STATE OF NEW YORK PUBLIC SERVICE COMMISSION

Petition of New York Solar Energy Industries Association Seeking Modifications to the New York State Standardized Interconnection Requirements to Allow for the Use of Alternative Forms of Financial Security for Distribution Upgrades in Excess of $500,000 for New Distributed Generators and/or Energy Storage Systems 5 MW or Less Connected in Parallel with Utility Distribution Systems	))))))	Case 23-E-_____

PETITION OF NEW YORK SOLAR ENERGY INDUSTRIES ASSOCIATION SEEKING MODIFICATIONS TO THE NEW YORK STATE STANDARDIZED INTERCONNECTION REQUIREMENTS TO ALLOW FOR THE USE OF ALTERNATIVE FORMS OF FINANCIAL SECURITY FOR DISTRIBUTION UPGRADES IN EXCESS OF $500,000 FOR NEW DISTRIBUTED GENERATORS AND/OR ENERGY STORAGE SYSTEMS 5 MW OR LESS CONNECTED IN PARALLEL WITH UTILITY DISTRIBUTION SYSTEMS

I. Introduction

As distributed energy resources (DER) penetration rises, increasingly expensive distribution upgrades are being required for new DERs to interconnect as utilities adapt their electric distribution system to accommodate the bidirectional power flows & variable output of renewable energy resources. These expensive upgrades are often accompanied by multi-year construction timelines which are preceded by lengthy wait times in the case of Qualifying Upgrades under Cost Sharing 2.0. Rising interconnection costs, high interest rates, and protracted timelines have increased the financing costs for interconnection customers; the New York Standardized Interconnection Requirements (SIR) currently requires that interconnection customers provide upfront cash payment for all distribution upgrades, often years before the utilities incur costs procuring equipment and constructing the facilities.

For many DERs, the costs of required distribution upgrades are prohibitive. For other projects, the upgrade costs are not prohibitive, however, financing the distribution upgrades costs is not feasible for the interconnection customer, resulting in project cancellation. Currently, the SIR requires that interconnection customers make all payments, including deposits and Cost Sharing 2.0 payments, in cash. This creates significant inefficiencies in New York's DER programs, as it requires interconnection customers to borrow and deploy expensive capital for distribution upgrades years before the utility requires the cash to complete the upgrade.

These advanced payments serve an important purpose; they demonstrate the interconnection customer's financial commitment to their project, reserve their queue position, and provide the utility company and other developers with an assurance of payment for a portion of a shared upgrade in the future, should it achieve its mobilization threshold. However, the requirement for upfront *cash* is inefficient, and can be mitigated with commercially available financial instruments that serve the same purposes at a lower cost. Surety bonds and letters of credit are two commonly accepted forms of financial security that can serve these purposes. Surety bonds and letters of credit are accepted for interconnection deposits by utilities across the United States, including large utilities such as Southern California Edison,[1] and even New York's investor-owned utilities, which accept these forms of security for utility-scale projects interconnecting at the transmission level through the New York Independent System Operator.[2]

New York Solar Energy Industries Association (NYSEIA) respectfully requests that the New York Public Service Commission (PSC) modify the SIR to also allow interconnection customers at the distribution level to use Surety Bonds, Letters of Credit and other acceptable forms of security in lieu of cash deposits for distribution upgrades with an estimated cost in excess of $500,000.

II. Background

On March 22, 2023, NYSEIA presented a proposal to the Joint Utilities (JU) and staff from the Department of Public Service and NYSERDA at the Interconnection Policy Working Group (IPWG) recommending the use of letters of credit in lieu of cash deposits for expensive distribution upgrades. NYSEIA's March 2023 proposal to the IPWG included the following problem statement and proposed solution:

Problem Statement: *Higher penetration of distributed energy resources (DER) is resulting in larger, more expensive grid upgrades at the distribution level. These expensive grid upgrades can potentially be supported by multiple DER projects through Cost Sharing 2.0. However, the upfront cash deposit requirement is impeding small and mid-sized DER developers from pursuing otherwise viable projects due to the cash flow impact of needing to make large cash deposits for multiple projects at the same time.*

