

NYSDEC/NYSRC – July 20, 2023, Meeting Summary

Agenda

- **Status of NYSDEC Cap & Invest Regulatory Process** – Mike Sheehan – Step 2 timeline. Need to hear from everyone. Working on the next step and the form it will take. Hoping to create some type of document in the second phase but the form has not been determined. DEC and NYSERDA have received a FOIL request asking for all comments. We are looking at options for posting all comments in response to the request. Sixty plus substantive comments, and well over one thousand form letters with a number that are duplicates. Next Form of the process still to be determined. Maybe a whitepaper. Not necessarily a draft regulation. September target. Roundtables with Labor and DACs expected in August. Third party learning sessions are ongoing with the next on Program Stability slated for July 27th.
 - **Q – Sandy – Assumptions for modeling and McKinsey work? MS not certain of form.** Goal – release as much as possible as soon as possible
 - **Q – Georgetown** – DEC staff are stakeholders on the third-party webinars. Other webinars are being discussed.
 - **Q – Cathy – will you do sensitivity analysis? Yes, per Mike Sheehan.**
 - **Q – Kevin Lang – Technical Conferences in the past were excellent during RGGI – they provided robust discussion on informing?** MS – statutory deadline might limit the ability to conduct technical conferences in the same manner as RGGI, that was a 5-year rule making process. We are currently working under a one-year statutory deadline.
 - **Q – RGGI – How will it be managed?** RGGI conversations are ongoing – amongst the states. The timing may be different given the complexities of a multi-year program. New Climate mandates across states being factored in Exactly how Cap and Invest, and RGGI are managed is still to be considered and decided.
- **Legislation Session - 2023** Closeout - Radmila/Chris
 - NY Legislative July 11 Legislative Hearing – video is on the legislative website.

Note: As noted below, some are 2022 bill numbers for consistency.

- **S.4264A/A.6927 of 2022** - CCIA Legislation Update – Radmila/Chris
 - This bill is not in print in 2023.
- **Peaker Justice Legislation** – Rad
 - **S. 2935-C/ A.4866-C (Kelles) of 2023– “Just Energy Transition Act” for High Emitting Facility Replacement Blueprint by 2030**
 - This bill would have NYSERDA develop a study of competitive options or strategies to phase out, by 2030, at least a total of 4

GW of fossil-fueled generation capacity and would prioritize peakers, while ensuring resource adequacy.

- NYSERDA would conduct the study, in consultation with the DPS, DEC, LIPA, the NYISO, the NYS Reliability Council, and facility owners.
 - The study would prioritize the replacement of these facilities with options that include:
 - those described in Council's Scoping Plan (such as dispatchable emissions free resources)
 - renewable energy systems
 - energy storage projects
 - electricity transmission and distribution
 - Senator Parker's bill passed the Senate.
 - Assemblywoman Kelles' bill is in the Assembly Energy Committee.
 - The bill includes IPPNY's amendments to involve the NYISO, the NYS Reliability Council, and affected facility owners in the study effort.
- **A.522 (Carroll) of 2023 - "Pollution Justice Act of 2023" for Peaker Replacement**
 - This bill is in the Assembly Environmental Conservation Committee.
- **S.5939-A (Ramos) / A.6761-A (Mamdani) of 2022** - An ACT to amend the public service law and the environmental conservation law, in relation to prohibiting the development of any new major electric generating facilities that would be powered in whole or in part by any fossil fuel – Rad
 - This bill is not in print in 2023.
- **S.2585-A (Parker) / A.6340 (Barrett) of 2023**- PSC Zero-Emissions Innovative Technologies
 - This bill is the one that is the basis for IPPNY's Joint Petition at the PSC with two unions to have the PSC establish the program needed to develop zero emission dispatchable resources, in order to meet the CLCPA's 100 by forty target and maintain reliability.
 - Senator Parker's bill is in the Senate Finance Committee.
 - Assemblymember Barrett's bill is in the Assembly Energy Committee.
- **S.1694 (Parker) / A.6253 (Barrett) of 2023** – Grid Modernization Commission to Address NYISO Outlook
 - This legislation would create a study to address the challenges of the NYISO's 2021-2040 System and Resource Outlook and identify technology solutions.
 - The new Commission would obtain input from stakeholders, such as ratepayers, trade associations, and generators.
 - The Senate bill is the Senate Finance Committee.
 - The Assembly bill is the Assembly Floor.
- **EPA Proposed Power Plant Emissions Regulation – Summary** - Mike – NYSDEC will submit comments. We are supportive of process.

