

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on August 13, 2026

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
James S. Alesi
David J. Valesky
John B. Maggiore
Uchenna S. Bright
Denise M. Sheehan
Radina R. Valova

CASE 18-E-0130 - In the Matter of Energy Storage Deployment
Program.

DECLARATORY RULING ON UTILITY DISPATCH RIGHTS PROCUREMENTS

(Issued and Effective August 13, 2026)

BY THE COMMISSION:

INTRODUCTION AND BACKGROUND

On December 13, 2018, the Public Service Commission (Commission) issued the Order Establishing the Energy Storage Goal and Deployment Policy (2018 Energy Storage Order). The 2018 Energy Storage Order created the Utility Dispatch Rights (UDR) program, which required New York State's investor-owned utilities (IOUs)¹ to procure a minimum amount of storage to be operational by December 31, 2022. Subsequent petitions and

¹ The IOUs include Consolidated Edison Company of New York, Inc. (Con Edison), Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, Niagara Mohawk Corporation d/b/a National Grid, New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation.

orders modified the in-service date of contracted UDR projects to December 31, 2028.²

Under the 2018 Energy Storage Order, Con Edison is required to procure at least 300 megawatts (MW) and each of the other IOUs is required to procure at least 10 MW each, provided that the bids do not exceed a utility-specific defined ceiling.³

On June 20, 2024, the Commission issued the Order Establishing the Updated Energy Storage Goal and Deployment Policy (2024 Energy Storage Order). The 2024 Energy Storage Order continued the UDR Program.⁴ The 2024 Energy Storage Order also approved new funding for the New York State Energy Research and Development Authority (NYSERDA) to incentivize an additional 3,000 MW of bulk, 1,500 MW of retail, and 200 MW of residential energy storage.⁵ In Ordering Clause 33, the Commission set the in-service deadline for all “bulk, retail, and residential energy storage projects procured under programs described in [the] Order to December 31, 2030, unless they meet the criteria described in the body of the Order for an extension.”⁶ In the body of the Order, the Commission recognized the uncertainty inherent in energy storage development and thus provided NYSERDA “the ability to extend the in-service deadline for projects that have been delayed due to conditions beyond the control of the developer, based on proof that the project construction has

² Case 18-E-0130, Order Directing Modifications to Energy Storage Solicitations (issued April 16, 2021) and Order Directing Further Modifications to Energy Storage Solicitations (issued March 26, 2023).

³ Case 18-E-0130, Order Establishing the Energy Storage Goal and Deployment Policy (issued December 13, 2018), p. 55.

⁴ Case 18-E-0130, Order Establishing the Updated Energy Storage Goal and Deployment Policy (issued June 20, 2024), p. 38.

⁵ Id., pp. 92, 95.

⁶ Id., p. 99.

commenced on or before December 31, 2030.”⁷ This flexibility was “geared towards achieving an effective buildout of energy storage in New York.”⁸

On August 4, 2026, as amended on August 6, 2026, Con Edison filed a petition seeking a Declaratory Ruling clarifying and confirming that the extension framework provided in the 2024 Energy Storage Order applies to utility-administered procurement programs, subject to the criteria therein.⁹ Con Edison also requested that the Secretary shorten the response period provided in 16 NYCRR §8.2(c) to five days using the Secretary’s waiver authority under 16 NYCRR §3.3(a) so that action could be taken at the Commission’s August 13, 2026 session.¹⁰ On August 6, 2026, the Secretary issued a Notice Soliciting Comments that shortened the response period and specified that any comments on Con Edison’s petition were to be received by August 11, 2026.¹¹

PETITION

Petitioner seeks a Declaratory Ruling pursuant to 16 NYCRR Part 8, clarifying and confirming that, under the 2024 Energy Storage Order, the IOUs may provide extensions of the in-service deadline for UDR projects beyond December 31, 2030,

⁷ Id., p. 60.

⁸ Id.

⁹ Case 18-E-0130, Petition for Declaratory Ruling on Order Establishing Updated Energy Storage Goal and Deployment Policy (filed August 4, 2026) and Amended Petition for Declaratory Ruling (filed August 6, 2026).

¹⁰ Case 18-E-0130, Amended Petition for Declaratory Ruling (filed August 6, 2026), p. 2.