Proposed Solution: *NYSEIA proposes that New York utilities accept Letters of Credit (LoC) for large distribution upgrade deposits. LoCs are a financial instrument that provide the recipient with the necessary financial security to know they will be paid while allowing the issuer to maintain possession of their cash, strengthening the issuer's balance sheet and liquidity relative to making cash deposits. The New York Independent System Operator (NYISO) and New York utilities already accept LoCs for transmission-level interconnection upgrades. NYSEIA proposes that this existing practice of accepting LoCs in lieu of cash deposits be expanded to expensive*

[1] Southern California Edison. Generator Interconnection Agreement. https://www.sce.com/sites/default/files/2021-10/10_SCE%20WDAT%20GIP%20Attach%20I%20Appendix%206.2_6%2025%2021-ER19-2505-005%20Motion.pdf. Accessed June 17, 2024.

[2] Prevratil, S. and Pelletier, B. New York Independent System Operator. Credit Instruments for Interconnection Customers. https://www.nyiso.com/documents/20142/44095278/Customer%20Focus%20Group%2004152024%20-%20Credit%20Instruments%20-%20Final.pdf/3e659aa1-71c5-62a5-76d6-c7615255e5ed. Accessed June 17, 2024.

distribution upgrades, including line upgrades, substation upgrades , and other upgrades that either have a higher mobilization threshold or otherwise require high developer contribution.
The NYSEIA proposal referenced NYISO's letter of credit template and posed a few questions for the JU to consider and respond to. Following discussion at IPWG, the JU agreed to work with NYSEIA to advance a joint proposal to enable the use of letters of credit to improve cash flow and to reduce distribution upgrade financing costs. Over the intervening months, NYSEIA negotiated in good faith with the JU and worked extensively on SIR language for a joint industry/utility proposal. Regrettably, in late 2023, this effort stalled, and in the spring of 2024, the JU informed NYSEIA that one of the utilities wanted to propose significant changes to the joint proposal that they believed would be objectionable, particularly considering the advanced stages of negotiation and the near-final draft of SIR language. Despite NYSEIA's request, the details of these additional terms were never shared in writing. In light of the impasse at the IPWG, NYSEIA respectfully seeks a Commission decision to authorize this proposal, which closely aligns with the proposal that was negotiated in the IPWG.

III. Summary of NYSEIA Proposal

NYSEIA proposes the attached SIR modifications, which would require New York's utilities to accept Surety Bonds and Letters of Credit as an alternative to cash deposits for distribution upgrades with a total cost estimate in excess of $500,000 based upon the Coordinated Electric System Interconnection Review (CESIR) results. The proposal considers and addresses a variety of potential scenarios for projects with shared and non-shared distribution upgrades. While the proposal presented to the IPWG last year only included Letters of Credit, further discussion with DER developers confirmed that in many cases, Surety Bonds are both lower cost and more accessible for midsize and small developers. The additional option will increase the impact of this proposal and better address the problem statement that NYSEIA set forth in IPWG in March 2023. This proposal was carefully crafted to ensure that utility ratepayers are not exposed to any additional risk and to limit administrative burden for utility companies.

IV. Conclusion

As New York plans for the next phase of its clean energy transition, interconnection reform will be needed to maintain and accelerate DER deployment. Allowing for the use of Surety Bonds and Letters of Credit is a modest, no-regrets reform that will lower the financing cost for distribution upgrades and support cost-effective progress toward New York's ambitious clean energy goals.

V. Proposed SIR Modifications (Redline)

NYSEIA proposes the following modifications to Section 1.D of the New York Standardized Interconnection Requirements:

Payment and Construction Milestones

Applicants are responsible for payment of utility system modification cost estimates in accordance with the following rules and deadlines. All project costs will be subject to the provisions of Appendix E, where applicable.

When the utility's estimated cost is $10,000 or less, the applicant shall pay the utility 100% of the estimate within ninety (90) Business Days of receiving the cost estimate from the utility. Within fifteen (15) Business Days of receiving the payment, the utility will provide the applicant, via electronic communication, a signed New York State Standardized Interconnection Contract in the form of Appendix A and a written confirmation, on utility letterhead, of the compensation eligibility for which the project has qualified. The applicant will sign and return the contract to the utility within fifteen (15) Business Days. If the applicant does not return the signed contract within this period, the application shall be removed from the utility's interconnection queue, and no further action on the part of the utility is required.

