July 29, 2025

Via E-Mail (rory.christian@dps.ny.gov) & First Class Mail

Rory M. Christian
Chair & Chief Executive Officer
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

Re: Modification of Statewide Electric Generation Renewable Energy System Requirements Pursuant to New York Public Service Law § 66-p

Dear Chair Christian:

We are writing in our capacity as members of the state's Climate Action Council to respectfully request that the Public Service Commission ("Commission") invoke its authority, granted pursuant to the Climate Leadership and Community Protection Act ("Climate Act"), to hold a hearing to evaluate whether to modify certain renewable energy obligations of the Climate Act. Specifically, as you know, the Climate Act added a new section 66-p to the New York Public Service Law ("PSL") that requires the Commission to establish a program to ensure that: (a) a minimum of 70% of the statewide electric generation in 2030 is generated by renewable energy systems; and (b) by the year 2040 the statewide electrical demand system will be zero emissions ("Renewable Energy Program" or "Program").[1] The Commission is empowered by statute to temporarily suspend or modify these obligations if, after conducting an appropriate hearing, it finds that the Program impedes the provision of safe and adequate electric service. As noted below, there are more than sufficient circumstances to warrant the Commission commencing the referenced hearing process to consider modification and extension of Renewable Energy Program timelines.

In its recent order adopting the Draft Clean Energy Standard Biennial Review prepared by Department of Public Service Staff and the New York State Energy Research and Development Authority ("NYSERDA"),[2] the Commission recognizes the substantial efforts that have been made to deploy renewable energy systems and zero emission sources to meet the Renewable Energy Program targets. Measuring progress through 2022, the Biennial Review Order highlights the results of efforts to reduce emissions from the New York electricity system, including several Tier 1 renewable energy projects under contract to NYSERDA, as well as the

[1] PSL § 66-p (2).
[2] *Draft Clean Energy Standard Biennial Review*, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard (Case 15-E-0302) (July 1, 2024) ("Biennial Review").

South Fork offshore wind project.[3] The Biennial Review Order also adopts recommendations to continue to evolve and improve existing processes to facilitate ongoing development of the Program.[4] Despite this progress, however, the Biennial Review Order details the numerous factors, including inflation, transmission constraints, shifting federal energy and trade policies and interconnection and siting challenges that have adversely impacted renewable development and the state's trajectory towards achieving the Program's 2030 target.[5] As a result of these limiting factors, largely outside the control of the state, the "Biennial Review asserts that the amount of Tier 1 project deployment that would be needed to achieve the 70% goal in 2030 may *far exceed* what the renewables industry could be expected to develop in this timeframe"[6] and "concludes that a delay in achieving the 70% goal may be *unavoidable*."[7]

The recently released Draft New York State Energy Plan further affirms that current renewable deployment trajectories are insufficient to meet statutory targets, and that external constraints continue to impede progress.[8] "Consistent with the findings of the CES biennial review, the [Draft Energy Plan's] modeling shows achievement of a 70% renewable grid in 2033."[9] However, the Draft Energy Plan goes on to acknowledge that the anticipated buildout of renewables could be limited by external factors and the 70% target by 2030 may not be met until much later in the decade. "[A] sensitivity based on the core planning scenario shows that if deployment headwinds persist (as experienced through slower renewable generation build rates), there would be increased reliance on combustion units as compared to the core scenario, including 2.2 GW repowering in Zone J in 2035 and an overall 1.2 GW larger [natural gas and fuel oil] thermal fleet in 2040."[10] The Commission's recent decision to withdraw its Public Policy Transmission Need determination for a major offshore wind transmission project that would have delivered up to 8 GW of renewable electricity to New York City by 2033 is just one of many examples underscoring the fragility of current renewable deployment timelines and further supports the need for the Commission to exercise its authority under PSL 66-p (4).

While these obstacles to renewable energy deployment and greater emissions reductions in the state are deeply concerning, their implications with respect to the provision of safe and adequate electric service should be viewed as nothing short of alarming. The challenges with bringing sufficient renewable energy on-line in a timely manner, while simultaneously decommissioning existing and effective energy sources in order to hit Program targets, could have devastating repercussions for the state and its residents.

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[3] *Order Adopting Clean Energy Standard Biennial Review as Final and Making Other Findings,* Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard (Case 15-E-0302) (May 15, 2025) ("Biennial Review Order"), p. 8.
[4] Biennial Review Order, pp. 31 et seq.
[5] Biennial Review Order, p. 28 – 29.
[6] Biennial Review Order, p. 18 (emphasis added).
[7] Biennial Review Order, p. 31 (emphasis added).
[8] On July 23, 2025, the New York State Energy Planning Board approved the release of the Draft New York State Energy Plan for public comment ("Draft Energy Plan"). Documents that comprise the Draft Energy Plan can be found at: https://energyplan.ny.gov/Plans/Draft-2025-Energy-Plan.
[9] Draft Energy Plan, Volume 1, p. 22.
[10] Draft Energy Plan, Volume 1, p. 23.

