

NYSDEC/NYSRC – March 9, 2023, Agenda

The meeting summary follows:

- **Climate Action Council Final Plan, State of the State Address & Budget Progress** – Rad & Chris
 - **Economywide Cap & Invest** – Part AAA of S4008/A3008
 - The Economywide Cap & Invest Program was a recommendation of the Climate Action Council's Scoping Plan.
 - The program will be developed through regulations of the DEC and NYSERDA, as was the RGGI program.
 - The target is to complete the program by January of next year, and it is intended to be the main avenue by which the CLCPA's emission reduction targets will be established and enforced.
 - The Governor's Budget includes a provision that would establish a fund for the allowance auction revenues that would be provided by the economywide program after it is established.
 - **Economywide Cap & Invest** – Part AAA of S4008/A3008. **DEC-** Expect a busy year. A number of issues to address have been identified. Primary mechanism – NYSDEC. This is the primary CLCPA driver. Drafted outreach program – to be released soon. Pretty generic to start. Mandatory reporting rule as well.
 - **Q – Cathy W – Mandatory Reporting. Power Sector? DEC hopes to leverage what sources are already reporting. Might need additional information to support economywide cap-and-invest.**
- **Legislation Session - 2023**
 - **S4264A/a6927** - CCIA Legislation Update – Radmila/Chris
 - This bill is not in print in 2023.
 - **Peaker Justice Legislation** – Rad
 - A.522 (Carroll) of 2023 - "Pollution Justice Act of 2023" for Peaker Replacement
 - This legislation is in the Assembly Environmental Conservation Committee.
 - **S.5939-A (Ramos) / A.6761-A (Mamdani)** - 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.6497-A (Parker) / A.8094 (Cusick)** - PSC Zero-Emissions Innovative Technologies
 - S.2585-A (Parker) of 2023 – PSC to Establish Zero Emissions Energy Systems Program
 - The legislation has moved from the Senate Energy and Telecommunications Committee to the Senate Finance Committee.
- **S.8405-A (Parker) / A.9881-A (Cusick)** – Blueprint to Replace Highest-Emitting Facilities by 2030 with Reliability
 - S.2935-A (Parker) of 2023 – “Just Energy Transition Act” for High Emitting Facility Replacement Blueprint by 2030
 - The bill has moved from the Senate Energy and Telecommunications Committee to the Senate Floor.
 - The bill has been changed from last Session.
 - 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.
 - This 4 GW amount is new.
 - NYSERDA still 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, but are not limited to:
 - those described in Council’s Scoping Plan (such dispatchable emissions free resources)
 - This provision is new.
 - renewable energy systems
 - energy storage projects
 - electricity transmission and distribution
 - The need for this study to replace this generation was indicated by the Climate Action Council’s Scoping Plan and the Governor’s 2022 State of the State Address Briefing Book.
 - However, neither of them specified the amount of generation that should be phased-out.
- **A.2103-D (Pretlow) / S.8830 (Stewart-Cousins)** - DEC Permits and Disadvantaged Community Disproportionate Impacts
 - A.2103-D (Pretlow) / S.8830 (Stewart-Cousins) was signed into law as Chapter 840 of the Laws of 2022.
 - S.1317 (Stewart-Cousins) / A.1286 (Pretlow) is a Chapter Amendment to Chapter 840 of the Laws of 2022, and it was signed into law Chapter 49 of the Laws of 2023.

