



## Capitol Connection – Week Ending August 25

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### *State*

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#### **Governor Cuomo Signs Package of Bills to Promote Solar in NYS**

This week Governor Cuomo signed three bills into law which provide tax relief to residential and commercial customers seeking to install solar energy systems.

“The bills...continue to build momentum for the state's NY-Sun Initiative by accelerating the installation of solar power while making it a more affordable option for residents and businesses,” Governor Cuomo said. “Together with other NY-Sun incentives, these bills demonstrate the state's commitment to reducing energy costs, growing our green energy sector, creating jobs, and protecting the environment.” NY-Sun calls for the installation in 2012 of twice the customer-sited solar electricity capacity added in 2011, and quadruple that amount in 2013.

Various trade groups applauded the Governor's actions. The Alliance for Clean Energy New York (ACE NY) praised the Governor and legislative leaders for their ongoing support of New York's solar industry. The Solar Energy Industries Association (SEIA) also applauded the new laws arguing they will keep New York's solar growth on track to achieve NY-SUN's renewable energy goals.

#### **Assembly Energy Chairman Introduces Legislation Prohibiting Utilities From Recovering Costs Incurred During a Labor Dispute**

A new bill, [A10806](#), has been introduced at the request of Assemblyman Kevin Cahill (D-Kingston), Chairman of the Assembly Energy Committee, which would prohibit the Public Service Commission from approving a rate increase to offset expenses relating to contracts for services or the non-permanent employment of persons due to a labor dispute. The sponsor argues that utility customers should not be held financially responsible for “avoidable management tactics” and that this legislation will ensure that utility customers are not charged for any costs associated with a labor dispute.

### **State Moves Forward on Tappan Zee Bridge Replacement**

New York State moved forward on a Tappan Zee Bridge replacement plan this week, as the members of the New York Metropolitan Transit Council ([NYMTC](#)) unanimously voted to support Gov. Cuomo’s plan to build a new Tappan Zee bridge. The bridge replacement plan is the largest capital project currently being undertaken by the state; the [Thruway Authority](#) is responsible for the project. A detailed financial plan for the replacement bridge has not been made public. Read the [Governor’s letter](#) to U.S. Transportation Secretary Ray LaHood requesting a \$2 billion loan from the federal government.

### **Governor Releases Report on State’s Response to Hurricane Lee, Tropical Storm Irene**

Last Thursday, the Cuomo Administration released a 23-page report entitled “[New York Responds](#),” which details its response to Hurricane Irene and Tropical Storm Lee. Administration officials used first anniversary of the two storms to highlight the \$574 million in state aid that has been distributed in affected communities. According to the report, \$277 million has gone directly to homeowners, businesses and municipalities.

### **Court Overturns MTA Tax**

A state imposed tax on New York City-area businesses that funds the Metropolitan Transportation Authority (MTA) was overturned by a Nassau state Supreme Court Justice this week. Four previous rulings have upheld the tax.

The MTA payroll tax was passed in 2009; it requires employers to pay the MTA 34 cents for each \$100 in payroll costs. Suburban legislators and businesses have been strongly opposed to the tax because they say they are being forced to subsidize city transportation that they do not benefit from.

The suit was brought by Nassau, Suffolk and Westchester counties, which argued that the tax was unconstitutional because it violated local home rule.

The MTA said that it will appeal the ruling, and warned of service cuts, fare increases and a halt on capital projects if the decision is ultimately upheld. The state will continue to collect the tax while the case is on appeal.

### **State Comptroller: New York's Fiscal Picture Remains Tied to Pace of Recovery**

New York State tax revenues were close to expected levels in July after falling short of estimates in May and June, according to the [July Cash Report](#) released today by State Comptroller Thomas P. DiNapoli. The Comptroller’s press release with other details can be found [here](#).

"New York's fiscal picture remains tied to the strength of the economic recovery. The economic outlook has deteriorated in recent months and that is making New York's revenue outlook less certain," DiNapoli said. "Our month-to-month collections have been highly variable, and we need to be prepared for surprises, good or bad."

## **Federal**

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### ***The House and Senate are in recess from August 6th until September 10th***

#### **Mitt Romney Releases Energy Plan**

On Thursday, presumptive Republican Presidential nominee Mitt Romney outlined his plan for the United States to reach energy independence by the year 2020. He outlined goals that rely heavily on the removal of federal oversight while approving the Keystone XL pipeline and opening up large swaths of U.S. coastline and public lands to more oil and natural gas drilling. **Click [here](#) for the Romney Ryan Energy Plan.** For highlights of the plan and how it differs from President Obama's Energy policy, please see the attached.



