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Proceeding on Motion of the Commission Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Community Protection Act	Case 22-M-0149
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Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard	Case 15-E-0302
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I. INTRODUCTION

¹ Chapter 106 of the Laws of 2019.

York State. This evidence justifies commencement of the hearing process in PSL § 66-p (4), which will allow the Commission to determine whether the temporary suspension or modification of the Renewable Energy Program obligations is necessary to ensure the continued provision of safe and adequate electric service. Further, the Coalition believes that any hearing held pursuant to PSL § 66-p (4) should examine the relationship between Renewable Energy Program costs and customer arrears.²

II. EXECUTIVE SUMMARY

The CLCPA set extraordinarily ambitious targets³ for renewable energy generation in New York State, requiring that by 2030, 70% of statewide electricity generation be from renewable energy systems and that by 2040, the electric grid be zero emissions. Recent data from the Commission demonstrates that New York will not achieve - or even come close to achieving - the 70% target by 2030. In addition, recent developments at the federal level impacting clean energy are likely to have a negative impact on renewable energy in the near term.⁴ With respect to the target of zero emissions by 2040, the necessary emission-free

² The Coalition notes that a filing seeking a Commission hearing pursuant to PSL § 66-p (4) was filed by a group of Independent Intervenors, primarily focused on the relationship between the Renewable Energy Program and customer arrears. 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, Safety Valve Recommendation Filing (Aug. 12, 2025) (“Safety Valve Petition”). While the Coalition does not offer an opinion on the merits of the Safety Valve Petition, in the event the Commission holds a hearing pursuant to PSL § 66-p (4), the relationship of customer arrears to Renewable Energy Program costs is worthy of exploration. This is particularly true given the past determination by the Office of the New York State Comptroller that “[t]he costs of transitioning to renewable energy are not known, nor have they been reasonably estimated.” Office of the New York State Comptroller Division of State Government Accountability, Report 2022-S-4 (Jul. 2024). See also Case 22-M-0149, Multiple Intervenors’ Letter to Chair Christian (Mar. 10, 2025); Case 14-M-0565, Order Authorizing Phase 2 Arrears Reduction Program at 2 (Jan. 19, 2023) (discussing significant increase in customer arrears).

³ Case 15-E-0302 - Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, New York Department of Public Service Staff (“Staff”) Draft Clean Energy Standard Biennial Review at 60 (Jul. 1, 2024) (“Staff Draft Report”).

⁴ In a joint letter submitted to the Buffalo News responding to that publication’s Editorial Board’s accusation that the state is lagging in its climate goals, the Commission’s Chair and the President and CEO of the New York State Energy Research and Development Authority (“NYSERDA”) acknowledged that New York is “under

generation resources are not currently available at commercial scale. The inability of New York to develop the amount of renewable energy generation necessary to meet the 70% target by 2030, the increasing retirement of aging fossil-fuel generators due to the CLCPA, and the uncertainty surrounding the development of resources necessary to meet the zero emissions target by 2040, presents a reliability concern. This concern is exacerbated by the fact that it may take more than two times the amount of certain forms of renewable generation to make up for the loss of one megawatt of fossil-fuel generation, and by expected increases in electric demand driven by the combination of new large loads and electrification.

Pursuant to the PSL, the Commission is required to ensure the provision of “safe and adequate” electric service.⁵ Renewable energy development has not kept pace with generator retirements, which has resulted in declining reliability margins⁶ across New York, jeopardizing electric reliability and safe and adequate service. In recognition that the Renewable Energy Program might negatively impact electric reliability, the CLCPA includes a safeguard that allows the Commission to temporarily suspend or modify the obligations of the program, after a hearing, if it makes a finding that the program impedes the provision of safe and adequate electric service. Given recent evidence regarding delayed renewable energy generation and risks to reliability, the Commission should hold a hearing pursuant to PSL § 66-p (4) to determine whether safe and adequate electric service in New York is impeded by the Renewable Energy Program and, if so, to appropriately modify or suspend the program’s obligations.

assault from a federal government that is actively working to undermine clean energy.” *New York Still Leads In Its Climate Goals*, Opinion, Buffalo News (August 17, 2025) (“Buffalo News Correspondence”).

⁵ PSL § 65 (1).

⁶ Generally, reliability margin refers to the system’s ability to meet the expected demand for electricity. A higher reliability margin indicates a greater capacity to meet demand.

III. BACKGROUND

A. The Coalition

The Coalition includes the following entities and organizations representing diverse interests from across the state, all of which include or represent individuals or entities that rely on the safe and adequate provision of electricity to power or serve their businesses, operations, projects, developments and/or customers:

Buffalo Niagara Builders Association - The voice of builders, developers and associated industries, advocating for choice in housing, economic growth, and quality of life in the Buffalo Niagara community.

