

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

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New York Independent System Operator, Inc. ) **Docket No. ER24-1915-000**  
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**MOTION FOR LEAVE TO FILE OUT OF TIME AND LIMITED PROTEST OF  
NATURAL RESOURCES DEFENSE COUNCIL**

Pursuant to Rules 211 and 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.211 and 385.212, the Combined Notice of Filings #1 issued by the Commission on May 2, 2024, and the Notice of Extension of Time issued by the Commission on May 16, 2024, Natural Resources Defense Council (“NRDC”) respectfully submits this motion for leave to file out of time and limited protest to the proposed tariff changes contained in the New York Independent System Operator, Inc.’s (“NYISO”) May 1, 2024 Compliance Filing for Order No. 2023<sup>1</sup> and Order No. 2023-A<sup>2</sup> (collectively, “Order No. 2023”) in the above-captioned proceeding (“Compliance Filing”).

**I. Motion for Leave to File Out of Time**

Pursuant to Rule 212 of the Commission’s rules of practice and procedure, NRDC respectfully requests that the Commission allow NRDC to submit these comments one day out of time. The Commission’s Notice of Extension of Time established a timely comment date of Wednesday, June 12, 2024.

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<sup>1</sup> *Improvements to Generator Interconnection Procedures and Agreements*, Order No. 2023, 184 FERC ¶ 61,054 (2023) (“Order No. 2023”).

<sup>2</sup> *Improvements to Generator Interconnection Procedures and Agreements, Order on Rehearing and Clarification*, Order No. 2023-A, 186 FERC ¶ 61,199 (2024) (“Order No. 2023-A”).

Good cause exists to allow NRDC to file this limited protest. This limited protest aims to provide additional information and clarification regarding specific aspects of the Compliance Filing. NRDC submits this limited protest in the hope it will aid the Commission in its decision-making process. NRDC accepts the record as it stands, and the Commission has not issued any orders yet in this proceeding. Given this, no parties will be materially harmed by the timing of NRDC's limited protest. Therefore, granting this motion to allow NRDC to submit this limited protest one day out of time will not delay the proceeding or prejudice any other party.

## **II. Limited Protest**

NRDC supports the Commission's swift approval of NYISO's proposed tariff revisions, which were developed through a transparent process involving considerable stakeholder input. These revisions aim to streamline the interconnection process amidst a surge in new requests to connect to the New York State Transmission System, thereby enhancing certainty and protecting against discrimination for new technologies. Rapid adoption of these revisions is crucial for meeting the climate and clean energy goals of New York's Climate Leadership and Community Protection Act ("Climate Act")<sup>3</sup> and addressing declining reliability margins across the state.

However, NRDC submits a limited protest to address a gap in NYISO's Compliance Filing concerning the operating assumptions for energy storage resources ("ESRs") in interconnection studies, as directed by Order No. 2023. Order No. 2023 requires that, upon request, transmission providers use operating assumptions that reflect the proposed charging behavior of ESRs during peak load conditions ("ESR Operating Assumption Rules"). NYISO's proposed use of the Minimum Interconnection Standard as an independent entity variation to achieve the objectives the ESR Operating Assumption Rules partially meets this requirement by minimizing network

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<sup>3</sup> Climate Leadership and Community Protection Act, S.B. 6599, 2019 Leg., 242nd Sess. (N.Y. 2019) (codified as Ch. 106, L. 2019) (hereinafter, "Climate Act").

upgrades without restricting ESR operating flexibility, but it only applies to ESRs connecting to secured transmission facilities, which are generally 100 kV and above. This leaves a significant portion of ESR projects, particularly those connecting at less than 100 kV, without adequate procedures to accommodate their operating characteristics and technical capabilities, as required by Order No. 2023. Critically, the section of NYISO's system that stands between planned offshore wind developments and New York City is dominated by unsecured transmission facilities less than 100 kV. This means an important market for energy storage resources is affected by the limitations of NYISO's "secured transmission facilities only" approach.

