

**NEW YORK STATE**  
**DEPARTMENT OF PUBLIC SERVICE (DPS)**  
ENVIRONMENTAL JUSTICE INTERAGENCY TASKFORCE  
**DRAFT ACTION AGENDA**

**I. General Recommendations and Agency Actions**

**Recommendation 1: Provide for Increased Community Representation and Access to Decision Making Processes**

Action Agenda

- When DPS holds public statement hearings that implicate environmental justice concerns, DPS staff will work with community based organizations and citizens groups to schedule those hearings at times and in places that encourage participation by the environmental justice community. DPS will work more actively with community groups and neighborhood associations to learn from the first-hand knowledge and experience of those who live in environmental justice areas. DPS will be sensitive to the needs of non-English speaking participants in the course of all siting proceedings.
- This Action Agenda also addresses the specific stakeholder recommendation below that states: “DPS should make its public hearings and printed materials more accessible and available for residents of distressed neighborhoods.”

**Recommendation 2: Continue Collaboration with the Environmental Justice Community**

Action Agenda

- As more fully described in the DPS Agency Survey of current programs, in the Commission Order Instituting the Energy Efficiency Portfolio Standards (EEPS) proceeding, the Commission explicitly discussed the importance of environmental justice concerns in the development of this new energy efficiency initiative. At a roundtable last winter, environmental justice leaders identified three major issues to address during the proceeding:
  1. Community participation in education and outreach on energy efficiency.
  2. Obtaining workforce training.
  3. Studying the health and environmental impacts on environmental justice communities of peaking turbines.

Environmental justice advocates identified the study of targeted energy efficiency programs to reduce reliance on certain peakers and to avoid the need for new power plant construction in their neighborhoods.

- A working group (Working Group VIII), including environmental justice leaders as well as utility, generator, consumer, government and other parties, filed its preliminary report on environmental justice issues, among other things, on October 17, 2008. In particular, this group was charged with exploring the use of energy efficiency and other measures,

including demand response technologies, to reduce the need for the most polluting generating plants located in or near identified environmental justice communities, consistent with electric system reliability.

The Working Group formed a technical study group to review existing studies and data on health impacts; and to compile data that could support recommendations to maximize peak reduction and energy efficiency resources in or affecting environmental justice communities, estimating it would complete the initial assessment by May 2009 and submit a final report. To date, the technical study group (including Sustainable South Bronx, DEC, Con Edison, the NYISO, DPS Staff and NYSEERDA), has identified subject peakers located in or near environmental justice areas, and among those, a subgroup whose load may be appropriate for demand-side reduction measures.

The Report of Working Group VIII, issued on October 17, 2008, informed the actions of the Public Service Commission, which at its February 12, 2009 session instituted a new proceeding to examine potential initiatives to promote demand response in [NYISO Zone J, served by Consolidated Edison of New York, Inc. (Con Ed)] parts of the state where peak load reduction would produce greatest results. In the instituting order, the Commission mandated “[i]dentification and description of proposed cost-effective demand response programs, including but not limited to programs that could be targeted to reduce a) system coincident peak, b) individual network peaks, and c) operation of generating units in environmental justice areas.”

The Commission’s order instituting the new proceeding also provides that demand response programs will no longer be within the purview of the EEPS proceeding. Parties interested in this group of issues were instructed that they should request active party status in Case 09-E-0115.

The DPS appreciates the contributions to the EEPS proceeding from representatives of the environmental justice community, particularly from New York City, and looks forward to continued assistance and collaboration in the new Demand Response Initiatives (DRI) proceeding. The Department is committed to developing this relationship further as programs are advanced in accordance with (DRI) and if a new power plant siting law is enacted. Additionally, DPS is giving thought to developing a list of speakers on topics of critical interest to environmental justice communities and offer the availability of these speakers for neighborhood meetings.

- This DPS Action Agenda also addresses the following specific stakeholder recommendation below: “DPS should actively pursue opportunities to interact with the environmental justice community in those neighborhoods that are distressed.”

#### **Recommendation 5: Develop environmental justice and sustainability provision in permitting**

##### Action Agenda

- While DPS is not directly involved in either process, it will be the implementing agency if there is a new PSL Article X siting law, and expects to provide input to the Governor and

lawmakers regarding these issues. The Department’s public forums during permitting processes will enable stakeholder access in the permitting proceedings.

