusively borne by solar or BESS companies. Con Edison proposes shifting 100% of this cost, including the risk of utility cost overruns, onto ratepayers. BESS charging costs today are borne exclusively by the owner of the BESS, whereas Con Edison proposes shifting these costs onto ratepayers.

The Commission should not underestimate the importance of properly aligned incentives for identifying least-cost interconnections and optimizing BESS charging; today, BESS developers have a strong economic incentive to identify least-cost interconnection options and to only charge BESS during off-peak hours when energy is most affordable. Lower system costs translate into more profitable projects. Conversely, in its RADR proposal, Con Edison proposes replacing existing cost-containment incentives with perverse incentives, whereby it will be in Con Edison's interest to maximize total costs – expensive interconnection options, cost overruns, and charging BESS during expensive peak hours will all generate profit for shareholders, pitting the interest of ratepayers against those of the utility, in its role as the program administrator and BESS operator. NYSEIA urges the Commission to preserve and strengthen incentives that align the interests of the BESS developer/operator and the public.

RADR Will Impose New Performance Risks and Costs on Ratepayers

Under the VDER tariff, BESS owners are required to be responsive to the tariff. BESS owners only receive Demand Reduction Value (DRV) compensation for exporting during peak hours identified by the utility in its tariff, receive wholesale arbitrage value from charging during off-peak times and discharging during peak demand periods, and capacity payment for exporting during the peak system hour. While VDER is imperfect, it is logical and transparent: DRV hours are aligned with the local system peak at the time of interconnection, with DRV compensation derived from the utility's MCOS, and capacity and energy payments are directly tied to the NYISO wholesale market. Failure to perform in accordance with the tariff translates into reduced compensation to the system owner/operator, ensuring that the BESS operator's interests are aligned with those of the ratepayer.

Con Edison's RADR proposal does not clearly articulate how the BESS will operate, and instead notes that participating BESS will "operate flexibly to address reliability needs" under a 15-year utility-dispatch rights contract.[14] NYSEIA appreciates the importance of flexibility to address reliability needs. However, the Commission should carefully consider the possibility that participating BESS could be underutilized due to the lack of internalized accountability that a transparent tariff offers in comparison to a bilateral UDR contract without predefined operating parameters. Risks for the Commission to consider under the RADR proposal include: 1) the possibility of a RADR BESS sitting with a full state of charge and providing no value outside of rare/unlikely contingency scenarios; 2) the possibility of a RADR BESS not being operated to maximize traditional T&D system deferral value because this is not in the utility's financial interest; and 3) the possibility of sub-optimal BESS operations, which could drive up ratepayer costs.

[14] Case 25-E-0764. Con Edison. Draft Plan. July 2026.

Theoretically, robust regulation and performance audits could mitigate these financial and performance risks. However, the most comprehensive way to address these risks is to build upon a proven framework and establish well-aligned incentives that reward Con Edison and the BESS owner/operator when value is delivered to the system and ratepayers.

F. VDER is a Proven Vehicle for Investment and Operational Optimization; Tariff Language Can be Strengthened to Address Reliability Needs

In its Draft Plan, Con Edison asserts that the current VDER framework is not adequate to meet transmission security needs, noting the lack of performance obligations, and the system owner's discretion regarding dispatch in response to multiple price signals.[15] This is not a controversial statement. In fact, there is broad consensus among DPS, the Clean Energy Parties, and individual BESS developers that, for dispatchable DERs, VDER should be strengthened to allow for more flexibility and better align BESS operations with grid needs, including locational distribution needs and transmission reliability. This could include enforceable flexible dispatch in response to system needs and contractual performance obligations with penalties for non-performance.

