



**Time to Replace the Batteries: Addressing Climate in a Time of Change... By: John Parker, Partner, Sahn Ward Braff Coschignano PLLC**

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Climate change is as local a problem as it is an international one. It will continue to reshape our businesses and our personal lives. Temperatures continue to climb, with 2024 being the hottest year on record. The costs associated with extreme weather events are made worse by the changing climate. Not surprisingly, insurance premium increases result from climate disasters. The data shows that the magnitude of the challenge is not receding. In fact, the energy needed to power our lifestyles continues to increase. What is certain is that a future witnessing climate change will be an expensive proposition.

The recent international Conference of the Parties or COP 29 brought together world leaders to address climate change. The meeting sought to further the goal of keeping climate change in check by limiting temperature increases to the 1.5°C threshold set forth in the 2015 Paris Agreement and to limit the worst environmental damage. It may not be achievable. The Conference also had to address issues raised by the elections in the United States and the likely change in focus for energy priorities expected during the second Trump Administration. Among other issues is a fundamental question of whether the country will again leave the Paris Agreement even though leading corporate executives do not want that to happen. While there are clear indications of a new direction from the incoming Administration, the end result, ultimately, is unclear.

As the Conference drew to a close, developing nations expressed concerns that richer nations of the world were not living up to their commitment to help fund an equitable energy transition. Although participants struggled for consensus, negotiations finally produced agreement on \$300 billion per year in future funding, which raised concerns among many participants about whether this is sufficient. Estimates indicate that over \$1 trillion a year is needed to address climate change impacts.

In New York, climate change efforts rely upon renewable energy and require battery energy storage systems. State law requires a lot of battery power. These rechargeable batteries will pave the way to a resilient energy system supplying our homes and our businesses in the renewable energy future. The larger battery systems require government approvals. These systems also require planning and financing if reasonable economic returns will justify their construction. They power homes and businesses from renewable energy when the sun has set or the winds are tranquil and provide resilience and reliability.

New York's transition timeline to emission free electricity is ambitious. The Community Leadership and Climate Protection Act law specifies that 70% of the State's energy must come from renewable energy sources by 2030, and 100% emission free electricity by 2040. Long Island is a leader in achieving renewable goals, particularly in solar installations. The ultimate success of the State's renewable energy efforts will require additional review. In 2023, a key part of the strategy changed, when the Governor doubled the battery energy storage systems requirements to six gigawatts of power, which is enough to roughly power almost 4.5 million homes. If battery storage is not widely adopted and the ambitious goals are not met, some may seek to expand the role of State pre-emption of local control in the siting of these systems, as is done for other larger renewable

systems.

Achieving the battery storage goals have come with controversy. Battery system fires have raised safety concerns resulting in municipalities enacting moratoriums stopping approvals. For example, the Town of Oyster Bay extended, for six months, a moratorium on siting new systems to enable it to assess fire risks and to ensure emergency responders are adequately trained. The Town of North Hempstead has also approved a one-year moratorium on siting. Moratoriums reflect a trend in some municipalities that want to weigh the benefits of clean energy storage against the need for safety protocols. The local fire safety officials do not necessarily oppose battery storage, but they too are working to find balance and have expressed support for the moratoriums. They are seeking to have a statewide code put in place addressing fire safety measures before battery facilities are built to protect the public and the fire fighters.

New York's efforts to keep the energy transition on schedule resulted in a multi-agency response to public safety concerns. A state Working Group found that regulatory changes were needed to energy and building codes. That process is underway, allowing the siting of these systems to proceed. Among other key findings is that although the battery fires can be intense, there were not significant environmental impacts caused when fighting and extinguishing them, which included reviews of the fire in East Hampton. Community questions include whether or not there are sufficient resources in the Volunteer Fire departments for mutual aid response. Some advocates question environmental impacts from these fire events given Long Island's underground water supply.

The future energy supply and its consumer and business experience will continue to evolve. The Chair of the Public Service Commission noted that the energy system of the future will be far more advanced than our current "analog system." The new digital systems involve energy that moves between the electric grid and the consumer, and sometimes back again, resulting in increased efficiency and resilience. The future improvements will include smart and interactive appliances that rely, in part, on battery energy storage systems, including electric vehicles during off hours. This approach further highlights the importance of battery systems of all sizes and scales.

The reality is that climate change efforts will increasingly rely upon states like New York which has committed, in law, to a renewable energy future. Battery storage will likely face continued public safety concerns in some communities but will be necessary for businesses and residents to meet their energy needs. Renewable energy is key to future climate progress. Battery storage is a necessary part of the effort to achieve international goals at the local scale.

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