

Case 15-E-0302 - Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard.

Case 22-M-0149 - Proceeding on Motion of the Commission Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act.

Independent Intervenors

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Comments in Support of the Coalition for Safe and Reliable Energy Petition for a PSL 66-p(4) Hearing to Evaluate Whether to Temporarily Suspend or Modify the Renewable Energy Program

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Position

Roger Caiazza, Richard Ellenbogen, Constantine Kontogiannis, and Francis Menton (“Independent Intervenors”) are submitting these comments in response to the Notice Soliciting Comments Regarding Petition for Hearing to Suspend or Temporarily Modify Renewable Energy Program¹, issued January 28, 2026, in Cases 15-E-0302 and 22-M-0149. These comments support the Coalition for Safe and Reliable Energy's petition² requesting that the Commission hold a hearing pursuant to Public Service Law (PSL) §66-p(4) to evaluate whether to temporarily suspend or modify the targets or provisions under the Renewable Energy Program established as part of the Climate Leadership and Community Protection Act (CLCPA).

The Legal Framework Requires This Hearing

PSL § 66-p(4)³ provides that the Commission "may temporarily suspend or modify the obligations under such program provided that the commission, after conducting a hearing as provided in section twenty of this chapter, makes a finding that the program impedes the provision of safe and adequate electric service; the program is likely to impair existing obligations and agreements; and/or that there is a significant increase in arrears or service disconnections that the commission determines is related to the program". The Legislature included this safety valve precisely for the circumstances New York now faces.

¹ <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7BB057059C-0000-CB6F-B693-29F98246A22E%7D&DocTitle=Notice+Soliciting+Comments+Regarding+Petition+for+Hearing+to+Suspend+or+Temporarily+Modify+Renewable+Energy+Program>

² <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7BC0E9949B-0000-C33B-9DF3-9A8F69753800%7D>

³ https://newyork.public.law/laws/n.y._public_service_law_section_66-p#b-that-by-the-year-two-thousand-forty-collectively-the-%E2%80%9Ctargets

Proponents of the Climate Act argue that the transition strategies must be implemented to meet the net-zero mandates regardless of affordability or reliability constraints. However, PSL § 66-p is also a law, and it charges the PSC with implementing the Renewable Energy Program subject to feasibility safety valve conditions for affordability and reliability.

Summary of Evidence

The evidence summarized below demonstrates that each of the three statutory criteria for a hearing is met or approaching critical thresholds.

Safe and adequate service is imperiled by declining reliability margins documented by the New York Independent System Operator. Acceptable reliability risks associated with the Renewable Energy Program have not been defined so the public has no assurance that the declining margins are safe.

Transmission deficiencies threaten reliable delivery. New transmission is needed to get the renewable energy collected to where it is needed. If this transmission is not available, then the energy supply will not be adequate.

The affordability crisis demands a hearing because safe and adequate is only possible if it is affordable. A PSL 66-p(4) hearing is needed to define acceptable affordability metrics that can be tracked to ensure that the affordability crisis is not exacerbated.

Multiple independent sources confirm the need for a hearing. State agencies, the Attorney General Office, the NYISO and others have identified

schedule and ambition issues associated with Climate Act implementation that affect the Renewable Energy Program.

The Legislature included Section 66-p(4) precisely to address the situation New York now faces: implementation challenges that threaten reliability and affordability as the aggressive timelines and technology requirements of the Climate Act confront real-world constraints. The Commission has both the authority and the obligation to act.

The remainder of this comment documents these issues.

Safe and Adequate Service Is Imperiled by Declining Reliability Margins

The New York Independent System Operator (NYISO) has documented a systematic deterioration of grid reliability since the Climate Act was enacted. NYISO data show a net loss of 2,041 MW of dispatchable capacity (4,315 MW retired versus 2,274 MW added).⁴ Fossil retirements are outpacing new supply additions, with additions largely consisting of intermittent renewables and limited-duration storage that cannot provide the firm, dispatchable capacity the grid requires.⁵

NYISO's 2024 Reliability Needs Assessment (RNA)⁶ identifies an actionable reliability need in New York City beginning in 2033, with deficiencies ranging from 17 to 97 MW, and high-risk scenarios show the deficiency could begin as early as 2025 and grow to over 1,000 MW by 2034. The “high-risk scenarios” are from the RNA’s High Demand Forecast

