



**Victor J. Gallo**  
Associate Counsel  
Law Department

January 21, 2025

**VIA EMAIL**

Michelle L. Phillips  
Secretary, Public Service Commission  
3 Empire State Plaza  
Albany, NY 12223-1350  
Email: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

**Re: Clean Energy Standard's Zero Emissions by 2040 Target**  
(Case 15-E-0302; NYS Register SAPA I.D. No. PSC-47-24-00007-P)

Dear Secretary Phillips:

The Joint Utilities<sup>1</sup> submit the following comments on a proposal ("Staff Proposal") filed by Department of Public Service Staff ("Staff") on November 4, 2024 to establish definitions of key terms used in Public Service Law ("PSL") § 66-p of the Climate Leadership and Community Protection Act ("Climate Act") and to establish an evaluation process to achieve the New York State 2040 emissions target.

The reliability of electricity in the state is of primary importance to the Joint Utilities. For the reasons set forth below, the Joint Utilities request that the Commission direct Staff to collaborate with the NYISO and the Joint Utilities to develop a comprehensive plan to achieve zero emissions generation to meet New York State's demand by 2040 in a manner that ensures reliability of the electric system throughout the clean energy transition to a zero emissions electric system. This plan should address current supply and demand trends within the power sector. If the cessation of greenhouse gas-emitting generation post-2040 creates a large gap between supply and demand,<sup>2</sup> the plan should also include strategies of how best to retain, manage and retire generation to maintain system reliability and resource adequacy.

**Background**

On February 20, 2024, the Joint Utilities provided responses to questions posed by Staff in the Commission's Clean Energy Standard proceeding (Case 15-E-0302) on how the Commission should define "zero emissions" as that term appears in PSL § 66-p. Our response emphasized the Joint Utilities continued commitment to help achieve the Climate Act's clean energy

---

<sup>1</sup> The Joint Utilities are Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc. Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

<sup>2</sup> See Proposal, p. 31.

generation targets to meet the state's electric demand through renewable energy systems and other zero emissions sources of electricity. Then, as now, the Joint Utilities note that the Commission must implement the Climate Act's 2030 and 2040 electric generation targets in a manner consistent with its responsibility for enabling safe, adequate, and reliable electric service.

### **Reliable Zero Emissions Electric System**

The Climate Act itself acknowledges the importance of reliability in implementing the zero emissions by 2040 goal, and the Commission's role in that effort: "In establishing such program [referring to efforts to achieve the 70 by 30 and zero by 40 targets], the Commission shall consider and where applicable formulate the program to address impacts of the program on safe and adequate electric service in the state under reasonably foreseeable conditions."<sup>3</sup> Maintaining the safe and reliable operation of the electric grid during the clean energy transition is the top priority for the Joint Utilities. Clear guidance and decisive action are essential to advancing our state's zero-emission targets while ensuring resource adequacy and affordability are not compromised. There are fewer than five years before the first target takes effect and only fifteen years to achieve zero emissions by 2040, so it is crucial to act promptly. From an electric planning, permitting, and construction perspective, the feasibility of this timeline will be significantly challenging.

The Joint Utilities recommend that the Commission direct Staff to develop a clear roadmap that addresses future system needs, potential gaps in supply and demand and clear methodologies to characterize those gaps, clean energy technology readiness, sufficient access to generation to the extent gaps are identified, and resource attributes necessary for the reliable operation of New York's electric system amid ongoing growth in intermittent renewable supply and electric demand.

Given the potential for New York's clean energy resources to fall short of demand, or suffer from delayed entry for various reasons, and the challenges associated with the commercial availability and maturity of new energy technologies, the Commission should require Staff to develop a plan for the development of incremental renewables, the retirement of non-compliant resources, and methodologies to address gaps between existing resources and the reliability needs of the system, while also ensuring that reliability and resource adequacy do not suffer. Staff should also consider the development status and lead time of new and existing technologies from research and development to their commercial deployment. It is imperative to address these issues, set expectations and identify needs for the journey towards the 2040 zero emissions target. This request is complementary of the Commission's order on May 18, 2023 in the Clean Energy Standard proceeding, which authorized the inception of a process to identify technologies bridging the gap between current renewable energy capabilities and future system reliability needs, to facilitate the attainment of zero emissions by 2040.

