EARTHJUSTICE

TESTIMONY OF EARTHJUSTICE BEFORE THE JOINT HEARING OF THE SENATE FINANCE AND ASSEMBLY WAYS AND MEANS COMMITTEES REGARDING THE FISCAL YEAR 2026-27 ENVIRONMENTAL AND ENERGY BUDGET PROPOSALS

January 28, 2026

Good afternoon, my name is Liz Moran, and I am the New York Policy Advocate for Earthjustice. Thank you for the opportunity to testify today on the Governor's SFY2026-27 energy and environment budget proposals. Earthjustice, as the nation's first and largest national nonprofit environmental law organization, brings far-reaching change by enforcing and strengthening environmental laws on behalf of hundreds of organizations and communities, whether that is in courtrooms, Congress, or state houses. We are dedicated to defending the right of all people to a healthy environment, protecting our magnificent wild places and species, and fighting to curb climate change.

At the time of the writing of this testimony, approximately 230 million people in more than 30 states are bracing for the impacts of the potentially historic Winter Storm Fern, bringing freezing temperatures, heavy snow and ice.[1] Predictably, the President took to social media to write, "WHATEVER HAPPENED TO GLOBAL WARMING???"[2] It is not dissimilar to when former Senator James Inhofe, in February 2015, brought a snowball to the Senate floor to make his case that climate change isn't real.[3] Besides simply not understanding the difference between weather (short-term changes in the atmosphere) and climate (weather patterns over a long period of time), these comments ignore how climate change contributes to more frequent extreme weather events, including Winter Storm Fern.[4]

Many now understand that the fossil fuel industry has spent (and continues to spend) billions over the course of decades lying about the reality of climate change and their role in causing it, forcing our continued dependence on their dangerous and costly products. As Speaker Heastie rightfully noted in his speech on the opening day of the 2026 session,[5] science-denialism, a critical tool of the fossil fuel industry's efforts, has taken over our federal administration.

But it is crucial to understand that science-denialism is far from the only insidious way the fossil fuel industry continues to mislead and manipulate the public. Their playbook also includes popularizing "all-of-the-above energy," a dog whistle that entered the lexicon in 2000 that many elected officials will use to appear open to renewable energy, while remaining largely focused on continuing the build out of fossil fuel infrastructure.[6] It is coupled with arguments that fossil fuels are more reliable and affordable than renewable energy resources, when this could not be further from the truth.

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[1] https://weather.com/news/weather/news/2026-01-23-live-updates-tracking-winter-storm-fern-january-23
[2] https://x.com/whitehouse/status/2014707175994650763
[3] https://www.cnn.com/2015/02/26/politics/james-inhofe-snowball-climate-change
[4] Matt Simon, "Yes, Climate Change Can Supercharge a Winter Storm. Here's How," Grist, January 23, 2026, https://grist.org/climate/yes-climate-change-can-supercharge-a-winter-storm-heres-how/
[5] The Remarks of Speaker Carl E. Heastie Opening the 249th Legislative Session, January 7, 2026, https://nyassembly.gov/Press/?sec=story&story=116355
[6] "All-of-the-above energy policy," Ballotpedia, accessed January 24, 2026, https://ballotpedia.org/All-of-the-above_energy_policy

The fossil fuel system isn't reliable during extreme weather events. In December 2022, Winter Storm Elliott resulted in power outages due to fossil fuel infrastructure failing. Gas supply was plentiful, but wells and pipes froze, and cold temperatures affected equipment at fossil fuel power plants, bringing much of the grid to its brink.[7] Similarly, the fossil fuel system struggles during heatwaves. According to New York's Independent System Operator (NYISO), during the June 2025 heatwave solar and wind, "intermittent generation," performed better during peak demand than fossil.[8]

The fossil fuel system is also far from affordable. Natural gas prices are spiking ahead of Winter Storm Fern,[9] which is part of a long pattern of pricing gouging ahead of extreme weather events. Additionally, the main driver of increased utility bills in New York is our dependence on gas – not our landmark climate law.[10] According to NYISO, "energy prices rose by 35 to 53 percent across the system, driven primarily by an increase of 42 to 66 percent in natural gas prices."[11] A report from the research organization, Switch Box, found that utilities spent over $2 billion on pipe replacement from 2022-2023, passing these costs onto ratepayers.[12] Since 2022, every major New York gas utility has raised costs on consumers, causing more than 1.2 million families to fall behind on their energy bills, and this will only get worse with utilities planning to spend an additional $43 billion to replace all leak-prone pipe by 2050. Meanwhile, these costs would be cut by $4.7 billion if targeted electrification took place.[13]

New Yorkers can't afford the status quo.

The propaganda of the fossil fuel industry isn't easy to stand up to, but leadership wouldn't be leading if it was always easy. New Yorkers are counting on our elected leaders to take real actions to lower their energy bills. Many climate actions will result in real cost savings for New Yorkers. We thank the Legislature and Governor for the passage and signing of legislation to repeal the outdated 100-foot rule subsidy, which not only reduces the needless expansion of gas, but will save ratepayers nearly $600 million annually. The SFY2026-27 budget and legislative session must build on this success.

With a worsening climate crisis, and the federal administration executing a vision to benefit wealthy corporate polluters that is harming the wallets and health of regular people, leadership from states like New York is urgent. Below, and detailed further in the subsequent sections of our testimony, Earthjustice has outlined our thoughts on the Governor's Executive Budget proposal. We also recommend ways the legislature can make the SFY2026-27 budget, and the

[7] Rebecca Leber, "Winter storms put the US power grid to the test. It failed," Vox, December 27, 2022, https://www.vox.com/energy-and-environment/2022/12/27/23527327/winter-storm-power-outages
[8] NYISO, 2025-2034 Comprehensive Reliability Plan, November 21, 2025, Pages 63-64, https://www.nyiso.com/documents/d/guest/2025-2034-comprehensive-reliability-plan
[9] Shelby Webb, Carlos Anchondo, Peter Behr, "Natural gas prices spike as winter storm approaches," Politico, January 23, 2026, https://www.eenews.net/articles/natural-gas-prices-spike-as-winter-storm-approaches/
[10] Tom Eschen, "Public Service Commission Chair takes questions from lawmakers as utility rates rise," CBS 6 news, October 1, 2025, https://cbs6albany.com/news/local/public-service-commission-chair-takes-questions-from-lawmakers-defending-pscs-work
[11] NYISO, Quarterly Report on the New York ISO Electricity Markets Third Quarter of 2025, November 2025, page 4, https://www.potomaceconomics.com/wp-content/uploads/2025/11/NYISO-Quarterly-Report_2025Q3_final_11-24-2025.pdf
[12] https://www.switch.box/lpp
[13] Ibid

legislative session, one that improves the lives of New Yorkers and sets a standard for the nation to follow:

- **Clean Water Infrastructure Act (CWIA) –** Earthjustice is pleased that funding was maintained for the CWIA; however, despite the Governor's messaging, the program did not receive any additional funding. The CWIA, which has been funded at $500 million annually for nearly a decade, provides funding for numerous essential and oversubscribed programs. It has been estimated that New York has over $80 billion in drinking and wastewater infrastructure needs alone, which doesn't include the many other important programs that receive funding from the CWIA, like lead service line replacements and treatment technology for PFAS. The legislature should place as much as possible of the $250 million the Governor set aside for new water infrastructure into the CWIA
- **Environmental Protection Fund (EPF)** – Earthjustice was pleased to see funding maintained, with no offloads, at $425 million for EPF, which provides critical funding to protect New York's precious air, water, and land while creating thousands of good jobs and boosting our economy. We urge the legislature to support this funding in their respective one-house budgets, and note the particular importance of maintaining funding for *the Climate Resilient Farming* and *Agricultural Non-Point Source Control* programs.
- **Sustainable Future Program** – Disappointingly, the Governor neglected to include an additional $1 billion towards the Sustainable Future Program, which provides key funding for energy affordability and climate measures. As the federal government cuts funding and basic clean air protections, and in the absence of regulations to implement New York's climate law, maintaining this program to cut energy costs and invest in clean energy technologies is especially important. Earthjustice urges the Legislature to include at least $1 billion for this program in their respective one-house budgets.
    - **$200 million for Public Thermal Energy Networks.** Thermal energy networks (TENs) provide the most efficient heating and cooling available and do so without fossil fuels. New York is leading the nation in developing both utility-owned and publicly-owned TENs. Last year's budget included $200 million for a second phase of state-owned TENs on college campuses and municipalities as part of the Sustainable Future Program. Ongoing funding is necessary to complete projects and bring TENs to more regions of the state. The Governor did not include funding for the Sustainable Future Program or TENs in her Executive Budget. We call on the legislature to restore this funding for TENs and for other important Sustainable Future programs such as Clean Green Schools and Small Green Buildings.
- **Empower + Program** – Earthjustice urges the Governor and the Legislature to include at least $200M for EmPower+ in the SFY2027 budget. Empower+ is a critical, and oversubscribed, program that helps low and moderate-income households reduce their energy costs and make their homes more comfortable while cutting emissions. This highly successful program provides insulation, air sealing, and energy efficient heating systems for 30,000 low- and moderate-income households each year. Without robust and consistent support from the legislature, this program faces funding cuts in 2026 and even deeper cuts in 2027 and beyond. We are pleased to see the Governor propose an increase of $50 million in funding towards this program, but given the severity of the energy affordability crisis and the popularity of this program, far more is needed.

