

**COMMENTS
of**

**THE ENERGY ASSOCIATION OF NEW YORK STATE
on the**

**New York State Energy Planning Board
Working Group “Scoping Paper”**

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The Energy Association of New York State

Comments on Draft Work Scope for 2009 New York State Energy Plan

The Energy Association of New York State is pleased to provide the following comments on the Draft Work Scope for the 2009 New York State Energy Plan. The Energy Association and its member companies have demonstrated their commitment to a sound energy planning process via their participation in the development of prior State Energy Plans. The members of the Energy Association have in the past, and will continue in the future, to play a vital role in New York’s success in meeting the many policy objectives that are developed via the State Energy Planning process.

I. INTRODUCTION

New York faces complex, urgent issues in terms of climate change, energy, and economic growth. Meeting each of these challenges successfully will require, among other things, substantial investments in the electric and natural gas transmission and delivery infrastructure and in the efficient use by customers of the energy those systems deliver. This in turn will require sound State energy policies, clearly articulated by the Executive branch and consistently implemented by all agencies of State government. It will require a willingness to deal candidly with the public about the cost of these policies and to engage the participation and support of all sectors and interests.

These are challenging times for the energy consumer. Retail energy prices have increased as the cost of the commodity portion of their bill has increased with the escalation in fuel prices. The costs of upgrading and replacing aging infrastructure are likely to be substantial and will inherently tend to create upward pressure on prices. In addition, increased costs associated with State policies, including taxes, and programs for supporting clean renewable generation and energy efficiency programs, have also contributed to an increase in customer bills. A comprehensive effort to communicate and educate energy consumers should be a critical aspect of any State Energy Plan so that the public can better understand the drivers for the current situation and the benefits of taking a lifecycle view of the energy systems, rather than a limited short term view.

The New York State utilities have knowledge, expertise and strategic insights regarding the state's energy needs and resources. Moreover, the utilities have ultimate responsibility for the safe, reliable, sustainable operation, as well as the overall integrity, of the gas and electric transmission and distribution delivery systems. Utilities are eagerly looking forward to providing input into the state energy planning process. However, to fully engage utility creativity, expertise and experience, they should be represented as a stakeholder at the working group level as the policy objectives and strategies of the plan are developed.

II. KEY ELEMENTS FOR THE 2009 STATE ENERGY PLAN

The member companies of the Energy Association look forward to providing additional comments on the Technical Reports and Issue Briefs that will be included in the draft State Energy Plan to be issued by March 30, 2009. At

this time, the Energy Association has identified several policy objectives that we believe must be included and discussed in the State Energy Plan.

Support for 15 x 15 Initiative

The Energy Association supports New York State's "15 x 15" energy policy initiative and the development of a State Energy Plan consistent with that goal. Recognizing that the state's energy efficiency policy goals are among the most aggressive in the nation, attaining the goals set forth in the 15 x 15 strategy will be extremely challenging. A statewide energy planning process will be necessary to align marketplace interests with the state's broader energy policy directives as set forth in the 15 x 15 initiative. Since restructuring 10 years ago, the competitive energy marketplace has not responded to all of the state's energy policies. Only natural gas-fueled generating units have been built; some wind projects have been built as a result of the Renewable Portfolio Standard (RPS), but costs remain high and output will remain intermittent. In addition, no solar projects have been proposed, and energy efficiency programs and DSM projects have played only limited roles in utility resource plans. The participation and cooperation of the utilities in developing the plan will be critically important to the robustness and ultimately the success of this initiative.

Regarding energy efficiency programs, simple cost recovery will not be enough to attract the aggressive, creative utility participation that can optimize efficiency gains for virtually every customer in the state. In leveraging their customer relationships and knowledge to produce the dramatic reduction in energy use envisioned by the 15 X 15 initiative, utilities will need to earn a return on their energy efficiency programs. It is important to recognize that resources allocated to energy efficiency initiatives could be allocated to other beneficial projects where earnings opportunities would be realized. Without the opportunity to earn a fair return on energy efficiency investments, utilities would be imprudent to invest resources there.

A Reliable Energy Supply and Delivery System

New York's robust, reliable energy delivery systems, and reliable, diverse supplies of energy, are vital resources that the State should nurture and market as it does other resources. For New York's energy delivery utilities to be able to make the investments in the efficient delivery and use of energy that will be required to achieve the State's climate change goals and to continue to fulfill their core mission of providing safe and reliable service at just and reasonable rates, it is essential that these companies be kept financially viable and robust, and provided appropriate opportunities for growth.

