STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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
Proceeding on Motion of the Commission to Address New York City Reliability Needs.	)	Case 25-E-0764

CONSOLIDATED EDISON'S REPLY COMMENTS TO NY-BEST AND NYSEIA'S MOTION FOR EMERGENCY RULEMAKING

I. Introduction

On March 11, 2026, NY-BEST and NYSEIA (Petitioners) requested an emergency order prohibiting Con Edison from: (1) applying its two-part reliability test to battery storage interconnection applications, and (2) assigning the "but for" costs of necessary reliability upgrades to the private developers who cause them.[1] According to Petitioners, Con Edison's actions to maintain reliability and shield customers from developer-imposed costs threaten the general welfare. Petitioners thus seek the extraordinary remedy of emergency action to displace the utility's engineering judgement so that they can shift to electric customers billions of dollars of infrastructure costs that would not be required but for their members' energy storage projects.

The Commission should reject Petitioners' upside-down logic and deny their Petition. First, Petitioners fail the test for emergency action. The Commission may act on an emergency basis only when necessary for the preservation of the public health, safety or general welfare.[2] Petitioners offer two justifications for a general welfare emergency: (i) alleged economic harm to certain private storage developers subject to the two-part reliability test, and (ii) a vague assertion

[1] Case 24-E-0621 et al., *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*, Motion for Emergency Rulemaking (filed March 11, 2026) ("Petition").
[2] State Administrative Procedure Act (SAPA) §202(6).

without evidence that continued use of the two-part reliability test presents a reliability concern. Neither theory satisfies the test for emergency action. Assertions related to project cancellations, reduced developer profits, and future system-wide reliability concerns are not grounded in a public need justifying emergency action. Contrary to Petitioners claim that the two-part reliability test exacerbates reliability concerns,[3] the test preserves safe and reliable service, as required by the New York State Standardized Interconnection Requirements (SIR).[4] There is no immediate threat to reliable service that would require the Commission to act on an emergency basis. Moreover, there is already a forum for Petitioners to raise their claims. On January 13, 2026, Petitioner NY-BEST requested that the Commission bar Con Edison from using its two-part reliability test and requested a stakeholder process to consider policy issues related to battery storage. That proceeding is in the comment phase and is the appropriate venue for evaluating Petitioners' arguments.[5] In short, Petitioners, who bear no statutory responsibility for maintaining system reliability and no accountability for the financial or operational consequences of their proposal, have failed to meet the standard for emergency action.

Second, the petition itself is against the public interest. Petitioners fail to justify why the Commission should risk shifting billions of dollars of upstream grid infrastructure costs from private energy-storage developers to Con Edison's electric customers. Prohibiting Con Edison from assigning costs to developers for infrastructure that would not be required but for their projects would exacerbate energy affordability concerns and eliminate this critical price signal indicating to developers where additional battery storage charging load adds to infrastructure needs rather than deferring them. It would not serve the interests of the millions of electric customers who would be compelled to shoulder these costs.

Third, the Petition is riddled with errors, misrepresentations, and misguided legal assertions that are irrelevant to the standard for emergency relief and, at most, belong in the Commission's ongoing proceeding. Petitioners mischaracterize how Con Edison conducts interconnection studies

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[3] Petition at 2.

[4] Case 24-E-0621 et al., *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*, Con Edison Notice on SIR Energy Storage (filed January 14, 2026) ("Notice").

[5] Case 24-E-0621 et al., *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*, Notice Soliciting Comments (February 20, 2026).

and seek to upend how utilities apply engineering standards statewide—an important policy question that is inappropriate for resolution through emergency action.

II. Petitioners Fail the Test for Emergency Action

Petitioners demand an emergency order directing Con Edison to immediately pause evaluating the upstream reliability impacts of energy storage charging on substation and sub-transmission infrastructure, while still requiring Con Edison to issue interconnection agreements. Under section 202(6) of the State Administrative Procedure Act (SAPA), the Commission may act on an emergency basis only when necessary for the preservation of the public health, safety or general welfare. Petitioners do not rely on public health or safety, but instead invoke the general welfare, which they claim is threatened by alleged private economic harm to a subset of merchant storage developers resulting from cancelled projects and from the loss of future reliability benefits of storage deployment. Addressing private economic impacts or accelerating policy disagreements already in an open comment process are not grounds for emergency relief.