Additionally, NYSEIA rejects Con Edison's claim that the existing VDER tariff was "intended as value-based compensation for solar and then extended to battery storage"[16] as misleading. VDER has been customized for, and intentionally applied to, standalone BESS in New York State for more than nine years. The original VDER Transition Order from March 2017 required that VDER tariffs "be expanded beyond NEM-eligible technologies to all DER in a technologically-neutral, value-focused manner as soon as practicable" and explicitly stated that "stand-alone energy storage projects be eligible under the VDER tariff "as expeditiously as possible."[17] In 2018, the Commission issued its *Order on Value Stack Eligibility Expansion and Other Matters* which explicitly outlined how standalone BESS would be compensated under the VDER tariff; similar compensation for exports, with the exception of the Environmental Value (which is not currently available to BESS) and capacity payments, which are tied directly to the actual NYISO peak hour via the mandatory application of ICAP Alt-3 for BESS.[18]

The VDER tariff provides both temporal price signals to drive economic charging and BESS discharging during peak times, as well as locational price signals to steer resources to high-value locations (LSRV zones) based on system needs. BESS also participate in Con Edison's Dynamic Load Management (DLM) program, which provides compensation for capacity availability and event-based performance, providing the utility with significant control over system dispatch. While BESS deployment is still nascent in most of New York State, including in Zone J which only has 115 MWac of operational BESS,[19] NYSEIA acknowledges that NYC's market for standalone BESS is more mature than other markets, and

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[15] Ibid.
[16] Ibid.
[17] Case 15-E-0751. In the Matter of the Value of Distributed Energy Resources. Order on Net Energy Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters. March 2017.
[18] Case 15-E-0751. In the Matter of the Value of Distributed Energy Resources. Order on Value Stack Eligibility Expansion and Other Matters. September 2018.
[19] NYSERDA. Statewide Energy Storage Projects. https://www.nyserda.ny.gov/All-Programs/Energy-Storage-Program/Storage-Data-Maps/Statewide-Energy-Storage-Projects. October 2026.

agrees that the VDER tariff can and should be strengthened to increase the reliability value of distribution-connected BESS, especially in Load Zone J.

While Con Edison's Draft Plan is quite critical of VDER's limitations, they neglected to offer constructive recommendations for how to strengthen the tariff to better meet system needs in response to a direct request for non-price level terms and conditions from Staff in its 2025 VDER White Paper. On the other hand, DPS Staff, industry stakeholders, and BESS developers have all indicated willingness and interest in strengthening the existing VDER tariff to include more robust performance obligations and operational flexibility in order to increase the reliability value of dispatchable DERs.[20]

Rather than creating a new program with dedicated resources whose primary purpose is to meet a transmission security need, NYSEIA urges the Commission to consider the opportunity to leverage the existing VDER construct to derive transmission security value from distribution-connected BESS, which could result in higher levels of resource utilization, multiple value streams for projects, and cost savings for ratepayers. For example, Con Edison could identify installed and proposed BESS that are well-situated to provide transmission security services and offer these projects incremental compensation in exchange for modifying operations/contractual obligations to reliably meet a transmission security need. In some cases, participating in the transmission security program could require a distribution-connected BESS to forgo some DRV or ICAP revenue; a tradeoff that must be compensated to secure robust participation.

NYSEIA is aware of detailed industry proposals that seek to build upon the VDER Value Stack in order to meet transmission security reliability needs that will likely be submitted for consideration in this proceeding. NYSEIA does not have a prescriptive proposal to offer in these comments. Instead, we recommend that the Commission seriously consider alternative proposals put forward by commenters in this proceeding, and direct Staff to convene a technical conference to consider strategies/proposals to meet NYC's reliability needs that build upon existing/proven frameworks, and that seek to minimize incremental costs while maximizing the benefits that participating resources provide to the system and to ratepayers. Critically, this work stream should not delay the timely adoption of updated MCOS values in the VDER proceeding, especially outside of Con Edison service territory, where there is no active proceeding regarding transmission security needs and where the solar and energy storage development pipeline is most vulnerable to the risks of continued delays or deviations from the Staff Proposal.

