



March 29, 2021

**VIA EMAIL AND U.S. MAIL**

Senator Jabari Brisport  
Legislative Office Building  
188 State Street  
Albany, NY 12210  
Room 915

Assemblyman Robert C. Carroll  
Legislative Office Building  
188 State Street  
Albany, NY 12210  
Room 557

Re: Senate Bill 4378A/Assembly Bill 6251 The Pollution Justice Act of 2021

Dear Senator Brisport and Assemblyman Carroll:

The New York State Reliability Council (“NYSRC”) respectfully submits these comments regarding Senate Bill 4378-A/Assembly Bill 6251. The NYSRC was approved by the Federal Energy Regulatory Commission at the same time as the formation of the New York State Independent System Operator (“NYISO”) to ensure that the reliability of New York State’s bulk power electric system would be maintained in the transition to a fully competitive wholesale electricity market. The NYSRC has fulfilled this responsibility for more than 20 years. The NYSRC accomplishes this through the adoption of Reliability Rules that establish necessary requirements to protect the reliability of the state’s bulk power system. These rules are binding on the NYISO and its market participants. As the state moves forward with the implementation of changes needed to meet the goals set forth in the Climate Leadership and Community Protection Act (“CLCPA”), there will necessarily be impacts on the grid that may require the NYSRC to modify existing and/or adopt additional Reliability Rules to ensure the continued reliability of the New York State the bulk power system. As you know, the reliability of the state’s bulk power

system is essential to the health and safety of the citizens of New York State, especially with regard to the New York City Metropolitan Area, and the grid will become increasingly important as the state moves to further electrify other industries such as transportation and building sectors.

Our basic concern is that the retirement of these generation facilities, referred to in the bills as “Peaker Units”, under the current provisions of the Senate/Assembly bills will adversely affect the reliability of New York State’s grid. The NYSRC respectfully recommends that the bills be amended to permit the renewal of operating licenses for these units beyond an initial five-year period should it be demonstrated that they remain needed to meet reliability requirements.

Replacing Peaker Units with renewable generation without carefully conducted studies regarding the impact on reliability has the potential of adversely impacting the reliability of the grid due to differences in operating capabilities. Peaker Units not only provide generating capacity they also provide essential grid services that include ramping capability, blackstart service, frequency response and voltage control, that must be provided to maintain reliability. When generating units are removed from the grid, resource adequacy and transmission system performance studies must be conducted to determine if the electric grid has sufficient remaining generation to reliably serve all the load within the applicable requirements of the North American Electric Reliability Corporation (NERC), the Northeast Power Coordinating Council (NPCC) and the NYSRC mandatory reliability standards. If the reliability objectives of a standard are not met, corrective action must be taken. The corrective actions could include the building of new transmission to ensure the reliability of the system is protected and the grid remains functional.

The NYSRC’s concern is that Senate Bill 4378A/Assembly Bill 6251 as currently drafted do not adequately address these important considerations. The proposed legislation should include provisions that allow for continued facility operation if reliability is at risk. Limiting the renewal of a Peaker Unit’s license to one five-year period could require a Peaker Unit to retire as soon as 2026, more than a decade before the CLCPA-established 2040 date of having 100% non-emitting electricity generating resources.

These Peaker Units are currently essential to maintain the reliability of the state’s grid. According to NYISO studies, an estimated 5,000 to 10,000 MW of needed generation could be affected by the bills. As currently drafted, the bills do not address the real possibility that replacement renewable generation, together with other facilities that must be added to the grid to comply with reliability requirements, may not be available when a Peaker Unit is required to retire.

As you may be aware, the Department of Environmental Conservation (“DEC”) recently implemented Peaker Rule regulations that took effect in 2020. The DEC, NYISO and NYSRC worked in concert to fairly balance the need to achieve the goals of the Peaker Rule regulation while also ensuring system reliability during the transition period. We recommend that you consult with the DEC and NYISO regarding the studies conducted that informed the final regulations adopted.

The NYSRC respectfully recommends that the legislature amend the proposed legislation to permit further Peaker Unit operating license renewals if a reliability need for continued operation is demonstrated. Such an amendment would protect the reliability of the state’s grid by permitting an existing unit to remain in operation for a limited period until sufficient replacement generation and other facilities are in place and can reliably reach the load that is dependent on it.

We have had recent examples in California and Texas, where insufficient planning resulted in a failure of grid reliability that might have been avoided. We must ensure that such events do not occur in New York, which may include the possibility of rolling or system blackouts. This can be done by carefully implementing the transition to clean energy production in New York State.

Your consideration of these comments is appreciated.

Please address any response to these comments to our counsel, Paul L. Gioia, at [pgioia@outlook.com](mailto:pgioia@outlook.com), or (518) 795-5766.

Sincerely,



Mayer Sasson

Chairman, NYSRC Executive Committee