When the estimated cost is greater than $10,000, the applicant will make an advance payment of 25% of the estimate to the utility within ninety (90) Business Days of receiving the cost estimate. Alternatively, the applicant may provide a security in the form of Letter of Credit or Surety Bond for the equivalent amount within the same timeframe. Within fifteen (15) Business Days of receiving the applicant's payment or security, the utility will provide the applicant, via electronic communication, a receipt for the payment, a signed New York State Standardized Interconnection Contract in the form of Appendix A, and a written confirmation, on utility letterhead, of the compensation eligibility for which the project has qualified. The applicant will sign and return the contract to the utility within fifteen (15) Business Days. The applicant may request an extension of no more than fifteen (15) Business Days to return the contract. If the applicant does not return the signed contract within the time allowed, the application shall be removed from the utility's interconnection queue, and no further action on the part of the utility is required.

Within thirty (30) Business Days of receiving the 25% payment or security, the utility shall provide an initial construction schedule to the applicant (consistent with Appendix L). The utility shall commence design work in accordance with its published guidance, unless otherwise directed by the applicant.

The applicant will have one hundred and twenty (120) Business Days from when the utility confirms receipt of the 25% payment or security to pay the remaining 75% to the utility. The applicant may utilize a Letter of Credit (LoC), Surety Bond, or other acceptable form of security in accordance with the limitations in Section D.1 entitled "Security in Lieu of Cash for Interconnection Upgrade Costs in Excess of $500,000". When a LoC, Surety Bond, or other security is utilized, cash payments are due as set out in Table xx of this Section D.The utility will provide a receipt to the applicant upon payment remittance or upon drawing on the LoC or Surety Bond. Within thirty (30) Business Days of the payment, the utility will provide an updated project construction schedule (consistent with Appendix L).

If the applicant does not make a payment due under this section in the time required, the application shall be removed from the utility's interconnection queue with no further action required of the utility.

Within (10) Business Days of completion of design work, the utility will provide an updated upgrade cost estimate if the scope of work changed from the CESIR estimate.

If the applicant withdraws or is removed from the interconnection queue at any point after making a payment required under this section, any unspent portions of these payments will be refunded to the applicant consistent with the timelines described in Section I-C, Step 11.

If a local permitting moratorium prevents an applicant from meeting the above timelines, the utilities may grant affected project applicants an extension. To be granted an extension of the required timelines, the applicant must submit the New York State Standard Moratorium Attestation Form, Appendix I. Upon the applicant's payment of 25% of expected upgrade costs, if applicant has received its CESIR, returned the executed New York State Standardized Interconnection Contract, and submitted the Attestation Form to the utility, the due date for the remainder of the total upgrade payment shall be adjusted to one hundred and twenty (120) Business Days from the end of the moratorium. If applicable, any unused portion of the 25% payment shall be refunded if the project does not move forward after receiving an extension.

If the final acceptance as set out in Section I-C, Step 11 is not completed within twelve (12) months of the date the applicant returns the executed New York State Standardized Interconnection Contract as a result of applicant inactivity, the utility has the right to notify the applicant by U.S. first class mail with delivery receipt confirmation or via email that the applicant's project will be removed from the utility's interconnection queue if the applicant does not respond within thirty (30) Business Days of the issue of such notification and provide a project status update and/or justification as to why the project should remain in the utility's interconnection inventory for an additional period of time.

1. Security in Lieu of Cash for Certain Interconnection Upgrade Costs in Excess of $500,000

For projects with estimated upgrade costs exceeding $500,000 as identified in the CESIR, utilities will accept Letters of Credit (LoC), Surety Bonds, or other acceptable forms of security as a form of security in lieu of cash for the 25% payment of project specific costs and Qualifying Upgrade payment with the applicant's cash payment due as outlined in below table. The applicant is responsible for providing a physical or electronic LoC, Surety Bond or other acceptable security by its payment milestone date. If the applicant fails to provide a compliant LoC, Surety Bond, or other acceptable security, the applicant shall be removed from the utility's interconnection queue and no further action on the part of the utility is required.

