May 1, 2026

VIA ELECTRONIC FILING

Hon. Michelle L. Phillips, Secretary
NYS Public Service Commission
Empire State Plaza, Agency Building 3
Albany, NY 12223-1350

Re: Cases 15-E-0302 and 22-M-0149 – Comments on the Petition of the Coalition for Safe and Reliable Energy

Dear Secretary Phillips,

The Alliance for Clean Energy New York ("ACE NY"), Advanced Energy United ("United"), Solar Energy Industries Association ("SEIA"), New York Battery and Energy Storage Technology Consortium ("NY-BEST") and Coalition for Community Solar Access (CCSA) – collectively referred to as "we" – respectfully submit these comments in response to the Petition for a Hearing to Temporarily Suspend or Modify the Renewable Energy Program Under Public Service Law § 66-p(4) ("Petition") filed by the Coalition for Safe and Reliable Energy ("Coalition") on January 6, 2026.

ACE NY is a member-based organization with a mission of promoting the use of clean, renewable electricity technologies, transportation electrification, and energy efficiency in New York State to increase energy diversity and security, boost economic development, improve public health, and reduce air pollution. ACE NY's diverse membership includes companies engaged in the full range of clean energy technologies as well as consultants, academic and financial institutions, and not-for-profit organizations interested in their mission.

United is a national association of businesses that works to accelerate the move to 100 percent clean energy and electrified transportation in the U.S. The term advanced energy encompasses a broad range of products and services that constitute the best available technologies for meeting our energy needs today and tomorrow. These include electric vehicles, energy efficiency, demand response, energy storage, solar, wind, hydro, nuclear, heat pumps (ground-sourced and air-sourced), and smart grid technologies. United represents more than 100 companies in the $374 billion U.S. advanced energy industry, which employs 4.1 million U.S. workers, including 231,600 individuals in the Empire State.

SEIA is the National Trade Association for the Solar and Storage Industry, leading the transformation to a clean energy economy. SEIA works with its 1,000+ member companies and other strategic partners to fight for policies that create jobs in every community and shape fair market rules that promote competition and the growth of flexible, reliable, low-cost solar power.

NY-BEST is a not-for-profit industry trade association with a mission to advance energy storage technologies in support of New York's clean energy goals, and to enable a more reliable, affordable, and sustainable electricity grid for all New Yorkers. Our more than 180 member organizations span the full energy storage value chain, including project developers, research institutions, utilities, and companies across the electricity and transportation sectors. NY-BEST and our members have been actively engaged in implementing the CLCPA, including through the State's Energy Storage Roadmaps, and are committed to helping New York meet its goals to deploy 6 GW of energy storage by 2030 and achieve 100 percent clean electricity by 2040.

CCSA is a national coalition of over 120 businesses and non-profits working to expand customer choice and access to solar to all American households and businesses through community solar. Together, we are building the electric grid of the future where every customer has the freedom to support the generation of clean, local solar energy to power their lives.

As discussed fully herein, we strongly oppose the Petition and recommend it be dismissed. The Coalition erroneously claims a hearing is required but provides no evidence that a temporary suspension of the Climate Leadership and Community Protection Act ("CLCPA") is appropriate. The CLCPA has been misleadingly blamed for causing New York's current energy affordability crisis. As the Governor has stated, "[t]he false narrative is that I'm telling people their utility rates are higher because of the CLCPA … That would be a stupid thing to say, because it's not in effect yet …."[1] The Petition is an attempt to shift blame of the current energy affordability issues onto New York's transition to a decarbonized electricity sector. Instead of maintaining the currently slow pace of the renewable energy transition, we strongly recommend expediting and expanding opportunities for the construction, interconnection, and deployment of efficient renewable energy and energy storage resources to mitigate affordability and reliability concerns related to New York's electricity sector.

To date, the State has made tremendous progress toward the CLCPA mandates, notably achieving the six gigawatt ("GW") distributed solar target early and under budget. But like every other state in the country, the reliability and affordability challenges confronting New York's electricity supply and delivery system remain. Rather than pausing the State's Renewable Energy Program ("Program"), the State should be expediting efforts that increase new generation and energy storage to meet demand, drive down costs, and achieve the CLCPA mandates. Now is not the time to slow down.

Expanding renewable energy deployment, specifically when paired with energy storage assets, will continue to diversify the grid and allow for affordable electricity to be utilized during

[1] Rebecca Lewis, *Hochul Says Plan to Amend Climate Law Won't Lower Utility Rates*, City & State NY (Mar. 18, 2026), https://www.cityandstateny.com/policy/2026/03/hochul-says-plan-amend-climate-law-wont-lower-utility-rates/412213/.

peak demand times, avoiding reliance on the most expensive peak-time resources. Standalone energy storage can also drive down costs by improving the utilization of the existing grid, reducing the need for expensive new infrastructure by storing excess power locally, and making it available during peak hours. Renewables and energy storage will also reduce reliance on one of the dominant drivers of energy costs in New York: fossil fuel price volatility. By doubling down on natural gas-fueled generation, as the Coalition advises, ratepayers would be subject to this volatility for longer, leading to energy price spikes indefinitely.[2] The addition of more renewable energy generation and storage, and diversification of the grid, are the true solutions to energy affordability and reliability concerns. Indeed, a January 2026 Synapse Energy Economics study[3] found that meeting New York's distributed solar and energy storage deployment goals would save ratepayers $1 billion per year statewide through wholesale price suppression alone, savings that benefit all New Yorkers. Most notably, significant amounts of generation and storage—nearly 30 GW at the bulk level alone —are already in the pipeline.[4]

Affordable renewable energy is more important than ever to meet the State's goals for a reliable, secure, diverse, and decarbonized electric system. The Petition, which is attempting to halt this crucial transition, must be dismissed.

