CASE 26-E-0335 - Proceeding on Motion of the Commission to Implement a Nuclear Reliability Backbone. Act.

Independent Intervenors

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Comments in Support of the Terra Praxis Comments on the Order Establishing a Nuclear Reliability Backbone Process and the Notice Soliciting Comments

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Position

Roger Caiazza, Richard Ellenbogen, Constantine Kontogiannis, and Francis Menton ("Independent Intervenors") are submitting these comments in response to the Order Establishing a Nuclear Reliability Backbone Process and the Notice Soliciting Comments. These comments support the Terra Praxis Comments on the Order Establishing a Nuclear Reliability Backbone Process and the Notice Soliciting Comments Dated September 16, 2026[1] and updated on September 17, 2026[2].

We support elements of the Terra Praxis proposal while emphasizing that the Commission's foremost obligation is to protect ratepayers and preserve reliability through enforceable conditions—not simply to facilitate a nuclear procurement.

Reliability and resource strategy

The Independent Intervenors generally agree with the central premise of the Terra Praxis comments: if New York elects to proceed with the Nuclear Reliability Backbone, the State should not treat it as a generic capacity-procurement exercise. The Commission should require a project-development and procurement framework that minimizes construction, financing, transmission, and stranded-cost risks before substantial commitments are made by New York electricity consumers.

There is also an important reliability point that should not be lost in the discussion of cost and siting. The record developed in the Climate

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[1] https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={1069ABA0-0000-C76C-A6FF-4F22F39BF788}&DocTitle=Comments%20on%20the%20Order%20Establishing%20a%20Nuclear%20Reliability%20Backbone%20Process%20and%20the%20Notice%20Soliciting%20Comments

[2] https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={206BB0A0-0000-CB1B-B104-CF4E03C9C5C8}&DocTitle=Terra%20Praxis%20Updated%20Comments%20-%20REDLINE

Leadership and Community Protection Act implementation proceedings, the New York Independent System Operator's resource-adequacy work, and the State's own planning exercises demonstrates that a grid dependent on large quantities of intermittent wind and solar generation requires dispatchable emissions-free resources ("DEFRs") to maintain reliability during periods of low renewable output, high demand, adverse weather, and transmission constraints.

At present, nuclear generation is the only demonstrated, commercially available, large-scale DEFR capable of providing substantial quantities of dependable electricity for extended periods without direct carbon dioxide emissions. Existing hydroelectric resources and certain storage resources are also valuable reliability assets, but their expansion potential, duration, geography, permitting constraints, and seasonal operating limitations mean that they cannot by themselves provide the quantity of firm, dispatchable, long-duration energy needed for a zero-emission electric system. Hydrogen-fired generation, renewable natural gas, long-duration storage, and other prospective DEFR technologies may ultimately contribute, but none has yet demonstrated that it can be deployed at the necessary scale, cost, duration, and commercial maturity to replace fossil generation reliably throughout New York's system.

Accordingly, if New York chooses to rely upon a massive buildout of weather-dependent wind and solar resources, then it will also require an equally serious program to provide firm, dispatchable, emissions-free generation. The Nuclear Reliability Backbone is properly understood as an acknowledgement of that physical requirement. Wind and solar resources can reduce fossil generation when weather conditions permit, but they cannot

by themselves guarantee electricity production during the winter peaking and reliability periods that govern resource adequacy planning.

However, this conclusion has an equally important policy implication: if New York builds sufficient new nuclear generation to provide dependable, high-capacity-factor, dispatchable emissions-free electricity, then the justification for the State's extraordinarily large and costly wind, solar, storage, and transmission buildout is substantially reduced. New nuclear should not be treated as an additional mandate layered on top of the existing renewable buildout. It should be evaluated as an alternative pathway for meeting the State's reliability and emission-reduction goals with fewer weather-dependent resources, less storage, less new transmission, fewer backup resources, and less land conversion.

The Commission should therefore direct that the Nuclear Reliability Backbone be evaluated not merely as a supplement to the Climate Act's existing procurement targets, but as a potential substitute for a material portion of the wind, solar, battery-storage, hydrogen, and transmission development otherwise assumed to be necessary. A planning process that adds 5 GW or more of nuclear capacity while retaining all previously assumed renewable and transmission mandates risks imposing duplicative and unnecessary costs on ratepayers.