⁴ <https://www.nyiso.com/documents/20142/2223020/2025-Power-Trends.pdf/>

⁵ <https://www.nyiso.com/documents/20142/2248481/2025-2034-Comprehensive-Reliability-Plan.pdf/61984e49-f7a2-eeda-bdd3-176c5ae40ba9?t=1763732985009>

⁶ <https://www.nyiso.com/documents/20142/2248793/2024-RNA-Report.pdf/ofe6fd1e-of28-0332-3e80-28bea71a2344>

Scenario and related NYC risk scenarios documented in the 2024 RNA report's "Exploring Uncertainty: Scenarios and Risks" section and detailed in Appendix E/F⁷ scenario figures and text. The 2025 Q3 Short-Term Assessment of Reliability (STAR) Report⁸ identifies a Zone J (NYC) summer 2027 reliability need requiring retention of peaker units scheduled for retirement. Statewide, NYISO projects that by 2034 there will be no surplus power without further development of reliable sources of electricity.

NYISO has officially stated that the dispatchable emission-free (DEFER) technologies needed to replace fossil generation "are not yet available on a commercial scale".⁹ The CLCPA and Scoping Plan implicitly assume large volumes of firm zero-emission resources will be available, cost-effective, and sited in New York by 2040, but there is no clear procurement or market framework to ensure they materialize. This represents a technology and market design gap between what the CLCPA requires and what is under contract or in interconnection queues today.

The Renewable Energy Program depends heavily on transmission infrastructure that either does not exist, has been terminated, or faces severe uncertainty:

- **Clean Path NY terminated:** NYSERDA and developers mutually agreed to suspend the Tier 4 REC Purchase and Sale Agreement in late November 2024 due to cost escalation.¹⁰ The PSC subsequently denied

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https://www.nyiso.com/documents/20142/47773760/2024RNA_Appendices_Drafto_forMC.pdf

⁸ <https://www.nyiso.com/documents/20142/39103148/2025-Q3-STAR-Report-Final.pdf/>

⁹ <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={70DA9F98-0000-C034-92EA-BDD83E3DB6FA}&DocTitle=Exhibit%205%20DEFER>

¹⁰ <https://www.rtoinsider.com/93123-11b-transmission-generation-plan-canceled-new-york/>

NYPA's petition for Priority Transmission Project designation in August 2025. There are no plans to revive Clean Path NY.

- **Champlain Hudson Power Express (CHPE) winter limitations:** Although CHPE is in late-stage construction, NYISO's Short-Term Reliability Process Report states that "the facility is not expected to provide any capacity in the winter." The New England Clean Energy Connect experience during the January 2026 cold snap, where power flows from Québec largely collapsed, foreshadows this vulnerability.¹¹ This is a serious failure of planning given the prospect that New York grid demand will peak in the winter rather than, as now, in the summer, if building and transportation electrification advances.
- **Offshore wind transmission withdrawn:** The PSC voted to withdraw the NYC Public Policy Transmission Need determination in July 2025, cancelling the process for delivering 4,770 to 8,000 MW of offshore wind into New York City. Proposals ranged from \$7.9 billion to \$23.9 billion.¹²
- **Federal disruptions to offshore wind:** The Trump administration's stop-work orders on offshore wind projects and suspension of leasing have further compromised the transmission pathway for the mandated 9,000 MW of offshore wind by 2035.¹³

NYISO has warned that without major transmission project completion, NYC reliability margins will become deficient. NYISO has concluded that

¹¹ Ibid

¹² Ibid

¹³ <https://www.catf.us/2025/12/trump-administration-freezes-offshore-wind-projects-undermining-affordability-reliability-and-permitting-certainty/>

cumulative factors — retirements, electrification, and delays — risk creating reliability metric violations incompatible with safe and adequate electric service.