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2 *See* N.Y. INDEPENDENT SYSTEM OPERATOR, *Impact of National & Global Conditions on Electricity Prices in New York* (Jan. 2026) at 2 ("natural gas prices experienced dramatic swings: increasing sharply in 2022 following the onset of the Ukraine-Russia war and falling steeply through 2024. Further, data shows that 'the states most dependent on natural gas experienced some of the greatest increases in retail electricity prices through 2022–2023, followed by some of the largest price decreases.' In New York, where natural gas is the primary fuel for roughly half of the electricity generated in the state, the wholesale price of electricity has mirrored these recent national trends … Over just two years, the wholesale electricity price in New York climbed from the record low of $25.70/MWh to $89.23/MWh in 2022, directly reflecting changes in natural gas prices. While both natural gas and wholesale electricity prices in New York eased up following 2022's spike, tight supplies and emerging pressure points have kept prices for these essential commodities higher.").

3 Synapse Energy Economics, *Sunlight and Storage into Savings: Evaluating Energy Cost Savings from Distributed Solar and Storage Additions in New York*, January 2026, p. 6.

4 *See* CLEANVIEW, *Planned Solar Projects in the US > NYISO*, https://cleanview.co/planned-solar-projects/nyiso (last accessed March 24, 2026) ("As of March 2026, there are 73 solar projects in development in the NYISO interconnection queue … Their total planned capacity is 6,648 MW."); *see also* CLEANVIEW, *Planned Wind Projects in the US > NYISO*, h https://cleanview.co/planned-wind-projects/nyiso (last accessed March 24, 2026) ("As of March 2026, there are 23 wind projects in development in the NYISO interconnection queue … Their total planned capacity is 7,290 MW."); CLEANVIEW, *Planned Storage Projects in the US > NYISO* https://cleanview.co/planned-battery-projects/nyiso (last accessed March 24, 2026) ("As of March 2026, there are 83 battery projects in development in the NYISO interconnection queue … Their total planned capacity is 11,050 MW.").

I. The requested "suspension" is not required.

The Petition seeks to invoke New York State Public Service Law (PSL) § 66-p(4) which provides that the New York State Public Service Commission ("Commission"):

> may temporarily suspend or modify the obligations under such program provided that the commission, after conducting a hearing as provided in section twenty of this chapter, makes a finding that the program impedes the provision of safe and adequate electric service; the program is likely to impair existing obligations and agreements; and/or that there is a significant increase in arrears or service disconnections that the commission determines is related to the program.[5]

The Coalition argues that this "provision [] *require[s]* a hearing pursuant to the commission's rules and regulations."[6] That is hardly the case. The plain language of the statute, including the use of the word "may," provides discretion to the Commission to hold such hearing—not an obligation that the Commission exercise its authority. Statutory construction principles recognize that the term "may" is generally permissive and confers discretion, while "shall" denotes a mandatory obligation, unless the context indicates otherwise.[7] In *Rochester Gas & Elec. Corp. v. Maltbie*, 272 A.D. 162 (3d Dep't 1947), the provision of the PSL at issue included "shall," and the court determined that "when read alone would seem to be mandatory until a study of the authorities has been made which reveals the intention of the Legislature … As a general rule 'public policy, for the convenience and necessity of government,' has much to do in the finding that the minor details of duties imposed upon a public body or public official are directory and not mandatory."[8] There is nothing in PSL § 66-p(4), or the remainder of Section 66-p, indicating that the word "may" should be interpreted as mandatory.

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5 N.Y PUB. SERV. LAW § 66-p(4) (McKinney 2019).

6 Pet. at 11.

7 *See* N.Y. STAT. LAW § 177 (McKinney 1971) ("In the absence of anything to indicate a contrary intention, words of command in a statute are construed as peremptory, and words of discretion are treated as permissive.").

8 *Rochester Gas & Elec. Corp. v. Maltbie*, 272 A.D. 162, 165 (3d Dep't 1947); *see also Evans v. Gardner*, 71 Misc.2d 283, 284 (Sup. Ct. Onondaga Cty. 1972) ("Respondents' interpretation requires giving mandatory effect to the permissive or discretionary word "may" … i.e., interpreting the word as though it were "must".

