STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case No. 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Energy Program and a Clean Energy Standard;

Staff White Paper on a Clean Energy Zones Program

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PRELIMINARY STATEMENT

I have been representing municipalities and community groups in the siting of large-scale renewable energy projects across New York State for 20 years. At the beginning of this experience such projects were under the State Environmental Quality Review Act by municipalities acting as lead agency. In 2016 I represented a community group in the matter of Cassadaga Wind, the first project to be reviewed pursuant to Public Service Law, Article 10. I was intervenors' attorney for several other Article 10 wind energy projects until 2021 when the Article 10 Siting Board was superseded by the Office of Renewable Energy Siting (ORES) pursuant to Executive Law, Section 94-c and in 2025, the Renewable Action Through Project Interconnection and Deployment (RAPID) Act. I am also affiliated with Stop Energy Sprawl, a non-profit association of over 50 municipalities and community groups across New York concerned about the adverse environmental impacts and poor performance of major wind and solar projects, the subject of the above-referenced proposal.[1]

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1 See <https://www.stopenergysprawl.org/>.

1. The Commission Should Pause Additional Renewable Procurement Until a Coordinated Plan Is Finalized

As explained in the CEZ proposal, the Commission directed Department of Public Service Staff to develop the program in response to Governor Hochul's 2025 State of the State address. The Governor called for the State to "proactively coordinate how and where new generation is sited and constructed, how and when transmission and distribution systems are updated, and what benefits are provided to local communities for hosting these projects."[2] That direction implies that additional renewable-generation procurement and siting should be paused until a coordinated plan or program is finalized. If generation and transmission are to be planned proactively, continued uncoordinated generation siting is neither effective nor affordable.

Staff appears to recognize this concern. The White Paper states:

> If generation is procured before grid infrastructure is prepared, interconnection costs are generally higher, curtailment and congestion would exceed acceptable levels, and timelines for interconnections are generally longer and less certain. Each of these adverse consequences leads to higher ratepayer costs . . .[3]

The Commission should therefore pause additional renewable-generation procurement and siting until a final CEZ program has been adopted and implemented. The final CEZ program should be evaluated for affordability, feasibility, and measurable emissions-reduction benefits.

2. Affordability and Feasibility Must Be Central to the CEZ Analysis

This interpretation of the Governor's request is reinforced by the 2026 amendments to

2 DPS, White Paper on Clean Energy Zones Program (May 15, 2026) ("White Paper"), at 3.

3 Id., at 7.

the Climate Leadership and Community Protection Act (CLCPA), which, for the first time, add affordability and feasibility tests for actions proposed pursuant to the CLCPA.[4] The CEZ proposal must therefore be evaluated for affordability and feasibility. The White Paper does not adequately address either criterion.

Instead, Staff presents an entirely conceptual plan based on questionable assumptions about the benefits of additional renewable capacity. The White Paper gives insufficient attention to the actual generation rates of different energy technologies, the cost of renewable-energy credits, the transmission and distribution upgrades that renewable projects require, and the resulting costs imposed on ratepayers.

Even if the Commission creates CEZs in some form, the costs of renewable energy credits, local transmission upgrades, regional network upgrades, and related distribution-system investments will continue to be passed on to ratepayers. The Commission should not assume that additional renewable capacity is inherently affordable simply because it advances a capacity-based target.

The question is not only how much new generating capacity can be installed. The Commission must also determine:

- Whether the proposed projects will produce meaningful emissions reductions.
- Whether they can be integrated without excessive curtailment or congestion.
- Whether the transmission investments they require will be effectively utilized.
- Whether the benefits justify the costs imposed on ratepayers and host communities.
- Whether the proposed approach is feasible given existing grid constraints and local opposition.

4 See Envtl. Conserv. L. § 75-0109(3)(f).

3. Bulk Transmission Between Upstate and Downstate Should Be the Immediate Priority

The State's most urgent electricity-system need is long-distance, or bulk, transmission capable of moving existing upstate clean electricity to downstate demand centers. That need should be addressed before the State undertakes a coordinated expansion of additional renewable generation, regional transmission, and local distribution infrastructure.

