



Institute *for*
Policy Integrity

NEW YORK UNIVERSITY SCHOOL OF LAW

March 22, 2022

Hon. Michelle L. Phillips
Secretary
Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

VIA ELECTRONIC SUBMISSION

Attn.: Case 20-E-0197 – Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act

Subject: Comments of the Institute for Policy Integrity on Order on Power Grid Study Recommendations

Dear Secretary Phillips:

The Institute for Policy Integrity at New York University School of Law¹ (Policy Integrity) appreciates the opportunity to submit these comments to the New York Public Service Commission (Commission) in response to its January 20, 2022 Order on Power Grid Study Recommendations. Policy Integrity is a non-partisan think tank dedicated to improving the quality of government decisionmaking through advocacy and scholarship in the fields of administrative law, economics, and public policy.

Sincerely,

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¹ This document does not present the views of New York University School of Law, if any.

Comments of the Institute for Policy Integrity

The Coordinated Grid Planning Process and benefit-cost analysis (BCA) rubric filed by the Joint Utilities on December 17, 2021 and approved by the Commission in its January 22, 2022 Order will guide grid planning and cost allocation in New York State for the foreseeable future—that is, until at least 2040. One year ago, when the New York Public Service Commission opened this proceeding, Policy Integrity filed comments that began as follows (emphasis added):

New York is undertaking to rapidly transform its energy system and to make the electric grid the backbone of the state’s decarbonized economy. The Climate Leadership and Community Protection Act (CLCPA) commits the state to achieving 70% renewable electricity by 2030 (70x30) and 100% clean electricity by 2040 (100x40), and to deploying particular renewable generation resources on schedule.² And the Accelerated Renewable Energy Growth and Community Benefit Act (Siting Act)’s directive to the Commission to establish a planning process for local transmission and distribution development is both critically important and timely for the purpose of complying with those renewable and clean electricity targets.³ *As the Commission proceeds in its planning efforts, however, it should be guided not only by those numeric targets but also the CLCPA’s overarching mandate to abate greenhouse gas emissions and to do so in a way that gives appropriate priority to environmental justice.*⁴

Policy Integrity recognizes that the Commission’s January 22, 2022 Order takes important strides toward an integrated, statewide approach to planning and paying for an electric grid capable of supporting a decarbonized New York economy. Such integration is increasingly critical if the state is to achieve the emissions reductions required by the CLCPA efficiently. However, the Coordinated Grid Planning Process, complete with an updated BCA rubric, are oriented mainly to the CLCPA’s prescriptions for the state’s generation mix and renewable generation technology deployment targets.⁵ This is problematic insofar as it does not reflect a societal perspective nor account for how grid planning will affect economy-wide greenhouse gas emissions levels or levels of local pollution in disadvantaged communities.⁶ Policy Integrity encourages the Commission to read the following comments with an eye both to the near-term and to the longer-term, given that the approach being adopted will guide grid planning for years and possibly decades.

² 2019 N.Y. Sess. Laws 106 § 4 (hereafter CLCPA).

³ 2020 N.Y. Sess. Laws 58 § 7 (hereafter Siting Act).

⁴ Comments of the Institute for Policy Integrity, Case 20-E-0197, at 1 (filed Mar. 22, 2021). We include a copy of those comments as an attachment for easy reference.

⁵ See Pub. Serv. L. § 66-p (2), (5).

⁶ See CLCPA § 7(2)–(3); see also NYSERDA, *Disadvantaged Communities*, <https://www.nyserda.ny.gov/ny/disadvantaged-communities> (last visited 2/7/2022).

1. Emissions Accounting Should Be Part of the Coordinated Grid Planning Process

The Joint Utilities call the Coordinated Grid Planning Process a “*holistic* planning procedure” that will yield “a least cost statewide investment plan,”⁷ and the Department of Public Service (the Department) presents the BCA Least-Cost Framework as considering “*the total cost* of generating, connecting, and delivering energy produced from renewable generation after curtailments.”⁸ But these analyses will be incomplete if they ignore the costs imposed by the emission of global and local pollutants from the power sector and the benefits of avoiding such emissions. Both the law and practicality argue for incorporating emissions impacts into the planning process.