Sound regulatory policy should align the financial interest of utilities with the public interest in implementing the State's energy policy objectives, spurring

a range of voluntary efforts and encouraging utilities to take a leadership role in implementing State policy.

It is imperative to recognize that few factors are as critical to the state's ability to attract economic development as is a reliable and cost-competitive energy supply. Toward that end, the Public Service Commission should be an ally in the effort to attract capital to New York's utilities. Note that the utilities face a competitive market for capital. In fact, U.S. utilities in aggregate comprised only 1 percent of the global equity market at the end of 2006. If regulated returns are not adequate to support the necessary capital investment, the capital will simply go elsewhere. The very point of relying on investor-owned utilities to build utility systems is to gain better access to capital markets. A system that penalizes utilities by imposing financial penalties on top of already lower returns will not attract that capital. Establishing utility rates that are designed to reflect an attractive rate of return – and not the low end of the national average – will attract the capital necessary to assure a reliable energy supply and delivery system over the long run.

Robust and reliable energy delivery systems require strong, financially viable utilities to make the significant capital investment necessary to support such systems. Keeping the utilities financially viable requires that they be allowed timely cost recovery and to earn a return on equity (ROE) sufficient to enable them to raise the necessary capital at reasonable cost. Financial viability also requires that these companies be afforded a reasonable opportunity for growth to better position them to maintain and enhance the infrastructure. As one investment bank notes, we are now headed into a period of increasing capital investment that in turn will increase risks for investors¹. Deteriorating ROEs), which have become the regulatory norm in New York State, jeopardize the ability of the utilities to make the investments necessary to provide the level of service that customers expect and that the state's economic future demands.

The Value of Fuel Source Diversity in Electric Generation

Fuel source diversity in electric generation, bolstered by additional strides in efficiency and maintenance and enhancement of a strong delivery infrastructure, must necessarily be key elements of New York's energy future. Fuel source diversity is essential to affordable and reliable electricity. A diverse fuel mix helps to mitigate the impacts on electric consumers from supply disruptions, price fluctuations, and changes in regulatory practices. Electric fuel supply vulnerabilities, particularly an over reliance on any one fuel such as natural gas, were self-evident in August and September 2005, when Hurricanes

¹ Lehman brothers Global Equity Research, North America, Power and Utilities, Regulated Utilities, June 3, 2008.

Katrina and Rita struck the energy-rich Gulf Coast, disrupting natural gas supplies across the nation.

Historically, New York's electric fuel supply has been highly diversified. As of 2007 natural gas (31.3%) and nuclear energy (29%) comprise the foundation of the state's electricity supply system. The balance comes from hydroelectric dams (16.9%), coal (14.8%), small amounts of petroleum (5.8%) and renewable energy at (2.6%). Each source of electricity has unique advantages and disadvantages, and each has its place in a balanced electricity supply portfolio. Now however, issues of climate change and carbon emissions have taken on a greater urgency and the carbon impacts of electric fuel sources must be given particular attention in determining the optimal electric fuel source goals. At the same time, the source fuel for virtually every new base-load plant proposed or built in more than a decade has been natural gas, creating the potential for a dangerous over dependence on a single premium fuel. Given the Energy Information Administration's (EIA's) estimate that 258 gigawatts (GW) of new capacity will be needed by 2030, the development of innovative technologies (such as renewables and clean coal) and the expanded use of existing clean technologies (such as nuclear) will be essential to allow electric utilities to provide reliable and affordable electricity while generating fewer emissions.

Because of the advantages that nuclear energy offers, neighboring states and much of the rest of the developed and developing world have embraced nuclear power in conjunction with renewable sources and enhanced efficiency as essential to dealing with the twin realities of global warming and growing electric demand. As a high-capacity, base-load energy source, nuclear energy is the most efficient source of energy available and produces near-zero carbon dioxide emissions. New York State would be wise to keep its six nuclear reactors, as they are key in meeting the state's energy needs while mitigating millions of tons of greenhouse gas emissions that would otherwise result from fossil fuel power plants. It would be profoundly irresponsible for New York to move in the opposite direction with no realistic alternative for meeting our electricity needs without adding to our carbon footprint. Accordingly, opportunities for the siting of new nuclear generation in New York State should be actively developed and encouraged.

The Role of Indian Point:

A dependable supply of energy is absolutely critical for the downstate region's densely populated and developed urban environment. With the goals of reducing greenhouse gases and reducing the carbon footprint, emissions-free energy production facilities like Indian Point have never been more important. If New York State is to achieve its environmental and energy goals, retaining existing clean energy sources while working to integrate new renewable sources is a compellingly obvious strategy. .

