

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**Clean Path New York LLC**                    )  
  )  
  )           **Docket No. ER23-253-000**

**MOTION TO INTERVENE AND COMMENTS OF  
CLEAN ENERGY ADVOCATES**

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure,<sup>1</sup> the Alliance for Clean Energy New York, Inc. (“ACE NY”) and Natural Resources Defense Council (“NRDC”) (collectively “Clean Energy Advocates”) hereby moves to intervene and submit these comments in support of the October 28, 2022 waiver request filed by Clean Path New York LLC (“CPNY”) in the above-captioned proceeding.<sup>2</sup>

CPNY requested waiver of certain requirements in the New York Independent System Operator Inc. (“NYISO”) Open Access Transmission Tariff (“Tariff”) to facilitate its planned transmission line (the “Clean Path Project”) becoming a Class Year Project in NYISO’s next Class Year Study, which CPNY refers to as the “2023 Class Year.”<sup>3</sup> Clean Energy Advocates support this request. Absent the waiver, development of CPNY’s significant new transmission project could be delayed by years, which would delay the new transmission needed to enable delivery of solar, wind, and storage resources to NYISO Zone J from elsewhere in the state,

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<sup>1</sup> 18 C.F.R. §§ 385.212 and 214.

<sup>2</sup> “Request of Clean Path New York LLC For Prospective Tariff Waiver And Expedited Action,” Docket No. ER21-253-000 (Oct. 28, 2022) (“CPNY Waiver”).

<sup>3</sup> CPNY requested waiver of Section 25.6.2.3.1 of Attachment S of the NYISO Tariff, which it says would require CPNY to have an Interconnection System Reliability Impact Study (“SRIS”) approved by the NYISO Operating Committee in order for its planned transmission line (the “Clean Path Transmission Line”) to become a Class Year Project in NYISO’s next Class Year Study. CPNY Waiver at 1.

reducing dependence on inefficient fossil-fueled generation, that is critical to meeting New York's clean energy mandates.

**I. COMMUNICATIONS**

Please address all notices and communications regarding this proceeding to the following persons who are also designated for service in this proceeding:

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**II. MOTION TO INTERVENE**

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214, the Clean Energy Advocates move to intervene in this proceeding. Each of the movants has an interest which may be materially affected by the outcome of this proceeding, and no other party can represent their interests. Their participation in this proceeding is thus a matter of public interest.

ACE NY is member-based association in New York. Our mission is to promote the use of clean, renewable electricity technologies and energy efficiency in New York State, in order to increase energy diversity and security, boost economic development, improve public health, and reduce air pollution. We aim to be the voice of the clean energy industry in New York, and we support New York State's achievement of its ambitious climate action goals. Our 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 our mission. The interests of ACE NY cannot be adequately represented by any other party. Accordingly, good cause exists for granting this motion to intervene.

NRDC is a national non-profit membership organization. NRDC is committed to the preservation and protection of the environment, public health, and natural resources. To this end, NRDC conceives and develops policies that reduce greenhouse gas emissions and other forms of pollution and that accelerate the deployment of energy efficiency and renewable energy.

### **III. COMMENTS**

#### **A. New York Legislation Mandates Ambitious Emissions-Free Electricity Targets.**

The State of New York’s Climate Leadership and Community Protection Act (“CLCPA”) mandates decarbonizing the electric sector to achieve 70% renewable electricity by 2030 and 100% emissions-free electricity by 2040, and is a leading effort in the nation to increase emissions-free power.<sup>4</sup> As part of that effort, the New York State Public Service Commission (“NYPSC”) modified the State’s Clean Energy Standard (“CES”) to establish a new tier of renewable energy certificates to increase the role of renewable resources and decrease the reliance on fossil fueled generation within New York City (“Tier 4”).<sup>5</sup>

The New York State Energy Research and Development Authority (“NYSERDA”) issued a request for proposals that would achieve the goal of Tier 4,<sup>6</sup> and CPNY’s Project was one of two proposals selected. Tier 4 of the CES is an important issue for Clean Energy

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<sup>4</sup> Ch. 106 of the Laws of 2019 of New York.

