

# COMMENTS ON PETITION FOR HEARING TO SUSPEND OR TEMPORARILY MODIFY RENEWABLE ENERGY PROGRAM

*Submitted in: Case 15-E-0302*

*Submitted by:*

**New York League of Conservation Voters Education Fund, Citizens Campaign for the Environment, Earthjustice, Environmental Advocates of New York, Evergreen Action, Natural Resources Defense Council, New Yorkers for Clean Power, the Sierra Club, Urban Green Council, and WE ACT for Environmental Justice**

*Submitted On: May 1, 2026*

## SUMMARY

Pursuant to the Public Service Commission’s (“Commission”) January 28, 2026 *Notice Soliciting Comments*, the New York League of Conservation Voters Education Fund, Citizens Campaign for the Environment, Earthjustice, Environmental Advocates of New York, Evergreen Action, Natural Resources Defense Council, New Yorkers for Clean Power, the Sierra Club, Urban Green Council, and WE ACT for Environmental Justice (collectively, “New York Environmental Commenters,” “Commenters”, or “we”) file these *Comments on Petition for Hearing to Suspend or Temporarily Modify Renewable Energy Program* responding to the petition submitted on January 6, 2026 by a coalition of entities in New York (“Petition”). The Petition requested that the Commission hold a hearing, pursuant to Section 66-p of the Public Service Law, 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”).

New York Environmental Commenters respectfully request that the Commission reject the Petition’s request. As set forth below, the criteria for suspending or modifying the Renewable Energy Program under PSL Section 66-p have not been met. Moreover, the issues raised in the Petition are more appropriately and efficiently addressed under other existing and currently active Commission proceedings, particularly the ongoing portions of the Clean Energy Standard Biennial Review in this proceeding (Case 15-E-0302), as well as in the *Proceeding on Motion of the Commission to Address New York City Reliability Needs* (Case 25-E-0764) and *Proceeding on Motion of the Commission to Address Interconnection Reforms for Large Loads* (Case 26-E-0045). Finally, New York Environmental Commenters underscore that the Commission’s authority under Section 66-p(4) is strictly limited to temporarily suspending or modifying the *obligations* that the

Commission had established in the Renewable Energy Program; the Commission cannot change the targets established in law by the CLPCA, namely the 70% by 2030 renewables target and the 100% by 2040 emissions-free target.

Just as New York Environmental Commenters was crafting these Comments, fossil fuel prices were spiking worldwide, as a result of war in the Middle East, the impacts of the United States and Israeli campaign against Iran, and the resulting disruptions to fossil fuel processing and delivery. Putting aside other political or ethical opinions on these actions, these developments clearly illustrate – once again – that the prices of oil and gas are volatile and subject to worldwide events outside of the control of New York leadership, our utilities and power plant operators, and ourselves. What we can control, over time, is the diversification of our power supply and the deployment of technologies that can meet our growing demand for electricity without the combustion of fossil fuels subject to volatile price spikes, and the efficiency of our use of electricity. Thus, continued assertive investment in energy efficiency, renewable energy, and a modernized grid should continue to be New York’s hedge against price volatility and our State’s long-term cost-saving strategy to provide an affordable, reliable, and clean electricity system now and in the future.

Against this backdrop, petitioners' desire to suspend the Renewable Energy Program, and thereby maintain or increase New York's reliance on fossil fuels, is misguided. Doing so will not protect New York ratepayers or economy in the short- nor long-term, either in terms of reliability or cost. While the delays and barriers to deploying renewable energy and battery energy storage that the Petitioners highlight need to be tackled and overcome, suspending or modifying the Renewable Energy Program would not speed renewable development and alleviate the current harmful reliance on fossil fuels or promote affordability.

