September 24, 2021

The Honorable Kathy Hochul
Governor
State of New York
Executive Chamber
State Capitol
Albany, NY 12224

Dear Governor Hochul:

Thank you for your leadership, and your long standing support for renewable energy across New York State. We are proud of New York's nation-leading climate and clean energy commitments, including the Climate Leadership and Community Protection Act's (CLCPA's) mandate to achieve 100 percent zero emissions electricity by 2040. P.S.L. § 66-p(2). We are therefore writing to urge you to call on the Public Service Commission (Commission) to reject the petition (Petition) filed by the Independent Power Producers of New York (IPPNY) on August 18th,[1] which threatens the integrity of the CLCPA.

IPPNY's Petition requests that the Commission establish a new tier of New York's Clean Energy Standard to subsidize a minimum of one gigawatt of non-renewable "zero emitting electric generating facilities" to commence commercial operation by 2030.[2] The Petition offers a novel definition of "zero emissions" that would include all energy systems that "do not lead to a net increase in greenhouse gas emissions into the atmosphere at any time in the process of generating electricity."[3] And the Petition requests that the Commission import labor standards already codified for renewable energy facilities to these non-renewable "zero emissions" energy systems. Claiming support from recommendations by the Power Generation Advisory Panel to the Climate Action Council, IPPNY urges the Commission to "act quickly" to approve the Petition.[4]

The Petition is deeply misguided and, if granted, would undermine New York's climate goals by forcing ratepayers to subsidize new, unneeded fossil fuel-based generation rather than the truly clean resources the Power Generation Advisory Panel actually supported. IPPNY's attempt to redefine "zero emissions" as "non-emissions-increasing" and to exclude renewable energy resources from the newly proposed CES tier would pull in new fossil fuel power plants and could lead to the State's electric customers being compelled to underwrite polluting fracked gas and other environmentally harmful facilities at precisely the time the State is striving to wean itself off of these resources.

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[1] Petition of Independent Power Producers of New York, Inc., New York State Building and Construction Trades Council and New York State AFL-CIO for the Establishment of a Zero Emissions Energy Systems Program Under the Clean Energy Standard, PSC Case No. 15-E-0302 (Aug. 18, 2021).
[2] *Id.* at 1.
[3] *Id.* at 2.
[4] *Id.* at 9.

Indeed, the Petition is likely to exacerbate environmental injustice in the State by opening the door for further investments in fossil generation or small nuclear reactors in environmental justice communities. Lower income communities and communities of color currently bear a disproportionate share of power plant pollution in New York. That door must remain firmly shut.

The non-fossil fuel alternatives identified by IPPNY in the Petition (including blue and green hydrogen and so-called "renewable natural gas") are undemonstrated in New York and have recently been expressly rejected as commercially unavailable by fossil fuel developers in the State.[5] Moreover, both hydrogen and biogas have non-zero greenhouse gas emissions and significant conventional air pollution impacts rendering them incompatible with the CLCPA's zero emissions mandate.[6]

Truly zero emissions dispatchable technologies such as multi-day or seasonal storage, while rapidly moving toward commercialization, are not yet available. While the Power Generation Advisory Panel encourages support for long-duration storage through research and demonstration projects, support through a new Clean Energy Standard tier is premature at this time. The Petition also misstates the intent of the CLCPA, erroneously claiming that the legislature intended to create a distinct category of *non-renewable* "zero emissions" resources, when in fact the CLCPA established 70 percent renewable generation as a *minimum* to be achieved by 2030,[7] and no such non-renewable tier is needed.

IPPNY attempts to cloak its Petition in the mantle of the Power Generation Advisory Panel (Panel) recommendations when in fact the Petition is directly at odds with the Panel's recommended approach. The Panel recognized that dispatchable non-renewable technologies are unstudied and unproven and recommended that "[f]urther analysis, technical development, and research is needed in order to determine the feasibility, climate impact, and health impacts of advanced fuels *prior to infrastructure investment*."[8] IPPNY's Petition would have the

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[5] NRG DSEIS for Astoria at 4-21 (rejecting renewable natural gas and "green" hydrogen alternatives as "not technically feasible because currently there are no commercially available sources of either green hydrogen or RNG on the high pressure natural gas pipeline system.")

[6] Hydrogen combustion (whether a blend grey and green hydrogen or 100 percent green hydrogen) can produce up to six times the level of NOx emissions as methane combustion. *See, e.g.,* Earthjustice, *Reclaiming Hydrogen for a Renewable Future: Distinguishing Oil & Gas Industry Spin from Zero-Emission Solutions* 24–26 (Aug. 2021), https://earthjustice.org/sites/default/files/files/hydrogen_earthjustice.pdf; *Clean Energy Group*, *Hydrogen Hype in the Air* (Dec. 2020), https://www.cleanegroup.org/hydrogen-hype-in-the-air/; Justin Mikulka, *Decoding the Hype Behind the Natural Gas Industry's Hydrogen Push*, Desmog Blog (Jan. 14, 2021), https://www.desmogblog.com/2021/01/14/decoding-hype-behind-natural-gas-industry-hydrogen-push; NRDC, *Issue Brief: A Pipe Dream or Climate Solution? The Opportunities and Limits of Biogas and Synthetic Gas to Replace Fossil Fuels* (June 2020), at 3, https://www.nrdc.org/sites/default/files/pipe-dream-climate-solution-bio-synthetic-gas-ib.pdf; .Earthjustice & Sierra Club, *Rhetoric v Reality: The Myth of "Renewable Natural Gas" for Building Decarbonization* (July 2020), https://earthjustice.org/sites/default/files/feature/2020/report-decarb/Report_Building-Decarbonization-2020.pdf.

[7] Pub. Serv. L. § 66-p(2)(a).

[8] Power Generation Advisory Panel Recommendations (May 3, 2021), at Slide 46 (emphasis added), available at https://climate.ny.gov/Climate-Action-Council/Meetings-and-Materials.

Commission skip these critical steps in its rush to compel electric customers to subsidize investments in these speculative technologies before truly zero emission alternatives are commercially available.

While IPPNY's Petition would thwart New York's critical climate efforts and should be rejected, there are urgent recommendations from the Power Generation Advisory Panel that we hope you will encourage the Commission to pursue today. In particular, New York's energy storage goals and support programs have not kept pace with the projected need to support the State's emissions-free grid in 2040. A new or revamped docket to update those goals and develop a strategy to support their development was a top near-term priority of the Panel and would be timely and important. Likewise, phasing down New York's present heavy reliance on fossil fuel generation to enable a seamless and reliable transition to a zero emissions grid will take intentional and thoughtful planning. A docket to identify essential grid services provided by these resources and to begin to plan for their systematic replacement would also be extremely beneficial at this time.

We strongly support quality-based contracting and labor provisions aligned with those enacted in the 2021 State budget for renewable energy systems pursuant to PSL Section 66-r and Section 224-d of the Labor Law, in terms of prevailing wage, project labor agreements, and the Buy American provisions. The Petition's aim to support apprenticeship programs and create good-paying union jobs is critical for achieving an economically and socially just transition, but need not be paired with the misguided redefinition of zero-emissions that could prolong New York's reliance on fossil fuel energy.

Thank you for your attention to the critical climate goals enacted in the CLCPA, and we look forward to working together to achieve them.

Sincerely,

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