The legislature adopted the Siting Act—the basis for this proceeding and the Commission’s Order—to help New York State realize the objectives set forth in the CLCPA. Although the Siting Act’s legislative findings and statement of purpose refer only to the power sector-specific objectives codified in Public Service Law § 66-p, the Commission’s implementation of the act is also subject to other provisions of the CLCPA, including Section 7. CLCPA section 7(2) requires agencies to consider whether their decisions align with the CLCPA’s overarching greenhouse gas emissions reduction goals. Section 7(3), which directs agencies to “not disproportionately burden disadvantaged communities . . . [and] also prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities.” Furthermore, the CLCPA also provides that:

State agencies . . . shall . . . invest or direct available and relevant programmatic resources in a manner designed to achieve a goal for disadvantaged communities to receive forty percent of overall benefits of spending on clean energy . . . in the areas of . . . pollution reduction [among others] . . .⁹

These obligations are not somehow superseded just because the Siting Act does not list them. The Commission must abide by them as it carries out the Siting Act’s directives. In practical terms, therefore, the law requires that the planning process include, at a minimum, gathering and considering information about the global and local emissions profiles of planning alternatives. In addition, with respect to local pollutants, it also requires minimizing impacts on disadvantaged communities and ensuring that such communities receive 40% of the benefits of clean energy investments in various forms, including “pollution reduction.”¹⁰

In its present form, the Coordinated Grid Planning Process and BCA risk falling short with respect to both types of emissions.

⁷ The Utilities’ Coordinated Grid Planning Process and Revised Benefit Cost Analysis, Case 20-E-0197, at 15 (undated) (emphasis added).

⁸ Technical Conference on Coordinated Grid Planning Process, Dep’t of Pub. Serv., Coordinated Grid Planning Process 2 (Jan. 28 2022) (emphasis added).

⁹ CLCPA § 2; N.Y. Env’t Conserv. L. § 75-0117.

¹⁰ *Id.*

Greenhouse gas emissions. Greenhouse gas emissions—and thus their avoidance—are undervalued. The analysis in the Power Grid Report that underlies the proposed planning process applies what it calls the “applicable cost of carbon,” which reflects the price assigned to carbon dioxide emissions by the Regional Greenhouse Gas Initiative and REC and OREC prices.¹¹ Policy Integrity explained its concerns about this approach in our earlier comments, pointing out that it could undervalue benefits by ignoring some avoided costs (including but not limited to emissions) and fail to push emitting resources to exit.¹²

Local air pollution. In addition to undervaluing greenhouse gas emissions, this approach simply ignores emissions of local pollutants. This is concerning, as the Commission should not assume that the incidental benefits of clean energy development will reduce the impacts of local air pollution in general, and in particular on disadvantaged communities to a sufficient degree and with appropriate speed.¹³ New York *defines* disadvantaged communities based in part on their proximity to emitting facilities like those that burn gas and oil to generate electricity. The Commission must verify that the coordinated grid planning process will comply with the CLCPA’s objectives for environmental justice by, among other things, reducing the frequency and duration of those facilities’ operation. Underlying other reasons for this concern is the fact climate change is causing conditions—chiefly more heat and humidity—that exacerbate the impact of local pollution on public health.¹⁴

2. Emissions Accounting Would Not Encumber the Planning Process

Policy Integrity is not urging the Commission and stakeholders to rip up the planning process and BCA they have developed and to start over, making emissions the lodestar for a replacement. The design of the planning process and BCA already supports generating estimates of the emissions profile of different scenarios and projects. So, it should not be difficult for utilities, as they develop their research plan as ordered by the Commission,¹⁵ to estimate emissions impacts.

Steps that would yield such an estimate would build on the Joint Utilities’ planned modeling process. That process would necessarily rely on modeling that yields information about

¹¹ JAY BOGGS, SR. ET AL., SIEMENS POWER TECH., INC. (prepared for NYSERDA and N.Y. Dep’t of Pub. Serv.), ZERO-EMISSIONS ELECTRIC GRID IN NEW YORK BY 2040—FINAL REPORT 43–44 (2020) (included as App’x E in Initial Power Grid Study).