Buffalo Niagara Manufacturing Alliance - The BNMA unites close to 200 manufacturers of all sizes and sectors to drive collaboration, innovation, and growth in Western New York's industrial economy. The BNMA's vision is a thriving, future-ready manufacturing ecosystem where businesses of all sizes have the talent, tools, and support they need to grow, compete, and lead. It envisions a region where manufacturing drives economic prosperity and creates lasting opportunities for generations to come.

Buffalo Niagara Partnership - The Buffalo Niagara area's regional chamber of commerce and privately-funded economic development organization. By mobilizing its 1200 members and strategic partners around common goals, the Partnership grows private investment and jobs in Buffalo Niagara through advocacy, business development, and convening.

Builders Exchange of the Southern Tier – The Exchange was established in 2018 with the merger of two existing associations, the Associated Building Contractors of the Triple Cities (established in 1942 in Binghamton, New York) and the Southern Tier Builder Association (established in 1956 in Falconer, New York), as a not for profit commercial construction trade

organization serving the construction industry. It serves a two hundred and fifty mile stretch of real estate with offices in Falconer and Binghamton, New York.

Business Council of Westchester - An organization of approximately 1000 member businesses committed to helping them market, learn, advocate, and grow in the Westchester community and beyond.

Capitol Region Chamber of Commerce – It serves approximately 2,500 businesses and organizations as they strive to ensure prosperity and develop business opportunities in New York’s Capitol Region.

Center for Economic Growth - Accelerates economic opportunity in the Albany/Capital Region by developing and implementing strategies to attract, expand and create businesses and jobs. As the regional economic development organization, affiliated with the Capital Region Chamber, it is a catalyst that works with partners and stakeholders to shape a vibrant, thriving future.

Commercial Real Estate Development Association – Upstate Chapter - The leading commercial real estate association in Upstate New York, serving developers, owners, industrial and mixed-use investors. It provides support and advocacy to over 18,000 members.

Construction Exchange of Buffalo and Western New York - Enhances the growth and prosperity of member companies by providing information, education, and communication for the construction industry. As the largest construction association in Western New York, Construction Exchange is an influential advocate and steward for the promotion and advancement of the construction industry.

Engineers Labor Employer Cooperative 825 – A collaborative labor-management organization comprised of the major building contractor associations in New York and New

Jersey and International Union of Operating Engineers Local 825 to support their common interests in expanding work opportunities for their memberships.

Greater Binghamton Chamber of Commerce - A non-profit organization with nearly 800 business and nonprofit members. Its mission is to serve as the premier resource for business development in the Greater Binghamton region. Its aim is to support the existing local business community and the attraction of new businesses to the region through member-driven programs and services, the development of strategic community partnerships and effective advocacy.

Greater Rochester Association of REALTORS – A 3,000-plus member organization of professionals who are engaged in every aspect of the real estate industry. It is the premier resource on real estate, housing, and homeownership in the Rochester and Finger Lakes regions.

Greater Rochester Chamber of Commerce – A chamber of commerce serving the nine-county Finger Lakes region of New York, with more than 1300 member companies. Focused on helping member businesses thrive in a way that elevates and brings prosperity to the entire region.

Manufacturers Alliance of New York – A statewide organization of manufacturing associations working together on behalf of manufacturing success in New York State. It has partnered with the New York State Department of Labor and State University of New York to meet the workforce needs of manufacturers in New York. The Alliance collectively represents over 5,400 manufacturers and businesses and over 181,300 manufacturing jobs.

Manufacturers Association of Central New York - The voice and business solution leader for manufacturers in Central and Upstate New York. Through its collective expertise and leadership, it is able to speak uniformly and with authority on the issues impacting manufacturers.

Manufacturers Association of the Southern Tier - The association takes great pride in its tradition of and commitment to industrial excellence throughout New York's Southern Tier. Its history is rooted in absolute dedication to helping area manufacturers develop, grow and thrive.

Multiple Intervenors – An unincorporated association of approximately 55 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State.⁷

National Federation of Independent Businesses - A nonprofit, nonpartisan, member-driven organization that advocates on behalf of America's small and independent business owners—both in Washington, D.C., and in all 50 state capitals.

New York Construction Materials Association, Inc. – A statewide trade association representing the business and regulatory interests involved in the production of construction aggregates, ready mix concrete and hot mix asphalt.

New York State Association of Plumbing, Heating and Cooling Contractors – An association dedicated to the promotion, advancement, education and training of the plumbing, heating and cooling industry for the protection of the environment and the health, safety and comfort of citizens.

New York State Builders Association – An association founded in 1951, through partnership with its 14 local affiliates statewide and the National Association of Home Builders. Its mission is to create a strong business environment and ensure its members' ability to provide quality housing for all New Yorkers.

⁷ The instant Petition seeking a Commission review authorized by the CLCPA reflects the positions of Multiple Intervenors, and not necessarily the position of each of its individual members.