- **Excelsior Power** – The Governor's proposal includes $33 million for a new program to incentivize grid flexibility through the adoption of smart thermostats and other technologies. According to the Governor's State of the State Address, this program would give utility customers who opt to have smart meters installed credits of $25 per month; however, this program has not been detailed in any of the Governor's budget bills. Earthjustice is supportive of this concept; however, we urge the Governor and Legislature to detail the program in program text within the budget.
- **Weatherization Assistance Program (WAP)** – The federally funded WAP program helps customers achieve long-term energy affordability through weatherizing their homes. Historically, 10% of federal Home Energy Assistance Program (HEAP) funding from the federal government has funded WAP, but this year the Hochul administration is planning to redirect the money away from WAP, creating a 60% reduction in the program's funds and putting hundreds of jobs at risk. We urge the Governor and Legislature to specify in the State Operations Bill that 10% of HEAP funding should continue to be allocated to the Weatherization Assistance Program.
- **State Environmental Quality Review Act (SEQRA) reform for housing** – Environmental review under State Environmental Quality Review Act (SEQRA) remains a critical tool to highlight and mitigate potential environmental harms from various projects. Earthjustice agrees SEQRA should not hold up housing development in the circumstances set forward by the Governor, or the narrow set of beneficial infrastructure projects outlined like new parks and green stormwater management. But we must get the details right, and changes to SEQRA must remain narrow and protective. Earthjustice looks forward to working with the Governor and Legislature to strike the right balance. Some considerations we propose include:
    - Tighten language related to "previously disturbed land" to prevent exploitation of loopholes by developers.
    - Ensure there is review for housing proposals on contaminated sites.
    - Focus on smaller, or more dense housing to qualify for exemptions to prevent sprawl.
    - Restrict the types of non-residential uses that can be co-located with housing development to prevent a loophole for polluting and environmentally harmful facilities.
    - Couple with SEQRA standing reform to prevent SEQRA from being used as a tool to stop needed projects and help communities use it as a tool get mitigation measures in place for truly polluting projects.
- **Tackling Utility Costs** – We applaud the Governor for taking steps to protect more tenants from utility shutoffs and appreciate her acknowledgment that more must be done to protect consumers from skyrocketing utility bills and hold utilities accountable. Earthjustice continues to review these proposals but offers the following thoughts:
    - Unfortunately, the Governor's proposals to modernize utility rate regulation will result in unnecessary administrative costs and burdens without any meaningful cost savings or protections for rate payers.
    - We are glad the Governor wants to minimize energy burdens; however, the PSC already aims to limit the energy burden for low-income households to 6% or less

of their annual household income yet the agency's policy is rarely enforced. We urge the Governor and legislature to modify the proposed language and include: in lieu of paying for an independent affordability monitor, the PSC must (1) set benchmarks for EAP enrollment, (2) direct DPS to critically examine utilities' EAP outreach, education, and enrollment, to ensure the most at risk customers are enrolled and (3) evaluate and implement additional energy burden relieve programs, such as percentage of income payment plan or an expanded bill credit for LMI/DAC customers.

  - We encourage the Governor and Legislature to consider measures such as a Utility Intervenor and a Utility Intervenor Fund, a model that has been successful in other states that would enable ratepayers to have a voice in rate cases.

- **Data Centers** – Though the Governor discussed the importance of making data centers pay their fair share for their astronomical energy and electric infrastructure demands to prevent other ratepayers from being saddled with higher costs, no policy was included in her budget proposal to tackle this. Earthjustice looks forward to working with the Legislature to pass legislation that addresses data centers before they become New York's next energy affordability and environmental crisis.
- **$200 million for the Green Affordable Pre-Electrification (GAP) Fund** – This essential program was established in 2025. When adequately funded, the GAP Fund will ensure that every New Yorker has the opportunity to participate in cost-saving energy efficiency and electrification programs. The program addresses pre-efficiency and pre-electrification costs (like roof repair, mold mitigation, and electrical upgrades) that present major barriers for many households to be able to enroll in the EmPower+ and Clean Heat Programs. We urge the legislature to include the GAP Fund legislation S3315A/A.2101 (Gonzalez/Kelles) in the budget and increase funding to $200 million to ensure the program has enough money to get started and can serve at least 10,000 households.
- **$200 million for a new fund to help oil customers save money with heat pumps –** 1.5 million households in New York are stuck with old, dirty oil heating and hot water systems when they could save an average of $1,947 per year by upgrading to efficient heat pumps. The main barrier is that cash strapped households lack the up-front funds to invest in heat pumps in order to realize the longer-term energy affordability benefits. A new fund would assist customers that heat with fuel oil and other delivered fuels like propane, kerosene, and coal to purchase heat pumps to bring down their monthly energy costs and reduce air pollution and greenhouse gas emissions.

The remainder of our testimony includes pertinent information about what is needed to ensure New York's climate law mandates are met, energy affordability, preventing exposure to toxic chemicals, how to reduce food waste and hunger, and more.

Climate and Environmental Funding

The climate crisis is already costing New Yorkers and making their daily lives harder – whether it's from extreme weather events, health expenses, or the rising costs of energy bills from our

dependance upon fossil fuels. Climate change is also exacerbating other issues in the state, like New York's aging and deteriorating water infrastructure. Not only that, but New York still needs to respond to alarming levels of childhood lead poisoning, ongoing contamination from PFAS and other dangerous unregulated chemicals, and a range of other chronic environmental challenges. With the new federal administration rolling back climate and environmental protections, often illegally withholding funding and halting renewable energy projects, New York needs a budget with investments to prevent communities from being harmed and takes us forward.

Investments into climate action and environmental protections not only help to cut costs, protect public health, and reduce pollution – these investments also often create good jobs. New York has a substantial green economy. A 2022 report from the New York State Comptroller found that the number of jobs influenced by the green economy in New York exceeded one million in 2019 and 2020.[14] According to NYSERDA, as of 2022, there are 171,000 workers in the clean energy field.[15] The new federal administration's allegiance to the oil and gas industry and other corporate polluters will prevent significant opportunities for economic growth.[16]

Earthjustice urges the Governor and Legislature to include at least $1 billion for the Sustainable Future Fund, at least $500 million for the Clean Water Infrastructure Act, and $425 million for the Environmental Protection Fund. This is the bare minimum necessary to ensure New York can defend our communities in the face of obstacles from the federal government.

Make Bold Investments into Our Clean Energy Future to Save New Yorkers Money

New York's landmark climate law, the Climate Leadership and Community Protection Act (CLCPA) includes necessary legal mandates to achieve net-zero greenhouse gas emissions by 2050, including goals of seventy percent of New York's electricity to be provided by renewable energy sources by 2030, and one-hundred percent zero-emissions energy by 2040. Following passage of the law, the State developed a comprehensive Climate Scoping Plan, which involved significant stakeholder and public input. The Scoping Plan includes a detailed economic analysis, finding that there will need to be significant annual investments, to the tune of billions, in an to meet the law's mandates. The Plan also demonstrates that financial benefits to New Yorkers and our economy far exceeds upfront investments.

