William P. Acker
Executive Director, NY-BEST
230 Washington Avenue Ext., Suite 101
Albany NY 12203
(518) 694-8474
www.ny-best.org

April 10, 2025

Submitted Electronically

TO: The Honorable Michelle L. Phillips, Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

RE: Case 18-E-0130 – In the Matter of Energy Storage Deployment Program
Reply Comments on the Joint Utilities' Study of Non-Market Transmission and Distribution Energy Storage Use Cases and Related Process Proposals

The New York Battery and Energy Storage Technology Consortium ("NY-BEST"), the Alliance for Clean Energy New York ("ACE NY"), and the New York Solar Energy Industry Association ("NYSEIA"), collectively referred to as the "Commenters," are pleased to submit joint reply comments for consideration in the above referenced case in relation to the Study of Non-Market Transmission and Distribution Energy Storage Use Cases and Related Process Proposals ("Study") filed by the Joint Utilities of New York ("JU") on October 29, 2024.

We greatly appreciate the Commission's consideration of our comments and recommendations. If you have any questions about these comments or need additional information, please contact us at 518-694-8474 or by email at info@ny-best.org. Thank you.

Respectfully submitted,

Dr. William Acker	Marguerite Wells	Noah Ginsburg
Executive Director	Executive Director	Executive Director
NY-BEST	ACE NY	NYSEIA

ABOUT THE COMMENTERS[1]

NY-BEST is a not-for-profit industry trade association with a mission to grow the energy storage industry in New York. We act as a voice of the energy storage industry for more than 180 member organizations on matters related to advanced batteries and energy storage technologies. Our membership includes global corporations, start-ups, project developers, leading research institutions and universities, and numerous companies involved in the electricity and transportation sectors.

ACE NY is a member-based organization with a mission of promoting the use of clean, renewable electricity technologies and energy efficiency in New York State to increase energy diversity and security, boost economic development, improve public health, and reduce air pollution. ACE NY's 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.

NYSEIA is a statewide trade association dedicated to accelerating rooftop and community solar + storage adoption in New York. NYSEIA advances its mission through legislative and regulatory policy advocacy, public education, and member capacity-building. NYSEIA's 225 members employ thousands of workers in the rooftop and community solar + storage industry, supporting progress toward New York's ambitious clean energy and equity goals.

NY-BEST, ACE NY, and NYSEIA have been actively engaged in the State's implementation of the State's Climate Leadership and Community Protection Act ("CLCPA")[2], including through the development and implementation of the State's Energy Storage Roadmaps. The Commenters are committed to helping meet New York State's goal to deploy 6 GW of energy storage on the electric grid by 2030 and to direct 40% of the overall benefits of clean energy investments to Disadvantaged Communities. We recognize the tremendous opportunity for energy storage to support the State's goals and are eager to work with the Commission and the Joint Utilities to ensure energy storage is built strategically and efficiently across the State.

INTRODUCTION AND BACKGROUND

On February 24, 2025, NY-BEST, ACE NY, SEIA and NYSEIA submitted joint comments in relation to the Study of Non-Market Transmission and Distribution Energy Storage Use Cases and Related Process Proposals ("Study") filed by the Joint Utilities of New York ("JU") on October 29, 2024. The Study includes several proposed use cases for ownership of energy storage resources ("ESRs") by Investor-Owned Utilities ("utilities"). These use cases are referred to by the JU as Utility-Integrated

[1] NY-BEST, ACE NY, and NYSEIA comments represent the interests of the organizations overall and not the views of any single member. Our members have diverse interests and the organizations' views are intended to be reflective of the energy storage industry collectively.

[2] New York State Climate Leadership and Community Protection Act, Chapter 106 of the Laws of 2019. Access online here.

Storage ("UIS") and are compared to traditional Utility Wired Infrastructure ("UWI"). Our comments included the following recommendations:

I. **Convene a technical conference to provide further information.** We argued that further information and discussion in a public forum is necessary to properly evaluate and consider the UIS use cases presented by the JU.