New York State Economic Development Council – The state’s principal organization representing economic development professionals. Its more than 900 members include the leadership of Industrial Development Agencies and Local Development Corporations, commercial and investment banks, underwriters, bond counsels, utilities, chambers of commerce, higher education institutions, and private corporations. The council has been serving New York’s development professionals for more than 30 years.

Niagara USA Chamber of Commerce - The unified voice of business in Niagara County – a private, nonprofit organization powered by its members and dedicated to building a stronger economy for everyone who lives, works, and invests in the county.

North Country Chamber of Commerce – A regional chamber serving Clinton, Essex, Franklin, Hamilton and northern Warren Counties in New York State, as well as the Akwesasne Territory and parts of southern Quebec. With more than 4,000 members, it is the largest business and economic development alliance in northern New York and one of the five largest chambers in the state.

Northeastern Retail Lumber Association – The association was established in New York in 1894 by a small group of pioneering lumbermen who recognized the value of cooperation. Today, it is an 1,160 member association representing independent lumber and building material suppliers and associated businesses in New York, New Jersey, Pennsylvania, Delaware, Maryland, Washington, D.C., and the six New England states.

Northeast Hearth, Patio and Barbecue Association - An independent trade association that actively promotes, fosters and advocates for the hearth, patio and barbecue industries in the northeast. It represents members from Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island and Vermont.

Power for Economic Prosperity - An active coalition of manufacturing companies that depend on low-cost hydropower from the New York Power Authority in order to maintain their operations in the Buffalo/Niagara Region.⁸

Rochester Technology and Manufacturing Association - The association is a key driver of manufacturing growth, innovation, and workforce development in the Greater Rochester and Finger Lakes region. As a membership-based organization with over 150 members, it works tirelessly to advance the interests of manufacturers and service providers in the region.

Rockland Business Association – A non-profit organization that has been serving the business community of Rockland County, New York, since 1967. With a mission to educate, inform, and provide beneficial services to members and actively represent, promote, and support the business community of Rockland County, NY, the Rockland Business Association has played a pivotal role in the growth and success of countless businesses in the region.

The Business Council of New York State - The leading business organization in New York State, representing the interests of large and small firms throughout the state. Its membership is made up of approximately 3,500 member companies, local chambers of commerce and professional and trade associations.

The Council of Industry, Manufacturers Association of the Hudson Valley – The manufacturer’s association of the Hudson Valley since 1910. It is a privately funded not-for-profit organization, whose mission is to promote the success of its more than one hundred member firms and their employees, and through them contribute to the success of the Hudson Valley Community.

⁸ The instant Petition seeking a Commission review authorized by the CLCPA reflects the positions of Power for Economic Prosperity, and not necessarily the position of each of its individual members.

The Manufacturers Alliance of New York - A statewide organization of manufacturing associations working together on behalf of manufacturing success in New York State. Its combined efforts allow it to create a strong voice for the statewide manufacturing community.

Western New York Association of Plumbing and Mechanical Contractors - One of the oldest and most influential associations in the plumbing and mechanical trades industry. It counts among its membership some of the largest and most successful plumbing and mechanical contractors in Western New York.

Also included in the Coalition are Donna L. DeCarolis and Dennis W. Elsenbeck, both members of the state's Climate Action Council established by the CLCPA.

The Coalition urges the Commission to exercise its authority under PSL § 66-p (4), as discussed below.

B. CLCPA

The CLCPA, enacted in 2019, required that the Commission establish a Renewable Energy Program to ensure that: (1) by 2030, 70% of statewide electric generation shall be generated by renewable energy systems ("2030 Renewable Target");⁹ and (2) by 2040, the statewide electric grid shall be zero emissions ("2040 Zero Emissions Target").¹⁰ In establishing the Renewable Energy Program, the Commission was required to formulate the program to address impacts of the program on safe and adequate electric service in New York under

⁹ "Renewable energy systems" are defined as "systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity."

¹⁰ PSL § 66-p (2). The CLCPA also requires that New York's statewide greenhouse gas emissions be 40% below 1990 levels by 2030 and 85% below 1990 levels by 2050. Further, the CLCPA requires the procurement of at least 9 GW of offshore wind generation by 2035, 6 GW of photovoltaic solar generation by 2025, and 3 GW of energy storage capacity by 2030.

reasonably foreseeable conditions..¹¹ The Commission was also authorized, in designing the program, to modify the obligations of jurisdictional load serving entities and/or the targets upon consideration of certain factors..¹²

As mentioned above, the CLCPA provides a safeguard that allows the Commission to temporarily suspend or modify the Renewable Energy Program under certain circumstances.

Specifically:

The commission may temporarily suspend or modify the obligations under [the Renewable Energy Program] provided that the commission, after conducting a hearing as provided in [PSL § 20], 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..¹³

The Coalition interprets the provision to require a hearing pursuant to the Commission's rules and regulations..¹⁴

The CLCPA requires the Commission to review the Renewable Energy Program every two years, beginning on July 1, 2024. This review is intended to determine, among other matters: (1) progress in meeting the overall targets for deployment of renewable energy systems and zero emission sources, including factors that will or are likely to frustrate progress towards the targets; (2) distribution of systems by size and load zone; and (3) annual funding commitments and expenditures..¹⁵ The Staff Draft Report required by this subdivision was filed by Staff in Case 15-E-0302 on July 1, 2024. The Commission adopted the Staff Draft Report on

¹¹ Id.

