

Hon. Kathleen Burgess
Secretary to the Commission
NYS Public Service Commission
Empire State Plaza, Bldg 3
Albany, NY 12223-1350

July 18, 2014
Amended July 20, 2014

Dear Secretary Burgess:

Thank you for the opportunity to comment on the REV proceeding. Below, please find comments submitted by Alliance for a Green Economy, Binghamton Regional Sustainability Coalition, Catskill Mountainkeeper, Citizen Action of New York, Citizens Awareness Network, Citizens Environmental Coalition, Citizens for Local Power, Hudson River Sloop Clearwater, Inc., New York Environmental Law and Justice Project, New York Solar Energy Society, Nuclear Information and Resource Service (NIRS), People of Albany United for Safe Energy (PAUSE), People United for Sustainable Housing (PUSH Buffalo), Sierra Club Atlantic Chapter, Southern Cayuga anti-Fracking Alliance (SCAYAFA), Sustainable Tompkins, Syracuse Peace Council, and Transition Albany.

Introduction

The REV proceeding has the potential to make major improvements to the ways electricity is produced and consumed in New York. We are supportive of what we hope is the overarching concept of REV: to reform the utility regulation in New York so that economic incentives in the energy market are better aligned with the public good. We are concerned, however, that some of the potential of REV could be eclipsed by overreliance on markets to meet societal goals.

It is crucial that the regulations and market design that emerge from this proceeding leave room for and encourage the proliferation of *energy democracy* in New York. One of the most exciting possible outcomes of this proceeding is that the increased geographic distribution of energy resources could also lead to increased distribution of ownership and democratic control over energy resources. Such an outcome would give New Yorkers more power to determine their energy future, rather than being at the whim of investor-owned utilities and major market players. For many who have already installed distributed energy and energy efficiency in their homes and businesses, taking back control so as to achieve environmental, economic or social outcomes is precisely the point. REV should encourage and broaden this movement, not usurp it.

This proceeding must resist outcomes that would lead to increased concentration of control by large corporations over the state's energy generation and distribution system. It should instead place *energy democracy* as a key goal in this proceeding, so that control over our energy resources becomes distributed, putting power in the hands of those most affected by the societal costs and benefits of our energy choices. Our recommendations below include many specific proposals to facilitate energy democracy within the REV proceeding.

Additionally, we advocate for broadened clean energy goals, the inclusion of and commitment to clearly defined energy affordability goals, and strong consumer protections. These points are detailed below.

I. Potential REV Outcomes

In general:

Goals should be specific, including dates and numerical milestones to be reached. Otherwise, it is difficult to design policy/regulations/market-signals to meet them or to evaluate progress.

Advancement of Clean Energy:

The subjects and goals listed under the category of “advancement of clean energy” are too narrow. Greenhouse gas emissions and regulated air contaminants are not the only pollutants associated with energy sources. Other goals should include:

- Reduce water used by the electric generation system
- Reduce water contamination
- Reduce radiological pollution
- Reduce production of radioactive waste
- Improve indoor air quality
- Improve public health
- Reduce toxic pollutants in the indoor and outdoor environments (many known toxins remain unregulated)

The greenhouse-gas emissions goals should be in line with the state’s policy of 80% reduction in total greenhouse gas emissions by 2050, or more ambitious. Greenhouse gas emissions should be calculated based on energy resource “life-cycle,” and that all greenhouse gases, not just carbon dioxide, should be accounted for.

For the purposes of REV, “Clean Energy” should be defined so as not to cause confusion or misunderstanding. We suggest the following definition:

Clean energy sources must be obtainable and usable without significant or lasting harm to public health, ecosystems, and the environment. They should be sustainable over the long term for the environment, the economy and society. They must produce energy with zero or near zero direct CO₂eq emissions and low emissions of other pollutants. Their production and use must not cause irreversible or intergenerational damage to the environment either during routine use or as a result of severe accidents.

(Our failure to adequately grapple with climate change or nuclear waste are two examples of intergenerational injustice.)

Customer Engagement:

Customer engagement goals should not emphasize ways to provide companies with the means to “engage” customers. The focus should shift to giving “customers,” or as we prefer to call them

“people,” access to the information and means to engage with, influence, participate in, and democratically control the energy system. If a goal of utility reform and state energy policy is to give customers more choice and control over their energy use, the resulting system must go beyond providing better information or giving customers more products to choose from. **A truly consumer-centric system would give people real power to influence what options are available and to individually or collectively control or own the system itself.**

Rather than, or in addition to the category of “customer engagement,” we suggest the categories of “energy democracy” and “consumer protection.”