Further, the CLCPA mandates in PSL § 66-p(2) include the word "shall" (*e.g.*, "the commission shall establish a program…").[9] If the Legislature also wanted to include the word "shall" in PSL § 66-p(4), it would have. New York courts have held that "the failure of the Legislature to include a substantive, significant prescription in a statute is a strong indication that its exclusion was intended"[10] and one "cannot by implication supply in a statute a provision which it is reasonable to suppose the Legislature intended intentionally to omit[.]"[11] Thus, the plain language of the statute must be construed as intentional.

Moreover, the Petition proposes no recommendations to improve the Program. The Coalition merely intends to disrupt the private renewable energy market, rather than bring forward legitimate solutions to its stated reliability concerns.

II. The Petition fails to explain how the Commission might exercise its authority under PSL § 66-p(4).

The Coalition does not explain what guidance PSL § 66-p(4) provides the Commission to use the "suspension" authority at issue. The Coalition's failure raises the question of whether PSL § 66-p(4), as interpreted by the Coalition, is unconstitutionally vague. "'A statute, or a regulation, is unconstitutionally vague if it fails to provide a person of ordinary intelligence with a reasonable opportunity to know what is prohibited, and it is written in a manner that permits or encourages arbitrary or discriminatory enforcement.'"[12]

There is nothing about the context of the statute, the facts surrounding its enactment or the purposes sought to be served thereby to dictate such interpretation. That being so, the word "may" should be given its usual meaning and treated as permissive.").

9 N.Y PUB. SERV. LAW § 66-p(2).

10 *People v. Finnegan*, 85 N.Y.2d 53, 58 (1995) ("We have firmly held that the failure of the Legislature to include a substantive, significant prescription in a statute is a strong indication that its exclusion was intended.").

11 N.Y. STAT. LAW § 74 ("A court cannot by implication supply in a statute a provision which it is reasonable to suppose the Legislature intended intentionally to omit; and the failure of the Legislature to include a matter within the scope of an act may be construed as an indication that its exclusion was intended.").

12 *Goldstein v. Vill. of Mamaroneck Bd. of Ethics*, 242 A.D.3d 1199, 1201 (2d Dep't 2025) (*citing Indep. Ins. Agents & Brokers of N.Y., Inc. v, N.Y. State Dep't of Fin. Servs.*, 39 N.Y.3d 56 (2022)).

It is far from clear how the Commission would determine whether the Program "impedes the provision of safe and adequate electric service[,]" will "impair existing obligations and agreements[,]" or whether "there is a significant increase in arrears or service disconnections" from the Program."[13] Whether the Program "impedes" provision of service or "impairs" obligations and agreements is seemingly quite subjective. The statute provides no guidance on what is meant by "impede" service and "impair" obligations. This lack of clarity could lead to subjective, arbitrary application of the statute, and as such, this language is potentially unconstitutionally vague.[14]

Moreover, it is highly unlikely that, having enacted a detailed, prescriptive program for expanding the State's renewable energy industry in PSL § 66-p generally, the Legislature intended one of its provisions, PSL § 66-p(4), to permit the Commission to erase the CLCPA and substitute another program left undefined by the Legislature. A statute must be interpreted as a whole, with all of its provisions construed as one, and such interpretation must give effect to the intent of the statute as a whole.[15]

Properly interpreted, PSL § 66-p(4) authorizes the Commission to narrowly tailor remedies to three specific types of problems, if such problems have been identified on an evidentiary record as being caused by the CLCPA mandates: (1) the Program is impeding provision of safe and adequate service; (2) the Program is impacting obligations and agreements; or (3) the Program is resulting in increased customer arrears or disconnections. But as discussed further below, the Coalition severely fails to demonstrate any evidence it would put forward in a hearing to support a finding on these grounds. The State Administrative Procedure Act ("SAPA") permits parties to adjudicatory proceedings to "present written argument on issues of law and an opportunity to

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13 N.Y PUB. SERV. LAW § 66-p(4).

14 *Goldstein*, 242 A.D.3d at 1201 ("the court must determine whether the enactment provides officials with clear standards for enforcement so as to avoid resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application") (internal citations omitted).

15 *See* N.Y. STAT. LAW § 97 ("A statute or legislative act is to be construed as a whole, and all parts of an act are to be read and construed together"); *see also* N.Y. STAT. LAW § 98 ("All parts of a statute must be harmonized with each other as well as with the general intent of the whole statute, and effect and meaning must, if possible, be given to the entire statute and every part and word thereof.").

present evidence and such argument on issues of fact" at hearings.[16] The Coalition has not presented any issue of fact or law *that would justify commencing an adjudicatory proceeding or that would even suffice as an adequate showing of evidence in such a proceeding*.

a. The Petition provides no indication of what evidence the Coalition would put forth in such a hearing to establish any of the three grounds for the temporary suspension or modification.

Instead of making a reasoned, legal argument with a demonstration of the evidence that the Coalition would put forth in the hearing it requests, the Coalition simply states:

> *Recent evidence suggests* that the Renewable Energy Program, and its associated renewable energy targets, may impede the provision of safe and adequate electric service and upset the necessary balance of reliable, economic and sustainable energy in New York State. *This evidence justifies commencement* of the hearing process in PSL § 66-p (4) …[17]

The Coalition proffers no evidence, proposed expert testimony, or any sworn statements. The Petition simply cites well-known publicly available reports published by the New York State Department of Public Service ("DPS") and New York Independent System Operator ("NYISO"). The Coalition cherry picks aspects from these public reports, without reporting their full conclusions. Further, the Petition hyperbolizes the status of the New York bulk power grid as in dire shape.

