ENVIRONMENTAL
ADVOCATES OF NEW YORK
YOUR GOVERNMENT WATCHDOG

Tuesday, July 8, 2008

New York State Energy Planning Board
Energy Plan Comments
NYSERDA
17 Columbia Circle
Albany, New York 12203-6399

Re: New York State Energy Planning Board Draft Scope

Dear Mr. DeCotis, Mr. Congdon, and Energy Planning Board Members:

Introductory Remarks

Environmental Advocates of New York would first like to thank Governor Paterson and the Energy Coordinating Working Group (EWCG) for the opportunity to comment on the State Energy Plan Draft Scope. The inclusion of a broad spectrum of stakeholders *throughout* the planning process will be critical to producing a useful, comprehensive, and environmentally sustainable State Energy Plan (Plan).

We see this process as an opportunity for New York State to reassert itself as a leader on the issue of combating climate change. The comprehensive approach laid out in Executive Order No. 2 should result in a Plan that can set an example for the rest of the nation on how to reduce greenhouse gas (GHG) emissions while still meeting the energy needs of our society. While there are countless factors to be considered as the Plan is drafted, all decisions should be made recognizing that in order to avoid the worst affects of climate change, we need to reduce greenhouse gas emissions by approximately 80 percent by mid-century.

Environmental Advocates of New York is the state's government watchdog, holding lawmakers and agencies accountable for enacting and enforcing laws that protect natural resources and public health. Environmental Advocates works alone and in coalitions, has more than 7,000 individual and 130 organizational members, and is the New York affiliate of the National Wildlife Federation.

The following comments provide our input on various issues as they were framed in the Draft Scope. Regarding process, breaking the various topics to be considered in the Plan into separate issue briefs is a good approach. However, in order to provide substantive and detailed suggestions and/or feedback, it will be necessary to allow for comments on each brief after it is issued. We propose that upon the issuance of any

brief, there be a 30-day comment period for the public to weigh in. And while we understand that this is a fluid process with an aggressive timeline, a tentative schedule of issue brief releases should be made public.

We offer comments on the following topics outlined in the Draft Scope: 1) various components listed in section III (A); 2) the issue brief categories of Climate Change, Environmental Impact Regulation of Energy Systems, and Meeting Transportation Needs and Alternative Transportation Topics; 3) suggested additional issue briefs; 4) technical assessments for energy efficiency and coal.

1) Section III (A) Executive Order No. 2 requires that the following elements be included in the Energy Plan, and the following are some select points of interest to our organization:

*(a)(iv) consumer cost impacts***:** While we would assume such considerations will be part of any analysis, we wish to highlight the importance of differentiating between *rate* impacts and *bill* impacts. Specifically, many efficiency initiatives (such as those that could be funded with RGGI proceeds or SBC monies) may require rate increases but result in net savings for customers on their monthly bills.

One of the many variables that could have a significant impact on the price New York consumers will pay for energy is statutory and regulatory initiatives at the federal level. For example, federal climate legislation that was recently debated in the U.S. Senate included trillions of dollars in consumer relief payments from funds generated under a carbon allowance cap-and-trade program. It would be impossible to use an exact figure, but the potential for offsetting future energy costs to consumers should not be ignored in any modeling.

(a)(vii) the reduction of greenhouse gases: Environmental Advocates believes that it would be impossible to overstate the importance of this single consideration. Any and all proposals need to be consistent with the goals of significantly reducing the state's overall GHG emissions. We elaborate further on this point in our issue brief discussion.

(a)(viii) energy conservation and efficiency: To cite the Governor's own publication from February 2008, *The First Report of the Renewable Energy Task Force*, "the cleanest, most affordable kilowatt hour is the one not generated." We have long advocated for major increases in energy efficiency investment by the state and utilities. The recent ruling in the Energy Efficiency Portfolio Standard (EEPS) proceeding was a significant step forward. However, to assume that the potential for further efficiency gains has now been exhausted would be a grave mistake. As mentioned in the 2003 Optimal Study, six out of every seven kW-hrs of potential savings from efficiency efforts had yet to be realized at that time. While "15 x 15" will chip away at that untapped potential, it should be viewed as only a beginning, not an end. To move forward and explore options such as increased fossil-fuel or nuclear generating capacity without maximizing efficiency potential first would result in a sub-optimal Plan.

