STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on May 14, 2020

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard

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 ON TRANSMISSION PLANNING PURSUANT TO THE ACCELERATED RENEWABLE ENERGY GROWTH AND COMMUNITY BENEFIT ACT

(Issued and Effective May 14, 2020)

BY THE COMMISSION:

INTRODUCTION

The State of New York has enacted the most aggressive climate policy legislation in the country through the Climate Leadership and Community Protection Act (CLCPA), signed into law by Governor Cuomo on July 18, 2019.[1] The CLCPA established specific targets for reducing greenhouse gas (GHG) emissions for all sectors of the economy and removing carbon produced by energy generation. Specifically, the CLCPA requires: (1) a 40% reduction in GHG emissions from 1990 levels by 2030 and an 85% reduction by 2050; (2) achieving a renewable electric generation target of 70% by 2030 and a 100% emissions-free electric supply by 2040; and (3) the addition of 9 Gigawatts (GW) of offshore

[1] Chapter 106 of the laws of 2019.

wind generation to the energy portfolio by 2035. The reach of these directives is transformative.

To achieve the CLCPA climate protection targets and in recognition of the fact that achieving the CLCPA climate protection targets requires restructuring and repurposing the State's electric transmission and distribution infrastructure, Governor Cuomo introduced the Accelerated Renewable Energy Growth and Community Benefit Act (the Act), as part of the 2020-21 Proposed Budget. The Governor subsequently signed a final version of the Act into law on April 3, 2020.[2] Among other things, the Act directs the Commission to develop and implement plans for future investments in the electric grid. This order reviews those legislative directives, immediately implements certain mandates, and outlines the additional actions the Commission plans to pursue to fulfill the objectives of the Act over the next several months.

BACKGROUND

The Act includes several provisions directing the Commission to ensure the electric grid will support the State's aggressive climate goals. First, Section 7(2) calls on the Commission, in consultation with other state agencies and authorities, the utilities,[3] and the New York Independent System Operator (NYISO), to conduct a "comprehensive study for the purpose of identifying distribution upgrades, local transmission upgrades, and bulk transmission investments that are necessary

[2] Chapter 58 (Part JJJ) of the laws of 2020.

[3] For the purpose of this proceeding, the term "utilities" will refer to Consolidated Edison of New York, Inc., Orange and Rockland Utilities, Inc., New York State Electric and Gas Corporation, Rochester Gas and Electric Corporation; Central Hudson Gas & Electric Corporation, and Niagara Mohawk Power Corporation d/b/a National Grid.

or appropriate to facilitate the timely achievement of the CLCPA targets ….”[4] The Act refers to this analysis as “the power grid study,” a term which we adopt here. An initial report of the findings and recommendations of the power grid study is required by December 31, 2020.

Second, the Act directs the Commission to commence two proceedings to advance needed projects identified through the power grid study.[5] One proceeding is to focus on establishing “a distribution and local transmission capital plan” for each utility.[6] These utility plans will describe and prioritize the local transmission and distribution “upgrades” that the Commission determines are “necessary or appropriate” to meet the CLCPA targets.[7] The Act provides that these upgrades will be implemented according to existing procedures under the Public Service Law.

The other planning proceeding mandated under the Act relates to the bulk transmission system. The Act requires a state-wide plan to identify and implement transmission-level

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[4] The statute does not define these key terms. For purposes of this discussion, we understand “local transmission” to refer to transmission line(s) and substation(s) that generally serve local load, and transmission lines which transfer power to other service territories and operate at less than 200 kV. However, as the Utilities consider the issues outlined in this order, we recognize that an alternative definition may emerge.

[5] Act, subsections (3) and (4).

[6] The Act also requires the Long Island Power Authority to establish a similar capital program to address local transmission and distribution upgrades in its service territory.

[7] The Act defines an “upgrade” to either the distribution or the local transmission system as a new facility or “an improvement, enhancement, replacement, or other modification” to existing equipment in the utility’s service territory “that facilitates achievement of the CLCPA targets.” Sections 7(d) and (e).

investments that are “necessary or appropriate to achieve the CLCPA targets.” The Act further specifies two different approaches to project implementation. Transmission investments that the Commission determines need to be “completed expeditiously” are referred to the New York Power Authority for development and construction. Other projects are to be selected for implementation through the NYISO’s public policy planning process.