Notably, the Petition fails to recognize that accelerated deployment of renewable generation and energy storage coming online swiftly would address the potential reliability concerns on peak days. For example, independent technical analysis conducted by PowerGEM (a leading provider of specialized power grid simulation software that is licensed and actively used by both NYISO and Con Edison) confirms that strategically sited standalone battery storage can

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16 N.Y STATE ADMIN. PROCED. ACT § 301(4).

17 Pet. at 1-2.

fully resolve Con Edison's identified transmission reliability shortfall in Zone J - New York City, while simultaneously reducing ratepayer costs and cutting emissions.[18] Additionally, the Petition fails to address reliability and security risks of continuing to rely on fossil fuels as the primary source for dispatchable generation. As the United States finds itself enmeshed in yet another global conflict affecting commodity fuel prices and availability, it is not hard to imagine scenarios in which natural gas and oil prices spike beyond levels that support economic operation of fuel-based generation. These factors demonstrate that the solution to New York's grid challenges is accelerating renewables and energy storage deployment, not suspending the Renewable Energy Program. As discussed throughout these comments, we strongly recommend the State focus on speeding up deployment of new generation and energy storage sources to alleviate reliability concerns.

It is unclear what new information the Coalition would provide in the hearing they request. For example, the Coalition cites to the State Energy Plan ("SEP") as "evidence" that that the Program must be reevaluated through a temporary suspension and hearing.[19] But one of the SEP's own stated purposes is to "examine[] long-term energy planning considerations and offer[] strategies and actions for New York to make an equitable and just transition to a modernized, clean energy system that is increasingly reliant on electricity, in a manner that supports reliability and resilience, affordability, quality of life, and economic growth."[20] Although the Coalition claims, for example, that the Program is undermining the reliability of the electric grid, the SEP reviewed the status of electric service reliability in New York compared to national averages and concluded that "New York outperforms the national average and neighboring states on key reliability metrics for electric utility customers" and "New Yorkers experienced the second-fewest power outages … on average, across U.S. states."[21]

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18 *See* CASE 25-E-0764, *Proceeding on Motion of the Commission to Address New York City Reliability Needs*, Ability of Energy Storage to Address Transmission Reliability Needs in New York City (March 26, 2026 PowerGEM, LLC. Prepared for New York Battery and Energy Storage Technology Consortium (NY-BEST).

19 *See e.g., id*. at 16.

20 N.Y. STATE, *2025 New York State Energy Plan, Advancing affordable, abundant, reliable and clean energy for New York, Vol. I, Summary for Policymakers* at 3.

21 *Id*. at 13.

The SEP also reviewed energy prices and expenditures. Again, contrary to the Coalition's claims, the SEP concluded, based on a DPS report, that "[Commission]-approved clean energy program costs are a component of utility rates, but remain a small portion of the total customer bill across New York's electric and gas utilities for historical and projected years (2023-2029)."[22] Not the Program requirements, but rather, "core infrastructure investments for reliability and resiliency, the influence of macroeconomic and geopolitical factors that cause substantial swings in the price of fossil fuels (and in turn electricity supply costs), and costs related to property taxes, salaries and benefits for employees, and information technology" are the "[p]rimary drivers of increasing energy bills[.]"[23] Not only is the Program not responsible for rising costs, in fact, fuel-free renewable energy decreases energy prices for all ratepayers. A recent study by Synapse Energy Economics found that expanding distributed solar and storage can save New York ratepayers $1 billion a year.[24] Further, looking ahead to 2040 and beyond, the SEP states the following:

> Reliably integrating large quantities of variable renewable energy into the electricity system requires flexibility and balancing over multiple timescales, including sub-hourly and hourly balancing as well as ensuring that firm, dispatchable capacity is available to provide adequate amounts of power during multi-day periods of low renewable output. Battery storage and demand-side flexibility provide key contributions to system reliability and support the balancing of renewables with demand. Existing and new nuclear and existing hydroelectric generation provide large quantities of zero-emissions energy and firm, dispatchable capacity during prolonged periods of low renewable output.
>
> While the State policy process for establishing the definition of zero-emission electricity generation is still underway, the modeling assumes that by 2040 the remainder of multi-day reliability needs are met by generators powered by green

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22 *Id*. at 20.

23 *Id*.

24 Synapse Energy Economics, 2026. Sunlight and Storage into Savings. The study looked at a policy scenario of reaching an expanded 20 GW distributed solar goal and 3.7 GW of distributed storage by 2035, extrapolating the state's existing target of 1.7 GW of distributed storage by 2030.