Accordingly, NRDC urges the Commission to accept NYISO's Compliance Filing effective May 2, 2024, but with a further requirement to develop interconnection procedures for ESRs not covered by the Minimum Interconnection Standard. Importantly, this development should occur in parallel to the Transition Cluster Study to ensure timely implementation for the next cluster study process starting September 3, 2026. This approach will enable NYISO to work with stakeholders to explore opportunities to further extend the Minimum Interconnection Standard, and where this is not feasible, to develop an alternative approach that can properly reflect the technical capabilities of ESRs thereby ensuring just and reasonable rates by avoiding excessive and unnecessary network upgrades that may hinder the timely development of new generating facilities that stifles competition in the wholesale market.

#### **A. Background**

Federal and state clean energy policies are driving a rapid clean energy transition in the Empire State. At the federal level, incentives from the CHIPS and Science Act and the Inflation Reduction Act are accelerating the deployment of clean energy, vehicles, buildings, and manufacturing. These federal policies are helping to attract significant investments in clean energy

technologies and high-tech manufacturing in New York.<sup>4</sup> Recent announcements of substantial investments in microchip manufacturing and data centers across the state are contributing to the projected increase in demand on the electric system. For example, recent announcements of large investments in microchip manufacturing and data centers are expected to add more than 1,800 MW of new large load projects to the grid by 2026.<sup>5</sup> To meet this increased demand, new clean energy supplies must interconnect to the grid at a pace greater than the phase-out of existing fossil-fuel supply.<sup>6</sup>

At the state level, New York’s Climate Act is reshaping the State’s electricity sector and the composition of its grid. Based on New York’s determination that climate change is adversely affecting economic well-being, public health, natural resources, and the environment, the Climate Act sets ambitious climate and clean energy targets that require all sectors of the State’s economy to collectively achieve 40% greenhouse gas (“GHG”) reductions from 1990 levels by 2030 and 85% greenhouse gas reductions by 2050, as well as to achieve net-zero emissions by 2050.<sup>7</sup> Within the electric sector, it requires that 70% of the State’s electricity supply must come from renewable energy sources by 2030 and that the electric system is zero emission by 2040.<sup>8</sup>

Importantly, the electric sector targets are the foundation of the CLCPA’s comprehensive framework for decarbonizing the state’s economy because the transformation of New York’s electricity system facilitates decarbonization and the reduction of toxic co-pollutants by enabling fossil-fueled end uses to electrify in the transportation, buildings, and industry sectors. The electric sector targets together with other state and local policies such as nitrogen oxide emission limits

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<sup>4</sup> *NYISO 2024 Power Trends* at 6 (June 2024), available at <https://www.nyiso.com/documents/20142/2223020/2024-Power-Trends.pdf/31ec9a11-21f2-0b47-677d-f4a498a32978?t=1717677687961>.

<sup>5</sup> *See id.* at 8.

<sup>6</sup> *Id.* at 7.

<sup>7</sup> Climate Act at §2.

<sup>8</sup> *Id.* at §4.

(“Peaker Rule”), plans to accelerate decarbonization of seven New York Power Authority small natural gas plants to 2030, energy infrastructure siting policy and permitting decisions, New York City’s codes to eliminate residual oil and reduce carbon emissions in large and medium-sized NYC buildings, and the Regional Greenhouse Gas Initiative, are significantly impacting resource decisions to enter and exit NYISO’s markets.<sup>9</sup>

