



February 7, 2022

VIA ELECTRONIC MAIL

Hon. Michelle L. Phillips, Secretary
New York Public Service Commission
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RE: Case 15-E-0302; Comments of the Sierra Club Regarding Tier 4 Proposed Contracts

The Sierra Club respectfully submits these comments in response to the Public Service Commission’s (PSC or Commission) December 2, 2021 Notice Soliciting Comments. The Sierra Club urges the Commission to: (1) approve the proposed contract for Clean Path New York (CPNY); (2) deny the proposed contract for the Champlain Hudson Power Express (CHPE); and (3) authorize NYSERDA to negotiate a contract for a second *in-state* transmission line to provide New York-based renewables into Zone J. While Sierra Club strongly supports increasing the deliverability of clean energy into Zone J, as set forth below, there are myriad deficiencies with the CHPE proposal that are exacerbated by extraordinary flexibilities in the proposed HQUS contract that render it incompatible with the public interest and inconsistent with the requirements of the Commission’s October 15, 2020 order (CES Modification Order). New Yorkers would be far better served by contracting for a second in-state project, which would provide greater economic and job benefits to New York and is better positioned to address environmental justice concerns around existing Zone J fossil fuel generation.

I. Factual Background

On October 15, 2020, the Commission issued an order (CES Modification Order) adopting modifications to the Clean Energy Standard (CES) to incorporate the 70 percent renewable energy by 2030 mandate from the Climate Leadership and Community Protection Act (CLCPA). Among other changes, the Commission incorporated a new CES tier—Tier 4—to address New York City’s current overreliance on fossil fuels.¹ In contrast to the Upstate region (New York Independent System Operator (NYISO) load zones A-E), which is supplied with 88 percent zero emissions resources, the Downstate region (NYISO load zones F-K) is supplied by 69 percent fossil fuel-fired generation and accounts for approximately two thirds of statewide load.² The CES Modification Order recognized the value of offshore wind in supplying clean, renewable generation to New York City (Zone J), but found that “[r]esource diversity concerns

¹ Oct. 15, 2020 CES Modification Order at 77.

² *Id.* at 77-78 (citing NYISO, Power Trends 2020, at 9).

may, in time, counsel against exclusive reliance on offshore wind to reduce the use of fossil fuel-fired generation in Zone J.”³

The Commission determined that Tier 4 would be open to resources that met the CLCPA definition of “renewable energy systems” with several exceptions. First, for non-hydropower resources to qualify they must have come online after the date of the Commission’s order: October 15, 2020.⁴ Second, the Commission excluded offshore wind resources from Tier 4, finding that their inclusion would “would reduce the level of competition in the offshore wind solicitations and could prompt the need to cancel one or more annual solicitation.”⁵ Finally, the Commission disallowed behind-the-meter resources from participating in Tier 4.⁶

For hydropower resources seeking compensation through Tier 4, although the Commission did not impose a vintage requirement, it recognized the need for additionality criteria. In its 70 x 30 CES Whitepaper, DPS Staff had proposed two safeguards for New York ratepayers concerning Tier 4 hydropower projects: (1) a Supplier Energy Baseline, which would limit Tier 4 REC compensation to renewable generation that is delivered to the New York Control Area (NYCA) that exceeds the three-year historical baseline of renewable energy delivered to the NYCA from the supplier and its affiliates;⁷ and (2) a Supplier GHG Baseline, which would limit Tier 4 REC compensation to renewable energy that represents a net increase in the supplier’s total renewable energy generation compared to a three-year historic baseline.⁸

The purpose of the Supplier Energy Baseline is to ensure that New Yorkers receive the benefit of incremental renewable generation into NYCA and that Tier 4 deliveries “are not met simply through re-directing the use of existing resources in a way that provides no net benefit to the State.”⁹ The purpose of the Supplier GHG Baseline is to ensure that the energy associated with the Tier 4 RECs is not backfilled by fossil fuel-fired resources supplied to the historic recipient of that energy.¹⁰

Given the purpose of the Supplier Energy Baseline to protect New York’s economic interests and given the Commission’s concern that a rigid application of the baseline could compel uneconomic deliveries into the NYCA that displace in-state renewables and exacerbate transmission constraints, the Commission directed NYSERDA to solicit Tier 4 bids both with and without the Supplier Energy Baseline to enable a comparison of the economic benefits of the two alternatives.¹¹

³ *Id.* at 80.

⁴ *Id.* at 85.

⁵ *Id.* at 86.