¹² Id.

¹³ PSL § 66-p (4).

¹⁴ See PSL § 20 (1); 16 NYCRR § 4.1.

¹⁵ PSL § 66-p (3).

May 15, 2025.¹⁶ The Biennial Review Order is discussed in more detail below. In addition, on May 12, 2022, the Commission initiated Case 22-M-0149 to measure and track compliance with the provisions of the CLCPA.¹⁷

C. Renewable Energy Program

In the Commission’s October 15, 2020 Order Adopting Modifications to the Clean Energy Standard, issued in Case 15-E-0302, the Commission adopted modifications to its existing Clean Energy Standard to align with the 2030 Renewable Target.¹⁸ The 2020 CES Order adopted a Staff White Paper that determined the amount of new renewable energy necessary to meet the 2030 Renewable Target. Staff forecasted the statewide electric load in 2030 to be 151,678 GWh of wholesale energy requirements – 70% of that load equaled 106,174 of GWh of renewable electricity that must be operating by 2030 to meet the target.¹⁹ As of 2020, it was estimated that approximately 63,317 GWh of renewable energy was either in operation, under contract, or required by statute – yielding 42,858 GWh as the incremental quantity of renewable energy that needed to be obtained by 2030.²⁰

The Biennial Review Order summarized the progress made toward the renewable energy and zero emission goals set by the CLCPA since the establishment of the Clean Energy Standard. It also assessed what remained to be done to achieve the CLCPA goals.²¹ The Staff Draft Report

¹⁶ Case 15-E-0302, Order Adopting Clean Energy Standard Biennial Review as Final and Making Other Findings (May 15, 2025) (the “Biennial Review Order”).

¹⁷ Case 22-M-0149, Order on Implementation of the Climate Leadership and Community Protection Act (May 12, 2022).

¹⁸ Case 15-E-0302, Order Adopting Modification to the Clean Energy Standard (Oct. 15, 2020) (“2020 CES Order”). The Clean Energy Standard initially set a target that 50% of electricity used in New York State be generated from renewable energy sources by 2030.

¹⁹ 2020 CES Order at 21-22.

²⁰ Id.

²¹ As discussed above, the Staff Draft Report was filed on July 1, 2024 – the Commission adopted the Staff Draft Report, with modifications, on May 15, 2025.

detailed factors that affected New York’s progress on meeting the CLCPA targets, including but not limited to, global interest rates, inflation and supply chain pressures.²² Staff also updated the base forecast for electric load in 2030 to 164,910 GWh, as electrification and data center demand load assumptions are forecasted to increase.²³ Seventy percent of the updated base forecast equaled 115,437 GWh of renewable electricity; Staff expected the amount of renewable generation from operational and awarded/contracted sources in 2030 to total 73,292 GWh.²⁴ This left a 2030 renewable energy deficit of 42,145 GWh.²⁵

Staff explained that to fill this gap, NYSERDA would have to procure, through annual Tier 1 solicitations in 2024, 2025, and 2026, an amount of 20,068 GWh per solicitation, assuming a 30% attrition rate. This volume would be significantly higher than the current annual procurement quantity of approximately 4,500 GWh per solicitation.²⁶ According to Staff, the amount of Tier 1 project deployment necessary to meet the 2030 Renewable Target “may far exceed what the renewable industry could be expected to develop in this timeframe.”²⁷ Staff concluded that a delay in achieving the 2030 Renewable Target may be “unavoidable” and instead projected the target could be met in 2033, assuming incremental contributions from offshore wind and distributed generation, with the rest of the gap filled through six Tier 1 solicitations.²⁸

²² Staff Draft Report at 11. Other factors included transmission constraints, the length and cost of the interconnection process, and siting challenges.

²³ Id. at 42-44.

²⁴ Biennial Review Order at 18.

²⁵ Id.

²⁶ Id.

²⁷ Staff Draft Report at 57.

²⁸ Id. at 58-59.