The Indian Point Nuclear facility is an essential and valuable asset for the State that will be virtually impossible to replace for many years. As a "base-load" power

plant inside of the downstate “load-pocket” capable of providing 2000 megawatts of essentially carbon-free electricity and transmission system load-support on a constant basis year-round, there simply are no realistic practical alternatives to the renewal of Indian Point’s license. This should be affirmatively recognized and supported in the State Energy Plan.

Renewable Generation in Rate Base

To meet the state’s environmental and climate change goals, substantial additional renewable electric generation must be developed and put on-line relatively quickly while at the same time minimizing price impacts to customers. This urgency has been exacerbated in part because four decades of publicly funded subsidies and programs (federal tax credits, state tax credits, RPS, SBC, net-metering credits, R&D) running into the billions of dollars, have failed to produce significant market penetration for any renewable technology while the cost of electricity from those technologies remains orders-of-magnitude higher than electricity from other sources. New York’s electricity market continues to deliver energy supply solutions that do not meet the state’s broad environmental/energy policy goals

There is a proven model for making major capital investments to develop energy infrastructure relatively quickly and while controlling the cost to consumers. It was used to develop most of the nation’s current energy infrastructure, and it is how states as diverse as California and Iowa among others are currently directing the development of renewable electric generation on a large scale: New York State utilities should be authorized to develop and implement distributed and/or central station renewable electric generation projects using their ability to ratebase those costs to attract the affordable capital necessary and to retire those investments over extended periods to control the price impact on customers.

As applied to renewables such an approach could take several forms, including:

- Utility build and own;
- Utility build and own in various forms of partnership with renewable developers;
- Utility ratebased financing of projects built by developers.

Under any such approach the key would be for the utility to have an equity interest in projects and for capital/operating costs to be recovered in utility rates, subject to up-front PSC approval. Not only could such an approach provide for the development of renewable generation on a scale, at a pace, and at a level of affordability not otherwise possible, but by providing utilities the opportunity for new, regulated, capped equity growth, it would better position them to continue to

be able to perform their critical core mission of maintaining and enhancing the delivery infrastructure.

In addition, the State Energy Plan must develop the necessary policies and incentives to integrate renewable resources into the state's transmission grid.

Natural Gas Infrastructure

Natural gas is an accepted, secure, clean-burning, abundant domestic source of fuel for homes and businesses in New York. Increased direct use of natural gas in residential and commercial applications can increase the productivity of available energy supplies, reduce overall energy costs and reduce related CO₂ emissions. New York State in particular enjoys the benefits of a long history of natural gas usage and development, an extensive pipeline network and unparalleled access to natural gas supply markets, including indigenous reserves of recognized and growing significance.

In order to assure further development of natural gas in New York, existing markets must be secure, and future markets must be promoted. For the past decade, the state has focused primarily on the development of retail energy markets, including natural gas. With a platform for retail competition in place, the state is now in a position to focus on different, and more pressing priorities.

The highest priority is maintenance, upgrading and modernization of the state's existing natural gas distribution and transmission infrastructure. The pipeline infrastructure is the backbone of the natural gas market in New York. Economic development, retail competition, energy conservation, natural gas production and all other programs important to New Yorkers rely for their effectiveness on the long-term integrity of the state's pipeline network. Because New York relies on investor-owned utilities to build and maintain the utility infrastructure, it is incumbent on the PSC to authorize returns that attract investment. PSC policies and practices that place New York State at the low end of equity returns in the nation send the wrong message to investors, and do little to advance the long term interests of consumers and the state.

With a sound financial model in place, the state can focus on other energy priorities such as conservation. Even though natural gas is abundantly available, like all energy sources it should be efficiently consumed. The PSC supports revenue decoupling in ratemaking as a means of aligning utility shareholder interests with the interest of the state and consumers in promoting conservation. If the State is to achieve its energy efficiency goals, this practice should continue. As with electric utilities, it is also important that gas utilities play a leading role in administering energy efficiency and conservation programs directly to consumers. Nor should the State ignore the carbon dioxide reduction benefits that result from oil to gas conversions.

New York also needs to continue rational policies to promote the development of indigenous natural gas. The state has a long history of supporting producers of Appalachian gas, and that policy should continue wherever it can be demonstrated to be cost-effective. In recent years, New York has seen a significant increase in drilling activity in the southwestern and central parts of the state. Key to the successful production of those Appalachian gas fields is the expansion of pipeline systems – gathering, transmission and distribution – to bring the new supply to market. Policies must be established, and supported by the PSC, that will encourage New York’s gas distribution companies to make the significant long term investments needed to gain access to this increasingly valuable, indigenous resource.

