



Comments on the New York State Department of Environmental Conservation's and New York State Energy Research and Development Authority's New York Cap and Invest Pre-Proposal

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These comments are submitted on behalf of the New York State Reliability Council (NYSRC) on the New York Cap-and-Invest (NYCI) Pre-Proposal issued by the New York State Department of Environmental Conservation (NYSDEC) and New York State Energy Research and Development Authority (NYSERDA).

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 questions/comments and recommendations focus on reliability-related considerations pursuant to the NYCI Pre-Proposal. The NYSRC believes it is important for policy decision-makers to consider not just impacts on the current system and public safety, but also how decisions made today will impede future system stability in New York.

For example;

- How does the proposed NYCI regulation impact existing generation resources in New York State?
- How do we ensure the maintenance of dual fuel capable units on the system?
- How will the proposed NYCI regulation promote the new generation necessary to support large new load economic development that is currently being considered in New York State?
- Will the state carefully balance the need for generation resource adequacy to properly support the decarbonization electrification efforts in the building and transportation sectors?
- Will New York State be able to depend on imports from neighboring power systems during extreme and seasonal (winter & summer) periods?

Based on the above questions, the NYSRC submits that, in its decision-making, it is necessary for the NYSDEC and NYSERDA to carefully consider maintaining electric system reliability in developing the NYCI program. Consideration must be given to both the immediate and longer-term impacts of the NYCI program.

The NYCI pre-proposal currently does not apply to electricity generation. If electricity is included in either the non-obligated or as an obligated sector under NYCI, it is paramount that any program design include reliability off-ramp provisions to avoid any detrimental impact to electric system reliability or public safety. Additionally, the program must be reconciled with the RGGI program. Without such provisions, the NYCI program could endanger reliability by preventing generators from operating when allowances are not available, cost of program compliance leads to retirement considerations or permit conditions impact unit operation.

In this regard, the NYSRC applauds the suggested inclusion of Price Ceiling Units (PCUs) that would be made available as necessary to ensure that scarcity of allowances does not jeopardize system reliability.

However, other reliability and public safety considerations such as an off-ramp provision for continued generation unit operation are necessary. The NYSRC believes the recent NYSDEC NOx Peaker Rule is informative in this specific area.

In addition to considering the immediate impact of NYCI on the electricity sector, consideration should also be given to the longer-term reliability impacts. These include:

Dispatchable Emissions Free Resources (DEFERs)

The NYISO and state agencies have identified the critical need for Dispatchable Emissions Free Resources (DEFERs) to complement intermittent renewable generation and ensure the ability of the electric system to meet demand to complement renewable generation. Currently, DEFERs are not commercially available, but the market participants have identified small modular nuclear reactors, retrofitting of thermal generation with emissions control and capture technologies, and repowering thermal generators with zero emissions fuels, such as renewable natural gas or green hydrogen, as probable future DEFERs. The PSC is also examining this question. It is important that both state and federal policies align to support this important outcome.

Generation Facilities – Located in or Near Disadvantaged Communities

A major CLCPA requirement is improved air quality in Disadvantaged Communities. This could result in either facility specific permits, or unique trading requirements under NYCI. In either outcome, the reliability implications of the desired path forward must be carefully evaluated to ensure public safety, and local system reliability is not sacrificed.

New Generation Necessary to Support New Large Economic Development Load Growth

New York is currently considering a number of new economic development opportunities in the chip, data, dairy, and hydrogen industries. In some cases, the load requirement could be up to one thousand megawatts. It is important that new generation resources are deployed in a timely manner to support this economic activity.

The NYSRC offers some additional questions for consideration as the state works toward a more formalized NYCI proposal:

- i. How will the reliability value of generators interact with any proposals involving Disadvantaged Communities, such as the possibility of facility-specific emissions caps?
- ii. When designing the emissions cap over time, what consideration is given to the need for generators that are required for reliability and public safety to operate?
- iii. How will leakage of emissions to neighboring jurisdictions affect the reliability value of reliance on imports from said neighboring jurisdictions?
- iv. Do the agencies plan a three-year compliance period, in line with RGGI? We believe more flexibility in compliance options will promote better system reliability, which is important for all stakeholders.
- v. What is the PCU provision in more detail?
 - a. Where do allowances come from for PCU's?
 - b. Are the allowances beyond the established cap? If implemented, do PCU's impact the future supply of allowances in any manner?

The NYSRC believes our comments are important for the short term and long-term success of the NYCI Program, we appreciate the opportunity to provide these comments, and recommends the comments, questions and recommendations are considered in detail in any proposed draft regulation released in this proceeding.