(a)(ix) clean and renewable energy resources: While we recognize that New York cannot make the switch from fossil fuels to renewables overnight, such technologies are clearly the most attractive in the long-term from an environmental, economic, and public health perspective. The Renewable Portfolio Standard (RPS) has been very effective at increasing the state's renewable installations, but there is much more that could be done, including revisiting and increasing RPS targets. Further expanding recently passed net metering legislation, ramping up existing NYSERDA incentive programs, and action at the federal level will all be key to accelerating the growth of this portion of the state's energy mix.

(b) Demand forecasts: The timeframe for this is stated to be "up to 10 years." Under the expired Article VI statute, the timeframe stretched out to 20 years. While the margin of error in such longer term forecasts is inevitably higher, we feel such analysis is still a worthwhile exercise that can provide a rough outline of future markets.

(e) Projections of energy prices over the forecast periods: As we have expressed in our statements at the round table discussions hosted by the ECWG, the price of carbon *must* be adequately reflected in any an all price forecasts. While it may be difficult to nail down an exact dollar figure, based on trading on the European Climate Exchange, it is reasonable to use a range of $20-$50/ton. The reserve price of $1.86/ton proposed in New York's RGGI rule is far below these figures. However, to use such gross underestimates in modeling for the Plan would produce unreliable and inaccurate results. A low, medium, and high price for carbon in forecast modeling would paint a clearer picture of what sources of generation are truly the most cost-effective.

(k) State energy policies and programs intended to support economic growth in the State: One such program that should undergo major reforms and plays a significant role in discouraging energy conservation and/or efficiency is Power for Jobs. Conditions must be added to require annual energy audits of any recipients of this low-cost power to ensure that taxpayers are not subsidizing wasteful consumption of scarce energy resources. In addition, strict efficiency requirements should be included in any favorable contracts entered into by the Empire Development Corporation or any other state entities—low cost power may in some cases be an appropriate tool to attract businesses to New York, but only when conditioned in the proper manner.

(m) The role of environmental justice in energy-related decisions: Any proposals put forth in the Plan should address environmental justice concerns by providing greater protections for communities that already bear a disproportionate burden of pollution—particularly low-income and minority communities—by ensuring no net increase in pollution in these neighborhoods. Many studies have shown that air pollution, largely from the generation of electricity and the transportation sector, disproportionately impacts such communities.

(n) Recommendations for administrative and legislative actions to implement the policies, objectives, and strategies set forth in the Energy Plan: The chief legislative action that would improve the effectiveness and strengthen the on-the-ground implementation of the Plan would be to pass Article VI legislation. The 2002 Energy Plan included this goal, and yet six years later there has been little progress on the issue.

The newly appointed Energy Committee chairs in each house, Assemblyman Cahill and Senator Maziarz, introduced Article VI reauthorization legislation in June of this year. We strongly encourage Governor Paterson and his staff to work with them to the pass this bill without delay. We see no reason why the process already initiated under EO No. 2 could not be folded into such a statutory initiative. Further, doing so would correct a considerable flaw in the current Plan: regardless of how useful the ultimate product, its implementation requirements are relatively weak. In addition to granting subpoena power and adding a Senate and Assembly representative to the Board, the aforementioned bill includes stronger language[1] that goes beyond that contained in E.O. No. 2 (which, while helping inform policy decisions, is essentially a guidance document).