II. **Consider the risks of broadly expanding utility ownership.** We described how UIS increases risks to ratepayers (including risk of increased costs, of poor project performance, and of community opposition); risks distorting the market (including by impacting market prices and potentially leading to anti-competitive behavior); and risks slowing progress toward CLCPA goals (including by chilling private development, impacting private ESR interconnection, and unsustainably expanding utility responsibility).

III. **Establish principles for utility ownership.** We discussed the potential for ownership of ESRs under limited use cases, provided the utility demonstrates that the need cannot be solved by signaling or controlling third-party ESRs, and that the utility-owned ESRs will not participate in the market, unintentionally quell market development, nor negatively impact interconnection queues for third-party ESRs.

IV. **Consider how third-party development can achieve the stated goals.** We discussed how third-party development of ESRs can achieve the T&D goals that the JU describe, without the need for utility-ownership, particularly as coordinated ESR fleets responding to market signals can often provide more efficient T&D services than an isolated UIS that does not participate in the market. We also described how, in some cases, utility procurement programs could be considered instead of direct utility development of ESRs, to reduce risks to ratepayers.

V. **Support pathways to enhance energy storage as a Transmission asset.** We encouraged the Commission to work with the JU, the NYISO, and other stakeholders to advance broader solutions to enable Storage as a Transmission Asset (SATA), beyond utility ownership, and included the Zenobe whitepaper on SATA.

VI. **Support pathways to enhance energy storage as a Distribution asset.** We encouraged the Commission to advance broader solutions to enable storage as a distribution asset, beyond utility ownership, such as by working to implement Distributed Energy Resource Management Systems (DERMs), which can optimize ESRs to maximize benefits to the distribution system, without necessitating utility ownership or direct control.

We also included an **Appendix** with specific questions on how each utility use case would work in practice, and how the economic assessment would be performed and justified compared to a third-party solution.

The Commenters now reiterate the above recommendations and include the following additional points for the Commission's consideration.

POINT ONE: Competitively developed energy storage can effectively serve as a Transmission and Distribution (T&D) asset.

The Commenters strongly agree with comments from the City of New York that energy storage can serve as a cost-effective and less impactful alternative to constructing more traditional forms of T&D.[3] However, we disagree with their conclusion that the Commission should therefore authorize the broad use of UIS. Third-party owned ESRs can provide critical T&D services to the grid either as dedicated assets or while participating in the competitive marketplace, ensuring the best deal for ratepayers. Instead, utility ownership risks driving up costs and timelines, without addressing the core opportunities to expand ESR participation as a T&D asset.

The Commenters urge the Commission to support energy storage as a T&D asset in ways other than expanding utility ownership, namely:

a. Including Storage as a Transmission Asset ("SATA") in the State's broader grid planning efforts (e.g. the Coordinated Grid Planning Process, "CGPP");
b. Prioritizing the integration of market-participating SATA within the JU's Advanced Technical Working Group ("ATWG") priorities;
c. Accelerating the development and integration of Distributed Energy Resource Management Systems ("DERMs"), which can optimize fleets of ESRs to maximize benefits to the distribution system, without necessitating utility ownership or direct control.

If there are limited use cases where utility ownership or full utility dispatch control makes sense, in line with established principles such as those proposed in our February comments, the Commission should consider how to best enable utilities to procure ESR projects rather than develop them, so as to ensure the best outcome for ratepayers. This could include enhancements to existing procurement programs, such as the Utility Dispatch Rights ("UDR"), Non-Wires Solutions ("NWS"), or Dynamic Load Management ("DLM") programs, or the development of new mechanisms to address the need, such as Build Transfer Agreements or Resource Adequacy Contracts.

POINT TWO: The JU did not fulfill their obligations under the June 2024 Order.

