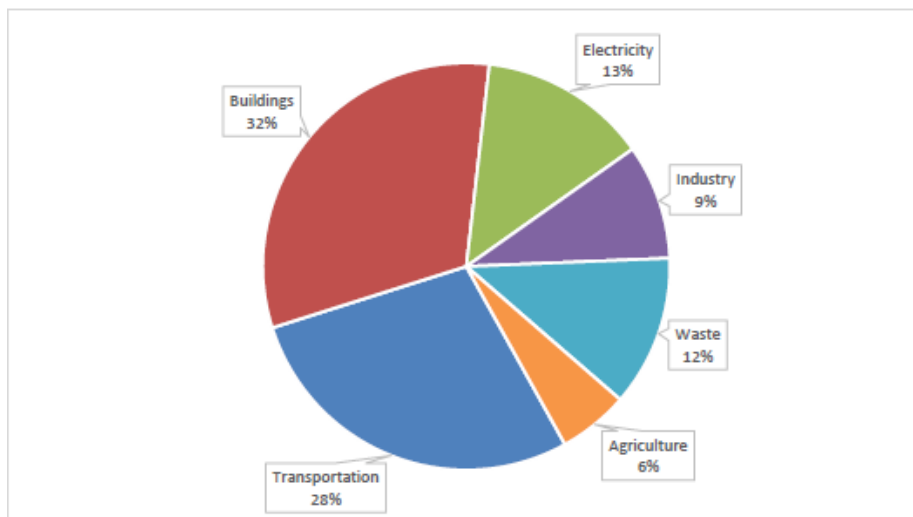


INTRODUCTION:

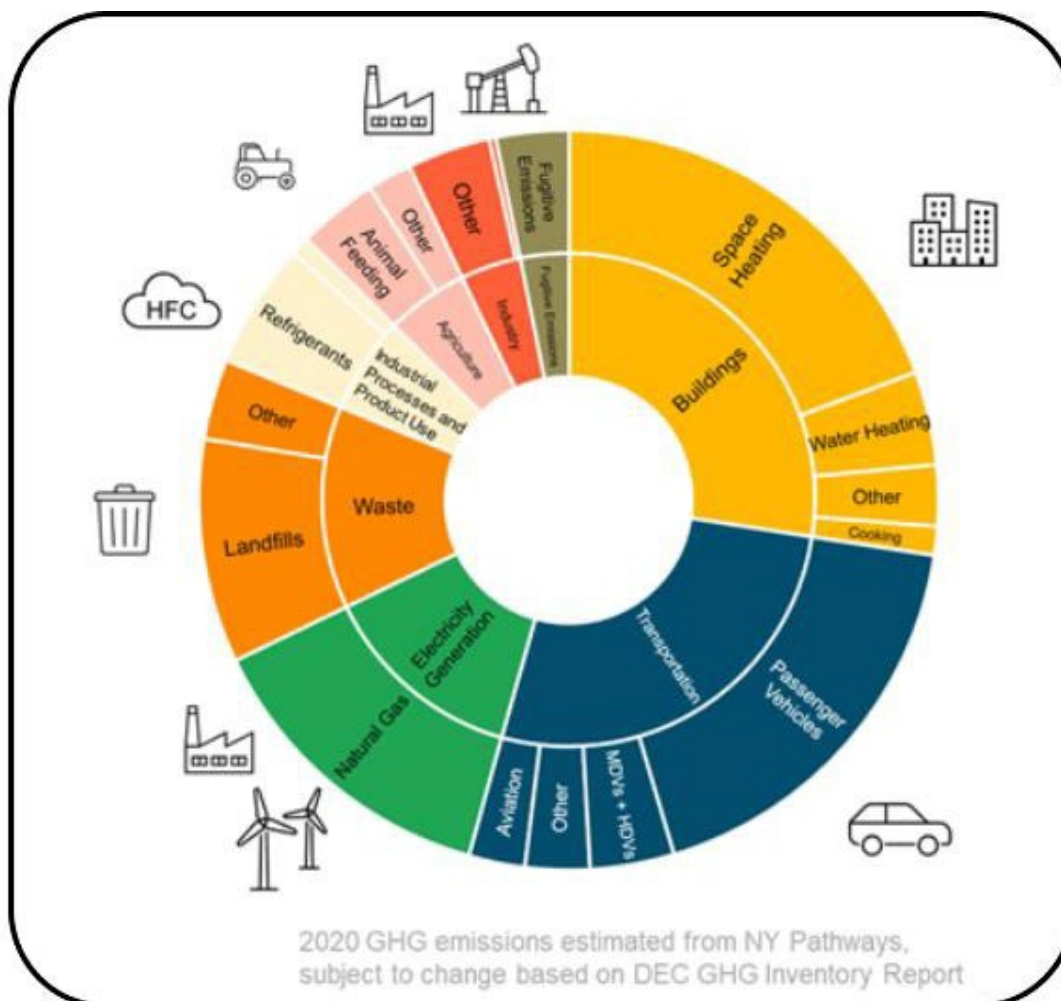
NY-GEO fully supports the intention to bring Part 230 more in line with the CLCPA's emission targets. As identified in NY's Climate Action Scoping Plan, buildings are the leading source of greenhouse gas emissions in New York State.

