

POWER FOR ECONOMIC PROSPERITY

June 27, 2022

VIA EMAIL

Ms. Doreen M. Harris
President and CEO
New York State Energy Research
and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

Mr. Basil Seggos
Commissioner
New York State Department of
Environmental Conservation
625 Broadway
Albany, NY 12233-1011

Re: Power for Economic Prosperity's Comments on Draft Scoping Plan

Dear Co-Chairs Harris and Seggos:

Power for Economic Prosperity ("PEP"), a coalition of manufacturing companies that depend on low-cost Niagara Project hydropower in order to maintain their operations in the Buffalo/Niagara region, hereby submits its attached Comments on the Draft Scoping Plan ("Draft Plan") issued by the Climate Action Council ("CAC") on December 30, 2021.

Background

PEP member companies employ approximately 7,500 workers with high-paying jobs that contribute to the quality of life in New York State. Most of these jobs are represented by the strong unions present in Western New York. In the last several years, these companies have invested hundreds of millions of dollars in their Buffalo/Niagara region manufacturing facilities. These companies also support thousands of indirect jobs in the Western New York region with an aggregated annual labor cost of close to \$1 billion. PEP member companies also pay tens of millions of dollars in state and local taxes, employ workers representing multiple labor unions and contribute to many local charities serving the needy of Western New York.

The PEP group is a subset of the RP and EP customers served by NYPA. All told, NYPA currently provides RP and EP to approximately 128 economic development customers. Those customers represent approximately 37,000 good-paying jobs in Western New York, and support more than \$2.8 billion of capital investments in the region. Low-cost hydropower is critical for many of these energy-intensive manufacturing companies to remain competitive in the global economy and to maintain their local operations. Because they are energy-intensive, many RP and EP customers are extremely sensitive to electricity price changes and constantly compete against internal and external competitors to keep their plants operating. Material increases in electricity prices could force these customers to cut back their New York operations, or worse, relocate out of state.

Comments

PEP and its members understand and recognize the goals of the CLCPA and appreciate the extraordinary efforts of the CAC and its staff. For many years, PEP members have been leaders in

energy efficiency, investing untold millions of dollars in order to utilize electricity and natural gas as efficiently as practicable. Its members also have been longtime participants in demand response programs administered by the New York Independent System Operator, Inc. (“NYISO”) and the State’s electric utilities.

Although PEP can support the CLCPA goals in general, there are serious deficiencies in the Draft Plan, all of which should be addressed in the Final Scoping Plan to be issued later this year. First and foremost, the Draft Plan raises serious, unanswered questions about the future reliability and affordability of energy in New York. For example, the Draft Plan lacks detailed information on the specific costs and benefits of individual recommendations. The Plan also fails to address if New York can afford to implement the recommendations advanced. Due to this pronounced lack of information on the specific costs and benefits of individual recommendations, the Draft Plan does not evaluate which recommendations are the most important and/or most cost-effective. As a result, prioritization is foreclosed.

On a related topic, the Draft Plan fails to provide any guidance on how Energy Intensive and Trade Exposed (“EITE”) industries will be defined, or advance specific recommendations as to how to minimize the imposition of CLCPA compliance costs on EITE industries in order to prevent economic and emissions leakage. This despite the fact that the CLCPA directed the CAC to: (a) convene advisory panels on, inter alia, EITE industries; (b) convene a Just Transition Working Group (“JTWG”) that would “identify energy-intensive industries and related trades”; and (c) require the JTWG to prepare and publish to the CAC recommendations on how to address “issues and opportunities related to the [EITE] industries ... [and] measures to minimize the carbon leakage risk and minimize anti-competitiveness impacts of any potential carbon policies and energy sector mandates.” N.Y. Env. Cons. Law §§ 75-0103(7), (8)(b), (8)(f).

PEP members are recipients of hydropower allocations from NYPA and, by any definition, energy-intensive and/or trade-exposed. Many PEP members would not be operating in Western New York without the NYPA hydropower allocations at current pricing. However, NYPA hydropower is not immune from the impacts of CLCPA compliance, and NYPA is projecting a substantial increase in hydropower prices by 2030 due to that compliance. These projected increases potentially will put thousands of Western New York jobs at risk. Thus, the need to provide a path forward for EITE industries, as required by the CLCPA, is critical. Accordingly, PEP strongly urges the CAC to substantially strengthen the Draft Plan’s treatment of EITE industries in the Final Plan. In particular, the Final Plan should advance: (a) a specific definition of EITE industries to guide future state policy; and (b) specific recommendations to reduce CLCPA compliance costs to EITE industries in order to combat economic and emissions leakage by such industries. A Final Plan that does not comprehensively relief for EITE industries would harm New York’s economy by driving jobs out of state without providing the emission reductions that are being sought.

In assessing the impact of CLCPA compliance on large consumers, it is critically important that any evaluation include the substantial, financial obligations related to the CLCPA that already are being imposed on present and future utility customers by the Public Service Commission and others. Accordingly, when the CAC evaluates potential CLCPA compliance actions and costs, it should be cognizant of and consider the costs that already are being imposed and/or are scheduled to be imposed on utility customers. In addition, the CAC should minimize the imposition of even

more costs on New York's beleaguered energy consumers to the greatest extent possible, including identifying alternative funding sources.

Electric grid reliability is critical to the health and the welfare of New York's citizens and businesses, and enormously impactful on the State's economy. Energy-intensive businesses, for example, will locate and invest in other regions if New York fails to maintain strong grid reliability and power quality. Accordingly, the Final Plan must contain a more thorough analysis of the enormous challenges that CLCPA compliance will impose on maintaining electric grid reliability, as well as advancing specific recommendations to ensure that desired changes to the State's generation mix will not degrade reliability or power quality. As part of that reliability analysis, the Final Plan should recognize the enormous challenges that compliance with CLCPA mandates (such as massively-increased reliance on intermittent forms of generation and aggressive electrification efforts that will grow statewide electric demand materially) will impose on maintaining electric grid reliability.

Finally, pursuant to the CLCPA, New York will seek to reduce reliance on natural gas, thereby decreasing the GHG emissions associated with its use. Significantly, however, the Draft Plan fails to advance a comprehensive strategy for reducing statewide reliance on natural gas. Many industrial and other processes depend on natural gas, and there are no viable alternatives to gas for many such processes. Thus, until such time that alternatives do become viable, any failure to ensure safe, reliable, and competitively-priced gas supplies and service could lead to a massive exodus of manufacturing and other jobs from the State given other states and countries are not imposing these types of requirements on their industries. Therefore, it is imperative that the Final Plan provide a comprehensive transition plan for natural gas that simultaneously ensures that: (a) existing gas customers will continue to receive reliable and affordable service during the transition; and (b) customers that depend on natural gas for industrial and other processes for which no viable alternatives to gas exist will continue to receive reliable and competitively-priced gas service for the foreseeable future.

PEP appreciates this opportunity to comment upon the Draft Plan and respectfully requests that the Climate Action Council address the aforementioned deficiencies in the Final Scoping Plan.

Respectfully submitted,

Power for Economic Prosperity

Lloyd B. Webb

Lloyd B. Webb, Chairman