> hydrogen. Under this assumption, the combustion generation fleet remains critical, with 15 GW of capacity available to run on hydrogen in 2040 … this Plan reports on projected combustion unit retirements over the planning period and new or repowered capacity to maintain reliability, which includes 3 GW repowered by 2035 in New York City as a result of delayed OSW buildout given federal permitting headwinds … The size of the overall combustion fleet declines from approximately 25 GW in 2025 to 15 GW in 2040 even as peak demand increases, reflecting the reliability contributions of other new resources like the Champlain Hudson Power Express transmission project, new battery storage, new nuclear generation, and additional renewable capacity.[25]

These are just some examples of the true findings of the SEP that the Coalition has seemingly ignored.

For example, the Coalition argues that the 2040 Zero Emissions Target is unachievable because dispatchable emission-free resources are not commercially viable at scale today. This framing ignores the rapidly advancing role of long-duration energy storage ("LDES") as precisely the class of resource New York needs to fill the multi-hour and multi-day dispatchable gap. As the SEP makes clear, battery energy storage and demand-side flexibility are key contributors to system reliability, and the combustion generation fleet is projected to decline in part because of the reliability contributions of new battery storage and additional renewable capacity. LDES technologies, such as flow batteries, iron-air batteries, and compressed air energy storage, are commercially viable and ready to deploy at scale. Rather than treating the dispatchable gap as a reason to suspend the Renewable Energy Program, the Commission should treat it as a reason to urgently establish a dedicated LDES procurement target. To date, the State's programs have focused on short-duration energy storage, which have been successful in launching the market; the Commission now must enable long-duration resources by directing NYSERDA to contract for at least 3,000 MW of incremental LDES capacity by 2030.

[25] *Id*. at 31-32.

On offshore wind specifically, the petition argues without any substantiating analysis in footnote 39 that "it is not clear whether this assumed buildout [7 GW of offshore wind between 2025 and 2040 in the 2.2 GW Nuclear variant and 5 GW of offshore wind between 2025 and 2040 in the 3.3 GW Nuclear variant] is possible." Rather, the petition cites generally the Pathways Analysis removing compliance with the target from its assumptions due to "federal policy headwinds regarding the ability to permit and construct new offshore wind resources during the current administration." This argument fails to consider that, under a more favorable administration, it is reasonable under conservative assumptions to expect that multiple projects could resume federal permitting in 2029, reach financial close in the first half of the 2030s, and complete construction before 2040. It would be irresponsible to argue that offshore wind projects cannot be delivered by 2040 without evidence, industry feedback, or bottom-up analysis to support this assertion.

Similarly, the Coalition cites various NYISO reports to conclude erroneously that reliability will plummet as the State continues toward full achievement of the CLCPA mandates. But the NYISO's conclusions are not nearly as dire as the Coalition would like the reader to believe. For example, in the 2023-2042 System and Resource Outlook ("Outlook"), the NYISO "identifies opportunities to expand the transmission system efficiently and cost-effectively to, among other things, achieve CLCPA mandates[,]" including local transmission and distribution upgrades that can alleviate local constraints allowing more renewable generation to be delivered into the bulk transmission system.[26] This shows that the State's leading experts are using these reports as intended: to study and forecast where strategic upgrades and investments are needed to avoid reliability shortfalls and ensure reasonable rates continue. The Coalition fails to recognize the point of these reports is to ensure reliability during the energy transition, not highlight concerns and then ignore them. For example, Con Edison identified needs in New York City's 345/138 kV transmission load area and noted in its preliminary analysis that achieving 6,000 MW of offshore wind by 2035 combined with the Public Policy Transmission Need ("PPTN") and 6,000 MW of energy storage statewide by 2030 would ensure demand is met and there are no reliability

[26] *See* N.Y. INDEPENDENT SYSTEM OPERATOR, *2023-2042 System & Resource Outlook*, A Report from the New York Independent System Operator (July 23, 2024) at 14.

shortfalls.[27] Even more compelling is the previously referenced PowerGEM study that demonstrated the reliability need could be satisfied with 727.5 MW of standalone four-hour battery storage in New York City by 2036 – deployment of which is already underway. Critically, the analysis also demonstrated that four-hour standalone battery storage can successfully charge and discharge to meet the reliability need even under a prolonged simultaneous outage of both the Champlain Hudson Power Express and Ravenswood Unit 3 during peak conditions, confirming that storage is a cost-effective, technically proven solution that simultaneously advances reliability, affordability, and New York's clean energy goals.

Further, the NYISO uses Northern New York as an example of how local transmission upgrades can open the door for increased renewable energy deployment and delivery:

> Northern New York is experiencing significant growth in both renewable generation projects and transmission expansion. This Outlook finds that *most local transmission constraints in the associated renewable generation pockets that were identified in the prior Outlook have been resolved*, primarily due to the Sma[rt] Path project and planned Phase 1 and Phase 2 local transmission upgrades. This Outlook, however, finds that several 115 kV and 230 kV transmission paths may become limiting as more renewable projects are added. *Development of local and bulk transmission projects to address these limitations on the 115 kV and 230 kV transmission paths would ensure the energy deliverability* of renewable generation resources, including existing hydro generation and imports, in Northern New York.[28]

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27 *See* CASE 25-E-0764, *Proceeding on Motion of the Commission to Address New York City Reliability Needs*, Con Edison Response to DPS Staff (Feb. 9, 2026) (DMM No. 12) ("These offshore wind and energy storage system reliability solutions presented above represent a range of possibilities … The flexibility provided by these two solutions, even if one resource faced deployment delays, would provide the Company with the resources to effectively manage the January 2026 reliability needs identified for the NYC 345/138 kV transmission load area.").

