S.6486-D (Parker) / A.7389-C (Kelles)

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BILL
S.6486-D (Parker) / A.7389-C (Kelles)
SUBJECT
Cryptocurrency Mining Moratorium
DATE
April 04, 2022
OPPOSE

The Business Council opposes this legislation for several reasons, but perhaps most importantly, it will not reduce, and could even result in an increase, in total greenhouse gas emissions.

This legislation has two major components:

- First, it would impose a two-year moratorium on a) new air permits for carbon-based fuel powered electric generating facilities that provide "behind-the-meter" electric energy consumed or utilized by cryptocurrency mining operations that use proof-of-work authentication methods to validate blockchain transactions, and b) the renewal of such existing permits if the permit renewal would result in an increase in the amount of electric energy consumed by such cryptocurrency mining operation.
- Second, it directs the Department of Environmental Conservation to prepare a generic environmental impact statement on cryptocurrency mining operations using proof-of-work authentication methods. The GEIS would assess energy usage by such facilities, potential greenhouse gas and other emissions associated with energy sources used by such facilities, anticipated expansion of this industry sector in New York State, the impact of this industry's expansion on achievement of the state's GHG emission reduction goals, and the social and economic costs and benefits, of such operations, among other factors. A final GEIS is required to be completed within one year of the effective date of this legislation.

We have a number of concerns with this legislation.

- It will not limit nationwide or worldwide engagement in "proof of work" cryptocurrency mining. Instead, it would temporarily prohibit such engagement in New York State. The likely result will be the replacement of precluded in-state activity by increased mining activities at facilities located elsewhere.
- This approach is inconsistent with provisions of the CLCPA that require the state's implementation plan to address emission leakage, defined in the act

as “a reduction in emissions of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside of the state.” The CLCPA also required the Climate Action Council to identify “measures to minimize the carbon leakage risk and minimize anti-competitiveness impacts of any potential carbon policies and energy sector mandates” and requires the state to adopt regulations that, among other things, “incorporate measures to minimize leakage.”

- This legislation will result in the “leakage” of both economic activity and greenhouse gas emissions from New York State, as such activities will likely shift to states with relatively low power costs – which are typically also states with higher power-related greenhouse gas emissions than New York. As example, states with relatively low commercial power costs such as Pennsylvania in the northeast (58% of New York’s average costs), or Texas or North Carolina (47% and 48%, respectively, of average New York average costs) all have significantly more coal generation, and significantly less renewable generation than New York. (see table below). This outcome would have the unintended adverse consequence of ***increased*** global greenhouse gas emissions.

	AVERAGE COMMERCIAL ENERGY COSTS (CENTS PER KWH, JANUARY 2022)	% OF STATEWIDE POWER GENERATION USING COAL	% OF STATEWIDE RENEWABLE POWER GENERATION
NEW YORK	16.58	< 1%	27%
PENNSYLVANIA	9.63	10%	3%
NORTH CAROLINA	7.92	17%	14%
TEXAS	7.80	16%	21%

- This proposed legislation also raises significant concerns that measures to regulate energy use and greenhouse gas emissions as part of CLCPA implementation will base such regulations on an inherently subjective assessment of the product or service being produced by energy consumption.
- This proposed legislation totally discounts measures taken by some cryptocurrency mining operations that have already, on a voluntary basis, secured sufficient emissions offsets to achieve net zero carbon emissions from their operations. The CLCPA envisions the use of alternative compliance

mechanisms to help achieve the state's aggregate greenhouse gas emission targets; it is unclear why the utilization of offsets by this sector is being ignored.

- Finally, this legislation ignores the positive economic impact these facilities are having in the communities in which they located, including new, relatively high paying jobs and new or increased real property tax payments to local governments and school districts.

We recognize that the growth of cryptocurrency mining will have impacts on New York's energy planning and its CLCPA implementation planning. However, this is a significant growth industry in the U.S. and worldwide, and the state's planning efforts should not simply dismiss this sector. Rather than imposing a moratorium on these investments, the state can and should include this growth sector in its ongoing planning process, as regulations to implement the CLCPA have not even been promulgated yet.

This legislation will have adverse impacts on New York's economy and can be expected to have negative impact on aggregate greenhouse gas emissions as well.

For these reasons, we oppose adoption of S.6486-D/A.7389-C.