- **Q – Lang** – NYC and DEC have talked about this EPA process.
- **C – Existing?** Mike 4-5 facilities likely covered in NY. NYSDEC will share comments with NYSRC once they are available.
- **C – Bill Slade** recommended the NYSDEC look at thresholds 300 MW – 50% vs 200 MW at 40%. 200 MW at 40% might be better.
- **Ona – is it too complex? Sub-sectors?** Slade – thresholds could change over time. Based on capacity factors? How do you average years? C Wentlent – our emissions cap includes economic development and electrification. Accordingly – our New York State impact could change over time with load growth that is forecasted longer term in NY.
- **RRGI Update** – Part 242 Regulations, VA Participation, PA LEGAL Activity – Mike – Meeting weekly with staff. We must get new agency heads up to speed. We expect a new release soon.
 - **Q – How is the Cap and Invest program in NY being discussed with other RGGI states?** Several states are following our process – Maryland specifically, and possibly others.
- **California regulations:** Advanced Clean Trucks (ACT), Heavy-duty Low NOx Omnibus, and Phase 2 Greenhouse Gas Standards – NYSDEC. – Update will be provided soon. We want to adopt quickly.
- **EPA Cross State Air Pollution Rule (CSAPR 3)** – Mike – litigation continues. EPA plans to move forward with Phase 3. Contingent on court decision. NYAG is following the matter.
- **Methane regulations** – NYSDEC Staff – Ona. Sources are in their first year of complying with 6 NYCRR Part 203 and reporting. DEC has collected reported data using a non-automated system thus far. DEC is looking into developing an automated system and is working with the regulated community on this.

PHMSA took comment on a pipeline leak detection and repair proposal. Link:
<https://www.federalregister.gov/documents/2023/05/18/2023-09918/pipeline-safety-gas-pipeline-leak-detection-and-repair>

- **NYISO Update** – James Sweeney
 - **Q2STAR Report** – Released Friday, July 14. Press release as well. Q2 discussion on Tuesday, ESPWG Meeting
 - [Q2 STAR Report](#)
 - [Reliability Planning Process and Declaring a Reliability Need: Next Steps](#)
 - **Power Trends** – Issued June 7. Landing page on Power Trends release and supporting materials. All figures and graphics are available. Blogs break down the

information. Further distilling information. An updated version of Power Trends to capture LI PPTN and Q2 STAR release.

- Power Trends 2023
- **NYISO Long Island PPTN Status Update** – June 20th NYISO Board. Propel Alt Solution 5. May 2030.
 - NYISO Board Selects Transmission Project to Deliver Offshore Wind Energy
 - Long Island Offshore Wind Export Public Policy Transmission Plan
- **Interregional Transmission Planning Update – no activity**
- **NYSRC Update** – Chris Wentlent –
 - **NYSRC Executive Committee** met on Friday, July 14 – Highlights include:
 - **Rich Dewey provided a high-level briefing of the recent Power Trends Report, and Q2 STAR Report** to the Executive Committee.
 - **Installed Capacity Subcommittee (ICS)**
 - ICS continues its work on the Annual IRM Report. As usual, voting on the final IRM will take place in December 2023.
 - We approved the Preliminary Base Case Parametric Results, and
 - A presentation regarding Emergency Assistance from neighboring external areas was reviewed for information only. This is an area of high interest to the NYSRC/ICS as reserve margins tighten and resource portfolios change in NY and neighboring power pools due to new energy and clean energy policies.
 - **The Reliability Rules Subcommittee**
 - RRS - continues to work on the Draft Inverter Based Resource (IBR) Reliability Rule revisions based on comments received. We expect a rule reposting for comment later this year, with the goal of finalizing the rule by the end of this year. We appreciate the comments received from stakeholders, and the coordination and support of NYISO in working through this process.
 - **Extreme Weather Working Group**
 - The Extreme Weather WG provided an Offshore Wind Data Review – Preliminary Findings Report. Members of the NYSRC Extreme Weather WG performed preliminary analysis of 20 years of historic Offshore Wind (OSW) weather information, the findings report highlights various results which could have an impact on the design, operation and reliability of the NYS power system. This included frequency analysis, interregional impacts, and cursory analysis of combined wind/solar events. The report is available on our website under Agenda Item 5.4.1 of our July 14 EC Agenda. The Findings Report was approved by the NYSRC EC. Report: https://www.nysrc.org/wp-content/uploads/2023/07/NYSRC-Wind-Impacts-Final-07_18_23.pdf
- **NYSPSC Staff Regulatory Update** – Mike Tushaj
 - **Clean Energy Standard & Offshore Wind Proceedings (15-E-0302 // 18-E-0071)**
 - **Order Initiating Process Regarding Zero Emissions Target (05/18/23):**

Following enactment of the CLCPA, the Commission issued an Order adopting modifications to the Clean Energy Standard (CES Modification Order) aiming to align the existing CES with CLCPA renewable targets. CES Modification Order focuses on options for procuring sufficient renewable energy resources in order to meet CLCPA targets, however several studies indicate that renewable energy resources may not be capable of meeting the full range of electric system reliability needs that will arise as fossil generation is replaced.

