

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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**Proceeding on Motion of the Commission to  
Implement a Large-Scale Renewable Program and a  
Clean Energy Standard** ) **Case 15-E-0302**  
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**In the Matter of New York Independent System  
Operator, Inc. Proposed Public Policy Transmission  
Needs for Consideration for 2022** ) **Case 22-E-0633**  
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**Comments of the Retail Energy Supply Association in Response  
to the January 27, 2026 Public Service Commission Notice Soliciting Comments**

The Retail Energy Supply Association (“RESA”)<sup>1</sup> welcomes the opportunity to provide comments in response to the Notice Soliciting Comments issued on January 27, 2026 by the Public Service Commission (“Commission”) in the above-captioned matters (“Notice”). The Notice builds on a previous request for comments regarding the Clean Energy Standard (“CES”) and solicits feedback regarding utility ownership of renewable generation (“UORG”).<sup>2</sup> RESA submits the following comments to the Notice as well as responses to the appended questions and urges the Commission to maintain its support for competitive energy markets and not allow utilities to own renewable generation assets.

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<sup>1</sup> The comments expressed in this filing represent the position of the RESA as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).

<sup>2</sup> Case 15-E-0302 et al., *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Notice Soliciting Comments (issued January 27, 2026).

## INTRODUCTION

While recent reporting might cast doubt on aspects of New York’s clean energy accomplishments and goals,<sup>3</sup> New York’s continued efforts to build and sustain a clean, competitive, and efficient generation portfolio have ensured that New York is a national leader in renewable development and innovation. New York is ranked the highest in the nation for installed community solar<sup>4</sup> and generates more energy from renewable resources than any other state east of the Mississippi River.<sup>5</sup> New York’s clean energy industry grew by three percent and created over 6,000 jobs in 2024 alone.<sup>6</sup> Importantly, the Commission is ensuring that the goals of the Climate Leadership and Community Protection Act (“CLCPA”) are not only being met, but surpassed. The Commission effectively utilized the NY Sun Program to exceed the requirements of the CLCPA to procure at least six gigawatts of solar generation by 2025, and because of the program’s efforts and accomplishments, the NY-Sun Program now has a goal of 10 GW by 2030.<sup>7</sup> While these achievements should not be overlooked, as older generation assets continue to be retired and energy demand continues to increase, new generation is required to support the State’s energy demands.

Based on its most recent review of the CES and the draft CES Biennial Review finding that specific factors (global events and pressures, transmission, interconnection, capacity accreditation, constantly changing federal initiatives and policies,<sup>8</sup> siting and permit delays, and the

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<sup>3</sup> See, e.g., Colin Kinniburgh, “[What’s Behind the Escalating Fight Over New York’s Climate Law?](#)” *New York Focus*, March 10, 2026.

<sup>4</sup> See [NYSERDA Renewable Energy website](#).

<sup>5</sup> See [U.S. Energy Information Administration \(EIA\) website](#).

<sup>6</sup> See [NYSERDA 2025 Clean Energy Industry Report](#) at pp. 4, 7.

<sup>7</sup> Case 21-E-0629 *et al.*, *In the Matter of the Advancement of Distributed Solar*, Order Expanding NY-Sun Program (April 14, 2022), and see PSL § 66-p(5).

<sup>8</sup> See, e.g., Maxine Joselow and Brad Plumer, “[Trump Administration to Pay \\$1 Billion to Energy Giant to Cancel](#)

unprecedented increase in the State’s electric load) are inhibiting the State’s progress towards the goals of the CLCPA, the Commission decided to “consider” whether UORG would accelerate renewable deployment.<sup>9</sup> While RESA shares the concerns expressed by the Commission and supports competitive efforts to ensure additional renewable generation is built in the State, RESA believes that UORG does not address the underlying issues currently constraining more rapid development of renewable generation and will jeopardize the Commission’s commitment to competitive markets for energy generation and procurement at the financial cost of ratepayers. The desired rewards of New York’s competitive market, including “greater incentives and opportunities for lower prices, greater innovation, and expanded choice of options for customers,” have been realized, in part due to the Commission’s prescient policy position favoring divestiture of utility generation assets from the utilities in order to “create a larger number of competing generating companies and ESCOs, which can result in a dynamic and aggressive market.”<sup>10</sup> Competitive procurement of energy supply from a wide variety of independent producers ensures price savings for New Yorkers through market initiatives, innovative product design, and investment into cost-efficient generation technologies. By contrast, UORG is all but guaranteed to add to mounting electric bills for New Yorkers.<sup>11</sup>

At a time when rising consumer costs and affordability are of paramount concern, and particularly when the Commission very recently, or is currently considering ever-growing requests

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[Wind Farms](#),” *The New York Times*, March 23, 2026.

<sup>9</sup> 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) (“2025 Biennial Review Order”), p. 63.