On June 20, 2024, the Commission issued the Order Establishing Updated Energy Storage Goal and Deployment Policy[4] ("2024 Storage Order"). The 2024 Storage Order restates the four limited situations where utility ownership of energy storage may be considered, as contemplated by the original Reforming the Energy Vision ("REV") Framework Order issued in 2015:[5]

1. "Procurement of DER has been solicited to meet a system need, and a utility has demonstrated that competitive alternatives proposed by non-utility parties are clearly inadequate or more costly than a traditional utility infrastructure alternative;

[3] City of New York. Case 18-E-0130. *Comments of the City of New York in Response to the Joint Utilities' Study of Energy Storage Use Cases*, February 24, 2025 (p2-3). Access here.
[4] NYS PSC. Case 18-E-0130. *Order Establishing Updated Energy Storage Goal and Deployment Policy*, June 20, 2024.
[5] Case 14-M-0101, *Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision,* Order Adopting Regulatory Policy Framework and Implementation Plan, issued February 26, 2015 ("REV Framework Order"), p70.

2. A project consists of energy storage integrated into distribution system architecture;
3. A project will enable low or moderate income residential customers to benefit from DERs where markets are not likely to satisfy the need; or
4. A project is being sponsored for demonstration purposes."

The Commission noted that "the rationale in the REV Framework Order and Energy Storage Order [regarding the four limited situations where utility ownership of energy storage may be considered] continues to hold, and the Commission finds *no need to stray from that established precedent*" (emphasis added). The Commission then directed the JU to "conduct a study of the non-market transmission and distribution services that energy storage projects can provide" and to "include an *in-depth engineering and economic review* of the applications that energy storage could provide to the utility as it fulfills its obligations to provide safe and reliable service in the most efficient and effective manner" (emphasis added).

The Study filed by the JU recommends a significant expansion of utility-ownership of energy storage, yet **does not justify why the Commission should "stray from the established precedent."** For example, on page 24, the JU reference that UIS "may deliver benefits beyond those provided by…third-party solutions," but does not provide evidence in support of this statement. On page 37, the JU reference conditions for Commission consideration of proposed projects that solely compare UIS to UWI, without justifying why utility ownership of the ESR would be required compared to a third-party solution. Finally, in Appendix A, National Grid alludes to the possibility of operational considerations necessitating utility ownership, but does not adequately address why third-party ESRs could not perform the functions efficiently by responding to NYISO price signals or to other established utility signaling precedents (notably, DLM- or UDR-type programs).

In our February comments, the Commenters requested the DPS convene a Technical Conference to allow the JU to demonstrate that the UIS use cases will (a) provide benefits that cannot be achieved by a fleet of coordinated ESRs responding to the same signal, and (b) avoid impacting the general deployment of third-party energy storage, such as by affecting interconnection queues, cost-sharing, and/or hosting capacity. For example, would UIS projects skip the interconnection queue and, if so, how would this be harmonized with the developer interconnection queue? How would the UIS affect third-party projects if, for example, the UIS intends to charge during the night; does this reduce the hosting capacity for third-party energy storage projects that also intend to charge during the night? If the UIS results in upgrades to third-party projects, how would costs be allocated? **We reiterate the need for this information**, including addressing the questions in our first comments, before the Commission can determine whether expansion of utility-owned energy storage is merited.

Further, the Study filed by the JU **notably lacks an in-depth economic review as required by the Order**. While the JU included a high-level overview of their Generalized T&D Planning Framework with UIS, and listed quantitative and qualitative benefits that would be considered in an analysis, they did not include an economic review nor indicate how the benefits would be quantified. The Commenters previously requested additional information from the JU on how the economic

assessment of the use cases and project would be performed, as well as an example analysis for each use case. With the current information available to us, the Commenters are particularly concerned that the analysis may only include a comparison of the cost of UIS to UWI, and not an analysis of the costs of UIS compared to competitively developed ESR solutions. An economic evaluation of third-party ESR solutions alongside the UIS analysis will be critical to achieve the most cost-effective outcome for ratepayers. We urge the Commission to ensure these gaps in the JU proposal are addressed before making a determination on expanding utility-ownership of energy storage.

