NEW YORK BATTERY AND ENERGY STORAGE TECHNOLOGY CONSORTIUM, INC.

VIA ELECTRONIC FILING

October 7, 2019

Ona Papageorgiou, P.E.
Environmental Engineer
Bureau of Air Quality Planning, Division of Air Resources
Department of Environmental Conservation
625 Broadway
Albany, New York 12233-3251

Re: Proposed Part 227-3 Regulations as revised

Dear Ms. Papageorgiou:

The New York Battery and Energy Storage Technology Consortium (“NY-BEST”) appreciates the opportunity to provide comments on NYS Department of Environmental Consideration’s revised proposed Part 227-3 regulations.

Background

The New York Battery and Energy Storage Technology Consortium (“NY-BEST”) is a not-for-profit industry trade association that serves as the voice of the energy storage industry for more than 170 member organizations on matters related to advanced batteries and energy storage technologies. Our membership covers the full span of activities related to research, development, production and deployment of energy storage devices, and currently includes technology developers ranging in size from small start-up companies to global corporations, leading energy storage and renewable energy companies, research institutions and universities, national labs and numerous companies involved in the electricity and transportation sectors.

For completeness of the record, please note that NY-BEST submitted comments on the pre-proposal stakeholder draft rule¹ and on the previous version of the proposed rule².

¹ See NY-BEST comments dated July 10, 2018.
² See NY-BEST comments Dated May 20, 2019.
NY-BEST Comments on Proposed Part 227-3 Express Terms as Revised

NY-BEST appreciates the efforts of DEC staff to revise the proposed rule and we agree that the revisions provide additional clarity in some specific areas. However, there are two areas where additional clarifying language would help ensure that the rule’s goal, to reduce NOx emission from simple cycle and regenerative combustion turbines (SCCTs) during the ozone season, is achieved. Our suggestions for additional revisions to the rule as discussed below.

Clarify Alternative Compliance Options To Ensure Environmental Benefit to Community

NY-BEST supports the concept incorporated in rule Section 227-3.5 Compliance Option (b) “electrical and renewable energy resources” allowing electric storage and renewable energy resources to be averaged with the SCCT unit to meet emissions limits. However, as we noted in our previous comments, the proposed rule’s compliance options will not ensure that the units being averaged are, in fact, resulting in emissions reductions in the impacted neighborhood. To achieve this outcome, the resources being averaged with the SCCT must be connected to the electrical grid in such a way that the operations of renewable and/or storage device will, in fact, reduce the operation of the SCCT and offset the emissions from the operation of the SCCT, while simultaneously providing for system reliability.

As currently proposed, the rule allows an SCCT to average its NOx emissions with a renewable resource and/or energy storage resource if the renewable generation resources and/or the electric storage resources is (i) directly connected to the same physical substation as the SCCT with which it is being averaged; or (ii) within one-half mile radius of the SCCT with which it is being averaged.

To strengthen the rule, we urge the Department to revise section 227-3.5 “Compliance Options” to enable “electrically connected” resources to be averaged. We recommend that the first sub-clause be revised as follows:

“(i) The renewable generation resource and/or the electric storage resource must be directly connected to the same physical substation as the SCCT with which it is being averaged or to a circuit or substation that is electrically proximate to the SCCT substation as certified by the NYISO or the local distribution system operator.”

In the response to comments on the proposed rule, the Department indicated that it is “important that the emissions reductions realized benefit the locally impacted communities.” The Department also states, “The language presented in the proposed rule resulted from stakeholder input and is not arbitrary. The one-half mile radius is derived from 6 NYCRR Part 487.4(a)1 which refers to assessing impacts on communities, it states: ‘At a minimum, the impact study area must be the geographic area that is encompassed within a one-half mile radius around the proposed location of the facility.’”
NY-BEST certainly agrees that the emissions reduction should be realized by the local community impacted by the operation of the SCCT and we do not dispute that the environmental benefit should be realized within a ½ mile radius. Importantly, however, a renewable energy resource and/or storage device that is located more than ½ mile from an SCCT, if it is electrically proximate to the SCCT, can result in emissions reductions within an ½ mile radius of the SCCT because the reduction in emissions is occurring at the SCCT. Conversely, a zero-emitting resource within a ½ mile radius of the SCCT that is not electrically connected in such a way as to affect the operation of the SCCT will not reduce emissions within the ½ mile radius of the SCCT.