<sup>5</sup> NYPSC Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and Clean Energy Standard, Order Adopting Modifications to the Clean Energy Standard (issued October 15, 2020).

<sup>6</sup> NYSERDA Solicitation T4RFP21-1, released January 13, 2021.

Advocates because additional transmission is necessary to modernize and strengthen the New York grid to facilitate achievement of the CLCPA goals, and because Tier 4 has the potential to be an important driver in renewable energy development in New York State. ACE NY supported NYPSC approval of NYSERDA’s resulting Tier 4 Renewable Energy Certificate Purchase and Sale Agreement with CPNY (“Agreement”), noting in particular that “[b]ecause it supports the development of renewable energy projects in New York State and the delivery of clean power into New York City, ACE NY is fully supportive of New York’s procurement of Tier 4 RECs through the Clean Path New York Project and urges the Commission to approve its contract.”<sup>7</sup> NRDC likewise supported the goal of incentivizing more renewable energy that is deliverable into the New York City area through the Tier 4 Program, noting that decarbonizing New York City’s electric system is necessary to achieve the ambitious electric sector targets in the CLCPA, will provide critical public health benefits from the reduction of fossil fuels, and because New York City electricity consumers have not fully benefited from their contributions to the CES because transmission constraints have prevented clean energy from being delivered to the large consumer demand areas in and around New York City.<sup>8</sup> The Agreement set an expected commercial operation date (“COD”) for the Clean Path Project of June 30, 2027 and was approved by the NYPSC earlier this year.<sup>9</sup>

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<sup>7</sup> NYPSC Case 15-E-0302, *supra*, Comments on the Petition Regarding Agreements for Procurement of Tier 4 Renewable Energy Certificates, at 2 (Feb. 7, 2022).

<sup>8</sup> NYPSC Case 15-E-0302, *supra*, NRDC and RPA Tier 4 Reply Comments (Mar. 2, 2022).

<sup>9</sup> NYPSC Case 15-E-0302, *supra*, Order Approving Contracts for the Purchase of Tier 4 Renewable Energy Certifications (issued April 14, 2022).

**B. Absent the Waiver, The CPNY Project Could Be Significantly Delayed.**

The Clean Path Project will be a 178-mile 1,300 MW HVDC transmission line to be located within the NYISO footprint, and is a key component of New York’s objective of decarbonizing its electric sector.<sup>10</sup>

As described more fully in the CPNY Waiver, CPNY submitted its interconnection request on October 21, 2021, but delays in completion of the SRIS and approval of the SRIS by NYISO’s Operating Committee jeopardize the ability of CPNY to have obtained its SRIS approval in time to enter the 2023 Class Year.<sup>11</sup> This is essential because CPNY states that it expects the 2023 Class Year could be completed in late 2024 or early 2025, which would allow it to proceed with construction and meet its June 2027 COD; but if it is not included in the upcoming 2023 Class Year Study, having to wait for the next Class Year cycle, which may not begin until early 2025, will make it impossible for the CPNY Project to come online by June 2027.<sup>12</sup>

The timing is uncertain. CPNY states that it may not receive SRIS approval until early next year, but the 2023 Class Year Start Date depends on when the current 2021 Class Year Study cycle is complete, which itself depends on decisions made by developers in the current Class Year cycle.<sup>13</sup> As a result, CPNY requested waiver of the NYISO Tariff provision that would otherwise require that it already have an approved SRIS before the Class Year Start Date

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<sup>10</sup> CPNY Waiver at 1.

<sup>11</sup> *Id.* at 9-10.

<sup>12</sup> *Id.* at 13.