The Terra Praxis comments cite the Coordinated Grid Planning Process Cycle 1 scenario in which 5.5 GW of nuclear-like firm capacity allows the system to meet load with approximately 100 GW of total installed capacity, compared with approximately 130 GW in the State Scenario. In that analysis, 5.5 GW of firm capacity combined with storage displaced a much larger amount of wind, solar, hydrogen-fired resources, and associated

transmission capability. That is the appropriate question for the Commission: not whether nuclear can be added to the State's resource plan, but what other infrastructure can be avoided if reliable, dispatchable nuclear capacity is added.

The avoided-resource value is particularly important because the practical impacts of the renewable buildout extend far beyond the nominal cost of wind turbines and solar panels. A renewable-dominant strategy requires large quantities of land, new transmission corridors, distribution-system upgrades, energy storage, and backup generation. It also creates significant siting conflicts, visual and community impacts, wildlife concerns, agricultural-land conversion, forest fragmentation, local permitting disputes, and challenges associated with the need to build infrastructure far from the locations of electricity demand. These effects must be considered as real system costs and risks, rather than dismissed as externalities.

The Commission should require all Nuclear Reliability Backbone analyses to quantify avoided wind, solar, storage, hydrogen, transmission, land-use, and distribution-system costs. It should also require a comparison of the expected bill impacts and reliability consequences of alternative portfolios, including:

- A renewable-intensive portfolio with the currently assumed levels of wind, solar, storage, transmission, and DEFR.
- A portfolio in which new nuclear provides a substantial share of the required DEFR and permits reduced renewable, storage, backup-generation, and transmission development.

- A portfolio that maintains or expands existing zero-emission nuclear generation and evaluates new nuclear only where it demonstrates a lower all-in, risk-adjusted cost than alternatives.
- A portfolio that relies on other claimed DEFR technologies only to the extent that they can demonstrate commercial readiness, fuel security, duration, accredited capacity, and cost competitiveness.

The relevant comparison must be based on all-in system cost and reliability performance, not on selective comparisons of levelized cost of energy or nameplate generating capacity. The Commission should evaluate accredited capacity, winter peak performance, forced-outage risk, fuel security, annual energy production, required transmission upgrades, energy-storage requirements, curtailment, backup-generation needs, and the probability-weighted cost of construction and schedule delays.

Conditional support for nuclear

The Terra Praxis filing makes a valuable recommendation that State support mechanisms be contingent on project-delivery practices. That principle should be adopted, but it should be strengthened. New York should not provide cost-overrun guarantees, customer-funded construction-period cost recovery, State equity, Advanced Nuclear Zero Emission Credits, grants, or other financial support merely because a project is characterized as nuclear, clean, or reliable.

Any support should be available only after the Commission makes explicit findings that the project:

- Provides a demonstrated resource-adequacy and reliability benefit under NYISO planning assumptions, including during winter peak and low-wind, low-solar periods.
- Has a feasible site, adequate cooling and water arrangements, deliverable transmission capability, and a realistic environmental and licensing pathway.
- Uses a commercially mature and appropriately licensed technology, or otherwise clearly identifies and allocates first-of-a-kind technology risk away from ratepayers.
- Has a completed and independently verified level of engineering, procurement, constructability analysis, and schedule development before major construction commitments are made.
- Has an independently prepared, transparent "should-cost" estimate and a project-specific, probability-weighted estimate of total cost at commercial operation.
- Demonstrates that its all-in, risk-adjusted cost is competitive with the alternatives capable of providing equivalent reliability service.
- Includes enforceable cost, schedule, performance, and availability obligations, backed by financially capable counterparties.
- Limits the exposure of New York customers through a hard project-cost cap, a customer-bill impact cap, developer and contractor first-loss obligations, and clawback provisions for nonperformance.
- Identifies the wind, solar, storage, transmission, hydrogen, or other infrastructure that will be avoided or reduced as a consequence of the project.

Support should be structured to reward actual delivery and reliability performance, not promises. Ratepayer-funded assistance must decline when

a project receives revenues from capacity markets, energy sales, ancillary services, federal tax credits, federal loan support, private offtake contracts, or other government programs. Otherwise, the State risks providing overlapping subsidies that are not necessary to make the project financeable.

Brownfield and interconnection issues

The Terra Praxis recommendation to preserve potentially useful fossil and industrial sites warrants consideration. Existing sites may offer valuable interconnection, industrial-zoning, water-access, workforce, transportation, and community advantages. In particular, the loss of an existing point of interconnection can foreclose future low-cost generation, storage, or transmission options.

Nevertheless, the Commission should not assume that every retired fossil-fuel site is an economical or technically viable nuclear site. The fact that a site previously hosted fossil generation does not establish that it can host a nuclear facility. Nuclear siting requirements, environmental conditions, security needs, cooling requirements, transmission reliability standards, geotechnical conditions, emergency-planning considerations, and reactor-specific design requirements must be evaluated on a site-by-site basis.