## **BACKGROUND**

Public Service Law (“PSL”) § 66-p, enacted through the Climate Leadership and Community Protection Act, reflects the Legislature’s determination that a rapid transition to renewable and zero-emission electricity is essential to reducing greenhouse gas emissions and safeguarding New York’s economic well-being, public health, natural resources, and environment. The statute directs the Commission to establish and oversee a Renewable Energy Program designed to achieve, at a minimum, 70 percent renewable electricity by 2030 and a zero-emissions electric system by 2040. These are binding statutory mandates that structure and constrain Commission action. In doing so, the CLCPA positions the electric sector as the backbone of economy-wide decarbonization by enabling the electrification of other fossil-fuel end uses (buildings, transportation, and industry) using emissions-free electricity.

Renewable energy resources are central to achieving these objectives and provide distinct, well-established system benefits. Because they require no fuel input, renewable resources can be

procured through long-term contracts at predictable prices, insulating ratepayers from volatility in fossil fuel markets. They also produce no co-pollutant emissions, directly advancing the CLCPA’s public health mandates and reducing disproportionate environmental burdens borne by Disadvantaged Communities. In addition, renewable energy technologies reduce exposure to fuel supply disruptions and associated safety risks, promoting a safer, more resilient, and more secure energy system.

To implement these statutory directives, the Commission has developed the Clean Energy Standard (“CES”) as the primary regulatory framework to operationalize PSL § 66-p. The CES translates the statute’s targets into procurement mechanisms and compliance obligations—principally through renewable, energy storage, and zero-emission crediting structures and long-term contracting approaches—while primarily relying on existing market structures and system operators to manage dispatch, reliability, and resource adequacy.

PSL § 66-p(4) provides a limited and carefully circumscribed mechanism for adjusting programmatic implementation, not revisiting the Legislature’s core policy determinations. Under PSL § 66-p(4), the Commission may temporarily suspend or modify the obligations under the Renewable Energy Program, following a hearing pursuant to PSL § 20, if it makes a finding that one of three criteria have been met: (1) that the Renewable Energy Program impedes the provision of safe and adequate electric service; (2) that the program is likely to impair existing obligations and agreements; and/or (3) that there is a significant increase in arrears or service disconnections that the Commission determines is related to the program. These criteria are intentionally stringent and must be interpreted in light of the statute’s overarching purpose.

The Petition contends that the Renewable Energy Program and its associated renewable energy targets may impede the provision of safe and adequate electric service. In support of its request for such a review by the Commission, the Coalition points to information that it claims suggests that the State will not achieve the CLCPA targets that, by 2030, 70% of statewide electricity generation be from renewable energy systems, and that, by 2040, the electric grid be zero emissions. New York Environmental Commenters recognize that, at the current and recent pace of renewable deployment, New York will not achieve the 2030 date for 70% renewable energy. We do not agree that this circumstance, in and of itself, impedes the provision of safe and adequate electric service, meeting the criteria outlined in PSL § 66-p.

The Petition also cites the existence of decreasing reliability margins and aging fossil-fueled generation resources, referencing statements by the New York Independent System Operator, Inc (“NYISO”). Again, New York Environmental Commenters agree that the NYISO has warned of decreasing reliability margins. We do not agree that these real concerns are a result of the Renewable Energy Program that the Petitioners seek to suspend, nor will suspending the Renewable Energy Program solve the issues Petitioners cite. Instead, the issues identified by Petitioners should continue to be addressed through existing NYISO and Commission reliability planning and procurement processes, including the *Proceeding on Motion of the Commission to*

*Address New York City Reliability Needs* (Case 25-E-0764), which are specifically designed to evaluate and resolve such system conditions. Petitioners therefore fail to demonstrate that the Renewable Energy Program impedes the provision of safe and adequate electric service within the meaning of PSL § 66-p(4).

