

## *Testimony of Gavin J. Donohue*

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### **New York State Assembly Public Hearing**

### **Role of State Authorities in Renewable Energy Development**

July 28, 2022

Thank you, Chair Paulin, Chair Cusick, and Chair Englebright for the opportunity to testify before you today. The topic of today's hearing is examining the role of State authorities in facilitating the development of renewable energy to meet the goals of the Climate Leadership and Community Protection Act (CLCPA). When this hearing was first announced in June by Speaker Heastie, the purpose was to get additional public input about the Build Public Renewables Act, A.1466-D (Carroll) / S.6453-C (Parker), and to solicit testimony to help guide the development of a sound and sustainable approach to meeting the CLCPA's goals.

My testimony focuses upon our strong concerns with this legislation. We very much appreciate that the Assembly did not pass this bill in a hurried fashion and that the Speaker is taking a thorough approach in considering this bill and avoiding negative consequences that would arise from its enactment.

Before I get into my specific testimony on this legislation, I would like to provide some background as to who IPPNY is. We are a trade association representing companies in the competitive power industry in New York. We were established in 1986 and currently have 85 Members. Our companies produce more than 75% of the State's power from ALL sources, such as: wind, solar, hydro, energy storage, natural gas, oil, waste-to-energy, biomass, and nuclear. In combination, these resources maintain electric system reliability. IPPNY Members employ over 10,000 people across the State and pay about \$1.7 billion in property taxes annually. I am the President and CEO of IPPNY and also serve as an appointed member on the State's Climate Action Council.

IPPNY does not represent utilities or power authorities. Our Members bear the risk of their decisions, and they cannot charge ratepayers for recovery of all of their costs, like utilities used to do when they were in charge of power generation. Utilities, overall, have not been in the generation business since 1999.

#### **Benefits of Competition for Ratepayers**

More than 20 years ago, New York and many other states made the decision to redesign a failing electric utility industry model, transitioning from one where utilities and State authorities built new electric generation, to a system where that function was handled by private

independent power producers (IPPs). These IPPs have met the challenge throughout that time and will continue to do so as we work towards reaching the CLCPA's 2030 and 2040 targets. This change to the old electric industry model was designed to relieve ratepayers of decades of utility cost overruns and bad decisions and, instead, leave decision-making to the New York Independent System Operator's (NYISO) newly established competitive electric markets where the best solutions win.

Since the introduction of competitive markets in New York, private investment has had a positive impact for electricity consumers. The competitive wholesale electricity market has provided benefits, such as: the shift of investment risks away from captive ratepayers to private investors and not having utilities or public power authorities own new generating facilities regardless of size; increased system reliability and availability; substantially reduced air emissions; and expansive growth in renewable energy, energy efficiency, and demand response resources.

Most importantly, we have a reliable and low-emitting electricity system and want to keep it that way, while maintaining affordability. Since 2000, New York's power sector has reduced its emission rates, including those of nitrogen oxides by 92%, sulfur dioxide by 99%, and carbon dioxide by 46%. Further, zero-emissions resources made up 91% of Upstate production in 2021.

According to the NYISO's 2022 *Power Trends*, wholesale electricity prices were at a record low in 2020. Prices were higher in 2021 as the demand for energy increased with the economic recovery. Prices rose as a result of the retirement of the Indian Point 2 in April 2020 and Indian Point 3 in April 2021. In 2022, fuel prices increased to historic highs due to economic factors associated with the COVID-19 pandemic and the war in Ukraine.

### **NYPA Building and Owning New Renewables is Not the Answer to Meeting CLCPA Targets.**

Regarding the Build Public Renewables Act, we, along with ACE NY, NY-BEST, and SEIA, worked together on a Memorandum of Strong Opposition to the bill. That memo is attached to this testimony.

### **This Bill Sends a Negative Message to Private Investors.**

Currently, there is an abundance of private investors in the process of investing in New York State. The inconsistencies in public policy, as a result of the possibility of NYPA developing and owning renewables, could end up deterring private investment and hurt New York Ratepayers.

Sufficient projects already are in the works to help us push towards the CLCPA's objectives. Over 50,000 MW of wind, solar, and battery storage projects are in the NYISO's interconnection queue. Independent investors have a long, successful history with Requests for Proposals (RFP) for the procurement of renewable energy credits (REC) issued by the New York State Energy Research and Development Authority (NYSERDA).

According to the NYISO, 25% of electricity supply statewide is zero-emissions, and 16% of electricity supply is from renewables. Nearly 6,500 megawatts of renewable capacity currently are installed, according to NYISO data. More than 88 renewable projects, totaling over 6,000 megawatts, have received awards under REC procurements by NYSERDA. NYSERDA recently

issued new awards under the Clean Energy Standard Tier 1 RFP to 22 large-scale solar and energy storage projects. According to Governor Kathy Hochul's press release, this award brings the State to having 66% of New York's electricity from renewable sources, and the State is on its way to 70% in 2030.

