



International Brotherhood of Electrical Workers



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SEP Comments
NYSERDA
17 Columbia Circle
Albany, NY 12203-6399

By First Class Mail

Re: IBEW Third District Comments on New York Draft State Energy Plan

Ladies & Gentlemen:

These comments are submitted on behalf of the Third District of the International Brotherhood of Electrical Workers, representing approximately 65,000 IBEW members in New York. We appreciate the opportunity that the State Energy Planning Board has created for public input to the New York State Draft Energy Plan (SEP), and stand ready to help New York achieve and maintain an adequate and highly reliable electric generation, transmission and distribution system.

Governor Paterson's Executive Order No. 2 (April 9, 2008) sets forth the general scope of elements to be included in the SEP, including:

- (a) A statement of long-range energy policy objectives and strategies appropriate to increase energy supply and reduce energy demand, considering factors such as
 - (i) diversity of fuel supplies; (ii) protection of public health and safety; (iii) the needs of vulnerable communities; (iv) consumer cost impacts; (v) the relative economic competitiveness of the State; (vi) the State's natural resources, (vii) the reduction of greenhouse gases; (viii) energy conservation and efficiency; (ix) clean and renewable energy resources; (x) the maintenance of reliable electric and

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natural gas systems; and (xi) existing energy policies and objectives, including the Statewide Transportation Plan and State Implementation Plan.

(b) Demand forecasts for periods up to 10 years for electricity, natural gas, coal and petroleum products, which shall assess demand for the State, considering reasonably expected changes in demographic and economic activity, energy efficiency, and load management;

(c) Supply requirements for the State (and any appropriate regions thereof) which are needed to satisfy forecasted demand for electricity, natural gas, coal and petroleum products;

(d) Assessments of existing electric generation, transmission and distribution systems, fuel transmission facilities, delivery and storage systems, and energy transport systems to meet the resource supply requirements for electricity, natural gas, coal, and petroleum products over the forecast period;

(e) Projections of energy prices over the forecast periods;

(f) Assessments of the costs, benefits, uncertainties, market potential and opportunities for promoting sustainable alternatives to traditional energy resources, including clean and renewable energy resources for electric generation and other energy requirements, distributed generation technologies, cogeneration technologies, energy efficiencies, demand management, and biofuels which are reasonably available for satisfying energy supply requirements;

(g) Assessments of the impacts associated with electricity production and energy use on public health and the environment, including on communities that are burdened disproportionately by health and environmental impacts;

(h) Assessments of State environmental policies and programs which impact the State's development and implementation of energy policy and programs;

(i) An inventory of greenhouse gas emissions, and strategies for facilitating and accelerating the use of low carbon energy sources and/or carbon mitigation measures ...

Comments

IBEW members in New York will be vitally impacted by the programs and policies that New York develops in response to the 2009 Energy Plan. In general, we find that the SEP may be overly-optimistic about the ability to achieve Governor Paterson's proposed "45 by 15" plan, calling for a 15% reduction of energy use through increased efficiency and conservation measures, and an enhanced 30% renewables target by the year 2015, just over five years from today. We regard the New York ISO's more conservative estimates of the amount of demand-side reduction achievable within this short timeframe to be more realistic.

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Need for Fuel Diversity

The SEP does not, in our view, provide sufficient balance among future generation resources to ensure true fuel diversity – a long-standing objective of New York energy policy. It appears to over-emphasize new wind and natural gas generation at the expense of current nuclear and new advanced coal options.

Both nuclear and coal with carbon capture and storage will be critical to New York's ability to achieve long-term greenhouse gas emission targets such as those now being considered by Congress. The IBEW supports national greenhouse gas legislation with reasonable emission reduction targets and timetables as the preferred means to achieve a level playing field among the states as the nation confronts the need to reduce carbon dioxide emissions from all source sectors.