Figure 2. 2019 New York State GHG Emissions by Scoping Plan Sector



From page 48 of the [Climate Action Council Scoping Plan Full Report](#), December 2022

In addition, the vast majority of building emissions come from fossil fuel burning for space and water heating.



On April 30, 2024, NY-GEO filed the first document (item #3) after the order and press release that opened up this Gas Planning Proceeding 20-G-0131. It was titled **100-Foot Cost Request** and asked the Commission to require utilities to collect and submit data on the costs to ratepayers of the 100-Foot Rule.

In this document, we noted a few things in our filing that are worth keeping in mind when considering this Straw Proposal:

“The 100-foot rule is a key impediment to minimizing gas infrastructure investments. While Section 30 of Article 2 of the Public Service Law mandates utilities to provide gas service to those who request it, Section 31 makes it advantageous and even lucrative for New York’s citizens to request this service...

The 100-foot rule reinforces New York’s historic policy of promoting gas expansion, set in place before ground source and other heat pumps were as market-ready as they are today, and when other heating fuels such as propane and fuel oil were seen as far inferior relative to the environment and public health...

The CLCPA treatment of GHGs makes it clear that replacing oil or propane with gas heating can no longer be considered a step forward for the climate. Incentivizing gas expansion through the 100-foot rule is an obsolete practice that distorts the market and creates an unlevel playing field. When a homeowner looks to install a geothermal system, there is no 100-foot rule that supplies a guaranteed, ratepayer-funded loop field.

If the Legislature and the Governor are to consider changing the 100-foot rule, it is inevitable that the actual cost to ratepayers and the degree of the subsidy will be part of the discussion. The transparency called for in the Commission’s order should dictate that the cost of this driving element of gas expansion in New York state be quantified in a Commission sanctioned manner and exposed to the light of day.

In that early filing we did our best to estimate the cost to ratepayers of the 100 Foot Rule despite the scattered and minimal availability of comparable data available in the public record at this time. Our rough estimates turned out to be remarkably close to the numbers that were eventually filed by the utilities after the Commission required them to file data.

Under the 100 foot rule – and its extensions that are the subject of this straw proposal – NY rate payers are continuing to pump hundreds of millions dollars per year into the expansion of fossil fuel space and water heating. The Straw Proposal – page 10 – states “in 2021 statewide LDCs spent just over \$392 million of ratepayer funds to attach new customers.”