Another legislative action relevant to this process is a statewide cap on GHG emissions from all sources. According to the Intergovernmental Panel on Climate Change, we must stabilize and reduce our GHG emissions by 80% from current levels by 2050 in order to avoid the most severe impacts of climate change. During the 2008 legislative session, a bill that includes such provisions passed the Assembly (A.10303-Sweeney) and was very close to passing in the Senate (S.8390-Morahan). We strongly urge Governor Paterson to work with the legislature to advance such legislation, as doing so will allow for New York to set the enforceable limits we need to reduce New York's contribution to global warming.

[1] A.11587 Section 6-104(4)(b): "Any energy-related action or decision of a state agency, board, commission or authority **shall** be reasonably consistent with the forecasts and policies and long-range energy planning objectives and strategies contained in the plan. . ."

2) Issue Briefs

Climate Change
As we highlighted in our introductory remarks, Environmental Advocates believes this to be the prevailing priority that should guide the overall energy planning process. This is not to imply that the many other factors to be addressed are not important. But if New York does not do its part to reverse the rising trend in GHG emissions, then the rest of the discussion may become a pointless exercise. That is, any progress that could be made on issues such as reliability, transmission and distribution, and affordable electricity will all be for naught if a business as usual case unfolds. Rising sea levels, increased heat-related mortality and respiratory ailments, damage to ecosystems across the state, and more severe storm events are just some of the impacts we will face if bold action is not taken by policy makers. This issue brief will be crucial to ensuring that the Board fully appreciates the magnitude of the threat global warming poses to the state's economy, public health, infrastructure, and natural resources.

While tackling climate change can seem overwhelming, the current state energy planning process is the perfect forum to confront the challenge. Participating in the Regional Greenhouse Gas Initiative is a positive step towards controlling greenhouse gas emissions from the power generating sector. More could be done to reduce emissions from power generators, and the Board should consider going "beyond RGGI" as they assess GHG emissions from this sector.

Environmental Impact and Regulation of Energy Systems
Generally speaking, we believe this issue brief will be useful in identifying the impact various policies will have on energy decisions. However, we do have concerns regarding one portion of the description:

> "This Issue Brief will set forth proposed criteria that may assist policy makers in identifying and assessing the costs and benefits, sustainability, and feasibility of environmental and energy programs that have an impact on one another."

This could be interpreted to mean that energy or economic development goals could somehow usurp programs that protect the environment and public health. The Plan will inevitably involve tradeoffs and a difficult balancing of sometimes conflicting priorities. However, any proposals must adequately account for the *true* costs and benefits of any policy. Failing to incorporate the real, long-term environmental impacts of a proposal will result in flawed recommendations. There has been extensive work on how to quantify and internalize these many variables that were previously excluded from policy analysis. We strongly urge the drafters of this issue brief to aware of, and account for, these "externalities" in their research.

Meeting Transportation Needs and Alternative Transportation Topics
We are pleased to see transportation included as an integral part of the Draft Scope. While it is one of the most difficult pieces of the energy puzzle to solve, it also presents a prime target for improving the sustainability of New York's economy and air quality. According to NYSERDA's *New York State Greenhouse Gas Emissions Inventory & Trends 1990-2005,* over one-third of the state's GHG emissions come from the transportation sector—more than any other category. Perhaps more disturbing is the fact that emissions from this sector are anticipated to increase by 12.9 percent from 1990 levels by 2010.

One promising development was the state's adoption of more stringent standards on global warming emissions from cars and trucks in 2005. While the Bush administration has denied the request from New York and other states for a waiver to adopt these standards, both presidential candidates have indicated they will do so. The Department of Environmental Conservation estimates the implementation of these tighter standards will result in a 30 percent reduction in GHG emissions from vehicles by 2020.

While this step is encouraging, the area where the biggest reductions in energy use could be realized is in vehicle miles traveled. Between 1990 and 2000, vehicle miles traveled in New York increased by 20 percent.

Regardless of how clean we make our vehicles, this trend must be reversed. We look forward to commenting further on this issue brief, and urge the ECWG to include components on the role of mass transit, telecommuting, and smart growth initiatives.