28 N.Y. INDEPENDENT SYSTEM OPERATOR, *2023-2042 System & Resource Outlook*, A Report from the New York Independent System Operator (July 23, 2024) at 16 (emphasis added).

Ultimately, the Petition reads more like an Op-Ed piece citing well-known public reports than a well thought out legal justification for the Commission to exercise its authority under PSL § 66-p(4). The Petition comprises a list of problems the Coalition sees with the Program and the industry, but fails to provide any solutions short of requesting the State halt progress at a crucial time when renewable energy deployment needs to be ramped up and the actual roadblocks impeding progress need to be tackled.

III. There are numerous ways to improve the Renewable Energy Program without conducting an unnecessary suspension and hearing.

First, in this and other Commission proceedings, the Commission and stakeholders have been actively exploring new policies and technologies to meet the challenges of increasing demand for electricity and a changing climate. In this proceeding alone (Case 15-E-0302), the Commission adopted the Clean Energy Standard ("CES") in August 2016 and oversees the CES biennial reviews, created the Build Ready Program in October 2020, oversaw DPS's and New York State Energy Research and Development Authority ("NYSERDA's") Power Grid Study process required pursuant to the CLCPA, all of which have been subject to numerous technical conferences, public comment periods, and opportunities for various stakeholders to directly participate. Moreover, the Commission has numerous proceedings open tied to the evaluation, support, and management of different areas of the evolving electric system including but not limited to:

- Case 14-E-0423: *Proceeding on Motion of the Commission to Develop Dynamic Load Management Programs*.
- Case 15-E-0751: *In the Matter of the Value of Distributed Energy Resources*.
- Case 16-M-0411: *In the Matter of Distributed System Implementation Plans*.
- Case 18-E-0130: *In the Matter of Energy Storage Deployment Program*.
- Case 19-E-0283: *Proceeding on Motion of the Commission to Examine Utilities' Marginal Cost of Service Studies*.

- 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*.
- Case 21-E-0629: *In the Matter of the Advancement of Distributed Solar*.
- Case 22-E-0633: *In the Matter of New York Independent System Operator, Inc. Proposed Public Policy Transmission Needs for Consideration for 2022*.
- Case 24-E-0165: *Proceeding on Motion of the Commission Regarding the Grid of the Future*.
- Case 24-M-0433: *In the Matter of the Rules and Regulations for the Environmental Review, Permitting, and Siting in this State of Major Renewable Energy Facilities and Major Electric Transmission Facilities Under the Renewable Action Through Project Interconnection and Deployment Act*.
- Case 25-E-0764: *Proceeding on Motion of the Commission to Address New York City Reliability Needs*.

The Commission simply does not need ***another*** proceeding to discuss the efficacy of the Program in meeting CLCPA mandates, addressing reliability concerns, and decreasing energy cost. There are numerous proceedings open to do just that, including this one.

Further, the Program does not need to be suspended, nor does the Commission need to hold a hearing, to make improvements to the Program. The following recommendations have been advocated for by the renewable energy industry for years to tangibly improve the Program ***while simultaneously driving down energy costs***.[29] By adding more energy generation to the power grid, the State would address the supply issue and by prioritizing renewable energy, the lowest cost energy sources would be available to ratepayers. To meaningfully speed up renewable energy

[29] *See e.g.*, CASE 24-M-0433, *In the Matter of the Rules and Regulations for the Environmental Review, Permitting, and Siting in this State of Major Renewable Energy Facilities and Major Electric Transmission Facilities Under the Renewable Action Through Project Interconnection and Deployment Act*, ACE NY and IPPNY Comments (Dec. 8, 2025) (DMM No. 90); NYOWA Comments (Dec. 8, 2025) (DMM No. 88); ACE NY and IPPNY Comments (Apr. 18, 2025) (DMM No. 25); NYOWA Comments (Apr. 18, 2025) (DMM No. 54).

development, especially in the short term when federal tax incentives are still available, we recommend the following:

1. Expand the recently authorized contract flexibility to allow developers with mature projects and federal incentives to re-enter the competitive procurement process. The one-time adjustment mechanism should also be improved to allow mature land-based projects to start construction sooner and capture the greatest amount of federal tax credits for the benefit of New York ratepayers. If these projects are not re-contracted, these tax credits will go to projects built in other states and ratepayers will be forced to make up for the lost federal incentives with increased energy costs. There must also be flexible contracting to guarantee adaptability to the ever-changing landscape, and prioritization of thoughtful planning for transmission upgrades that ultimately save ratepayers money.