<sup>10</sup> Case 94-E-0952 *et al.*, *In the Matter of Competitive Opportunities Regarding Electric Service*, Opinion and Order Regarding Competitive Opportunities for Electric Service (May 20, 1996) (“Opinion No. 96-12”), pp. 42, 65.

<sup>11</sup> See FTI Consulting, Inc., “[Competitive Power Benefits for New Yorkers](#),” *The Affordable Clean Power Alliance*, March 27, 2025 (“FTI Report”), p. 22.

for utility rate increases, it would not be prudent for the Commission to abandon its long-standing pro-competitive policies when the result would likely harm the State’s already beleaguered ratepayers.<sup>12</sup> These same ratepayers overwhelmingly, and regardless of political affiliation, support a competitive system of electricity procurement.<sup>13</sup> RESA urges the Commission to maintain its commitment to competition in the State’s energy sector and prohibit investor-owned utilities from owning generation facilities, including renewable generation facilities.

## COMMENTS

### **I. Utility Ownership of Renewable Generation Will Not Accelerate the Development of Renewables In New York**

The CLCPA, enacted in mid-2019, contains aggressive climate and renewable energy targets and was considered ambitious even before New York and the world were confronted with the upheaval of COVID-19.<sup>14</sup> Among the many other industry sectors affected by the cascading effects of the pandemic and other geopolitical crises, the development of renewable generation has been plagued by unprecedented inflation, ongoing supply chain disruptions, and delays in interconnection and federal and state permitting processes.<sup>15</sup> Notably, none of these unforeseen issues would be solved or even ameliorated by altering the State’s competitive energy market to allow UORG, and there is no evidence to support a contrary conclusion.

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<sup>12</sup> See Larry Rulison, “[New York utility customers have \\$1.8 billion in unpaid bills, AARP says](#),” *Times Union*, January 30, 2026.

<sup>13</sup> See Mercury Public Affairs, [Survey Findings and Political Analysis for Independent Power Producers of NY](#), conducted February 23-26, 2026 (“Mercury Public Affairs Poll”).

<sup>14</sup> See Jesse McKinley and Brad Plumer, “[New York to Approve One of the World’s Most Ambitious Climate Plans](#),” *The New York Times*, June 18, 2019.

<sup>15</sup> See 2025 Biennial Review Order.

The Commission has already seen the impact of these unanticipated, external forces on the State’s renewable solicitation process.<sup>16</sup> Citing federal and state permitting delays as well as high inflation and supply chain bottlenecks, in 2023, renewable generation developers petitioned the Commission to provide an administrative adjustment to their collective 86 renewable energy certificate (“REC”) contract awards and four offshore renewable energy certificate (“OREC”) contract awards,<sup>17</sup> which would have resulted in an increase to residential energy bills of approximately \$4-\$6 per month to support the increased REC and OREC prices.<sup>18</sup> The Commission acknowledged that “many of the factors that impact energy project development are entirely outside this Commission’s control,”<sup>19</sup> and denied the petitions, as the requested contract amendments would ultimately work “to the detriment of ratepayers, and would compromise the price integrity and equity derived from New York State’s longstanding competitive procurement process.”<sup>20</sup> Instead, to address the shortfall created when 88 of the 90 projects canceled their REC and OREC contracts, the New York State Energy Research and Development Authority (“NYSERDA”) launched expedited, successful solicitations to procure additional renewable generation.<sup>21</sup>

Consistent with this pro-competition, ratepayer-centered approach, in the 2025 Biennial Review Order, the Commission affirmed that formulaic adjustments to the calculation of REC and OREC prices that account for known risks, such as inflation, “can provide cost mitigation in that

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<sup>16</sup> Case 15-E-0302 et al., *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Order Denying Petitions Seeking to Amend Contracts with Renewable Energy Projects (October 12, 2023) (“Contract Denial Order”).

<sup>17</sup> All of the contracts at issue were awarded in either 2016 or 2019. *See* Contract Denial Order, pp. 2-3.

<sup>18</sup> Contract Denial Order, p. 42.

<sup>19</sup> *Id.* at 51-52.

<sup>20</sup> *Id.* at 54.

<sup>21</sup> 2025 Biennial Review Order, pp. 14-15.

it allows the developer to share the risk of future cost increases instead of fully pricing inflation risk into the strike price.”<sup>22</sup> The Commission declined to adopt proposed changes to the calculation of future REC and OREC contract strike prices<sup>23</sup> to account for “unforeseen, high impact events outside the control of project developers.”<sup>24</sup> The Commission reasoned that developers “remain in the best position to anticipate and internalize unknown risks associated with project development,” and ratepayers should not bear the risk of increased “costs associated with undefined and speculative future events . . .”<sup>25</sup> The Commission also declined to adopt proposed changes to the strike price that would essentially provide a post-commercial operation inflation adjustment, because “this type of strike price adjustment exposes ratepayers to any increase in costs to the developer, when the purpose of a competitive solicitation among independent power producers is to relieve ratepayers from exposure to exactly those risks.”<sup>26</sup>

Utilities are just as susceptible to inflation, supply chain disruption, and project delay as competitive market participants, but unlike competitive investors, utilities have a captive customer base and can expect a rate of return on their investment, including on any delay in project development resulting from unforeseen issues.<sup>27</sup> Currently, competitive developers of generation do not begin to recover on their investment until a project is operating – meaning a competitive market participant bears the financial risk of project delays and unforeseen cost overruns, not the

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<sup>22</sup> *Id.* at 43.