Upstate New York already has substantial carbon-free generation, including nuclear and hydropower resources. Downstate electricity, by contrast, is heavily dependent on fossil-fuel generation; only approximately five percent of its power is carbon-free.[5] The State lacks sufficient bulk transmission capacity to deliver upstate electricity downstate. Addressing this constraint could provide more immediate and measurable emissions benefits than adding further renewable capacity to the upstate grid.

The White Paper proposes first identifying areas (almost entirely upstate) where additional renewable generation can be built to meet CLCPA technology targets and then coordinating transmission planning around those generation zones.[6] That approach is essentially what the State has pursued since enactment of the 2019 CLCPA, and it has not worked. It has contributed to increasing curtailment, grid congestion, restrictions on public participation, and rural opposition to energy sprawl. The CEZ program should not repeat these outcomes by prioritizing new renewable siting before resolving the State's fundamental bulk-transmission limitations.

Staff states that developing major transmission projects without requiring future resource procurements to use the new capacity risks underutilization and may lead to

5 New York Independent System Operator, Power Trends 2025, at 44, available at <https://www.nyiso.com/power-trends>.

6 White Paper, at 11 (fig. 1), 13–14, 18–19.

additional investment elsewhere.[7] But upstate New York has already procured substantial clean-energy resources, particularly nuclear and hydropower. What those resources lack is sufficient bulk transmission capacity to deliver their electricity downstate.

Staff proposes to coordinate the in-service dates of new renewable-generation projects with completion of regional transmission upgrades.[8] That proposal, however, would continue to add generation within an already-constrained upstate grid rather than addressing the State's existing transmission bottleneck.

The Commission should first determine how to move existing clean energy to areas where it can displace more carbon-intensive generation. Only after that question is addressed should the Commission determine whether additional generation is needed and where it should be located.

4. Energy Planning Should Prioritize Generation and Emissions Reductions, Not Nameplate Capacity

The CEZ proposal relies heavily on megawatt capacity targets. Capacity, however, is not the same as actual electricity generation.

Wind and solar facilities produce electricity intermittently and generally operate at a fraction of their nameplate capacity over the course of a year. By contrast, nuclear generation operates at a much higher capacity factor and provides firm, dispatchable, carbon-free electricity. Staff acknowledges that nuclear resources have higher capacity factors than wind and solar facilities and that new nuclear generation could enable the retirement of significant quantities of fossil-fuel generation.[9]

7 Id., at 20.

8 Id., at 19.

9 Id., at 6.

State planning should therefore evaluate resources principally by:

- Annual and seasonal generation in megawatt-hours.
- Reliability and availability during periods of peak demand.
- Ability to displace fossil-fuel generation.
- Transmission requirements and utilization.
- Total system cost, including transmission, storage, backup generation, interconnection, curtailment, and distribution upgrades.
- Demonstrable greenhouse-gas-emissions reductions.

A capacity-based approach can create the appearance of progress while obscuring poor generation performance and limited emissions benefits. Transmission built to accommodate intermittent renewable surges may be underused during the substantial periods when wind and solar output is low. A system designed around low-capacity-factor resources must be sized for peak output even though those facilities generate far below that level much of the time.

The Commission should not equate installed capacity with effective, reliable, or cost-effective electricity generation.

5. Nuclear Energy Should Be Fully Considered as a Central Resource

The White Paper's focus on wind, solar, and battery deployment does not adequately account for the changing role of nuclear power in electricity planning. Nuclear energy is increasingly being considered in the United States and internationally as a source of firm, carbon-free electricity that can support reliability, industrial load growth, and fossil-fuel retirement.