⁶ *Id.* at 86.

⁷ *Id.* at 86-87.

⁸ *Id.* at 87.

⁹ *Id.* at 87.

¹⁰ *Id.* at 87.

¹¹ *Id.* at 88-89.

With regard to the Supplier GHG Baseline, despite protests from HQUS for its elimination,¹² the Commission instead strengthened this environmental safeguard in its CES Modification Order. The Commission directed NYSERDA to “apply provisions in any Tier 4 agreement specifying that Tier 4 RECs may only be compensated to the extent they are associated with increased generation of renewable energy by the supplier.”¹³ The Commission directed that the Supplier GHG Baseline be calculated as the historical average of hydropower generated by the supplier, and that renewable generation used to satisfy the baseline be calculated as the sum of (1) hydropower generated by the supplier (less any generation from new impoundments not already under construction as of October 15, 2020) and (2) non-hydropower generation that meets three criteria: (a) it fits the definition of “renewable energy systems” under the CLCPA¹⁴; (b) it is not compensated elsewhere in the CLCPA; and (c) it meets the Tier 4 vintage requirement for non-hydropower resources. The Commission elsewhere in the CES Modification Order clarified that the vintage requirement for non-hydropower renewables is “achieve[ment of] commercial operation after the date of this Order” (i.e., Oct. 15, 2020).

The only flexibilities in the Supplier GHG Baseline that the PSC authorized NYSERDA to provide were to allow suppliers to satisfy the baseline through “annual averaging” and to implement contract provisions that excuse the supplier from compliance with the Supplier GHG Baseline “only in temporary, force majeure-type circumstances that fall totally out of the supplier’s control.”¹⁵

On January 13, 2021, NYSERDA released a Request for Proposals for the purchase of Tier 4 eligible renewable energy credits (RECs).¹⁶ In response, NYSERDA received proposals from seven proposers. Six of these proposals were for transmission that would carry in-state Tier 1 renewable resources to Zone J; one—CHPE—would transmit Canadian hydropower to Zone J.¹⁷ Proposals were scored in three categories: (1) project viability, operational flexibility and peak coincidence (worth 20 points); (2) incremental economic benefits to New York State (worth 10 points); and (3) offer price (worth 70 points).¹⁸ In evaluating New York State economic benefits, proposals were evaluated across three subcategories: (i) project-specific spending and job creation in New York State; (ii) investment in transmission and other infrastructure, supply chain, and economic development in New York State; and (iii) input activities that provide opportunities for new York workforce and for specific communities.¹⁹ Proposals were evaluated for the State in total and as they benefit Disadvantaged Communities.²⁰

¹² *Id.* at 88.

¹³ *Id.* at 90.

¹⁴ Renewable energy systems are defined under the CLCPA to mean “systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.” P.S.L. § 66-p(1)(b).

¹⁵ CES Modification Order at 90.

¹⁶ NYSERDA Petition at 5.

¹⁷ *Id.* at 7.

¹⁸ *Id.* at 8.

¹⁹ *Id.* at 11.

²⁰ *Id.* at 11.

Following a counterproposal opportunity and receipt of improved offers, NYSERDA developed a Revised Preliminary Ranking.²¹ NYSERDA indicated that it considered this Revised Preliminary Ranking “in the context of other factors that contribute to the achievement of the CES mandate, the reduction of greenhouse gas emissions, and the objectives of the CES Modification Order.”²² Specifically, the “program policy factors” identified by NYSERDA included, among others:

- The efficient utilization of key transmission points of interconnection and Project selections that will promote the cost-efficient integration of renewable generation into New York City;
- Public health benefits of reducing local air contaminants by displacing thermal generation in New York City and, in particular, in Disadvantaged Communities;
- The extent to which a Project’s deliveries are not met through the re-directing of existing resources in a way that provides no net benefit to the State; and
- The extent to which the proposed Project promotes delivery of renewable energy from upstate regions of the State into Zone J, eases curtailment of upstate renewable resources, and optimizes deliverability of renewable resources throughout the entirety of the State.²³

Despite the development of these detailed program policy factors, NYSERDA in its Petition indicated—without explanation—that it “determined to not apply Program Policy Factors” and simply confirmed the Revised Preliminary Ranking as the Final Ranking.²⁴