Investments into climate and our environment should be understood as a prevention mechanism from even greater expenses down the road. *The cost of inaction is greater than the investments necessary to meet New York's climate goals* – according to the Final Scoping Plan, by more than $115 billion.[17] But the cost benefits of proper investment are tremendous. The Final Scoping Plan estimated the creation of enough jobs to outnumber potential displaced jobs by a ratio of ten-to-one in 2030. According to an earlier report from the Climate Action Council, net benefits

[14] https://www.osc.ny.gov/press/releases/2022/02/green-economy-boosts-job-growth-new-york
[15] https://climate.ny.gov/Our-Impact/Growing-Economic-Opportunities
[16] https://nysfocus.com/2025/01/23/donald-trump-offshore-wind-executive-order-new-york
[17] New York State Climate Action Council, "Scoping Plan December 2022: Executive Summary," page 5, accessed January 31, 2024, https://climate.ny.gov/-/media/Project/Climate/Files/Chapter1ExecutiveSummary.pdf

of meeting New York's CLCPA mandates are in the range of $80-$150 billion.[18] Additionally, public health benefits range from $160-$170 billion.

Renewable energy, transmission, and battery storage would save ratepayers money. As one example, in July, the New York State Public Service Commission abandoned efforts on a transmission project to connect multiple offshore wind farms to provide clean energy and meet growing demand. That project could have lowered costs to produce electricity by $40 to $70 billion from 2033 to 2052. That's on top of the approximately 50,000 MW of mostly clean energy projects stuck in the NYISO generator interconnection queue, and the possibilities for surplus interconnection, which would connect new renewable energy to the power grid quickly and could be built faster and cheaper than new gas.

Funding provided by the Sustainable Future Program is crucial to unlock cost savings for New Yorkers and help the state move forward with our climate law mandates, especially absent regulations to implement the law.

Bolster Funding for the Clean Water Infrastructure Act

We urge the Legislature to bolster the CWIA with a long overdue increase in funding. The Governor has proposed $250 million towards new water infrastructure. We urge the Legislature to instead allocate as much of those funds to support the CWIA in the SFY2026-27 budget. Additionally, we strongly urge the legislature to delineate funding for each program within the CWIA so municipalities and the public can know how much funding is actually available for various programs.

New York's water infrastructure needs are tremendous. In 2008, reports from DEC and DOH found that, over the next 20 years, New York will need to invest approximately $80 billion for all the needed repairs, replacements, and upgrades for our drinking and wastewater infrastructure. These needs went ignored until, starting in the SFY2015-16 budget, New York began to put significant investments towards water infrastructure repairs, replacements, and upgrades through the creation of the Water Infrastructure Improvement Act (WIIA) grant program.

In the SFY2017-18 budget, this was built upon with the creation of the Clean Water Infrastructure Act. Today, New York has invested $5 billion towards water infrastructure and other water needs through the Clean Water Infrastructure Act.

But with over $80 billion in water infrastructure needs, which doesn't include the funding needed towards source water protection, addressing unregulated dangerous contaminants, and replacing lead service lines, this funding remains a small slice of overall need. Additionally, strains upon our water infrastructure have grown due to increased precipitation and freeze-thaw cycles from the worsening climate crisis.

[18] New York State Climate Action Council, October 14, 2021 meeting presentation, page 34 https://climate.ny.gov/-/media/Project/Climate/Files/2021-10-14-CAC-Meeting-presentation.pdf

The Clean Water Infrastructure Act has been extremely successful, but the state's water infrastructure and clean water needs still far exceed the funding that is currently available. Environmental Advocates NY's 2024 report, "A New Era for New York's Water: An Analysis of Clean Water Infrastructure Act Spending," reviews CWIA spending from 2017-2023 and outlines the importance and reach of the CWIA, along with where funding falls short.[19] According to their research:

- $3.4 billion has been awarded or spent since 2017, supporting 2,100 projects across every region of the state.
- 53% of CWIA funds have benefited environmental justice communities.
- Major programs, like the Water Infrastructure Improvement Act, are oversubscribed each year:
    - In 2023, there was record demand for funding – "Municipalities requested $1.35 billion in grants for 482 projects, the highest amount requested and the highest number of applications in the program's 8-year history."[20]
    - Of these applications, 33% were awarded funding with a combination of WIIA and Environmental Bond Act dollars. This left 225 shovel-ready projects behind that were not awarded in the 2023 cycle.
    - This follows trends from previous years. In the 2022 grant cycle, WIIA funds were awarded to 73 projects for a total of $279 million, but 246 shovel-ready projects were left behind, totaling $665 million.[21] In 2019, 83 shovel-ready projects went unfunded, totally nearly one-third of the total shovel-ready projects submitted.[22] Environmental Advocate NY's previous analyses of WIIA grant rounds from 2015 to 2018 found that, at that time, only half of shovel-ready projects with complete applications received a grant award.[23]

WIIA, along with the other programs in the CWIA, both protects water and public health, and creates good jobs. The successes of the CWIA should be awarded with increased funding in the SFY2025-26 budget.

Include At Least $100 Million for the Lead Service Line Replacement Program and Pass the Lead Pipe Replacement Act

An important program within the Clean Water Infrastructure Act is the Lead Service Line Replacement Program (LSLRP), which has provided funding to help municipalities replace dangerous lead service lines. Most of the lead found in drinking water comes from lead service lines, according to the EPA. Lead service lines naturally corrode when water flows through them.

[19] Robert Hayes, A New Era for New York's Water: An Analysis of Clean Water Infrastructure Act Spending," Environmental Advocates NY, February 2024, https://eany.org/wp-content/uploads/2024/01/A-New-Era-for-New-Yorks-Water.pdf
[20] Robert Hayes, A New Era for New York's Water: An Analysis of Clean Water Infrastructure Act Spending," Environmental Advocates NY, February 2024, page 18, https://eany.org/wp-content/uploads/2024/01/A-New-Era-for-New-Yorks-Water.pdf
[21] Robert Hayes, *Untapped Potential: A New Era for New York's Water Infrastructure*, Environmental Advocates NY, February 2023, https://eany.org/wp-content/uploads/2023/02/EANY-Untapped-Potential_FINAL.pdf
[22] Robert Hayes, *Untapped Potential: Building the Next Generation of Water Infrastructure*, Environmental Advocates NY, November 2021, p.6, https://eany.org/wp-content/uploads/2021/11/EANY-water-report-Nov-2021-Final-1.pdf
[23] Maureen Cunningham and Robert Hayes, *Untapped Potential: New York's Growing Water Infrastructure Need*, Environmental Advocates NY, 2020, https://eany.org/eanypdfs/eany_2020_water_report_1.pdf

There is no safe level of lead. Even low-level lead exposure causes devastating harm to children and others. Lead exposure is especially dangerous for fetuses, formula-fed infants, and young children; it presents serious risks to their brains and nervous systems and can cause learning disabilities, attention disorders, shorter stature, and impaired hearing. For adults, lead exposure may increase blood pressure and hypertension, impair kidney function, and cause death from cardiovascular diseases, including fatal heart attacks. The harm from lead exposure is not distributed equitably: communities of color and low-wealth populations are disproportionately exposed to lead in drinking water.

The significance of drinking water as an exposure pathway is often underestimated. EPA modeling has shown that water can constitute up to 80% of U.S. children's lead exposures.[24] And lead poisoning of children as a result of drinking water has been documented throughout the U.S., not only by water systems that have a "lead action level exceedance" requiring corrective action under the federal Lead and Copper Rule (LCR), but also by many that do not.[25] *Where present, lead service lines are the predominant source of lead in drinking water.*[26]

With New York's old infrastructure, it should come as no surprise that lead service lines (LSLs) are pervasive across the state – in fact, the state has one of the highest numbers in the country. There are conservative estimates that, statewide, there are at least 500,000 lead service lines.[27] A recent report from the New York City Coalition to End Lead Poisoning (NYCCELP) found an estimated one in five New York City residents, or 21% of the City's population, may be drinking water transported through lead service lines.[28] The report also found that for NYC alone:

- Up to 41% of water service lines are lead or possible lead service lines.
- As many as 902,974 households have lead or possible lead service lines.
- As many as 1,845,119 individuals, or 21% of the city's population, live in a household with lead or possible lead service lines.