These issues were also raised in a Petition filed on August 18, 2021, in this proceeding, by Independent Power Producers of NY (IPPNY), NYS Building and Construction Trades Council, and NYS AFL-CIO.

The Public Service Commission issued an Order on May 18, 2023 that responded to the petition and initiated a process to identify technologies that can close the gap between the capabilities of existing renewable energy technologies and future system reliability needs, and more broadly identify the actions needed to pursue attainment of the Zero Emission by 2040 Target as established in the CLCPA. Comments on the questions included in the Order, including the definition of zero emissions and related issues, were due July 17th and the deadline has since been extended to August 17th. The Order also directed DPS Staff to hold a technical conference which is anticipated in September or October of this year. You can track the progress of the Order under Case 15-E-0302 where updates will be made available as this work progresses.

Order Approving Financial Backstop Collection Mechanism (06/23/23):

On **July 1, 2021**, NYSERDA filed a petition seeking approval of its Clean Energy Standard (CES) financial backstop collection process. The Commission ultimately adopted the concept of a financial backstop whereby NYSERDA would be able to collect CES program shortfalls from Electric Distribution Companies (EDCs) and further directed NYSERDA/DPS to file a proposal for implementing such a financial backstop for Commission consideration. Understanding that NYSERDA's ability to make timely payments to eligible generators is dependent upon the collection of the necessary funds in advance of the payment due date, a well-designed financial backstop mechanism is essential to ensure NYSERDA has the financial means to address the expansion of the State's clean energy targets pursuant to the CLCPA.

Commission approved NYSERDA's financial backstop proposal, with modifications. NYSERDA is authorized to utilize the process approved in this Order to collect funds to remediate the accumulated Zero-Emissions Credit (ZEC) deficit and to address future projected cash flow deficits by providing appropriate documentation for the Commission to review and render a determination. The Electric Distribution Companies shall commence financial backstop collections from customers on a MWh Load Ratio Share via delivery surcharges, for the allocated ZEC deficit amounts described within the Order, beginning October 1, 2023, and in a manner consistent with the companies' existing tariffs.

Petition of Sunrise Wind LLC for an Order Authorizing NYSERDA to Amend the Offshore Wind Renewable Energy Certificate (OREC) Purchase and Sale Agreement (filed on 06/07/23):

- Sunrise Wind requests the Commission issue an order authorizing NYSERDA to amend the OREC Agreement with Sunrise Wind to incorporate inflation and interconnection cost adjustment mechanisms comparable to those included in NYSERDA's Phase 3 RFP (ORECRFP22-1).

Petition for Expedited Approval of Enhanced Offshore Renewable Energy Credits (filed on 06/07/23):

- Empire Offshore Wind LLC & Beacon Wind LLC submitted a Petition for *Expedited Approval of Enhanced Offshore Renewable Energy Credits* pursuant to Rule 35 of the Commission's Rules, 16 NYCRR.
- The Petitioners claim that "...additional support is required to restore the Projects' ability to attract the capital commitments needed for their timely development and construction..."
- Through the relevant OREC solicitations Petitioners offered to supply ORECs at a price that was sufficient to support the development of the Projects. However, since these OREC solicitations were conducted, numerous exogenous factors, including rampant inflation, global supply chain disruptions and soaring interest rates associated with the COVID-19 pandemic, the Russia-Ukraine conflict and the increasing pace of the energy transition, have adversely impacted a broad range of industries including the power industry.
- To maintain the current timeline for the Projects and to satisfy the Commission's statutory obligations under the CLCPA and the Public Service Law to rapidly develop renewable energy resources at just and reasonable rates, the Petitioners respectfully request that the Commission take action on this Petition by no later than 31st October 2023.

Petition to Address Post COVID-19 Impacts on Renewable Development Economics and Contract Considerations (initially filed on 06/07/23 and re-submitted on 06/12/23 to include attachments inadvertently left out):

- Alliance for Clean Energy (ACE) NY submitted a petition that highlights:
 - o Securing REC awards via NYSERDA Tier 1 solicitation is ***just an initial step*** in project development. ***Project permits*** and ***interconnection authorization*** are often subsequently pursued followed by ***financing*** and ***construction arrangements***, including the ***execution of contracts***, to complete project development. Based on the NYS CES Program, the small subset of awarded projects able to complete this entire cycle and reach operation have taken ***approximately five to seven*** years. The Commission has set a 2026 deadline to complete NYSERDA solicitations to allow ***sufficient time*** for ***development and construction of awarded projects***. The Petition asserts that strictly following this timeline is critical to the State's climate change commitment.
 - o The Petition also asserts that "...dramatic shifts in the global economy have caused a number of severe and unforeseeable economic disruptions since fall 2021..." (***COVID-19 & Russia/Ukraine War → supply chain bottlenecks and labor constraints → unpredictable upsurges in costs of renewable energy development***).

