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ACE NY's 2023 LEGISLATIVE PRIORITIES

January 3, 2023

The Alliance for Clean Energy NY (ACE NY) supports legislation that enhances market opportunities for large-scale, grid-connected renewables; for smaller-scale distributed renewable energy; for energy efficiency; and the electrification of transportation. ACE NY opposes bills that would unduly or unfairly restrict clean energy development in New York State. Our legislative priorities are a subset of our overall 2023 priorities, which include issues before state agencies, such as the PSC, NYSERDA, and the DEC, and issues before the NYISO.

ACE NY supports or opposes numerous other bills relevant to clean energy throughout the legislative session; you can see these memos on the [Legislative Actions](#) section of our [website](#).

RENEWABLE ENERGY PRIORITIES - SUPPORT

New York has ambitious mandates for the development of renewable energy. There are barriers that need to be addressed in order to make sure that New York reaches those goals. Out of approximately 123 renewable energy projects contracted since 2017, 17 were operational and approximately 18 were under construction in January 2023. Transmission constraints, interconnection delays, supply chain hurdles, permitting roadblocks, and lengthy tax negotiations are a few of the barriers to getting wind and solar projects to construction.

- **Codify State Operations Going 100% Renewable.**

ACE NY enthusiastically supports the recent Executive Order [Leading By Example](#), which commits all state operations to use 100% renewable electricity by 2030. This should be codified by the Legislature, particularly for the Long Island Power Authority (LIPA) and New York Power Authority (NYPA).

- **Improve Tax Policies to Facilitate Renewable Energy Development**

Exempt Renewable Energy PILOT Revenue from Tax Cap Calculations: By exempting PILOT property assessment increases, and not exempting PILOT revenue from Tax Cap calculations, the current law limits revenues that a municipality or school district can realize without a public referendum. In other words, even though a wind or solar project will be paying significant property taxes via a PILOT payment in a town, the tax cap will often require a town to reduce residential and commercial property taxes rather than realize additional revenue.

Require Tax Assessment Models to go through SAPA: The statutory language requiring the establishment of a standardized tax model ([Real Property Tax Law, Section 575-B](#)) should be

amended to clearly state that promulgation of the model and periodic updates to the model be subject to the State Administrative Procedures Act (SAPA).

Create a Tax Rebate Program for Existing Renewables: Older renewable energy facilities must be kept in operation, and their power and Renewable Energy Credits (RECs) kept in New York. Meanwhile, property taxes are a significant expense for renewable energy generation facilities, especially those built before 2015 which do not have contracts with NYSERDA. We propose a Renewable Energy Retention Program, in which eligible facilities in New York would receive State-supported property tax abatement benefits if they provide renewable power to New York (i.e., do not export power or RECs out-of-state).

- **Standardize Renewables End-of-Life Management**

Establish State Decommissioning Fund for Renewable Energy Projects: Currently, decommissioning financial requirements are handled at the local level, even those that are required by state regulations through the Office of Renewable Energy Siting (ORES). To standardize and streamline this process, while maintaining the same stringent financial requirements for decommissioning, the Legislature should establish a State Decommissioning Fund for Renewable Energy Projects under Section 94-c of the Executive Law.

Facilitate Solar Panel Recycling Without Slowing Solar Project Development: In June 2021, Niagara County passed a [law](#) that blocks solar development until a development plan that includes end-of-life recycling has been approved by the municipality. This makes manufacturers of solar panels responsible for financing and planning for the recycling of solar panels after their use. Niagara County's law has intentionally stalled solar development¹ in the name of solving a problem that 1) doesn't exist yet and 2) is either redundant or conflicting with State's decommissioning requirements. New York state should preempt local panel recycling laws or, at a minimum, prohibit local waste treatment requirements from blocking solar development.

- **Transmission Expansion to Facilitate Renewables Delivery**

Direct NYPA to Assist in Solving Transmission Constraints: Currently, one of the largest barriers to the decarbonization of the New York grid is insufficient transmission capacity in certain locations, which is restricting the interconnection of renewable energy projects or is resulting in congestion or curtailment of renewable power. NYPA should continue to contribute to solving this problem with a renewed focus by proposing, within 6 months, "priority projects" (as defined under the Accelerated Renewable Growth Act) to solve issues in the top three congested zones as identified by the NYISO.