New York City is far from the only city with lead in drinking water issues – upstate cities like Syracuse, Troy, Newburgh, and Ilion have all exceeded EPA's current "lead action level" for drinking water in recent years, which at 15ppb is significantly higher than the 0 ppb safe level.[29]

Last year, the Environmental Protection Agency's (EPA) adopted amendments to the LCR, first established in 1991 to regulate the control and monitoring of lead in drinking water. The new rule, the Lead and Copper Rule Improvements rule (LCRI), amends the LCR to require water

[24] Lindsay W Stanek et al., Modeled Impacts of Drinking Water Pb Reduction Scenarios on Children's Exposures and Blood Lead Levels, 54 ENVIRON SCI TECHNOL 9474, 9474–82 (Aug. 2020); Ronnie Levin et al., The Urban Lead (Pb) Burden in Humans, Animals and the Natural Environment, 193 ENVIRON RES (FEB. 2021).
[25] *See, e.g.*, Mona Hanna-Attisha et al., Elevated Blood Lead Levels in Children Associated with the Flint Drinking Water Crisis A Spatial Analysis of Risk and Public Health Response, 106 AM J PUBLIC HEALTH 283, 283–90 (Feb. 2016); Marc Edwards et al., Elevated Blood Lead in Young Children Due to Lead-Contaminated Drinking Water: Washington, DC, 2001-2004, 43 ENVIRON SCI TECHNOL 1628, 1618–23 (Mar. 2009); Mary Jean Brown et al., Association Between Children's Blood Lead Levels, Lead Service Lines, and Water Disinfection, Washington, DC, 1998–2006, 111 ENVIRON. RES 67, 67–74 (Jan. 2011); Simoni Triantafyllidou et al., Lead Particles in Potable Water, 99 J AM WATER WORKS ASSOC 107, 107–17 (JUN. 2007); Rebecca Renner, Out of Plumb: When Water Treatment Causes Lead Contamination, 117 ENVIRON. HEALTH PERSPECT. A542, A542–A547 (Dec. 2009).
[26] https://pubs.acs.org/action/showCitFormats?doi=10.1021/acs.est.5c06429&ref=pdf
[27] US EPA, "7th Drinking Water Infrastructure Needs Survey and Assessment," April 2023, https://www.epa.gov/system/files/ documents/2023-04/Final_DWINSA%20Public%20Factsheet%204.4.23.pdf
[28] NYCCELP, "No Excuses, NYC: Replace Lead Drinking Water Pipes Now," July 2023, https://nylcv.org/wp-content/uploads/NoExcusesNYCReplaceLead.pdf
[29] Robert Hayes, A New Era for New York's Water: An Analysis of Clean Water Infrastructure Act Spending," Environmental Advocates NY, February 2024, page 16, https://eany.org/wp-content/uploads/2024/01/A-New-Era-for-New-Yorks-Water.pdf

systems to replace lead pipelines within 10 years (and faster when feasible), lower the lead action level (level at which agencies must take additional steps to eliminate lead in drinking water), and contains provisions intended to improve accuracy in identifying where higher levels of lead in drinking water are within communities.

Given the newly amended LCR, along with the ongoing need for New York to address lead in drinking water, it is incredibly important for New York to ensure there is adequate funding available and distributed expeditiously to provide municipalities assistance in replacing LSLs. To date, New York has not provided enough funding to meet demand from communities eager to replace these pipes. Additionally, in light of the federal government walking back environmental and public health protections, the legislature should champion policies to tackle sources of lead exposure. Earthjustice joins our partners in calling for the Governor and legislature to:

- **Dedicate hundreds of millions of Clean Water Infrastructure Act (CWIA) and Bond Act funding for LSL replacement** to meet demand demonstrated by local governments. Hundreds of millions in CWIA funds that have not yet been dedicated to a particular program and are available for LSL replacement, and there is $200 million in the Environmental Bond Act available for LSL replacement. The monetizable health benefits of removing LSLs also outweigh the costs by manyfold—by our estimate at least 14-fold over 35 years.[30]

- **Enact the Lead Service Line Replacement Act (A.7878/S.6892)**, which protects New Yorkers from potential congressional rollbacks by codifying the LCR requirements to require the replacement of LSLs. The bill also ensures that customers are not directly charged for replacements and incentivizes utilities to use economies of scale when digging up LSLs. This would save New York ratepayers money and make state and federal dollars go farther.

Include At Least $425 Million for the Environmental Protection Fund

We were pleased to see the Governor proposed maintaining the Environmental Protection Fund at $425 million without any offloads.

The Environmental Protection Fund provides critical funding to support farmers' efforts to protect natural resources, reduce climate emissions, and increase their climate resiliency. These programs include (1) the Agricultural Environmental Management (AEM) Program, which provides funding for districts to provide conservation technical assistance and cost-sharing funding with farmers to implement conservation and best management practices; (2) the Agricultural Non-Point Source Pollution Abatement and Control Program (AgNPS), which provides funding to address and prevent water quality issues that stem from farming activities, including nutrient pollution; and (3) the Climate Resilient Farming (CRF), which funds projects to reduce the impact of agriculture on climate change and to increase the resiliency of New York State farms in the face of a changing climate. These programs are both widely popular and underfunded. To achieve the state's climate goals, protect its water resources, and support

[30] NRDC, Getting the Lead Out: Removing Lead Pipes Would Yield Hundreds of Billions of Dollars in Health Benefits (Oct. 2023), p. 8, available at https://www.nrdc.org/sites/default/files/2023-10/getting-lead-out-healthbenefits-ib.pdf See, section 12 of these comments for further discussion of the costs and benefits of reducing lead levels in drinking water and LSL removal.

farmers in the face of a changing climate, it is imperative that the state continue and grow its investment in these critical programs.

The Environmental Protection Fund offers much needed funding to various sectors in New York's environment, and the benefits are apparent:

- According to a study by The Trust for Public Land, every $1 invested in land and water conservation through the EPF returns $7 to the state.
- The EPF supports 350,000 jobs across New York in a broad spectrum of industries including construction, agriculture, recreation, tourism, forestry, recycling, and recreational fishing.
- EPF-supported industries add $40 billion to the state's economy every year.

Measures to Meet our Climate Law Can Help with Reliability and Affordability

There is a coordinated attack on New York's landmark climate law, the Climate Leadership and Community Protection Act, with opponents urging for delays or other measures to undercut the effectiveness of the law under the guise of "affordability." When the argument isn't affordability, it has been reliability. But the truth is that rolling back the climate law will do nothing to tackle these issues, and in fact moving forward with funding and policies to meet our climate law will instead help with both. *We urge the legislature to pursue proactive solutions and reject any efforts that would roll back our climate law.*

As noted in NYS Focus: "Many have blamed New York's clean energy efforts for the hikes, but official estimates suggest they remain a minor factor. A long-awaited PSC report presented on Thursday found that state climate policies accounted for anywhere from 5 to 9.5 percent of the average household's electric bill in 2024, or $10 to $12 per month, depending on the utility. (The impact on gas bills was far smaller, at 2 percent or less.)"[31]

To the contrary, gas is the main driver of energy costs going up. As we note earlier in our testimony, energy prices rose by 35 to 53 percent across the system, driven primarily by an increase of 42 to 66 percent in natural gas prices.[32] A report from the research organization, Switch Box, found that utilities spent over $2 billion on pipe replacement from 2022-2023, passing these costs onto ratepayers.[33] Since 2022, every major New York gas utility has raised costs on consumers, causing more than 1.2 million families to fall behind on their energy bills, and this will only get worse with utilities planning to spend an additional $43 billion to replace all leak-prone pipe by 2050. Meanwhile, these costs would be cut by $4.7 billion if targeted electrification took place.[34]

By advising further investment in unreliable fossil fuels, the new State Energy Plan could lead to higher energy bills and further spending on unreliable and unnecessary dirty energy, with harmful consequences to New Yorkers' lives and livelihoods. Renewable energy, transmission,

[31] https://nysfocus.com/2025/09/18/new-york-energy-bill-hikes
[32] NYISO, Quarterly Report on the New York ISO Electricity Markets Third Quarter of 2025, November 2025, page 4, https://www.potomaceconomics.com/wp-content/uploads/2025/11/NYISO-Quarterly-Report_2025Q3_final_11-24-2025.pdf
[33] https://www.switch.box/lpp
[34] Ibid

and battery storage would save ratepayers money. As one example, in July, the New York State Public Service Commission abandoned efforts on a transmission project to connect multiple offshore wind farms to provide clean energy and meet growing demand. That project could have lowered costs to produce electricity by $40 to $70 billion from 2033 to 2052. That's on top of the approximately 50,000 MW of mostly clean energy projects stuck in the NYISO generator interconnection queue, and the possibilities for surplus interconnection, which would connect new renewable energy to the power grid quickly and could be built faster and cheaper than new gas.