Obama Romney  
Energy Plans.docx...

#### **Court Vacates EPA's Cross -State Air Pollution Rule**

In a move to reduce the spread of air pollution from upwind states to those downwind, in July 2011, the Environmental Protection Agency (EPA) issued the Cross-State Air Pollution Rule (CSAPR). The rule would require 28 states in the East, Midwest, and South to reduce power plant emissions of nitrogen oxides and sulfur dioxide that cross state lines in order to help states meet national ambient air quality standards (NAAQS). Con Edison was one of fifty petitioners to challenge the rule as the original emissions allowance budget for New York State was too small to be reasonably met.

On August 21, the U.S. Court of Appeals for the District of Columbia Circuit ruled that CSAPR exceeded EPA's statutory authority and created a required emissions reduction "by an amount greater than the 'significant contribution' that brought it into the program in the first place." The court also disapproved of EPA's creation of a national program opposed to having each state create an EPA approved plan.

With CSAPR vacated, the EPA must return to administering the 2005 Clean Air Interstate Rule while the agency works to create a replacement. Due to the proximity of the federal elections, it is highly unlikely that the EPA will promulgate new rules; however, the Administration must decide on an appeal of the court decision within 45 days.

Additional outstanding environmental regulatory issues include the finalizing of green house gas regulations and a stymied case before the U.S. Court of Appeals in D.C. to stop the implementation of Utility MACT (maximum achievable control technology).

#### **CYBERSECURITY: White House Considers Cybersecurity Bill Executive Order**

As reported last week, cybersecurity legislation failed in the Senate before the summer break. Should Congress fail to move cybersecurity legislation in the coming months, the White House is studying how to craft a related executive order, one that uses existing statutory authority to achieve many of the programs contemplated in the [Lieberman Collins bill \(S. 3414\)](#). Possible options contemplated for such an Executive Order include: cyber threat information sharing between the government and critical infrastructure; developing voluntary cybersecurity standards for critical infrastructure; requiring relevant agencies to improve cybersecurity oversight; and creating incentives for companies to improve

cybersecurity. When the Senate returns in September, they will have less than 2 weeks (and a crowded legislative agenda) to pass a cybersecurity bill.

### **Government Accountability Office Reports on EPA Regs**

The Government Accountability Office (GAO) released a report on recent Environmental Protection Agency rules affecting the Cross-State Air Pollution Rule and Mercury and Air Toxics Standard. The agency concluded that the new rules “would likely increase electricity prices in some regions,” and “while these actions may not cause widespread reliability concerns, they may contribute to reliability challenges in some regions.” *Link to the full GAO report: EPA Regulations and Electricity: Better Monitoring by Agencies Could Strengthen Efforts to Address Potential Challenges*, GAO-12-635, July 17 can be found here <http://www.gao.gov/products/GAO-12-635>

Also, Sen. Rockefeller issued a letter to the Dept. of Energy, the Environmental Protection Agency and the Federal Energy Regulatory Commission asking them for more detailed responses to the report regarding the impact of EPA regulations on electricity generation and supply.

In the letter, Sen. Rockefeller asserts that the GAO report:

- (1) “confirms that EPA’s standards can be implemented while maintaining overall grid reliability”;
- (2) “confirms that the vast majority of power plants will install pollution control equipment to meet the standards, and will continue to operate for many years”; and
- (3) “underscores that the health benefits of these standards...far outweigh the potential costs.”

### **American Gas Foundation Study on Pipeline Replacement**

The American Gas Foundation has produced a report entitled “[Gas Distribution Infrastructure: Pipeline Replacement and Upgrades](#).” It details the factors driving utilities to accelerate the upgrade of the existing pipeline infrastructure, the status of these efforts and a discussion of alternative methods of recovering the costs associated with the necessary investments.

The report states: “Many states have concluded that the historical reliance on resource-intensive base rate cases is not an effective or efficient means of meeting the safety imperatives associated with aging pipeline infrastructure. Several jurisdictions have implemented alternative cost recovery mechanisms to address the need for timely recovery including infrastructure cost trackers, infrastructure base rate surcharges, and deferred regulatory assets. The specific mechanisms reflect the goals of the local natural gas utility and the particular statutory guidance, policies, and precedent of the respective jurisdiction. Notably, the majority of these programs have been implemented within the last five years.”