## ARGUMENTS

### **1. Petitioners have not demonstrated that a hearing is warranted as they have not demonstrated that New York’s Renewable Energy Program is currently impeding the provision of safe and adequate electric service.**

As discussed above, under PSL § 66-p(4), the Commission may temporarily suspend or modify the obligations under the Renewable Energy Program if, after a hearing, it makes a finding that one of three criteria have been met. Petitioners rely in their filing on just one of these criteria: asserting that the Renewable Energy Program impedes the provision of safe and adequate electric service.<sup>1</sup> This is incorrect. The Commission, NYISO, the State of New York, and the utilities are, in fact, continuing to provide safe and adequate electric service and possess ample authority and a broad set of established mechanisms to address forecasted reliability concerns, which are not affected by the Commission’s Renewable Energy Program.

Petitioners’ observation that reliability margins are decreasing in New York does not support holding a hearing under PSL § 66-p(4). That standard requires a finding that the Renewable Energy Program itself impedes the provision of safe and adequate electric service — a materially higher bar than demonstrating that reliability margins are tightening. Reliability margins, by design, build in a significant amount of insurance against a wide range of system contingencies, and declining margins alone do not constitute an impediment to safe and adequate service. Indeed, the NYISO itself has stated that “a negative statewide system margin on its own is not a criteria violation, but it is a leading indicator of the system's inability to securely serve demand under normal operations while fully maintaining operating reserves.”<sup>2</sup> When a reliability need is formally identified through the NYISO's established reliability planning processes, those processes trigger specific, targeted responses. That is precisely what has happened: in response to reliability needs identified in its Q3 2025 Short Term Assessment of Reliability (“STAR”), the NYISO solicited solutions, and the Commission opened Case 25-E-0764 in December 2025 via its *Order Initiating Proceeding and*

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<sup>1</sup> The Petition does not argue, nor could it, that “the program is likely to impair existing obligations and agreements” or that “there is a significant increase in arrears or service disconnections that the commission determines is related to the program.” (PSL § 66-p(4)) While the Petition urges the Commission to “examine the relationship between the Renewable Energy Program costs and customer arrears,” (Petition at 2), it offers no evidence of any such relationship, and any such relationship is belied by the strong connection between the price of fossil gas—which provides more than half of New York’s electricity and is frequently the marginal resource—and the cost of electricity.

<sup>2</sup> 2025, NYISO. *2025 Power Trends*, Page 21.

*Directing Reliability Contingency Plan*, demonstrating that the existing framework is functioning as designed and that § 66-p(4) is not the appropriate mechanism to address these concerns.

Second, Petitioners provide no evidence that the decrease in reliability margins is a result of the Renewable Energy Program, and in fact point to other factors not caused by the Program. For example, the Petitioners cite aging and retiring power plants that outpace renewables development (a problem that suspending the Renewable Energy Program would augment rather than ameliorate) and to rising demand (which also would not be addressed by suspending the Renewable Energy Program.)

Third, Petitioners' claims regarding reliability are belied by existing reliability mechanisms in New York that are functioning to ensure the provision of safe and adequate service. These planning mechanisms include, for example, the Reliability Needs Assessment (“RNA”) conducted every two years with a ten year planning horizon; the Comprehensive Reliability Plan (“CRP”) conducted on the alternate year every two years; and the Short Term Assessment of Reliability (“STAR”) conducted quarterly with a view to reliability needs in the coming five years. These NYISO processes effectively ensure awareness of changing reliability margins. When necessary, they trigger specific actions to address any identified reliability needs. For example, the 2023 Q2 STAR found a reliability need within New York City beginning in summer 2025. The need was driven by a combination of forecasted increases in peak demand and the projected unavailability of particular power plants in New York City due to retirement. Under Federal Energy Regulatory Commission (“FERC”) rules, the finding of a reliability need triggered a process whereby the NYISO determined that particular generation units, which were scheduled for retirement, remain operational beyond May 2025 consistent with provisions in the DEC’s “Peaker Rule.” The continued operation of these units was designated a temporary solution until the Champlain Hudson Power Express (“CHPE”) transmission project was completed.