DISCUSSION

These directives require us to revisit the traditional decision-making framework that the Commission and the utilities have relied on up to now for investing in transmission and distribution infrastructure. First, we must identify a strong portfolio of potential transmission and distribution projects that can support the development and delivery of renewable energy in order to support climate goals. Second, the contribution of those projects to the State’s climate goals must now be expressly evaluated and weighed in system planning and project prioritization, while preserving the obligation of the State’s utilities to ensure safe, reliable and cost-effective service. Third, cost-containment and cost-recovery mechanisms must be reexamined, especially for projects that serve local reliability, as well as policy and systemic goals. Fourth, the planning and economic processes must continue to take fullest practical advantage of new technology and other innovation. The Commission will need to establish criteria to guide the utilities in making these evaluations and scheduling CLCPA-supporting projects. The Commission will have to explore and consider all available options to fund these essential investments. This latter task may require us to re-examine traditional utility cost recovery mechanisms and develop new approaches where existing mechanisms are deficient.

With this proceeding, we will begin to resolve these questions, initially in the context of the distribution and local transmission systems. We believe the State's utilities are uniquely positioned to develop proposals for the revised decision-making framework we contemplate, as a starting point for broader stakeholder comment and discussions.

We note that, prior to the enactment of the Act, the Department of Public Service had already established working groups in collaboration with the utilities to address the policy, planning, and technological challenges to meeting the CLCPA targets. These proactive efforts are productive and useful, and this order intends to build on those efforts, as well as provide direction for future initiatives.

Local Transmission and Distribution Planning

The first task is to ensure the development of actionable local system upgrades through the power grid study, within the time frames required by the Act. We note that a comprehensive effort evaluating the future needs of the higher voltage transmission system is already underway.[8] We also note that the utility working groups have begun developing a study that should provide insight into other system needs. We direct the utilities to incorporate analyses in their study to identify the distribution and local transmission upgrades that may be "necessary or appropriate" to the timely achievement of CLCPA objectives. For these purposes, using the definitions provided in the Act, the relevant upgrades may be new facilities or

[8] The New York State Energy Research and Development Authority (NYSERDA) has initiated two studies looking at the future needs of the system. One is a study of the impact of offshore wind; the second looks at the transmission capabilities that will be needed to support the CLCPA goal of making the generation supply 100% renewable by 2040.

improvements or other changes to existing local transmission or distribution facilities located in a utility's service territory. The study to be undertaken by the utility working group (Utility Study) should consider the following:

1. Evaluate the local transmission and distribution system of the individual service territories, to understand where capacity "headroom" exists on the existing system;

2. Identify existing constraints or bottlenecks that limit energy deliverability;

3. Consider synergies with traditional Capital Expenditure projects - drivers of synergies could include aging infrastructure, reliability, resilience, market efficiency, and operational flexibility;

4. Identify least cost upgrade projects to increase the capacity of the existing system;

5. Identify potential new or emerging solutions that can accompany or complement traditional upgrades;

6. Identify potential new projects which would increase capacity on the local transmission and distribution system to allow for interconnection of new renewable generation resources; and

7. Identify the possibility of fossil generation retirements and the impacts and potential availability of those interconnection points.

With these elements included, the proposed Utility Study will serve as one component of the comprehensive power grid exercise called for in the Act. To ensure that the utilities conduct the study and make the results available in time for the Commission to take action within the Act's deadlines, we direct the utilities to update Staff on the progress of this effort at regular intervals and to provide preliminary results no later than August 1, 2020. We require the Utilities to submit the final results, including a list of

potential distribution and local system upgrades, by November 1, 2020. We also ask the utilities, with the November filing, to provide their recommendations for integrating the identified projects into their ongoing capital programs.

In addition, in order to establish the continuing utility planning process mandated by the Act, we request the same working groups to develop practical proposals for the process that will guide the utilities' future investments. Below we list the specific issues that we believe the utilities should explore.[9] We seek proposals on these topics, whether or not the utility participants achieve perfect consensus on all issues, as the starting point for additional deliberation. We intend to ask for public and stakeholder comment on these proposals and to act on them once we have heard from all interested parties.