In its Petition, NYSERDA recommended two proposals for Commission approval: CPNY and CHPE. CPNY is a 174-mile, 1,300 MW HVDC transmission line from Delaware County, New York injecting into the Rainey Substation in Queens, New York.²⁵ CPNY would transmit power from a resource portfolio consisting of 23 wind and solar generation resources, including 1,932 MW of wind capacity and 1,430 MW of solar capacity, firmed up with one 1,160 MW pumped storage facility.²⁶ The proposed contract includes a Bid Quantity of 7,870,865 MWh/year with a commercial operation date of June 30, 2027, a 25-year term, and a fixed \$129.75/MWh Tier 4 REC price.²⁷ The proposal includes unforced delivery rights (UDRs) year round.²⁸ The proposal is projected to have high deliverability to New York City including during hours with high net load in Zone J and significant operational flexibility due to the inclusion of the pumped storage facility.²⁹

CHPE is a proposed 375-mile, 1,250 MW HVDC transmission line from a withdrawal point in La Prairie, Quebec, to its injection point at the Astoria Annex Substation in Queens,

²¹ *Id.* at 13.

²² *Id.* at 13.

²³ *Id.* at 13-14.

²⁴ *Id.* at 14.

²⁵ *Id.* at 17.

²⁶ *Id.* at 18-19.

²⁷ *Id.* at 20, Tbl. 2.

²⁸ *Id.* at 20, Tbl. 2.

²⁹ *Id.* at 21.

New York.³⁰ CHPE would transmit power from a resource portfolio consisting of 36,910 MW of hydropower in Quebec and HQUS has committed to adding 4 TWh of new wind or solar energy to its mix.³¹ The proposal includes a Bid Quantity of 10,402,500 MWh/year with a commercial operation date of December 15, 2025, a 25-year term, and a nominal REC strike price of \$97.50/MWh, which escalates 2.5 percent per year.³²

Importantly, the HQUS bid that NYSERDA proposes to accept includes a number of concerning features. First, the selected HQUS bid includes summer-only UDRs,³³ meaning that HQUS has no specific delivery obligations during the winter peak, which will become increasingly constraining during the term of the proposed contract. Second, the selected bid includes no Supplier Energy Baseline,³⁴ meaning that HQUS is free to count deliveries it would have otherwise made into the New York Control Area towards compliance with its contract obligations. Finally, the selected bid includes no New York Converter Station,³⁵ meaning that renewable energy projects in Upstate and Northern New York will not be able to connect into the line.

In addition, whereas CPNY is projected to produce \$2.1 billion in New York State economic benefits through the 3rd year of the contract delivery term and almost \$4.7 billion in total benefits over the 25 year contract delivery period and generate 8,288 short- and long-term direct jobs,³⁶ CHPE would produce only \$1.3 billion in New York State economic development through the 3rd year of the contract delivery term, only \$3.5 billion overall, and only 1,444 short- and long-term direct jobs.³⁷ At the same time, despite the significantly smaller economic and job benefits for New York, the levelized net REC cost (in real 2021\$) is considerably higher: \$32.01/MWh for CHPE as compared to \$23.36/MWh for CPNY.³⁸

II. Standard of Review

In its CES Modification Order, the Commission noted that “Tier 4 remains an untested concept” and that it was “unclear at [the] time [of the CES Modification Order] whether the Tier 4 solicitation directed in this order will foster a sufficient quantity of comparative bids to provide inherent assurance that the prices reflected in winning bids are just and reasonable.”³⁹ The Commission therefore concluded that its review of final and approval of proposed Tier 4 agreements was necessary,⁴⁰ leading to the present contract review.

³⁰ *Id.* at 22.

³¹ *Id.* at 22.

³² *Id.* at 24, Tbl. 4.

³³ *Id.* at 24, Tbl. 4.

³⁴ *Id.* at 24, Tbl. 4.

³⁵ *Id.* at 24, Tbl. 4.

³⁶ *Id.* at 22, Tbl. 3.

³⁷ *Id.* at 25, Tbl. 5.

³⁸ *Id.* at 26, Tbl. 6.

³⁹ CES Modification Order at 83; NYSERDA Petition at 14.

⁴⁰ CES Modification Order at 83.