2. Prioritize holistic grid planning and development, including investments in energy storage and transmission and distribution infrastructure, to drive down future energy costs, derisk generation projects, alleviate curtailment, and harden our aging infrastructure to better serve increased demand. Energy storage can function as "virtual transmission," absorbing excess generation in areas of surplus and discharging in areas of constraint, reducing congestion and making more effective use of existing transmission and distribution infrastructure while deferring or optimizing new investments, thereby driving down costs to ratepayers. The State should incorporate energy storage as virtual transmission into its holistic grid planning efforts, in coordination with the NYISO and the utilities through the Coordinated Grid Planning Process. This effort should also include proactive planning at the distribution grid to ensure that distributed energy resources (DERs), including storage, distributed generation, and load management, can be fully utilized to optimize infrastructure investments.

3. Address the several issues raised in the Commission's CES Biennial Review that are slowing down renewable generation deployment, given the number of significant delay

events (the COVID-19 pandemic, inflation, the war in Ukraine, etc.).[30] The Commission must be more flexible, adaptable, and responsive to major world events to ensure reliability, affordability, and keep the State on track to meet the CLCPA mandates.

4. Support procurement reform policies that increase contract flexibility, simplify procurement models, and derisk development in New York to drive down project costs and speed up renewable energy development. This should include direction to NYSERDA and DPS to implement significant procurement reform in its upcoming CES Biennial Review process.[31]

    a. Increase the number of solicitations in the coming years to ensure projects can come online before 2030. After 2030, federal tax credits for these projects will not be available.
    b. Publish a multi-year solicitation schedule that is explicitly synchronized with NYISO interconnection capacity releases. This will allow developers to more thoughtfully decide when to make the substantial NYISO Phase 2 security deposit to secure their queue position based on the Coordinated Grid Planning Process and PPTN milestones. A predictable cadence is essential for developers to plan supply chains, secure financing, and avoid boom-bust cycles that increase costs.
    c. NYSERDA should align its procurement solicitations more directly with the State's core need—affordable, clean energy.

5. Reject utility ownership of energy generation and storage as it will only increase ratepayer costs by placing the risk of project financing and failures on the ratepayer with no

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30 *See* CASE 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and Clean Energy Standard*, Order Adopting Clean Energy Standard Biennial Review as Final and Making Other Findings (May 15, 2025) (DMM No. 1362) at 8 ("Seven factors were identified in the Biennial Review that have affected progress in meeting the State's CLCPA goals: (1) global interest rates, inflation, and supply chain pressures; (2) inadequacies in the transmission system; (3) interconnection delays; (4) changes in capacity accreditation instituted by the NYISO; (5) federal initiatives including the Inflation Reduction Act (IRA); (6) time and complexity of siting including permitting delays; and (7) expected increase in the statewide electric load.").

31 *See* CASE 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and Clean Energy Standard*, Joint comments filed by ACE NY and Advanced Energy United (April 24, 2026) (DMM No. 1519).

guaranteed benefit. The problem with building generation in New York is not a lack of developers, but cumbersome processes and regulations.

6. Require utilities to publish transparent queue data on upgrade scopes, costs, and timelines and impose enforceable deadlines on the utilities for cluster studies and upgrade completion. When cluster study results are delayed, developers either miss NYSERDA deadlines or are forced to make bidding decisions without complete information.

7. Currently, sections 68, 69, and 70 of the PSL include requirements regarding energy facilities which are unnecessary for renewable energy projects, duplicative of other permitting processes, and slow down renewable development without providing any additional public policy benefit. In furtherance of streamlining processes, renewable energy generation should be exempt from PSL Article 4, as the annual reporting requirements imposed by PSL § 68 can easily be replicated as a Uniform Condition under PSL Article VIII. This will lower project expenses and in turn, lower electric rates.

8. Accelerate the development of transmission solutions to address system bottlenecks. The lack of sufficient transmission and energy storage capacity in New York limits the capacity for the interconnection of renewable energy projects and results in curtailment of renewable power. This is a massive barrier to bringing lower cost power to ratepayers and to decarbonizing the State's grid. Priority transmission and energy storage investments should be identified and advanced to solve transmission problems in the most congested zones identified in the NYISO's 20 Year System & Resource Outlook within a reasonable time. As part of this important effort, NYPA should be empowered to resolve transmission bottlenecks. There should also be competitive PPTNs to ensure we get more transmission built.

9. The Commission should take immediate steps to streamline interconnection processes and reduce barriers to the deployment of renewable energy and energy storage resources across both transmission and distribution systems. Developers in the NYISO Transitional Cluster Study are facing unusually high and inconsistent interconnection cost estimates, largely

driven by protection requirements, legacy infrastructure, and delays in transmission upgrades by Transmission Owners that shift costs onto individual projects. Transmission Owners, who are subject to full cost-of-service and prudent investment oversight have largely left determination of interconnection costs to the nominal assurances of the Open Access Transmission Tariff. The resulting costs often include high contingencies and escalation factors and onerous security requirements, with limited transparency into assumptions or least-cost alternatives. Greater oversight and standardization of utility cost methodologies—including benchmarking and clearer documentation of assumptions and alternatives—are needed. These currently uncontrolled cost estimates risk making viable projects infeasible, undermining clean energy goals, and leading to increased electricity rates. At the distribution level, utilities have similarly imposed inconsistent and opaque interconnection barriers on storage and distributed energy resources. A stark example is Con Edison's unilateral imposition of a new Two-Part Test for storage interconnection, which applies a rigid 70 percent substation capacity threshold based on worst-case charging assumptions that do not reflect how storage actually operates on the grid, effectively blocking new storage projects across the majority of New York City at precisely the moment Zone J needs more storage to address identified reliability shortfalls. Further, numerous complaints and petitions before the Commission have demonstrated the pervasive nature of interconnection cost overruns for distributed generation.[32] Greater oversight and standardization of utility interconnection methodologies is needed, and must be paired with reform of utility incentive structures so that utilities are no longer financially incentivized to prioritize traditional infrastructure investment over cost-effective distributed energy resources, ensuring ratepayers capture the full reliability and affordability benefits that storage can provide.