The Commenters recommend that, to fulfill their obligation under the June 2024 Order, the JU should conduct an additional analysis to specifically compare UIS and UWI solutions to third-party ESR solutions from both a technical and an economic perspective. This could be published as an addendum to the Study and should include an assessment of how each of the Study's proposed UIS use cases (including those in Appendices A and B from National Grid and ConEd, respectively) compare to third-party ESR solutions. The addendum should clearly describe why third-party solutions are or are not feasible for each use case. Where third-party solutions are deemed feasible, we recommend the JU explore how ESR solutions could be incentivized and compensated through adjustments to the VDER Value Stack and/or under existing DLM/UDR/NWS programs. The table below, adapted from ConEd's "Figure 1 – Application Prioritization for Downstate" in Appendix A of the Study, provides a matrix for how the JU could illustrate UIS vs. third-party options for each proposed use case. The Commenters recommend the Commission then hold a Technical Conference to solicit additional feedback and address outstanding questions.

Use Cases for Utility Integrated Storage	Tier	Level	Could Third-Party Storage Provide?	Could This Be Monetized as a Value Stack Component or DLM/UDR/NWS Benefit?	JU Explanation
Bridge-to-Wires	I	D	Yes?/No?	Yes?/No?	If yes, how? If no, why?
Flexible Transmission Capacity	I	T	Yes?/No?	Yes?/No?	If yes, how? If no, why?
Flexible Distribution Capacity	I	D	Yes?/No?	Yes?/No?	If yes, how? If no, why?
Resiliency and Near-term Reliability	I	D	Yes?/No?	Yes?/No?	If yes, how? If no, why?
DER Integration and Hosting Capacity	I	D	Yes?/No?	Yes?/No?	If yes, how? If no, why?
Integrated Large Renewable Enablement	I	D	Yes?/No?	Yes?/No?	If yes, how? If no, why?
Peak Shaving	II	T&D	Yes?/No?	Yes?/No?	If yes, how? If no, why?
Grid Optimization	II	D	Yes?/No?	Yes?/No?	If yes, how? If no, why?
Renewables Balancing	II	T	Yes?/No?	Yes?/No?	If yes, how? If no, why?

Flexible Power Transfer	II	D	Yes?/No?	Yes?/No?	If yes, how? If no, why?
Reactive Power Control	III	T&D	Yes?/No?	Yes?/No?	If yes, how? If no, why?
Flexible Shunt Reactor (Inductor)	III	T&D	Yes?/No?	Yes?/No?	If yes, how? If no, why?
Clean Energy Access Point (Co-location of EV Charging/DER)	III	T&D	Yes?/No?	Yes?/No?	If yes, how? If no, why?

The table above is adapted from ConEd's "Figure 1 – Application Prioritization for Downstate" in Appendix B of the Study. At the proposed Technical Conference, the Commenters recommend that the JU walk through how UIS and third-party storage solutions would compare for the use cases proposed above.

POINT THREE: Competition in the electricity market has a successful track record

States with competitive electricity markets have exhibited more rapid deployment of renewables and emission reductions than States with vertically integrated utilities. Indeed, a recent study found that between 1996 and 2022, average retail electric rates in states with restructured electricity markets declined by 13.3% while rates in vertically integrated states increased by 2.9%."[6]

In New York, the transition to a competitive market has also provided significant benefits to ratepayers.[7] In 1994, New York faced the second highest electricity costs in the U.S., prompting the process to begin restructuring and enable electric market competition,[8] which has largely been considered a success. Indeed, when the Commission recently reexamined the issue of utility owned generation following enactment of the CLCPA, asking stakeholders to assess the Commission's implementation of the Vertical Market Power Policy, commenters generally indicated that the policy had struck a healthy balance between a robust competitive market and the allocation of project risk.[9,10]

The same logic holds true for utility ownership of ESRs. Unlike utilities, which have the opportunity for guaranteed recovery of all expenses plus a rate of return, competitive suppliers are strongly incentivized to complete projects on time and at the lowest cost. The Commenters encourage the Commission **not to backtrack on the success of electricity market competition by broadly expanding utility-ownership of ESRs.**