Understanding NYISO Reports: The Climate Law is Not Making Our Grid Unsafe

In recent reports, the New York Independent System Operator (NYISO) has raised alarms about the grid's reliability and warns of looming supply shortages. It is crucial that policymakers understand these reports accurately: NYISO's data in these reports continues to demonstrate a system far more protective than the industry standard. In fact, NYISO's data confirms that, measured against routine resource adequacy indices required across the electricity sector, over the next 10 years, New York's grid has between 190% and 1250% of the industry's threshold for protection against loss of load events.[35]

This is consistent with NYSERDA's recent observations in the State Energy Plan, which confirms that New York far outperforms the national average for neighboring states on key reliability metrics, experiencing the 2nd fewest power outages on average of any state in the country.[36]

The reason NYISO nevertheless raises reliability alarms that appear to be contradicted by its own data is because it has proposed a new methodology for evaluating grid reliability that departs from industry norms. As an initial matter, NYISO's margin concerns assume no increase in new supply, including the 1250 MW Champlain Hudson transmission line, which NYISO itself has recognized is scheduled to come into service this year.

Further, in this new planning approach, NYISO looks at extreme contingency scenarios and then purposefully limits the ability to respond with operating reserves, demand response, and a whole host of other emergency procedures. These responses are in place precisely for such extreme scenarios – they are reserves that New Yorkers pay for every day. Only when NYISO omits – without justification – these thousands of MWs of supply and reliability reserves paid for by New Yorkers does it find there is a reliability concern. Ignoring these existing tools to handle reliability poses enormous costs – it would ultimately cause consumers to end up paying a lot more money to gold-plate the system with capacity that has almost no added value.

Distressingly, these reliability concerns are being used by NYISO to argue for new fossil generation and by other parties to argue for delays to our clean energy transition. This is exactly the wrong conclusion to draw from New York's current situation. As NYISO's own reports have found, renewables have "generally performed better during the peak hour than in planning

[35] Earthjustice, Letter to NYISO Operating Committee (Oct 10, 2025) https://earthjustice.org/wp-content/uploads/2025/10/2025-10-10-earthjustice-letter-to-nyiso-on-draft-crp.pdf.
[36] NYSERDA, State Energy Plan – Grid Reliability Fact Sheet (Accessed Jan. 23, 2026) https://energyplan.ny.gov/-/media/Project/EnergyPlan/files/fact-sheet/Analysis-reliability-factsheet.pdf.

assumptions" while fossil generators "have performed worse than expected in the planning assumptions."[37] On top of being more reliable, NYSERDA found that adding 8 GW of renewable capacity reduced system-wide generation costs by $3.7 billion by 2040, and a recent independent study found that building on New York's exceptional progress in distributed solar and storage could deliver $1 billion in annual energy cost savings by 2035, reducing average bills by $87 per year for upstate customers and $46 per year downstate.[38]

Speeding the deployment of clean energy and energy storage, boosting energy efficiency retrofits, and prioritizing transmission buildout is the fastest path to lowering overall costs and delivering enormous health benefits, while tackling the very climate crisis straining our energy grid in the first place. Far from signaling a need for a major course-change, NYISO's reports underscore that more must be done to reduce our dependence on old, unreliable, and expensive fossil fuel infrastructure.

Support Direct, Targeted Emission Reductions Instead of a Low-Carbon Fuel Standard

The "Clean Transportation Standard," also referred to as a "Low-Carbon Fuel Standard" or "Clean Fuel Standard", as proposed in the Scoping Plan and advanced in A.964/S.1292 (2024), is an outdated and ill-suited tool for reducing transportation emissions. California introduced this policy in 2009. At that time, there was a view that incrementally increasing the use of biofuels via self-regulated markets responding to price signals was the optimal climate policy.

Decades of experience have demonstrated how out of step this approach is with the current scientific and policy consensus. Despite the now clear scientific consensus that crop-derived biofuels are a climate disaster, and that rapid adoption of electric vehicles is essential to meeting climate goals, nearly 75% of California's LCFS credits continue to subsidize combustion fuels. Because crop-based biofuels are cross-subsidized by the U.S. Renewable Fuel Standard, and because their application requires no new investment in electrification, the program provides lopsided support for low-effort and low-quality combustion biofuels derived from crops. This will result in a slower transition to a zero-emissions transportation sector, and continued tailpipe emissions, particularly of harmful co-pollutants. New York drivers will bear the costs of these inefficient subsidies.

Second, the Clean Transportation Standard would create a private market for investment in "clean transportation" not subject to oversight by New Yorkers, public agencies or the legislature. Moreover, investments under the Clean Transportation Standard would not be subject to the CLCPA's requirement that a minimum of 35% of funds be invested in disadvantaged communities, thus undermining the state's equity mandates.

Finally, it must be noted that a Clean Transportation Standard, or low-carbon fuel standard, would especially untimely given the ongoing regulatory process surrounding the upcoming Cap and Invest program, which is designed to reduce emissions, raise revenue, and support energy

[37] NYISO Summer 2025 Hot Weather Operations (October 16, 2025) at 13, available at https://www.nyiso.com/documents/20142/54426374/05_Summer%202025%20NYISO%20Hot%20Weather%20Operating%20Conditions%20OC.pdf/6118ee5b-4810-5f21-bd55-21768afd6b6.

[38] Synapse Energy Economics, Sunlight and Storage into Savings (Jan 2026) https://drive.google.com/file/d/1_7B7gHlzZ7QlEewtJ-X_QfRQtDyNvf-J/view.

affordability across all sectors. Any low-carbon fuel standard or similar program would be duplicative of this broader effort, which is why the state's Climate Action Council recommended it only in the absence of an economywide cap-and-invest program.

Unlike the cap-and-invest framework, a low-carbon fuel standard is a far more hands-off carbon market mechanism. This makes its subsidies easier to game, and its revenues more difficult to target toward strategic investments. It will not generate revenue for the state to implement the state's landmark Climate Scoping Plan – instead, it will simply adjust prices for different transportation fuels and funnel revenue to private companies rather than New Yorkers. In California, the former Branch Chief of the LCFS Program warned that it had become "a swag bag for venture capitalists, big oil, big agriculture, and big gas, increasingly coming at the expense of low- and moderate-income Californians."[39] Researchers at Stanford University observed that the LCFS "locks in a variety of large subsidies for particular technologies that are being offered to extremely powerful industries in California. Once offered, they will be exceedingly difficult – both from a practical and political perspective – to pull them back as circumstances evolve."[40] We strongly urge the Legislature to avoid going down this same dead-end.

Earthjustice instead urges the legislature and state agencies to work towards implementing existing transportation electrification policies, increasing targeted funding for high-impact transportation electrification (in particular, school buses, transit buses, and the freight sector)and directly supporting the deployment of charging infrastructure.

Funky Climate Math: Oppose Changes to New York's Greenhouse Gas Accounting

During the 2023 legislative session, a bill (S.2471) was first introduced and considered during SFY2023-24 budget negotiations,[41] that would undermine New York's work to meet the mandates of its landmark climate law by requiring the use of a 100-year timeframe for methane emission accounting instead of a twenty-year timeframe. The outdated 100-year timeframe vastly undercounts methane's climate impacts, and this change would prevent decisionmakers from accurately assessing the harms of methane-based fuels and require the state to reevaluate its greenhouse gas inventory and Scoping Plan, delaying urgently needed action.

