

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 24-E-0676 - Petition of ConnectGen Chautauqua County LLC
for a Certificate of Public Convenience and
Necessity, Pursuant to Public Service Law
Section 68, and for an Order Granting Lightened
Regulation.

RULING ON PROCESS

(Issued April 9, 2025)

MAUREEN F. LEARY, Administrative Law Judge:

Introduction

This ruling determines that an evidentiary hearing on the petition for a Certificate of Public Convenience and Necessity (CPCN Petition) by ConnectGen Chautauqua County, LLC (ConnectGen) is not required because no issue of material fact is presented warranting a hearing. Accordingly, the CPCN Petition may proceed and be considered by the Public Service Commission (Commission) forthwith, insofar as ConnectGen seeks expedited review.

Background

On December 3, 2024, ConnectGen filed the CPCN Petition pursuant to Public Service Law (PSL) §68 and sought lightened regulation. The underlying ConnectGen project is a 270 megawatt (MW) solar project with 20 MW of battery storage located in the Town of Ripley, Chautauqua County, known as the South Ripley Solar Project (Project). The Project will interconnect with National Grid's existing Dunkirk to South Ripley transmission line. On April 21, 2023, the Office of

Renewable Energy Siting (ORES) granted ConnectGen a siting permit for the Project pursuant to Executive Law §94-c.¹

ConnectGen's CPCN Petition states that it is a limited liability company registered to do business in New York and is an indirect subsidiary of Repsol Renewables North America, Inc. (Repsol N.A.), which acquired ConnectGen and its affiliates in March 2024 along with a 20,000 MW portfolio.² The CPCN Petition includes ConnectGen's authorization to do business in New York as a limited liability corporation and a certificate of formation in the State of Delaware.³ The CPCN Petition also includes an organizational chart for ConnectGen, its upstream parent corporations, Repsol S.A. and Repsol N.A., and numerous affiliates.⁴

With respect to its financial viability, the CPCN Petition states that, to fund construction of the South Ripley

¹ Case No. 21-00750, Application of ConnectGen Chautauqua County LLC for a 94-c Permit for the South Ripley Solar Project, a Major Renewable Energy Facility, ORES Siting Permit (issued April 21, 2023).

² CPCN Petition, p. 6. The CPCN Petition states that Repsol S.A. is the ultimate owner of Repsol N.A., which is a publicly traded global energy company with a market capitalization of \$19.8 billion.

³ CPCN Petition, Exhibits A and B.

⁴ CPCN Petition, Exhibit D. In addition to Repsol S.A. and Repsol N.A., Petitioner ConnectGen's affiliates include: ConnectGen LLC; ConnectGen Operating LLC; ConnectGen Services LLC; ConnectGen Development LLC; ConnectGen Transmission; ConnectGen Management Holdings LLC; CG NYISO LLC; Capital Region Energy Storage LLC; Western NY Energy Storage LLC; Southern Tier Energy Storage LLC; ConnectGen East LLC; ConnectGen Erie-Wyoming LLC; ConnectGen Cayuga County LLC; ConnectGen Montgomery County LLC; ConnectGen NY Solar LLC; ConnectGen New York LLC. In addition, Repsol N.A. is affiliated with various Hecate Energy entities operating in New York, including Hecate Energy Greene County LLC; Hecate Energy Columbia County LLC; Hecate Energy New York Holdings LLC; and Hecate Energy New York LLC.

Solar Project, ConnectGen may raise tax equity financing, non-recourse term debt, and equity commitments.⁵ In addition, ConnectGen will realize income from the sale of renewable energy to the wholesale markets in New York and from a potential award by the New York State Energy Research and Development Authority.

The CPCN Petition indicates that it has the ability to provide safe and adequate service, as evidenced by certain record documents underlying its siting permit application to ORES⁶ and by the applicable reporting requirements in PSL Articles 1 and 4 and the implementing regulations, 16 NYCRR Part 125. The Petition asserts that ConnectGen is not subject to the requirement to provide service at just and reasonable rates because it will operate the Project "on a merchant basis in wholesale markets and will not serve captive retail customers."⁷

ConnectGen's CPCN Petition includes a verified statement by ConnectGen Chief Executive Officer, Caton Fenz, stating that, "to the best of my knowledge, and based on the advice of legal counsel," ConnectGen "has secured all municipal consents required under Section 68 of the Public Service Law, and not otherwise preempted by Section 94-c of the Executive Law" for the Project.⁸ The verified statement further states that "the Town of South Ripley does not require any consents or approvals for use of municipal land or rights-of-way."⁹

ConnectGen's January 17, 2025 supplemental filing deleted this

⁵ CPCN Petition, p. 10.

⁶ CPCN Petition, p. 11. The Petition refers to ORES Application Exhibit 6 (Public Health, Safety and Security); Exhibit 17 (Consistency with Energy Planning Objectives); and Exhibit 21 (Electric System Effects and Interconnections).

⁷ CPCN Petition, p. 12.

⁸ CPCN Petition, Exhibit C.