Major additional projects are being reviewed by the Office of Renewable Energy Siting (ORES) and under the Article 10 power plant siting process.

Three major IPPNY Member projects have received their permit from ORES:

- 177-megawatt solar project and 83-megawatt battery energy storage facility by EDF Renewables North America - Morris Ridge Solar Energy Center, LLC
- 50-megawatt solar project by NextEra Energy Resources - Watkins Glen Solar Energy Center, LLC
- 500-megawatt solar project by Hecate Energy Cider Solar, LLC

Additional projects proposed by IPPNY Members are being reviewed by ORES:

- 60-megawatt solar project by Hecate Energy Columbia County LLC
- 180-megawatt solar project by Invenergy - Horseshoe Solar Energy LLC
- 100-megawatt solar project by Cypress Creek Renewables - Bear Ridge Solar LLC
- 94-megawatt solar project by EDF Renewables North America - Moraine Solar Energy Center
- 90-megawatt solar project by EDF Renewables North America - Homer Solar Energy Center, LLC

Accordingly, no evidence that proposals submitted in response to NYSERDA's REC RFPs are inadequate or that the CLCPA's requirements cannot be met by private developers. Competitive procurement is the best policy to reach the 70% renewables by 2030 target.

The New York Power Authority's (NYPA) existing law requires it to do competitive procurement, and NYPA should continue to issue RFPs. NYPA should only be allowed to build renewables and energy storage if NYPA, NYSERDA, the Department of Public Service, and the NYISO determine that the CLCPA's renewable energy goal is not being met, after it is clear that competitive procurements are not working.

### **NYPA Has No Renewables Supply Problem to Solve.**

The State should look at NYPA's beneficial role as the State's problem solver; NYPA already is executing its new renewable energy job – given to it by the Legislature - which is building transmission to move renewable energy to where it is needed.

However, when it comes to renewable energy development, there is no current problem for NYPA to solve, given the successful RFP process discussed above. The mere existence of the CLCPA's aggressive targets is not a reason for NYPA step in and develop new renewables. The case has not been made that NYPA needs to be involved or that it is in the public interest for NYPA to do so. For it to be reasonable for NYPA to build renewables, a demonstration would need to be made that private sector investment is not working to meet the 70 by 30 target. If that

failure happens, the State will need to decide how NYPA should become involved and at what cost to NYPA's ratepayers.

Advocates are calling for an “all-hands-on-deck approach,” but NYPA cannot make any faster progress toward the CLCPA's 70 by 30 target. Any notion that NYPA can develop, permit, and construct projects at lower costs or any quicker than IPPs is simply false. IPPs and NYPA have to play by the same rules, follow the same State regulations, and go through the same permitting procedures, which are complicated and controversial processes that have slowed new technology deployment to date. NYPA cannot get through the renewable energy siting process any faster than IPPs, so the State would not be any closer to the CLCPA's ambitious goals or reach them any quicker. NYPA cannot speed up securing transmission without self-dealing. It cannot work with communities any better.

When advocates say that NYPA can “scale up renewables faster, cheaper, and more efficiently than private developers,” what do they really mean? When advocates say that NYPA should “turbocharge renewable energy generation,” what are they really saying? Are they implying that NYPA should steam-roll communities and build renewables without community input and environmental review? Are they saying that NYPA should build transmission without community input and environmental review? Do they mean that NYPA's ratepayers - many of which are in New York City and in Westchester County - should pay more, because NYPA issues its own bonds and sets its own rates and makes sure that all of its costs are covered? Are these the pathways that NYPA should take to get to the 70 by 30 target faster than private sector renewable developers? Is this approach better than that of private renewable companies, who abide by the renewable energy siting process, work with communities, and receive revenues through competition in the wholesale electricity market and not through guaranteed rate recovery from ratepayers?

### **NYPA Can Build for Two Years Before a 10-Year Plan is Developed to Determine Public Benefit.**

If the bill were to become law, NYPA would have two years to develop a ten-year plan as to how the State is reaching the CLCPA's goals and what NYPA should do to help the State's achieve its goals. During that two-year window, while the plan is being developed, NYPA would have unfettered authority to develop renewables before it even looks at whether the CLCPA's targets are being met and what NYPA should do about it.

### **NYPA Does Not Have Solar and Wind Experience.**

According to its website, NYPA provides renewable energy through three large-scale hydroelectric plants. That hydropower is from: Niagara Falls; a massive dam – more than half a mile long - on the St. Lawrence River; and from the Ashokan Reservoir, which is built on flooded communities in the Catskills. NYPA also has three other hydroelectric power plants: Gregory B. Jarvis Plant on the Hinckley Reservoir, along with the Crescent Plant and the Vischer Ferry Plant – both of which are on the Mohawk River.

