Memorandum of Opposition

February 4, 2013

S.2520 (Maziarz, Larkin, Marcellino, Ranzenhofer, Ritchie, Young)

Title: An act to amend the public service law and the tax law, in relation to creating the clean fuel and job creation tax credit of 2013 to incentivize power plants to repower existing facilities or construct new facilities which use cleaner burning fuels or add significant pollution control technologies.

Provisions: The bill creates a clean-fuel and job creation tax credit that is available to major electric generating facilities in New York State that undertake repowering projects, qualified energy infrastructure investments, and qualified new construction projects. Projects and investments qualify for the credit if they meet certain minimum environmental requirements pertaining to heat rate, emission rate for relevant siting air contaminants, and cooling water withdrawal rate.

Statement of Opposition: In the name of enhancing competition and improving environmental compliance, S.2520 provides hefty tax incentives for the continued operation of New York’s dirtiest and least economical generating facilities, which will distort market signals, undermine competition, and perpetuate reliance on fossil fuel generation in the State. Rather than furthering the modernization of New York’s generation fleet in a thoughtful and deliberate manner consistent with the full range of New York’s energy planning objectives—including reducing the State’s greenhouse gas emissions consistent with Executive Order No. 24 and achieving statewide goals for renewable generation consistent with the New York Renewable Portfolio Standard—S.2520 instead encourages ad hoc investments in outdated generation resources that the market has shown to be unable to compete on their own. Requiring New York taxpayers now to help underwrite hundreds of millions of dollars of retrofits for these facilities, facilities which do little to maintain bulk reliability and whose continued operation is inconsistent with New York’s vision of a low-carbon energy future, is poor policy. To the extent there is a legitimate need to address, it is the loss of jobs and local tax base associated with the timely retirement of these facilities. This hardship can be better remedied through community transitional grants funded by the Regional Green House Gas Initiative (RGGI) in exchange for permanent closure agreements of the coal generating facilities. This would provide transition funding for communities through New York State’s economic development agencies as well as provide funding for the rapid deployment of renewable energy generation from wind and solar, which in turn will provide new economic development, manufacturing and job opportunities in upstate communities.
In November, Governor Cuomo described super storm Sandy as a wake-up call about the need to take meaningful action to address climate change. The effects of climate disruption were brought home with terrible clarity to the millions of New Yorkers whose lives were devastated by the storm. Now, more than ever before, it is vital that New York approach decisions that will shape energy policy in the state for decades to come with a view to how they will impact New York’s contribution to climate change. S.2520 heads New York in precisely the wrong direction in this regard. Rather than improving the market signal to power generators to help them internalize the impacts of their greenhouse gas emissions, it encourages counterproductive behavior by subsidizing further investments in fossil fuel generation.

Moreover, as recent analyses have shown, there is no bulk reliability need for the New York coal plants. The plants are located far from major downstate load centers, and as NYISO’s 2012 Reliability Needs Assessment recently concluded the retirement of all coal plants in New York by 2015 would have a negligible impact on resource adequacy in the State. Consequently, there is no basis for asking New York taxpayers to help underwrite the cost of retrofitting or repowering these plants on the basis of maintaining grid reliability. The preservation of jobs and local tax base in the communities faced with plant closures is far better addressed by targeted transition funds and renewable energy development programs than committing them to failed models of the past.

The Sierra Club strongly urges your opposition of S.2520.

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1 NYISO Reliability Needs Assessment at 8, 45.