<sup>23</sup> The “strike price” is the estimate of the developer’s full revenue requirement to be drawn from energy and capacity markets as well as REC and OREC payments. *See* Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Draft Clean Energy Standard Biennial Review (July 1, 2024), p. 4.

<sup>24</sup> 2025 Biennial Review Order, p. 21.

<sup>25</sup> *Id.* at 44.

<sup>26</sup> *Id.* at 45.

<sup>27</sup> *See* FTI Report, pp. 25-28.

ratepayers.<sup>28</sup> In other words, a “trade-off of higher cost for greater certainty,” could not, and should not, be assumed under a utility-ownership scenario.<sup>29</sup>

Rather than undermine the State’s established competitive energy markets to the financial detriment of ratepayers, RESA urges the Commission to consider other alternative mechanisms to increase the pace of renewable generation development. A recent study issued by the Lawrence Berkeley National Laboratory and The Brattle Group analyzes the rising retail cost of electricity across the United States, and identifies key drivers including inflation, load growth, natural gas prices, and transmission and distribution costs.<sup>30</sup> The study identifies transmission costs as a key driver of retail electric price increases in NYISO, but clarifies that “higher transmission costs can lower retail prices if used to reduce supply costs.”<sup>31</sup> In addition, the study discusses anticipated future load growth, and explains that load growth does not necessarily have to lead to increased retail prices and depends on the existing market structure (vertically integrated or restructured), how existing assets are leveraged, how system costs are allocated and recovered, and how tariffs are structured.<sup>32</sup> Instead of UORG or another solution based on shifting financial risks to ratepayers, and in order to mitigate risks to customers, the study suggests implementation of large-load tariffs, fair allocation of electric system costs to “cost causers,” and improving interconnection, load forecasting, and information sharing.<sup>33</sup>

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<sup>28</sup> 2025 Biennial Review Order, p. 50.

<sup>29</sup> Contract Denial Order, p. 45.

<sup>30</sup> Ryan Wiser *et al.*, “[Retail Electricity Price Trends and Drivers: Data Update – 2026 Edition](#),” *Lawrence Berkeley National Laboratory and The Brattle Group*, April 2026 (“Retail Price Report”).

<sup>31</sup> *Id.* at 29 (original emphasis removed).

<sup>32</sup> *Id.* at 46.

<sup>33</sup> *Id.* at 53.

## II. Utilities Should Focus on Improving Interconnection and Transmission Development

RESA appreciates the “all hands on deck” approach to addressing the State’s energy needs but believes a degree of caution is necessary. In addition to the need for further generation, the State’s transmission infrastructure permitting and interconnection processes are known hurdles impeding the State’s energy goals and reliability needs,<sup>34</sup> and ignoring these needs risks disastrous repercussions. RESA believes the State’s utilities have an important role to play in ensuring that the electric generation needed to meet the State’s growing demands can be efficiently and reliably delivered (beyond the obligations of the CLCPA). To do so, they must develop, upgrade, and maintain their transmission and distribution infrastructure and improve the interconnection process.<sup>35</sup> Diverting attention from these essential obligations is not the highest and best use of the utilities’ capabilities, limited budgets, and efforts at this critical point in time.

Last year, the New York Independent System Operator (“NYISO”) reported that the number of new large generation projects seeking to interconnect to the grid has grown exponentially in recent years, from six large projects in 2022 to 20 large projects in 2025.<sup>36</sup> NYISO reports that the grid may also see deficiencies in the winter in coming years, as the State shifts away from natural gas use for heating, and consumers are instead obligated to rely on electricity for heating.<sup>37</sup> NYISO is currently dedicating resources to improving the interconnection process,<sup>38</sup> which can only happen with robust and meaningful participation from the utilities.

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<sup>34</sup> See 2025 Biennial Review Order, pp. 9-10, 36-37.

<sup>35</sup> See, e.g., 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*, Order Modifying Coordinated Grid Planning Process (November 13, 2025) (“Grid Planning Modification Order”).

<sup>36</sup> New York Independent System Operator, [Report: Power Trends 2025](#), p. 6.

<sup>37</sup> *Id.* at 11.

<sup>38</sup> *Id.* at 14-15.