¹¹ Case 18-E-0130, Notice Soliciting Comments (issued August 6, 2026).

under the same criteria afforded to the NYSERDA-led procurements.¹²

Petitioner asserts that the language of the 2024 Energy Storage Order on its face applies to utility administered programs because "Ordering Clause 33 of the Order, which authorizes extensions, applies broadly to all '[b]ulk, retail, and residential energy storage projects procured under the programs described in this Order.'" ¹³ Petitioner further states that this interpretation is consistent with the order's purpose of supporting the timely and effective build out of energy storage in New York and the "inherent uncertainty in energy storage development" acknowledged by the body of the order, which is not unique to NYSERDA-led procurements.¹⁴

COMMENTS

Flatiron Energy submitted a comment in support of Con Edison's petition. Flatiron Energy notes that interconnection studies, permitting requirements, and equipment procurement timelines all impact project schedules and are outside of the control of developers. Flatiron Energy states that this flexibility will help preserve the viability of projects that can deliver critical reliability benefits but need additional time to address evolving interconnection and development requirements.

¹² Case 18-E-0130, Petition for Declaratory Ruling on Order Establishing Updated Energy Storage Goal and Deployment Policy (filed August 4, 2026) and Amended Petition for Declaratory Ruling (filed August 6, 2026).

¹³ Case 18-E-0130, Amended Petition for Declaratory Ruling (filed August 6, 2026), p. 2.

¹⁴ Id.

LEGAL AUTHORITY

The Commission is authorized to issue a declaratory ruling with respect to (i) the applicability of any rule or statute enforceable by it to any person, property, or state of facts; (ii) whether any action by it should be taken pursuant to a rule; and (iii) whether a person's compliance with a Federal requirement will be accepted as compliance with a similar State requirement applicable to that person.¹⁵ The Commission may also issue a declaratory ruling whenever it determines such a ruling is warranted by the public interest and may decline to issue such a declaratory ruling.¹⁶ This authority is expressly established by State Administrative Procedure Act (SAPA) §204 and governed by the Commission's Rules of Procedure, contained in 16 NYCRR Part 8, implementing that statute. This Declaratory Ruling falls within the ambit of this authority by confirming the applicability of the Commission's prior order.

Declaratory rulings are not "actions" within the meaning of the State Environmental Quality Review Act (SEQRA) and its implementing regulations and, therefore, they may be issued without further SEQRA review.¹⁷ Declaratory rulings also do not require notification via publication in the State Register as they do not involve the adoption, addition, amendment, or repeal of a rule under §202(1) of SAPA.

DISCUSSION AND CONCLUSION

The Commission confirms its prior Order that IOUs have the authority to extend the UDR in-service deadline beyond

¹⁵ 16 NYCRR §8.1(a).

¹⁶ 16 NYCRR §8.1(a); 16 NYCRR §8.2(e).

¹⁷ See 16 NYCRR §7.2.

December 31, 2030, where the two criteria described in the body of the 2024 Energy Storage Order are met.

The UDR program was continued under the 2024 Energy Storage Order and falls under the bulk category of energy storage projects. Ordering Clause 33 of the 2024 Energy Storage Order allows extensions of the in-service deadline for bulk energy storage projects if the criteria in the body of the order are met.¹⁸ In the body of the order, the Commission discusses two criteria for NYSDERDA to grant in-service deadline extensions: (1) proof that the project construction commenced on or before December 31, 2030, and (2) the delay is due to conditions beyond the control of the developer.¹⁹ By reference only to the "criteria" in the body of the order, Ordering Clause 33 extended this two-part test for in-service deadline extensions to all bulk, retail, and residential energy storage projects procured under programs described in the order, including the UDR Program.

This interpretation is further supported by the purpose of the in-service deadline extensions. In the body of the 2024 Energy Storage Order, the Commission recognized the "uncertainty inherent with energy storage development" and provided flexibility "geared towards achieving an effective build out of energy storage in New York."²⁰ The uncertainty inherent in energy storage development applies to both NYSDERDA and utility contracts. Flexibility for factors outside the control of the developer, such as interconnection delays, is important for the effective build out of both NYSDERDA and UDR programs. The 2024 Energy Storage Order was not intended to,

¹⁸ Id., p. 99.

¹⁹ Id., p. 60.

²⁰ Id., p. 60.

and does not, limit the availability of in-service deadline extensions to NYSERDA contracts. Therefore, the Commission confirms that all IOUs including Con Edison have the authority to extend the in-service deadlines for UDR programs beyond December 31, 2030, provided the two criteria established in the 2024 Energy Storage Order are met.

The Commission finds and declares:

1. As discussed herein, the Commission confirms that Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, Niagara Mohawk Corporation d/b/a National Grid, New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation have the authority under the 2024 Energy Storage Order to extend the in-service deadlines for Utility Dispatch Rights programs beyond December 31, 2030, where (1) proof is provided that the project construction was commenced on or before December 31, 2030, and (2) the delay is due to conditions beyond the control of the developer.

2. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary