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Comments Regarding the Unexecuted Engineering, Procurement and Construction
Agreement Filed by NYISO and NYSEG

Submitted by:

The Alliance for Clean Energy New York

FERC Dockets ER23-1573-000
New York Independent System Operator, Inc., et al.

April 26, 2023

The Alliance for Clean Energy New York, Inc. (“ACE NY”) hereby submits these comments in the above-captioned proceeding, addressing an unexecuted Engineering, Procurement and Construction Agreement (“EPCA”) filed by the New York Independent System Operator, Inc. (“NYISO”) and New York State Electric & Gas Corporation (“NYSEG”), which concern ELP Ticonderoga Solar LLC (“Ticonderoga”).¹

At dispute in the unexecuted EPC Agreement is the fair and reasonable dollar amount to be charged by NYSEG in connection with oversight of interconnection work performed by Ticonderoga. For the reasons set forth below, ACE NY believes that approved amounts should be proportional to costs identified through the successive rounds of the interconnection study process under the NYISO Open Access Transmission Tariff (“OATT”). ACE NY respectfully urges the Commission to issue an order directing the recovery of a fair and reasonable oversight amount, to facilitate the furtherance of the Ticonderoga project and the ongoing development of similarly positioned queued renewable generation in New York.

ACE NY is a 501(c)3 member-based organization. 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, including the achievement of 70% renewable electricity by 2030.

The ELP Ticonderoga Solar Project represents an important early contribution to the achievement of the State of New York’s statutory clean energy goal of 70% renewable electricity generation by 2030 and 100% emissions-free electricity generation by 2040. Pursuant to the terms of the New York Public Service Commission’s Clean Energy Standard Program, the New York State Energy Research and Development Authority (“NYSERDA”) conducts annual solicitations to procure renewable energy credits (“REC”) from renewable energy projects. Projects and project sponsors participating in these solicitations must assess likely costs and incorporate such cost assumptions into the REC bids submitted to NYSERDA. Bids require

¹ See FERC Docket No. ER23-1573-000, *New York Independent System Operator, Inc., et al.*, “Filing of an Unexecuted Engineering Procurement, and Construction Agreement for the Ticonderoga Solar Project Among the New York Independent System Operator, Inc., New York State Electric & Gas Corporation, ELP Ticonderoga Solar LLC, and Niagara Mohawk Power Corporation d/b/a National Grid; Request for Waiver of 60-Day Notice Period” (dated April 5, 2023)

a minimum level of interconnection study to participate in order to ensure orderly development of the program and achievement of its goals.

In this context, the NYISO interconnection study process as set forth under Section 32 of the OATT serves a critical function. It offers a transparent and predictable process for the determination of interconnection costs, and continual refinement of project economics pre- and post-award, to help inform rational and appropriate development decisions in support of the state's goals. Contract security requirements grow larger post-award. In parallel, successive level of study under NYISO interconnection procedures are meant to provide greater certainty around project cost structure. At every point along the way, projects refine and evaluate the viability of their interconnection, and overall project economics, as they make successively greater commitments regarding project readiness and viability.

Unpredictable and undue changes to interconnection costs for a project jeopardize not only the project itself but the integrity of this process and the achievement of important policy goals. At the time of receipt of the ELP Ticonderoga Solar Project's Affected System Facilities Study, the total cost of work associated with the relevant scope of Affected System Upgrades was estimated to be \$795,689, inclusive of all capital costs. If the interconnection study process is to provide value to the project, the estimates determined in the study phase of the project should have relevance to the costs included in the project's contracting phase.

In the post-study contracting phase for the Ticonderoga project, NYSEG has proposed costs to oversee construction of the affected system upgrades, which Ticonderoga has elected to build, of \$961,207, many times in excess of the project management and construction management components of the estimates provided in the project's System Impact Study and Affected Systems Facility Study. While NYSEG has a right to recovery of oversight costs associated with this work, as established by the Commission in Order 845-A, this right to recovery cannot be unlimited. The NYSEG oversight estimate does not represent a fair or reasonable margin relative to the scope of work and true capital costs of the upgrade.

While this proceeding specifically involves an EPCA for a specific project, the ramifications of the outcome reach beyond this project to all similarly situated projects. This issue has only begun to manifest itself, given the relatively early stage of the build out of renewable energy projects in New York State relative to its goals. However, numerous ACE NY members' projects are in the process of completing the NYISO's interconnection process, and for cost, timing and efficiency reasons, developers may choose to exercise the Option to Build in their various interconnection agreement negotiations and complete upgrade facilities themselves. It is thus critical for the Commission to affirm fair and reasonable oversight costs.

ACE NY believes that approved amounts should be reasonable, fair, and proportional to the costs identified through the interconnection study process.

Thank you for your consideration of these Comments.

Sincerely,



Anne Reynolds
Executive Director, Alliance for Clean Energy New York