⁹ Id.

phrase and included a road use agreement executed with the Town of Ripley.¹⁰

The CPCN Petition indicates that Repsol's total aggregate generation from proposed generation will be 1,472 megawatts (MW), with an additional 650 MW from proposed battery storage.¹¹ The CPCN Petition claims that there are no horizontal or vertical market power issues because: ConnectGen and its direct and indirect upstream parents do not own any operating electric generation within New York; do not control any franchised utilities with captive customers; do not own or control transmission facilities, other than interconnection equipment; and are not considered scheduling or reliability coordinators, or electric or gas transmission providers, or balancing authorities within the New York Control Area.¹²

The CPCN Petition asserts that ConnectGen meets the requirements for the Commission's issuance of a CPCN, including compliance with 16 NYCRR §§ 21.2 and 21.3 and the execution of the road use agreement with the Town of Ripley, representing the municipal consent required by PSL § 68.¹³ The CPCN Petition also asserts that ConnectGen is economically feasible and has the ability to finance Project improvements and render safe, adequate and reliable service.¹⁴ ConnectGen claims that it qualifies for lightened regulation because it falls within the exception under the Commission's orders issued in the Walkill,

¹⁰ DMM Item No. 5, Updated Verification of Municipal Consents (filed January 17, 2025).

¹¹ CPCN Petition, pp. 16-17. As noted below, ConnectGen amended the total generation capacity downward to 1,427 MW in its April 8, 2025 Supplement to the Petition.

¹² CPCN Petition, p. 18.

¹³ CPCN Petition, pp. 7-9.

¹⁴ CPCN Petition, pp. 9-12.

Carr Street, and AES Eastern Energy cases, as a competitive wholesale electric generation provider.¹⁵ Citing the record developed in the Executive Law 94-c proceeding before ORES, ConnectGen asserts that the CPCN Petition contains sufficient information to satisfy PSL § 68 and the implementing regulations. The CPCN Petition concludes that there is no need for a hearing in the proceeding.

On December 13, 2024, the Secretary issued a Notice Soliciting Comments and Announcing Virtual Public Statement Hearing and Procedural Conference. On January 2, 2025, ConnectGen filed: affidavits of publication reflecting that public notice of the CPCN Petition had been published in daily and weekly newspapers in the Project area; and affidavits of service reflecting that the petition had been served on Niagara Mohawk Power Corporation and the Town of Ripley.

On January 3, 2025, Department of Public Service Staff (DPS Staff) issued letter indicating that it had reviewed the CPCN Petition and found that it may proceed in accordance with PSL § 68, thereby commencing the proceeding.¹⁶ On January 17, 2025, ConnectGen supplemented the CPCN Petition by filing a revised verification of municipal consents with a road use agreement with the Town of Ripley.

On January 21, 2025, the Administrative Law Judge held a virtual public statement hearing. No public comments were

¹⁵ CPCN Petition, pp. 15-18. ConnectGen's Petition cites Case 91-E-0350, In re Walkill Generating Co., Order Establishing Regulatory Regime (issued April 11, 1994); Case 98-E-1670, Carr Street Generating Station, LP, Order Providing for Lightened Regulation (issued April 23, 1999); and Case 99-E-0148, AES Eastern Energy LP, Declaratory Ruling on Lightened Regulation (issued April 23, 1999).

¹⁶ See 16 NYCRR § 21.1(h) (certification proceeding commences on the date petition deemed in compliance with all legal requirements).

received at the hearing and, as of the date of this ruling, no public comments have been filed regarding the CPCN Petition in the Department's Document and Matter Management system. The ALJ also held a procedural conference following the public statement hearing at which ConnectGen, DPS Staff (appearing in an advisory capacity), the Department of Agriculture and Markets Staff, and the Town of Ripley appeared.

DPS Staff indicated during the procedural conference that it did not need further information from ConnectGen before the CPCN Petition could proceed for Commission consideration. The Town of Ripley indicated that there were no material issues of fact evident in the proceeding and that its concerns had been addressed by ConnectGen's January 17, 2025 updated verified statement in support of the CPCN Petition. No material issues of fact were raised by any other party related to the CPCN Petition. In response to ALJ questions, ConnectGen indicated that it had listed all its affiliates in the CPCN Petition and was seeking expedited Commission review.

Thereafter, DPS Staff requested certain additional information from ConnectGen related to the CPCN Petition. On April 8, 2025, ConnectGen filed a Verified Supplement to the CPCN Petition, which appended the audited 2023 Annual Financial Report referenced in the Petition (n. 14) and amended and revised certain information related to its parent corporation's experience in developing and operating renewable generation capacity and the aggregate proposed 1,427 MW of generation and 650 MW of battery storage in New York, representing less than 4 percent of the State's total resource capacity for the Summer of 2024.

Discussion

It is well-settled that the scope of the Commission's review in this PSL § 68 proceeding will not duplicate the review of issues previously considered and decided by ORES in the related Executive Law § 94-c proceeding for the South Ripley Solar Project. No party has raised a material issue of fact associated with ConnectGen's CPCN Petition and I therefore find it to be a non-contested application.¹⁷ Accordingly, an evidentiary hearing is not required. Both DPS Staff and the Town have expressed no objection to the CPCN Petition moving forward for Commission consideration. DPS Staff may complete the processing of ConnectGen's CPCN Petition in an advisory capacity without further proceedings before the Office of Hearings and Alternative Dispute Resolution.

(SIGNED)

MAUREEN F. LEARY

¹⁷ See 16 NYCRR § 21.10.