Competitive Retail Markets

The state should continue to support policies that maintain a sound platform for competition. But those policies do not require, and should prohibit, aggressive promotional efforts by the PSC at the expense of utility customers and utilities. Furthermore, despite ten years of retail competition, utilities, and not competitive suppliers, remain legally responsible for the provision of utility service at just and reasonable rates to all qualified applicants. The State Energy Plan should set forth an explicit policy in support of utility investment in the energy delivery infrastructure to provide for the long-term reliability of electricity and gas supply for New York consumers. This policy should not only support maintaining the infrastructure but also upgrading and modernizing it to increase throughput and decrease incidental losses of energy in transmission.

III. SUGGESTIONS FOR THE ISSUE BRIEFS

[Note: The Energy Association and the individual member companies anticipate filing detailed comments on the individual Issue Brief topics and/or the Briefs themselves at appropriate times. The comments below are preliminary and not intended to be comprehensive. Rather, they are intended to assist the Planning Board and the Working Group in their “scoping” efforts. Neither the relative length or detail of these preliminary comments should be taken as an indication of the relative importance that the Association attaches to that issue, or of the level of detail with which it may later be addressed.]

Meeting Future Energy Needs

- Demand reduction and management should be a first-option in meeting future energy needs. New York and its regulated utilities have the ability, will, and opportunity to play a significant role in helping customers manage energy demand effectively
- Utilities have inherent advantages in providing diverse supply options and choices, including increasing amounts of clean generation. In the process, NY regulators working with utilities will have to determine how to allocate the costs associated with these desirable outcomes in an equitable manner.
- This issue brief should encompass the entire energy system from fuel inputs, generation/ production through transmission and distribution and into the consumer's home. A deep understanding of how new technologies can transform both supply and demand will be crucial in developing a near term plan. Thinking more broadly about the interplay of these varying parts, while more challenging, may allow a better set of solutions and policies to be understood.
- Utilities can be integral in giving customers the tools to better manage their consumption which will help them manage their energy costs
 - Subject matter expertise – lead with increased outreach & education
 - Contact with virtually all end-use customers on regular basis
 - Facilitator of emerging markets – buying (contracting), investing in energy efficiency, renewable generation sources, certain R&D, etc.
 - Clearinghouse for existing and new technologies
 - Economy-wide issue so utility are best placed to advise and implement and spread costs/ benefits among individual customers for more effective implementation
 - Providing behind-the-meter solutions for customers wanting such services
- New York should build on the significant experiences and successes that the utilities have had with Energy Efficiency programs
- Outreach and education on real cost to power appliances and electronics and maintain desired climate
 - Evaluate alternative ways to convey pricing information in manner that exposes true cost impacts
- Opportunity to foster DG and CHP at customer sites to improve efficiency, which may include utility owners
- Recognize need for improved building standards and focus on pre-customers (i.e., during construction); tied potentially to economic development efforts.
- Evaluate renewed options for utilities in demand side management in line with the NYPSC review of energy efficiency
 - Residential & commercial water heaters
 - Appliances

Energy Infrastructure Needs

- Reinforce the key role that utilities must play in maintaining critical system infrastructure: rebuilding, rehabilitating, modernizing and expanding electric and gas transmission and distribution delivery systems to provide safe, reliable service to accommodate new loads and economic development initiatives, and to support renewables and new technologies.
- The energy industry nationally and particularly NY faces aging infrastructure that requires substantial investment even using old technologies. The opportunity exists to invest in a modernized grid using new technology not the analog systems in the existing system which has been stretched as far as it can to maintain low prices
- Regulation will have to handle the resulting rate impacts as fully depreciated systems are replaced by modern technology at a time when input materials have been escalating rapidly – but stretching the system further risks further reliability degradation
- Understanding of and likely benefiting from some standardization of smart grid/ meter technologies may enable better coordination between and among energy systems and enable consistency for customers who operate in multiple jurisdictions. We can and should learn from pilots and initial smart meter/ smart grid efforts underway across the nation rather than reinventing the wheel.
- Financial viability of entities will be crucial in providing an economic climate in which the investment can be made commensurate with the underlying risks, including regulatory lag. Given the possible scale of investment, alternative regulatory mechanisms could be considered such as separating cost-of-capital proceedings from operating and investment-planning rate cases. Financial viability impacts the ultimate cost to consumers as well as supporting the ability to invest at the levels anticipated.