G. The Commission Should Reconstitute the VDER Working Group

Throughout 2026, industry stakeholders, Staff and utilities have had robust discussions regarding potential VDER reforms, and more broadly regarding rate design evolution for large (1-5 MWac) distribution-connected DERs. There is a collective acknowledgement that VDER can be improved upon to increase the value of dispatchable DERs to New York ratepayers by better leveraging the geographic steering mechanism (LSRV) to facilitate resource deployment in high value locations, and establishing robust terms and conditions for BESS owners/operators so utility planners can rely upon the resources for

[20] Case 15-E-0751. In the Matter of the Value of Distributed Energy Resources. DPS. *Staff Proposal on Updating DRV and LSRV for VDER Compensation*. December 2025; Clean Energy Parties. CEP Comments in Response to Staff's DRV and LSRV Proposal. March 2026.

grid planning purposes. NYSEIA appreciates DPS Staff's considerable efforts to advance VDER reforms. However, this should be done in a transparent and collaborative manner, which will accelerate progress, limit regulatory uncertainty, and provide market participants confidence to continue investing in New York. To accomplish this, NYSEIA urges the Commission to reestablish the VDER Working Group to convene utilities, Staff, NYSERDA, DER industry stakeholders, and other interested parties to advance rate design evolution in a robust, collaborative, and transparent manner.

H. Regulatory Reform is Needed to Align Utility Incentives with the Public Interest

Rising demand for electricity, an aging electric T&D system, and inflation are driving up electricity rates to unsustainable levels. To make matters worse, recent actions by the federal government, such as the cancellation of offshore wind leases and the rapid phaseout of wind and solar tax credits, are widening the supply-demand imbalance and exacerbating affordability and reliability challenges. Fortunately, there are many actions that New York decision-makers can take at the State-level to lower the cost of new capacity additions and accelerate deployment, including improvements to interconnection and rate design/compensation. In this context, we simply cannot afford to have internal friction and contend with utility opposition to the State-level rate design and interconnection improvements that are squarely in the public interest. Regulatory reforms are needed to ensure that New York's utilities have the right incentives to facilitate the cleanest and least-cost solutions to meet system needs, and to ensure they work to accelerate — not block — readily-available solutions.

Today, utility profit incentives are often misaligned with public policy objectives, including clean energy deployment and energy affordability. In New York, like many states across the country, utilities have a strong Capital Expenditure (CapEx) bias. Under the traditional cost-of-service model, utilities earn a regulated rate of return on their capital investments, whereas operating expenses are treated as a passthrough and provide little or no profit to shareholders. This phenomenon is referred to as CapEx bias, and it becomes problematic when utilities forgo or seek to undermine least-cost solutions, such as DERs, because they do not directly contribute to their rate base and shareholder profits.[21]

NYSEIA believes CapEx bias is influencing utility regulatory behavior in this and the related proceedings referenced throughout our comments; perhaps Con Edison is seeking to prevent the interconnection of VDER-compensated resources, and the Joint Utilities are not cooperating in the Commission and Staff's efforts to modernize VDER, because VDER-compensated resources do not contribute to the utility rate base, and impact utilities' future profit potential by deferring the need for traditional T&D system expansion. This is not mere speculation. Con Edison directly references distributed energy resources in its 2025 10-K filing with the United States Securities Exchange Commission in a section describing Risk Factors, and notes that both DER deployment and energy efficiency could affect the Companies' opportunities to make additional investments in its energy delivery facilities and transmission projects, impacting shareholders' potential return on these investments.[22] Successful adoption of distributed energy

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[21] RMI. Making the Clean Energy Transition Affordable: How Totex Ratemaking Could Address Utility Capex Bias in the United States. https://rmi.org/app/uploads/dlm_uploads/2022/07/making_the_clean_energy_transition_affordable.pdf. July 2022.
[22] Con Edison, Inc. and Con Edison Company of New York, Inc. 10-K (Con Edison Annual Report 2025). https://investor.conedison.com/static-files/26593395-2a98-4db5-be6c-9fa0a18324f0. February 2026.

resources and energy efficiency, which are central to energy affordability and state policy goals, should not be viewed as a financial risk to New York's utilities. Incentive structures are needed to ensure that rational utility regulatory strategy is not counter to the public interest, and does not include bias toward CapEx or other solutions that are not least-cost or maximally beneficial.