The Affordability Crisis Demands a Hearing

The affordability evidence satisfies the PSL 66-p(4) threshold of "a significant increase in arrears or service disconnections." As of December 2024, over 1.3 million New York households were behind on their energy bills by sixty days or more, collectively owing more than \$1.8 billion.¹⁴ Independent Intervenors have demonstrated that the increase in the number of accounts in arrears from 2019 before enactment of the CLCPA and 2024 are statistically significant for statewide totals and four of ten utilities.¹⁵ We updated the analysis through 2025 in Exhibits 1 and 2. We found the same results.

The cost trajectory is alarming. The recently completed New York State Energy Plan found that Climate Act costs are expected to require \$120 billion in annual energy system investments through 2040, equivalent to over \$1,200 per month per household.¹⁶ NYSERDA's own Energy Affordability analysis shows that Climate Act compliance adds approximately \$594 per month (a 43% increase) for an upstate moderate-income household that fully electrifies.¹⁷

¹⁴ <https://www.nysenate.gov/sites/default/files/admin/structure/media/manage/filefile/a/2025-01/public-utility-law-project.pdf>

¹⁵ <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={50DA9F98-0000-C4D1-AAE5-5F3501DA2F9F}&DocTitle=Exhibit%201%20Trend%20in%20Company%20Customers%20in%20Arrears>

¹⁶ <https://pragmaticenvironmentalistofnewyork.blog/2025/08/04/draft-nys-energy-plan-pathways-scenario-scam/>

¹⁷ <https://pragmaticenvironmentalistofnewyork.blog/2025/12/13/nyserda-energy-plan-affordability-fact-sheet/>

Recent rate cases approved by the PSC between March 2025 and January 2026 for five major utilities have markedly increased residential electric bills, and as Kris Martin of NY Solar Divide has noted, only "a small fraction of Climate Act expenses" have been incurred to date — the bulk will hit ratepayers in the next 5-10 years as onshore and offshore wind, grid-scale solar, and electrification mandates ramp up.¹⁸

The State's own Attorney General has acknowledged that achieving the 2030 target is "currently infeasible" and that "New Yorkers will face alarming financial consequences if speed is given preference over sustainability".¹⁹ DPS staff estimates that Climate Act residential impacts range from 4.6% to 10.3% of 2023 monthly electric bills, and these estimates are widely considered conservative.²⁰

The PSC's existing 6% energy burden target²¹ for low-income households lacks any tracking or compliance reporting mechanism. Despite the urgent need for clear affordability metrics, the Hochul Administration and Legislature have not adopted transparent tracking systems or mandatory corrective actions when affordability thresholds are exceeded.

¹⁸ <https://ksvsm.substack.com/p/what-it-costs>

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https://www.bdlaw.com/content/uploads/2025/10/903160_25_Citizen_Action_of_New_v_Citizen_Action_of_New_LETTER_CORRESPOND_91.pdf

²⁰ <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7b40075E99-0000-C639-832F-142B5C387BBD%7d>

²¹ <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7bBC2F31C9-B563-4DD6-B1EA-81A830B77276%7d>

Multiple Independent Sources Confirm the Need for a Hearing

The case for a hearing is supported by multiple independent, authoritative analyses:

- **NYISO:** Reliability Needs Assessments, STAR Reports, and Power Trends documents consistently identify declining margins, capacity shortfalls, and transmission dependencies.²²
- **New York State Comptroller:** The July 2024 audit found that PSC and NYSERDA plans "did not comprise all essential components, including assessing risks to meeting goals and projecting costs".²³
- **DPS Biennial Review:** Concluded that the 70% renewable target by 2030 "will likely not be achieved until 2033" and that a delay "may be unavoidable".²⁴
- **State Energy Plan:** Acknowledged that "current renewable deployment trajectories are insufficient to meet statutory targets".²⁵
- **DPS Second Informational Report:** Identified four feasibility concerns, including that the 2030 target is "likely unattainable," offshore wind faces "major obstacles," transmission remains a "critical bottleneck," and grid reliability challenges are "mounting".²⁶

²² <https://pragmaticenvironmentalistofnewyork.blog/2026/02/13/nyiso-climate-act-concerns/>

²³ <https://www.osc.ny.gov/files/state-agencies/audits/pdf/sga-2024-22s4.pdf>

²⁴ <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7b00B46F90-0000-C55E-BED0-C316A9EEA1CF%7d>