3) Suggested Additional Issue Briefs

Carbon Price
The impact that a price on carbon dioxide emissions will have on energy planning cannot be overstated. As such, we believe this topic is worthy of its own, distinct issue brief. This would enable members of the Board, as well as outside parties, to have a clearer idea of how carbon markets function. In addition, the brief should cover actions at the state, federal, and global level that are already underway to establish carbon trading programs. Further, as New York begins to participate in RGGI auctions later this year, it would be useful to incorporate analysis of that activity into the Plan.

Assessment of 2002 Energy Plan Targets
One issue brief that we believe would be a very useful exercise would focus on learning from the successes and failures of the most recent energy plan. Many objectives, such as the establishment of a statewide renewable portfolio standard (RPS) and increased investment by NYPA and LIPA in efficiency have been pursued. Others, particularly reductions in GHG emissions, have not been met. The 2002 State Energy Plan included a goal to reduce these emissions to five percent below 1990 levels by 2010, and 10 percent below 1990 levels by 2020. However, as of year-end 2005, New York's GHG emissions have *increased* by approximately seven percent above 1990 levels.

In order to better understand which targets were left unmet and why, it will be necessary to conduct a detailed assessment of initiatives that came out of the 2002 Plan. NYSERDA has released annual progress reports since the last Plan was adopted, and these documents should be thoroughly reviewed by the Board and incorporated into the broader discussion. The best way to ensure this information is given the weight it deserves is to include a stand alone issue brief on the topic.

4) Technical Assessments

Energy Efficiency
Great strides have been made in this arena, particularly the programs that were initiated by the recent EEPS ruling. However, this assessment should be no less rigorous in light of that—if anything, it provides an opportunity to explore additional cost-effective energy efficiency projects that may have been previously overlooked. Any modeling done in this area should fully account for the price of efficiency programs *relative* to what will likely be continually escalating energy prices. Furthermore, analysts and Board members should not shy away from results that suggest major increases in investments in efficiency, even if they are far greater than proposed in the past. We are confident that rigorous analysis will illustrate that these programs are the most cost-effective option available to policy makers, and should be pursued to the maximum extent that the assessment concludes is warranted.

Coal
Unlike some states in the Midwest and Appalachia, New York has the good fortune of not being overly reliant on coal as a source of fuel. While these "coal states" may currently enjoy an artificially cheap price for their electricity, they will inevitably be hardest hit when (not "if") policies that put a price on carbon emissions come online. Regardless of whether those policies take the form of a tax or a cap-and-trade scheme, it will dramatically increase the cost of generating power from coal.

With that in mind, any technical assessment focusing on coal must account for these imminent changes in the marketplace. Such analysis must also include the well-documented negative impacts of burning coal on air

quality and public health, as well as the ecosystems and communities that are destroyed during the mining process.

Governor Paterson's recent announcement to provide $6 million in state funds to the experimental Jamestown Coal Plant casts a shadow on any coal assessment done as a result of one of his executive orders. While we concede that there may be a role for carbon capture and sequestration in the overall campaign to reduce GHG emissions, we firmly believe that it is entirely inappropriate to fund such projects with New York taxpayer or ratepayer monies, especially considering the high degree of uncertainty regarding the technology. In light of this, it will be critically important to ensure that those who conduct this assessment do so in an objective manner, without any bias in favor of pursuing coal as a fuel source.

Concluding Remarks

We commend Governor Paterson and the State Energy Planning Board for undertaking this challenge. Laying out a roadmap for how New York will meet its energy needs in a socially and environmentally sustainable manner presents an enormous challenge. However, we are confident that with the hard work and expertise of Board members, in conjunction with the input the many relevant stakeholders, that the process will yield a sound State Energy Plan.

We look forward to collaborating with you throughout the planning process. Please don't hesitate to contact me if you have any questions regarding our comments.

Sincerely,

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