August 16, 2023

Hon. Michelle L. Phillips
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

Case 15-E-0302- Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard

Re: Order Initiating Process Regarding Zero Emissions Target

Dear Secretary Phillips:

Jointly, the New York State AFL-CIO (“NYS AFL-CIO”) and New York State Building & Construction Trades Council (“BCTC”) submit these comments in response to the May 18, 2023 order referenced above by the Public Service Commission (“Commission”).

The NYS AFL-CIO is a federation of 3,000 public sector, private sector, and building trades unions throughout the state, representing 2.5 million members, retirees, and their families. BCTC includes 14 local building trades councils, 12 district councils and state associations, and 135 local unions representing over 200,000 unionized construction workers throughout the State of New York. Collectively, our members live and work in every community in our state and reflect the diversity that makes New York great.

While we fully support the State’s emission reduction goals, careless implementation of the Climate Leadership and Community Protection Act (“CLCPA”) will imperil thousands of good union jobs, threaten reliability, and lead to skyrocketing costs. That is why it is critical for the Commission to establish a zero-emissions program that prioritizes the maintenance and creation of good union jobs while maintaining service and limiting price increases.

Many unionized industries, including construction, rely on non-renewable energy to operate. These industries employ thousands of workers and offer tremendous training and career opportunities for apprentices seeking to learn a trade and establish a middle-class career. The generation of non-renewable energy also employs thousands of union workers, including construction workers and apprentices, many of whom are on the path to life-changing wages and benefits. While we are fully supportive of renewable development, the zero-emission
technologies described below would fill the energy generation gap; keep industries operational; and provide enormous opportunity for those who construct, operate, repair, and maintain non-renewable energy generating facilities to transition to energy sector jobs that would otherwise not be available under the State’s current construct. Zero-emission technologies will provide the much-needed dispatchable resources that will inevitably be necessary for the clean-energy grid to maintain reliable and cost-effective service.

Below, we have provided responses to a number of the questions set forward in your order. We look forward to engaging in this process and we continue to urge the Commission to take swift action on this matter of great importance to the workers we represent.

RESPONSES TO CERTAIN QUESTIONS POSED IN THE MAY 18TH ORDER

1. How should the term “zero emissions,” as used under PSL §66-p(2)(b), be defined?

“Zero emissions” under Public Service Law §66-p(2)(b) should be defined as systems, other than renewable energy systems, that can individually, or in combination, deliver net zero greenhouse gas emissions (“GHG”) equivalent electricity.

2. Should the term “zero emissions” be construed to include some or all of the following types of resources, such as advanced nuclear (Gen III+ or Gen IV), long-duration storage, green hydrogen, renewable natural gas, carbon capture and sequestration, virtual power plants, distributed energy resources, or demand response resources? What other resource types should be included?

Technologies that qualify as zero-emissions sources for purposes of meeting the 2040 Zero-Emissions Target should include: existing and advanced nuclear, long-duration storage, green and pink hydrogen, renewable natural gas, carbon capture and storage (“CCS”), virtual power plants (“VPPs”) and demand response resources. The Commission should also address the role transmission can play in helping meet the 2040 Zero Emissions Target.

3. How should a program to achieve the Zero-Emission by 2040 Target address existing and newly constructed nuclear energy resources? Should the program be limited to specific types of nuclear energy technologies and exclude others?

Existing and newly-constructed nuclear energy resources emit no GHGs during operation. After hydropower, nuclear power is the second largest source of low-emission power. As the Commission seeks to formally define zero emissions technologies, we are requesting the inclusion of existing and new nuclear generation. The Climate Action Council’s Scoping Plan recently acknowledged nuclear energy’s contributions in achieving the state’s nation-leading climate goals, and even assumes the nuclear fleet will be granted license extensions to operate an additional 20 years.
Constellation’s upstate nuclear power stations provide thousands of good-paying jobs for our members contributing millions of dollars to the state’s economy\(^1\) - all while producing vast amounts of zero-emission electricity and playing a vital role in helping New York State lessen the effects of climate change.

Nuclear generation is vital to New York’s clean energy future. We commend the New York State Public Service Commission for preserving 44% of our state’s carbon-free energy and look forward to nuclear generation being identified as an essential zero-emissions technology.

5. Should new measures adopted to pursue compliance with the Zero-Emission by 2040 Target focus exclusively on generation and resource adequacy, or should they also encompass a broader set of technologies that could be integrated into the transmission or distribution system segments, or installed and operated behind-the-meter?

This program should include a broader set of technologies to ensure reliability, especially since grid stability will be more challenging with the variety of sources being newly connected, while others are retired.

8. Given that the feedstocks and other resources required to produce renewable natural gas are limited and will be in demand in other sectors of New York’s economy, how should this fuel be considered in the context of this proceeding?

RNG can and should be used as a dispatchable source to maintain grid reliability when renewables and battery storage do not meet electric demand.

9. In what ways might a program to meet the Zero-Emission by 2040 Target require reexamination and possibly revision of different tiers of the Clean Energy Standard? Should one or more of the policy approaches that have been used to implement the CES be considered to meet the Zero-Emission by 2040 Target?