While there is still work to be done, New York's PSC has an impressive track record of seeking to address CapEx bias. In May 2016, as part of the Reforming the Energy Vision (REV) proceeding, the Commission issued an *Order Adopting a Ratemaking and Utility Revenue Model Policy Framework* in order to create a modern regulatory model that challenges utilities to take actions to advance grid modernization, promote competition, and integrate clean energy resources by "better aligning utility shareholder financial interest with consumer interest."[23] This Order established a framework for Earnings Adjustment Mechanisms (EAMs), utility incentives tied to performance metrics and programmatic outcomes, to be advanced within utility rate cases, and voiced support for utilities to recover the cost of NWAs as though they were capital expenditures, and even establishing creative approaches to share savings associated with least-cost non-CapEx solutions among ratepayers and shareholders. In this Order, the Commission states that "the public interest is best served when utilities' economic objectives are decisively and substantially aligned with public policy and consumer interests."[24] NYSEIA strongly agrees with this statement. The examples below illustrate the Commission's robust track-record for establishing incentives to address CapEx bias and align incentives. The Commission could draw from this prior experience to create uniform utility incentives for facilitating VDER-compensated resources, NWAs, CapEx, and perhaps RADR projects, to meet system needs.

CapEx Treatment of NWAs

In the Commission's 2014 Order Establishing Brooklyn/Queens Demand Management (BQDM) Program, the Commission authorized Con Edison to spend approximately $200M on demand side management to defer an estimated $1B system need, and authorized Con Edison to "recover its deferred BQDM Program-related costs uniformly over a 10-year period for both customer-side and utility-side non-traditional solutions." In addition to allowing Con Edison to recover these costs with a guaranteed rate of return, the Commission approved an additional 100 basis point incentive on top of the Company's approved Return on Equity (ROE) which the Commission stated was "tied to outcomes that the Company is expected to achieve to further Commission policy objectives."[25]

In the Commission's 2025 Order Approving Rate Case Joint Proposal for Orange & Rockland, the Commission allowed the utility to recover the cost of NWAs or Non Pipeline Alternatives (NPA), "which may provide societal and environmental benefits, also benefits customers by treating the Company's

[23] Case 14-M-0101. Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision. Order Adopting a Ratemaking and Utility Revenue Model Policy Framework. May 2016.
[24] Case 14-M-0101. Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision. Order Adopting a Ratemaking and Utility Revenue Model Policy Framework. May 2016.
[25] Case 14-E-0302. Petition of Consolidated Edison Company of New York, Inc. for Approval of Brooklyn/Queens Demand Management Program. Order Establishing Brooklyn/Queens Demand Management Program. December 2014.

investments in NWA and NPA the same as if the investments were in traditional capital projects, reducing the incentive for the Company to prefer traditional capital projects over NWA or NPA."[26]

EAMs

In January 2017, the Commission issued an Order Approved Electric and Gas Rate Plans for Con Edison which included what we believe to be the first EAMs in New York. The Joint Proposal included two Program Achievement EAMs, and three outcome-based EAMs, all tied to the achievement of energy efficiency, clean energy and distributed energy resource integration objectives.[27] In essence, EAMs serve as financial incentives for achieving specific programmatic or resource integration outcomes. While EAMs do not eliminate CapEx bias, well-designed EAMs can help to counteract its effect by creating a countervailing system of incentives tied to ambitious yet attainable goals for energy efficiency, distributed energy resource integration, EV infrastructure development, and other public policy goals. The Commission has authorized numerous EAMs to incentivize utilities to achieve performance objectives over time, and the Commission has also retired EAMs when it has determined they are no longer necessary because improved performance has been normalized, or the cost exceeds the Commision-estimated benefit.