- The Chapter Amendment contains the following more helpful language on permit renewals: “In the case of an application for renewal of an applicable permit, the department shall not issue an applicable permit if it determines that the project would significantly increase the existing disproportionate pollution burden on the disadvantaged community.”
 - Chapter 840 of the Laws of 2022 contains more open-ended language that refers to “disproportionate burden.”
 - This revised language within the Chapter Amendment is more consistent with that of DEC’s Part 487, involving significant, adverse, and disproportionate impacts.
 - **Q** – Cathy W – asked for clarification; Mike Sheehan said the DEC still is reviewing the new law; Rad noted to importance of reconciling with DAR-21, CP-49, and proposed Part 621.
 - **Q** – Cathy – DAC – permit to be issued unless a significant increase? Yes.
 - **Q** – is significant defined? No per Rad but part of other DEC regulations. Part of SEQRA.
 - **Q** – Cathy – if you are renewing a permit, as long as not changing operation? NYSDEC – DAR-21 – Market? Rad – interplay exists. Mike Sheehan – we are following Sections 7-2, 7-3 under the CLCPA law. DAR-21 dealt with 7-2. It applies to multiple areas.
 - **Q** – anything else coming on DEC 7-3 CLCPA? DEC is working on it, and Mike will check.
- **S.1694 (Parker) of 2023** – Grid Modernization Commission to Address NYISO Outlook
 - This bill is new in 2023.
 - This legislation would create a study to address the challenges of the NYISO’s 2021-2040 System and Resource Outlook.
 - The new Commission would obtain input from stakeholders, such as ratepayers, trade associations, and generators, and would submit a report to the Energy Planning Board, in order for its recommendations to be addressed by the State Energy Plan.
 - The bill has moved from the Senate Energy and Telecommunications Committee to the Senate Finance Committee.
- **Status of NYSDEC Cap & Invest Regulatory Process – Mike Sheehan** – stakeholder outreach plan already completed and being reviewed before issued. CARB regs will be used for guidance and to inform how they address various sectors of the inventory. Will also leverage what we know from RGGI. Per prior presentations, economywide will cover the entire inventory, but not all sectors will have a compliance obligation (e.g., aviation fuels).

Q – allowance trading between sectors? DEC will be listening to stakeholders to inform how the various sectors will interact. What does electricity sector look like? RGGI, NY only or hybrid?

Q – CA’s regulatory program to serve as guidance? DEC is reviewing the regulatory language and will be soliciting feedback on all aspects of both rules. This will take time and we are currently working through both regulations at a very high level. We need to get feedback from the entire economy.

Q – stakeholder outreach? Possible release of a stakeholder plan in the next couple of weeks.

C - need to address long-term contracts, emissions leakage, and economywide regional approach

C – need to involve NYISO and NYSRC, especially to address trading in disadvantaged communities

C – reporting rule for other sectors beside power sector; power sector based upon current reporting where applicable

- **Other NYSDEC, NYSDPS Climate Action Council Scoping Plan Outcome – Expected Proceedings –** Other agencies are looking at new rules as outlined in the scoping plan. No other items to report.
- **RGGI Update** – Part 242 Regulations, VA Participation, PA LEGAL Activity – Mike Sheehan. Public Meeting at the end of this month. PA put RGGI monies in its’ budget but still to be determined. Technically participating but no compliance yet.
- **Status of Air Permits** – Michael Sheehan, NYSDEC – no updates
 - Danskammer Update
 - NRG Astoria Generating Facility Upgrades Update
 - Greenidge T4 and T5 Permit Renewal Status Report
- **California regulations:** Advanced Clean Trucks (ACT), Heavy-duty Low NOx Omnibus, and Phase 2 Greenhouse Gas Standards – NYSDEC. **Proceeding, on pace for adoption.**
- **EPA Cross State Air Pollution Rule (CSAPR 3)** – should see the final regulation by the end of this month. TX, Utah asked for stay of the rule pending more analysis.
- **EPA Proposed Methane regulations** – NYSDEC Staff – Ona. Component Survey Reporting deadline at the end of March (Controlling Air Pollution from

Facilities - NYS Dept. of Environmental Conservation). We have received responses from one-third of the entities. Some well owners do not have access to the internet and DEC is currently preparing a paper questionnaire mailing. Pleased so far with the results. Blow down reporting is now mandatory.