IV. THE COMMISSION SHOULD HOLD A HEARING PURSUANT TO PSL § 66-P (4)

A. The 2030 Renewable Target Will Not Be Achieved By 2030

Despite New York State's efforts to meet the clean energy goals of the CLCPA, it has become increasingly clear that the 2030 Renewable Target will not be met by 2030. The CLCPA, which became effective in 2020, set an extraordinarily ambitious 10-year timeframe for achievement of the 2030 Renewable Target. As demonstrated by the Biennial Review Order, as of 2024 (nearly halfway to 2030), New York was essentially no closer to filling the forecast renewable energy deficit than it was in 2020.²⁹

The Biennial Review Order essentially concedes that the 2030 Renewable Target will not be met by 2030 and assumes achievement by 2033, consistent with the forecast presented in Staff's Draft Report. However, Staff's forecast is based on assumptions that are no longer accurate, and therefore, there are reasons to doubt the projected achievement of the 2030 Renewable Target by 2033. First, Staff's forecast was prepared in July 2024, prior to the change in federal administration, and does not account for recent federal actions that present challenges to renewable energy development. As stated in the 2025 New York State Energy Plan issued on December 16, 2025 ("State Energy Plan"):

The federal administration's unpredictable tariff and energy policies bring additional political and regulatory uncertainty, threatening critical federal support for clean energy development and creating barriers to private investment. This includes the current administration's rollback of tax credits provided under the Inflation Reduction Act, including the Clean Electricity Investment Tax Credit and the Clean Electricity Production Tax Credit; planned denial of permits for wind generation; and attempts to remove state-based clean car and clean truck rules. These and similar actions further increase the costs of clean energy projects and undermine market confidence and momentum.³⁰

²⁹ The 2020 CES Order projected a renewable energy deficit of 42,858 GWh in 2030. The Biennial Review Order projected a renewable energy deficit of 42,165 GWh in 2030.

³⁰ State Energy Plan, Volume I at 3 (available at <https://energyplan.ny.gov/Plans/2025-Energy-Plan>).

While the exact impact of these developments on the federal level has not been determined, the Commission has recognized that “recent changes in federal energy and trade policy have introduced new obstacles to the State’s progress” and that federal policies are “expected to have a negative impact on renewable development in the near term.”³¹ At a minimum, recent federal policy changes are expected to increase renewable resource costs significantly and require more conservative near-term renewable energy procurement.³² Given these recent federal developments, it is likely that Staff’s forecast overstates the amount of renewable development possible by 2030 and 2033.

This is particularly true for offshore wind generation. The Staff Draft Report forecasts 18,753 GWh of incremental offshore wind generation by 2033, which represents 11% of the 70% target.³³ As of September 2025, this level of offshore wind generation appears improbable. In its July 2025 Order Withdrawing Public Policy Transmission Need, issued in Case 22-E-0633, the Commission highlighted the recent federal events impacting offshore wind development, which includes a halt on offshore wind leasing and permitting.³⁴ As a result, the Commission withdrew its Public Policy Transmission Need (“PPTN”) determination for infrastructure to

³¹ Biennial Review Order at 29.

³² State Energy Plan, Pathways Analysis at 25: “Since [July 2025], dynamics in the electric sector have shifted significantly, primarily due to major federal policy changes and updated cost projections. These changes include the elimination of IRA tax credits for key resources like wind and solar for most of the modeling horizon, the introduction of new tariffs affecting power sector components, and the availability of an updated NYSERDA renewable supply curve benchmarked to the latest solicitation data and inflationary pressures. Cumulatively, these changes result in substantially higher resource costs, with noteworthy impacts on renewables, storage, and hydrogen. For example, renewable credits now phase out before 2030, and tariffs are modeled to add over 20% to storage costs through 2030. In light of these headwinds and new cost realities, the [Pathways Analysis] incorporates more conservative near-term procurement assumptions.”

³³ Staff Draft Report at 96. This is incremental to the offshore wind generation associated with currently contracted projects.

³⁴ Case 22-E-0633 - In the Matter of New York Independent System Operator, Inc. Proposed Public Policy Transmission Needs for Consideration for 2022, Order Withdrawing Public Policy Transmission Need (Jul. 17, 2025) (“PPTN Order”).

support the integration of 4,700 MW of offshore wind generation with the New York City grid by 2033.³⁵ The PPTN was intended to support the CLCPA's 2035 requirement for 9 GW of offshore wind procurement. The withdrawal of the PPTN, and the uncertainty facing the offshore wind industry,³⁶ calls into serious question Staff's forecast for offshore wind for 2033, as well as achievement of the offshore wind energy targets in the CLCPA. The fact that Staff's forecast assumed 11% of renewable energy would be from offshore wind by 2033, and now that level of offshore wind seems out of reach, jeopardizes the 2033 achievement of the 2030 Renewable Target forecast in the Biennial Review Order.³⁷

The inability of the state to achieve the 2030 Renewable Target by 2030, or by 2033, as forecast in the Biennial Review Order, is demonstrated in the State Energy Plan. The State Energy Plan's Pathways Analysis, which includes a number of planning scenarios analyzing different potential energy futures, provides that, reflecting new cost and procurement restraints (discussed above), "the target of 70% renewable electricity is now met between 2036-2040."³⁸ Consistent with the discussion above regarding the unlikelihood of achieving the CLCPA offshore wind target, the Pathways Analysis removes compliance with the target from its

³⁵ Id. at 9.