In addition to NYISO’s ongoing efforts to support the State’s growing grid and energy needs, the Department of Public Service (“Department”) and the State’s utilities, with input from key stakeholders, are currently engaged in a new cycle of the Coordinated Grid Planning Process (“CGPP”), to help identify the transmission and bulk system upgrades needed to comply with the CLCPA.<sup>39</sup> Among the modifications recommended by stakeholders and required by the Commission, and in addition to shouldering administrative responsibilities that were left to Staff to manage,<sup>40</sup> the utilities were directed to ensure that appropriate siting methodology is used for projections of distribution due to concerns raised regarding the utilities’ “overly simplified approach,” which may “underestimate the need for transmission upgrades or new bulk transmission solutions.”<sup>41</sup>

The Commission also recently opened another proceeding to address and modernize the interconnection process due to the anticipated growth of electric load in general, including from large energy users such as data centers and hyper scalers. This new proceeding is intended to improve interconnection for all building load and to improve transparency and predictability in upgrades to the electric grid, to ensure that the costs of new large load interconnection do not adversely impact ratepayers.<sup>42</sup>

Aside from some of the more recent issues facing the utilities, downstate transmission and reliability needs predate the restructuring of the electric market, and have long been a concern for the Commission.<sup>43</sup> At the end of last year, the Commission instituted a proceeding to address

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<sup>39</sup> Grid Planning Modification Order, p. 1.

<sup>40</sup> *Id.* at 18.

<sup>41</sup> *Id.* at 27-28.

<sup>42</sup> Case 26-E-0045, *Proceeding on Motion of the Commission to Address Interconnection Reforms for Large Loads*, Order Instituting Proceeding and Soliciting Comments (February 12, 2026).

<sup>43</sup> *See* Order No. 96-12, p. 68.

studies by NYISO and Consolidated Edison Company of New York, Inc. (“Con Ed”) that indicate New York City faces near-term reliability needs within the next ten years.<sup>44</sup> Con Ed was directed to identify specific reliability needs and develop potential solutions, and must provide a preliminary recommendation for a NYC Reliability Contingency Plan by June 16, 2026.<sup>45</sup> Con Ed must consult with NYISO and update its reliability needs projection every six months.<sup>46</sup>

The above-referenced proceedings are only a small snapshot of the many and varied matters requiring the time, attention, and resources of the State’s utilities to ensure new generation assets can be interconnected and deliver electricity to the grid, and to ensure reliable delivery of electricity in the future. Adding renewable generation planning, development, construction, and ownership to these important obligations (and expecting these projects to be rapidly developed and built) risks diverting critical utility resources and increasing ratepayer costs without any demonstrated benefit.

### **III. Utility-Owned Generation Undermines Energy Competition**

When the Commission restructured the electric and gas markets, it predicted that commercial and industrial customers would likely experience significant rate reductions.<sup>47</sup> This prediction has proven accurate; New York’s commercial and industrial customers enjoy some of the lowest electric rates in the country,<sup>48</sup> and adjusted for inflation, New York’s electric rates were lower in 2023 than in 2008 and were comparable to electric rates in 1999.<sup>49</sup> New York’s

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<sup>44</sup> 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 (issued December 18, 2025) (“Con Ed Reliability Order”).

<sup>45</sup> Con Ed Reliability Order, p. 4.

<sup>46</sup> *Id.* at 17.

<sup>47</sup> Opinion No. 96-12, p. 83, fn. 123.

<sup>48</sup> See Ted Abernathy, Kat Saunders, Mike Malone, Skylar Casey, and Carly Kirkman, [Blueprint for New York—Creating a Roadmap for Change](#), The Public Policy Institute of New York, September 2025, p. 34.

<sup>49</sup> See Independent Power Producers of New York, Inc., [The Power of Markets: 25 Years of Innovation Through](#)

consumers, regardless of political affiliation, overwhelmingly prefer competitive energy markets and believe utility costs are too high.<sup>50</sup> Introducing UORG is not only antithetical to the competitive markets the Commission has supported for decades, it is the exact opposite of what New York’s consumers want: rising utility costs with no way out.

In addition to the well-documented inefficiencies and cost overruns that accompany UORG,<sup>51</sup> the ongoing and recently-settled electric and gas utility base rate cases further highlight the increased consumer costs that will come if the State’s competitive model is altered and utilities are allowed to own renewable generation. Earlier this year, the Commission approved a joint proposal settling the requested electric and gas rate increases of Con Ed.<sup>52</sup> Last year, two other utilities settled rate cases that increased residential customer electric and gas rates as well — Central Hudson Gas & Electric Corporation (“Central Hudson”)<sup>53</sup> and Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”).<sup>54</sup> Charts comparing the electric and gas monthly rate impacts for residential customers of these utilities are below.