Examples include:

- Japan's restart of nuclear generation and the resulting displacement of liquefied-natural-gas generation.[10]
- Ontario's planned deployment of small modular reactors at an existing nuclear site.[11]
- Growing interest in advanced nuclear generation to meet demand from technology, industrial, and defense sectors.[12]
- Federal initiatives intended to accelerate the development of large-scale and small modular nuclear technologies.[13]

Nuclear generation should not be treated as a marginal supplement to a primarily wind- and solar-based system. It should be evaluated as a potential core resource for providing firm, carbon-free generation with comparatively limited land requirements and potentially lower transmission needs. Nuclear power is not a supplement to wind and solar resources, it displaces those resources and resolves many of its problems. Large-scale nuclear power requires little more land than a shopping mall. Small modular nuclear reactors are more flexible than almost all other sources and require few siting restrictions.

Staff recognizes that nuclear generation is a firm source of electricity and that a nuclear buildout would require substantially less transmission development than a comparable renewable buildout.[14] That acknowledgement should lead to a more balanced resource-planning process rather than a program focused almost exclusively on additional wind, solar, battery, and associated transmission capacity.

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10 Luis Reyes, "Japan switched one reactor back on at the biggest nuclear station ever built after fourteen years dark," Autonotion (Aug. 15, 2026); U.S. Energy Information Administration, "Nuclear reactor restart in Japan will likely displace natural gas electricity generation" (Mar. 2, 2026).

11 Neil Ford, "Ontario spearheads Canada's nuclear renaissance," Reuters (Aug. 27, 2026).

12 Marlene Wilden, "Utilities eye small modular nuclear reactors for reliability as hyperscalers drive demand," Utility Dive (Sept. 4, 2026).

13 Alice Marie Eliet-Doillet, "From Regulator to Investor: The Expanding Role of the U.S. Government in Nuclear Energy Innovation," Oxford Institute for Energy Studies (Sept. 2026).

14 White Paper, at 6.

The Commission should evaluate opportunities for advanced nuclear generation near major downstate load centers, including at existing or former generating sites such as Indian Point, where transmission infrastructure and electricity demand already exist.

6. The CEZ Program Must Address Rural Land Use and Community Impacts

The White Paper projects that approximately one million acres may be needed for CEZ-related renewable generation and transmission capacity.[15] The scale of this potential land commitment requires serious consideration of impacts on rural communities, open space, agricultural land, scenic resources, wildlife habitat, and local character.

Host communities have experienced utility-scale wind and solar development as a form of industrial land use with substantial and lasting consequences. These projects can alter the character of a town when turbines, solar arrays, access roads, transmission facilities, and related infrastructure occupy or dominate large areas.

The White Paper acknowledges that expanded renewable development may increase community resistance and lead communities to seek restrictions on new development.[16] That resistance should not be dismissed as a communication problem. It reflects substantive concerns about land use, environmental effects, noise, visual impacts, habitat loss, local infrastructure, and the loss of municipal authority.

The CEZ program should therefore include clear, enforceable siting standards that address, at a minimum:

- Protection of agricultural land, forests, wetlands, wildlife habitat, and scenic resources.
- Meaningful setbacks and noise limits.
- Protection of public health and quality of life.
- Requirements for local and off-site habitat mitigation where impacts cannot be avoided.

15 Id., at 7.

16 Id., at 15.

- Prioritization of brownfields, landfills, former commercial or industrial sites, dormant generating sites, and other previously disturbed land.
- Full consideration of cumulative impacts when multiple projects are proposed in the same region.

A CEZ designation should not become a mechanism for concentrating industrial-scale energy development in rural communities while reducing the ability of those communities to determine where and under what conditions such development occurs.

7. Claims of Local Economic Benefits Require Greater Scrutiny

The White Paper suggests that renewable-energy development may produce long-term workforce and tax benefits for host communities.[17] That assertion should be supported by careful, project-specific evidence.

The experience of many host communities differs from the White Paper's general description. Construction work often relies on specialized contractors and workers who are brought in from outside the area. Local employment benefits may be temporary and limited primarily to the construction phase, which may last one or two years.

Similarly, payments in lieu of taxes (PILOTs) can substantially reduce the tax obligations that a comparable industrial project would otherwise pay to local governments, schools, and counties. If developers receive large reductions in property, sales, and mortgage-recording taxes, the resulting economic benefit to the host community may be far below what is claimed.