In addition to relieving ratepayers of the upfront cost of the 100-Foot Rule and related ratepayer costs stemming from utilities financing Contributions in Aid of Construction (CIACs), NY-GEO sees significant economic pain looming as gas infrastructure becomes an underutilized or unutilized stranded asset. It is clear that without a well thought out and executed plan, as fewer ratepayers remain as gas customers the price of paying off gas infrastructure, which is spread out over decades, will be higher to each individual remaining gas ratepayer. It is crucial that we begin NOW to stop adding costly infrastructure, while helping those least able to absorb higher gas costs transition to all-electric appliances.

At the same time, the urgency of the climate crisis is becoming clearer through the experience of New York communities that have been suffering through deadly heat waves, drought, flooding, tornadoes and other extreme weather episodes. NY’s Climate Law requires a 30% reduction in greenhouse gas emissions by 2030 and an 85% reduction by 2050. On page 8, the Straw proposal notes that NY’s Climate Action Scoping Plan, adopted in December of 2022, states “that natural gas use must decrease statewide by at least 33 percent by 2030 and by 57 percent by

2035. The Scoping Plan also explicitly calls out the 100-foot rule as an obstacle to progress in meeting those goals by “promoting gas system expansion... at no cost to new customers”.

“Permitting and service requirements: The State should enact legislation to amend the Public Service Law and the Transportation Corporations Law to move away from promoting gas system expansion by marketing fossil natural gas to prospective customers or providing gas service lines and extensions of gas mains at no cost to new customers (such as the “100-foot rule”) aiming to ensure continued employment of displaced workers. As soon as possible, the legislation should eliminate the existing requirement that gas service be supplied on application of a building owner or occupant and have each utility regularly file a proposal for how it will meet the State’s emission-free by 2040 (100x40) electricity generation requirement and 2030 and 2050 emissions limits within its customer base. (Page 357 from Chapter 18. - Gas System Transition - of NY’s Climate Action [Scoping Plan](#).)

This Straw Proposal is a positive effort on the part of the Commission, within its legal limits, to pull back from its regulations that are in conflict with New York’s climate goals. Of course, the bulk of the problem lies with those legal limits and it is crucial that the Legislature and Governor step up and remove those limits by removing the mandated incentives for gas infrastructure currently in the law. NY-GEO has been participating enthusiastically, along with a broad spectrum of clean energy and climate justice organizations in NY State to pass the NY HEAT Act, which should take care of the problems stemming from the regulatory expansion of the 100-foot rule this Straw proposal seeks to solve, as well as its core incentive of 100 feet of free infrastructure.

Also in the mix at this time is the enactment of the All-Electric Building Act (AEBA), which should eliminate any reason for gas infrastructure incentives like the 100-Foot Rule in new builds under 7 stories beginning in 2026 and in taller buildings in 2029.

While faithful enactment of the AEBA and repeal of the 100-Foot Rule may both be on the horizon, neither is guaranteed and it is important that the intent of this Straw Proposal be enacted fully and with all due speed while it can have most impact. According to the Straw Proposal on page 9, “Gas utilities in New York State have been adding approximately 30,000 new customers per year in recent years, in a combination of new construction and customers converting from other heating fuels.” Making the expansion of gas infrastructure free to new customers at a time when reducing gas use in buildings is needed to address our largest source of GHG emissions, simply put, makes no sense. The most basic thing to do when we find ourselves in a hole is to stop digging.

RESPONSES TO THE 20 AREAS WHERE STAFF SEEKS COMMENT:

As a prelude to our comments below we’d like to make it clear that NY-GEO’s intention is to support and/or otherwise comment on changes that apply to gas infrastructure only. We would generally oppose changes that would make it harder or more expensive for customers to access electric infrastructure

1. Staff proposes amending the 100-foot rule and other provisions within Part 230 to bring the incentive structure for new gas service more in line with other more environmentally sustainable options in the heating and energy market, and to bring the incentive to further expand gas infrastructure more in line with CLCPA emissions targets. (Page 9)

For the reasons expressed in our introduction, NY-GEO agrees in general with the main thrust of this point. Our preferred phrasing would be “to remove incentive structures for new gas service that are under the Commission’s control, given that there are now other more environmentally sustainable options in the heating and energy market, that are in line with CLCPA emissions targets.”