<sup>13</sup> As CPNY explains, “[t]he 2021 Class Year Study was presented to and approved by NYISO’s TPAS on October 17, 2022 and by the Operating Committee on October 24, 2022. Thereafter, developers in that Class Year Study will have the chance to review and determine whether to accept their allocated costs. If all developers accept their allocated costs, the 2021 Class Year Study will become final, and the upcoming 2023 Class Year Study will begin 30 days thereafter.” *Id.* at 12.

in order to enter the 2023 Class Year Study, to the extent that CPNY's SRIS is approved after the 2023 Class Year Start Date but before NYISO completes the Annual Transmission Baseline Assessment ("ATBA") study cases for the 2023 Class Year.

C. **CPNY's Timely Development is Important and Clean Energy Advocates Support Granting the Waiver.**

Clean Energy Advocates support the growth and development of renewable energy projects in New York and achieving the State's climate action goals. We further support the CPNY Project because it will provide much-needed access for New York City to renewables and much-needed access for renewable facilities to deliver carbon-free energy to New York City.

However, if CPNY is not able to enter the 2023 Class Year Study and is forced to wait for the next Class Year Study, this could delay the development of a critical transmission project by at least 18-24 months,<sup>14</sup> and affect the schedule for the wind and solar power projects that are expecting to utilize the new CPNY transmission asset. The CPNY Project and its expeditious development are key components of meeting the State's mandates, and this potential delay could severely hinder undermine the ability to meet New York's climate action goals. It could also severely delay realizing the additional benefits the CPNY Project is expected to provide, such as reducing congestion and other reliability benefits in New York.<sup>15</sup>

The Commission should, therefore, grant CPNY's waiver request to permit the CPNY Project to become a Class Year Project in the 2023 Class Year if its SRIS is completed after the 2023 Class Year Start Date (as long as it is approved before NYISO completes the 2023 Class Year ATBA study cases, and thereby is not delaying the Class Year process for other projects). Indeed, if there are other comparable interconnection requests on a similar timeline, similar relief

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<sup>14</sup> *Id.* at 9.

<sup>15</sup> *Id.* at 7, 16-17.

may also be appropriate, and Clean Energy Advocates would support such relief. Clean Energy Advocates, therefore, also support NYISO's proposal to grant the waiver for all similarly situated projects to ensure equal treatment across developers participating in the NYISO's interconnection queue and to minimize impacts and delays for the Class Year Study process.<sup>16</sup> Granting this waiver may only amount to a few additional weeks, but this additional time is important because the CPNY Project and its timely interconnection and development, along with similarly situated projects that are still awaiting their SRIS approval, play a critical role in both fulfilling requirements under the Agreement as well as meeting New York's policy mandates.

Clean Energy Advocates understand based on the CPNY Waiver that CPNY has worked in good faith to advance its SRIS and the interconnection process and that the timing remains uncertain. But this timing should not be left to chance given the importance of this project to achievement of New York's legally mandated climate goals and the modest accommodation sought by the waiver request. Granting the CPNY Waiver by December 16, 2022, would provide certainty to CPNY, NYISO, and others if the 2023 Class Year process begins in the coming weeks. Clean Energy Advocates also note that CPNY committed to meeting all other applicable requirements to enter the 2023 Class Year, so it will be ready to proceed quickly after approval of its SRIS and avoid delaying the 2023 Class Year Study.<sup>17</sup>

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<sup>16</sup> "Motion to Intervene and Comments of the New York Independent System Operator, Inc." Docket No. ER21-253-000 (Nov. 15, 2022) at 6-7.

<sup>17</sup> *Id.* at 18.

**IV. CONCLUSION**

For the foregoing reasons, Clean Energy Advocates respectfully request that the Commission issue an order granting Clean Energy Advocates' interventions and granting CPNY's requested waiver.

Respectfully submitted,

*/s/ Anne Reynolds*

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*/s/ Christopher Casey*

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November 18, 2022



## CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November, 2022, a copy of the foregoing document has been electronically served upon each person designated on the official service list in this proceeding.

/s/ Anne Reynolds

Anne Reynolds

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