Shared Savings

In January 2017, the Commission approved a modified version of a shared savings model proposed by Con Edison, whereby Con Edison received a portion of the net savings associated with NWAs based on the Cost-Benefit Analysis framework defined in the Reforming the Energy Vision (REV) proceeding.[28] In essence, the Commission authorized Con Edison shareholders to retain 30% of the net savings that NWA solutions provide to ratepayers in comparison to the traditional CapEx solution that would otherwise be necessary to meet a system need.

Negative Revenue Adjustments and Penalties

In addition to addressing CapEx bias and rewarding utilities with incentives for advancing favorable outcomes for ratepayers and public policy goals, the Commission also has a long track record of imposing penalties, or negative revenue adjustments (NRAs) in instances where utility performance is lacking. This practice significantly predates the REV proceeding. For example, in a 1995 decision in relation to a rate case for Niagara Mohawk, the Commission established a ~$20 million penalty that would be imposed if the Company failed to meet customer service quality goals, which were established using the utility's actual customer service performance metrics from the prior year as a baseline.[29] Today, NRAs are a standard element in utility rate cases, typically focused on customer service, safety and reliability metrics.

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[26] Cases 24-E-0060, 24-G-0061. Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Electric [and Gas] Service. Order Adopting Terms of a Joint Proposal and Establishing Electric and Gas Rate Plans. March 2025.

[27] Cases 16-E-0060, et al. Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric [and Gas] Service. Order Approving Electric and Gas Rate Plans. January 2017.

[28] Case 15-E-0229 - Petition of Consolidated Edison Company of New York, Inc. for Implementation of Projects and Programs That Support Reforming the Energy Vision. Order Authorizing Shareholder Incentive. January 2017.

[29] Cases 94-E-0098, et. al. Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation for Electric Service. Order Setting Electric, Electric Street Lighting and Gas Rates. April 1995.

While NYSEIA's core recommendations in these comments focus on aligning positive incentives, we also support the use of NRAs and penalties as tools to penalize bad behavior and to ensure utilities meet minimum acceptable standards. Penalties can serve as a deterrent against tariff violations and discourage underperformance as part of a broader performance-based ratemaking paradigm that drives continuous improvement and ensures that utility incentives are aligned with the interests of ratepayers and the public.

Con Edison's Proposed Incentive Structure for RADR

In its Draft Plan, Con Edison proposes that it be eligible to receive a regulated rate of return, i.e., a guaranteed profit, on all program costs, including software, setup and other incremental costs associated with the RADR program, as well as interconnection costs. Con Edison also proposes that performance payments under the proposed RADR contracts and all program implementation costs be treated like 15-year regulatory assets[30], i.e., these expenses would also add to the utility rate base, generating shareholder profits that increase linearly with Con Edison's program expenses.

NYSEIA's opposition to Con Edison's proposed incentive structure for RADR is primarily contextual. We do not believe it is appropriate, or in the public interest, for the Commission to establish dissimilar utility incentives for the RADR program versus DLM, NWAs or VDER. By establishing uniform performance-based incentives for New York's utilities, the Commission can help eliminate CapEx bias, and eliminate utility preference for one "non-wires" solution over another.

LSRV Resources as a Potential Utility Shareholder Earning Opportunity

Today, New York utilities' earning opportunities associated with VDER-compensated resources are limited. DER developers pay utilities for the cost of interconnection studies, make upfront cash payments for distribution upgrades (including design and engineering, equipment, labor, and overhead), and pay the utility a 1.5% administrative fee for administering net-crediting for Community Distributed Generation (CDG) projects or a 1% administrative fee for administering SSFA. Once a DER is operational, the utility calculates VDER Value Stack Credits monthly, and remits bill credits and payments in accordance with the tariffs. These payments are a direct passthrough, meaning no utility capital is leveraged and no regulated return is earned. The DRV portion of the VDER Value Stack is value-based compensation to the DER based upon the estimated long-run systemwide utility MCOS, which correlates to the broad T&D deferral value that the DER provides. The LSRV is the geographic steering mechanism in VDER which is intended to provide enhanced compensation for eligible resources "in locations that the utility has identified as having needs that can be addressed by DERs, and based on the higher, specific distribution costs offset by injections in that area."[31]