Before promoting CEZs on the basis of local economic benefits, the Commission should require transparent disclosure of:

- The number, duration, and type of jobs expected to go to local residents.

17 Id. at 20.

- The residency of construction workers and contractors.
- The total tax liability that would apply absent incentives or PILOT agreements.
- The value of all tax exemptions, abatements, and waived fees.
- The distribution of benefits among the municipality, county, school district, and nearby residents.
- The extent to which claimed economic benefits remain in New York rather than flowing to out-of-state developers, contractors, or suppliers.

8. Municipal Home Rule Must Be Restored

Staff acknowledges that renewable-energy development since enactment of the CLCPA has produced growing backlash in rural communities required to host these facilities.[18] A primarily renewable buildout causes backlash because it requires extensive energy sprawl across rural lands valued for open space, scenic character, agricultural use, and environmental resources. Those values have been subordinated to the State's current energy policy, which Staff now seeks to preserve.

Despite this policy failure, Staff states that CEZs could provide significant benefits and help coordinate new investments rather than realigning or reevaluating past investments.[19] This indicates that Staff is not prepared to reconsider the State's preference for particular energy technologies or to examine the effect of that preference on affordability and feasibility.

Communities are unlikely to participate in a CEZ program while state law substantially preempts their authority over the siting of major renewable projects. Local governments retain zoning and land-use authority over many industrial uses, but they have limited authority to regulate major renewable-energy projects. That imbalance undermines the legitimacy of a

18 Id., at 15, noting that the proposed program "may result in increased community resistance" and that communities may use zoning or other local actions to ban new-generation development.

19 Id., at 12.

CEZ approach. Communities should not be asked to volunteer to host additional projects if they lack meaningful leverage over project location, design, mitigation, construction impacts, noise, decommissioning, habitat protection, and compensation.

Restoring municipal home rule would allow local governments to negotiate from a position of authority rather than dependence. It would also make it more likely that projects are sited on appropriate land and designed to avoid or minimize community impacts.

The White Paper also states that CEZ siting could prioritize brownfields, landfills, former commercial and industrial sites, dormant electric-generating sites, and other underused areas.[20] Local communities have consistently advocated these priorities but will remain unable to insist on them without restored home rule.

The White Paper suggests that intermunicipal planning and negotiated benefits may improve the current development paradigm.[21] Those tools may be useful, but they are not substitutes for local regulatory authority. Financial benefits cannot adequately compensate for the loss of meaningful local control over land use, environmental protection, and quality of life.

9. The CEZ Proposal Does Not Demonstrate Emissions-Reduction Benefits

The fundamental policy objective of the CLCPA is greenhouse-gas-emissions reduction. Yet the CEZ White Paper focuses primarily on increasing renewable capacity rather than demonstrating how proposed investments will reduce emissions.

The State should not assume that more wind and solar capacity automatically produces proportionate emissions reductions. The emissions impact of a project depends on where it is located, what generation it displaces, whether it is curtailed, whether the grid can transmit its output to load centers, and whether fossil-fuel generation remains necessary for

20 Id., at 24.

21 Id., at 24–26.

reliability during low-output periods.

The White Paper acknowledges that, to date, generation and transmission investments have not been approved as contingent upon one another and that developers have selected sites based on their own choices rather than a coordinated systemwide plan.[22] However, the CEZ proposal does not establish a clear methodology for measuring the emissions reductions attributable to CEZ investments.

The Commission should require each CEZ proposal to include a transparent, independently reviewable analysis of:

- The expected annual emissions reductions, in tons of carbon dioxide equivalent.
- The fossil-fuel generation expected to be displaced.
- Expected curtailment and congestion impacts.
- Transmission losses and constraints.
- Reliability requirements during periods of low renewable output.
- The incremental cost per ton of emissions avoided.
- Whether investments in bulk transmission, nuclear generation, energy efficiency, or other alternatives would produce greater emissions reductions at lower cost.

Without this analysis, the CEZ program risks becoming a mechanism for increasing renewable capacity without demonstrating that it advances the State's core emissions-reduction objective.