The Commission should direct development of a statewide inventory of retiring, retired, and operating thermal-generation sites. The inventory should identify available interconnection capability, transmission constraints, site acreage, water access, environmental conditions, existing equipment, decommissioning status, potential competing uses, and the cost of preserving site assets. It should be used to preserve options and inform planning, not to

create a presumption that a particular site should receive nuclear development or ratepayer support.

Where the Commission considers requiring preservation of switchyards, transformers, interconnection rights, cooling-water rights, or other assets, it should first determine:

- The expected preservation cost.
- The duration of the preservation period.
- The likelihood that the asset will be useful to a future nuclear or other reliability project.
- The value of alternative uses for the interconnection or site.
- The entity responsible for preservation costs.
- The customer benefits that justify any ratepayer contribution.

The State should preserve valuable optionality, but it should not impose indefinite costs on consumers to preserve speculative development opportunities.

Procurement and risk allocation

The Commission should reject any approach that equates a "fixed-price" contract with the elimination of ratepayer risk. Recent nuclear construction experience demonstrates that a nominal fixed-price EPC contract does not protect customers if the design is incomplete, the scope is uncertain, the contractor is financially unable to absorb losses, or the project later becomes too important politically to abandon.

Before the State accepts claims that construction risk has been transferred, it should require a transparent evaluation of:

- The maturity and completeness of the reactor design.

- The maturity of site engineering and construction packages.
- The specific scope of contractor responsibility.
- Contract exclusions and change-order provisions.
- Contractor creditworthiness, parent guarantees, insurance, performance security, and ability to withstand adverse outcomes.
- Delay damages, availability guarantees, and performance guarantees.
- The process for resolving claims and disputes.
- The consequences of contractor default, withdrawal, insolvency, or replacement.
- The specific risks retained by the developer, NYPA, NYSERDA, utilities, taxpayers, and customers.

The Commission should not authorize an open-ended State cost-overrun guarantee. Any guarantee should have a hard dollar limit and should apply only to defined risks that are genuinely outside the developer's or contractor's control. The developer, vendor, EPC contractor, and equity investors should remain financially responsible for risks they are best able to manage, including design completion, engineering quality, procurement, construction execution, and performance.

Similarly, construction-work-in-progress or provision-for-revenue-during-construction mechanisms should not be adopted merely because they lower project financing costs. They lower financing costs in part by shifting the timing and risk of payment to current customers before the project provides electricity. If such a mechanism is considered, it should include a strict cap, milestone-based recovery, periodic prudence reviews, public reporting, cancellation protections, customer refunds or credits for imprudent costs, and a requirement that private capital remains genuinely at risk.

Recommended Commission Findings

The Commission should make the following findings in this proceeding:

1. Dispatchable emissions-free resources are necessary to maintain reliability in a system with large quantities of intermittent wind and solar generation.
2. Nuclear energy is presently the only proven, large-scale, long-duration, dispatchable emissions-free resource that may be capable of meeting a substantial share of that need, although every project must still demonstrate its site-specific cost, schedule, safety, and reliability merits.
3. If the State procures substantial quantities of new nuclear generation, it must revisit the scale of wind, solar, storage, backup generation, transmission, and distribution investments assumed in current planning. Nuclear should displace unnecessary infrastructure rather than become an additional cost layered on top of the existing buildout.
4. The State should conduct a transparent, system-level evaluation of alternative resource portfolios using all-in, risk-adjusted cost, reliability performance, land use, transmission requirements, and customer-bill impacts.
5. Existing fossil and industrial generation sites should be screened promptly for their potential value as future reliability-resource sites, but preservation requirements should be based on documented net benefits and should not create indefinite ratepayer obligations.
6. No nuclear project should receive customer-funded financial support unless the Commission finds that the project is commercially mature, technically feasible, reliably deliverable, cost-competitive with

alternatives, supported by enforceable risk allocation, and subject to firm limitations on ratepayer exposure.

7. Any customer-funded nuclear support must include independent cost review, public reporting, performance standards, cost and schedule caps, revenue offsets, clawbacks, and a clearly defined allocation of cancellation and abandonment risk.

This approach would allow New York to preserve the potential reliability and emissions benefits of nuclear power while avoiding the serious mistake of committing ratepayers simultaneously to an expensive nuclear program and an unnecessarily oversized renewable, storage, backup, and transmission buildout.