The Commission should establish a new tier under the CES to incentivize zero-emission technologies. The process should be similar to competitive solicitations that NYSERDA has been managing for renewable energy generation, including labor standards and Buy American provisions.

10. What is necessary to align a program to meet the Zero-Emission by 2040 Target with the priority of Just Transition embedded within the CLCPA?

In establishing the competitive zero-emissions energy systems program, the Commission should include quality-based contracting and labor provisions that build on the Just Transition policies enacted over the last few years for renewable energy systems in section 66-r of the Public

\(^1\) Through the CES and ZEC program, nuclear plants are creating jobs and growing the New York economy. Case 15-E-0302: Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard, Order Adopting a Clean Energy Standard (Aug. 1, 2016) (the “CES Order”).
Service Law and section 224-d of the Labor Law, including prevailing wage, project labor agreements, labor peace, and Buy American provisions. The Commission should also include protections and standards recommended in the Climate Action Council Scoping Plan and embraced in statute – such as job protections, prompt rehire, and direct assistance for displaced workers. These policies will help ensure that projects are built in a cost-effective manner and meet applicable standards and critical construction and power generation schedules. The Commission should require, as an ongoing condition of any agreement with a public entity that implements the competitive zero-emissions energy systems program, that the owner of the zero-emissions energy system, or a third party acting on the owner’s behalf, comply with the provisions of PSL Section 66-r and Section 224-d of the Labor Law. The Commission should also require utilization of bona fide apprenticeship programs registered with the United States or New York State Department of Labor for the appropriate type and scope of work. Prevailing wage and apprenticeship training have similar positive project delivery effects as do PLAs. Apprenticeship training provides an effective tool for ensuring a sufficient supply of skilled workers with verified training for the future of this industry. PLAs ensure that affected projects will be built in a timely manner by a skilled and trained workforce. Collectively, apprenticeship and pre-apprenticeship programs affiliated with the unions affiliated with the BCTC provide opportunities for residents of disadvantage communities to learn a trade and start a career path towards a middle-class, family sustaining-future. In addition, all three policies have a long history of success in federal, state, and local public works programs in New York and have provided substantial assistance in building other types of power generation projects. Moreover, these policies are consistent with, and build upon, the Just Transition policies embedded in the State’s Climate Policy.

These labor provisions are consistent with the March 23, 2021, recommendations of the Just Transition Working Group to the Climate Action Council. They would create and retain good paying union jobs in New York, spur local manufacturing and further New York’s clean economy goals. They would also encourage the repurposing of existing facilities and incentivize private investment in new, zero carbon emission technologies that strengthen local communities. A just transition to clean energy can only occur if workers in the current industry are allowed to participate in the zero-emissions energy future.

The Commission should also consider the benefits afforded by establishing an in-state supply chain for burgeoning technologies. Early adoption of new technology combined with domestic and in-state content requirements or preferences will attract manufacturers and jobs to the state.

Lastly, we would call your attention to comments submitted by the New York State Pipe Trades Labor-Management Association regarding quality contracting and progressive labor provisions, which we strongly support.

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2 Additionally, robust labor standards and protections have recently been enacted in the following climate change statutes: Education Law §§ 3623-a (2) (f), 3638; Environmental Conservation Law § 58-1301; Labor Law §§ 21-f, 224-f; Public Authorities Law §1005(27-a); Public Buildings Law §91; Public Service Law §§ 66-t, 66-v; and State Finance Law §163-e.

3 Id.
11. How might the benefits of a program to meet the Zero-Emission by 2040 Target be measured for the purpose of ensuring that, consistent with PSL § 66-p(7), it delivers “substantial benefits” to Disadvantaged Communities?

Benefits to DACs should be measured by air quality improvements as determined via the DEC’s 2022-23 Statewide Community Air Monitoring Initiative and by the implementation of the CLCPA requirement for 40% of program economic benefits to go to DACs to ensure that those communities are delivered “substantial benefits” by a zero-emissions program. Many of the fossil-fueled generators in the State are located in DACs. By incentivizing and investing in net-zero emissions technologies, these fossil-fuel generators can be replaced with net-zero emissions technologies and improve local air quality in those communities, which leads to better health and lower health care bills.\footnote{Health and Safety Benefits of Clean Energy, U.S. DOE (last accessed Aug. 3, 2023), available at https://www.energy.gov/eere/health-and-safety-benefits-clean-energy.} The measurement of benefits should also, discussed supra, consider the fact that zero-emissions technologies such as new nuclear, hydrogen, RNG, and CCS provide more employment opportunities than renewable technologies such as solar and wind and will require similar numbers of operating staff with similar training as existing thermal and nuclear power stations. Employment opportunities in the unionized sectors of construction, maintenance, operation, repair, and manufacturing sectors provide the greatest benefits to DACs as these opportunities provide family-sustaining wages as well as medical and retirement benefits. Most importantly, employment opportunities in the unionized sectors of these industries provide much more than a job, they can provide workers with a career.

Thank you for your time and consideration.

Sincerely,

Mario Cilento
President
New York State AFL-CIO

Gary LaBarbera
President
New York State Building & Construction Trades Council