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
Roger Caiazza, Richard Ellenbogen, Constantine Kontogiannis, And
Francis Menton

Exhibit 3 – Response to Public Comment Form Response Regarding the Petition for a PSL 66-p(4) Hearing to Evaluate Whether to Temporarily Suspend or Modify the Renewable Energy Program

May 1, 2026

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 Program[1], issued January 28, 2026, in Cases 15-E-0302 and 22-M-0149. These comments address a similar comment submitted by hundreds of individuals on the need to 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). In a filing submitted on April 17, 2026, we argued that the hearing process must change from the format used in the stakeholder process in the Scoping Plan and the Energy Plan that seemingly put more weight on positions expressed by most stakeholders than technically oriented comments from one expert. All stakeholders deserve to be heard but all technical issues must be resolved.

These comments address a comment submitted by hundreds based on emotion and poor understanding with very little technical information. In our April 17 filing, we recommended 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. This exhibit is an example of issues that need to be addressed in this manner.

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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

Example Comment

As an example of our recommended comment process consider 100 public comments number 1151 posted on 4/23/26 through number 1050 posted on 4/3/26 at Case Number 22-M-0149[2]. The first 50 characters of more than half these comments were identical, which clearly indicates a campaign to submit comments. Comment number 1151 posted on 4/23/26 by Melanie Acampora[3] met these criteria. It states:

> Dear PSC Commissioners, I urge the Public Service Commission (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. With the cost of oil and gas skyrocketing as a result of the U.S. war on Iran, this is not the time for New York to be considering rollbacks to our renewable energy targets. I urge the PSC to remain committed to the goals of the Climate Leadership and Community Protection Act (CLCPA) and the Clean Energy Standard. Temporarily modifying or suspending the clean energy mandates in the CLCPA will not benefit New Yorkers and is entirely unnecessary to maintain a reliable electric grid. In fact, any further investments in the fossil fuel economy will have a negative financial impact on New Yorkers. Costs of energy in New York are driven by the price of fossil fuels, which are highly volatile and

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2 https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=22-M-0149&CaseSearch=Search

3 https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=22-M-0149&CaseSearch=Search#

affected by events outside of the control of New York, such as the invasion of the Ukraine by Russia and the U.S. war on Iran. Sticking to fossil fuels means unpredictable, unaffordable bills for New Yorkers. Renewable energy - which requires no fuel - offers predictable costs which makes families less vulnerable to energy price shocks. Renewable energy is a long-term cost-saving strategy that will promote affordability and protect New York utility customers from the impacts of volatile fossil fuel prices. I urge the PSC to reject the unsupported request to hold a hearing to consider temporarily modifying or suspending the renewable energy and zero-emission energy goals. Sincerely, Sincerely,

This comment appears many other times since the first comment addressing the petition (Comment number 33) appeared in the record on 3/9/26 in Case Number 22-M-0149. It also appears many times in the public comments for Case Number 15-E-0302. 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." In the following sections we describe our responses to this comment as an example of responses to a disputed issue that should be resolved in a hearing.

Overview

The form letter argues that the petition filed by the Coalition for Safe and Reliable Energy should be rejected because it "would improve neither safety nor reliability and would instead raise utility costs by deepening New

York's reliance on expensive and volatile fossil fuels." However, it does not provide any support for those claims.

It argues that "Temporarily modifying or suspending the clean energy mandates in the CLCPA will not benefit New Yorkers and is entirely unnecessary to maintain a reliable electric grid." It is important to note that the hearing will not necessarily temporarily modify or suspend the Renewable Energy Program, but it will address feasibility. The fact is that the State has never done a feasibility analysis to determine if Renewable Energy Programs are a viable path to a zero-emissions electric system. If the hearing finds that safe and adequate energy is not impeded by the Renewable Energy Program then we can continue the current path reassured that it is feasible. However, we cannot help but think that the concerted effort to flood the docket with comments that all say do not even consider the hearing is a sign that even devoted proponents have concerns.

The comment goes on to argue that fossil fuels are the cause of the high prices and that renewable energy is a long-term cost saving strategy. The Independent Intervenors believe that this argument needs to be addressed at a hearing. We believe that cheap intermittent energy does not lead to a cheap energy system[4]. The claims that renewable energy is cheaper are based on an incomplete analysis that tells you what it costs to produce electricity under ideal conditions, but it leaves out what it takes to run a system that has to perform under real ones. Once you account for reliability,

[4] https://pragmaticenvironmentalistofnewyork.blog/2026/04/23/why-cheap-renewables-dont-deliver-cheap-electricity/

timing, infrastructure, and risk, the picture changes and renewable costs are not cheaper[5].

The commenters deserve to have their arguments addressed. As detailed below, the Independent Intervenors believe that those arguments are flawed but they must be addressed. A PSL 66-P hearing is the appropriate venue to resolve the issues raised.

The Petition Properly Invokes PSL §66-p(4)

The Coalition's petition expressly requests that the Commission "hold a hearing pursuant to Public Service Law §66-p(4) to evaluate whether to temporarily suspend or modify the obligations under the Renewable Energy Program established as part of the Climate Leadership and Community Protection Act."[6]

PSL §66-p(4) provides that[7] "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: (1) "the program impedes the provision of safe and adequate electric service;" (2) "the program is likely to impair existing obligations and agreements;" and/or (3) "there is a significant increase in arrears or service disconnections that the commission determines is related to the program."