NYPA's energy storage project is the Blenheim-Gilboa Pumped Storage Power Project, which, as stated on NYPA's website, “uses hydroelectric technology and two large reservoirs at different altitudes ... The plant uses power to pump water from the lower reservoir to the upper reservoir.”

In 1977, NYPA proposed a new pumped storage project that ultimately was withdrawn due to environmental opposition and high construction costs. NYPA had proposed building a million-kilowatt, pumped-storage generating plant at Prattsville in the Catskills on the Schoharie Creek, using water from New York City's Schoharie Reservoir to generate the power. Under the proposal, water would have been pumped from the reservoir to an artificial lake on top of a hill at periods of slack demand for electricity, generally at night. When electricity was needed, the water would have flowed down through turbines, generating electricity. Estimated project costs, including construction and finance charges, had risen to \$1.6 billion, from \$500 million when it was first proposed.

NYPA does not have large-scale solar and wind projects. As discussed above, private renewable energy companies have built – and will continue to build – solar and wind facilities to meet the CLCPA's target.

### **NYPA Does Not Pay Property Taxes.**

As I mentioned before, independent investors in New York pay roughly \$1.7 billion annually in property taxes to their local communities. Conversely, NYPA does not pay property taxes to communities if it were to acquire existing renewable facilities or build new ones. If NYPA had the authority to own new renewable facilities and energy storage, surrounding communities would miss out on the local financial benefits, especially for school aid, that IPPs pay in property taxes annually.

The CLCPA's requirements will cause fossil fueled facilities to retire, unless a zero emissions technology is developed that they can use. This closure will reduce local revenues from the property taxes that private companies pay. Continued private sector renewable energy investment will provide local revenues.

### **Costs for Ratepayers Would Increase.**

The bill would unnecessarily raise costs for NYPA's ratepayers without helping the State work towards the CLCPA's renewable energy goals any quicker as discussed above. NYPA has more than 1,000 customers, from local and state governments (such as the New York City Housing Authority, New York City government, the Metropolitan Transportation Authority, Westchester County government and numerous municipalities and school districts), to large and small businesses and non-profit organizations (such colleges, universities, and hospitals) that currently rely on NYPA's favorable energy rates.

NYPA issues bonds to pay for its projects and sets its own rates. Recovery of all of NYPA's costs from its ratepayers is guaranteed. Why should the State increase costs for ratepayers when competitive power producers are more than willing to continue investing in renewable energy and storage projects without it negatively affecting ratepayers' wallets?

### **Ratepayers Are Paying for Power Authorities' Cost Over-Runs.**

Long Island residents already pay some of the highest utility rates in the country, largely attributed to the Long Island Power Authority's failed power projects, specifically the Shoreham Nuclear Facility. NYPA's failed project – Hudson Transmission Partners - represents a liability of roughly \$645 million.

## **Conclusion**

New York State's climate law has the most aggressive decarbonization goals in the country. IPPNY supports the transition to a clean energy future, but this bill is NOT the answer. Private investment, ingenuity, and competition have always been, and will continue to be, the most efficient ways to accomplish our energy benchmarks. Ratepayers do not need to be on the hook again as we continue to advance new projects and lower air emissions en route to a clean energy future.

Thank you for the opportunity to be with you today and to discuss ways to help ensure that the State's goals are met in an efficient, reliable, and cost-effective way. I would be happy to answer any questions that you may have.

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## **S.6453-C (Parker) / A.1466-D (Carroll)**

### **Memorandum in Strong Opposition**

June 1, 2022

**S.6453-C (Parker) / A.1466-D (Carroll) – AN ACT to amend the public authorities law, in relation to implementing the "New York State Build Public Renewables Act"**

**We strongly oppose S.6453-C (Parker) / A.1466-D (Carroll).** This legislation would, among other provisions, significantly expand the New York Power Authority's (NYPA) ability to acquire, develop, own, and operate existing and new renewable electric generating facilities and energy storage in this State. The bill is unnecessary and would undermine the current, successful model, which relies on renewable energy and energy storage companies - big and small - to develop these projects to meet New York's energy goals and the requirements of the Climate Leadership and Community Protection Act (CLCPA) and to grow the State's clean energy economy. The legislation also would not provide revenues to local communities, as NYPA does not pay taxes.

The sponsors suggest that NYPA's development of renewable energy and storage projects is necessary to achieve New York's energy goals. This is not supported by the facts. New York State has purposefully planned and invited renewable energy and storage companies to invest in the State, and the response has been a nation-leading development of these projects that has met or will meet or exceed every State goal. For instance, New York has nearly achieved in 2022 the previously established goal of 6 gigawatts (GW) of solar power by 2025, and Governor Kathy Hochul recently approved a new goal of *at least* 10 GW of distributed solar by 2030. The NY-Sun Initiative and other State programs have leveraged \$1 billion in incentives to attract \$5.3 billion in private investment, resulting in an astounding 2,100% in solar energy growth, 12,000 jobs, and a 69% reduction in solar costs since 2011. In 2020, New York was the national leader for community solar power installations and was second in the nation for total installations.