³⁶ This uncertainty was exacerbated in late December when the President announced a pause on five offshore wind projects already under construction, including two with contracts to supply New York. These projects, Empire Wind I and Sunrise Wind, would have created more than 1,700 megawatts – enough to supply more than 1 million homes – to the downstate region which is facing reliability concerns. See, *Trump's War on Offshore Wind Threatens Hochul's Energy Strategy*, Politico (December 23, 2025).

³⁷ It is important to note that the Commission acknowledges that the offshore wind forecast adopted in the Biennial Review Order is "in doubt," but intends to address issues with the renewable energy forecast in the next biennial review process. Biennial Review Order at 29. However, given reliability concerns, the Coalition believes that a hearing pursuant to PSL § 66-p (4) is more appropriate.

³⁸ State Energy Plan, Pathways Analysis at 25. The Additional Action scenario, the State Energy Plan's core planning scenario that reflects "ambitious but achievable progress," includes two variants that reflect different levels of nuclear energy buildout. The 2.2 GW Nuclear variant assumes 76% renewable generation by 2040 (with 70% achieved in the 2036-2040 timeframe) and the 3.3 GW Nuclear variant assumes 71% renewable generation by 2040 (with 70% achieved in the 2036-2040 timeframe). Id. at 32-33.

assumptions due to “federal policy headwinds regarding the ability to permit and construct new offshore wind resources during the current administration.”³⁹ The Pathways Analysis also removes compliance with the 2030 Renewable Targets and instead “implements minimum Annual near-term build rates in line with the pace seen in the [Biennial Review Order].”⁴⁰ The State Energy Plan, and its planning assumptions, paints a bleaker picture regarding renewable energy deployment than the Biennial Review Order, and demonstrates that the 2030 Renewable Energy Target is not likely to be achieved until 2036, at the earliest.

B. Achievement of the 2040 Zero Emissions Target is Unlikely

While not as imminent as the 2030 Renewable Target, there are reasons to doubt that New York will achieve the 2040 Zero Emissions Target. First, the 2040 Zero Emissions Target would essentially require all fossil-fuel units to retire by 2040. The NYISO has estimated that the generation capacity required to achieve CLCPA mandates will be about three times the capacity of the current New York generation fleet, while the electric energy consumption is expected to increase by roughly 50% to 90%.⁴¹ According to the NYISO, “the scale and pace at which new generation will be needed on the system to satisfy [CLCPA] policy mandates, projected demand, and estimated capacity reserve margins is unprecedented.”⁴² New York has not demonstrated an ability to build renewable or zero emissions generation at the scale and pace required to meet the anticipated growing energy needs associated with data centers, semiconductors, etc. or to achieve the 2040 Zero Emissions Target.

³⁹ Id. at 25. However, the Additional Action scenario still assumes the addition of 7 GW of offshore wind between 2025 and 2040 in the 2.2 GW Nuclear variant and 5 GW of offshore wind between 2025 and 2040 in the 3.3 GW Nuclear variant. Id. at 32-33. Given the discussion above regarding the challenges facing offshore wind, it is not clear whether this assumed buildout is possible.

⁴⁰ Id. at 25.

⁴¹ NYISO 2023-2042 System & Resource Outlook at 42 (Jul. 23, 2024).

⁴² Id.

In order to support a zero-emissions grid, dispatchable emission-free resources (“DEFERs”)⁴³ will be necessary to replace fossil-fuel generation – according to the NYISO, at least 20 GW, and upwards of 40 GW, of DEFERs would be required by 2040.⁴⁴ The timeline upon which New York could develop the necessary DEFERs is unclear. As the NYISO states:

While essential to the grid of the future, such DEFER technologies are not commercially viable today at the necessary scale. Even assuming that they are commercially viable, there remains significant work in implementation and logistics that must be overcome to economically justify transitioning the dispatchable fleet to some combination of new technologies in the next 15 years. The research, development, and construction lead times necessary for these technologies may extend beyond the [CLCPA] policy mandate timeline, in which case other existing generation technologies may be required to remain in operation to continue to maintain a reliable system.⁴⁵

The uncertainty surrounding DEFERs may require the operation of existing fossil-fuel generation in 2040 – however, the operation of that generation is in conflict with the 2040 Zero Emissions Target. While the State Energy Plan Acknowledges the importance of fossil-fuel generation units through 2035, the core planning scenario assumes that all existing combustion capacity would be converted to hydrogen in the 2036-2040 timeframe.⁴⁶ However, the State Energy Plan provides that “hydrogen carries significant deployment barriers, including challenges related to the buildout of infrastructure, renewable, plant upgrades, and electrolyzers.”⁴⁷ Consistent with the NYISO statement above, it is not clear whether the development of DEFERs necessary to achieve the 2040 Zero Emissions Target can possibly occur by 2040. This suggests that combustion units, both in the traditional sense and in the form of evolving technologies such as natural gas

⁴³ DEFERs are emission-free resources that can be reliably dispatched to provide both energy and capacity over long durations. They are crucial for meeting energy demands when intermittent renewable sources like solar and wind are unavailable. NYISO 2025 Power Trends at 25.