Support for Indian Point Relicensing

We respectfully disagree with the SEP's position opposing the relicensing of Units 2 and 3 at the Indian Point nuclear facility. The SEP envisions that these units would be decommissioned in favor of new natural gas combined-cycle power.

Despite recent decreases in natural gas prices, New York remains particularly vulnerable to future gas prices increases due to its reliance on oil and gas for some 60% of its generating capacity. As NY ISO pointed out in its May 2009 comments on the Interim Energy Plan:

While greater diversity of fuel supply is clearly desirable, the reality is that the State has become increasingly dependent on natural gas, and the continued supply of this product is thus a necessity. The fact is that natural gas prices are volatile, and wholesale market-clearing prices of electricity in New York are largely tied to the price of natural gas fuel. In the second half of 2008, natural gas prices decreased 43 percent, while the statewide average cost of wholesale power dropped 51 percent. This phenomenon also works in reverse, however, and future increases in natural gas prices will lead directly to increases in the price of electricity exactly because New York has tied its generation portfolio to natural gas.

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Eliminating a major supply of zero-carbon nuclear power in favor of new natural gas capacity can be expected to increase the going-forward risks of higher gas prices, especially as New York and the nation prepare to reduce greenhouse gas emissions. Turning to gas for either cycling or baseload power also would increase the average wholesale price of electricity in New York due to the greater likelihood that gas will set the market-clearing price for power. All consumers of electricity would bear this risk.

In 2008, New York power producers paid an average of \$10.80 per tcf for natural gas.¹ In 2030, U.S. DOE/EIA projects that the utility price of gas under the Waxman-Markey climate change bill could rise as high as \$19.38 per tcf in constant 2007 dollars.² Investing in additional gas supply infrastructure alone – while a sensible component of the SEP – will not materially reduce the risks of greater reliance on natural gas as a mainstay of New York’s generation portfolio.

The SEP notes a number of environmental concerns about the Indian Point facility, including its cooling system. We believe that alternative engineering solutions should be considered as a means to reduce any adverse environmental impacts. The difficulties associated with permitting, siting and financing new nuclear facilities remain sufficiently great to justify all reasonable efforts to maintain the existing nuclear fleet through relicensing procedures.

Support for Reinstated Article X Siting Authority

We concur fully with the need, recognized by the SEP, for an improved siting process for new generating facilities along the lines of former Article X, and would be pleased to work with stakeholders to find a legislative common ground for new siting authority:

The concern for complying with multiple State and local requirements, addressing environmental issues, and supplying intervenor funding, could be consolidated into a single proceeding before a State body, similar to the authority provided to

¹ U.S. DOE/EIA, http://tonto.eia.doe.gov/dnav/ng/ng_pri_sum_dcu_SNY_a.htm

² U.S. DOE/EIA, Energy Market and Economic Impacts of H.R. 2454, the American Clean Energy and Security Act of 2009 (August 2009, Table ES-1).

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the Siting Board in the former Article X (which expired in January 2003). This could also include a requirement that a decision be rendered within a specified period.³

We also agree with the SEP's view that a streamlined siting process would be beneficial in enabling needed repowering projects to proceed: "An effective siting law may help facilitate the construction of new or repowered generating units where they are economically warranted." In addition to many older oil and gas units in the New York City area, the majority of New York's coal fleet represents attractive candidates for repowering using advanced clean coal technologies to achieve both criteria pollutant reductions for air quality purposes, and for the reduction of greenhouse gas emissions as a result of federal legislation or U.S. EPA regulation.

Support for Coal-Based CCS Projects

The IBEW agrees with the need for new legislation, as recognized by the SEP, governing the siting of coal-based CCS pipeline and storage projects. We support the Jamestown CCS demonstration project, and anticipate that this project will help provide a model for subsequent repowering projects, and for new advanced coal-based generating technologies employing IGCC or ultra supercritical PC generation.