The Commission identified a number of criteria—characterized by NYSERDA as the “public interest review”—that were to be used in evaluating proposed Tier 4 contracts. These were: (1) whether the agreement is a cost-effective means of progressing toward the CLCPA’s 2030 and 2040 Targets in light of the unique challenges of reducing fossil fuel use in Zone J; (2) the extent to which the selected project or projects will enable reduced reliance on fossil-fuel fired generation located in Zone J; (3) the degree to which the selected project or projects complement the foreseeable deployment of offshore wind within Zone J; (4) impacts to disadvantaged communities; (5) project viability; and (6) economic benefits to the State.⁴¹

III. Argument

A. The Proposed HQUS Contract Is Not in the Public Interest and the Commission Should Approve a Second In-State Transmission Project Instead of the CHPE Line

The proposed HQUS contract is contrary to the public interest for several reasons, as set forth below. New York would be best served by rejecting the HQUS contract and instead contracting with one of the other in-state transmission lines to bring clean New York-based power into Zone J.

1. The Proposed HQUS Contract Is Not in the Public Interest Because It Jettisons the Supplier Energy Baseline and Authorizes HQUS to Decline to Provide Power in Situations Well Beyond Those Contemplated by the Commission to the Detriment of New York Electric Customers.

NYSERDA’s proposed contract with HQUS eliminates the Supplier Energy Baseline, noting only that “HQUS’ highest-scoring bid . . . did not include the Supplier Energy Baseline.”⁴² As identified above, the purpose of the Supplier Energy Baseline “is to ensure that Tier 4 deliveries are not met through re-directing the use of existing resources in a way that provides no net benefit to the State.”⁴³ The Commission acknowledged HQUS’s concern that if applied strictly, HQUS could be compelled to deliver at times of high renewable penetration when marginal prices were low⁴⁴ and thus authorized NYSERDA to consider hydropower proposals with and without a Supplier Energy Baseline. However, given the myriad flexibilities in the proposed HQUS contract, the uneconomic dispatch concern that motivated the flexibility in the CES Modification Order does not apply. Rather, the impact of eliminating the Supplier Energy Baseline in the proposed HQUS contract is simply to allow HQUS to redirect existing resources to the NYCA to the economic disadvantage of New Yorkers. NYSERDA’s Petition fails to demonstrate that elimination of the Supplier Energy Baseline for the HQUS project results in a net economic benefit to New Yorkers.

The proposed contract provides extraordinary flexibility to HQUS about whether and when to deliver. Although the Bid Quantity (i.e., “[t]he amount, in MWh, of Tier 4 RECs the Selected Project *expects* to proffer as performance under this Agreement during each Contract

⁴¹ *Id.* at 82.

⁴² NYSERDA Petition at 39.

⁴³ CES Modification Order at 87.

⁴⁴ *Id.* at 87.

Year during the Contract Delivery Term”) is 10,402,500 MWh,⁴⁵ and represents 95 percent utilization of the 1,250 MW line, HQUS is not obligated to provide anywhere close to this quantity of RECs. Rather, Section 4.08 of the proposed contract delineates the actual Minimum Delivery Requirements. For each Capability Measurement Period (i.e., winter-summer-winter or summer-winter-summer), the Minimum Delivery Requirement is set according to a formula and *cannot exceed 40 percent of the Bid Quantity*.⁴⁶ Moreover, even this 40 percent maximum is subject to four further reductions including reductions based on curtailment, force majeure, unavailability of the new transmission line, and hours when Tier 4 RECS are transferred to NYSERDA without compensation because the real-time zonal LBMP in Zone J is zero or negative (up to 200 hours).⁴⁷

Taken together, the provisions in the proposed contract in no way obligate HQUS to deliver energy in quantities or at times when doing so would result in curtailment of renewable energy in New York State. Consequently, the rationale for omitting the Supplier Energy Baseline—a critical economic safeguard for New York electric customers—does not apply. The proposed contract would obligate New Yorkers to compensate HQUS—at a significantly elevated price—for environmental attributes that it would have delivered anyway into New York. NYSERDA’s petition is devoid of any analysis or explanation demonstrating that eliminating the Supplier Energy Baseline, when coupled with the significant flexibility on delivery quantity and timing in the proposed HQUS contract, is in the economic interest of New Yorkers and consistent with the public interest.

2. The Proposed Contract Is Also Not in the Public Interest Because Contract Flexibilities Undermine the Supplier GHG Baseline, Which Is Critical to Ensuring an Environmental Benefit from the Project

The proposed HQUS contract additionally violates the CES Modification Order with regard to incorporation of the Supplier GHG Baseline to the detriment of the environment. As detailed above, the Commission’s Order requires compliance with the Supplier GHG Baseline through annual averaging and excuses the supplier from compliance with the Supplier GHG Baseline “only in temporary, force majeure-type circumstances that fall entirely out of the supplier’s control.”⁴⁸ The proposed contract, however, authorizes averaging across the entire delivery term of the contract while separately excusing compliance in force majeure-type circumstances, in contravention of the Commission’s clear directive. The proposed contract also conflicts with other directives from the Commission regarding the Supplier GHG Baseline and undermines the Commission’s efforts to strengthen the integrity of that baseline in its Order.