10. The Commission Should Reevaluate Existing Energy Policy

The State's current energy strategy is not achieving its intended results. The White Paper relies on earlier planning processes and assumes that those plans provide an

22 Id., at 18, 24.

appropriate basis for CEZ designations.[23] However, energy planning in New York has not adequately addressed the State's transmission limitations, emissions-reduction objectives, affordability, grid reliability, rural land-use impacts, and local opposition. The Commission should not simply build upon previous planning assumptions without examining whether those assumptions remain valid.

The proper question is not merely: "How can the State increase clean-energy capacity?" The more important question is: "How can the State reduce greenhouse-gas emissions reliably, affordably, and with the least environmental and community harm?"

Those questions lead to materially different policy choices. A plan that succeeds in adding capacity but fails to reduce emissions, control costs, protect communities, or maintain reliability cannot reasonably be considered successful.

Staff acknowledges that a nuclear buildout would require significantly less transmission development than a comparable renewable buildout.[24] Nevertheless, the White Paper proposes a costly program centered on additional renewable generation and the local and regional transmission infrastructure that such generation requires.

Staff asserts that coordinating new generation with new transmission "would guarantee full utilization of the planned transmission."[25] That assertion is not persuasive. Transmission intended to accommodate intermittent renewable generation would necessarily be underutilized much of the time because wind and solar facilities generally operate at less than 30 percent of their nameplate capacity.

Transmission must be sized to accommodate periods of high renewable output. When wind and solar facilities are not operating, or are operating at minimal levels because of slow

23 Id., at 5-6, 10-13. See, *e.g.*, id., at 13, stating that "the State's various planning processes . . . serve as the basis of potential CEZ designations."

24 Id., at 6.

25 Id., at 19.

winds or cloudy conditions, the transmission built for them will be underused. Wind droughts and poor solar-resource periods can last for days. During winter, solar generation may produce very little electricity for extended periods.

11. Specific Responses to Staff Questions

Based on the above considerations, the following replies are offered to Staff's specific questions to stakeholders.

Are the CGPP and SEP appropriate for identifying CEZs?

No. The Comprehensive Grid Planning Process (CGPP) and State Energy Plan (SEP) do not appear to provide a sufficient method for determining the specific emissions reductions expected from proposed CEZ investments. They do not adequately measure success in terms of verified emissions reductions, cost per ton avoided, or the ability to move existing upstate clean generation to downstate demand centers.

If emissions reduction is the paramount measure of success, then CGPP and SEP outputs should not be treated as sufficient, standing alone, to identify CEZs.

How should local communities be involved in designating CEZs?

The State should restore home rule to local communities. Communities should have meaningful authority over whether, where, and under what conditions major energy projects are sited. Several communities have expressed interest in hosting new nuclear facilities. The State should approach potential host communities for nuclear generation, transmission projects, and other infrastructure in the same manner: through meaningful local consent, enforceable siting standards, and negotiated community protections. Local participation

should include authority over project siting, setbacks, noise limits, habitat mitigation, road-use agreements, construction impacts, decommissioning requirements, and compensation.

Which CEZ approach is likely to be more effective?

Neither principal CEZ approach is likely to be effective unless the State first prioritizes bulk transmission connecting existing upstate clean generation to downstate demand. Facilitating additional renewable generation in an already-constrained upstate grid should not take precedence over resolving the State's fundamental transmission bottleneck.

Are there additional CEZ use cases or considerations Staff should address?

Yes. The Commission should consider small modular reactors and other advanced nuclear technologies near downstate demand centers, particularly at existing or former generating sites such as Indian Point. Locating firm carbon-free generation near load centers could reduce transmission requirements, improve reliability, and provide measurable emissions benefits. The Commission should also consider whether CEZs can be used to prioritize the reuse of brownfields, landfills, dormant industrial facilities, and other previously disturbed sites rather than undeveloped rural land.

Should CEZ projects receive exclusive or preferential procurement treatment?