[32] See Case 25-E-0469, Complaint of Nexamp, Inc. and Affiliates Against Niagara Mohawk Power Corporation d/b/a National Grid Pursuant to the New York State Standardized Interconnection Requirements. Verified Complaint of Nexamp, Inc and Addiliates Against Niagara Mohawk Power Corporation d/b/a National Grid (August 7, 2025). See Case 25-E-0026, Complaint of Altamont Road Solar, LLC Against Niagara Mohawk Power Corporation d/b/a National Grid, Pursuant to the New York State Standardized Interconnection Requirements, Concerning Final Cost Reconciliation Billing. See 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. Petition of New York Solar Energy Industries Association Seeking Modifications to the New York State Standardized Interconnection Requirements (February 14, 2025) and comments in response from several parties.

10. The Commission should prioritize grid utilization as an explicit affordability and reliability strategy, with energy storage as a central tool. The power system is built to serve infrequent peaks in demand, meaning significant capacity goes unused for much of the year. In fact, the New York grid's utilization rate in 2025 was only about 50 percent.[33] By deploying energy storage to charge when spare capacity exists and discharge during peak hours, the fixed costs of the existing grid can be spread across a broader base of electricity sales, putting downward pressure on rates for all customers while deferring or avoiding costly new infrastructure investment. Recent analysis has shown that improving system utilization through flexible distributed resources including storage can meaningfully reduce customer rates while accelerating the connection of new load, and that storage can be deployed significantly faster than conventional generation alternatives.[34] The Commission should direct DPS and the utilities to incorporate grid utilization improvements into distribution system planning, in coordination with the Coordinated Grid Planning Process. The Commission should take the necessary steps to expand the deployment of Advanced Transmission Technologies and Grid-Enhancing Technologies to increase the utilization rate of the grid.

11. Continue to build on the state's success with distributed solar by increasing the state's distributed solar goal to 20 GW. The distributed solar segment has contributed a significant amount of progress towards the Renewable Energy Program and has the potential to add even more needed generation, particularly in the next several years while the state is implementing long-term solutions to lower costs and increase certainty and speed for large-scale renewable procurements.

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[33] NY-BEST analysis based on NYISO data from 2025.

[34] The Brattle Group. "The Untapped Grid: How Better Utilization of the Power System Can Improve Energy Affordability." Prepared for GridLab and Utilize Coalition. Ryan Hledik, Long Lam, and Kate Peters. March 2026.

IV. DPS and the New York State Office of Renewable Energy Siting and Electric Transmission ("ORES") should reduce the delays inherent in the siting process.

Although the adoption of Executive Law § 94-c, now PSL Article VIII, eliminated some and reduced other sources of uncertainty and delay that existed in the PSL Article 10 renewable energy siting process, there remain areas for improvement. We recommend that ORES adopt the following:

- Uniform terms and conditions to be included in agreements between applicant-developers and third parties, including agreements with municipalities covering Host Community Benefits, Decommissioning, and Road Use Agreements for control of real property required to meet impact mitigation obligations.

- Default conditions and procedures to be followed in cases in which a host municipality is unwilling to negotiate and execute an agreement on a timely basis.

- A generic, interpretive ruling clarifying that the preemptive effect of PSL § 144(2) extends to all municipal approvals, including flood plain permits, building and demolition permits (provided a professional engineer certifies compliance with relevant New York State codes), and land use approvals required to establish needed real property controls, such as subdivisions, lot line changes, and area variances.

- The State must also bring large energy storage systems of 25 MW and greater under the jurisdiction of ORES, ensuring that storage projects benefit from the same standardized, expert state-level permitting pathway already in place for other major power facilities including wind, solar, and natural gas. Consistent permitting for energy storage is essential to accelerating deployment at the pace and scale New York's grid modernization requires, and would provide regulatory parity across generation technologies while maintaining meaningful local consultation throughout the review process.

V. Conclusion.

As discussed fully herein, the CLCPA has been wrongly blamed for causing New York's current energy affordability crisis and the Petition is an attempt to shift blame onto New York's renewable energy transition. Rather than delaying this transition further at the behest of the Coalition, we instead urge the Commission to expand opportunities for the construction, interconnection, and deployment of renewable energy and energy storage resources that will mitigate affordability and reliability concerns by diversifying the grid and reducing reliance on volatile fossil fuel prices. Now is not the time to pause the State's progress. The Petition must be dismissed.

Respectfully submitted,

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