¹² Policy Integrity Comments, *supra* note 4, at 2–3.

¹³ See Benjamin Storrow, *3 States with Shuttered Nuclear Power Plans See Emissions Rise*, E&E NEWS, Feb. 17, 2022, <https://www.politico.com/news/2022/02/17/3-states-with-shuttered-nuclear-plants-see-emissions-rise-00009034>.

¹⁴ Patrick Kinney et al, *Public Health*, in RESPONDING TO CLIMATE CHANGE IN NEW YORK STATE—CLIMAID 397, 405–09 (2011) (describing how climate change exacerbates the formation of and exposures to ozone and PM_{2.5}); see also Justin Gundlach *How Existing Environmental Laws Respond to Climate Change and Its Mitigation*, in CLIMATE CHANGE, PUBLIC HEALTH, AND THE LAW (Michael Burger & Justin Gundlach eds. 2018) (discussing how existing law is only partly responsive to changing environmental baselines).

¹⁵ Order on Power Grid Study Recommendations, Case 20-E-0197, at 41 (Jan. 22, 2022).

megawatt-hours (MWh) of energy generated by all units being modeled. Multiplying MWh of energy generated by the appropriate emissions intensity coefficients for each generating unit would yield emissions volumes for carbon dioxide, sulfur dioxide, and nitrogen oxide from all generators.¹⁶

Even this basic level of quantification would be informative, but the JU could easily go further—and should—with respect to both greenhouse gas emissions and the emissions of local pollutants. Because greenhouse gases are global pollutants whose impacts are nearly uniform regardless of where they originate, their quantity can easily be monetized simply by multiplying by the Department of Environmental Conservation’s recommended Social Cost of Carbon.¹⁷ The product of that multiplication would indicate the relative social costs of emissions impacts from alternative projects or project portfolios. The impacts of local pollutants can also be monetized. Doing so requires the additional step of determining which downwind communities would be exposed to elevated levels of pollution from particular generators—something New York agencies have done before.¹⁸ As several tools have been developed to enable that determination,¹⁹ the only additional work required would be entering inputs into those tools and recording their outputs. Incorporating these monetized values into the BCA Framework would lead to a Least-Social-Cost approach, such as the CLCPA requires.

Conclusion

New York’s electric utilities and their regulators are working to develop novel analyses that will be indispensable for the development and operation of a 100% clean grid that delivers reliable and affordable power to consumers. But compliance with the CLCPA requires that this analysis inform the Commission about alternative projects’ relative emissions profiles, particular with respect to impacts on disadvantaged communities. For this reason, Policy Integrity encourages the Commission to direct utilities to make monetized estimates of global and local pollutants a routine feature of the Coordinated Grid Planning Process and BCA.

¹⁶ For a more detailed description of the inputs, steps, and outputs involved, review Step 2 of the analytical process laid out in Policy Integrity’s 2018 report, *Valuing Pollution Reductions*. JEFFREY SHRADER, BURÇIN ÜNEL & AVI ZEVIN, VALUING POLLUTION REDUCTIONS: HOW TO MONETIZE GREENHOUSE GAS AND LOCAL AIR POLLUTANT REDUCTIONS FROM DISTRIBUTED ENERGY RESOURCES 10–18 (2018), https://policyintegrity.org/files/publications/valuing_pollution_reductions2.pdf.

¹⁷ N.Y. DEP’T ENV’T CONSERV., ESTABLISHING A VALUE OF CARBON: GUIDELINES FOR USE BY STATE AGENCIES 3 (2020).

¹⁸ *E.g.*, FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT IN CASE 15-E-0302 et al., at 4-3 to 4-5, exh.4-3 (2016) (estimating volumes of avoided local pollution); NYSERDA, Petition Regarding Agreements for Procurement of Tier 4 Renewable Energy Certificates, App’x C, Case 15-E-0302, at 7–10 (Nov. 30, 2021) (quantifying and monetizing avoided global and local emissions).

¹⁹ SHRADER, ÜNEL & ZEVIN, *supra* note 16, at 30 tbl.3.