The proposed contract defines the Supplier GHG Baseline as 198.9 TWh “as may be adjusted pursuant to Exhibit H of this Agreement.”⁴⁹ Rather than simply identify potential adjustments to the Supplier GHG Baseline, Exhibit H provides that the “Seller shall be relieved from the application of the Supplier GHG Baseline Limit unless and until the Accrued Net

⁴⁵ HQUS Proposed Contract at 3 (emphasis added).

⁴⁶ *Id.* at 19, Section 4.08 (emphasis added).

⁴⁷ *Id.* at 19, Section 4.08 & 17, Section 4.03.

⁴⁸ CES Modification Order at 90.

⁴⁹ Proposed HQUS Contract at 10.

Supplier Production equals the Maximum Negative Balance as of the start of any Contract Year,”⁵⁰ which is 80 TWh.⁵¹ “[U]ntil such condition occurs, the Annual Tier 4 REC Cap shall be the only limitation on NYSERDA’s purchase obligation under Section 2.01(c) of this Agreement.”⁵² As a consequence, HQUS is authorized to run a shortfall of up to 80 TWh during the contract term—equal to nearly eight years of deliveries at the Bid Quantity. This directly contravenes the CES Modification Order, which requires compliance with the Supplier GHG Baseline through annual averaging.

This deficiency cannot be saved by the Commission’s exemption for force majeure-type events because Paragraph 7 of Exhibit H already modifies the calculation of the Supplier GHG Baseline limit to inoculate HQUS from such events. Specifically, Paragraph 7 provides that:

If a Force Majeure event affects a facility included in calculation of the Supplier GHG Baseline, then the Supplier GHG Baseline shall be equitably adjusted to reflect the effects of such Force Majeure on the number of annual megawatt-hours that NYSERDA attributed to such facility in the Supplier GHG Baseline calculation. . . .⁵³

Thus, the multi-year averaging over the entire span of the contract violates the Commission’s Order regarding the Supplier GHG Baseline.

In addition, HQUS is authorized to maintain its Tier 4 REC delivery shortfall through the end of the Contract Delivery Term and at the end NYSERDA can be compensated by HQUS using “Tier 1 or equivalent renewable attributes,”⁵⁴ greenhouse gas reducing activities in New York State, battery delivery reduction, or firming services, or other compensation to the extent NYSERDA consents,⁵⁵ or a cash payment.⁵⁶

These provisions also violate the express terms of the CES Modification Order. The proposed contract would authorize HQUS to compensate for a deficiency in deliveries using Tier 1 or equivalent renewable attributes for generation that is not deliverable into Zone J. Tier 1 RECs differ from Tier 4 RECs in important ways. Tier 1 RECs are produced by renewable generation projects that entered commercial operation on or after January 1, 2015, whereas the GHG Supplier Baseline requires RECs that are produced from renewable generation after the date of the Order (October 15, 2020) and that are deliverable to Zone J. Further, Tier 1 RECs need not be deliverable into Zone J. By counting RECs from Tier 1 resources that are not required to be deliverable into Zone J, these contract provisions defeat Tier 4’s central purpose of increasing the deliverability of clean energy into transmission-constrained Zone J.

⁵⁰ Proposed HQUS Contract Exhibit H, at H-3 ¶ 11.

⁵¹ *Id.* at H-2 – H-3, ¶ 10.

⁵² *Id.* at H-3, ¶ 11.

⁵³ *Id.* at H-1 – H-2.

⁵⁴ *Id.* at H-4, ¶ 13(b)(A).

⁵⁵ *Id.* at H-4, ¶ 13(b)(B).

⁵⁶ *Id.* at H-4, ¶ 13(b)(C).

Finally, the calculation of Accrued Net Supplier Production violates the CES Modification Order because it authorizes HQUS to count savings from demand side management programs and other programs to reduce electricity and energy consumption in Quebec.⁵⁷ But counting these demand-side resources against the Supplier GHG Baseline is impermissible under the Order because they are not “renewable energy systems,” as required by the Commission.⁵⁸ Moreover, counting demand-side resources toward the Supplier GHG Baseline undermines the integrity of the baseline. Suppose HQUS forecasted 1 percent annual load growth from its affiliate Hydro Quebec and claimed that demand side management programs fully eliminated that load growth. HQUS could count that 1 percent annual load growth savings against its Supplier GHG Baseline and backfill that load with fossil energy, defeating the environmental purpose of the Supplier GHG Baseline. The proposed HQUS contract fails to include a robust Supplier GHG baseline, as required by the Commission, and the result does not ensure an environmental benefit and is inconsistent with the public interest.

