



September 21, 2022

VIA ELECTRONIC FILING

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

Re: Case 20-E-0197 – Proceeding on Motion of the Commission to Implement
Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and
Community Benefit Act

Dear Secretary Phillips:

Pursuant to the Notice Soliciting Comments issued by the New York State Public Service Commission (“Commission”) on August 24, 2022, Multiple Intervenors hereby submits these Comments in response to the petition that was filed by Consolidated Edison Company of New York, Inc. (“Con Edison”) in the above-referenced proceeding on April 15, 2022 (“Petition”). In its Petition, Con Edison seeks Commission approval to develop, and recover the costs associated with, the proposed Brooklyn Clean Energy Hub (“Hub”), which the utility claims would create points of interconnection for the injection of up to 6,000 MW of offshore wind energy into its electric distribution system at an estimated cost of \$1 billion. For the reasons set forth below, Multiple Intervenors has a number of concerns regarding the proposed Hub and urges the Commission to refrain from approving its development, and any cost recovery associated therewith, at this time.

Initially, Multiple Intervenors does not question here the need to increase points of interconnection in the southeast region of the State to facilitate offshore wind development. The Climate Leadership and Community Protection Act mandates the procurement of at least 9,000 MW of offshore wind by 2035 (*see* N.Y. Pub. Serv. Law § 66-P[5]) and, therefore, utilities including, but not necessarily limited to, Con Edison will need to establish adequate points of interconnection in due course. The issue before the Commission, however, is whether the Hub represents the right project, at the right time, and at the right cost. Based on the Petition and the myriad of concerns raised by numerous parties in written submissions and at the technical conference held on August 30, 2022, it is not at all clear that approval of the Hub, as proposed and at this time, would be consistent with the public interest.

Multiple Intervenors' first set of concerns regarding the Hub is that it represents a single party's proposal to undertake a particular capital project. It has yet to be reviewed rigorously by any entity independent from Con Edison, and is not the product of any type of competitive solicitation process. In contrast, in response to Public Policy Transmission Needs ("PPTNs"), the New York Independent System Operator, Inc. ("NYISO") implements a competitive solicitation for transmission solutions in accordance with its Public Policy Transmission Planning Process ("PPTPP"). Pursuant to the PPTPP, numerous different parties – including incumbent and non-incumbent transmission developers – are able to advance multiple, different proposed projects, which then are subjected to rigorous evaluation by NYISO staff, the NYISO's consultants, and, ultimately, the NYISO Board of Directors based on a variety of pre-determined factors. Based on that extensive review, the more efficient or cost-effective transmission solution or solutions are selected from amongst the competing projects, with factual explanations provided to stakeholders as to why the project or projects were chosen over competing proposals. Thus far, the NYISO has selected for development transmission projects advanced by both incumbent and non-incumbent developers.

Here, however, there has been no competitive solicitation or process. Con Edison merely developed the proposed Hub and filed the Petition seeking Commission approval of same. No other transmission developers – either incumbent or non-incumbent – have been accorded any comparable opportunity to advance alternatives to the Hub. Such alternatives theoretically could be more efficient, be located more optimally, and/or be less expensive for customers. If, *arguendo*, the Commission were to approve the Petition, it would never know whether the Hub represented the best possible project to facilitate the interconnection of offshore wind generation facilities. Indeed, arguably the best way to test the viability and the cost-effectiveness of the proposed Hub is to subject it to competing proposals and then evaluate them to determine which project or projects would be the most beneficial. Finally, to approve the Petition on such a scant record would create a bad precedent for future infrastructure proposals and be contrary to normal Commission practice.

Multiple Intervenors' second set of concerns relate to the cost of the proposed Hub. Con Edison asserts in its Petition that the estimated cost is \$1 billion. (Petition at 18, Exhibit A.) That is an enormous cost, and the support proffered by Con Edison for the estimate has been extremely limited and superficial. (*See, e.g.*, Petition, Exhibit A at A-5, A6.) Multiple Intervenors trusts that the Commission would (and should) require a much stronger factual basis before seriously contemplating approval of a \$1 billion capital project. For instance, had the Hub been proposed as part of a rate proceeding, such proposal ordinarily would be subjected to discovery, responsive testimony, cross-examination, and briefing by Department of Public Service Staff and other interested parties. The record developed in response to such a large, proposed capital project presumably would be extensive, and also would be public. Alternatively, had the Hub been proposed as part of a fairly-administered, competitive procurement process, the estimated costs could be compared directly with those of other viable projects to ascertain which proposed project or projects are the most cost-effective. In this context, however, comments have been solicited in the absence of a litigated record or a competitive procurement process, and so the only information

available at this time related to cost is Con Edison's own self-serving and superficially-supported estimate.

Additionally, it is not at all clear that the Commission reasonably can rely on Con Edison's \$1 billion cost estimate for the Hub. In the NYISO's PPTPP, developers advancing transmission solutions are able to propose cost containment provisions, whereby the developer voluntarily assumes all or some of the risk associated with cost overruns, thereby providing meaningful cost containment for customers. No such proposal has been advanced here. Rather, it is Multiple Intervenors' understanding that Con Edison is seeking authorization to recover 100% of the costs of the Hub, irrespective of whether they ultimately total \$1 billion, \$2 billion, or \$5 billion. The evaluation and the potential approval or rejection of a proposed capital project with an estimated cost of \$1 billion – that, without customer protections, could cost multiples of that amount – should not be rushed due to the ongoing solicitation.

Third, Multiple Intervenors is concerned that regulatory uncertainty pertaining to the proposed Hub could impact the current offshore wind solicitation being conducted by the New York State Energy Research and Development Authority. That solicitation is likely to result in one or more long-term contracts for Renewable Energy Credits from offshore wind facilities that ultimately will be funded by customers. Therefore, it is critical that the cost of those contracts not be inflated artificially due to uncertainty pertaining to the Petition and the proposed Hub. Accordingly, the Commission should clarify that, to the extent the schedule of the ongoing solicitation is unaltered, no decision has been rendered to date with respect to the proposed Hub, and offshore wind generation developers participating in the solicitation should not assume that the Hub will be approved.

Fourth, Multiple Intervenors is concerned about the apparent lack of coordination between Con Edison's Petition and any ongoing transmission planning process. For instance, the NYISO currently is evaluating proposals submitted as part of its PPTPP to facilitate the delivery of offshore wind generation onto and through Long Island. It is not clear what impacts the transmission project or projects selected by the NYISO for development therein may have on the proposed Hub, and *vice versa*. Inasmuch as the Commission identified the PPTN that is the subject of the current PPTPP which has been ongoing for some time, and involves detailed and supported proposals submitted by numerous competing entities that currently are under evaluation, that process should take priority over Con Edison's unilateral decision to file the Petition advancing its proposed Hub.

For all the foregoing reasons, Multiple Intervenors urges the Commission to refrain from approving the Petition and the proposed Hub at this time. It would be far preferable to address the future need for points of interconnection for offshore wind generation through a competitive process, rather than relying on a single capital project proposed by Con Edison. If, *arguendo*, the Commission does consider approving the Hub, it should insist, as a condition for moving forward, that Con Edison provide the represented level of interconnection capability at the estimated cost, with only very-limited opportunity to recover cost overruns from customers. Additionally, the Commission should provide clarity, as necessary, to the ongoing offshore wind generation

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solicitation so as to minimize any detrimental impact that confusion caused by Con Edison's Petition may have on that solicitation and the costs that ultimately are borne by customers.

Respectfully submitted,

MULTIPLE INTERVENORS

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cc: Active Parties (via E-Mail)

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