New York has demonstrated climate leadership by adopting a science-based greenhouse gas accounting system. According to the Intergovernmental Panel on Climate Change, methane remains in the atmosphere for under two decades and is 87 times more powerful as a greenhouse gas than carbon dioxide over a twenty-year period. The use of a twenty-year global warming potential is critical for capturing the true climate impacts of methane emissions that occur during the production and transportation of natural gas. Adopting the 100-year global warming potential would act as an accounting trick, making it look like gas companies had significantly reduced their emissions overnight when in fact they had done nothing at all.

[39] Jim Duffy, Letter to CARB Chair, (Feb. 19, 2024) p. 4 https://ww2.arb.ca.gov/sites/default/files/BARCU/barcu-attach/6792-lcfs2024-AWUGdQdgVmMHeAZZ.pdf.
[40] Michael Wara et al., Proposed Amendments to the California LCFS Regulation (Feb 20, 2024) at p. 8 https://ww2.arb.ca.gov/sites/default/files/BARCU/barcu-attach/7057-lcfs2024-AXJRI1c3UWwDY1I9.pdf.
[41] Ibid.

This legislation would further hobble New York's climate efforts by excluding biogenic emissions from the State's greenhouse gas inventory and treating forest biopower and anaerobic digestion as "renewable energy systems," even though these energy sources can result in significant net greenhouse gas emissions. The CLCPA intentionally did not designate these sources as renewable because the law seeks to eliminate greenhouse gases to the greatest extent possible.

The legislation, and any policy like it, would act as a giveaway to gas companies seeking to tie consumers to their expensive product and delay the transition to a renewable energy economy. To achieve the CLCPA's mandates New York must rapidly develop wind, solar, and energy storage capacity: an accounting system that conceals the climate impacts of combustion fuels will only hurt New Yorkers.

Changing New York's greenhouse gas accounting system would weaken the CLCPA by putting a thumb on the scale in favor of gas. Meeting our climate mandates requires moving away from combustion fuels and towards true clean energy solutions like electrification.

Biofuels and Hydrogen are False Solutions

Earthjustice urges the legislature to reject strategies built around combustion of alternative fuels such as RNG and hydrogen. Production and use of these fuels result in significant GHG emissions and other environmental impacts.[42] For example, hydrogen combustion creates significant emissions of nitrogen oxides (NOx), a precursor to both ground-level ozone and fine particulate matter. These pollutants adversely impact local air quality and can cause serious health problems, and disproportionately affect communities of color.[43] In fact, combusting hydrogen may produce NOx emissions at six times the rate of combusting methane.[44]

Additionally, a growing and overwhelming body of research demonstrates that blending hydrogen with natural gas for use in buildings is highly inefficient and does little to reduce GHG emissions.[45] Moreover, because of the difference in chemical properties between hydrogen and methane*, it is not feasible to use the existing natural gas infrastructure to combust hydrogen in buildings*.[46] Natural gas pipelines can only handle low hydrogen blends before creating safety risks. Relying heavily on hydrogen to power appliances to prevent these safety issues would therefore require utilities to retrofit or replace most pipelines, a huge capital investment, whereas electrification is significantly less disruptive because equipment and appliance replacements can occur incrementally using existing electrical infrastructure.

[42] Sasan Saadat & Sara Gersen, Earthjustice, Reclaiming Hydrogen for a Renewable Future: Distinguishing Oil & Gas Industry Spin from Zero-Emission Solutions 10–11, 28 (Aug. 2021), https://earthjustice.org/sites/default/files/files/hydrogen_earthjustice.pdf
[43] See N.Y. State Dep't of Health, New York's State Health Improvement Plan: Prevention Agenda 2019-2024 72–3 (updated Sept. 2, 2021), https://www.health.ny.gov/prevention/prevention_agenda/2019-2024/docs/ship/nys_pa.pdf
[44] Lew Milford et al., Clean Energy Group, Hydrogen Hype in the Air (Dec. 14, 2020), https://www.cleanegroup.org/hydrogen-hype-in-the-air/
[45] Sara Baldwin et al., Energy Innovation Policy & Tech., Assessing the Viability of Hydrogen Proposals: Considerations for State Utility Regulators and Policymakers 2 (2022), https://energyinnovation.org/wp-content/uploads/2022/03/Assessing-the-Viability-of-Hydrogen-Proposals.pdf
[46] Id.

Additionally, less than one percent of hydrogen is produced via electrolysis and only about 0.02 percent qualifies as green hydrogen (meaning that it is produced from electrolysis powered purely by renewable electricity).[47] Green hydrogen production is currently limited to demonstration projects, with projects "mostly in the single-digit MW scale." Instead, nearly all hydrogen within the United States is gray hydrogen, produced via steam methane reformation ("SMR") of fossil gas, an energy-intensive process emitting both GHGs and harmful co-pollutants including NOx, fine particulate matter, carbon monoxide, and volatile organic compounds. And because electrolysis is so energy-intensive, hydrogen produced using grid-average electricity is even more carbon-intensive than hydrogen produced via SMR. Producing hydrogen is also water-intensive, and at a large scale could lead to water stress.

Production and use of other non-fossil fuels such as RNG also results in harmful environmental impacts and can increase net GHGs. Indeed, because RNG is chemically identical to fossil gas, its combustion emits the same level of GHGs.[48] Additionally, RNG cannot provide a meaningful source of energy: the supply of true, capturable waste methane (e.g., from uncontrolled landfills and wastewater treatment plants) amounts to less than 1% of current gas demand.[49]

Moreover, any strategy built around continued reliance on the gas pipeline system necessitates massive investments in replacement of leak-prone pipes. Utilities are collectively planning to invest billions of dollars in LPP replacement over the next several decades. These costs are grossly disproportionate to their climate benefits and most of these costs could be avoided through a more surgical, safety-based approach to focusing instead on the most hazardous and environmentally significant leaks. For these reasons, building decarbonization must be pursued through electrification, and reliance on alternative fuels must be rejected.

Large Load Growth from Data Centers and Cryptocurrency Mining

Large load growth from data centers and cryptocurrency mining threatens energy affordability, water, land, and natural resources, and our ability to address climate pollution. As the federal government uses AI as a pretext for its pro-fossil fuels, deregulatory, anti-community agenda, it is urgent for states like New York to act in the best interest of residents. Overbuilding for datacenters and acting too quickly without common sense protections will leave households and small businesses holding the bag, from unfair electricity rates, taxpayer subsidies with no return on investment, and other handouts, to unfair and immense pollution with little oversight, both local and state-wide, and includes air pollution, water pollution, noise pollution, electronic waste and toxics, and more.

New Yorkers have been facing a worsening energy affordability crisis. Since 2022, every major New York utility has raised costs on consumers, causing more than 1.2 million families to fall

[47] Saadat & Gersen, supra note 2, at 7; Emanuele Taibi et al., Int'l Renewable Energy Agency, Green Hydrogen Cost Reduction: Scaling Up Electrolysers to Meet the 1.5°C Climate Goal 18 (2020), https://irena.org/-/media/Files/IRENA/Agency/Publication/2020/Dec/IRENA_Green_hydrogen_cost_2020.pdf

[48] Alternative Fuels Data Center, U.S. Dep't of Energy, https://afdc.energy.gov/fuels/natural_gas_basics.html#:~:text=RNG%20qualifies%20as%20an%20advanced,liquefied%20for%20use%20in%20vehicles (last visited May 31, 2022).

[49] Sasan Saadat et al., Earthjustice & Sierra Club, Rhetoric v Reality: The Myth of "Renewable Natural Gas" for Building Decarbonization 9 (July 2020), https://earthjustice.org/wp-content/uploads/report_building-decarbonization-2020.pdf

behind on their energy bills. This will only get worse if the state doesn't make moves now to ensure large energy users are paying their fair share for the energy system.

