

NYSDEC/NYSRC Agenda –September 10, 2026, Meeting Summary

- **2026 Legislative Update - Rad**
- **General – Legislative Update**
 - ***Responsible Data Center Development Act - A.11560 (Barrett) / S.10642 (Gonzalez)***
 - This bill would impose a one-year moratorium on the ability of large data centers, which are above 20 MW, and which commence construction after the bill's effective date, to get any permits.
 - The moratorium does not apply to permit modifications or renewals.
 - The DEC, in consultation with DPS, DOH, EFC and NYISO, is required to prepare an environmental impact report on data center development in this state.
 - LIPA also is required to establish a program for data centers.
 - Among other provisions, this legislation would require data centers, which have a peak load of 5 MW or more, to demonstrate that they are procuring, either via contract or onsite generation, renewable energy systems in the following amounts:
 - at least one-third of their electricity consumption from 2030 to 2034
 - at least two-thirds of their electricity consumption from 2035 through 2039
 - at least 90 percent electricity of their electricity consumption in 2040 and thereafter
 - These data centers are required to demonstrate that their energy needs are being met “as is technologically, environmentally, and practically feasible from on-site generation from renewable energy systems.”
 - The bill does not mention the eligibility of nuclear or other zero emission sources.
 - The bill has passed both houses but has not yet been sent to the Governor for her consideration.
 - **One Year Data Center Moratorium Status –Governor's Executive Order**
 - On July 15, Governor Hochul issued an Executive Order,
 - The Order addresses provisions within the legislation, S.10642 (Gonzalez) / A.11560 (Barrett); however, it is not clear what action they will take on the bill, considering this Order.
 - Unlike the Gonzalez-Barrett bill, the Order does not impose requirements for the sources of power for data centers.
 - The Order indicates that DPS may require data centers to fund new clean electric generation and/or battery storage dedicated to their operations, consistent with the State's clean energy goals, including customer-sited distributed energy resources, to the greatest extent feasible.
 - The Order applies to data centers, which are 50 MW or larger and that need new or pending permits from the DEC.
 - The Order does not apply to data centers primarily used for manufacturing, research, education, or the provision of medical care.
 - The Order also does not apply to permits, approvals, licenses, or similar forms of permission from local governments.
 - In implementing the Order, the DEC, DPS, and Empire State Development (ESD) are required to work together and to consult with the

NYISO and other agencies and authorities, such as NYSERDA and LIPA.

- The Order requires the DEC to suspend action on applications for permits and approvals for the construction or expansion of a data center, until the DPS completes a public process on a Generic Environmental Impact Statement (GEIS), which could take up to a year.
 - The GEIS would assess the potential environmental impacts of the construction and operation of data centers, including energy demand, water use and quality, air quality, disproportionate impacts on Disadvantaged Communities, and noise levels.
 - DPS is required to complete its examination of the impacts associated with the interconnection of data centers within its Case #26-E-0045 on large loads.
 - DPS also is required to identify necessary infrastructure improvements across the grid.
 - ESD is directed to create a Community Investment Framework and to implement workforce-based requirements.
- **Climate Superfund Act – Quick Update**
 - On August 31, 2026, the US District Court for the Northern District of New York struck down the state’s 2024 Climate Change Superfund Act.
 - US District Judge Brenda K. Sannes found that the law is preempted by the federal Clean Air Act and “simply beyond the limits of state law.”
 - The Act requires fossil fuel producer companies to pay for damages that contribute to climate change.
 - The purpose of the law was to secure compensatory payments from responsible parties based on a standard of strict liability to provide a source of revenue for climate change adaptive infrastructure projects within New York.
 - The law established a total “cost recovery amount” of \$75 billion and requires “responsible parties” to pay their “proportional liability” for that amount.
 - The State is looking at options to appeal the decision.
- **CO2 Programs – Ona**
 - **Status of RGGI Program & Auction Update –**
 - RGGI Auction 73 was held on Wednesday, September 9th.
 - Additional allowances were added to Auction 73 from set-asides, and VA Cost Containment Reserve (CCR) allowances.
 - Auction 73 results may be found here: <https://www.rggi.org/Auction/73>.
 - **Status of Part 253 compliance outreach**
 - NYSDEC expects some outreach later this year.
 - On July 31, 2026, DEC issued an enforcement discretion letter with respect to certain provisions of 6 NYCRR Part 253, the Mandatory Greenhouse Gas Reporting Program.
 - More information on enforcement discretion under Part 253 may be found here: <https://dec.ny.gov/environmental-protection/air-quality/mandatory-greenhouse-gas-reporting>.
 - **Q – When will the Reporting Tool for Part 253 be available?**
Response: We anticipate the reporting tool to be made available mid-2027.

