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## Environmental LAW

# New York's Clean Energy Standard

On August 1, the Governor's Office announced that the New York State Public Service Commission (PSC) approved New York's most far reaching clean energy mandate.

The Clean Energy Standard is aimed at fighting climate change, reducing air pollution and diversifying the energy supply. The standard seeks to force reductions in fossil fuel use by mandating that an increased percentage of the State's energy come from "clean" energy sources.

Specifically, the standard will require that 50% of the State's electricity come from renewable energy sources such as wind and solar by 2030, starting with an intense phase-in over the next few years. At the outset, utilities will be required to obtain and procure new renewable power sources starting with 26.31% of the State's electricity load in 2017, increasing to 30.54% of the State's total in 2021. Under the standard, the 50% renewable mandate by 2030 is aimed at reducing greenhouse gas emissions by 40% (from 1990 levels) and up to 80% by 2050.

The standard is to be implemented by requiring utilities to obtain a targeted number of Renewable Energy Credits each year. The credits will in turn be paid to developers of renewable energy to assist in financing renewable energy projects.

Among other steps, the PSC is to work with NYS Energy Research and Development Agency on a variety of matters, including: creating a NY-certified clean electric product that can be labeled and sold; maximizing energy efficiency and renewable heating and cooling technologies; and developing a report on offshore wind energy. The Clean Energy Standard will be subject to reviews every three years.

Interestingly, the standard relies on



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nuclear power plants to achieve the goals. As early as April 2017, the standard requires all State investor-owned and energy suppliers to purchase Zero Emission Credits to pay for the carbon-free emissions from NY's nuclear plants. This is aimed at supporting upstate nuclear plants. Almost one-third of the State's

power comes from nuclear plants. The plants are financially stressed due to historic low natural gas prices, subsidies to renewable energy sources, mandates for wind and solar capacity and stagnant growth in power demand.

Apparently, the State has judged that the long-term questions posed by nuclear power opponents regarding storage and disposal of nuclear fuel waste are outweighed by the carbon free emissions from the plants and need for generating capacity. The Nuclear Energy Institute has lauded the standard saying "Gov. Cuomo and the Public Service Commission correctly acknowledge nuclear power plants as indispensable sources of emissions-free power, meriting explicit valuation by the state as a clean energy source. Other states should strongly consider emulating New York's new energy standard."

The costs of the Clean Energy Standard for business and consumers are expected to be significant. PSC has suggested that the costs are likely to exceed \$3 billion over the next 14 years. Additionally, the cost per megawatt-hour is expected to be higher than the nuclear subsidies that are

part of the standard. As anticipated, PSC and green groups praised the standard and argue that the costs will be outweighed by anticipated benefits through reduction of greenhouse gas emissions and expansion of the renewable power supply.

A comparison of statements following announcement of the standard is instructive. The Chair of Energy and Finance for NY, Richard Kauffman, stated that "[u]nder Governor Cuomo's leadership, New York State has started a clean energy revolution and today is just the latest step in our path to a cleaner energy future. The Clean Energy Standard aligns with the Governor's directive to phase out coal power by 2020 and affirms New York's position as a leader in combating climate change." In sharp contrast, the New York Business Counsel has stated that "[w]ith today's action, it is clear the Public Service Commission has failed to properly evaluate the significant costs associated with the Clean Energy Standard. This failure will cost New York State businesses billions of dollars and put current and future New York manufacturing jobs, and jobs in other energy-intensive sectors, in mortal danger."

While increasing renewable energy may be a worthwhile goal, doing so in a command and control fashion under the Clean Energy Standard without a clear understanding of costs, economic impact and benefit, has the potential for significant consequences to all New York businesses and consumers.

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