¹ Prohaska, T, *Niagara County Hopes New Recycling Law Will Discourage Solar Developers*, The Buffalo News, March 2022; https://buffalonews.com/news/local/niagara-county-hopes-new-recycling-law-will-discourage-solar-developers/article_0f6fd0a6-d047-11eb-818d-5f01f54bc7c3.html

- **Eliminate Permitting Inefficiencies**

Use An Existing DEC Fund for the Endangered and Threatened Species Mitigation Bank Fund: In the Accelerating Renewable Energy Development and Community Benefit Act, the DEC was directed to create a new fund (Endangered and Threatened Species Mitigation Bank Fund²) that could accept mitigation payments from renewable energy developers in lieu of the time-consuming and disconnected process for the developer and DEC to negotiate a mitigation project. As far as we know, DEC has yet to establish this Fund. An alternative approach would be to use one of many existing funds at DEC.

Revise Public Service Law Sections 68, 69, & 70, to Exclude “Alternative Energy Production Facilities” from Regulation under these Sections: Currently, sections 68, 69, and 70 of the Public Service Law include requirements regarding energy facilities that are unnecessary for renewable energy, duplicative of other permitting processes, and slow down renewables development without providing any additional public policy benefit. “Alternative energy production facilities” should be excluded from regulation under those sections. This would have the benefit of not requiring a separate certificate from the PSC for each project on top of the permit from either the Office of Renewable Energy Siting under 94-C or from the State Siting Board under Article 10.

- **Ensure Safe and Efficient Delivery of Wind Turbine Superloads**

At present, state troopers are the only entities allowed to escort large wind turbine parts that are “superloads” and there is concern that there are not enough state troopers to escort materials at the scale predicted for coming years. This issue is addressed in a bill, [S.373 \(Parker\)](#) / [A.751 \(Hunter\)](#), which would permit other entities to act as escort vehicles for superloads, expand the permissible hauling days, and streamline state agency processes.

- **Energy Storage Sales Tax Exemption**

[S.4547 \(Parker\)](#) would exempt from state sales tax the retail sale and installation of energy storage equipment for both residential and commercial uses, consistent with the exemption for commercial and residential solar energy systems.

- **Support Existing Renewables Through Tier 2**

[S.2468 \(Parker\)](#) would require the PSC to modify and improve the existing Tier 2 program to support pre-2015 renewable projects in the Clean Energy Standard. This bill has previously passed both houses and was vetoed, and subsequently has passed the Senate.

- **Green Hydrogen**

² Section 11-0535-c of the Environmental Conservation Law and Section 99-hh of the State Finance Law

Green hydrogen, hydrogen produced using solely renewable energy resources including solar, wind and hydropower, has the potential to contribute to New York’s clean energy transition and make renewable energy projects more fully utilized (e.g., by using power that would otherwise be curtailed). Green hydrogen technology applications, if aligned with the New York Climate Act, should be encouraged and facilitated by state law.

RENEWABLE ENERGY PRIORITIES - OPPOSE

ACE NY opposes bills that would unduly restrict renewable energy development, discourage investment in project development in New York, or create unnecessary or unreasonable requirements on renewable energy development.

- **Remove Agricultural Assessment for Dual-Use Renewables** – [S.1058 \(Hinchey\)](#) / [A.2299 \(Lupardo\)](#): This bill, by amending the agriculture and markets law, would require dual-use solar projects under 10 megawatts (MW) to get approval from the Department of Agriculture and Markets (DAM) to receive an agricultural assessment. This bill would inhibit dual-use projects rather than encourage them.
- **Build Public Renewables Act** – [S.3134 \(Parker\)](#) / [A.279 \(Carroll\)](#) : This bill would grant the New York Power Authority (NYPA) unlimited ability to purchase, construct, and operate renewable energy projects greater than 25 MW. To best facilitate the energy transition in New York, NYPA should focus on transmission development rather than competing with the private sector to develop renewables.
- **Utility Ownership of Renewable Generation** - [S.8384 of 2022 \(Parker\)](#) / [A.9531-A of 2022 \(Cusick\)](#): This legislation would allow utilities to own and operate large-scale renewable electricity generation projects. New York should maintain its current policy of having utilities focus on transmission and distribution and be prohibited from owning power-generation facilities.
- **Creating Uniform Standards & Conditions for Renewable Energy Facilities** – [S.1793 \(Hinchey\)](#) / [A.3117 \(Lupardo\)](#): This legislation would establish uniform standards and conditions relating to the construction and operation of major renewable energy facilities and the review of applications for permits to develop such facilities; and require ORES to establish or amend rules and regulations pertaining to renewable energy siting facilities. This bill is redundant to, and in some cases in conflict with, the uniform standards already developed by ORES.