Petition Regarding Adjustment to Index REC and Index OREC Formulas for New Capacity Accreditation Rules (06/29/23):

- NYSERDA requests the Commission authorize a revision to the manner in which existing and future Renewable Energy Certificates (RECs) and Offshore Wind

Renewable Energy Certificate (ORECs) Purchase and Sales agreements that utilize Index REC/OREC pricing mechanism calculate the Reference Capacity Price (RCP). The requested revision would allow for:

- If approved, the existing/Future index REC and OREC RCP formula would be adjusted to represent a more flexible and resilient hedge in a revenue neutral manner. Changes would include revisions to:
 - Market Administration and Control Area Services Tariff proposed by the New York Independent System Operator, Inc. (NYISO) → to adopt a marginal capacity accreditation market design.
- **Energy Storage Proceeding – 18-E-0130**
 - **Ruling on Extension Request (12/28/22) - December 14, 2022**, → National Grid was granted an *extension* to comply with directives set forth in the Order Approving Utility-Owned Asset Participation in Wholesale Markets, issued on 09/09/21. Extension was granted to **June 30, 2023**.
June 12, 2023, → National Grid requested *further extension* of deadline to comply with those directives.
- **Electric Vehicle Proceeding – 18-E-0138**
 - **Order Approving Modification to Utility Managed Charging Program (06/23/23)**: On **March 08, 2023**, CH filed a **Petition** seeking Commission approval to modify its EV active managed charging program. In the Petition, CH requested an adjustment to its Program to modify the frequency of the Active Managed Charging participation incentive, claiming that modifying the participation incentive frequency **from *monthly payments to a single, annual end-of-season payment*** will improve the **effectiveness** of the Program and **enhance customer experience**. In this Order the Commission approved CH's proposal to modify payment frequency from ***monthly payments to a single, annual end-of-season payment***, which is in alignment with the Non-Wires Alternative Program season as identified in more detail within the body of the Order. Additionally, the Commission ordered the Company to file an updated Managed Charging Implementation Plan to reflect these changes within 30 days of the issuance of this Order (expected ~end of July).

- **PSC’s Transmission Planning Proceeding – 20-E-0197**
 - No new **orders/petitions** to report on.
 - A few CLCPA Phase 1 and 2 reports have been filed and can be viewed in DMM under this case number.
- **Energy Efficiency and Heat Pumps – 18-M-0084**
 - No new **orders/petitions** to report on.
- **Resource Adequacy Proceeding – 19-E-0530**
 - No new **orders/petitions** to report on.
- **Proceeding regarding Natural Gas Planning – 20-G-0131**
 - No new **orders/petitions** to report on.
- **Matter of the Advancement of Distributed Solar - 21-E-0629**
 - Press Release outlining PSC’s review of and improvement to NY-Sun Program was issued on June 22, 2023.
 - **Order Adopting NY-Sun Mid-Program Modifications (06/23/23):**
The Mid-Program Review (MPR) was filed in accordance with the Commission’s 10 GW Order issued on April 14, 2022, in Case 21-E-0629, which expanded the target amount of distributed solar generation projects installed in NYS from 6 GW to 10 GW. In general, the MPR filing provides an overview of NY-Sun program activity between the issuance of the 10 GW Order and the MPR Trigger (the Review Period), including all Clean Energy Fund (CEF) monies authorized by the Commission for the program. As part of the MPR filing, the Commission directed NYSERDA to analyze at a minimum, the following:
 - 1) Updated project cost estimates based on:
 - a. Developer reported data.
 - b. Utility reported interconnection costs and
 - c. International cost trends
 - 2) Types of projects being developed in response to the incentives offered.
 - 3) Market/Policy factors that may be driving changes in rate of uptake and/or costs and
 - 4) Whether any changes to the Environmental Value (E Value) component of Value Stack compensation, base incentives, or adders are warranted in response to the previous factors.

NYSERDA reports that, of the total **\$3.267** billion budget authorized for NY-Sun to-date, **\$1.891 billion** had been **committed or expended** as of the MPR Trigger, leaving approximate **\$1.375 billion** in remaining, **uncommitted** funding.

In this Order the **Commission approves the recommendations set forth in the MPR filing**, subject to discussion within the body of the Order. In depth details regarding this discussion and the recommendations are quite lengthy and begin on page 18 and continue through page 31.

- **NYSDEC Regulatory and State Implementation Plan Update** – NYSDEC Staff – No major updates. DEC continues development of the attainment demonstrations for the 2015 ozone standard and 2010 sulfur dioxide standard.
- **Next Call – Proposed for Sept 14, 2023, at 9am.**