## **Recommendation 9: Provide Environmental Justice Training for Agency Staff**

### Action Agenda

- DPS will review its training program for staff and evaluate what could be done to raise awareness of environmental justice issues, including the following possible improvements:
  - A discussion of how permitting decisions impact distressed communities;
  - Site visits, including an opportunity to work actively with community-based organizations (CBOs) and neighborhood groups;
  - A discussion regarding language, communication, and economic barriers that discourage participation by the environmental justice community in the proceedings of the PSC; and
  - An examination of how DPS can develop an appropriate environmental justice agenda.
- DPS is also exploring the development of a training checklist/template to guide agency policy-makers through the decision-making process for policies that may impact environmental justice communities. The checklist would pose questions asking whether consideration has been given:
  - To the impact of the current decision on air and water quality;
  - Whether public access to meetings in the environmental justice community has been provided;
  - Whether language and communication barriers have been addressed; and
  - Whether consideration has been given to how this decision will impact the quality of life of the residents of the community. This checklist would be developed in consultation with environmental justice groups involved in energy-related issues around the State.
- This Action Agenda also addresses the specific stakeholder recommendation below that: “DPS should develop a policy that requires environmental justice awareness and sensitivity training for staff. As a beginning, the agency should offer all its attorneys continuing legal education on the principles, policies, and relevant laws concerning environmental justice.”

## **II. Draft Specific Recommendations and Agency Actions**

### **Article X Legislation**

#### Stakeholder Recommendation

- Legislation needs to address environmental justice by:
  - Promoting the equitable siting of safe, clean energy generation and transmission facilities;

- Addressing the disproportionate public health and environmental impacts of state-permitted facilities;
- Developing economic incentives to encourage the phasing out of energy inefficient peakers; and
- Providing funding to assist the participation of interveners, particularly representatives of the environmental justice community, in siting proceedings.

#### Action Agenda

- If and when the Legislature passes and the Governor signs a new PSL Article X bill, DPS will be the implementing agency for the new law. While DPS is not the driver of new Article X enactment, it nonetheless stands ready to assist the Governor and other lawmakers with concepts that take into consideration the environmental justice community. DPS will uphold any new statutory requirements related to the siting of electric generation facilities when and if a new power plant siting law is enacted.
- As more fully described in the DPS Agency Survey of current programs and discussed further above, through its work on Phase II of the Energy Efficiency Portfolio Standard (EEPS) as well as its efforts on the recently commenced Demand Response Initiatives proceeding (DRI), and its work on the State Energy Plan, DPS is immersed in and is becoming keenly aware of the many concerns faced by the environmental justice community. This awareness is translating into exploring the use of energy efficiency (such as demand response technology and utility rate incentives to encourage customers to shift usage and reduce peak loads<sup>2</sup>) and other conservation measures to address the concerns of distressed populations about the health and environmental impact on their communities of certain electric generation plants. As indicated above, DPS has placed a priority on addressing environmental justice concerns in the EEPS proceeding. Specifically, the administrative law judges presiding over the case issued a procedural ruling on July 3, 2008 that created five new working groups, including Working Group VIII, tasked with addressing the potential for energy efficiency, demand response and peak reduction measures to mitigate harms to environmental justice communities. On March 20, 2009, the Administrative Law Judges assigned to the EEPS proceeding sent a letter to active parties concerning the current status and anticipated schedule with respect to Working Groups VI (On-Bill Financing) and VIII (Demand Response and Environmental Justice). The Report of Working Group VIII, issued on October 17, 2008, informed the actions of the Public Service Commission, which at its February 12, 2009 session instituted a new proceeding to examine potential initiatives to promote demand response\* in [NYISO Zone J, served by Consolidated Edison of New York, Inc. (Con Ed)] parts of the state where peak load reduction would produce greatest results. In the instituting order, the Commission mandated “[I]dentification and description of proposed cost-effective demand response programs, including but not limited to programs that could be targeted to

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\*Demand response measures are used to reduce peak loads. Reducing peak loads offers numerous potential benefits, including: deferring the need for new generating capacity and new delivery infrastructure; and reducing the need to operate older peaking generation facilities (thus improving overall generator efficiency and reducing emissions) and reducing energy and capacity costs for consumers. Case 09-E-0115, *Proceeding on Motion of the Commission to Consider Demand Response Initiatives*, Order Instituting Proceeding (issued February 17, 2009), 2.

reduce a) system coincident peak, b) individual network peaks, and c) operation of generating units in environmental justice areas.”

The Commission’s order instituting the new proceeding also provides that demand response programs will no longer be within the purview of the EEPS proceeding. Parties interested in this group of issues were instructed that they should request active party status in Case 09-E-0115.

The DPS appreciates the contributions to the EEPS proceeding from representatives of the environmental justice community, particularly from New York City, and looks forward to continued assistance and collaboration in the new Demand Response Initiatives (DRI) proceeding.

### **Further Improve Website**

#### Stakeholder Recommendation

- DPS should further improve its website to make it even more user-friendly for the public, especially the environmental justice community.

#### Action Agenda

- DPS will work with environmental justice groups to identify steps that provide opportunities for improvement of the website, as well as websites to which the DPS site provides links. DPS will be sensitive to the needs of non-English speaking participants and those without technical backgrounds in the course of all siting proceedings.