CLEAN TRANSPORTATION PRIORITIES - SUPPORT

The transportation sector is the second largest source of greenhouse gas emissions in the state of New York and is also a source of pollution that causes a significant health threat from particulate emissions and smog. The solution is to deploy more public transit and electric cars, trucks, and buses.

- **Allow Direct Sales Of Electric Vehicles** – [A.3779 \(Fahy\)](#) bill removes the current cap (five) on the number of sellers of new electric vehicles (EVs) beyond traditional franchise auto dealers. Now, companies that manufacture only EVs cannot sell them directly to New Yorkers at new retail locations. New Yorkers need to be able to purchase the electric vehicle of their choice and have access to all the auto manufacturers, not just those with existing dealerships. New York’s Final Climate Action Scoping Plan³ includes a recommendation for enacting legislation supporting direct-to-consumer sales of zero-emission vehicles, including EVs, by manufacturers.
- **Establish A Clean Fuel Standard** – [S.1292 \(Parker\)](#) / [A.964 \(Woerner\)](#): This bill would establish a carbon intensity standard for all transportation fuels. Entities must meet the standard by producing or purchasing low carbon fuels or credits, encouraging the gradual transition away from gasoline to EVs. New York’s Final Climate Action Scoping Plan⁴ includes a similar measure, recommending a clean transportation standard.
- **Exempt Electric Vehicles From Sales Tax** – [A.3159 \(Fahy\)](#): This bill would provide a state sales tax exemption on the first \$35,000 of battery, electric, or plug-in hybrid EVs purchase, and authorizes local governments to elect to do the same. This bill will help to reduce the upfront cost of purchasing or leasing an EV, a critical barrier to EV adoption.

ENERGY EFFICIENCY PRIORITIES - SUPPORT

- **Sales Tax Exemption for Heat Pumps:** Heat pumps are the key to our transition to electric heating for our buildings. They offer homeowners and landlords an efficient all-in-one heating and cooling system. Air-source heat pumps are two to three times more efficient than fossil fuel or electric-resistance heating systems.⁵ The [Final Climate Action Scoping Plan](#)⁶ calls for significant increase in heat pump adoption and a massive scale-up of financial incentives for heat pumps. To reach the Governor’s goal of two million climate friendly homes by 2030, the state should eliminate the sales tax for the purchase and installation of residential and commercial heat pumps and allow for local municipalities to also suspend their share of the

³ Page 157, NY Climate Scoping Plan <https://climate.ny.gov/-/media/project/climate/files/NYS-Climate-Action-Council-Final-Scoping-Plan-2022.pdf>

⁴ Page 148, NY Climate Scoping Plan <https://climate.ny.gov/-/media/project/climate/files/NYS-Climate-Action-Council-Final-Scoping-Plan-2022.pdf>

⁵ Air Source Heat Pumps, DOE <https://www.energy.gov/energysaver/air-source-heat-pumps>

⁶ Page 176, NY Climate Scoping Plan <https://climate.ny.gov/-/media/project/climate/files/NYS-Climate-Action-Council-Final-Scoping-Plan-2022.pdf>

sales tax. The state currently provides a sales tax exemption on the installation of residential and commercial solar energy systems and fuel cells.

- **Building Benchmarking:** New York law should require buildings over 25,000 square feet to record and report their energy use. Benchmarking of energy use has been shown to drive energy and water conservation measures by building owners once they realize the annual cost of energy, and the savings that can result from efficiency measures. The [Final Climate Action Scoping Plan](#)⁷ includes the use of benchmarking to provide building owners with information to operate their buildings more efficiently.
- **Create an All-Electric Building Standard – [S.562-A \(Kavanagh\)](#) / [A.920-A \(Gallagher\)](#):** This bill would prohibit infrastructure, building systems, or equipment used for the combustion of fossil fuels in new construction statewide. This would take effect on December 31, 2023 for buildings less than seven stories and July 1, 2027 for buildings seven stories or more.

⁷ Page 183, NY Climate Scoping Plan <https://climate.ny.gov/-/media/project/climate/files/NYS-Climate-Action-Council-Final-Scoping-Plan-2022.pdf>