- **Status of NYSDEC CLCPA and GHG regulations** – With respect to the recent Superfund Climate Act Legal Decision – the NYSDEC is evaluating its options.
- **NYSDEC Regulatory/SIP Update – Bob**
 - **Federal Executive Orders Update** – On August 26, 2026, Federal Executive Order # 14421 declaring a national emergency to secure the United States bulk-power system. It can be found here: <https://www.whitehouse.gov/presidential-actions/2026/08/declaring-a-national-emergency-to-secure-the-united-states-bulk-power-system/>.
 - **EPA Actions** – no update.
 - **NYSDEC Regulatory Update** - DEC continues development of 66 NYCRR Subpart 482-3, Ozone Nonattainment Program Fees. This state regulation will implement CAA Section 185 requirements for the New York City metropolitan nonattainment area for the 2008 ozone standard.
 - **SIP Development Status** – DEC continues development of the attainment demonstrations for the New York City metropolitan ozone (2008 standard) nonattainment area and the partial St. Lawrence County sulfur dioxide (SO₂; 2010 standard) nonattainment area. There is a September 16, 2026, statutory deadline for EPA to issue a Federal Implementation Plan for the partial St. Lawrence County SO₂ nonattainment area. Federal highway sanctions in the nonattainment area are also set to begin on September 16, 2026. Contact Bob with any questions.
- **NYISO Update – James**
 - **Q3 2026 STAR Update** – the Q3 2026 STAR report is due October 13.
 - **RNA Status Update** – ESPWG presentation made on September 1.
 - https://www.nyiso.com/documents/20142/58961362/2026RNA_BaseCaseResults-Sept1ESPWG_v1a.pdf/6a102638-a76a-dc72-d192-481f8af5632a
 - RNA results will be presented at the October 14 ESPWG Meeting.
 - **FERC Show Cause Order – Large Load** – the NYISO continues to hold a series of meetings on this topic. Next meeting is Monday, September 14. The Section 205 filing is expected to be voted on at the Operating, Business Issues and Management Committees in October, and filed at FERC on or before November 16.
 - **Reliability Based Projects Prioritized for CY2027** – for discussion at our next NYSRC/NYSDEC
 - <https://www.nyiso.com/documents/20142/58897668/2027%20-%20Market%20Project%20Descriptions%20-%20Selected%20Projects.pdf/babd5ec5-4010-a0eb-230b-3f22ed962e56>
 - The following is a list of project descriptions for this group to review, it may not be an exhaustive list. Further, the proposed budget to incorporate these projects is still subject to a stakeholder vote:
 - *Commitments for Reliability* - #58
 - *Reliability Attribute-based Capacity Pricing for Transmission Security [SOM]* - #30
 - *Reliability Need - Supply Side Solicitation* - #31
 - *Review Ancillary Service Shortage Pricing [SOM]* - #33.
 - *Voltage Support Service for Inverter Based Resources (VSS-IBR)* - #38