⁴⁴ NYISO 2023-2042 System & Resource Outlook at 48.

⁴⁵ Id. at 9.

⁴⁶ State Energy Plan, Pathways Analysis at 32-33. The Additional Action scenario assumes that the system builds (or repowers) 3.5 GW of combustion capacity, including 3 GW in Zone J by 2035.

⁴⁷ Id. at 43.

fuel cells and linear generators, will still be necessary in 2040 to maintain system reliability, though continued operation of these units would be precluded by the 2040 Zero Emissions Target.

C. Reliability Margins Are Shrinking

The inability to timely develop renewable energy generation risks the reliability of New York’s electric grid, especially as an increasing number of existing fossil-fuel generation resources deactivate due to decarbonization goals and greenhouse gas emissions reduction policies, including the CLCPA.⁴⁸ This risk is succinctly described by the NYISO in its 2025 Power Trends:

What we do know with certainty is that as public policies drive more fossil generators into retirement to meet decarbonization goals and tighter emission restrictions, new carbon-free resources are not being added to the grid fast enough to keep pace with expected demand growth. Meanwhile, the traditional fossil-fueled generation fleet is aging, increasing concerns for their ongoing ability to provide essential reliability services to the grid at a time when reliability margins are shrinking.⁴⁹

Since the passage of the CLCPA in 2019, 4,315 MW of fossil-fuel generation has left the system, while only 2,274 MW of new generation has been added.⁵⁰ This represents a net loss of more

⁴⁸ According to the NYISO, the DEC Peaker Rule promulgated in 2019 resulted in 1,027 MW of affected fossil-fired generators being deactivated or limited as of May 1, 2023, and an additional 590 MW expected to become unavailable by May 2025.

⁴⁹ NYISO 2025 Power Trends at 1. In its recent 2025-2034 Comprehensive Reliability Plan, the NYISO refused to view these concerns, along with the fact of increasing large loads, in isolation, noting that “[t]he grid is at an inflection point, driven by the convergence of three structural trends: The aging of the existing generation fleet, the rapid growth of large loads, and the increasing difficulty of developing new dispatchable resources. These trends are not isolated, *they are compounding.*” 2025-2034 NYISO Comprehensive Reliability Plan (November 21, 2025) at 5 (emphasis added).

⁵⁰ Id. at 13.

than 2,000 MW.⁵¹ The gap between retiring generation and the addition of new generation is eroding reliability margins.⁵²

In addition to the gap between retirements and additions, New York's existing fossil-fuel generation fleet is aging, with roughly 25% of New York's total generating capacity in operation for more than 50 years. The NYISO states:

As these fossil-fuel generators age, they are experiencing more frequent and longer outages. Greater difficulties in maintaining older equipment, combined with the impact of policies to restrict or eliminate emissions may drive aging generators to deactivate, which would exacerbate declining reliability margins. Reliability concerns associated with age and condition of New York's fossil fleet were underscored this past winter by the outages of three units.⁵³

Similar reliability concerns are highlighted in the State Energy Plan, which acknowledges that fossil-fuel generation will remain an essential part of electric grid reliability and affordability and that the retirement of that generation will not be able to occur until resources that provide the same grid reliability attributes are put in place.⁵⁴ However, as discussed in the next section, the continued operation of these resources, or investment to repower these aging fossil-fuel

⁵¹ Id.

⁵² Id. at 7, 41. Reliability margins could be further impacted by Public Authorities Law § 1005 (27-c), which requires the New York Power Authority cease electricity generation at its small natural gas power plants, unless certain criteria are met.

⁵³ Id. at 13.

⁵⁴ State Energy Plan, Summary at 63: "New York's generation fleet is aging, the rate of renewable deployment is uncertain, reliability margins are shrinking, and significant levels of new load are being added. Due to these factors, the State will need to be strategic about the pace of combustion unit retirements and/or replacements as it works towards its clean energy goals and to meet reliability needs as quickly and cost-effectively as possible. Combustion-generating units will remain essential parts of electric grid reliability and affordability, and the retirement of these units will not be able to occur until resources that provide the same grid reliability attributes are put in place. New York will seek to carefully manage the retirement of existing assets and evaluate whether there is a need to invest in their repowering or in new generation that is compatible with long-term policy targets. This is the case even as New York seeks to first prioritize the continued expansion of clean energy resources, transmission upgrades, increased energy efficiency, integration of DERs and growth in demand response participation."

resources, is unlikely given the Renewable Energy Program and the emissions reduction mandates of the CLCPA.