As the SEP recognizes, CCS is widely regarded as an essential component of future greenhouse gas mitigation strategies,⁴ The SEP recommends that New York "(e)nact legislation that addresses CO₂ pipeline siting and CO₂ injection to facilitate the demonstration of Carbon Capture and Sequestration technology." We believe it would be helpful to expand this recommendation to address the siting of CCS storage facilities and the long-term post-closure liability associated with these facilities.

³ SEP at 4.2.1.

⁴ See, e.g., MIT, *Retrofitting of Coal-Fired Power Plants for CO₂ Emissions Reductions* (March 23, 2009) and U.S. DOE/EIA, *Energy Market and Economic Impacts of H.R. 2454, the American Clean Energy and Security Act of 2009* (August 2009).

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The Commonwealth of Pennsylvania is considering proposed legislation (HB 80) that could serve as a model for expanded CCS legal authority for New York. HB 80 would authorize state agencies to regulate CCS projects across the Commonwealth, and to lease geologically-appropriate underground storage sites beneath state forests to third-party CCS project developers. Post-closure liability at these and other CCS storage facilities would be addressed through creation of a revolving fund financed by payments per ton of CO₂ injected and stored. Excerpts of the relevant provisions of HB 80 are Attachment 1 to these comments.

Need for Major Investments in T&D

The SEP recognizes that public utilities in New York have major investment plans for upgrading the state's aged transmission and distribution infrastructure to meet future demand and to maintain reliability. New York utilities are forecasting investments of more than \$13 billion over the next five years, an increase of about \$4.5 billion over investments made from 2004 to 2008. There also are needs for expanded transmission capabilities to address the growing numbers of new renewable energy projects upstate, linking these facilities with demand centers.

The IBEW agrees with the SEP's recommendation for careful review by the PSC and other state agencies of proposed T&D investments, with a view to reducing the customer rate impacts associated with the large capital investments now in the planning process. However, we would not want "analysis paralysis" to unduly delay the replacement of New York's aging T&D infrastructure. We therefore recommend a slight revision to the SEP's recommendations in this matter, as underscored in the text below:

PSC, along with NYPA and LIPA, should continue a systematic examination and evaluation of the State's transmission and distribution infrastructure and maintain its emphasis on the appropriate timely replacement and upgrade of aging infrastructure to maintain safe and adequate service and also to increase the efficient utilization of the electric system, while minimizing, where possible, upward pressure on rates.⁵

⁵ SEP at 4.2.2 (underscored language added.)

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The IBEW appreciates the opportunity to comment on the Draft SEP. Please do not hesitate to contact me if we may be of further assistance.

Sincerely,



Donald C. Siegel
International Vice President

DCS:jm

Attachment

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Attachment 1

Excerpts from Pennsylvania HB 80, as amended July 8, 2009

Section 3. The act (P.L 1672, No. 213) is amended by adding sections to read:

Section 8.1. Sequestration facility permitting.

- (a) Prohibition.--No person may operate a carbon dioxide sequestration facility without a permit from the department.
- (b) Facility sites.--The Environmental Quality Board shall, by regulation, establish the conditions under which a carbon dioxide sequestration facility may be located, developed and operated. The regulations promulgated by the board shall provide for the protection of public health, safety and environment and shall include, but not be limited to, the following:
- (1) Geologic site characterization.
 - (2) Sequestration facility performance standards.
 - (3) Well location restrictions and well construction standards, including operation and mechanical integrity testing.
 - (4) Risk assessment, corrective action and emergency response requirements.
 - (5) Monitoring, recordkeeping and reporting requirements.
 - (6) Facility closure, postclosure and final closure certification requirements.
 - (7) Financial assurance requirements, including bonding or insurance, in amounts sufficient to ensure the carbon sequestration facility will be constructed, operated, closed and monitored during the postclosure period in accordance with regulations promulgated under this section.
 - (8) Fees in an amount sufficient to recover the department's cost of administering this section.
 - (9) Fees for every ton of carbon dioxide accepted by a carbon dioxide sequestration facility in an amount sufficient to monitor and maintain the facility after final closure of the facility and take remedial actions if necessary after final closure of the facility. The fees shall be paid by the operator of a carbon dioxide sequestration facility to the department on a quarterly basis.
 - (10) Public notice requirements, including notification of a release.
 - (11) Criteria used to determine that carbon dioxide has

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been permanently sequestered.

