

**RESOLUTION NO. 68**

**TITLE: CALLING ON THE GOVERNOR OF NEW YORK STATE TO  
RECONSIDER PART N OF THE ARTICLE VII REVENUE BILLS WITHIN THE  
2024 EXECUTIVE BUDGET**

**WHEREAS**, on February 1, 2023, the Governor of New York State announced her proposed New York State Fiscal Year 2024 Executive Budget (“the Budget”); and

**WHEREAS**, the Budget includes an amendment to Real Property Tax Law 575-b with Article VII, Revenue Bills under which Part N changes the appraisal model previously adopted for valuation of wind and solar projects; and

**WHEREAS**, for purposes of real property tax, electric power plants have historically been based upon reproduction cost less depreciation; and

**WHEREAS**, under the 2019 Climate Leadership and Community Protection Act, the Legislature is requiring all non-renewable power plants to be closed by 2040 and replaced by renewable power plants; and

**WHEREAS**, in order to lower the cost of the electricity to downstate ratepayers purchasing electricity from upstate renewable power plants, the New York State Legislature authorized ORBS to develop a revenue based assessment formula (“Real Property Tax Subsidy Formula”) that would result in a real property tax assessment for renewable power plants substantially less than the historical full value assessment formula used for power plants; and

**WHEREAS**, in developing Real Property Tax Subsidy Formula, ORBS failed to follow the notice and transparency due process procedures required by the NYS State Administrative Procedure Act for promulgating rules that have the effect of law; and

**WHEREAS**, in 2022, Schoharie County (together with impacted towns) commenced an action in the Supreme Court challenging the Real Property Tax Subsidy Formula and asserting that with respect to a renewable power plant in that county, the Real Property Tax Subsidy Formula would result in an assessment (and thus real property tax) that was more than 80% less than full value. The Supreme Court found that there was merit to the challenge and issued a stay Real Property Tax Subsidy Formula; and

**WHEREAS**, rather than litigate the merits of the Real Property Tax Subsidy Formula, the Governor has proposed as part of her budget Part N of Article VII which establish the Real Property Tax Subsidy Formula as law without further notice or inquiry; and

**WHEREAS**, in April, 2022, Delaware County issued a white paper to the DEC, NYSERDA and the Climate Council asserting that the Climate Scoping Plan required by the 2019 Climate Act would have a disproportionate impact on upstate rural communities and requesting the following changes:

*The Legislature should leave the decision in the upstate area whether to change to all electric home or business to the homeowner and business owner The Legislature should leave the decision whether to change to all electric equipment to the homeowner and user*

*With respect to Transportation, the Legislature (and/or the DEC) should focus on enabling the transition to electric vehicles rather than trying to force the transition*

*The Legislature should not impose a carbon tax, a mileage surcharge, increased registration fee for gasoline powered cars, or any additional tax on gas, propane, natural gas or home heating oil or a tax on solid waste; and*

**WHEREAS**, neither NYSERDA, DEC nor the Climate Council responded to Delaware County submission. In December, 2022, the Climate Council issued a final Scoping Plan rejecting (without mentioning) Delaware County proposed amendments; and

**WHEREAS**, in October, 2022, the NYS Power Authority submitted an Article VII Petition for a Certificate of Environmental Compatibility and Public Need to the Clean Path Transmission Line. The Clean Path Transmission Line is a 1300 megawatt high voltage direct current line (175 miles) proceeding south from Delhi through Hamden, Colchester and Hancock all the way to Queens, New York. As part of that project, a converter station (DC 345 kv HVAC) will convert alternate current electric power from 3800 megawatts of upstate renewable projects to direct current electric power for transmission underground to Queens; and

**WHEREAS**, Delaware County is not opposed to the project but has concerns including, but not limited to, the following:

- (1) security and fire protection at the converter and substations;
- (2) real property tax (or payment in lieu thereof) on the new infrastructure (i.e., several years ago, NYSEG transferred the Delhi substations to the Power Authority resulting in a significant loss in real property assessments);
- (3) a guaranteed commitment of access to the \$270,000,000 Community Investment Fund – without a guarantee of funds, the funds (and its Board of Directors) will be (based upon past experience) primarily downstate focused; and
- (4) assurances about future access to affordable renewable electricity (and/or a reliable grid) needed locally to meet the mandatory electrification of transportation and building heating if all new upstate renewable electricity is being directed downstate to meet the needs of New York City; and

**WHEREAS**, the Board of Supervisors, is charged to operate in the best interest of our tax payers through responsible management and administration of revenues, meeting our obligations under the state imposed tax cap annually and providing a high level of government services to the residents of Delaware County;

**NOW, THEREFORE, BE IT RESOLVED** that the Delaware County Board of Supervisors objects to the Part N of Article VII of the Governor's Budget Proposal which requires our residents to subsidize the cost of electricity directed to NYC and urges the Governor and the Legislature to find alternative measures that are sustainable and equitable to all New Yorker to ensure affordable renewable electricity; and

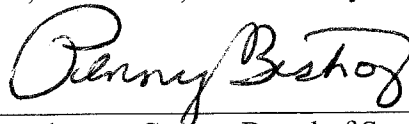
**BE IT FURTHER RESOLVED** the Delaware County Board of Supervisors directs Delaware County Planning to file for party status in the Article VII Proceeding brought by NYS Power Authority for a Certificate of Environmental Compatibility and Public Need for the Clean Path Transmission Line; and

**BE IT FURTHER RESOLVED** that the Delaware County Board of Supervisors share this information as correspondence with New York Governor Kathy Hochul, Senator Peter Oberacker, and Assemblymen Christopher Tague, Joe Angelino, and Brian Maher.

State of New York  
County of Delaware

I, Penny A. Bishop, Clerk of the Board of Supervisors of Delaware County, do hereby certify that the above is a true and correct copy of a resolution adopted by said Board on the 22<sup>nd</sup> day of March 2023 and the whole thereof.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of said Board at Delhi, New York, this 22<sup>nd</sup> day of March 2023.



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Clerk, Delaware County Board of Supervisors