The NYISO has been warning of declining reliability margins since at least 2021.⁵⁵ The NYISO 2025 Quarter 3 Short-Term Assessment of Reliability forecast potential negative statewide system margins as early as 2026-2027.⁵⁶ This can be attributed to increasing demand that is not matched by sufficient planned resources. A negative statewide system margin is a leading indicator of the inability to securely meet system load under applicable normal transfer criteria.⁵⁷ These declining margins are in the context of increased electrification and economic development projects like microchip fabrication and data centers, which are expected to be major drivers of load growth.⁵⁸

Strong reliability margins are essential to the provision of safe and adequate electric service. The NYISO provides that:

Strong reliability margins enable the grid to meet peak demand, respond to sudden disturbances, and avoid outages. They also support the grid's ability to respond to risks associated with extreme weather conditions.⁵⁹

As these margins narrow, “consumers face greater risk of outages if the resources needed for reliability are unavailable due to policy mandates or failures associated with aging equipment.”⁶⁰

Given that declining reliability margins jeopardize the provision of safe and adequate service, and the decline in margins is due primarily to factors associated with the Renewable Energy

⁵⁵ Id. at 10.

⁵⁶ NYISO Short-Term Assessment of Reliability: 2025 Quarter 3 at 26-27 (October 13, 2025).

⁵⁷ Id.

⁵⁸ NYISO 2025 Power Trends at 6.

⁵⁹ Id. at 7.

⁶⁰ Id.

Program, the Commission should hold a hearing now to determine if suspending or modifying the program's obligations is warranted.

Suspension or modification of the Renewable Energy Program obligations may allow for the continued use of reliable, dispatchable generation necessary to ensure system reliability. The NYISO concludes that "every plausible option and opportunity to bolster both reliability and resource needs should be on the table."⁶¹ This includes fossil-fuel generation, which "will be needed for reliable power system operations until the capabilities it offers can be supplied by other resources."⁶² As discussed in the context of the 2040 Zero Emissions Target, those other resources are not likely to be developed by 2040.

One solution suggested by the NYISO is repowering existing, older fossil fuel plants, which can bolster grid reliability and offer a stepped approach to carbon reductions.⁶³ Repowering is an example of an existing technology that can increase power generation, improve grid stability, and reduce the environmental impact associated with building generation on new facilities. However, given Renewable Energy Program targets, the repowering of fossil-fuel generation is effectively off the table, as the 2040 Zero Emissions Target presents a risk that any repowered plant would be forced to retire by 2040, preventing full recovery of the investment. There have been a number of proposed repowering projects that have been rejected by New York since enactment of the CLCPA.⁶⁴ Without a change to the Renewable Energy Program targets, this solution suggested by the NYISO is not feasible.

⁶¹ Id. at 2.

⁶² Id. at 4.

⁶³ Id. at 8. Repowering involves replacing or upgrading existing components with new equipment than can increase power output, improve efficiency, and aid the transition to cleaner energy sources.

⁶⁴ These rejections have been primarily based on the emissions reduction goals of the CLCPA; however, the Renewable Energy Program has also been cited as a basis for rejection. See e.g., NYSDEC Notice of Denial of

The Coalition is generally supportive of the continued pursuit of renewable energy generation – but not at the expense of grid reliability and safe, adequate and affordable electric service. The inability to timely develop renewable generation and keep up with forecast demand necessitates keeping all options on the table, including existing fossil-fuel generation. To the extent that is precluded by the Renewable Energy Program targets, the Commission has the authority, and the responsibility, to suspend or modify the targets to achieve its “paramount objective of ensuring reliable and affordable electric service and protection of ratepayers.”⁶⁵ The Commission should hold a hearing now to determine if suspending or modifying the program’s obligations is necessary for the continued provision of safe, adequate and affordable electric service. As acknowledged by the Commission’s Chair in his letter to the Buffalo News, the state’s clean energy initiative “only works if we’re honest about the obstacles, strategic about our priorities, and willing to update our playbook when the rules of the game change.”⁶⁶ Given the significant obstacles and changes impacting the Renewable Energy Program, it is apparent that the time to update its playbook is now.

V. CONCLUSION

Recent evidence overwhelmingly suggests that the Renewable Energy Program may impede the provision of safe and adequate electric service in New York, which would negatively impact the members of the Coalition for Safe and Reliable Energy. As a result, and for the reasons discussed above, the Commission should hold a hearing pursuant to PSL § 66-p (4) to

Title V Air Permit for Danskammer Energy Center at 9-10 (Oct. 27, 2021) (“The construction of a new fossil fuel-fired major electric generation facility, which would otherwise be expected to have a useful life beyond 2040, is inconsistent with the CLCPA’s requirement for emission-free electricity generation by 2040); NYSDEC Notice of Denial of Title V Air Permit for Astoria Gas Turbine Power at 11-12 (Oct. 27, 2021) (“[A] new fossil fuel-fired generation facility like this Project could exacerbate and extend the use of fossil fuels to produce electricity, contrary to the requirements of the [CLCPA].”).

⁶⁵ Biennial Review Order at 31.

⁶⁶ Buffalo News Correspondence, *supra*.

determine whether to suspend or modify the obligations set forth under the Renewable Energy Program.

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