A. Private Economic Interests Are Not General Welfare

Petitioners' general-welfare argument fails because it wrongly equates alleged private economic harm to storage developers with the general welfare of the public. In their Petition, Petitioners quote the Commission as saying that "[e]lectric service is essential to public health, welfare, and safety"[6] and then treat this broad proposition as if it logically compels the Commission to protect developer economics through emergency action. Under their reasoning, any economic interest of any party working in the energy industry that could provide a reliability-related service is synonymous with the general welfare. This is an expansive interpretation of general welfare that has no basis in law or logic.

"General welfare" is not expressly defined in SAPA §202(6), but New York courts and Commission precedent interpret it to mean a circumstance that affects the public at large, not the private business interests of a particular industry. For example, to "protect the general welfare of National Grid's electric customers and avoid any additional financial hardship" caused by COVID-19, the Commission approved National Grid's emergency extension of its decoupling adjustment in the interest of "reducing large end of period imbalances and . . . large bill volatility."[7]

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[6] Petition at 12

[7] Case 17-E-0238, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Electric Service,* Order Granting A Waiver Of Tariff Rule 57 On An Emergency Basis, at 4-5 (April 26, 2021).

Similarly, the Commission approved Central Hudson's emergency grant of an easement for a public works project in order to avoid a loss in federal funding, and thus realize the economic development benefits for the community.[8] These cases demonstrate that "general welfare" concerns must be tied to public-facing consequences, not the economics of a subset of private developers. Petitioners cite no Commission order or judicial authority establishing that developer economics constitute the type of "general welfare" emergency required to justify bypassing SAPA's notice-and-comment process.

Petitioners cite *North Fork Distribution*, *Inc*. *v*. *New York State Cannabis Control Board* for the general principle that an emergency rule is appropriate when there is harm to general welfare that is supported by specific, evidence-based facts, but that general principle is not in doubt.[9] *North Fork* is instructive, however, because it underscores the high burden Petitioners face in justifying emergency action and why they fail to make it. In that case, the court reiterated that SAPA §202(6) "limits emergency rule making to genuine emergencies . . . A notice of emergency adoption shall… fully describ[e] the specific reasons… including the nature… of the public health, safety or general welfare need requiring adoption of the rule on an emergency basis."[10] In *North Fork*, the court struck down the New York State Cannabis Control Board's implementation of emergency regulations that limited the use of certain compounds in cannabinoid hemp products because the agency failed to sufficiently identify a public harm. The court found the agency's justification for an emergency to be conclusory because it "fail[ed] to cite evidence or studies to substantiate that New Yorkers have either been misled or harmed by hemp infused products . . . fail[ed] to cite facts showing New Yorkers have either overconsumed or accidentally ingested intoxicating levels of THC . . . [and] lack[ed] specific recital of any actual facts upon which such concerns are based."[11] Here, Petitioners' request for emergency action fails for similar reasons. Petitioners rely only on conclusory statements that project cancellations are a general welfare emergency; they offer no facts or evidence to establish their claim or to demonstrate a connection between private developer economics and the general welfare.

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[8] Case 09-M-0739, *Petition of Central Hudson Gas & Electric Corporation for Expedited Approval Pursuant to Section 70 of the Public Service Law of a Grant to Dutchess County of an Easement Located in LaGrange, New York in Connection with the Dutchess Rail Trail Project and Request for Emergency Action,* Order Approving Transfer Of Property Right (November 17, 2009).
[9] Petition at 12, citing N. Fork Distribution, Inc. v. New York State Cannabis Control Bd., 81 Misc. 3d 952, 203 N.Y.S.3d 496 (N.Y. Sup. Ct. 2023).
[10] Id. at 959.
[11] North Fork at 960-961.

B. Conclusory Reliability Claims are Not General Welfare

The Petition states that Con Edison's two-part reliability test will exacerbate reliability concerns and refers generally to future reliability concerns that energy storage technology could be used to address.[12] Petitioners reference projected reliability needs in Con Edison's service territory, however, these projections do not justify emergency action today to absolve private developers of "but for" infrastructure costs caused by their projects and impose them on customers. Moreover, the Commission has already initiated a proceeding to address those projected needs and has not invoked its emergency authority.[13] Petitioners do not identify any instance where the two-part test has caused, contributed to, or failed to prevent a reliability issue on Con Edison's system. In addition, *North Fork* is instructive on this point, as the court stated "the potential that "bad things [might or could be] happening" is insufficient to justify an "immediate necessity [or] emergency" allowing respondents to deploy the SAPA's procedures for emergency rulemaking."[14] Consistent *with North Fork*, Petitioners' reliance on "future identified reliability concerns"[15] and "future reliability issues"[16] is insufficient for an emergency ruling. Petitioners misconstrue the resource planning process initiated by the Commission to attempt to substantiate their self-interested emergency as required under SAPA §202(6).