[6] FTI Consulting, *An Evaluation of Regulated and Restructured Electricity Markets.* November 2024. Access here.
[7] FTI Consulting, *Competitive Power Benefits for New Yorkers*. March 2025. Access here.
[8] NYS PSC. Cases 94-E-0952, et. al. *Order 94-27.* December 22, 1994. Access here.
[9] NYS DPS and NYSERDA. Case 15-E-0302. *Draft Clean Energy Standard Biennial Review*, July 1, 2024 (p76). Access here.
[10] FTI Consulting, *Competitive Power Benefits for New Yorkers*. March 2025. Access here.

POINT FOUR: UIS risks higher costs compared to competitively developed energy storage solutions.

The Commenters strongly agree with the first point in the comments of Multiple Intervenors, which states that "UIS investments, if not regulated effectively, could be exceedingly expensive for customers, pushing electricity costs further upwards."[11] We also support the statement from the City of New York, "While it is critical that we continue to modernize and expand the electric system to meet customers' needs, it is equally critical that we do so in the most cost-effective manner."[12] Notably, expanding utility ownership of storage comes with the significant risk of increasing costs for ratepayers, at the same time as concerns of energy affordability continue to intensify.

The JU reference on pages 44-45 of their study that they would "seek Commission approval for a two-year budget to fund one or more UIS programs that reset every two years," and would "make separate files to request project approval and funding" for large UIS projects. The JU then requests that the Commission "authorize each utility to fully recover the costs associated with each approved project once placed into service (costs including capital depreciation/amortization, financing costs, appropriate operations and maintenance expense, return on capital, and applicable taxes)."

This is particularly alarming as utilities would not have an incentive to complete projects at the lowest cost, and may not be penalized for delays, cost overruns, or high maintenance costs. These higher-than-anticipated costs could then be passed on to captive ratepayers. In contrast, competitive suppliers are strongly incentivized to complete projects at the lowest cost and to operate them as economically as possible. The Commenters urge the Commission to particularly consider the **increasing cost of capital for utilities** and **their track record of cost overruns** when evaluating the benefits of expanding utility ownership of energy storage, as further described below:

Cost of capital: A common argument in favor of utility ownership is that utilities have access to a lower cost of capital than private developers. The Commenters disagree with this notion. Many energy storage developers are investment grade and have access to highly competitive capital costs. Particularly as New York utilities must already make significant investments into the transmission system to support electric load growth, grid modernization, and clean energy integration, their ability to raise capital has become constrained. For example:

- A recent Moody's credit rating of ConEd notes, "[ConEd's] credit is constrained by high capital spending to meet service requirements and the state of New York's energy transition plans, which could place additional pressure on customer rates and debt financing requirements."[13] This upward pressure on rates will only be further exacerbated by ConEd's plans to spend approximately $25 billion between 2024-2028.[14]

[11] Multiple Intervenors. Case 18-E-0130. *Initial Comments of Multiple Intervenors*, February 24, 2025 (p3). Access here.
[12] City of New York. Case 18-E-0130. *Comments of the City of New York in Response to the Joint Utilities' Study of Energy Storage Use Cases*, February 24, 2025 (p6). Access here.
[13] Moody's Investors Service, *Credit Opinion: Consolidated Edison Company of New York, Inc.*, February 1, 2024. Referenced as Exhibit__(JCN-33) in Direct Testimony of Return on Equity Panel (p55). Access here.
[14] Fitch Ratings, *Fitch Rates Consolidated Edison Company of New York's Senior Unsecured Debentures 'A-'* , November 14, 2024. Access here.

- New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation indicated in a January 2025 filing that the "substantial capital investments to support New York's achievement of its climate goals" are causing "strained credit metrics."[15]
- In 2024, Fitch Ratings revised NYSEG's Outlook to "Negative," citing weak financial metrics partially stemming from the utility's sizeable CLCPA Phase 1 investments. The credit rating agency noted that if the company continues to see its financial metrics decline, the company will likely face a credit downgrade, which would increase its borrowing costs.[16]

Utilities should prioritize their capital for the T&D buildout that will be required for the clean energy transition, while leveraging private capital for robust ESR deployment. Notably, regulatory stability is a prerequisite for mobilizing private capital; allowing a broad expansion of utility-ownership of ESRs erodes such stability.

