



## **Comments on the New York State Department of Environmental Conservation Draft Policy Rule (DEP-23-1)**

These comments are submitted on behalf of the New York State Reliability Council (NYSRC) on the Draft Program Policy DEP-23-1, entitled “Permitting and Disadvantaged Communities (DACs),” issued by the New York State Department of Environmental Conservation (NYSDEC).

The NYSRC is a reliability organization approved by the Federal Energy Regulatory Commission. The NYSRC is responsible for the development and the enforcement of Reliability Rules necessary for the safe and reliable operation of the New York State bulk power electric system. The rules adopted by the NYSRC must be complied with by the regional system operator, *i.e.*, the New York State Independent System Operator (NYISO), and all parties participating in the NYISO’s competitive wholesale electricity markets. Our comments focus on reliability-related considerations pursuant to the Draft Policy.

The NYSRC submits that in its decision-making, it is necessary for the NYSDEC to carefully consider maintaining electric system reliability in evaluating applications by generating facilities. As part of this consideration, DEC should evaluate whether a resource is located in an area of tightening reserve margins and/or transmission security limits now or in the foreseeable future and ensure that its decisions do not jeopardize or unduly impair electric system reliability.

The NYSRC recommends that any final DEC policy promulgated should contain a provision allowing for the continued operation of a generation facility if it is determined by the system operator (e.g., the NYISO) or local transmission owner that a reliability concern will result now or in the near future if the generation resource is retired, regardless of whether it is located in a designated DAC.

The draft policy includes mitigation measures through the provisions for “project design measures,” but does not cite to CLCPA 7(2) required justifications. The draft policy should be updated to include a provision for project justification that allows the applicant to explain how it aids in the maintaining of electric system reliability and/or public safety.

As the state moves towards reaching its CLCPA mandates, electricity load is expected to increase, and currently, there is a net exit of resources occurring on the system. Specific initiatives, such as proposals to electrify the heating and the transportation sectors, will increase electric load in locations that are already resource and transmission constrained. The need for the highest level of system reliability to be maintained is more important now than ever, especially given the recent and anticipated future retirement of reliability-supporting plants due to the DEC Peaker Rule. History has demonstrated that a failure in the reliability of the electric power system results in severe societal consequences.

Organizations need predictability when it comes to whether they will receive a DEC permit renewal. Yet, the maps of DACs are set to be redrawn as often as annually, which could create increased uncertainty and reduce the length of time a generation project owner has to recoup their costs.

The NYSRC encourages the DEC to adopt a balanced approach in evaluating permits that not only seeks to protect DACs, but also considers the electric reliability contributions of plants seeking new or renewed permits. The NYSRC shares the State’s goals of pursuing decarbonization, but such efforts must not degrade electric reliability,

which is essential. Accordingly, the proposed rule should be modified to provide explicitly for the consideration of potential electric reliability and public safety impacts in the evaluation of permit applications.

The NYSRC appreciates the opportunity to provide these comments, and requests they be incorporated in any final policy promulgated.