The applicant may provide an LoC, Surety Bond, or other acceptable security and subsequently provide cash payments when they are due. The utility shall request cash payment from the applicant when due, and the applicant will have fifteen (15) Business Days to make the cash payment to the utility. If the applicant provides a drawable LoC, the utility will notify the applicant within five (5) business days after any draw upon the LoC, which notification will indicate the stated amount of the draw and the remaining balance on the LoC. In the case of a demand for payment from a utility when a Surety Bond is in place, the Surety provider will make a payment no later than fifteen (15) business days after delivery of a demand for payment from the utility in question.

The utility shall be entitled to charge the applicant a non-refundable administrative fee of $500 to review a submitted LoC, Surety Bond, or other security for compliance with the utility's guidelines, and a lesser amount of $500 for the utility to accept an updated or replacement LoC, Surety Bond, or other security. Administrative fees will be invoiced by the utility upon receipt of the LoC, Surety Bond, or other security and payment of these administrative fees by the applicant shall be made within ten (10) Business Days.

The utility shall return the original LoC, Surety Bond, or other security within fifteen (15) Business Days of receiving cash payment from the applicant and/or a replacement LoC, Surety Bond, or other security for a project with an existing LoC, Surety Bond, or other security in place.

It is the applicant's responsibility to maintain a valid LoC, Surety Bond, or other security for the duration of the LoC, Surety Bond, or other security obligation that secures any portion of the estimated Qualifying Upgrade Costs not otherwise paid by cash.

For any LoC, Surety Bond, or other security posted to guaranty the applicant's nonrefundable payments, if an applicant withdraws from a cost-sharing project, the utility may retain the LoC, Surety Bond, or other security until a replacement mechanism is provided in the form of cash or a replacement project.

For Sharing Projects as defined in Appendix E that include transformer banks, where an LoC, Surety Bond, or other security is posted by the applicant as a form of guaranty, cash payment shall be due in two increments. The first increment shall be a percentage of total Qualifying Upgrade cost based upon the value of long lead time equipment, as identified in the utility cost estimate. The first increment shall be due to the utility when the mobilization threshold is reached. The second and final increment for the remaining balance shall be due when the utility mobilizes for construction. When payments are due in two increments, the applicant must either provide cash payments when they are due or authorize the utility to draw upon the LOC if the applicant opts for a drawable LOC.

If customers opt to provide cash payments, the utility will notify the applicants when the mobilization threshold has been reached at which time the applicants will have fifteen (15) Business Days to provide the cash payment based on the cost of the long lead time equipment. The utility shall return the original LoC, Surety Bond, or other security within ten (10) Business Days of receiving cash payment from the applicant and/or a replacement LoC, Surety Bond, or other security for a project with an existing LoC, Surety Bond, or other security in place.

The following table and subsequent paragraphs outline the scenarios when an LoC, Surety Bond, or other security may be used and how they must be implemented.

Scenario #	Scenario	Allowable Uses of Security
1	Total cost is below $500,000	N/A (no security allowed); only cash payments to the utility at the payment due dates will be allowed.
2	Total cost exceeds $500,000, and there are either: (i) no Qualifying Upgrades or (ii) no Qualifying	Security may be used at the time of the 25% payment due date to the utility. 100% of the cash payment amount is