Similarly, the 2024 RNA identified a reliability need in New York City beginning Summer 2023, “driven primarily by a combination of forecasted increases in peak demand and the assumed retirement of the affected NYPA plants.”<sup>3</sup> Subsequent forecasts by the NYISO resulted in a decrease in New York City peak demand and, “the NYISO determined that the updated forecasts eliminated the reliability need identified in the 2024 RNA.”<sup>4</sup> Later, the NYISO solicited solutions in November 2025 to address a need identified by the Q3 STAR and the Commission opened Case 25-E-0764. New York Environmental Commenters do not present these examples in order to downplay the critical importance of maintaining system reliability or of current reliability concerns, but to highlight that these critical issues are addressed by a robust and comprehensive system of study, analysis, tracking, and policy responses. Those processes should continue to be relied upon to ensure reliability, rather than attempting to do so through a separate Commission process.

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<sup>3</sup> 2025, NYISO. *2025 Power Trends Report*, page 22.

<sup>4</sup> 2025, NYISO. *2025 Power Trends Report*, page 22.

In sum, PSL § 66-p(4) allows the Commission to act prospectively only where credible evidence shows that the Renewable Energy Program itself is actively causing one of the statutory harms. The Petitioners have failed to make such a showing. The statute requires a concrete showing that the Program impedes the provision of safe and adequate electric service—not merely projections of tightening reserve margins or broader system challenges disconnected from the Program. The Petition relies primarily on forecasts of future reliability conditions without demonstrating that the Renewable Energy Program is the cause of those conditions or that suspending the Program would resolve them. Absent a clear causal linkage between the Program itself and a reliability need identified by the NYISO, the statutory standard for suspending or modifying the Program has not been met. Thus, Petitioners have not demonstrated that New York’s Renewable Energy Program is impeding the provision of safe and adequate electric service, or even that that safe and adequate service is currently impeded at all.

**2. Petitioners raise issues regarding the retirement of fossil fuel generators, which are outside the scope of New York’s Renewable Energy Program, and reliability and large load concerns, which are better tackled in Cases 25-E-0764 and 26-E-0045.**

Not only have Petitioners failed to demonstrate that safe and adequate electric service in New York is impeded or that the Renewable Energy Program is the cause of any purported impediment, but also the issues that Petitioners do raise – namely, reliability concerns due to the retirement of fossil fuel generators and demand increases due to data centers – are already being addressed by current, active Commission proceedings and thus do not support a hearing pursuant to PSL § 66-p(4).

The Commission has sought to meet its CLCPA requirements to create a Renewable Energy Program largely via its implementation of the Clean Energy Standard, which includes two principal components: the Zero Emissions Credit (“ZEC”) Program and the Renewable Energy Standard (RES) Program. The Clean Energy Standard Program does not direct the retirement of fossil fuel generators but instead focuses on the procurement of renewable electricity credits (“RECs”) through NYSERDA as a means of accelerating the deployment of eligible renewable generation projects in New York, and on the procurement of ZECs to support and maintain the State’s nuclear generators. This program has not required, directed, or caused the retirement of fossil fuel generators. Thus, the issue the Petitioners raised with respect to fossil fuel retirements falls outside the scope of the Renewable Energy Program as implemented by the Commission.

Further, claims that climate policy is driving widespread fossil fuel power plant retirements are also misplaced. Many recent and anticipated retirements of older oil- and gas-fired peaking units are primarily driven by the State’s Peaker Rule, which was not adopted pursuant to the CLCPA and requires certain older generators to meet tighter nitrogen oxide emissions standards or cease

operation in order to help the New York City metropolitan area achieve health-based national ambient air quality standards (“NAAQS”) for ground-level ozone (smog), for which nitrogen oxides are a key precursor pollutant. As such, these retirements reflect long-standing air-quality and public-health requirements rather than the renewable energy targets established under the CLCPA. Moreover, as noted above, DEC’s Peaker Rule already has built-in provisions to allow for extended operation of units to address a reliability need; these provisions are working as intended.