Risk of cost overruns and cancellations: The Commission should note that expanding utility ownership of energy storage would shift risks currently borne by private owners/developers to ratepayers with respect to asset performance, cost overruns, and project cancellations.[17] Notably, there are numerous examples of utility projects that did experience cost overruns in New York, as illustrated in the table below. Under the regulated cost-of-service model, New York customers ultimately pay these additional costs.

Cost overruns of NYS Utility Capital Projects

Project	State	Utility	In-service Year	Initial Budget	Final Budget Overrun	Budget Increase[85]
NYSEG Phase 1	NY	NYSEG	Ongoing	$1.4B	$1.7B	23%
NYSEG/RG&E Phase 2	NY	NYSEG/RG&E	Ongoing	$2.3B	$2.5B	10%
East River Repowering Project	NY	ConEd	2005	$406M	$788M	94%
Rochester Transmission Project	NY	RG&E	2008	$75M	$125M	66%
Altamont Solar Interconnection[86]	NY	National Grid	2024	$1.1M	$2.4M	118%

Source: FTI Consulting[18]

[15] Avangrid, 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*, January 3, 2025. Access here.
[16] Fitch Ratings, *Fitch Revises NYSEG's Outlook to Negative; Rates Green Notes 'A-'; Affirms IDR*, August 1, 2024. Access here.
[17] Celebi, M et al. The Brattle Group. *Utility Ownership of New Renewables in New York State, prepared at the request of ConEdison,* September 20, 2024. Access here.
[18] FTI Consulting, *Competitive Power Benefits for New Yorkers*. March 2025 (p26). Access here.

POINT FIVE: UIS risks slower timelines compared to competitively developed energy storage solutions

Arguments for utility ownership sometimes claim that utilities can develop energy storage faster or more efficiently than the private market. However, this argument fails to recognize that the project development timeline for new energy storage follows a very similar sequence for utilities and private developers, including project planning, regulatory approvals, permitting approvals, environmental reviews, equipment and materials procurement, and construction. In addition, investor-owned utilities tend to suffer from organizational inertia, making it challenging to study and adopt new energy technologies or business models. In contrast, third-party developers are often more nimble and offer deep expertise in energy storage design and optimization. Utility ownership of ESRs would not provide relief from long project development timelines in the context of meeting the goals of the Climate Act.

There is ample appetite for energy storage development in the market to meet Climate Act requirements without the need for utility ownership. Notably, at the wholesale level, the NYISO queue has over 30GW of ESRs in the current transition cluster, and at the distribution level, the Con Edison queue alone has 800 MW of projects that have already made a partial or full interconnection payment, with that number expected to increase due to the imminent release of new funding via the NYSERDA Retail Storage Incentive Program.

Utilities should continue to focus on investing in the wired T&D infrastructure needed to advance New York's ambitious climate goals, and serve as a partner, rather than a replacement, to the competitive energy storage market, including when it comes to energy storage as a T&D asset.

CONCLUSION

NY-BEST, ACE NY, and NYSEIA appreciate the work by the Commission and the JU to support energy storage development in New York State. As discussed above, while we strongly agree that energy storage should play a critical role as a T&D asset, utility-ownership should not be the primary solution to achieve those benefits. Allowing utility-owned energy storage could slow progress towards meeting the State's overall energy needs and achieving clean energy goals by increasing costs to ratepayers, potentially impacting interconnection of third-party ESRs, and chilling market participation.

For the reasons described above, the Commenters urge the Commission to reject the JU's proposal to expand utility ownership of energy storage and instead advance the development of alternative pathways to enable fleets of ESRs to efficiently meet T&D needs across the State. We stand ready to assist with any questions you may have on these comments. Thank you for the opportunity to share our input and feedback.