We also note that discussion of affordability is inexplicably missing from this chart of goals. Affordability must be a top-level goal in this process.

Energy Democracy Goals:

- Facilitate and encourage community level energy planning
- Facilitate and encourage local, democratic control over energy-system siting
- Public participation in and democratic decision-making over how ratepayer and taxpayer monies are allocated in the energy system. (Such as through the creation of a Citizens’ Energy & Climate Board, Citizens’ Utility Board or other institutions whose primary purpose is to understand and represent the public interest in energy & climate issues. These institutions must have sufficient technical expertise to participate in all relevant forums, to monitor progress and to oversee allocation of public funds.)
- Promote just and equitable distribution of burdens, risk and pollution related to energy generation
- Promote just and equitable distribution of environmental, economic and social benefits from renewable energy and distributed resources, including jobs
- Promote just and equitable access to ownership/management of energy generating facilities and energy services
- De-couple pathways to ownership in DER from home/property ownership, access to financing, access to tax-credits, etc.
- Reduce barriers to and facilitate shared renewable energy ownership (such as through municipal/public power, community choice aggregation, remote or virtual net metering, and other public/community/worker ownership models)

Consumer Protection Goals:

- Affordable* access to a basic level of energy necessary to provide for a comfortable, healthy, and socially connected living space
- Independent and well-funded consumer and community advocates with legal power to affect the outcome of rate cases and ensure public interest is represented (ie a Consumer Advocate as proposed by AARP in the New York State Legislature, and a Citizens’ Climate and Utility Board)
- Creation of an Intervener Funding Program in utility rate cases, as there is for generation facility siting under Article X and for electric and gas transmission facility siting under 16 NYCRR § 85-2.4

- Strong protections from predatory and/or misleading marketing practices coupled with resources to investigate claims and stiff penalties for violations
- Structure system benefit charges so that collections from underserved and low-income communities are earmarked to serve the interests of those communities, in order to avoid regressive redistribution of wealth

**Affordability should be defined within this proceeding. We suggest that a standard of no more than 6% of household income should be required to access a basic level of energy. This 6% figure was taken from a 2011 report for the Low Income Forum on Energy developed by Fisher, Sheehan & Colton.*

<http://www.nyserda.ny.gov/Energy-Data-and-Prices-Planning-and-Policy/Program-Planning/Low-Income-Forum-on-Energy/LIFE-Research/The-Energy-Affordability-Gap.aspx?p=1>

For too long, policy makers have given lip service to low income consumers, while doing little to ensure real energy affordability. Meanwhile, the state has gone to great lengths to offer low electric rates to the industrial sector. For many years advocates have recommended designing programs and rate structures to ensure a basic level of energy access and to provide incentives and meaningful access for low income families to adopt energy efficiency measures. Yet few of these recommendations have been adopted.

Examples include:

Discount rates for a basic block of electricity (such as that used by an energy efficient household) available to all households, thus providing affordable access to a basic amount of energy and price incentives for staying within that block of energy;
 a Citizens Utility Board with proper resources to advocate on behalf of consumers in rate-cases; requiring utilities to offer deeply discounted rates for low-income households;
 creating intervenor funds for utility rate cases to ensure ratepayers and their advocates can participate fully in ratemaking proceedings;
 a universal service fund collected from all ratepayers and used to subsidize rates for low-income households, or used for energy efficiency and weatherization for low-income households

The PSC must work with experts in low-income energy issues to develop policies that will guarantee affordable and just rates for all New Yorkers.

Safe, Reliable & Resilient Systems:

We disagree with “fuel diversity” as a goal in and of itself. It is listed here as a means to achieve reliability and reduction of price volatility. System reliability is already listed as a goal in the chart. Reduction of price volatility should also be listed as a goal.

There is no intrinsic public benefit derived from maintaining fuel diversity *per se*. In fact, there is an overriding public benefit to phasing out many of the fuels currently in use, and limiting our energy sources to clean, renewable sources.

