COMMENTS OF THE NEW YORK ASSOCIATION OF PUBLIC POWER ON THE DRAFT SCOPING PLAN OF THE NEW YORK STATE CLIMATE ACTION COUNCIL

I. NYAPP BACKGROUND AND INTRODUCTION.

The New York Association of Public Power ("NYAPP"), on behalf of its members, hereby submits these comments in response to the Draft Scoping Plan of the New York State Climate Action Council. NYAPP's members are consumer-owned utilities in New York State and include: City of Jamestown Board of Public Utilities, City of Sherrill, Delaware County Electric Cooperative, Green Island Power Authority, Oneida-Madison Electric Cooperative, Otsego Electric Cooperative, Steuben Electric Cooperative, Town of Massena Electric Department, Village of Freeport, Village of Greenport, Village of Rockville Centre and Village of Sherburne. The NYAPP utilities serve customers in all areas of the State, are diverse in size and type and include the only municipal generating utilities in New York. Our utilities play a critical role in the economic stability of our communities, and share the common goal of providing reliable, economic and clean energy for our businesses and residents.

NYAPP members presently source 87% of their electric energy needs from clean, renewable resources. This percentage is far in excess of the clean energy sources utilized by the State's investor-owned utilities and the Long Island Power Authority. NYAPP members have been, and will continue to be, the cleanest of New York's load-serving entities ("LSEs").

NYAPP members generally began purchasing hydroelectric power produced by the New York Power Authority ("NYPA") at the Niagara Project, when the project went on-line in 1961. NYPA's Niagara Project was developed pursuant to the federal Niagara Redevelopment Act ("NRA"), 16 U.S.C. 836, and the right of the consumer-owned utilities to purchase power and energy from the Niagara Project was established in 16 U.S.C. 836(b)(1), and pursuant to License No. 2216, issued by the Federal Energy Regulatory Commission ("FERC," formerly the Federal Power Commission).

When these purchases began in 1961, the Niagara Project was not a low-cost resource. NYAPP members and the other municipally and cooperatively-owned utilities in New York State were actually purchasing power and energy in 1961 from the Niagara Project which was more expensive than the norm. Since that time, those purchases continued and expanded. Newer long-term agreements will continue those power allocations through at least 2040. NYAPP members have committed to these long-term contracts to support NYPA's hydroelectric assets in the years ahead, including paying for their share of $1.3 billion in capital investments, which will help achieve longer life and meet the expanded needs of the grid while only providing a minimal amount of additional energy. The preservation of NYPA's hydroelectric assets is essential for the State to achieve its goals

under the Clean Energy Standard (CES) and the Climate Leadership and Community Protection Act ("CLCPA").

We recognize and support the need for response to the critical climate challenges faced by the State, but as not-for-profit, locally-controlled municipal electric utilities and member-owned rural electric cooperative utilities, our members have a unique perspective on potential areas of concern and unintended impacts to our residents and communities from some of the proposals and timelines outlined in the Draft Scoping Plan.

It is with this background in mind that these comments are submitted. We will focus on three key areas: 1) Reliability; 2) Costs; and 3) Timing.

II. RELIABILITY MUST BE PARAMOUNT.

***The Draft Scoping Plan must prioritize, protect and maintain the reliability of New York State's electric system*.** Reliability is a critical priority and NYAPP is concerned, that despite the best efforts of State officials, this priority may be compromised. Reliability is a comprehensive need of the entire system, and includes generation, transmission, sub-transmission, distribution, interconnections, safety, circuit assessments keyed to EV deployment, data interoperability, grid-interactive efficient buildings and retail services. Additionally, we believe resiliency is a key element of reliability. In order to ensure resiliency over the long-term, a diverse mix of electricity generation should be preserved, efforts must be made to protect against cybersecurity threats, and we must maintain the ability to respond to system events as quickly and efficiently as possible.

With an expected shift from summer peaking to winter peaking due to increased electric heating load, the historical planning parameters have shifted. The drive to fully electrify the system while significantly increasing electric demand will clearly add significant stresses on the system in years to come. Already the New York Independent System Operator (NYISO) warns in their most recent "*2021-2030 Comprehensive Reliability Plan"*[1]*,* of a number of reliability risk factors on the road to reach a zero-emissions grid by 2040, including tightening resource adequacy margins, delayed transmission solutions which could jeopardize reliability, and extreme weather events that will remain a threat. We are very concerned that unintended consequences might be realized without a more thorough understanding of these changes. We believe insufficient time is being taken to ensure necessary upgrades are implemented to preserve system reliability.