The Commission seeks input and proposals for:

1. A transparent planning process, to be implemented by the utilities with as much consistency and interoperability as possible, that will identify additional projects on the distribution and local transmission systems that support achievement of CLCPA goals;

2. An approach to account for CLCPA benefits in the utilities' planning and investment criteria;

3. An approach to prioritizing any such recommended projects in the context of the utilities' other capital expenditures and the CLCPA time frames;

4. A benefit/cost analysis to apply in assessing potential investments in CLCPA upgrades to the distribution and local transmission systems, as well as any other criteria the utilities believe

[9] We expect the participants may identify other issues as they proceed; our list is intended as a guide to our primary objective, which is to respond to the Act's directives. We do not intend to restrict the scope of the working groups' responses to this Order.

should be applicable to evaluating these investments; and

5. Cost-containment, cost recovery, and cost allocation methodologies applicable to these investments and appropriate to the State's climate and renewable energy, safety, reliability, and cost-effectiveness goals.

Utility Models for Cost Recovery and Cost Allocation

The last task raises issues of ratemaking policy. We believe it will assist the working groups and other stakeholders to have our guidance on possible models for cost recovery and cost allocation for these types of projects. In providing this guidance, we assume that system studies carried out pursuant to this Order and in the future planning process will identify projects that contribute in different ways to the State's CLCPA goals.

First, we note that some distribution projects that are needed according to the utilities' traditional investment criteria — such as the like-kind replacement of aging assets – may simultaneously provide support for renewable integration or other CLCPA goals. We propose that the working groups consider whether the costs of such projects should be recovered from ratepayers, as they would be in the ordinary course. We refer to these as "business as usual" projects.

Second, we anticipate that some "business as usual" projects may present opportunities to expand or enhance the existing system's ability to realize the benefits of renewable resources. Where the utility can modify an already needed project to capture that additional benefit, a cost allocation methodology that recognizes the state-wide benefit of the modification might qualify as just and reasonable.[10]

[10] This assumes, of course, that the benefit can be identified and secured at a reasonable cost.

Third, we expect that the planning process may identify upgrades that would not be built according to traditional investment criteria, but address a specific need or limitation affecting progress towards the CLCPA goals. We recognize that no method for recovering the costs of these projects currently exists and that developing one will require resolving a number of issues. In particular, we anticipate that the utilities will have to define the benefits of such a project in a way that is fair and objectively quantifiable, and then develop mechanisms for recovering costs from the identified beneficiaries. This latter recovery concept presents novel issues including how to identify who benefits from these CLCPA-targeted investments and by how much, as well as how to recover these costs. Nevertheless, anticipating that projects of this type may be identified in the future, we urge the utilities to propose solutions so that funding uncertainties do not hinder the State's climate goals.

Finally, we direct the utility working groups to file their proposals on the process and rate making topics listed above no later than October 5, 2020. We anticipate seeking input from other stakeholders and intend to provide ample time for comment and deliberation following submission of the proposals.

Bulk Transmission Plan

As discussed above, the Act also requires the Commission to develop and implement a state-wide plan for building upgrades to the bulk power system, based on the results of the power grid study. While development of the bulk-power plan is not the topic of this action, we note that the studies already underway will show how the higher-voltage transmission system may need to be configured and expanded to meet climate

objectives. However, results of those studies will not be available until the late fall of 2020.

In order to act promptly on the study results, we will initiate a second proceeding in the near future to establish decisional criteria for the bulk transmission planning and investments necessary to meet CLCPA mandates. Therefore, taking an approach similar to what we are doing here with respect to the distribution and local transmission systems, we direct Staff to identify the key issues that the Act requires us to resolve in developing the bulk investment plan, including the scheduling and prioritization of projects and the appropriate methodologies for funding these investments. We intend to utilize Staff's work as the basis for future stakeholder input on the Commission's implementation of the statute's bulk planning requirements. We fully expect that broad stakeholder input on these issues will be warranted. Our intent, as stated above, is to establish any decisional processes needed to support bulk system investments in time to act on the results of the power grid study early in 2021.

The Commission orders:

1. A proceeding is initiated to develop and consider proposals for implementing the provisions of the Accelerated Renewable Energy Growth and Community Benefit Act with respect to distribution and transmission upgrades, capital expenditures and planning, as discussed in the body of this order.

2. Consolidated Edison of New York, Inc., Orange and Rockland Utilities, Inc., New York State Electric and Gas Corporation, Rochester Gas and Electric Corporation; Central Hudson Gas & Electric Corporation, and Niagara Mohawk Power Corporation d/b/a National Grid will submit filings concerning distribution and transmission upgrades, capital expenditures and planning, as described in the body of this order.

3. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

4. This proceeding is continued.

By the Commission,

(SIGNED) MICHELLE L. PHILLIPS
Secretary