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[Competition in New York](#), March 19, 2024, p. 6. *See also* Figure A, attached to these comments, which illustrates the percentage of price change from 2008-2024 and demonstrates that customers in states with vertically integrated markets experienced far greater increases in energy costs than customers where retail competition has been implemented, and further shows that New York’s industrial customers (like industrial customers across competitive states) actually saw a decrease in the nominal weighted average price over this period.

<sup>50</sup> *See* Mercury Public Affairs Poll.

<sup>51</sup> *See, e.g.,* Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, NYSEDA Comments on Notice Soliciting Comments Related to Utility Ownership of Renewable Generation, Comprehensive Review of Solicitation Practices, and Offshore Wind Solicitations (October 31, 2025), p. 5; *and see* Solar + Storage Comments, p. 2.

<sup>52</sup> Case 25-E-0072 et al., *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc., for Electric Service*, Order Adopting Terms of a Joint Proposal and Establishing Electric and Gas Rate Plans (January 22, 2026) (“Con Ed JP Order”).

<sup>53</sup> Case 24-E-0461 et al., *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric Service*, Order Adopting Terms of a Joint Proposal and Establishing Electric and Gas Rate Plans (August 14, 2025) (“Central Hudson JP Order”).

<sup>54</sup> Case 24-E-0322 et al., *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 Adopting Terms of a Joint Proposal and Establishing Rate Plans, (August 14, 2025) (“National Grid JP Order”).

Utility Name	Monthly Bill Impact of Residential Electric Rate Increase	Monthly Bill Impact of Residential Gas Rate Increase
Con Ed <sup>55</sup>	NYC:           \$4.00 (RY1) \$3.55 (RY2) \$3.58 (RY 3)  Westchester: \$5.27 (RY 1) \$4.94 (RY 2) \$4.95 (RY 3)	\$5.73 (RY1) \$19.32 (RY2) \$15.08 (RY 3)
Central Hudson <sup>56</sup>	\$5.43 (RY 1) \$6.25 (RY 2) \$6.62 (RY 3)	\$7.73 (RY 1) \$11.27 (RY 2) \$12.37 (RY 3)
National Grid <sup>57</sup>	\$14.29 (RY 1) \$6.44 (RY 2) \$4.34 (RY 3)	\$7.66 (RY 1) \$8.08 (RY 2) \$9.18 (RY 3)

Currently pending before the Commission are the combined electric and gas rate cases of New York State Electric & Gas Corporation (“NYSEG”) and Rochester Gas & Electric Corporation (“RG&E”). NYSEG’s requested electric delivery rate increase would result in a monthly bill increase of \$33.12 for residential electric customers, and its requested gas delivery rate increase would result in a monthly bill increase of \$33.57 per month.<sup>58</sup> Similarly, if approved, RG&E’s requested electric delivery rate increase would result in a monthly bill increase of \$33.01

<sup>55</sup> Con Ed JP Order, pp. 20, 22-23. RY1, RY2, and RY 3 consist of the 12 months ending in December 31, 2026, December 31, 2027, and December 31, 2028, respectively. *See* Con Ed JP Order, p. 17.

<sup>56</sup> Central Hudson JP Order, p. 13. RY1, RY2, and RY 3 consist of the 12 months ending in June 30, 2026, June 30, 2027, and June 30, 2026. *See* Central Hudson JP Order, p. 3.

<sup>57</sup> National Grid JP Order, pp. 11-13. RY1, RY2, and RY 3 consist of the 12 months ending in March 31, 2026, March 31, 2027, and March 31, 2028. *See* National Grid JP Order, p. 9.

<sup>58</sup> Case 25-E-0375 et al., *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Electric Service*, Cover Letter with Attachments (June 30, 2025) (“NYSEG Rate Filing”), p. 9.

for residential electric customers, and its requested gas delivery rate increase would result in a monthly bill increase of \$18.87 per month.<sup>59</sup>

In retrospect, the \$4-\$6 monthly increase to customer bills that could have resulted if the Commission originally approved the petitions to modify REC and OREC contract awards is modest<sup>60</sup> compared to the monthly bill increases recently imposed on the State's residential electric and gas customers. Moreover, allowing UORG would force ratepayers to be on the hook for these generation assets (and their maintenance and upkeep) well beyond the time a competitive developer would receive payment from a REC or OREC contract award. Unfortunately, the ratepayers in the Long Island Power Authority ("LIPA") territory know this only too well, as they are still paying for the Shoreham nuclear plant, after a lengthy permitting and construction period, which never even produced electricity for Long Island.<sup>61</sup> LIPA's debt from this early-80s debacle has grown from under \$8 billion to over \$9 billion, and LIPA customers are still on the hook, decades later, for risks that should not have been foisted on ratepayers and instead should have been borne by independent power producers.