Given this importance of the electric sector the State and NYISO have worked proactively to encourage renewable development and upgrade the electric system. This includes enhanced and better coordinated electric system planning at the bulk and local levels, which has already led to historic level of transmission development that will deliver more clean energy to consumers while enhancing grid reliability.<sup>10</sup> It also includes aggressive actions by the State to complete its REC and OREC solicitations several years ahead of the 70% renewable energy by 2030 deadline to enable renewable energy projects sufficient development horizons to reach commercial operation;<sup>11</sup> however, unforeseeable global economic upheaval from the pandemic and its aftermath, including rampant and persistent inflation, supply chain disruptions, and heightened affordability concerns exacerbated by significant price spikes in fossil fuels hindered project viability, delayed project timelines, and resulted in nearly all contracts for REC and OREC to be canceled.<sup>12</sup> As a result, New York went from having nearly all of the renewable energy projects needed to achieve its 70% renewable energy by 2030 target in the development pipeline to needing new solicitations to procure the remaining renewable energy resources.

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<sup>9</sup> See NYISO 2023-2032 Comprehensive Reliability Plan, at 20 (Nov. 28, 2023), available at <https://www.nyiso.com/documents/20142/2248481/2023-2032-Comprehensive-Reliability-Plan.pdf>.

<sup>10</sup> See NYISO 2024 Power Trends, *supra*, at 26-31 (June 2024).

<sup>11</sup> See NYPSC Case 15-E-0302, *supra*, Order Adopting Modifications to the Clean Energy Standard, at 24-26 (issued and effective Oct. 15, 2020) (hereinafter, “CES Modification Order”).

<sup>12</sup> See NYPSC Case 15-E-0302, Order Denying Petitions Seeking to Amend Contracts with Renewable Energy Projects, at 40 (issued and effective Oct. 12, 2023).

These collective circumstances have led to an unprecedented increase in the number of projects seeking to interconnect to the bulk power system.<sup>13</sup> As of June 12, 2024, there are 280 active projects in the NYISO’s interconnection queue<sup>14</sup> as compared to as compared to roughly 120 active projects in 2018—notably 255 project where withdrawn in May 2024.<sup>15</sup> The challenge of timely interconnection is further exacerbated by the fact that New York now has just under six years to ramp up from approximately 27% renewable energy in 2023<sup>16</sup> to 70% renewable energy by 2030 while meeting nearly 10,000 GWh of load growth in the Baseline Annual Energy Forecast.<sup>17</sup>

Importantly, New York is also experiencing declining reliability margins. Since 2019, generator deactivations have been more than double resource additions.<sup>18</sup> In its 2023 Quarter 2 Short Term Assessment of Reliability (“STAR”) report, NYISO identified a Short Term Reliability Need in New York City beginning in the summer of 2025 by as much as 446 MW for a duration of nine hours on the peak summer day under expected weather conditions, and lasting until the Champlain Hudson Power Express HVDC transmission line from Hydro Quebec to New York City enters service, which is on schedule to come online in spring 2026.<sup>19</sup> Then in November 2023,

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<sup>13</sup> Compliance Filing at 18.

<sup>14</sup> NYISO Interconnection Queue 5/31/2024 (published June 12, 2024), available at <https://www.nyiso.com/interconnections>.

<sup>15</sup> The NYISO Interconnection Process: Maintaining Reliability for a Grid in Transition, at 6 (Jan. 2023), available at <https://www.nyiso.com/documents/20142/35688159/2023-NYISO-Interconnection-Process-Report.pdf/300e1077-93ff-6e37-d920-2b7bfe19099e?t=1683560946199>.

<sup>16</sup> See NYISO 2024 Power Trends, *supra*, 2023 energy production (GWh) by fuel source, at 49 (June 2024).

<sup>17</sup> See NYISO 2024 Load & Capacity Data Report, Table I-1b: Summary of NYCA Baseline Annual Energy Forecasts – GWh, column (i) at 20 (Released April 2024), available at <https://www.nyiso.com/documents/20142/2226333/2024-Gold-Book-Public.pdf/170c7717-1e3e-e2fc-0afb-44b75d337ec6>.

<sup>18</sup> See NYISO 2024 Power Trends, *supra*, at 7.