Petitioners purported reliability emergency is also inconsistent with Commission precedent. In the past, the Commission has cited reliability to justify emergency action, but it has relied on sudden and significant increases in energy prices,[17] service interruptions, a humanitarian

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[12] Petition at 2, 4, 12, 13-14.

[13] 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).

[14] *North Fork* at 962.

[15] Petition at 15.

[16] Petition at 12.

[17] Case 00-E-1330, Ordinary Tariff Filing of Consolidated Edison Company of New York, Inc. to add a new Rider U instituting a Voluntary Load Reduction Program and other housekeeping matters, *Consolidated Edison Company of New York, Inc., Order concerning tariff filing to add a new Rider U and other housekeeping matters*, (August 16, 2000). "[T]ariffs to implement the ISO program are necessary to promote system reliability and ameliorate the impact of anticipated sudden and significant increases in energy prices. Delaying implementation to comply with the notice and comment requirements of SAPA Section 202(1) would be contrary to the public interest because it could increase risk of service interruptions and result in higher rates."

emergency,[18] and a risk of system overload.[19] Petitioners do not allege any of these conditions; nor can they, as Con Edison's two-part reliability test is not causing a reliability emergency.[20] The purpose of the test is to *preserve* safe and reliable service.[21] By definition, under the two-part reliability test, projects that are assigned upstream infrastructure upgrade costs are those that create new substation or sub-transmission peaks rather than decrease them.[22]

C. The Petition Raises Policy Issues Appropriate For Currently Active Rulemakings

The petition seeks accelerated relief for requests already raised in NY-BEST's petition that is the subject of an open and active comment period. In addition, there are at least four other currently open proceedings that bear on the relevant issues, and because they are interrelated, the Commission should review them all in an integrated manner on a complete record:

- **Value of Distributed Energy Resources (VDER) in Case 15-E-0751**: on December 11, 2025, DPS Staff filed a proposal to formalize revised methodologies for the Demand Reduction Value (DRV) and Locational System Relieve Value (LSRV) components of the Value Stack. The Joint Utilities of New York (collectively, the "JU") filed comments proposing significant changes to VDER's structure in its March 16, 2026, filing. This proceeding has the potential to significantly impact project economics for energy storage projects going forward.

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[18] Case 18-E-0010, *Petition of Orange and Rockland Utilities, Inc. for Sale of Transformers to Nobel Supply & Logistics in Connection with the Puerto Rico Relief Effort and for Expedited Relief*, Order Approving Transfer On An Emergency Basis (January 4, 2018). "O&R has been actively participating in the relief efforts to help the people of Puerto Rico recover from Hurricane Maria's devastating impact. It is hereby found that the immediate adoption of the proposed rule approving the immediate transfer of the specified utility assets from O&R to aid in the relief effort is necessary for the preservation of the public health, safety or general welfare and that compliance with the notice and comment requirements of SAPA §202(1) would be contrary to the public interest"

[19] Case 00-E-2054, *In the Matter of a Status Report on the Demand/Supply Component of the Department's Electric Price and Reliability Task Force Including Recommendations for Specific Utility Actions on the Demand-Side*, Order Approving Tariffs Extending Emergency Demand Response Programs (December 31, 2002). "Immediate adoption of the tariff modifications is necessary to ensure the uninterrupted continuation of programs essential to the provision of safe and reliable electric service. Without the demand reductions that can be implemented through the programs, the electric delivery system might be overloaded and service interruptions could occur. Accordingly, compliance with the advance notice and comment requirements of SAPA §202(1) would be contrary to the public interest and immediate approval is necessary for the preservation of the general welfare under SAPA §202(6)"

[20] Counterintuitively, Petitioners criticize Con Edison for operating its system too reliably, and request that Con Edison relax its design standards and reliability criteria to allow for more energy storage to connect to the grid.

[21] Notice at 7.

[22] Under Con Edison's two-part reliability test, not every project that creates a new peak will be assigned costs for upstream infrastructure upgrades. However, every project that fails the test would have created a new substation or sub transmission peak. Further information on the test is available in Appendix A and in the Notice.