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[5] https://pragmaticenvironmentalistofnewyork.blog/2026/04/16/cheap-renewables-myth/

[6] https://dps.ny.gov/event/comments-due-coalition-safe-and-reliable-energy-petition-temporarily-suspend-renewable-energy

[7] https://www.nysenate.gov/legislation/laws/PBS/66-P

Thus, a hearing is the statutorily prescribed mechanism for testing whether the safety-valve criteria are satisfied; it is not an extraordinary or anti-CLCPA measure but part of the CLCPA implementation framework itself. The adverse comment's request to deny a hearing disregards this structure and effectively ignores §66-p(4) in the statute.

Reliability and Affordability Triggers Have Been Met

Multiple filings in Case 22-M-0149, as well as the Coalition petition, present credible evidence that the current implementation of the Renewable Energy Program may: (a) impede safe and adequate service, and (b) coincide with a significant increase in arrears, thereby implicating both primary §66-p(4) triggers[8].

- On the reliability side, the Coalition petition and subsequent analysis identify delayed renewable and transmission projects and tightening resource margins as creating non-trivial risks to maintaining safe and adequate electric service under "reasonably foreseeable conditions," consistent with concerns raised in my posts and in other party filings[9].
- On the affordability side, our **"**Climate Act Safety Valve Filing – Customers in Arrears Trigger**"** and subsequent work show that

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8 https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={60DA9F98-0000-C38E-8A4A-4BA6F3BE0202}

9 https://pragmaticenvironmentalistofnewyork.blog/2026/02/20/reasons-to-hold-a-psl-66-p-hearing-transmission-needs/

statewide customers-in-arrears levels have increased to a statistically significant extent, satisfying the "significant increase in arrears" condition that §66-p(4) explicitly identifies as a basis for suspension or modification after a hearing[10].

The Commission itself has acknowledged in Case 22-M-0149 that PSL §66-p(4) includes safety-valve provisions and that the customers-in-arrears condition has been specifically raised as a trigger. The adverse comment does not grapple with any of this record; it simply asserts that a hearing is "unsupported" and "unnecessary," which is inadequate given the clear statutory language and evidence already before the Commission.

Mischaracterization of the Petition and of Fossil Fuel Risk

The adverse comment[11] argues that granting the petition and potentially modifying obligations would "deepen New York's reliance on expensive and volatile fossil fuels" and that "sticking to fossil fuels means unpredictable, unaffordable bills for New Yorkers."

The Coalition petition, however, does not seek to abandon the CLCPA's targets; it seeks a recalibration of obligations and timelines, if warranted by the evidence, so that the Renewable Energy Program is compatible with reliable and affordable service**.** This is necessary because

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10 https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={60DA9F98-0000-C38E-8A4A-4BA6F3BE0202}

11 https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=22-M-0149&CaseSearch=Search#

the State has never done a feasibility analysis or provided clear and comprehensive cost estimates for the Renewable Energy Program. A transition that outpaces feasible infrastructure development, transmission build-out, and proven firm zero-emission resources can actually increase reliance on emergency fossil generation and expensive backstop measures, thereby exacerbating the very fuel-price and affordability risks the commenter highlights[12].

In short, the question before the Commission is not whether renewables are desirable in principle, but whether current program implementation, on the present schedule, impedes safe and adequate service or contributes to a significant increase in arrears, as §66-p(4) expressly frames it. That question cannot be resolved by generalized statements about fossil volatility and long-term renewable benefits.

Granting the Hearing is Consistent with, Not Contrary to, the CLCPA

The Independent Intervenors generally support the CLCPA's broad decarbonization objectives, but durable climate policy must be aligned with reliability and affordability constraints. A PSL §66-p(4) hearing is the means the Legislature chose to ensure that alignment.[13]

Granting the Coalition petition would:

- Address the plain language of §66-p(4) by allowing the Commission to make the findings the statute requires after conducting a hearing**.**

[12] https://pragmaticenvironmentalistofnewyork.blog/
[13] https://pragmaticenvironmentalistofnewyork.blog/2026/02/20/reasons-to-hold-a-psl-66-p-hearing-transmission-needs/

- If the recommendations made in our April 17 filing are incorporated it would provide a transparent, evidentiary forum to test both the petitioners' reliability and affordability concerns and the counter-claims of parties who argue that existing trajectories pose no such risks.
- Demonstrate that the Commission will adjust implementation, if necessary, based on the record, rather than treating statutory safety-valve provisions as purely aspirational.

For these reasons, the Independent Intervenors respectfully urge the Commission to reject the adverse comment's request to deny a hearing and to grant the Coalition for Safe and Reliable Energy's petition for a PSL §66-p(4) hearing in Case 22-M-0149.

Summary

- PSL §66-p(4) embeds an explicit safety valve for reliability and affordability, conditioned on a hearing; the Coalition petition correctly invokes this mechanism.
- The record already contains credible reliability and arrears evidence that squarely implicates §66-p(4)'s triggers, contrary to the adverse comment's bare assertion that a hearing is "unsupported" and "unnecessary."
- Granting the hearing would implement, not undermine, the CLCPA by ensuring that its Renewable Energy Program is administered in a manner consistent with safe, adequate, and affordable electric service**.**