The logic behind adoption of fuel diversity as a valuable condition/characteristic in utility regulation is based on the historical mix of generation sources (coal, oil, gas, nuclear, hydro) and the ways in which most of their operating costs are affected by fuel price and supply trends. But REV promotes an energy system where energy resources that have zero or lower fuel costs and that are utilized in collaboration with flexible resources – storage, demand response, etc. These resources have characteristics that ameliorate concern over price stability. They have a highly stable cost structure dominated by capital costs, very low O&M costs, and no fuel costs. They also have other essential characteristics that provide a strong basis for engineering a reliable energy system, such as “geographic diversity” through dispersal over very large areas, and fuel sources (sunlight, wind, ocean tides, etc.) that are variable within predictable daily and seasonal norms and patterns.

This section of the chart also lacks goals related to safety. We suggest adding the following goals:

- Reduce the risk of radiological accidents
- Reduce the risk of accidents related to the transportation of combustible fuels
- Improve worker safety in the energy industry by encouraging energy sources that are less dangerous to the workforce

II. Optimal Ownership Structures for Distributed Energy Resources (DER)

Allowing DSPP ownership over distributed energy resources could impinge on energy democracy and affordability goals by usurping distributed ownership opportunities and presumably allowing utilities to include distributed generation the utility owns in the rate base, and pass on increased costs to ratepayers unjustifiably. Limits and protections against such outcomes must be a priority. Two possible mechanisms would be either to require that DSPPs be independent from the utility, or that utilities’ involvement in distributed generation be curtailed to (a) providing low/no-interest financing and/or (b) serving as an “owner of last resort.” Utilities might be permitted, for instance, to establish a revolving loan fund with their own capital for the express and sole purpose of providing no-interest financing to ratepayers, and the revolving fund would be treated as the regulatory asset in the rate base. Through such a mechanism, billions of dollars of distributed generation could be financed, for instance, but through a regulatory asset worth only a few hundred million.

III. DSPP Identity

The staff report makes various arguments in favor of allowing the incumbent utilities to perform the functions of the DSPP envisioned within REV. While we understand the logic, it is much easier to envision the reform of something that already exists than to envision the creation of something altogether new. We see allowing the incumbent utilities to perform the functions of the DSPP as the path of least resistance, not necessarily the path to the best outcome for the public interest.

Therefore, *if* the incumbent utilities are allowed to perform the functions of the DSPP at the outset, this outcome should not be set in stone. The public must have a means to review and reopen this question if any of the incumbent utilities are unable to meet the goals set within the REV process. Additionally, municipalities and other democratically-controlled entities should have the option to replace the investor-owned utilities as DSPPs at any time, without high barriers.

IV. Benefits and Costs

Whatever framework is used, the process of choosing which benefits and costs should be included and how they should be weighted to determine pricing must be open for public debate and input. Because REV should align energy markets with social, environmental and economic interests that have been ignored by our current market structure, this is one of the most important pieces in the REV proceeding.

The analysis of economic data to determine the societal costs of externalities related to the energy system is a highly specialized field, and it is costly. It is too often the case that the people most affected by these externalities do not have the resources to hire analysts to translate their real-world experiences into dollar figures within a pricing model.

Benefits and costs cannot possibly be properly understood without comprehensive analysis inclusive of the diverse communities impacted. **Resources must be made widely available for these analyses so that data is not the domain only of wealthy market players or wealthy communities.**

V. Transition for Clean Energy Programs

Serious issues are at stake that carry enormous social, environmental and economic weight. So the transition should neither allow backsliding nor slow and limited progress. The state must set and maintain clear and aggressive goals and milestones for the reduction of greenhouse gas emissions, the increase in energy efficiency, and the increase in renewable energy. DSPPs must be required to meet these goals and penalized if they fall short. Shifting the responsibility for meeting renewable portfolio standard and energy efficiency portfolio standard goals to private industry will only work if the DSPPs and utilities are held tightly accountable to those goals. Expecting the market to magically perform where NYSERDA has come up short is at best naively unrealistic and at worst an intentional undermining of the current standards.

The state's energy efficiency and renewable portfolio standards must be significantly improved based on the lessons learned from successes and failures to date. There is tremendous room for improvement. But the state's funding mechanisms, funding stream, and institutions dedicated to clean energy programs must not be phased out or dismantled before the REV process has come to full fruition and replacement programs are fully in place and proven to work.