- **Bulk Power System Executive Order**
 - **EO:** <https://www.federalregister.gov/documents/2026/08/31/2026-17843/declaring-a-national-emergency-to-secure-the-united-states-bulk-power-system>
 - **DOE RFI:** <https://www.federalregister.gov/documents/2026/09/09/2026-18370/securing-the-united-states-bulk-power-system>
 - **For the RFI,** The DOE will be hosting a webinar on 9/16 at 3pm and any comments are due 10/9.
- **NYSRC Update – Chris**
 - **Summary of August 2026 Executive Committee**
 - The NYSRC continues to work on the IRM including release of the parametric results and sensitivity case results. The draft report is expected in November 2026 with the official vote in December 2026.
 - The Reliability Rules Committee (RRS) continues to work on several rules. Two of the proposed rules include Underfrequency Load Shedding, and an update of the IBR Rule.
 - Our next meeting is September 11, 2026
 - All materials are posted on the www.nysrc.org website under Executive Committee.
 - **Large Load WG** – continues to meet and monitor activity at FERC, NERC, NYSPSC, and NYISO.
 - **Northeast Supply Enhancement (NESE)** - Update – a recent legal decision in U.S. 3rd Circuit Court of Appeals said the New Jersey Department of Environmental Protection acted in an “arbitrary and capricious” way last fall when it issued a water quality certification to energy developer Williams. A key permit was vacated, and the matter was returned to the New Jersey Department of Environmental Protection for review and handling.
 - **Constitution Pipeline** – Federal vs State Action Update
 - The Federal Energy Regulatory Commission (FERC) issued its environmental assessment (EA) for the Constitution Pipeline and the linked Wright Interconnect project on August 21, 2026.
 - Decision Deadline: A 90-day federal authorization decision deadline is set for November 19, 2026.
- **NYSPSC Staff Regulatory Update – Jerry**
 - **Implementation of Nuclear Reliability Backbone – 26-E-0335** – several comments were submitted in the docket. Actual Backbone comments were extended to September 24, 2026.
 - **Interconnection Reform for Large Loads – 26-E-0045** – the Interconnection Working Group met on September 10.
 - **Con Ed Reliability Contingency Plan – NYC – 25-E-0764** – both Con Edison (7/17/26) and PSEG-LI/LIPA (8/25/26) submitted reliability-based documents in the proceeding identifying current and future reliability related issues in Zone J and K, respectively. Both filings outlined key shortfalls, and recommended actions to cure the known deficiencies. The Commission must provide a final order in this docket. ([PSEG LI Update Letter](#))
 - **Energy Storage Proceeding – 18-E-0130.** On August 8, Con Edison requested a declaratory ruling on if the in-service date extension request for energy storage related projects (to an in-service date after 2030 if construction begins before the end

of 2030) given to NYSERDA also applies for utility-administered storage procurement programs. Applies to projects with delays beyond developer control.

- **Clean Energy Standard - 15-E-0302** On July 22, The Commission issued an order involving Hydro Repowering and modified the Tier 1 REC by reducing the Increased Energy Production Requirement from 15% to 3%. NYSERDA also issued its 2027 Administrative Plan (7/31/26), 2027 CES Report (8/14/26), and the Commission approved the ability of NYSERDA to backfill the Deputy General Counsel position as part of CES activities (8/18/26).
 - **PSC's Transmission Planning Proceeding – 20-E-0197** – On August 18, the Commission approved the Headroom Order implementing suggested Joint Utility enhancements and methodology. The Commission deferred a decision on the appropriate frequency of headroom reporting in the long term.
 - **Matter of the Advancement of Distributed Solar - 21-E-0629** – On July 23, NYSERDA filed a petition seeking clarification on and proposing modifications to the Statewide Solar for All Program rules. Clarifications include project enrollment timeline and compensation levels. Requests include disenrollment requirements and tracking.
 - **Grid of the Future – 24-E-0165** – No activity.
 - **RAPID ACT Implementation – Case 24-M-0433** – No activity.
- **Next Call –Thursday, November 12, 2026, at 9am**