The 2025 Staff Proposal in the VDER proceeding specifically recommends strengthening performance obligations for LSRV-resources, which provide the most specific and immediate traditional T&D deferral value to ratepayers. The Clean Energy Parties support this effort by Staff to maximize local T&D deferral using dispatchable VDER resources in high value locations, whereas the Joint Utilities appear to oppose it. While it is in the ratepayers' interest to maximize near-term deferral, it is not in the interest of utility

[30] Case 25-E-0764. Proceeding on Motion of the Commission to Address New York City Reliability Needs. Con Edison. New York City Reliability Contingency Plan ("Draft Plan"). July 2026.
[31] Case 15-E-0751. In the Matter of the Value of Distributed Energy Resources. Order Regarding Value Stack Compensation. April 2019.

shareholders. The Commission could consider addressing these misaligned incentives by establishing LSRV-specific EAMs, or by allowing utilities to rate base DRV and LSRV payments for the subset of LSRV-eligible resources, which are the VDER-compensated resources that will provide the greatest near-term ratepayer savings. In addition to reducing the utilities' CapEx bias and aligning incentives to deploy DERs in the highest-value locations, this could potentially provide near-term ratepayer relief by amortizing the cost of certain DRV and LSRV payments over a longer time horizon. Conceptually, a similar approach could be taken with distributed energy resources that meet a transmission security reliability need.

Regardless of the final structure, NYSEIA encourages the Commission to strengthen incentives, and perhaps penalties, that align utility shareholder interests with DER integration policy objectives. Ideally, these incentives will drive innovation and efficiency among utility personnel in order to make rapid and cost-effective progress toward shared goals.

I. Considerations for Designing a Responsible Distribution-Connected Utility-Dispatch Rights Pilot Program

For the reasons outlined above, NYSEIA does not support a broad authorization for Con Edison's proposed RADR program. However, NYSEIA offers the following suggestions should the Commission determine that it is prudent to authorize a RADR pilot program:

Maintain the Integrity of the Interconnection Queue

In its Draft Plan, Con Edison proposes that projects participating in RADR should be prioritized in the interconnection queue. NYSEIA strongly opposes this element of Con Edison's Draft Plan, which would undermine the integrity of the interconnection queue and New York's SIR which is foundational to the State's multibillion dollar DER industry. If Con Edison wants to prioritize projects that can achieve commercial operation quickly, NYSEIA recommends that it make project maturity a criteria for selecting suitable candidates for participation rather than allowing a subset of participating projects to cut in line.

Maintain Existing Cost Containment Incentives

In its Draft Plan, Con Edison proposes that it rate base the cost of interconnection and BESS charging for projects participating in RADR. This creates perverse incentives for the utility to inflate these costs while eliminating the BESS developers' incentives to contain costs and pursue least cost interconnection options. NYSEIA urges the Commission to reject these elements of the program design, and to retain existing cost containment incentives.

Ensure Balanced Incentives Across Programs and Tariffs

The Commission should not approve robust shareholder incentives/earning potential associated with the RADR program without ensuring parity across comparable programs. Parity is critical to preventing utility bias, and discretionary behavior or regulatory intervention, that favors more profitable programs over other beneficial programs or tariffs.

Require Con Edison to Quantify the Scale of Need and its Estimated Budget Prior to Authorization

Con Edison's Draft Plan does not include a clearly defined scale of need in MW that it hopes to meet with the RADR program, nor does it include an estimated cost. It is critical that Con Edison define its MW and cost targets so the Commission can evaluate individual proposals and overall performance in consideration of the projected need and budget. Arguments regarding the potential impacts that providing an overall program cost estimate could have on future procurements are unconvincing; companies that seek to participate will bid competitively or risk not being selected for participation, and proactive disclosure of estimated costs and scale will establish important benchmarks that allow the Commission to assess the success of procurements in relation to initial projections.