For example, the four electric cooperatives and the Village of Sherburne have been experiencing outages as a result of the lack of reliability on the old NYSEG transmission system. When the Iberdrola merger case was pending in 2008, the electric cooperatives and Sherburne raised these issues before the New York Public Service Commission, and commitments were made to address these issues.[2] However, reliability has actually gotten

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[1] New York Independent System Operator. *2021-2030 Comprehensive Reliability Plan* available at: https://www.nyiso.com/documents/20142/2248481/2021-2030-Comprehensive-Reliability-Plan.pdf

[2] *Abbreviated Order Authorizing Acquisition Subject to Conditions*, Case No. 07-M-0906, *Joint Petition of Iberdrola, S.A., Energy East Corporation, RGS Energy Group, Inc., Green Acquisition Capital, Inc., New York State*

worse since that time. We lack confidence that the State will be able to ensure reliability with that experience.

The need for transmission upgrades and expanded renewable penetration have been pushed by the State, and NYPA and New York State Energy Research and Development Authority (NYSERDA) should be congratulated for significant advances in this area. However, with the elimination of certain baseload generation, the electric grid is stressed and will become significantly more stressed.

NYAPP recommends that further system analysis be undertaken to include the impact on distribution systems, and reliability should be tied to cost impacts for these upgrades. The local distribution system cannot be ignored, and we fear that the Draft Scoping Plan pays insufficient attention to that potential vulnerability. If it takes longer to get the system right, keep costs manageable and ensure reliability, the priority should be on reliability and costs.

In order to ensure resiliency, we must preserve a diverse mix of electricity generation. The Final Scoping Plan must apply a clear-eyed view of the time necessary to shift the electric system and the generation mix. Specifically, as intermittent resources replace baseload generation and estimates expect electric load to increase 65% - 80% in the coming years, natural gas-fueled generation should be permitted to remain in place and alternative fuels should be further integrated through 2050 to reliably support electrification of the NYS economy. The drive for electrification, if successful, must accommodate alternative baseload, fast-response generation, while expanding electrification in transportation and buildings.

California has recognized that the shift must be carefully implemented. Governor Newsom[3] has recommended that the Diablo Canyon nuclear plant remain on-line beyond the projected retirement date in order to ensure reliability of supplies and maintain system resiliency. In ERCOT, the February 2021 winter storm showcased the complexities of ensuring a resilient grid and the failure to winterize the gas pipeline system combined with the failure to ensure coordination of transmission/distribution/sub-transmission and interoperability led to severe problems despite similar 2012 experiences. While we are not suggesting that the situation in New York is identical to California or ERCOT (Texas), we need to carefully plan for all contingencies that may be unexpected.

Within the NYAPP member systems, we are also concerned that demand-response programs are not a substitute for gas infrastructure, at least over the near-term.

Electric & Gas Corporation and Rochester Gas and Electric Corporation for Approval of the Acquisition of Energy East Corporation by Iberdrola, S.A. (September 9, 2008).

[3] Michael R. Blood, *A longer life for Diablo Canyon? Newsom touts nuke extension*, Associated Press (April 29, 2022), available at: https://apnews.com/article/business-environment-california-gavin-newsom-canyons-569f9b630a31b75ea1e80f0854679faa.

Specifically, the Draft Scoping Plan statement that "demand response resources will play a more critical reliability role" is extremely concerning. By incorporating load flexibility and controllability into the NYS electric grid, a more manageable system will be created; however, this is not a part of or replacement for, electric reliability. The NYAPP member systems are smaller than the investor-owned utility service territories and the system requirements cannot be "offloaded" to the transmission system. We do not believe that unregulated demand-response at the local level is feasible, without municipal utility and cooperative utility controls.