One need only look to the *2025 Power Trends Annual Grid and Markets Report* ("Power Trends Report" or "Report") recently issued by the New York Independent System Operator ("NYISO")[11] to reasonably conclude that the Renewable Energy Program's current obligations could impede the provision of safe and adequate electric service. Noting the "rapid and instrumental change" and "uncertainty" currently surrounding the state's electric system,[12] the Power Trends Report warns that reliability margins across New York continue to decline as fossil-based generation retires and new supply resources fail to keep pace with anticipated dramatic demand growth. The NYISO's warning is critical, because "[s]trong reliability margins enable the grid to meet peak demand and respond to sudden disturbances and avoid outages. As these margins narrow, consumers face greater risks of outages if the resources needed for reliability are forced out of service or are not maintained because of policy mandates or failures associated with aging equipment."[13] Acknowledging the challenges to renewable deployment thoroughly described by the Commission in it Biennial Review Order and underlying Biennial Review, the NYISO states in its own Report that

> A change as monumental as decarbonizing our electric system can be challenging and unpredictable. For instance, to achieve the mandates of the state's Climate Leadership and Community Protection Act, new, emission-free generating technologies must replace retiring fossil fuel-based generation. However, these new technologies are not yet available on a commercial scale.[14]

In order to avoid these significant risks to energy reliability, the Power Trends Report concludes that "every plausible option and opportunity to bolster both reliability and resource needs should be on the table"[15] including, among others, the repowering of existing, older fossil fuel power plants, and replacing or upgrading existing components with new equipment that can increase power output and improve efficiency.[16]

> As public policy goals seek to decarbonize the grid, fossil-fired generation will be needed for reliable power system operations until the capabilities it offers can be supplied by other resources.[17]

The Draft Energy Plan analysis supports this need for multiple energy options. Electric sector results in particular state that "[m]eeting growing loads and peaks while working towards achieving 2040 emissions constraints and maintaining reliability requires a *significant buildout of a diverse set of resources*"[18] and the preservation of existing resources including the natural

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[11] See, *2025 Power Trends, The New York ISO Annual Grid and Markets Report* (June 2025) (https://www.nyiso.com/documents/20142/2223020/2025-Power-Trends.pdf/51517a1b-36fa-4f3d-d44d-eabe23598514?t=1748866865402).
[12] Power Trends Report, p. 1.
[13] Power Trends Report, p. 2.
[14] Power Trends Report, p. 8.
[15] Power Trends Report, p. 2.
[16] Power Trends Report, p. 8.
[17] Power Trends Report, p. 4.
[18] Draft Energy Plan, Volume 2, Electricity, p. 52 (emphasis added).

gas system which "[i]n all scenarios … remains an important energy delivery system."[19] The NYISO's determination that pursuit of "every plausible option" is necessary to ensure energy reliability includes the continued use of reliable, dispatchable energy systems like the natural gas system, as well as the ongoing pursuit of traditional renewable resources (hydro, solar, wind) and more concentrated efforts relative to nuclear power (e.g., the state's recently announced New York Power Authority Advanced Nuclear Project) and hydrogen (e.g., NYSERDA's Hydrogen Assessment). Providing support for bridge technologies (e.g., fuel cells, linear generators, etc.) is essential to help address market demand in the near term while the state pursues longer-term options. The NYISO notes that "repowering of existing, older fossil fuel plants … is especially important to consider as we rely more on an aging generation fleet."[20] This repowering likely will not occur absent prompt action by the Commission to extend Program timeframes to obviate the risk for developers that the plants will be forced to retire before they can recover their investments.

While some might argue that this diverse mix of existing and new energy sources could delay achievement of the state's energy goals, it is clear from recent analyses by the NYISO and others that it is necessary to ensure the provision of safe and adequate electric service while the state takes the time it needs to responsibly advance progress toward its Renewable Energy Program goals. The NYISO's persistent warnings about narrowing electric reliability margins and escalating external disruptions to renewable development are exactly the circumstances the legislature envisioned when it included the safeguard in the Climate Act that would allow the Commission to suspend or modify Renewable Energy Program targets. Now is the time for the Commission to exercise its authority under PSL § 66-p (4) to conduct a hearing to consider modification and extension of these targets. To act otherwise would be contrary to the legislature's intent and inconsistent with the Commission's "paramount objective of ensuring reliable and affordable electric service and protection of ratepayers."[21]

In addition to acting with urgency to hold a hearing to evaluate extending the Renewable Energy Program timeframes, we wish to highlight that the state must also address the fact that it is even further behind on meeting the greenhouse gas ("GHG") emissions reduction requirements of 40% by 2030 included in the Climate Act. As we all well know, there is no current authority in the Climate Act for extension of the economy-wide GHG reduction limits, and these limits cannot be modified without additional legislative action. The Draft Energy Plan unequivocally acknowledges that "[u]nder the current set of assumptions and the Climate Act GHG accounting methodology" New York will not hit 40% economywide emissions reduction until 2036, at the earliest.[22] And, due to the numerous external and economic factors that are constraining the deployment of renewable energy sources and reliable technologies, "there is considerable uncertainty in the timeline for progress toward emissions reductions."[23] Given this we urge the legislature to act with haste to extend the statutorily-required 2030 GHG limits consistent with the state's Draft Energy Plan findings.

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[19] Draft Energy Plan, Volume 1, p. 23. See also, Draft Energy Plan, Volume 2, Natural Gas, p.4 (In all scenarios of future energy pathways developed for the Draft Energy Plan "New York continues to meet a substantial portion of its energy needs with natural gas through at least 2040.").
[20] Power Trends Report, p. 8.
[21] Biennial Review Order, p. 31.
[22] Draft Energy Plan, Volume 1, p. 24.
[23] Draft Energy Plan, Volume 1, p. 25.

Thank you for your attention to this important matter.

Sincerely,

Donna L. DeCarolis

Dennis W. Elsenbeck

CC: Doreen M. Harris
President & CEO, NYSERDA

Amanda Lefton
Commissioner, NY DEC