<sup>19</sup> NYISO Short-Term Assessment of Reliability: 2023 Quarter 2, at 5 (Issued July 14, 2023) <https://www.nyiso.com/documents/20142/16004172/2023-Q2-STAR-Report-Final.pdf/5671e9f7-e996-653a-6a0e-9e12d2e41740> (The need was ultimately addressed by retaining the Gowanus 2 and 3 and Narrows 1 and 2 barges as the temporary solution for two years beyond the original summer capability period deactivation date of May 1, 2025, per its authority under the DEC’s Peaker Rule, which allows the NYISO to temporarily retain peakers as a last resort if no other solutions are viable or sufficient by the time the reliability need is expected. See NYISO Short-Term Reliability Process Report: 2025 Near-Term Reliability Need: Solution Selection at 9 (Nov. 20, 2023)).

NYISO released its 2023-2032 Comprehensive Reliability Plan (“CRP”), which highlighted growing risks to electric system reliability, including projected increases in peak demand due to electrification of the transportation and building sectors; additional generator deactivations; delayed implementation of planned infrastructure projects; challenges associated with the expected transition from a summer peaking system to a winter peaking system, and extreme weather.<sup>20</sup> Later this year NYISO will complete its Reliability Needs Assessment (RNA), which will evaluate grid reliability from 2028 to 2034. Based on preliminary data, NYISO is warning that the upcoming RNA may identify actionable reliability needs driven by planned generator retirements outpacing new supply and growing demand from large microchip fabrication and data center loads, which is compounded by new concerns regarding the unavailability of non-firm gas generation in the winter.<sup>21</sup> Accordingly, forecasted declining reliability margins are amplifying the urgency of reforming New York’s interconnection study process to address interconnection queue backlogs, increase certainty for interconnection customers regarding the timing and cost of ultimately interconnecting to the transmission system, and to ensure that the interconnection process does not unduly discriminate against the operating characteristics and technical capabilities of resource technologies that differ from traditional synchronous resources.

**B. The Commission Should Swiftly Accept the Proposed Tariff Revisions, Subject to a Further Requirement**

**1. The proposed tariff revisions expedite critical reforms that will streamline and enhance NYISO’s interconnection process**

NRDC supports the Commission’s rapid acceptance of the proposed tariff revisions in NYISO’s Compliance Filing in their entirety, with an effective as of May 2, 2024, but subject to a

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<sup>20</sup> See NYISO 2024 Power Trends, *supra*, at 22-23.

<sup>21</sup> *Id.* at 24.

further requirement to develop interconnection study procedures for ESRs not covered by the independent entity variation to Order No. 2023's rules concerning ESR operating assumptions used in interconnection studies, as discussed in the next section.

In Order No. 2023, the Commission emphasized that without reforms, the existing interconnection process would continue to create backlogs, prolong development timelines, increase uncertainty regarding the costs and timing of interconnections, and fail to accommodate the operating characteristics and technical capabilities of new technologies resulting in rates that are unjust, unreasonable, and unduly discriminatory or preferential.<sup>22</sup> The Commission also emphasized the need to revamp generator interconnection processes nationwide, with region-specific adjustments supported by independent entities.<sup>23</sup>

NYISO's proposed interconnection reforms, which were developed through an open and transparent process that enabled meaningful feedback from stakeholders, represent an urgent set of reforms that will streamline the interconnection process amidst an unprecedented surge of new requests seeking to interconnect to the New York State Transmission System. Indeed, the proposed tariff revisions effectively implements the fundamental components of Order No. 2023, while also building upon effective elements of NYISO's existing study process previously approved by the Commission and adapt Order No. 2023 directives to New York's unique circumstances, market structure, and planning framework.<sup>24</sup> As NYISO asserts in the Compliance Filing, the proposed tariff revisions will "collectively drive substantial efficiencies and improvements in the NYISO's interconnection process and are directly targeted at enabling the increasing number of projects seeking to interconnect in New York to do so in a reliable, efficient, transparent and timely

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<sup>22</sup> Order No. 2023 at PP 37–61.