Further, over 50,000 MW of wind, solar, and battery storage projects are in the New York Independent System Operator's (NYISO) interconnection queue, awaiting the ability to interconnect to the State's electricity grid. More than 88 renewable energy projects (some of

which include energy storage), totaling more than 6,000 MW, have received awards under renewable energy credit (REC) procurements by the New York State Energy Research and Development Authority (NYSERDA). Also, there is 6,428 MW of renewable capacity currently installed, according to NYISO data. Clearly, renewable energy and energy storage industries are investing in New York today, and there is no evidence that the proposals submitted in response to these solicitations are inadequate or that the CLCPA's requirements cannot be met by private developers. The State's current plan and efforts have been and are successful, and there is no reason to have NYPA undertake the same types of projects.

NYPA cannot help the State meet its energy and environmental goals any faster than private developers can because NYPA cannot complete the siting process any quicker. NYPA has not built a new power plant in over 15 years and, instead, has successfully obtained its new power supplies through competitive procurement and from the competitive wholesale electricity market. The private sector has been successfully developing and operating large-scale renewable electric generation facilities for more than a decade.

If NYPA were to acquire, own, and develop renewable energy and storage projects, it would unfairly subject ratepayers to costs and risks (including, but not limited to, environmental, regulatory, and operational risks) that now are borne solely by renewable energy and storage companies. Also, NYPA's customers would be responsible for paying all of the costs of such projects. This would include NYPA's more than 1,000 customers, from local and state governments (such as the New York City Housing Authority, New York City government, the Metropolitan Transportation Authority, Westchester County government and numerous municipalities and school districts), to large and small businesses and non-profit organizations (such colleges, universities, and hospitals) that currently rely on NYPA's favorable energy rates.

Further, because NYPA's generating facilities are tax exempt, the potential expansive footprint of its facilities across New York would deprive local governments of millions of dollars in critical property taxes. By comparison, private sector energy producers overall currently pay more than \$1.5 billion in property taxes annually.

Finally, this legislation is inconsistent with provisions supported by the Legislature in the 2019 Enacted Budget, which expressly provided that NYPA would not build and own new generation. NYPA's statute, even before the 2019 Enacted Budget, states that NYPA is to do competitive procurement for new energy supplies. NYPA should continue to issue Requests for Proposals (RFPs), as is consistent with its statute and its earlier RFPs to implement the Clean Energy Standard. NYPA is already performing its statutory role for the advancement of new renewable energy projects, and that role is building new transmission lines to provide the renewable energy from where it is generated to the locations where energy consumers can use it. NYPA should focus on that important mission rather than be forced to own and operate renewable and energy storage projects.

**For these reasons, we oppose this legislation and urge you to reject these bills.**

*ACE NY is a member-based organization with a mission of promoting the use of clean, renewable electricity technologies, energy efficiency, and transportation electrification in New York State to increase energy diversity and security, boost economic development, improve public health, and reduce air pollution. Our diverse membership includes companies engaged in the full range of clean energy technologies as well as consultants, academic and financial institutions, and not-for-profit organizations interested in our mission.*



*The Independent Power Producers of New York, Inc. (IPPNY) is a trade association representing companies involved in the competitive power supply industry in New York State and in the development of electric generating facilities, the generation, sale, and marketing of electric power, and the development of natural gas transmission facilities. IPPNY Member companies produce the majority of New York's electricity, utilizing hydro, nuclear, wind, natural gas, solar, energy storage, biomass, oil, and waste-to-energy.*

*NY-BEST is a not-for-profit industry trade association with a mission to grow the energy storage industry in New York. We act as a voice of the energy storage industry for more than 180 member organizations on matters related to advanced batteries and energy storage technologies. NY-BEST promotes energy storage by providing education and thought leadership; leading the development and deployment of energy storage solutions; and expanding markets for energy storage. Our membership includes global corporations, start-ups, project developers, leading research institutions and universities, and numerous companies involved in the electricity and transportation sectors.*

*The Solar Energy Industries Association® (SEIA) is leading the transformation to a clean energy economy, creating the framework for solar to achieve 30% of U.S. electricity generation by 2030. SEIA works with its 1,000 member companies and other strategic partners to fight for policies that create jobs in every community and shape fair market rules that promote competition and the growth of reliable, low-cost solar power. Founded in 1974, SEIA is the national trade association for the solar and solar + storage industries, building a comprehensive vision for the Solar+ Decade through research, education and advocacy.*