Siting New Energy Infrastructure

- Siting is a critical challenge for new transmission lines and natural gas pipelines owners and operators in their efforts to maintain reliability, to access regional energy supplies and to access renewable generation both in and out of state.
- All stakeholders must become more cognizant of lengthy lead times to build new infrastructure to both shore up aging infrastructure and meet new demand. Article VII should be revisited to shorten lead times to approve electric and natural gas transmission line projects and to consider consolidation, streamlining and possibility of a fast track process for critical infrastructure.

- Streamlined siting should apply to modernizing existing plant as well as new plant
- The needs of the State’s utility customers are best served when there exists a robust, fuel-diverse supply market that meets their energy needs at reasonable cost. Adequate generation capacity to meet the energy needs of a growing economy is a key underpinning of the state’s economic development initiatives. We, therefore, encourage the construction of new generating plants in New York State.
- To that end, we support a renewal of the Article X siting legislation, provided that the revamped language addresses long-term resource adequacy in a manner that carefully balances environmental policy goals and their attendant price impacts with the overarching goal of providing safe, reliable, adequate, reasonably priced energy supplies to customer’s homes and businesses.
- Over the last ten-year period, the only type of new base load generation built in New York State has been fueled by natural gas. This marketplace reality has produced more volatile energy prices, clearly not in the best interest of the state’s businesses and residents. Nor is it in the best interest of the state generally because it places the state at a competitive disadvantage when pursuing economic development opportunities.
- Although we are generally supportive of the RGGI initiative, the price impacts of this program will likely push consumer energy costs even higher, thus further exacerbating the level and volatility of energy prices. Rather, a balanced fuel mix, including clean coal and nuclear, balanced by substantial contributions from renewables, specifically solar and wind, should be promoted.

Energy Costs and Economic Development

- As reflected in efforts at the PSC, appropriate procurement strategies and hedging need to be available for less sophisticated (typically mass market) customers, including small and mid-sized business customers.

Health Impacts of Energy Use

- Any health impacts of energy related activities underlay and are context for many of the long-term policy assumptions which are already widely accepted and the basis for various policy goals. The lessening of detrimental health impacts from energy related activities, to the extent they can be discretely addressed as a component of energy policy, will inherently result from achievements in efficiency, demand reduction, development of non-polluting renewable, nuclear and other clean source fuels for electricity, modernization of the delivery systems, other infrastructure improvements, reduced transportation emissions, and other items all of which are already central this process.
- The very fundamental, vast and pervasive health benefits that result from the universal, reliable and affordable availability of electricity and natural gas, and indeed the critical and often life-sustaining nature of these services and commodities, needs to be equally understood and recognized by those planning for the future of these systems.

Meeting Transportation Needs and Transportation Options

- CNG - Compressed Natural Gas vehicles are a relatively mature, clean fuel vehicle technology that can be a positive option in many applications such as fleet vehicle fuel, and that could benefit from additional fueling facility and infrastructure development.
- PHEV – Plug-in hybrid electric vehicles also hold great promise as a practical, readily achievable means to significantly reduce transportation emissions. Depending on the timing, success and market penetration of such technology, and on usage patterns in relation to total system patterns, widespread use of PHEVs could create the need to consider energy system infrastructure impacts and cost implications
- Utilities can support improvement in transportation primarily by visible and well-communicated example increasing utilization, fuel efficiency and fuel diversity of owned and contractors' vehicle fleets.

Climate Change

- McKinsey Climate Change study suggests the significant potential to reduce U.S. emissions:
 - Energy efficiency is, by far, the least-cost option for reducing carbon emissions
 - Solutions are likely to require strong stimuli and policy interventions of some sort to unlock the full abatement potential - state and utilities need to work well together with consumers to get all the benefits

- Potential solutions are highly concentrated in power & transportation sectors where utilities can play key role
- The options are time-perishable – utilities may be in position to implement expanded programs relatively quickly
- Oil to gas conversions has the potential to play a significant role
- Utilities are best positioned to help the less informed [mass market] customers better understand the options and make the choices as seamless as possible. The sum of many small actions has the potential to reduce energy footprint and limit greenhouse gases from what they otherwise might be.

Environmental Impact and Regulation of Energy Systems

- Allowing innovative rate structures to incentivize regulated entities to make the right choices will be critical to coordinating state energy goals with regulatory policy and actions. [As with other topics, this and related issues will be addressed in greater detail in comments on the specific issue paper.]

Regional Energy Issues

- Energy is a global business with foreign demand for the fuel and construction materials impacting local prices and costs.
- Regional considerations are important for generation and transmission planning
 - Available and preferred sites for many types of renewable generation
 - Requires transmission investment to bring out-of-state resources to the benefit of NY consumers
 - Requires coordination with neighboring systems to maximize benefits.

July 7, 2008