<sup>23</sup> *See id.* at PP 2-10.

<sup>24</sup> Compliance Filing. at 4.



manner.”<sup>25</sup> Accordingly, the Commission should swiftly accept the proposed tariff revisions, subject to the further compliance requirement discussed below, to enable the timely interconnection of new resources needed to meet the climate and clean energy requirements of New York’s Climate Act and to address declining reliability margins across New York.

**2. Acceptance of NYISO’s Compliance Filing should include a directive for NYISO to address the limited, but impactful compliance gap with Order No. 2023’s requirements relating to the operating assumptions used for ESRs in interconnection studies**

NRDC submits this limited protest to highlight a limited, but impactful gap in NYISO’s Compliance Filing with the Commission’s directives in Order No. 2023 relating to operating assumptions for ESRs in interconnection studies. In Order No. 2023, the Commission found that ESRs can be charged and dispatched on a flexible, as-available basis, and are unlikely to withdraw energy from the transmission system during peak load conditions or discharge during light load conditions, but that the existing *pro forma* generator interconnection procedures and agreements do not contemplate these operating characteristics or technical capabilities.<sup>26</sup> The Commission further found that the lack of ability to modify operating assumptions for ESRs results in Commission-jurisdictional rates that are unjust, unreasonable, and unduly discriminatory or preferential.<sup>27</sup> Order No. 2023 thus requires transmission providers, at the request of Interconnection Customers, to use operating assumptions in interconnection studies that reflect the proposed charging behavior of electric storage resources<sup>28</sup> (i.e., whether the interconnecting generating facility will or will not charge during peak load conditions) unless good utility practice

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

<sup>26</sup> Order No. 2023 at P 52.

<sup>27</sup> *Id.*

<sup>28</sup> Whether standalone, co-located generating facilities, or part of a hybrid generating facility.

otherwise requires the use of different operating assumptions (“ESR Operating Assumption Rules”).<sup>29</sup>

In its Compliance Filing, NYISO requests an independent entity variation to the ESR Operating Assumption Rules. Specifically, it proposes to meet the objectives of the ESR Operating Assumption Rules through the use of its Minimum Interconnection Standard, which avoids the needs for network upgrades if adverse reliability impacts can be mitigated through normal operating procedures, including the redispatch of resources to address identified reliability impacts.<sup>30</sup> NYISO asserts that this approach recognizes that in actual operations, the NYISO market systems will dispatch generation in a manner that avoids thermal overloads on NYISO secured transmission facilities.<sup>31</sup> It further argues that its proposed approach will achieve the Commission’s objectives by reducing the need for upgrades for electric storage resources interconnecting in New York while avoids restricting ESR operating flexibility and avoids the need to prohibit most or all withdrawals by ESRs on-peak.<sup>32</sup>

NRDC agrees that NYISO’s proposed use of the Minimum Interconnection Standard is superior to the ESR Operating Assumption Rules because it minimizes network upgrades effectively without restricting ESR operating flexibility by prohibiting ESRs to charge during peak periods or unduly complicating administration of interconnection studies;<sup>33</sup> however, this proposed approach is only a partial solution to Order No. 2023’s ESR Operating Assumption Rules because it can only be applied to ESRs that interconnect to secured transmission facilities, which are generally those operated at 100 kV and above.<sup>34</sup>

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<sup>29</sup> See Order No. 2023 at PP 1509-1533; Order No. 2023-A at PP 575-587.

<sup>30</sup> Compliance Filing at 120.

<sup>31</sup> *Id.*

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

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

<sup>34</sup> *Id.* at 125.