A recent study issued by the Energy and Policy Institute ("EPI") examined 110 investor-owned electric utilities to determine how much profit was gained for shareholders from 2021 to 2024.<sup>62</sup> Overwhelmingly, utilities that operate outside of competitive wholesale markets report the highest profit shares, while utilities in PJM, New York, and New England, report much lower

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<sup>59</sup> NYSEG Rate Filing, p. 9.

<sup>60</sup> Contract Denial Order, p. 42. RESA notes that two of the offshore wind projects, Empire Wind 1 and Sunrise Wind, participated in NYSERDA's fourth offshore wind solicitation and were awarded contract prices consistent with those that were denied by the Commission in the Contract Denial Order. See NYSERDA's [2023 Offshore Wind Solicitation website](#).

<sup>61</sup> James Hanley, "[Municipalized LIPA Won't Solve Long Islanders' Power Woes](#)," *Empire Center*, November 15, 2022.

<sup>62</sup> Daniel Tate, Sue Sturgis, and Shelby Green, [Paying for Their Profits: How Ratepayers Foot the Bill for Soaring Utility Profits](#), Energy & Policy Institute, March 2026 ("Paying for Profits"), p. 2.

profit margins, owed in part to the competitive energy market structure developed in the northeast.<sup>63</sup> Some vertically-integrated utilities sustained profit margins above 20% over a several-year period.<sup>64</sup>

NYISO's most recent *Power Trends* report acknowledges the continued importance of the State's competitive energy markets and the benefits provided to consumers, noting that "in this era of rising costs and supply chain challenges, competitive electric markets also provide the valuable benefit of shifting investment risks away from the consumer and onto financiers and developers."<sup>65</sup> The EPI report demonstrates just how high utility profits can go when competitive safeguards do not exist. Allowing UORG serves only to undercut the competitive market and financially harm ratepayers. By contrast, NYISO makes it very clear that "competition in established wholesale markets drives power producers to become more efficient, thus lowering prices. And transparent market-based price signals stimulate necessary infrastructure investment to meet reliability, the modernization of our grid and our state's economy."<sup>66</sup>

#### **IV. Changes to Energy and Capacity Markets Should Not be Made Without Broad Stakeholder Participation**

The last section of questions appended to the Notice requests feedback on potential changes that might be needed to align the State's energy and capacity markets with a UORG model. While RESA is providing responses to the questions in the Utility Owned Generation section, RESA is not providing comments on energy and capacity market design at this time. In the event UORG

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<sup>63</sup> *Paying for Profits*, pp. 14-15.

<sup>64</sup> *Id.* at 12-13. Vertically-integrated states may continue to see utility profits increase. *See, e.g.*, Jeff Amy, "[Georgia Regulators Approve Huge Electric Generation Increase for Data Centers](#)," *Insurance Journal*, December 24, 2025 (Construction costs for increased power capacity require to support data centers estimated at \$16.3 billion but Georgia customers expected to pay \$50 to \$60 billion over decades, "including interests costs and guaranteed profit for the monopoly utility.").

<sup>65</sup> *Report: Power Trends 2025*, p. 16.

<sup>66</sup> *Id.* at 30.

moves forward, despite the very real harm that will result for ratepayers, a more robust proceeding will be required to determine how to handle the various market mechanisms that will be damaged by a return to a utility-ownership model. A brief notice and comment period does not allow sufficient time for the analysis required, especially given the evolving nature of the capacity market, which has been particularly impacted by the variable nature of energy provided by renewable generation.<sup>67</sup>

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<sup>67</sup> *Id.* at 35.

## CONCLUSION

Competitive energy markets achieve the lowest cost for consumers and ensure that ratepayers are insulated from the cost overruns and risks associated with utility-owned generation. While there are a number of factors currently slowing down the development of renewable generation, this problem will not be fixed by turning back the clock on competition. RESA agrees with NYISO that “competitive markets continue to provide the most powerful vehicle available to align investments in the grid with reliability needs.”<sup>68</sup> RESA urges the Commission to maintain its commitment to strong competitive energy markets and to reject proposals to implement utility ownership of renewable generation.

Respectfully submitted,

By: /s/ Gabrielle A. Figueroa

Ekin Senlet  
Barclay Damon LLP  
80 State Street  
Albany, New York 12207  
Tel: 518-429-4231  
[esenlet@barclaydamon.com](mailto:esenlet@barclaydamon.com)

Gabrielle A. Figueroa  
Barclay Damon LLP  
1270 Avenue of the Americas  
Suite 2310  
New York, New York 10020  
Tel: 212-784-5831  
[gfigueroa@barclaydamon.com](mailto:gfigueroa@barclaydamon.com)

*Counsel for the Retail Energy Supply  
Association*

Dated: April 24, 2026

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<sup>68</sup> *Id.* at 2.