Additionally, this large energy load growth, albeit speculative, stands to jeopardize the state's ability to meet our climate law mandates and provide safe, reliable, and affordable clean energy to the public. Two recent reports from NYISO (New York Independent Service Operator) state that new large loads may affect reliability as part of their justification for a call to extend the life and expansion of gas power generation.[50] But buildout of this expensive infrastructure without any certainty of these new loads could leave everyday New Yorkers paying not only for this expansion, but also the costs associated with stranded assets.[51] Additionally, these large energy users are seeking cheap power, which is typically renewable, in upstate New York. There have been examples in some upstate communities where the dramatic increase in energy demand has resulted in higher energy bills for surrounding communities.[52]

States before New York that opened their doors for unchecked data center build out have since experienced tremendous buyer's remorse and we should learn from their experience, not repeat it, to protect New Yorkers.[53] New York, with our long legacy of climate and environmental leadership, has the unique opportunity to attack this before it's a bigger problem and set an example for others in the nation to follow. Below, and detailed further in the subsequent sections of our testimony, Earthjustice has outlined best practices to prevent increased energy costs and environmental harms associated with data centers and other large energy users:

- Large load tariffs and rate design as tools to protect ratepayers and the environment
- Demand-side management solutions
- Transparency and disclosure requirements to better understand the scope and impact of data centers in New York
- Buildout of renewable energy, transmission, and battery storage for long term affordability for New Yorkers

Data Centers and Cryptocurrency Miners Hog Energy and Raise Costs

Current projections for the growing energy demands of data centers and proof-of-work cryptocurrency mining threaten to keep fossil fuel-burning power plants online, disrupting our transition to clean energy, raising energy costs, and potentially rolling back our progress reducing fossil fuels. While New York has been dealing with the reality of cryptocurrency mining operations, so far, the state thankfully has not seen the level of data center expansion seen in other states.

Recently, NYISO cited growing energy demand, in part driven by large energy users like speculative data centers, to justify their call for keeping dirty fossil-fuel powered peaker plants

[50] https://www.nyiso.com/-/press-release-nyiso-releases-power-trends-2025 and https://www.nyiso.com/-/press-release-nyiso-planning-studies-highlight-grid-reliability-concerns
[51] https://earthjustice.org/wp-content/uploads/2025/07/2025.07.02-nyiso-letter-to-gov-agencies-1.pdf
[52] MIT Technology Review, How Bitcoin mining devastated this New York town.
[53] See, .e.g.., Governing.com, 2024: Data centers are 'electricity hogs' making states reconsider; Dan Swinhoe. March 18, 2024. Georgia Senate passes bill to suspend data center tax exemptions. | Data Center Dynamics; NBC News, The sleeper issue that could play a huge role in Virginia and New Jersey — and the midterms

online longer and new gas power generation.[54] Gas prices and the costs associated with building, maintaining and expanding gas plants and pipelines are already driving increased energy costs in New York.[55]

While NYISO's *Power Trends* notes new large loads may affect reliability, many recent reports have noted the uncertainty of those speculative new loads. The NY Public Service Commission has also acknowledged that the scale and timing of additional large industrial loads is uncertain. Building out new gas generation in anticipation of uncertain loads that may never materialize would be unwise and immensely costly to New Yorkers.

As of July 2025, NYISO has 29 large load requests, totaling 6,055 MW of new demand in their interconnection queue.[56] Of these, the vast majority appear to be related to data centers, AI, or cryptocurrency mining, and 25 projects totaling 5,243 MW. This is the equivalent to powering approximately 4.2 million homes, which is larger than the population of Los Angeles. However, the requests for interconnection on NYISO's large load interconnection queue is a poor basis to justify extending the life of gas power plants.[57] Other grid operators heavily discount their large load queue due to the speculative nature of such requests.[58] New York must require greater transparency and certainty from data centers, as discussed further in our recommendations section, to get a more realistic assessment of load demand.

But some data centers are already here, posing major questions and concerns for the host and neighboring communities. The Ithaca Times recently reported about the lease deal of the site of the former Cayuga Power Plant for TeraWulf Inc. to develop a data center in Lansing, a town just north of Ithaca by Cayuga Lake. According to this reporting, the data center could use a maximum of 400 MW, which would be enough to power over 350,000 homes. Residents and local elected officials have expressed concerns about the diversion of renewable energy to power the facility, withdrawals and discharges of water for cooling, noise pollution, and energy prices.[59]

The story has been similar for the Tonawanda Seneca Nation, a federally recognized tribe, which has been fighting the proposed construction of a large-scale data center at the Western New York Science and Technology Advanced Manufacturing Park (STAMP) in Alabama, NY. The proposed data center is located within 300 feet of the nearest residence and approximately a half-mile from the Nation's Reservation Territory. Native News Online reports that: "If built, the Stream data center would span approximately 900,000 square feet—the equivalent of 15 football

[54] https://earthjustice.org/wp-content/uploads/2025/10/2025-10-10-earthjustice-letter-to-nyiso-on-draft-crp.pdf; https://earthjustice.org/press/2025/following-nyiso-short-term-assessment-of-reliability-report-governor-hochul-must-course-correct-by-building-a-renewable-grid-for-the-future

[55] https://nysfocus.com/2025/09/18/new-york-energy-bill-hikes

[56] https://www.nyiso.com/-/energy-intensive-projects-in-nyiso-s-interconnection-queue?li_fat_id=961cb136-2dc4-4874-9529-5b7248b9c00a

[57] Electric Reliability Council of Texas, at 9, ("Reduce all new Data Center Demand to 49.8% of Requested Amount; Reduce Officer Letter Loads to 55.4%"), https://www.ercot.com/files/docs/2025/04/07/8.1-Long-Term-Load-Forecast-Update-2025-2031-and-Methodology-Changes.pdf.

[58] Utility Dive, A fraction of proposed data centers will get built. Utilities are wising up, https://www.utilitydive.com/news/a-fraction-of-proposed-data-centers-will-get-built-utilities-are-wising-up/748214/; Latitude Media, Phantom data centers are flooding the load queue, https://www.latitudemedia.com/news/phantom-data-centers-are-flooding-the-load-queue/

[59] Ithaca Times, https://www.ithaca.com/news/tompkins_county/data-center-developer-secures-long-term-lease-of-cayuga-power-plant/article_af47439f-e785-4519-9018-6ad0a9de5048.html; The Ithacan, TeraWulf tech company plans to build AI data center on Cayuga Lake, https://theithacan.org/62928/news/terawulf-tech-company-plans-to-build-ai-data-center-on-cayuga-lake/

fields. It would require 250 megawatts of electricity annually, burn 60,000 gallons of diesel fuel per year, and consume 10,000 gallons of water each day. The project would be heavily subsidized by taxpayers, with public support totaling $472 million—amounting to $3.9 million per job created."[60]

Unless the state intervenes with practical solutions, increased energy demand would take New York in the opposite direction of our climate law mandates. Our state's groundbreaking Climate Leadership and Community Protection Act ("CLCPA") mandates that New York's electricity system must be powered by 70% renewable energy by 2030 and 100% zero emission by 2040. The law also requires the state to reduce greenhouse gas ("GHG") emissions at least 85% below 1990 levels by 2050. As discussed in further detail in our recommended solutions, New York should pursue renewable energy requirements that abide by the "new, near and now" principle to prevent these users from diverting clean, cheap energy from the grid.

Ultimately, new or increased gas generation is not in the best interest of affordability for New Yorkers, nor is it needed.[61] The better route to provide safe, reliable, and affordable energy is for the state to dramatically accelerate renewable energy, transmission, and battery storage. Unfortunately, the state has been failing to do so and needs to course-correct. For example, this year, the New York State Public Service Commission abandoned one effort and delayed another transmission project that would have connected multiple offshore wind farms and upstate clean energy to provide clean and affordable energy and meet growing demand. Just one of those projects alone could have lowered costs by $40 to $70 billion from 2033 to 2052.

Lessons Learned from Other States

Many states that initially welcomed data centers and crypto mining are reconsidering tax breaks and incentives that encouraged massive facilities in their communities. Host communities suffer from increases in local air and water pollution, electronic waste, and excessive noise pollution, as well as increased electricity costs. In several states with a large number of data centers, such as Virginia and Georgia, state legislators introduced legislation to put guardrails on or completely halt tax breaks for data centers and crypto mines.