Indeed, NYISO’s proposed independent entity variation leaves limited, but impactful compliance gap to the ESR Operating Assumption Rules. Currently, approximately 23% of the ESR’s (including ESR co-located with solar) in NYISO’s interconnection queue (21 of 91 ESR projects) are seeking to interconnect at a point of interconnection (“POI”) that is less than 100kV, which represents approximately 11% of the ESR capacity seeking interconnection (1,275 MW of 11,288 MW).<sup>35</sup> The share of interconnecting ESRs not served by the Minimum Interconnection Standard is at risk of increasing as the resource mix becomes increasingly saturated with intermittent renewable energy resources. Importantly, the compliance gap is particularly pronounced for Long Island (Zone K), which is where 57% (12 of the 21) ESR projects are seeking interconnection at POIs less than 100kV and where substantial offshore wind development is expected to occur, because over 60% of the electric system across Zone K (approximately 851 miles) is comprised of sub-transmission lines (69 kV, 34.5 kV, 23 kV).<sup>36</sup> NYISO’s proposed independent entity variation thus leaves a meaningful compliance gap to the ESR Operating Assumption Rules, which is likely to impact a significant portion of the ESRs seeking interconnection in New York.

For all the reasons underlying the Commission’s adoption of the ESR Operating Assumption Rules in Order No. 2023, a comprehensive solution that addresses the needs of ESRs interconnecting to all voltage levels remains important to ensure the reliable interconnection of new ESRs without overestimating their impact on the transmission system. Developing this

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<sup>35</sup> NYISO Interconnection Queue 5/31/2024, *supra*, (Published June 12, 2024).

<sup>36</sup> Per its local transmission plan, the Long Island Power Authority’s transmission system is comprised of 1,390 miles of transmission (345 kV, 138 kV) and sub-transmission lines (69 kV, 34.5 kV, 23 kV), and per NYISO’s 2024 Load & Capacity Data Report, 539.4 miles are operated above 100KV. See PSEG Long Island Local Transmission Plan presented at the NYISO Electric System Planning Working Group on November 21, 2023 at 4, available at [https://www.nyiso.com/documents/20142/41314645/02e\\_2023-LIPA\\_LTP\\_Presentation\\_11-16-2023\\_FINAL\\_NON\\_CEII.pdf/073b7ecc-e9a5-275b-bdd7-a5bf3b2ae81f](https://www.nyiso.com/documents/20142/41314645/02e_2023-LIPA_LTP_Presentation_11-16-2023_FINAL_NON_CEII.pdf/073b7ecc-e9a5-275b-bdd7-a5bf3b2ae81f); see also NYISO 2024 Load & Capacity Data Report, *supra*, at 146.

solution; however, should not delay implementation of the critically important interconnection queue reforms contained in NYISO's Compliance Filing.

Accordingly, NRDC urges the Commission to issue an order as soon as possible accepting the NYISO's Compliance Filing, effective as of May 2, 2024, subject to a further requirement to develop interconnection study procedures for ESRs not covered by the Minimum Interconnection Standard in its Compliance Filing (i.e., projects interconnecting at less than 100 kV). To avoid delaying implementation of the critically important interconnection queue reforms, this effort to develop interconnection study procedures for ESRs not covered by the Minimum Interconnection Standard should happen in parallel with the Transition Cluster Study so that it can be implemented in time for the subsequent cluster study process, which is anticipated to commence on September 3, 2026. Approving NYISO's Compliance Filing subject to this further requirement will enable NYISO to work with stakeholders to explore opportunities to further extend the Minimum Interconnection Standard, and where this is not feasible, to develop an alternative approach that can properly reflect the technical capabilities of ESRs thereby ensuring just and reasonable rates by avoiding excessive and unnecessary network upgrades that may hinder the timely development of new generating facilities that stifles competition in the wholesale market.

Dated: June 13, 2024  
New York, New York

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that the foregoing Limited Protest of the Natural Resources Defense Council has been served upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated this 13th day of June, 2024.

*/s/ Christopher Casey*  
Christopher Casey