Petitioners also reference decreasing reliability margins resulting from two factors: the retirement of older fossil fuel plants and the proposed addition of large loads. New York Environmental Commenters acknowledge the importance of reliability planning by the NYISO, as discussed above. Further, we understand that the critical nature of these issues also requires that the Commission monitor and, from time to time, address these trends in its own processes. As cited above, the Commission recently launched Case 25-E-0764, *Proceeding on Motion of the Commission to Address New York City Reliability Needs*, as well as Case 26-E-0045, *Proceeding on Motion of the Commission to Address Interconnection Reforms for Large Loads* precisely to address these two issues. The former docket seeks to ensure that any future reliability need in New York City is addressed with resources that support the CLCPA’s renewable energy and zero emission requirements to the greatest extent possible.<sup>5</sup> The latter seeks to provide for the continued reliability of the electric system while ensuring that data centers and other large loads can interconnect and bear the costs that they impose on the electrical system, and aims to develop programs and policies for the interconnection of large loads that consider the objectives of the CLCPA.<sup>6</sup>

Those two active and ongoing proceedings are the most appropriate and efficient fora for the issues raised in the Petition, because these proceedings can study and bring forth solutions, rather than suspending the Renewable Energy Program, which wouldn’t address the specific issues at hand.

Further, the prospect of increased data center load does not justify modifying the Renewable Energy Program under PSL § 66-p(4). The scale and timing of such load growth remain uncertain; announced projects may fail to materialize as projected, and the utilities and NYISO appropriately incorporate this uncertainty into their forecasting.<sup>7</sup> Petitioners have not identified any specific load additions that are sufficiently certain, imminent, or material to threaten safe and adequate service.

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<sup>5</sup> December 18, 2025, New York Public Service Commission. *Order Initiating Proceeding and Directing Reliability Contingency Plan*, Case 25-E-0764, Page 5. (“the Commission seeks a comprehensive portfolio of solutions that prioritizes and leverages all available clean and non-emitting options”).

<sup>6</sup> February 12, 2025, New York Public Service Commission. *Order Instituting Proceeding and Soliciting Comment*, Page 3.

<sup>7</sup> April 7, 2026, NYISO. *Long Term Forecasting Assumptions*, Pages 20-23.

([https://www.nyiso.com/documents/20142/57604192/11\\_2026\\_Other\\_Forecast\\_Assumptions\\_V1.pdf/0f87568d-a414-3719-6101-618b5892b3e8](https://www.nyiso.com/documents/20142/57604192/11_2026_Other_Forecast_Assumptions_V1.pdf/0f87568d-a414-3719-6101-618b5892b3e8))

Importantly, data center load growth is independent of the Renewable Energy Program and does not meet the statutory requirement that the Program itself impede safe and adequate service. The appropriate response to potential load growth is to ensure such demand is met safely and reliably with CLCPA-compliant resources, consistent with the objectives of Case 26-E-0045, not to weaken clean energy procurement obligations.

**3. Petitioners raise New York’s challenges in achieving its clean energy goals, which is a reason to accelerate the Renewable Energy Program, not suspend it, and these issues are better tackled in the Biennial Review process in this proceeding.**

The Petition also contends that New York is unlikely to achieve its statutory renewable and zero emission targets due to the inadequate pace of deployment of wind power, solar power, transmission, and energy storage projects, and posits this as a basis for granting a hearing to suspend or modify the state’s Renewable Energy Program. Based on the current and recent rate of renewable energy deployment, we recognize that New York is not on pace to achieve 70% renewable electricity by 2030. The fact that New York is behind on achieving this target is a reason to improve rather than modify or suspend the state’s clean energy procurement.

The Biennial Review is the appropriate venue to address issues related to the pace of New York’s clean energy development and refinements to existing procurement practices. The potential for not achieving the 70% by 2030 renewable target, and possible reforms to accelerate progress towards that target, were discussed at length in the context of the first Biennial Review of the Clean Energy Standard, portions of which are ongoing following the Commission’s May 15, 2025 *Order Adopting Clean Energy Standards Biennial Review as Final and Making Other Findings*. A wide variety of questions concerning CES design and implementation were raised and addressed in the Biennial Review, and the process will recommence in July 2026 to address the further evolution of issues such as federal policies, interconnection delays, contract design, and rising load projections. As this process remains ongoing, it is not an issue that warrants a separate hearing under PSL § 66-p(4).