In our February 20<sup>th</sup> comments in this proceeding, the Joint Utilities stated that the Climate Act's zero emissions by 2040 target should be interpreted to mean that aggregate annual energy output from both renewable energy systems and zero-emissions supply resources (net of any exports)

---

<sup>3</sup> PSL § 66-p(2).

must be at least the aggregate annual electric energy consumption within the state, even if zero-emissions energy does not serve all load in every hour of the year.

While the Staff Proposal appears to align with the Joint Utilities' interpretation of a zero emission demand system,<sup>4</sup> the Proposal also presents the opportunity to address a fundamental tension between moving to a system dominated by non-dispatchable generation resources and maintaining high reliability and resource adequacy. Governor Hochul has recognized that success in achieving these targets requires a combined, concerted effort of relevant state agencies to develop a planning "blueprint" for the orderly phase out of state's fossil fuel generating facilities that ensures continued resource adequacy and maintenance of electric system reliability until dispatchable emissions free resources are available.<sup>5</sup> The Joint Utilities believe that an orderly transition is mandated by the Climate Act.

In the roadmap, the Joint Utilities encourage Staff to factor in its assumptions that the 70% renewable energy goal may now be projected to be achieved in 2033 under the base scenario or by 2035 in the high load growth scenario,<sup>6</sup> and more broadly Staff should use the gaps it characterizes between renewable energy goals and reliability needs of the system to inform potential actions by the Commission. The consideration of how and when tens of thousands of megawatts of dispatchable emissions free resources will become available needs to be balanced against what is known and knowable today. The roadmap should also convey the Commission's ability to suspend or modify the Clean Energy Program if it determines the program "impedes the provision of safe and adequate electric service."<sup>7</sup>

Lastly, the Coordinated Grid Planning Process ("CGPP") confirms the conclusion of the NYISO and academic research that there is a large gap between supply and demand and "there is no consensus among CGPP participants about the technologies that could be deployed to meet the estimated 17GW need."<sup>8</sup> These factors are concerning, and it is imperative to incorporate these realities into the roadmap assumptions. While transitioning to a clean energy system, it is also imperative to ensure adequate generating resources are retained and available, regardless of technology, which is permissible because the Clean Energy Standard does not require the retirement of existing generators.<sup>9</sup>

## **Conclusion**

The Joint Utilities remain strongly committed to achieving New York State's clean energy objectives and the goals of the Climate Act. We believe the Commission's interpretation of PSL § 66-p, as set forth above, along with Staff's close collaboration with the NYISO and Joint

---

<sup>4</sup> See Proposal, p. 25.

<sup>5</sup> "New York State of the State 2022, a New Era for New York", p. 150 accessible at: <https://www.governor.ny.gov/sites/default/files/2022-01/2022StateoftheStateBook.pdf> (last accessed on January 21, 2025).

<sup>6</sup> See Case 15-E-0302 – Draft Clean Energy Standard Biennial Review (filed July 1, 2024)

<sup>7</sup> "Climate Act Goals: Planning Procurements and Progress Tracking," Audit from the Office of New York State Comptroller, Division of State Government Accountability (Report 2022-S-4) July 2024, p. 21 (citing PSL 66-p).

<sup>8</sup> See Proposal, p. 33.

<sup>9</sup> "Climate Act Goals: Planning, Procurements and Progress Tracking," Audit from the Office of New York State Comptroller, Division of State Government Accountability (Report 2022-S-4) July 2024, p. 21.

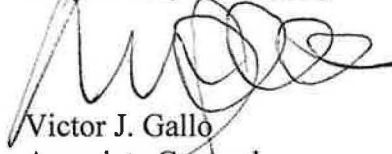
Michelle Phillips

January 21, 2025

Page 4

Utilities on power reliability and affordability, are both essential for the Commission to enable the provision of zero emissions electricity to New York consumers consistent with the Climate Act.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Victor J. Gallo", written over a horizontal line.

Victor J. Gallo

Associate Counsel

Consolidated Edison Company of New York, Inc.

cc: Joint Utilities