3. Other Factors Counsel Against Approval of CHPE and in Favor of Approval of a Second In-State Transmission Project

The CHPE proposal has other limitations that undermine its value to New York and counsel in favor of approving a second in-state transmission project instead. As noted above, NYSERDA identified a suite of “program policy factors” that were intended to apply to the Revised Preliminary Ranking,⁵⁹ and which would have strongly favored a second in-state transmission project over CHPE. However, NYSERDA in its Petition inexplicably states that it “determined to not apply Program Policy Factors” and therefore retained CHPE among its top two bids in the Final Ranking.⁶⁰

Application of the Program Policy Factors could have substantially influenced the relative ranking of the projects. The Program Policy Factors strongly favor selection of in-state projects. By way of illustration, one factor considers the “extent to which the proposed Project promotes delivery of renewable energy from upstate regions of the State into Zone J, eases curtailment of upstate renewable resources, and optimizes deliverability of renewable resources throughout the entirety of the State.”⁶¹ Any of the in-state transmission lines would have outperformed CHPE on this factor. Another factor considers the “extent to which a Project’s deliveries are not met through the re-directing of existing resources in a way that provides no net benefit to the State.”⁶² Given the October 15, 2020 vintage requirement applicable to in-state renewables, all of the in-state transmission projects were assured of delivering incremental clean generation to Zone J. By contrast, CHPE, without the Supplier Energy Baseline and with the proposed contract flexibilities described above, provides no such protection, and would presumably have scored far lower than in-state transmission projects. Further, some of the in-state transmission projects were designed to enable the retirement of existing fossil generation in

⁵⁷ *Id.* at H-2, ¶ 10, H-3 at ¶ 12(a).

⁵⁸ Only non-hydropower systems that meet the definition of “renewable energy systems” under the CLCPA may count toward the Supplier GHG Baseline. CES Modification Order at 90.

⁵⁹ NYSERDA Petition at 13-14.

⁶⁰ *Id.* at 14.

⁶¹ *Id.* at 14.

⁶² *Id.* at 14.

disadvantaged communities, directly in line with NYSERDA's factor considering the "[p]ublic health benefits of reducing local air contaminants by displacing thermal generation in New York City and, in particular, in Disadvantaged Communities."⁶³ Consideration of this factor could have elevated the relative scoring of these in-state transmission proposals. Finally, one NYSERDA factor considers the "efficient utilization of key transmission points of interconnection and Project selections that will promote the cost-efficient integration of renewable generation into New York City."⁶⁴ Yet, the recommended CHPE proposal does not include the New York Converter Station⁶⁵ and thus provides no transmission points of interconnection along its 375-mile path to assist in integrating New York renewable generation.

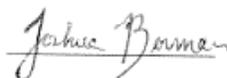
NYSERDA has not demonstrated why it was appropriate to decline consideration of the Program Policy Factors. The factors reinforce the preferability of in-state transmission projects over the CHPE proposal and could readily have altered the final ranking of the proposals had they been evaluated.

IV. Conclusion

While the CPNY project will provide significant benefits to New York, the same cannot be said of the CHPE project, particularly given the specific terms of the proposed contract. The CHPE contract fails to include a Supplier Energy Baseline and therefore risks forcing New York electric customers to pay more for hydropower that would have otherwise been delivered into the NYCA. The HQUS contract's Supplier GHG Baseline includes multiple flexibilities that directly violate the terms of the CES Modification Order and undercut its environmental effectiveness. More fundamentally, the CHPE project forgoes the additional in-state jobs and other economic benefits that would have accrued if a second in-state transmission project had been selected and the opportunity to utilize a strategic interconnection point to facilitate the retirement of existing fossil fuel-fired generation in New York City. The Commission should approve the proposed contract for CPNY, reject the proposed contract for CHPE, and authorize NYSERDA to negotiate a contract with a second in-state transmission line.

Thank you for your consideration.

Respectfully submitted,



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⁶³ *Id.* at 13.

⁶⁴ *Id.* at 13.

⁶⁵ *Id.* at 24.