



February 4, 2022

Mark Lanzafame
NYSDEC Division of Air Resources
625 Broadway,
Albany, NY 12233-3254

Re: NYSRC Comments on DAR-21

Dear Mr. Lanzafame:

These comments on DAR-21, The Climate Leadership and Community Protection Act and Air Permit Applications, are submitted on behalf of the New York State Reliability Council (“NYSRC”).

NYSRC Background

The NYSRC was approved by FERC in 1998 as part of the comprehensive restructuring of the wholesale electricity market in New York State.¹ Under the restructuring, the New York Power Pool (“NYPP”) was replaced by the New York System Independent System Operator (“NYISO”) as the entity with the primary responsibility for the reliable operation of the state’s bulk power system. The NYISO also assumed responsibility for administration of the newly established competitive wholesale electricity markets.

The NYSRC was established to promote and preserve the reliability of the New York State power system by developing, maintaining and, from time to time, updating the reliability rules (“Reliability Rules”)² that govern the NYISO’s operation of the state’s bulk power system. The NYSRC develops Reliability Rules in accordance with standards, criteria and regulations of North American Reliability Corporation (“NERC”), Northeast Power Coordinating Council (“NPCC”), FERC, the Commission, and the Nuclear Regulatory Commission.³ The NYISO/NYSRC Agreement provides that the NYISO and all entities engaged in transactions on the New York

¹ Central Hudson Gas & Electric Corp., et al., 83 FERC ¶ 61,352 (1998).

² The NYSRC Reliability Rules are available on the NYSRC website, www.NYSRC.org, under Documents/Reliability Rules Compliance Monitoring.

³ NYISO/NYSRC Agreement, Section 4.1. The NYISO/NYSRC Agreement is available on the NYSRC website, www.NYSRC.org, under Documents/Agreements.

State power system must comply with the Reliability Rules adopted by the NYSRC.⁴ The NYSRC Reliability Rules have been adopted by the New York State’s Public Service Commission under its Public Service Law authority prescribing reliability rules necessary to ensure safe and adequate service⁵.

Comments

The NYSRC recognizes the responsibility of the New York State Department of Environmental Conservation (“NYSDEC”) to implement the Climate Leadership and Community Protection Act (“CLCPA”) requirements for economy-wide reductions in greenhouse gas (“GHG”) emissions to certain levels within a specified timeframe. However, it is in the State interest that this transition be accomplished in an orderly manner to ensure that the reliability of the New York State electric system is maintained and that electric service, which is so vital to the health and public safety of the citizens of New York State, is not interrupted.

DAR-21 will be applicable to all air permit renewal applications by electric generating facilities in New York State. The denial or modification of permits for certain facilities could, possibly, affect the reliability of the New York State electric system, if there are no feasible alternatives to the power it produces.

With those concerns in mind, the NYSRC respectfully submits the following recommendations regarding DAR-21.

We note that Section V, D, 3 of the draft DAR-21 provides:

“If DEC finds that the project is inconsistent with or will interfere with the State’s ability meet the statewide emission limits, a statement of justification must be prepared by DEC before proceeding with the decision to approve the project. Each justification must include the following information:

* * * *

3, A description of the environmental, economic, and/or social harm associated with the absence of the project

While each determination will be based on the facts surrounding the project itself, potential examples of acceptable justifications may include:

The project is needed to improve or maintain the safety and reliability of existing systems.”

* * * *

⁴ NYISO/NYSRC Agreement, Section 2.1, 3.1.

⁵ Case 05-E-1180, supra, Order Adopting New York State Reliability Rules (issued February 9, 2006).

Section V, E of the draft DAR-21 also provides that:

“Should the applicant conclude that there are no feasible alternatives to the project, mitigation must be considered.”

The NYSRC appreciates that these provisions provide an opportunity for the NYSDEC to permit a generating facility to continue to operate if the absence of the facility would cause “social harm”, including a disruption in the reliability of the State’s electric system. However, the NYSRC respectfully recommends clarifications regarding the implementation of these provisions.

First, we recommend that it be made clear that before the NYSDEC makes a decision to deny or modify a permit, the New York Independent System Operator (“NYISO”) be permitted to confirm that it has conducted an analysis of the reliability impacts of the loss of the facility, and whether or not the loss of the facility would adversely affect the reliability of the State’s bulk power electric system. Similarly, the appropriate Transmission Owner(s) should be permitted to conduct a similar study when the facility is connected to its local system.

In addition, the NYISO or the appropriate Transmission Owner(s) should be able to submit their analysis regarding any feasible alternatives to mitigate the reliability effects of the loss of the facility.

Your consideration of these comments is appreciated.

Any questions regarding these comments should be provided to Paul L. Gioia, Counsel to the NYSRC at pgioia@outlook.com or (518) 795-5766.

Paul L. Gioia
Counsel
NYSRC

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