Efforts must be made to protect against cybersecurity threats. Cybersecurity concerns are only becoming more severe. In the municipal and cooperative service territories, the national associations – the National Rural Electric Cooperative Association (NRECA) and the American Public Power Association (APPA) – are working with the NYAPP members and the U.S. Department of Energy's Office of Cybersecurity, Energy Security and Emergency Response ("CESER") and the Office of Electricity on improving best practices in cybersecurity. Notwithstanding the improved efforts in cybersecurity, the expanded state-actor cyberattacks (Russia, China and Iran), and the overlay of the dangers associated with increased attacks due to the Russian invasion of Ukraine and U.S. involvement, has increased the risk profile. Both New York State and national security issue concerns should encourage the State to ensure resiliency and a careful study is warranted. In that light, we should move with care to avoid increasing New York's vulnerability by reducing the State's fuel diversity.

We must maintain the ability to respond to system events as quickly and efficiently as possible. The issue of safety is not sufficiently considered in the Draft Scoping Plan. As discussed herein, NYAPP's primary concern is maintaining safe and reliable service for our customer-owners. We need to be able to invest in safe and reliable equipment and maintain those systems as necessary. New York should not shift system requirements so rapidly that safety is imperiled. In the case of an outage or other disruption, whatever the cause, NYAPP members must be able to recover rapidly to ensure the safety of customers and the community as a whole. The sole reliance on electricity for heating and cooling, cooking and all aspects of transportation including emergency response, if interrupted even if for the shortest of time, could have dire implications. Preventing these inevitable outcomes may require a reliance on natural gas or alternative fuels for a greater period of time than some would support. However, fuel diversity is critical to NYAPP members and should be maintained. In the transportation electrification efforts, NYAPP members must be able to address consumer needs, even if electricity is unavailable. Repair trucks will require non-electric sources, for at least a portion of the fleet. In addition, since many NYAPP members are in rural parts of New York, and traveling hundreds of miles is sometimes required for repairs and replacements, emergency response will include maintenance of fossil fuel-fired sources for an extended period of time.

NYAPP recommends that the State, and the Final Scoping Plan, support continued and expanded use of renewable resources and energy storage, but also maintain natural gas-fired generation and other sources, in order to preserve reliability.

III. COSTS AND ECONOMIC IMPACT MUST BE UNDERSTOOD.

The Draft Scoping Plan does not sufficiently consider the real, out-of-pocket costs and financial impacts on consumers and the potential impacts on jobs and New York's declining manufacturing sector. It is no mystery that New York is a high-cost state, with relatively high state and local taxes, expensive electricity, and a high cost of living. The Draft Scoping Plan fails to sufficiently consider costs and the negative impacts on consumers, low-to-moderate income New Yorkers, businesses, the agricultural sector and other economic sectors. Costs should be a primary "initial" input as we evaluate next steps for the transformation of New York's economy and should be specifically defined in the Final Scoping Plan. These costs to consumers and businesses are not speculative and care should be taken in assessing potential longer-term benefits so as to not further impede New York State's economy. Furthermore, we recognize there are significant health benefits associated with the reduction in greenhouse gas emissions and reduced air pollutant emissions (co-pollutants) and applaud the Climate Action Council for considering those benefits in its analysis. However, financial stress has a relation to negative health outcomes and it is imperative that the Final Draft Scoping Plan also balance the health impacts of financial stress with the advancement of the State's climate goals.

The costs to upgrade local distribution systems, sub-transmission and transmission interconnections will be substantial under the Draft Scoping Plan and will need to be passed through to electric customers. Since electric demand is projected to increase by 65-80%, major reconstruction efforts will be necessary and must be paid for in some manner. In the municipal and cooperative service territories there are no distant investors/shareholders to consider sharing the costs with; it will all fall upon the ratepayers and customer owners. It is unclear whether the Draft Scoping Plan's integration analysis included the cost of local distribution upgrades in the cost analysis. This needs to be clarified and addressed, and cannot wait until the end of the process, after a program has been adopted. These costs will directly (and we suspect negatively) impact NYAPP customers, particularly low-to-moderate income consumers who are forced to worry about their bill that is due. It will also impact businesses, which are already considering shutting down or moving out of state. In short, New York State cannot cede more jobs to other states with lower tax and cost structures.

In addition, NYAPP members were "first movers" into clean, renewable generation. With 87% of NYAPP members' energy coming from clean sources, NYAPP members have already been penalized by having to pay for RECS and ZECS, with no apparent justification or benefit. NYAPP members paid a premium for investing in hydroelectric power when it was more expensive in the 1960s and were the earliest adopters in New York State. The NYAPP members supply their customer-owners with primarily emissions-free electricity and should benefit from our past contributions.