Require Con Edison to Define a RADR BESS' Standard Operating Profile

At the technical conference, Con Edison indicated that BESS enrolled in the RADR program would charge during low-demand times and discharge during peak hours in a manner that sounded materially similar to VDER-compensated BESS' operations. We recognize that meeting transmission security reliability needs requires some operational flexibility. Nonetheless, NYSEIA recommends that the Commission direct Con Edison to publish a standard RADR BESS operating profile, along with a description of how contingency scenarios are planned for and responded to, so stakeholders and BESS owners/developers considering participation can understand what participation entails, and how the utilities' proposed operational profile will impact the BESS. This could also aid the Department and stakeholders in understanding the proposed operational differences between VDER and RADR BESS.

Require Transparency and Reporting

Con Edison is proposing that it be able to earn a guaranteed profit on all RADR program costs. If the Commission authorizes RADR, NYSEIA recommends that the Commission institute robust reporting requirements and make information regarding program costs and BESS operations public in a transparent manner so Staff and other interested stakeholders can evaluate the effectiveness of the program investment.

Request a Minimum Viable Product Version from Con Edison

In its Draft Plan, Con Edison is proposing that it be eligible to recover $5 million in startup costs followed by at least $7 million in annual operating expenses for a fleet of 50 MW+ of BESS enrolled in the RADR program. These soft costs are additional to the direct costs associated with interconnection upgrades, UDR contract payments, and BESS charging. That is a significant ratepayer investment for an unproven program. NYSEIA recommends that the Commission request an MVP proposal from Con Edison that seeks to contain the cost of a capacity-limited pilot program by building upon existing constructs so the Commission can evaluate the program's efficacy without risk of saddling ratepayers with the cost of stranded programmatic investments. NYSEIA also recommends that the Commission require Con Edison to clearly document the operational differences between the proposed distribution-level UDR program and the transmission-level UDR program that the Commission directed Con Edison to implement in 2018 to ensure that Con Edison leverages existing infrastructure to implement similar programs.

Direct Con Edison to Publish a Standard Contract to Minimize Soft Costs and Administrative Barriers to Participation

NYSEIA's understanding of the RADR program proposal in Con Edison's Draft Plan is that it would require bilateral contracts between Con Edison and participating BESS owners/operators. NYSEIA urges the Commission to require Con Edison to publish a standard contract that includes all key terms and conditions in this docket and on a public-facing website. By making contract terms & conditions public and transparent, the Commission can enable expedited contracting and eliminate bureaucratic barriers to participation.

IV. Conclusion

NYSEIA appreciates the Commission's directive to Con Edison to meet New York City's forecast reliability needs using non-emitting resources. We are encouraged by the strong response to Con Edison's RFI, which demonstrates the potential to meet this need using market-based resources. We agree with Con Edison that distribution-connected BESS are a powerful resource that can meet New York City's transmission reliability security needs ahead of forecast capacity shortfalls. However, BESS deployment is a prerequisite to leveraging BESS to meet this need. As such, we urge the Commission to take near-term actions in related regulatory proceedings to support rapid and cost-effective BESS deployment.

Rather than authorizing Con Edison's proposed RADR program, which is new, unproven, and single-purpose, we instead urge the Commission to convene Con Edison, Staff and industry stakeholders to identify strategies to leverage existing proven frameworks such as VDER to meet the transmission reliability security need at a lower incremental cost while delivering multiple value streams to ratepayers.

Finally, we urge the Commission to carefully consider and engineer utility incentive structures in a manner that eliminates utility CapEx bias, and eliminates bias toward one non-wires solution over another. These corrective measures to utility profit incentive structures will help ensure that utility behavior and regulatory strategy that seeks to benefit shareholders is broadly aligned with public policy goals and the needs of the system and ratepayers. By aligning incentives among utilities, DER developers and ratepayers, the Commission can ensure that all involved parties are working together toward the shared goal of building and maintaining a clean, affordable, reliable energy system.

NYSEIA thanks the Commission for initiating this critical proceeding, and thanks Con Edison for its Draft Plan. We appreciate the opportunity to provide these comments for consideration, and look forward to continued participation in this and related proceedings.