- **NYISO Update** – James Sweeney
 - **BSM & Capacity Accreditation Update** – 2023 Kick Off Meeting on Jan 26. Very good presentation. More work within working group (ICAP)
 - **NYISO Long Island PPTN Status Update** – at ESPWG. Materials are available on the website. Feb 8, 18, and March 16 meeting. Decision later this year.
 - **STAR Update – 4Q was posted on January 13. 2023 Q1 – Kicks off Jan 24. April posting by April 15.**
 - **Recent FERC NOPRS** – Transmission Planning, Interconnection and Extreme Weather – no activity.
 - **Status of Interconnection Process** – TPAS WG – Feb 14.
 - **Interregional Transmission Planning Update** – no activity
- **NYSRC Update** – Roger Clayton
 - **Potential Reliability Rule 151** – Interconnection for IBRs. Vote tomorrow at EC. IEEE-2800 is the standard being utilized. Defines the study process and criteria. It is the basis for this PRR. The posting period is a 45-day period.
 - **FERC NOPR – IBR** – NYSRC provided comments. Implied retroactivity. Waiting for final FERC guidance. ERCOT similar action. Also has a proposed regulation. ERCOT reserves the right not to dispatch.
 - **Extreme Weather WG** – ISO provided a 21 year database evaluating offshore wind for seven sites off of New Jersey and LI. Significant periods where generation of OSW is very low. Less than 10% for more than 24 hours. We need to understand the impact of wind and solar lulls and the combination of both. Longer term schedule.
 - **Al Adamson – retires.**
- **NYSPSC Staff Regulatory Update** – Mike Tushaj
 - **Energy Storage Proceeding** – 18-e-0130. Energy Storage Roadmap comments are due on March 20.
 - **Clean Energy Standard** – 15-e-0302 – no report
 - **Electric Vehicle Proceeding** – 18-e-0138.- no report.
 - **Offshore Wind Proceeding** – 18-e-0071 – no report.
 - **Energy Efficiency and Heat Pumps** – 18-m-0084 – no report.
 - **Resource Adequacy Proceeding** – 19-e-0530 – no report.
 - **PSC's Transmission Planning Proceeding** – 20-E-0197 PSC Order approving sixty-two projects for \$4.38B on Feb 18. Phase 2 CLCPA projects

approved. Transmission line, substations, etc. upgrades. 3.8GW of headroom. Page 31 – has additional details. Costs – seek recovery through FERC. Timing later this decade. (2027-2029). CGPP – still being evaluated. Movement in the future. Hopefully, an update next meeting.

- **Proceeding regarding Natural Gas Planning** – 20-G-0131- no report.
- **Matter of the Advancement of Distributed Solar** - 21-E-0629 Technical Conference in January. Filing period April.

NYSDEC Regulatory and State Implementation Plan Update –

DEC continues to develop the attainment demonstration for the **2015 ozone standard** of 0.070 parts per million (ppm) for the New York City metropolitan area. The area is classified as “moderate” nonattainment with an attainment deadline of August 3, 2024. Compliance will be determined using actual monitoring data from 2021, 2022, and 2023. It is unlikely that the area will attain the standard given the current design value of 0.082 ppm. If the area does not attain by the attainment date of August 3, 2024, EPA will be required to reclassify the area to “serious” nonattainment and a new attainment demonstration will need to be developed.

DEC will begin development of the attainment demonstration for the **2008 ozone standard** of 0.075 ppm for the New York City metropolitan area upon completion of the attainment demonstration for the 2015 ozone standard. The area is classified as “severe” nonattainment for the 2008 ozone standard with an attainment deadline of July 20, 2027. Compliance will be determined using actual monitoring data from 2024, 2025, and 2026. The attainment demonstration for the New York City metropolitan area classified “severe” for the 2008 ozone standard is due no later than May 7, 2024. Photochemical modeling projections are showing that the area will be close to attaining the 2008 ozone standard of 0.075 ppm in the 2027 attainment year.

DEC continues developing the attainment demonstration for the **2010 sulfur dioxide (SO₂) standard** for the portion of St. Lawrence County near Massena, New York that is designated nonattainment.

DEC continues developing **source-specific SIP revisions** for facilities with Title V or Air State Facility permits statewide that contain Reasonably Available Control Technology (RACT) variances or case-by-case RACT determinations. See [NYSDEC State Implementation Plans and State Plans](#) for updates.

- **Next Call – Proposed for** Thursday, May 11, 2023, at 9 am.