NYPA's hydropower facilities are critical to the CES and need continued financial support, including for the Life Extension & Modernization (LEM) program. This financial support is derived, in significant part, from NYPA customers, such as NYAPP members who collectively pay approximately 40% of the cost of these upgrades that improve the flexibility of the facilities which benefit the grid and the State's goals, while only nominally increasing the capacity of the facilities. NYAPP members should not have to pay twice – once to support NYPA hydropower and a second time for Tier I RECs and other CES charges.

NYAPP members are working in partnership with NYPA on a large number of innovative energy efficiency and renewable energy programs, and this effort is now embedded in the long-term agreements between NYPA and NYAPP members. In addition, NYAPP members are committed to working with NYSERDA where funding opportunities, and joint program opportunities are available. We also look forward to working with NYSERDA and NYPA in seeking federal funds for a variety of energy efficiency, renewable energy, smart grid, demand-response, grid flexibility and other programs. This effort is critical to the fulfillment of the goals of the Draft Scoping Plan and the CES.

We specifically recommend that during the next revision of the CES, the program should recognize NYPA's existing hydropower resources and the role NYPA's hydro assets play in meeting our CLCPA goals. NYPA's hydroelectric facilities must be eligible to create RECs for the renewable energy produced and all of NY's municipal electric utilities and member-owned rural electric cooperative utilities should be able to use those environmental attributes to meet their REC obligations as LSEs.

In addition, to the extent that carbon pricing is still being considered, NYISO's market scheme should be aligned with the public policy goals embedded in carbon pricing in the most cost-effective manner. As a corollary to this discussion, to the extent that the State is continuing to pursue an economy-wide side of solutions to further decarbonization, other sectors, beyond the electric utility sector, should bear a fair share of these costs. This is not clear from the Draft Scoping Plan and should not be shunted aside to be considered later in the process where the costs might pile up.

Finally, and critically important, is that the Final Scoping Plan should establish a mechanism for rate relief for systems that are already significantly over 70% supplied with clean, renewable energy. There is no justification for systems, such as those of NYAPP members, to pay twice (or more) for actions undertaken decades ago that are to the advantage of the State, and which have already positively progressed the use of clean, renewable resources for power generation.

IV. TIMING OF THE TRANSITION MUST BE FLEXIBLE.

The time frame set forth in the Draft Scoping Plan is too ambitious, does not take into account cost, reliability, resiliency and unintended consequences, and does not provide sufficient time or opportunities for NYS manufacturing businesses to provide clean energy products and components as required by the CLCPA mandates. An unnecessarily accelerated time frame for utilities that are relatively small (NYAPP members), that are also

already utilizing 87% clean energy, makes no practical or economic sense. Reliability should not be threatened by implementation of the program set forth in the Draft Scoping Plan.

NYAPP continues to support the goals of the CLCPA, but continues to have concerns with the pace of implementation, without factoring in reliability, safety, and cost at the front-end of the process.

The electrification efforts, with EVs and charging stations and the electrification of the building stock, especially an older building stock, will have a significant, and negative, impact on LSEs and requires careful system planning at all levels. We should not subject our consumer-owners to unnecessary service interruptions or rushed equipment replacements, especially as technology improvements are accelerating. We cannot afford to implement technological change only to repeat the change with different technologies five years hence.

In order for New York State businesses and residents to benefit from the clean energy transition, the Scoping Plan should be expanded to consider a "Build New York/Buy New York" Preference in order to keep and support high quality jobs in the State. A more extended time frame would allow the State and businesses to expand and benefit from the transition.

Load serving entities that already substantially exceed the CES 70% renewables goal, such as NYAPP members, cannot afford to bear additional costs whether due to an artificially accelerated schedule or additional and duplicative CES requirements.

V. CONCLUSION.

NYAPP appreciates the opportunity to submit these comments on the Draft Scoping Plan. We note that our member systems utilize approximately 87% clean energy for our electric supply. We respectfully suggest that the State recognize the need for reliability, safety, resilience and cost containment as we move forward. As our systems have for over 100 years, we are happy to be in the forefront of creative utility operations. We also appreciate the support of NYPA and NYSERDA as we attempt to implement innovative programs to respond to crucial climate and other environmental needs, while preserving jobs and protecting low-to-moderate income New Yorkers.

Respectfully Submitted,

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