2. Staff proposes defining appurtenant facilities in 16 NYCRR §230.1 for clarity, uniformity among the LDCs, and to further the goals of the CLCPA. Specifically, Staff proposes to define “appurtenant facilities” as “any objects, devices or other accessories necessary to the adequate provision of gas service to a customer, specifically related to the portion of mains and/or service line to be installed to provide service to an applicant for new gas service.” Additionally, Staff seeks further comment on the extent to which individually distinct facilities (valves, meters, regulators) can be necessary for specific footages of service or main line, so as to ensure that any final definition of “appurtenant facilities” relate only to the entitled portion of the gas connection. (Page 12)

Appurtenant facilities should be defined to apply to only what is required by law. In the past, when Commission regulations were designed to maximize the transition to gas, one can easily imagine pipes, valves and other appurtenances being purchased and installed in a way that maximized their compatibility with further expansion, regardless of extra costs they might impose. Given the urgency of reducing gas emissions, no more money should be spent on appurtenances than what is legally required.

3. Staff recommends providing all residential applicants, whether for heating or non-heating service, with the same entitlement. (Page 14)

Because the proposed change takes both types of residential service down to the minimum 100 feet required by law, we support this change.

4. Staff recommends changing the entitlements for all residential applicants to be 100 feet of main and service line combined. (Page 14)

As noted, starting at the bottom of page 5 of the Straw Proposal, “In 1986, the Commission adopted the current version of Part 230.7 As discussed further below, the provisions in the current version of Part 230 provide some applicants with entitlements in excess of those required by the TCL (Transportation Corporation Law) and PSL (Public Service Law). For example, §230.2(d) provides residential heating applicants with an entitlement of up to 200 feet of combined gas main and gas service line extensions at no direct cost.” We support this change which will eliminate those increases in entitlement.

5. Staff recommends changing the entitlement for the non-residential applicants to be no more than the total of 100 feet of mains and/or service line located in the public right-of-way and appurtenant facilities. (Page 15)

NY-GEO supports limiting the entitlement to 100 feet as opposed to the current practice under §230.2(e)(1), which “provides 100 feet of main piping before having to install an indeterminant amount of service piping in the right-of-way.”

6. Staff recommends specifying that LDCs may not provide more than the entitlements set forth in §230.2. In other words, the LDCs must charge applicants for any facilities installed in excess of the entitlements set forth in §230.2. (Page 15)

NY-GEO supports this change for the reasons outlined in our text above before Staff’s 20 requests for comment.

7. Staff seeks comments from the utilities on the extent to which these proposed modifications would impact their revenues and expenses due to providing less entitled footage to applicants, while applicants who still seek connections would be contributing more to the upfront costs through Contributions in Aid of Construction (CIACs). Additionally, utilities should provide an understanding of any tax implications of Staff’s proposed modifications including, but not limited to, the impact on a utility’s income taxes due to additional “gifted” plant paid for directly by applicants. (Page 15-16)

If the treatment of CIACs results in higher costs to the LDC, and by extension to ratepayers, customers should be responsible for full costs including covering finance costs and tax impacts.

8. Staff seeks information from the utilities on the costs these modifications would impose on new customers. Each gas utility should provide the average cost per foot of installation of a new service line and a medium pressure (60 psig) main extension performed over the last five years, to provide an approximate total cost for an average new natural gas customer (residential and commercial provided separately) who only receives 100 feet total of main and service line in accordance with Staff's proposal in this document. (Page 16)

NY-GEO welcomes this data.