## **Utility Owned Generation:**

1. Identify the financial impacts and risks to ratepayers of the various options proposed by BMR Energy (build transfer, develop transfer, or milestone-based transfer), Indicated Utilities (build transfer agreement), and New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation (self-build model) as described in response to the July notice. To the extent possible, include potential ways in which the risks and or impacts could be avoided, mitigated, or managed.

*Under every scenario proposed, the risk of project development is transferred to the ratepayers from investors. There is no utility ownership structure that insulates ratepayers from increased financial risk. The rate increases recently approved by the Commission make clear that the utilities need to focus on appropriate investments into transmission and distribution infrastructure and interconnection, not revive old lines of business. Moreover, additional Commission resources would be needed to appropriately monitor this industry segment to ensure any level of ratepayer protection.*

*None of the proposed ownership options will ameliorate the issues underlying the need for additional generation assets – utilities cannot reduce inflation, single-handedly improve the regulatory approval process, avoid tariffs, correct supply chain issues, or provide tax credits. The utilities can, however, assist with needed interconnection and transmission upgrades. Diverting the utilities from these tasks will further undercut the State’s ability to build renewable generation and deploy much-needed enhancements to the electric grid.*

2. What advantages and disadvantages would utilities face overall in terms of siting renewable projects that may not have been considered previously? Identify any potential shortcomings of the advantages described and any remedial action the utilities could take to address any disadvantages described.

*Given the ongoing and critical need for transmission resources, RESA submits that the utilities should not be asked to utilize any real property for generation assets. Instead, utilities can and should help support the competitive development of renewable generation by upgrading transmission infrastructure so that consumers can benefit from new projects interconnecting to the grid.*

3. Identify the potential of a utility to exercise vertical or horizontal market power related, but not limited to: (a) property ownership adjacent or in close proximity to beneficial interconnection assets; (b) decisions to build or upgrade facilities that increase hosting capacity or otherwise grow its rate base; (c) impacts on the function or structure of earning adjustment mechanisms; or (d) other traditional utility functions maintained by a utility after the unbundling of generation.

*The Commission made clear that utilities should not own generation assets in New York, noting that “Vertical market power, or even the perception or threat of it, can directly impact the*

*functioning of these markets, discourage new entrants, and increase customer bills.”<sup>69</sup> RESA reiterates that existing utility real property should not be leveraged for generation projects. It should also be noted that some renewable energy technologies, such as land-based wind farms, require developers to obtain real property rights beyond those available to the utilities, which are typically limited to rights-of-way across linear infrastructure.*

4. How would the utilities provide certainty and transparency to ensure that their renewable energy project(s) are not unduly favored over other non-utility projects that are further along in the Standardized Interconnection Requirements queue and/or in a better position to be built more quickly?

*Unfortunately, there is no real mechanism available for the utilities to utilize to ensure certainty and transparency with respect to interconnection of their renewable energy projects as compared to non-utility renewable projects. This question betrays the problem at hand; absent round-the-clock monitoring by the Commission, there is no realistic manner that will ensure the utilities are not playing favorites with the interconnection queue. Moreover, given the ongoing need for interconnection improvement, RESA submits that utility resources would be better spent ensuring competitive projects can interconnect to the grid as quickly as possible, rather than developing competing generation resources and slowing down interconnection and grid enhancement.*

5. Under the build transfer agreement scenarios presented in comments (Indicated Utilities), the utilities would conduct statewide joint competitive solicitations and then purchase projects after they are successfully completed by developers. How would the utilities ensure that such solicitations would be competitive, and what criteria would be applied to determine if the winning bids were competitive regarding price and other factors?

*There is no evidence that the utilities are well-situated to hold competitive solicitations for renewable generation, and it is not necessary for the utilities to undertake these efforts. NYSERDA’s effective management and stewardship has led to nine successful solicitations for the development of renewable generation, and there is no indication that NYSERDA cannot continue to fill this role.*

6. In response to the questions posed in the July Notice, commenters suggested a Milestone-Based Transfer in which the purchase of the project would occur through a series of milestone-based payments where the developer would be responsible for obtaining the land, interconnection, permits, and developing the energy performance contract prior to the utility transfer, while the utility would be required to make payments at each development milestone. What safeguards could the utility put in place to ensure completion of the project or limit/eliminate risk to ratepayers while making the milestone payments under this model?

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<sup>69</sup> Case 96-E-0900, *In the Matter of Orange and Rockland Utilities, Inc.’s plans for electric rate/restructuring pursuant to Opinion No. 96-12*, Statement of Policy Regarding Vertical Market Power (“VMP Policy Order”), p. 6 (internal reference omitted, emphasis added).