The forecasted surge in energy demand has prompted electric utilities and companies to propose extending the life of coal-fired and gas-fired power plants previously slated for retirement, and propose new methane gas power plants. Coal-fired power plants increased production in West Virginia and Maryland to meet data center demand. In Georgia, data center demand led to an increase in Georgia Power's usage of fossil fuels. Electricity rates have skyrocketed there since.[62]

[60] Native News Online, Tonawanda Seneca Nation and Sierra Club File Litigation Challenging Environmental Review Process of Massive Data Center; . https://nativenewsonline.net/environment/tonawanda-seneca-nation-and-sierra-club-file-litigation-challenging-environmental-review-process-of-massive-data-center

[61] https://earthjustice.org/press/2025/following-nyiso-short-term-assessment-of-reliability-report-governor-hochul-must-course-correct-by-building-a-renewable-grid-for-the-future

[62] Time Magazine, Backlash to High Electric Bills Could Transform US Politics.

Northern Virginia, the largest data center market in the world, must grapple with the overwhelming demand while meeting its goal of 100% zero-carbon energy generation by 2050. A study commissioned by the state legislature reported that:

> "a substantial amount of new power generation and transmission infrastructure will be needed in Virginia to meet unconstrained energy demand or even half of unconstrained demand. Building enough infrastructure to meet unconstrained energy demand will be very difficult to achieve, with or without meeting the Virginia Clean Economy Act (VCEA) requirements. New solar facilities, wind generation, natural gas plants, and increased transmission capacity would all be required to meet unconstrained demand, and the number of projects needed would be very difficult to achieve."

In New York, regulators and utility companies must take proactive steps to manage the energy demands of data centers and crypto mining operations. Failure to do so, as we are seeing in numerous states across the country, will lead to higher electricity costs for families, increased strain on the grid, increased local pollution, and setbacks in statutory climate mandates, with the legal risk that accompanies those choices.

Utilities and state regulators throughout the U.S. have proposed new tariffs and rate structures to protect residential and small business customers from the rising costs associated with data center energy demands. Additionally, they are considering other strategies to strengthen the grid, expand clean energy infrastructure, and continue to reduce reliance on climate-harming and locally-polluting fossil fuels.

Recommended Solutions

Thankfully, New York hasn't seen the harmful impacts from rapid data center expansion yet, but has learned from its experience with the negative externalities of cryptomining, a similar threat - and this offers our state the opportunity get ahead of the curve to adopt policies that protect ratepayers, facilitate an affordable, clean energy future, and set an example for other states to follow. In reviewing the pathways other states that have taken both before and after an influx of data centers, we believe that the formula for New York leadership on this pressing issue includes: increasing transparency so that educated decisions can be made, not overbuilding for speculative demand, making data centers pay their fair share through rate design, tariffs, demand-side management, the use of existing capacity on the system, and specific contract and power purchase agreement requirements.

Utilities across the country are receiving requests to supply vast amounts of electricity for new data centers and crypto mines. Utilities — and the state public utility commissions that regulate them — have begun proposing and reviewing new rate structures for these "mega-" or "large-loads" to protect residential and small business customers from rising costs associated with data centers' energy use.

Data centers and other large loads — some of which use as much power as a small city — may require significant investment in the electric system, both in generation, transmission and distribution. Investments of that size are riskier given the magnitude of the expense and the presumed life of the infrastructure required to serve them, meaning generations of households

and small businesses could be on the hook for infrastructure built for datacenters that may not last that long. Some states or provinces and municipalities have place moratoria on new large loads until adequate protections can be put in place.[63]

Earthjustice's research and litigation have insisted that large loads contribute fairly to the costs of maintaining a stable and sustainable grid, while safeguarding the interests of other ratepayers. This includes: contract length, cost allocation, demand management, rate design, and renewable energy requirements.

Creating a new ratepayer class for large energy users would recover certain infrastructure costs from the large energy user that caused those costs, rather than distributing them among all ratepayers. This approach may include requiring developers to contribute to the upfront cost of grid upgrades needed for data center projects as another way to shift some of the cost burden from ratepayers.

Innovative solutions in this area are being considered as the unaffordability crisis grows. New York could be a leader in opening the door for data centers to create their own capacity by unlocking decarbonization tactics on the residential side of the demand equation. For example, building decarbonization organizations and virtual power plant developers have published papers showing the opportunities available to forward thinking legislators and regulators.[64] As Foley Hoag explains it, this concept "inverts the approach to energy efficiency, exploring the potential for widescale investments in residential energy efficiency to make space for data centers on the grid. The report proposes that if data center developers invested in household upgrades—think heat pumps and rooftop solar and storage—they could 'unlock the capacity they need . . . by decreasing residential peak demand.' The report estimates that the costs of those upgrades would be competitive with those of building new gas generation, but would reduce electricity costs for households, lower overall greenhouse gas emissions, and improve overall air quality."[65]

Regulators and the public need and deserve to know how much energy data centers are consuming and what the economic, environmental and energy system impacts of data centers are likely to be, especially when host communities bear the burden of increased pollution and costs. With that information, the public can be protected from the significant risk of subsidizing data centers' electricity consumption. As discussed earlier in our testimony, NYISO's large load interconnection queue is highly speculative – Texas's SB 6, amongst several other things, would add credibility to electricity demand forecasting, such as measures to prevent duplicative load requests.[66]

We strongly recommend the legislature consider adopting legislation that requires the disclosure and public availability of information related to proposed data centers and the communities where they would be located, including the data center's energy use, air emissions, waste heat

[63] Utility Dive, Ohio regulators approve AEP data center interconnection rules
[64] Rewiring America, Household upgrades could offset all new projected data center demand growth, https://a-us.storyblok.com/f/1021068/x/a39cd225cc/homegrown-energy-rewiring-america.pdf?cv=1758151862430; Canary Media, Can crowdsourcing help solve the data-center power crunch? https://www.canarymedia.com/articles/virtual-power-plants/voltus-supply-data-center-energy-needs-cl…
[65] https://foleyhoag.com/news-and-insights/blogs/energy-and-climate-counsel/2025/october/navigating-the-challenges-of-data-center-growth-part-i-energy-sustainability/
[66] https://insideclimatenews.org/news/10102025/texas-grid-operators-and-regulators-iron-out-new-rules-for-data-centers/

emissions, labor impacts, water intake and water pollution. Such requirements, including disclosure of private contracts for power, would provide regulators and the public with much-needed information about the impacts of data centers on the host community, local environment, the cumulative impacts in the state, and on the climate.

New clean energy is most often the most affordable option and can be fastest to energize. Data centers should be required to invest in renewable energy in the surrounding community, such as solar, wind, rooftop solar, and storage. Much of the distribution infrastructure needed for data center development must be paid by the data center themselves, not subsidized by other ratepayers who do not see the benefits. Otherwise, adding significant levels of electricity load in communities can derail clean energy progress and result in increased harmful pollution.

Renewable energy requirements should be designed to ensure the procurement of clean energy that is "new, now, and near" — a new supply of clean energy (additionality), with power consumption not exceeding production (ideally, hourly-matching), and that it be easily delivered in the same region (deliverability). Anything less would result in data centers diverting clean energy from the electricity grid, energy that would then be replaced by the increased operation of fossil fuel power plants that should be scaling down and retiring. Proposals for data centers should include the development of sources of new clean energy such as solar, wind, geothermal, and batteries. Companies should not be permitted to use unbundled renewable energy credits and carbon offsets, which have been shown to be ineffective and allow companies to greenwash their operations, and often result in 'permission to pollute' in already overburdened communities.

In addition, many data centers rely on dirty diesel generators for backup power, which emit toxic local air pollution including nitrogen oxides, particulate matter, and carbon monoxide. They also generate huge amounts of noise (as can data centers and crypto mines themselves). Replacing these polluting backup diesel generators with on-site battery storage would not only reduce air pollution during emergencies but also enable data centers to reduce strain on the electric system in times of peak demand.

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Thank you for the opportunity to testify today. Earthjustice looks forward to working with the legislature to ensure New York's final SFY2026-27 budget and the 2026 session rises to the challenges New Yorkers face from the climate crisis, costly energy bills and other environmental pollution.