The public must be involved in developing the mandates and designing the programs carried out by both NYSERDA *and the DSPPs and utilities*. Investor-owned utilities and other for-profit companies should not be allowed a role in setting the clean energy goals. Further, community-based organizations, municipalities and other public interest and not-for-profit entities should have access to resources to develop and implement programs that contribute to the state's renewable energy and energy efficiency goals. Utilities and/or DSPPs should not be given a monopoly on program design, development or implementation.

Conclusion

Thank you again for the opportunity to comment. We look forward to seeing the PSC staff straw proposal and continuing to participate in this proceeding with more detailed feedback and suggestions as the goals, scope and direction of REV becomes more defined. The above comments are meant to provide some primary principles we urge the Commission to incorporate into this proceeding in order to protect the public interest in this process.

Sincerely,

Jessica Azulay
Program Director
Alliance for a Green Economy
2013 E. Genesee St.
Syracuse, NY 13210
www.agreenewyork.org
jessica@allianceforagreenecconomy.org

Adam Flint
Southern Tier Solar Works Program Manager
Binghamton Regional Sustainability Coalition
PO. Box 907
Binghamton NY 13902
info@southerntiersolarworks.org
www.binghamtonsustainability.org

Elizabeth Broad
Program Manager, Energy & Climate
Catskill Mountainkeeper
PO Box 1000
Livingston Manor, NY 12758
www.catskillmountainkeeper.org
Betta@catskillmountainkeeper.org

Kristina Andreotta
NYC Campaigns Manager
Citizen Action of New York
40 Worth St., Suite 802
New York, NY 10013
www.citizenactionny.org
kristina.andreotta@gmail.com

Deb Katz
Citizens Awareness Network
PO Box 83
Shelburne Falls MA 01370
www.nukebusters.org
deb@nukebusters.org

Barbara Warren
Executive Director
Citizens Environmental Coalition
33 Central Ave, 3rd Floor
Albany, NY 12210
www.cectoxic.org
cectoxic@igc.org

Jessica Barry, Susan Gillespie, Manna Jo Greene, Dawn Meola, Jen Metzger, Amy Trompetter
Citizens for Local Power
22 Mountain Road
Rosendale, NY 12472
localpowerNY@gmail.com

Manna Jo Greene
Environmental Director
Hudson River Sloop Clearwater, Inc.
724 Wolcott Ave., Beacon, NY 12508
www.clearwater.org
mannajo@clearwater.org

Annie Wilson
Senior Energy Policy Advisor
New York Environmental Law and Justice Project
11 Park Place, Suite 701
New York, NY 10007-2812
www.newyorkeljp.wordpress.com
wilson888@verizon.net

Wyldon King Fishman
Founder and President
New York Solar Energy Society
5270 Sycamore Avenue
Bronx, NY 10471
www.nyses.org
wyldon1@gmail.com

Tim Judson
Executive Director
Nuclear Information and Resource Service (NIRS)
6930 Carroll Avenue, Suite 340,
Takoma Park, MD 20912
www.nirs.org
nirsnet@nirs.org

Sandy Steubing
Spokesperson
People of Albany United for Safe Energy (PAUSE)
680 Central Ave. #9J
Albany, NY 12206
www.pausenergy.org
ssteubing@gmail.com

Aaron Bartley
Executive Director
People United for Sustainable Housing (PUSH Buffalo)
271 Grant Street
Buffalo, NY 14213
bartley1975@gmail.com

Susan Lawrence, Conservation Chair
Sierra Club Atlantic Chapter
353 Hamilton Street
Albany, NY 12210
(518) 426-9144

Michael Gorr
Southern Cayuga anti-Fracking Alliance (SCAYAFA)
Group Coordinator
8 Deer Run, Skaneateles, NY 13152
mjgorr@yahoo.com

Gay Nicholson, PhD
President
Sustainable Tompkins
109 S. Albany, Ithaca NY 14850
gay@sustainabletompkins.org

Jessica Maxwell
Syracuse Peace Council
2013 E. Genesee St.
Syracuse, NY 13210
www.peacecouncil.net
spc@peacecouncil.net

Dave Hochfelder
Transition Albany
81 S. Lake Ave.
Albany, NY 12203
www.transitionalbany.net
dphochfelder@gmail.com