*RESA repeats that there is no model under which a utility can own generation and insulate its ratepayers from financial risk. RESA refers to the Shoreham nuclear project in Long Island, the financial impacts of which continue to devastate LIPA ratepayers – this is but one in a long line of failed utility generation projects.<sup>70</sup> There are no safeguards available that eliminate ratepayer risk, aside from the continued enforcement of the Commission’s pro-competition policies.*

7. In its response to the questions posed in the July Notice, the Indicated Utilities (on page 20) stated that “the intermittency of large-scale renewables severely limits any market manipulation risk” and that if the utilities were to own co-sited energy storage in the future, “utilities would develop transparent operating rules in consultation with the Department of Public Service (DPS) that mitigate market power and that it would include rules that optimize providing value to the bulk power and transmission system rather than maximizing market revenues.” Specifically, prior to any DPS consultation, what criteria would be utilized to ensure that the operating rules would result in strategically optimizing the bulk power and transmission system rather than utility revenues.

*RESA submits that this question would be better addressed with NYISO as it is related to capacity and system reliability. That said, when the Commission determined to restructure the electric and gas markets in the State and divest the utilities of their generation assets, the Commission found that “while regulatory controls can limit the negative impact of poor incentives, they are costly and are not as effective as a clean separation of the T&D utility from generation ownership.”<sup>71</sup>*

8. If Utility Owned generation were to be allowed, what approaches should be considered in order to optimally ensure projects are completed cost-effectively and timely. Identify the role competition should play, and how proposed approaches should be structured to leverage competition to arrive at least cost resources.

*RESA refers to its previous comments<sup>72</sup> and reiterates that the utilities can, in fact, own generation if they overcome the vertical market power (“VMP”) presumption and demonstrate that “vertical market power could not be exercised because the circumstances do not give [the utility] an opportunity to exercise market power, or because reasonable means exist to mitigate market power.”<sup>73</sup> In the alternative, the utility “would need to demonstrate that substantial ratepayer benefits, together with mitigation measures, warrant overcoming the presumption.”<sup>74</sup> There is no*

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<sup>70</sup> See, e.g., Solar + Storage Comments, p. 2.

<sup>71</sup> VMP Policy Order, p. 5.

<sup>72</sup> Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, Comments of the Retail Energy Supply Association (October 31, 2025); and see Comments of Affordable Clean Power Alliance (October 31, 2025); and see Solar + Storage Comments.

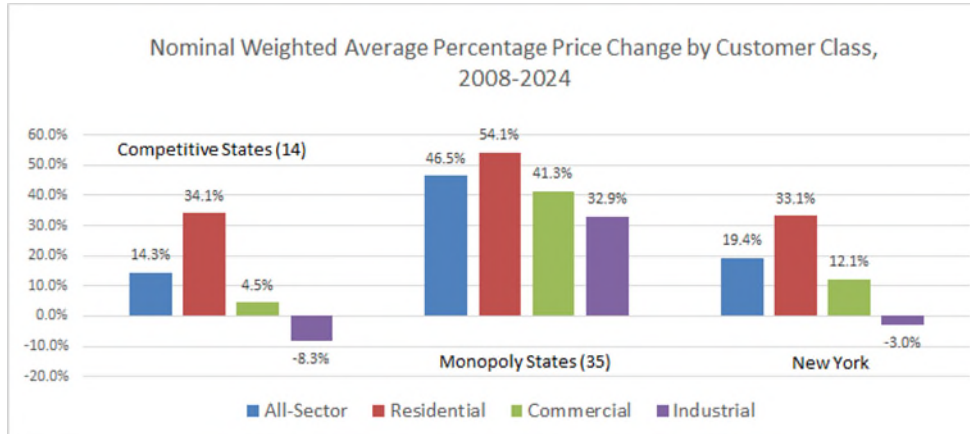
<sup>73</sup> Case 96-E-0900, *In the Matter of Orange and Rockland Utilities, Inc.’s plans for electric rate/restructuring pursuant to Opinion No. 96-12*, Statement of Policy Regarding Vertical Market Power, Appendix I (“VMP Policy Statement”), p. 2.

<sup>74</sup> VMP Policy Statement, p. 2.

*need for a runway to allow UORG when no benefits to consumers can be demonstrated, and no attempt has been made at overcoming the VMP presumption.*

*Competition in New York's energy markets should be maintained, and UORG should not be allowed. This is the best mechanism to ensure timely project completion at the least cost (and risk) to ratepayers.*

Figure A<sup>75</sup>



Competitive States:

1. Connecticut
2. Delaware
3. District of Columbia
4. Illinois
5. Maine
6. Maryland
7. Massachusetts
8. New Hampshire
9. New Jersey
10. New York
11. Ohio
12. Pennsylvania
13. Rhode Island
14. Texas

<sup>75</sup> Data was prepared by RESA and is derived from the U.S. Energy Information (“USEIA”) website at <https://www.eia.gov/electricity/data.php#summary>. The costs analyzed above include distribution, transmission, energy, capacity, renewables, and ancillary services. The Competitive States are listed above. Monopoly States include the remaining contiguous States and do not include Alaska and Hawaii.