Second, if the Renewable Energy Program is not deploying renewable energy technologies at the pace necessary to achieve New York’s legal mandate of 70% renewable electricity by 2030, the policy response should rightly be to accelerate procurement and deployment, not to temporarily suspend it. The primary constraint in recent years has been project attrition and delays driven by cost escalations and permitting and interconnection challenges, which have limited the conversion of procurements into operating projects. Accordingly, the State should focus on strengthening procurement frameworks and contract structures, and minimizing permitting and interconnection

delays, to ensure that awarded projects reach commercial operation.<sup>8</sup> In other words, to the extent the State is not adequately progressing towards the CLCPA's targets, the solution is to enhance execution and reduce attrition, not to modify or suspend the Program or promote greater reliance on non-renewable generation.

New York environmental commenters underscore the importance of accelerating the pace of renewable energy development in New York, but we also recognize the State's significant and earnest efforts, as well as factors outside of the control of both New York's agencies and renewable energy developers, such as the Trump Administration's changing tariff policies and illegal disruptions to wind project permitting and construction, the elimination of federal tax credits, and supply chain constraints. NYISO interconnection data illustrates the underlying challenge. Of the projects that have completed the interconnection process since 2019, only a small fraction have begun construction. This gap between interconnection completion and project construction suggests that financing and procurement barriers—not a lack of developer interest or viable projects—are a significant constraint on deployment. Procurement issues and barriers is something the Commission should continue to strive to solve.

Failure to bring new renewable resources online at an adequate pace has not only made the CLCPA targets harder to reach but has also contributed to affordability pressures in wholesale power markets. Additional renewable generation and battery storage can help moderate wholesale prices by increasing supply and reducing reliance on higher-cost gas generation during peak periods. Greater renewable deployment would also reduce exposure to volatile natural gas prices, which have historically (and continue to) driven significant fluctuations in electricity costs in New York's power markets.<sup>9</sup>

In contrast, expanding fossil fuel generation is not a reliable, affordable solution to New York's reliability concerns. Gas turbine prices are projected to reach \$600 per kilowatt by the end of 2027 — a 195% increase since 2019 — driven by a severe supply-demand imbalance in which global orders of 110 gigawatts far outstrip manufacturing capacity of 60 to 70 gigawatts annually, with order books sold out through 2027 and delivery lead times stretching to six years.<sup>10</sup> At the same time, the EIA's *Annual Energy Outlook 2026* projects that across virtually all scenarios, natural gas production, consumption, and exports grow,<sup>11</sup> meaning New York would be competing for increasingly expensive fuel in a tightening global market subject to the same price volatility that is already spiking as a result of geopolitical disruption. Suspending the Renewable Energy Program to encourage greater reliance on fossil generation would therefore expose New York

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<sup>8</sup> New York Environmental Commenters recognize that in the case of offshore wind, permitting constraints are the result of illegal halts in permitting by the U.S. Department of the Interior.

<sup>9</sup> January 2026, NYISO. Explainer: Impact of National and Global Conditions on Electricity Prices in New York. <https://www.nyiso.com/documents/d/guest/costs-behind-rising-electricity-prices-whitepaper>

<sup>10</sup> April 1, 2026, Wood-Mckenzie Press Release: Gas turbine prices soar 195% as market faces supply-demand crisis. <https://www.woodmac.com/press-releases/gas-turbine-prices-soar-195-as-market-faces-supply-demand-crisis/>

<sup>11</sup> April 8, 2026, EIA. Annual Energy Outlook 2026. <https://www.eia.gov/outlooks/aeo/narrative/>

ratepayers to both higher capital costs for new gas infrastructure and continued fuel price risk, which is precisely the conditions that the Program is supposed to hedge against.