9. Staff recommends modifying §230.3(a)(1) such that, instead of charging applicants "actual reasonable costs" for service extensions, applicants for gas service should pay for the actual cost incurred by the LDC for the materials and installation of the portion in excess of the entitlement. (Page 17-18)

NY-GEO supports this change, as the Straw Proposal notes on page 18, "Having applicants pay for the actual costs of their service extension would allow for the system-wide costs of gas service extensions to be more proportionally allocated to those specific customers." The "actual cost" should include any finance and tax costs as well as management overhead

10. Staff seeks stakeholder comments on whether to continue to allow LDCs to recover the costs of facilities in excess of entitlement through surcharges or require that applicants pay any required CIAC when the facilities are installed. There are three options. First, require that applicants pay any required CIAC up front. Second, require that new customers pay any required CIAC over the course of five years, which approximates the current limitation of the surcharge to 20 percent of actual cost per year. Third, maintain the current limitation in 16 NYCRR §230.3(a)(4)(iii), which requires that any surcharges cease after ten years. This would also maintain the status quo allowing LDCs the flexibility to require surcharges lasting between five and ten years. (Page 18)

NY-GEO supports the first option. When engaging in projects which are at odds with the State's Climate Law and Scoping Plan, utilities should not be functioning as a bank that finances the projects, and ratepayers should not be forced to pay for those costs.

11. Staff proposes revoking §230.3(a)(2) as it provides facilities in excess of the entitlement to applicants at no direct cost to the applicant. (Page 18-19)

NYT-GEO supports this change. As the Straw proposal notes, "Staff proposes to modify Part 230 to reduce the regulation's incentives for new gas service compared to applicants' other energy options."

12. Staff seeks input from stakeholders regarding whether to continue to allow applicants to pool entitlements. Stakeholders should provide specific and concrete examples of impacts and risks of retaining, modifying, or removing the ability of applicants to pool entitlements. (Page 20)

As we understand it, under pooling, potential customers who don't need any portion of their 100 feet for gas main extension automatically make that portion available to neighbors who may need more than 100 feet. As the Straw Proposal notes, "In effect, this provision allows for gas applicants to pool their 100-foot entitlements as a per-customer entitlement such that multiple new gas customers served by the same main extension are entitled to 100 feet of gas mains multiplied by the number of applicants." Pooling increases the range of properties that can be given free gas infrastructure. Pooling may have made sense when NY State energy policy encouraged gas use versus other fuel sources, but practices such as these clearly go above and beyond the minimum required by the law and are therefore obsolete, given New York's greenhouse gas reduction goals. Pooling extension entitlements to free gas infrastructure should be eliminated.

And, as Staff notes on page 20, "Further, maintaining that incentive heightens the risk of stranding gas system assets that follows indirectly from the CLCPA's emission-reduction mandate."

13. Staff recommends revoking §§ 230.3(a)(4)(ii) and (a)(6) as these provisions provide applicants with facilities beyond the statutory entitlement at no direct cost to the applicant. (Page 21)

Should the Commission not choose option 1 in Staff's comment request #10 above, and chooses to retain surcharges, NY-GEO agrees with this recommendation.

14. Staff recommends revoking §230.3(a)(5), which requires LDCs refund gas customers for any surcharge within five years if those customers' total adjusted gas revenues exceed the carrying cost of the main extension serving them. (Page 21)

NY-GEO also agrees with this recommendation.

15. Staff also seeks input regarding the methodology(ies) to be used to calculate surcharges. (Page 22)

As noted above NY-GEO urges Staff and the Commission to reject the continued use of surcharges for Contributions in Aid of Construction (CIACs) because expanding gas infrastructure causes New Yorkers to burn more gas, thus moving the State further away from meeting its climate goals. While utility access to inexpensive, long-term financing can be helpful when funding projects that further the State's goals, gas infrastructure does not meet that standard.

16. Staff seeks input from the LDCs and other stakeholders to understand what CIAC calculation methodologies the LDCs currently use and ways to standardize or improve those methodologies. (Page 22)

See our response to #15 above.