- **Modifications to the Standardized Interconnection Requirements (SIR) in Case 24-E-0621**: In this case, the Commission is considering several changes to interconnection studies and procedures for SIR-eligible projects, such as allowing DER developers to complete utility-side upgrades and the two-part reliability test discussed herein.
- **NYC Reliability Contingency Plan in Case 25-E-0764**: Both Con Edison and the NYISO have identified transmission security reliability needs arising as early as 2032 in NYC, and the Commission has directed Con Edison to, among other things, submit a plan to address the needs later this year. This case may become a parallel vehicle for energy storage and DER procurement in Con Edison's service territory that can be affected by potential changes in VDER (15-E-0751) and SIR (24-E-0621).
- **Utility Marginal Cost of Service (MCOS) in Case 19-E-0283**: closely linked to the VDER case, this proceeding and 2024 Order [23] established a methodology for estimating marginal costs across different utility service territories, as an input into VDER's DRV and LSRV calculations.

These proceedings are closely related. The Value Stack proceeding (15-E-0751) sets the VDER Value Stack compensation for providing cost avoidance, with the DRV and LSRV values currently under revision in that docket underpinning project financials. The Marginal Cost of Service Proceeding (19-E-0283) feeds into VDER directly since the MCOS studies form the basis for how DRV could be calculated going forward. The instant Petition, along with other recent filings from NY-BEST and Con Edison in the SIR Proceeding (24-E-0621), affects how energy storage is studied for interconnection and how costs are allocated between private developers and rate payers. Last, the current reliability needs proceeding (25-E-0764) is just beginning to take shape, and may influence the size of the need and potential portfolio of solutions. This complex picture is another reason the Commission should not rush past its precedent to find an emergency here. Instead, it should consider battery storage matters holistically and develop policy solutions that are consistent with operating a reliable and affordable[24] system.

[23] Case 19-E-0283, *Proceeding on Motion of the Commission to Examine Utilities' Marginal Cost of Service Studies,* Order Addressing Marginal Cost of Service Studies (August 19, 2024).
[24] Case 15-E-0751 et al., *In the Matter of the Value of Distributed Energy Resources*, Joint Utilities' Comments on DPS Staff Proposal On Updating DRV and LSRV for VDER Compensation at 5 (filed March 16, 2026).

III. NYBEST and NYSEIA's Demands Risk Harming the General Welfare

Contrary to Petitioners' assertions, it is their emergency request, not Con Edison's two-part reliability test, that threatens the general welfare. Petitioners ask the Commission to upend Con Edison's reliability determinations made pursuant to the SIR so that private energy storage developers can shift their costs to customers. Such an action would harm the general welfare because it would force customers to fund billions of dollars of otherwise unnecessary upgrades to maintain reliability. The Commission should think carefully before burdening customers with these additional costs.

IV. Additional Claims

Many of Petitioners' remaining assertions concern broad statewide policy questions, contested technical issues, and proposed revisions to the Standardized Interconnection Requirements. None have merit.[25]

A. Development and Implementation of Con Edison's Upstream Reliability Test

Petitioners' claims regarding the legality of the two part reliability test are inappropriate for an emergency ruling and are unfounded, and Petitioners request to subject Con Edison's two part reliability test to an extensive stakeholder process is not prudent. As an initial matter, Petitioners conflate utility engineering procedures with the Standardized Interconnection Requirements (SIR) and tariffs, and then, without supporting authority, assert that the Commission must approve every utility engineering procedure that impacts an interconnection request. Petitioners cite no Commission precedent or regulation for this expansive interpretation. Nor can they because it is not required.[26] Second, Petitioners' vaguely chosen screening methodologies for upstream

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[25] Petitioners make several factual, technical, policy, and legal assertions throughout their filing. Because these arguments fall well outside the narrow scope of what may properly be considered in an emergency rulemaking under SAPA §202(6), the Company does not address each of them here. The Company's decision not to respond to every allegation should not be construed as agreement with Petitioners' characterizations or claims. The Company reserves all rights to respond fully, with supporting facts and legal analysis, in the appropriate Commission proceedings, including the ongoing rulemaking and any future stakeholder processes. While Con Edison briefly addresses several of these claims here, and maintains that the Commission can reject them on that basis, to the extent the Commission determines an issue requires further review, that review should occur through normal channels, not through the extraordinary and limited emergency-rule mechanism Petitioners invoke.