Clarify NYISO Role

The NYISO will play a critical role in determining the fate of the SCCTs impacted by this rule in that the rule allows NYISO to determine that an SCCT may continue to operate without meeting the NOx emission limits if NYISO determines that the SCCT is a reliability source.

Importantly, NYISO, through its control over new wholesale market entrants, will be similarly instrumental in determining whether new energy storage resources are able to come on line to replace SCCTs. For example, new energy storage projects located in zones G-J (New York City and lower Hudson valley) seeking to enter the NYISO 2019 Class Year must pass NYISO’s “Buyer-Side Mitigation (BSM)” test to effectively participate in the capacity market and realistically offset peaking assets. The ability for an energy storage project to pass the BSM test will largely depend on the NYISO’s projections as to whether or not SCCTs choose to shut down in response to the rule.

The 2019 Class Year BSM tests will be performed in the Spring and Summer of 2020. If the NYISO projects that SCCTs will retire, the ability for new project to pass the BSM test will improve and allow more new resources to pass the BSM test. However, if the NYISO projects that SCCTs will not retire, the additional capacity offered by new storage resources must be tested along with the SCCTs, making the BSM test much harder to pass for new resources. In this way, the NYISO projection could be a self-fulfilling prophecy, effectively barring new resources from entering the market and yet requiring the highly emitting units to run for reliability reasons.

Clearly, if an SCCT chooses to shut down but the NYISO determines it must stay open for reliability reasons, new energy storage projects will be thwarted or, at a minimum, delayed from entering the NYISO market.

To address this, we recommend that language be added to Section 227-3.6 (c) (1) as follows:

227-3.6 Electric System Reliability

(a) An SCCT may be designated as a reliability source by the NYISO or by the local transmission/distribution owner to temporarily resolve a reliability need, except that such


designation cannot be used to prevent or penalize new market entrants. The Department may reject such designation if it determines, in conjunction with the Department of Public Service, that alternative projects have been constructed or proposed but have been prevented from participating in NYISO markets due to market mitigation.

(b) A designated reliability source may continue to operate without complying with the applicable emissions limits of this Subpart until one of the following provisions are met:

(1) a permanent solution is placed online as determined by the NYISO, the local transmission/distribution owner or the New York State Public Service Commission; or

(2) two years after the designated compliance date under this Subpart has lapsed.

(c) A designated reliability source may operate an additional two years without complying with the applicable emissions limits of this Subpart if:

(1) the NYISO or transmission/distribution owner determines that the reliability need still exists.

(2) the source is designated by the NYISO or the transmission/distribution owner as a reliability source, and

(3) a permanent solution has been selected by the NYISO, the transmission/distribution owner or the New York State Public Service Commission and that solution is in the process of permitting or construction but not yet online.

We further urge the Department to act quickly to finalize the rule as it is critical to enabling energy storage projects to pass the BSM test and be developed in the near term.

Conclusion

NY-BEST encourages the Department to incorporate our recommendations to make clarifying changes to strengthen the rule in the final version. We appreciate the Department’s recognition of energy storage as a tool to achieve emissions reductions and modernize the state’s grid.

We stand ready to work with DEC, other state agencies and stakeholders to ensure a clean, reliable, affordable electricity system for all New Yorkers.
If you have any questions about energy storage or the information provided above, please contact us at 518-694-8474.

Sincerely,

[Signature]

Dr. William Acker  
Executive Director, NY-BEST