²⁵ <https://energyplan.ny.gov/>

²⁶ <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7b40075E99-0000-C639-832F-142B5C387BBD%7d>

- **State Attorney General:** Acknowledged on the record that the current implementation schedule creates unacceptable affordability liabilities.²⁷

Responding to Opposition Arguments

ACE NY and WE ACT²⁸ have urged the Commission to reject this petition, suggesting that all progress would stop if a hearing were held. This characterization is inaccurate. PSL 66-p(4) authorizes temporary suspension or modification — not abandonment — of Climate Act obligations. A hearing represents pragmatic management to ensure safe, adequate, and affordable service while the clean energy transition continues. Refusing to invoke the safety valve does not eliminate the underlying reliability and affordability problems; it simply ensures they go unaddressed until a crisis forces emergency action.

Organizations supporting CLCPA green energy have successfully organized their members to submit hundreds of comments urging the PSC to “reject the petition filed by the Coalition for Safe and Reliable Energy, which would improve neither safety nor reliability, and would instead raise utility costs by deepening New York's reliance on expensive and volatile fossil fuels”. The Independent Intervenors believe that the comment incorrectly characterizes the petition as an attempt to “roll back” or “suspend” the CLCPA mandates and asserts, without record support, that a §66-p(4) hearing is “unsupported” and “entirely unnecessary.” Exhibit 3 documents

²⁷ https://newyork.public.law/laws/n.y._public_service_law_section_66-p#b-that-by-the-year-two-thousand-forty-collectively-the-%E2%80%9Ctargets

²⁸ <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7B1013E19B-0000-C74B-94A7-9BF2325D48F7%7D&DocTitle=ACE+NY+WEACT+Response+to+Coalition+for+Safe+and+Reliable+Energy+Petition>

our reasons why we disagree with this comment and illustrate why the stakeholder process must resolve issues.

On April 17, 2026, the Independent Intervenors filed a recommendation²⁹ regarding the stakeholder process. The stakeholder process for the Scoping Plan and Energy Plan did not respond to all comments and did not resolve substantive issues raised by stakeholders. We argued that the hearing process must change from the format used in the stakeholder process in the Scoping Plan and the Energy Plan. All stakeholders deserve to be heard but all technical issues must be resolved. We recommend that once everyone has had an equal chance to raise their concerns that the Commission categorize and prioritize the technical issues submitted and convene a technical hearing conference that resolves the substantive issues raised in comments.

The Commission Should Proceed Directly to a Hearing

The evidence presented by the Coalition for Safe and Reliable Energy, the Independent Intervenors, NYISO, the State Comptroller, and the State's own agencies demonstrates that the statutory criteria for a PSL 66-p(4) hearing have been met. Rather than further delaying action through extended comment periods, the Commission should proceed expeditiously to conduct the hearing that the law contemplates.

At minimum, a hearing should:

1. **Establish clear affordability metrics** — Define "safe and adequate electric service" and "significant increase in arrears" with specific,

²⁹ <https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7bD0009D9D-0000-C13A-9474-73499B1F2C55%7d>

measurable criteria so that the safety valve operates as the Legislature intended.

2. **Evaluate reliability margins** — Examine NYISO's documented capacity shortfalls, transmission deficiencies, and the gap between policy assumptions and physical grid reality.
3. **Assess the technology gap** — Determine whether the firm, zero-emission resources assumed by the CLCPA will be available on the timelines required.
4. **Review transmission status** — Evaluate whether the termination of Clean Path NY, the winter limitations of CHPE, the withdrawal of the offshore wind PPTN, and federal disruptions collectively impede the ability to provide safe and adequate service.
5. **Require transparent cost reporting** — Mandate that DPS and NYSERDA provide comprehensive, auditable cost projections covering all CLCPA implementation costs, not just utility rate case impacts. NYSERDA should be instructed to develop comprehensive cost projections that reflect the total expense of meeting CLCPA mandates, rather than limiting estimates to individual CLCPA program elements.

The Legislature included Section 66-p(4) precisely to address the situation New York now faces: implementation challenges that threaten reliability and affordability as the aggressive timelines and technology requirements of the Climate Act confront real-world constraints. The Commission has both the authority and the obligation to act.