[26] As stated in the Notice at 3, "Because there is a large volume of projects clustered in specific areas, there could be, for the first time, significant impacts from BESS charging on infrastructure upstream of primary feeders, such as at area stations and sub-transmission infrastructure. In response to these conditions, Con Edison was required to refine its engineering analysis for impacts to upstream infrastructure to ensure that BESS charging load does not create reliability or power quality issues at those upstream assets."

infrastructure upgrades are not cited from the SIR or a tariff, because the SIR and tariffs do not set those technical screens.

More fundamentally, Con Edison possesses clear legal authority and a statutory obligation to apply engineering judgment when performing interconnection studies, including upstream reliability evaluations.[27] Under Public Service Law §§65 and 66, electric utilities must furnish safe and adequate service and are responsible for ensuring that system planning, operating practices, and reliability criteria protect customers. The SIR reinforces this framework by requiring utilities to perform CESIR studies, identify all system impacts, and determine "but-for" upgrades, without prescribing specific engineering or hosting capacity methodologies; thus, utilities must rely on their own technical standards when evaluating interconnections. Petitioners cite no authority that shifts this responsibility to developers or requires Commission pre-approval of engineering procedures. Utilities must be able to exercise their engineering judgment to comply with their statutory requirement to provide safe and reliable service and cannot be required to rely on Petitioners' or stakeholders' approval as a precondition to operating the electric distribution system. The Commission should reject the invitation to do reliability by committee.

B. Opportunities for Storage

Petitioners make several claims regarding the opportunities and viability of storage in Con Edison's service territory. As explained in the Con Edison's January 14 Notice, as of the date of that filing, there is 1 GW of energy storage either operating or with executed interconnection agreement with Con Edison. The 1 GW of operating and contracted storage projects represents double Con Edison's share of the state's 2030 target for distribution connected energy storage of approximately 500 MW.[28] On top of the 1 GW operating or contracted, there is more than 400 MW of additional storage projects with completed interconnections studies, but not yet contracted, with no upstream infrastructure costs. Additional information is available in **Appendix A**, which provides a set of responses from Con Edison to an interrogatory issued under the above referenced proceedings. Petitioners incorrectly claim that Con Edison has halted energy storage applications in 85% of its service territory. Since August 2025, Con Edison has continued processing all interconnection requests across the entire service territory in compliance with the SIR.

[27] Notice at 5.
[28] Case 18-E-0130, *In the Matter of Energy Storage Deployment Program,* Order Establishing Updated Energy Storage Goal and Deployment Policy at 59 (issued June 20, 2024).

C. Transparency

Contrary to Petitioner's claims, Con Edison has provided detailed information in its hosting capacity maps, meetings with energy storage developers and NY BEST and NYSEIA, numerous communications, and its January 14 Notice.[29] Regarding specific interconnection study costs, additional study of the projects in **Appendix A** was performed to identify upstream infrastructure costs the Company would not have incurred but for the applicants' interconnections, and to assign those costs to the applicants in their interconnection studies. Petitioners' statements regarding Con Edison's transparency[30] on study costs are unfounded, as the Company has made this information available to the public in the same manner as it has in the past, and in compliance with the SIR.

In addition, the projects at issue were not "restudied" as described by the Petitioners but were rather the subject of an additional analysis as required by the SIR's cost allocation requirements.[31] **Appendix B** contains a list of project cost and timelines requested by NY-BEST, which Con Edison developed and provided in an email exchange with NY-BEST in the interest of transparency. Downstream impacts, including the service, and primary and secondary feeders were not restudied, and only incremental evaluation of upstream impacts was performed, as required by the SIR.

[29] The Notice includes Appendix 1, which provides a specific review of constraints at a series of substations.
[30] Petition at 14
[31] SIR at Appendix E.

V. Conclusion

Petitioners' request for emergency action should be denied. Petitioners identify no present threat to public health, safety, or general welfare; no evidence of any reliability issue caused by the two part test; and no legal basis for overriding the Commission's established interconnection framework. Their Petition seeks to bypass the ordinary notice and comment process, shift substantial infrastructure costs from private developers to customers, and upend the engineering standards that preserve safe and reliable service. The Commission should reject this attempt to invoke its emergency authority in the absence of any genuine emergency and allow the pending proceedings to address these complex policy issues on a complete, transparent record.

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Respectfully submitted,

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