No. The Commission should not give CEZ projects exclusive or preferential treatment merely because they are located within designated zones. Bulk transmission capacity has been neglected relative to generation procurement, and that priority should now be corrected. Projects should compete based on demonstrated emissions-reduction benefits, reliability value, cost, land-use impacts, transmission needs, and community acceptance.

How and when should local communities engage throughout the infrastructure-development cycle?

The White Paper does not describe the “full cycle of infrastructure projects” with sufficient specificity to permit a complete response. At a minimum, local communities should participate before a CEZ is designated; during project screening and site selection; throughout permitting; during construction; in monitoring compliance; and during decommissioning. Community engagement must be paired with meaningful authority. Consultation without the ability to influence project outcomes will not resolve the concerns that have generated opposition to major renewable projects.

Which benefits are most impactful?

Bill credits may help individual residents but have generally been limited to subscribers of community-solar projects rather than broadly available to residents hosting major renewable facilities. PILOT agreements may provide some revenue, but their value is often reduced by tax abatements and exemptions. However, the most meaningful benefit is restored local authority, including the ability to require appropriate project design, mitigation, compensation, and protection of environmental and quality-of-life interests.

Would a CEZ ombudsperson be helpful?

No. The experience with ombudsperson processes under PSL Article 10, Executive Law § 94-c, and the RAPID Act has not demonstrated that these mechanisms effectively resolve host-community concerns. Community objections have often been heard but not meaningfully addressed, and the process has not reliably resulted in rejection or substantial modification of

problematic proposals. An ombudsperson cannot substitute for enforceable local authority, independent review, and binding siting standards.

How should benefit levels be set?

Benefits should be tied to the actual physical, environmental, fiscal, and quality-of-life impacts of a project. Communities located closest to facilities or experiencing the greatest impacts should receive greater compensation and protection. However, compensation alone is insufficient. Communities need meaningful authority over siting, conditions of approval, mitigation measures, and enforcement.

Should CEZ benefits be scaled by infrastructure size?

Staff should first define “benefits” clearly. If benefits are limited to financial offsets, they are unlikely to address the core concerns of affected communities. Any benefit structure should account for project size, cumulative impacts, proximity, land area affected, visual and noise impacts, road use, ecological effects, and the burden imposed on municipal services.

What land-use requirements should apply in CEZs?

CEZs should include actual, enforceable siting restrictions. State siting programs have not adequately incorporated such protections to date. The Commission should establish standards tailored to the distinct impacts of utility-scale solar, wind facilities, substations, access roads, and transmission lines. These standards should include restrictions on inappropriate locations; protection of agricultural, ecological, scenic, and historic resources; health-protective noise limits; meaningful setbacks; cumulative-impact analysis; mandatory decommissioning security; local habitat mitigation; and a preference for previously disturbed

lands.

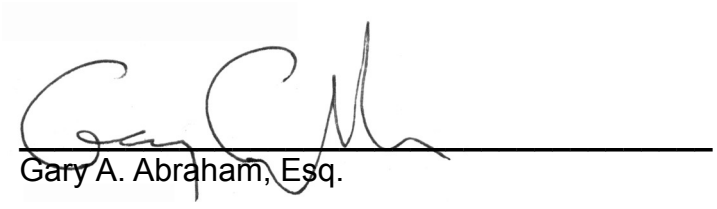
Conclusion

The Commission should not proceed with a CEZ program that treats additional renewable capacity as an unquestioned public benefit. The proposed program should first be evaluated for affordability, feasibility, reliability, land-use impacts, and demonstrated emissions-reduction value.

The Commission should prioritize bulk transmission that can move existing upstate carbon-free electricity to downstate demand centers. It should fully consider nuclear energy, including advanced nuclear technologies near major load centers. It should restore meaningful municipal home rule and adopt enforceable siting standards that protect rural communities and environmental resources.

Most importantly, the Commission should require CEZ investments to demonstrate measurable, cost-effective greenhouse-gas-emissions reductions. A program that expands installed renewable capacity without establishing those benefits should not be adopted.

Respectfully submitted,



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Dated: September 10, 2026

cc: Service List, via email