To address limited power supply and related affordability concerns, the Commission needs to prioritize opportunities to get new power generation under construction and online as quickly as possible. Wind projects and grid-scale solar projects now benefit from standardized environmental review processes through the Office of Renewable Energy Siting and are more advanced in the interconnection process. Numerous wind and solar projects – and several gigawatts of capacity – still have a time-limited ability to qualify for expiring federal tax credits. These are the projects that should be fast-tracked to maximize the benefit from federal tax credits to New York ratepayers and provide more capacity to New York’s grid.

Accelerating the deployment of battery energy storage systems is another current example of a solution to the issues raised in the Petition. In Case 25-E-0764, *Proceeding on Motion of the Commission to Address New York City Reliability Needs*, the battery industry recently filed comments indicating that battery energy storage could be deployed fast enough to address the reliability need in NYC. In its March 13, 2026 submission, the New York Battery Energy Storage Technology Consortium (“NY-BEST”) stated that the distributed storage queue in New York City alone would address the need identified by Con Edison, and that the proposed bulk energy storage projects are also ready to be deployed. NY-BEST further states, “independent engineering analysis confirms storage can resolve the transmission violations” and “interconnection and market reform is a least-cost path to bolster reliability.” Their claims should be further examined in Case 25-E-0764. In the interest of affordability, New York should strive to deploy battery energy storage to meet the identified reliability need, which would both avoid the need for more expensive transmission investments in the near-term and address the impacts of retiring peaker plants.

The siting, financing, and construction constraints that affect renewable development also apply—often more significantly—to new fossil generation. New or repowered fossil plants face rising costs and procurement uncertainty for key components such as turbines and grid equipment, including supply-chain pressures exacerbated by tariffs on energy infrastructure inputs. In addition, new fossil facilities must navigate a more complex permitting framework, including air permitting requirements, CLCPA consistency review, and environmental justice analyses that evaluate cumulative pollution impacts in surrounding communities. As a practical matter, suspending or weakening renewable procurement targets would therefore not accelerate the development of replacement capacity. It would do nothing to address the existing constraints to constructing additional non-renewable capacity. Instead, it would likely delay investment in the clean energy resources that can be deployed at scale and faster within New York’s existing regulatory framework.

#### **4. The Commission’s Authority to Change the Renewable Energy Program is Narrowly Limited to “obligations under the Program.”**

As set forth above, Petitioners have failed to demonstrate that the Commission’s Renewable Energy Program currently “impedes the provision of safe and adequate electric service” as required by PSL § 66-p(4). Consequently, Petitioner’s request for a hearing should be denied. Moreover, given the statutory constraints in PSC § 66-p(4), any hearing held would need to strictly focus on the presentation of evidence that demonstrates the impedance of the provision of safe and adequate electric service and consider only temporary modification or suspension of obligations under the program, not modifications to the statutory requirements themselves.

The Commission’s authority to change the Renewable Energy Program is limited. PSL § 66-p is titled *Establishment of a renewable energy program* and while PSL § 66-p(2) directs the Commission to create the Program by June 30, 2021, PSL 66-p(4) allows the Commission – following a determination that one of the criteria discussed above has been met – to “temporarily suspend or modify the obligations under such program.” Thus, any modification must be temporary and must be limited to whatever obligations the Commission established within its Program. The temporary modification cannot apply to the electric system targets in the CLCPA itself.