(12) Other requirements necessary to evaluate the proposed carbon dioxide sequestration facility and to ensure safe and environmentally protective operation of the facility.

(c) Powers, duties and enforcement authority of department.--The department shall have the same powers, duties and enforcement authority provided by the act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act, to carry out the purposes of this section. Operators of a carbon dioxide sequestration facility shall have the same rights and be subject to the same penalties as provided by the Solid Waste Management Act; however, an administrative penalty assessed by the department for a violation of this section shall not exceed \$50,000 per day per violation.

Section 8.2. Title to carbon dioxide, immunity and transfer of liability.

(a) Title to carbon dioxide.--The right, title and interest in and to carbon dioxide delivered to a carbon dioxide sequestration facility by the advanced coal combustion with limited carbon emission facilities that, individually or collectively, first meet the maximum requirements of section 3(c.1), as determined by the department, shall be transferred to the carbon dioxide sequestration facility and the facility shall accept and receive the right, title and interest in and to such carbon dioxide, including, but not limited to, liabilities associated with the carbon dioxide, current or future environmental benefits, marketing claims, associated voluntary or compliance-based emissions allocations or offsets, but not alternative energy credits provided by section 3(e).

(b) Immunity.--Upon and after transfer and conveyance of carbon dioxide as provided under subsection (a), the owner of an advanced coal combustion plant with limited carbon emissions shall be immune from liabilities regarding the storage of carbon dioxide within and the release, escape or migration of carbon dioxide from the carbon dioxide sequestration facility.

(c) Transfer of liability.--Upon final closure of a carbon dioxide sequestration facility, as determined by the department, the right, title or interest in the carbon dioxide and liability for any release from the facility shall be transferred to and accepted by the Commonwealth provided the operator of the carbon dioxide sequestration facility has paid the appropriate fees under section 8.1.

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Section 8.3. Carbon Dioxide Indemnification Fund.

(a) Establishment.--There is hereby established in the State Treasury a nonlapsing fund to be known as the Carbon Dioxide Indemnification Fund. Money collected by the department under section 8.1(b)(9) shall be deposited in the fund and shall only be expended by the department to monitor and maintain carbon dioxide sequestration facilities after final closure and to take remedial actions, if necessary, after final closure.

(b) Money collected under section 8.1.--Fines, civil penalties and permit fees collected by the department under section 9 are hereby appropriated to the department to carry out the purposes of section 8.1.

Section 8.4. Carbon dioxide sequestration facility and transportation pipeline on Commonwealth State forest lands.

DCNR may lease State forest land owned by the Commonwealth to any person, on terms and conditions as DCNR may consider appropriate, for the development and operation of a carbon dioxide sequestration facility and carbon dioxide transportation pipeline necessary to deliver carbon dioxide to the facility . A carbon dioxide sequestration facility or carbon dioxide transportation pipeline developed and operated on Commonwealth State forest land s shall only be utilized to store carbon dioxide generated within this Commonwealth. All rents and other payments from any lease of Commonwealth State forest land under this section shall be deposited into the Environmental Stewardship Fund established in 27 Pa.C.S. § 6104 (relating to fund)

Section 8.5. Application of the Public Utility Code to transporters of carbon dioxide.

Entities transporting or conveying carbon dioxide by pipeline or conduit for compensation under this act shall be considered a public utility under 66 Pa.C.S. § 102 (relating to definitions) and subject to the provisions of 66 Pa.C.S. (relating to public utilities).