	Upgrades except for line upgrades	due to the utility at the 75% payment date.
3	Total cost exceeds $500,000, and there are Qualifying Upgrades (3V0, Other Substation Upgrades) as defined in Appendix E, for which the mobilization threshold has not yet been reached	Security may be used at the time of the 25% and 75% payment due dates to the utility, with 100% of the cash payment due to the utility upon cost-sharing mobilization.
4	Total cost exceeds $500,000, and there are Qualifying Upgrades (3V0, Other Substation Upgrades) as defined in Appendix E for which the mobilization threshold has been reached	Security may be used at the time of the 25% payment due date to the utility with 100% of the cash payment due to the utility at the 75% payment date.
5	Total cost exceeds $500,000, and there are Qualifying Upgrades (Transformer Banks) as defined in Appendix E, for which the mobilization threshold has not yet been reached	Security may be used at the time of the 25% and 75% payment dates to the utility. Cash payments due to the utility shall be in accordance with the milestone schedule.
6	Total cost exceeds $500,000, and there are Qualifying Upgrades (Transformer Banks) as defined in Appendix E, for which the mobilization threshold has been reached	Security may be used at the time of the 25% and 75% payment due dates to the utility for non-shared costs. Cash payments are due to the utility on each of the payment milestone dates. Utility will not mobilize for non-shared upgrades until receiving 100% of the payments due either in cash or Security. In instances where both milestones for the Transformer Banks have been triggered, a Security may be used at the 25% payment due dates to the utility, whereas only a cash payment can be made at the 75% payment date.
7	Total cost exceeds $500,000, and there are both Line Upgrades and any Qualifying Upgrades as defined in Appendix E, for which the mobilization threshold has not yet been reached	Security may be used at the time of the 25% and 75% payment due dates. 100% cash is due when the last Qualifying Upgrade achieves the mobilization threshold. The utility will not mobilize for non-shared upgrades until 100% cash payment is received.

Scenario 1: Total Cost is below $500,000. In this scenario, Security may not be used by the applicant and cash payments are required whenever a payment is due to the utility.

Scenario 2: Total cost exceeds $500,000, and there are either no Qualifying Upgrades or no Qualifying Upgrades except for line upgrades. In this scenario, Security may be used for the non-shared 25% payment, however, cash is due at the 75% payment date.

Scenario 3: Total cost exceeds $500,000, and there are Qualifying Upgrades (3V0, Other Substation Upgrades) for which the mobilization threshold has not yet been reached. In this scenario, Security may be used at the 25% and 75% payment dates. Cash is due when the mobilization threshold is met for the Qualifying Upgrades.

Scenario 4: Total cost exceeds $500,000, and there are Qualifying Upgrades (3V0, Other Substation Upgrades) for which the mobilization threshold has been reached. In this scenario, Security may be used at the 25% payment date. Cash is due at the 75% payment date.

Scenario 5: Total cost exceeds $500,000, and there are Qualifying Upgrades (Transformer Banks) for which the mobilization threshold has not yet been reached. In this scenario, Security may be used at the 25% and 75% payment dates. Cash is due in two increments based upon the value of long lead time equipment (when the mobilization threshold is reached) and with the balance due upon construction mobilization.

Scenario 6: Total cost exceeds $500,000, and there are Qualifying Upgrades (Transformer Banks) for which the mobilization threshold has been reached. In this scenario, Security may be used at the 25% and 75% payment dates for non-shared costs. security may be used for the Qualifying Upgrades, however, cash is due in two increments for Transformer Banks. In instances where the utility has already mobilized for construction of the Transformer Banks, Security may be used at the 25% payment date but cash is due at the 75% payment date. Utility will not mobilize for non-shared upgrades until receiving 100% cash payment.

Scenario 7: Total cost exceeds $500,000, and there are both Line Upgrades and any Qualifying Upgrades that have a mobilization threshold. In this scenario, Security may be used at the 25% and 75% payment dates. Security may be used for the Qualifying Upgrades, however, cash is due when the last Qualifying Upgrade meets its mobilization threshold, the utility will not mobilize for non-shared upgrades until receiving 100% cash payment.

Definitions

Security - A financial instrument, including but not limited to Surety Bond or Letter of Credit, provided by an applicant to guarantee performance or payment obligations.

Letter of Credit - A document issued by a bank on behalf of an interconnection applicant that guarantees payment to the utility beneficiary upon satisfaction of certain milestones achieved in the Standard Interconnection Process, ensuring that the utility beneficiary will be able to demand draws on the letter of credit up to a stated amount. This acts as a form of security for the utility beneficiary, assuring them that they will be paid even if the interconnection applicant fails to fulfill their payment obligations.

Surety Bond - A contract among at least three parties: the applicant (principal), the utility (obligee), and the surety (usually an insurance company). The surety guarantees that the applicant will fulfill their obligations to the utility. If the applicant defaults, the surety steps in to cover the financial obligations up to the bond amount.