17. Staff recommends changing the depreciation figure in §230.5 to better reflect Commission-approved depreciation rates of these installed facilities. Staff invites comment on how gas depreciation rates in this section should be set. (Page 24)

In general, the depreciation rate subtracted from the refund should follow the rate for assets of the LDC's relevant plant account. As staff notes, the current 3% depreciation rate may "artificially incentivize(s) developers, or other applicants who do not immediately desire service, to have LDCs install additional gas extensions because the reduction to the refund does not accurately reflect the utility's losses in facility depreciation."

18. Staff seeks stakeholder input on how these changes can coincide with ongoing electrification programs to allow for prospective applicants for gas service to consider more environmentally sustainable energy sources. (Page 24)

With these changes, customers who seek gas service, upon learning of the infrastructure costs, will be more open to alternatives to gas. In a recent downstate National Grid rate case, NY-GEO and other parties negotiated a referral process, whereby the National Grid gas utility would refer up to 500 customers to Con Edison, the regional electric utility, where they could learn of electric heating options available through Con Edison, supported by their Clean Heat program incentives.

NY-GEO urges the Commission to consider this type of program – improved and strengthened – for statewide use. To be truly effective and unbiased, the Commission might consider setting up a system where calls statewide are referred to NYSERDA, or another non-profit agency whose staff would be trained in an unbiased, fact-based way to present the full picture on choosing heating systems. The staff would then refer potential customers to the utility of their choice, or to both the gas and electric utility if the customer desires, and/or to Clean Heat contractors.

In addition, pondering the CIAC surcharge mechanism that has been in place for gas infrastructure leads one to ask why a similar surcharge mechanism can't be made available to utilities in order

for them to help finance geothermal ground loops. NY-GEO has been working to make it clear to as many stakeholders as possible that ground loops are key to successfully electrifying New York's heating sector without requiring massive increases in electrical generation and distribution infrastructure.

This is so because the ground loop harvests the steady heat of the ground on the coldest winter day when electric demand peaks. The loop also acts a cool heat sink on the hottest day of the year. Ground source heat pump efficiency remains relatively steady because temperatures underground remain relatively steady around the ground loop. This means peak demand is cut dramatically by ground source heat pump systems relative to other electrification alternatives. We have taken to pointing out, *"What you get from the ground loop, you don't need from the grid."*

NY-GEO would be very interested in exploring with Staff how the CIAC surcharge mechanism might be applied in a way that encourages more uptake of geothermal systems as a public good in the service of reducing peak demand as New York relies on electrification to meet its climate goals.

19. Staff seeks stakeholder input on situations that deserve special attention to ensure that changes to Part 230 will not interact with the Act's implementation in problematic ways. (Page 25)

NY-GEO does not have comments on this point at this time.

20. Staff seeks stakeholder input on the potential impacts of modifying Part 230 on planned developments, including affordable housing, and strategies to address such impacts. (Page 25)

NY-GEO has been impressed with the Sustainability Guidelines put forward by NY Homes and Community Renewal (HCR's), the agency that provides funding support for most affordable housing projects in New York State. HCR's practice, as we understand it, is now directed toward funding all-electric projects, for the benefit of the tenants, as well as to help NY comply with its mandates to reduce greenhouse gases under the CLCPA and the Climate Action Scoping Plan.

If there are exceptions to this thrust from HCR that need discussion, NY-GEO would be interested in being part of that discussion as organized by Staff. Any discussion of the potential impacts on affordable housing of these changes should take a comprehensive view. That view would recognize that as these changes discourage further gas infrastructure in affordable housing they protect new owners and tenants from the expensive impacts of looming gas bill increases from the potential of the gas utility death spiral, the expense of stranded assets and the impact of pending measures such as the Climate Superfund Act and the NYCI Cap& Invest program on fossil fuel costs. But if HCR has basically occupied the field of affordable housing, modifying Part 230 per the Straw Proposal, should have minimal negative impact on LMI New Yorkers.