The obligations the Commission has established within its Renewable Energy Program are set forth in its orders implementing the 70% renewables by 2030 and zero emissions statewide electrical demand system by 2040 in the Clean Energy Standard docket.<sup>12</sup>

Because the Commission’s authority is limited to modifying the obligations under its Renewable Energy Program, the sensible response to evidence that the Program is not bringing the required infrastructure to New York fast enough would be to accelerate renewables procurement and implement the policy solutions necessary to overcome barriers to speedy deployment, whether they be siting and permitting uncertainty or delays, property or sales tax burdens or negotiations, contract structure, inflationary risks, transmission or distribution system constraints, or other factors frustrating rapid deployment of the required infrastructure. The Commission should focus

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<sup>12</sup> See, e.g., Order Adopting Modifications to the Clean Energy Standard, 15-E-0302 (Oct. 15, 2020) (establishing initial program to achieve 70% renewables by 2030 including creation of Tier 4); Order Modifying Clean Energy Standard Tier 1 Obligations, 15-E-0302 (Apr. 20, 2023) (adopting load share obligation related to Tier 1 of the CES and voluntary sales of RECs); Order Denying Petitions Seeking to Amend Contracts with Renewable Energy Projects, 15-E-0302 (Oct. 12, 2023); Order Approving Utility Trading of Renewable Energy Certificates, 15-E-0302 (Apr. 19, 2024); Order Adopting Clean Energy Standard Biennial Review as Final and Making Other Findings, 15-E-0302 (May 15, 2025); Order Extending Zero-Emissions Credit Program, 15-E-0302 (Jan. 22, 2026); Order Modifying Maintenance Tier Program, 15-E-0302 (Jan. 23, 2026); Order Approving Offshore Wind Implementation Plan, 15-E-0302 (Feb. 13, 2026).

on how to accelerate wind, solar, transmission, and energy storage deployment to minimize the time until New York achieves 70% renewable electricity.

Finally, in addition to the limitations on the authority to modify the Renewable Energy Program discussed above, the Commission's decision in response to this Petition must be cognizant of PSL § 66p(7), the provisions which aim to protect Disadvantaged Communities from the disproportionate burden from pollution and power generation, including that PSL § 66p(7)(a) specifically directs storage deployment to Disadvantaged Communities to "decrease the usage of combustion-powered peaking facilities." This portion of the law, which inherently applies to the transition to zero emission electricity, has not been adequately implemented or achieved.

The two electric system targets enumerated in the CLCPA are the guideposts established by the Legislature for the Commission's design of the Renewable Energy Program under PSL § 66-p. Although PSL § 66-p(4) grants the Commission limited authority to temporarily suspend or modify obligations under the Renewable Energy Program in specific circumstances, that authority should be exercised with substantial restraint and does not apply to the targets in the law.

## **CONCLUSION**

The Commission should reject the Petition's request because the criteria for temporarily suspending or modifying the Renewable Energy Program under PSL § 66-p have not been met. Specifically, the Petitioners have not demonstrated that the Renewable Energy Program is impeding the provision of safe and adequate electric service.

Second, the important issues raised in the Petition, such as the retirement of aged fossil-fueled peaking plants and the addition of new large loads, are more appropriately and efficiently addressed under other existing and currently active Commission proceedings. The Commission established the *Proceeding on Motion of the Commission to Address New York City Reliability Needs* (Case 25-E-0764) as a direct response to the reliability concerns raised by the NYISO and cited by the Petitioners. Surely that is the most pointed and efficient proceeding to address those concerns and identify and implement the most affordable and efficient solutions.

Third, while the Petitioners make the case that the 70% by 2030 target will not be achieved on time, the forum for addressing this real problem is the Biennial Review of the Clean Energy Standard. Elements of the Renewable Energy Program were recently and comprehensively reviewed in this proceeding as the Clean Energy Standard Biennial Review, and based on the May 15, 2025 *Order* in that process, there are still ongoing portions of that review underway. Further, that process will recommence in July 2026. More importantly, if the current pace of renewable energy procurement or deployment in New York is not adequate to achieve that CLCPA mandated targets, the Commission should revisit and increase those rates, not consider suspending the program.

Finally, the Commission's authority to suspend the Renewable Energy Program is limited to the obligations it has created under the Program, and does not extend to the electric system targets established in law. Even that narrow authority must be exercised through the lens of the State's overall responsibilities under the CLCPA, which include protection of Disadvantaged Communities as outlined in PSL § 66-p(7).