

**TESTIMONY OF THE MAYOR'S OFFICE OF SUSTAINABILITY
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON ENVIRONMENTAL PROTECTION
April 24, 2017**

I. INTRODUCTION

Good afternoon, Chair Constantinides and members of the committee. I am John Lee, Deputy Director for Green Buildings and Energy Efficiency in the Mayor's Office of Sustainability (MOS). Thank you for this opportunity to address Introduction 1465 and Introduction 1503-A, and to speak about the use of fuel oil No. 4 and No. 6 in the city and the de Blasio administration's efforts to improve air quality in New York City. I am joined here today by my colleagues, Susanne DesRoches, Deputy Director of Infrastructure Policy in the Mayor's Office of Recovery and Resiliency (ORR), Geraldine Kelpin, Director of Air and Noise Policy and Enforcement at the Department of Environmental Protection (DEP) and Iyad Kheirbek, Director, Air Quality Program at New York City Department of Health and Mental Hygiene (DOHMH).

II. OUR COMMITMENT TO CLEAN AIR

Introduction 1465 would require the phase-out of fuel oil grade no. 4 in boilers by October 1, 2025 instead of January 1, 2030 as the law currently requires. We support the intent and objective of this legislation, as exemplified by the commitments and progress that the City has made to address climate change and air quality.

While there is clearly still more work to be done, air quality in our city has improved greatly in the past several decades, with levels of harmful air pollutants in the past few years well below concentrations of 10 years ago. Just last week, the Health Department released the latest New York City Community Air Survey (NYCCAS), the largest ongoing, street-level urban air-monitoring program of any U.S. city. The survey found that between 2009 and 2015 the city-wide annual average concentration of fine particulate matter (PM_{2.5}) declined significantly by about 18 percent. The greatest improvements in PM_{2.5} levels over this time period occurred in some of the previously most polluted neighborhoods.

A key factor in the reduction of fine particulate matter and subsequent air quality improvement has been the phase out of the use of the heaviest heating oils in buildings. In 2011, DEP issued regulations requiring residential and commercial buildings to convert from No. 6 and No. 4 heavy heating oils to cleaner fuels. The transition from No. 6 fuel was completed by June 30, 2015. With the amendment of the Air Code within the City's Administrative Code, any use of No. 6 fuel oil must be ended by 2020 and any use of No. 4 fuel oil by January 1, 2030.

To date, DEP has achieved 100% compliance with the phase out of fuel oil No. 6. More than 6,300 buildings have converted to cleaner fuels, many with assistance provided through the NYC Clean Heat program. Approximately 75% of these buildings converted directly from fuel oil No. 6 to natural gas or fuel oil No. 2.

As a result of all fuel conversions since 2012, greenhouse gas (GHG) emissions in New York City have decreased by 925,000 metric tons of carbon dioxide annually, the equivalent of taking roughly 195,000 cars off the road. PM_{2.5} emissions from buildings have also decreased by 510 tons on an annual basis – preventing an estimated 110 premature deaths and 250 emergency room visits and hospitalizations each year. This success was achieved with the help of the NYC Clean Heat program and its successor, the NYC Retrofit Accelerator.

Neighborhoods with the highest density of boiler conversions – such as northern Manhattan, and the Southern and western Bronx – saw the greatest improvement in air quality, with the greatest proportion of health benefits occurring in vulnerable, high poverty areas.

In May 2015, the City, working with the Council, also enacted changes to the air pollution control code (Local Law No. 38). The law requires all permitted entities, including in-city power plants using steam-generating boilers for electricity generation, to completely phase out the use of fuel oil No. 6 by 2020 and fuel oil No. 4 by 2030; thereby prohibiting *any* use of fuel oils No. 6 or No. 4 in the city.

While all New Yorkers have a stake in improved air quality, there are disparities within the city in both exposures and pollution-attributable health outcomes. DOHMH has clearly documented that adverse health outcomes resulting from poor air quality occur disproportionately in high poverty communities.¹ Reducing pollution emissions from predominant sources such as an earlier phase-out of fuel oil No. 4 throughout the city will reduce these health disparities.

III. THE STATE OF FUEL OIL NO. 6 AND NO. 4 TODAY

Buildings

To comply with existing 2011 DEP regulations on the use of fuel oil No. 6 or No. 4, the benefits of which were discussed above, roughly 1200 buildings converted from fuel oil No. 6 to No. 4. Another approximately 1800 buildings were originally using fuel oil No. 4 and thus have yet to make any conversions to-date, as the current law affords until Dec 31, 2029 to eliminate the use of fuel oil No. 4. Therefore, the proposed legislation would impact about 3,000 buildings in New York City.

In many cases, more significant expenditures are required to convert from fuel oil No. 6 and fuel oil No. 4 to fuel oil No. 2 or natural gas than just converting from fuel oil No. 6 to fuel oil No. 4. Fuel oil No. 4 is cleaner than fuel oil No. 6 from an emissions perspective. Therefore, the overall incremental air pollution impact from converting from fuel oil No. 4 to No. 2 will be less than the impact of converting from fuel oil No. 6 to No. 2 (which many buildings did as part of the original mandate).

Power Plants

Looking more closely at power plants, there are 24 in-city electric generating facilities containing 121 generating units with a combined capacity of approximately 10,000 megawatts (MW) – enough to meet over 80 percent of the city’s peak demand as required by the New York Independent System Operator, Inc. (NYISO). All in-city electric generating facilities rely on natural gas as their primary fuel. Two electric generating facilities currently use fuel oil No. 6 as backup fuel. Electric generating facilities are required to hold and use fuel oil as a backup fuel. The requirement to use fuel oil as backup is triggered when there is high electricity demand or constraints on natural gas supply coming into New York City, otherwise known as the, “Minimum Oil Burn rule,” which is promulgated by the New York State Reliability Council and enforced by the NYISO.

In addition to the electric generating facilities, steam plants also use fuel oil No. 6. Three steam plants use it for backup fuel and one steam plant uses fuel oil No. 6 as its primary fuel. In 2015, across the two electric generating facilities and four steam plants, approximately 21.5 million gallons of fuel oil No. 6 was consumed, accounting for 2.85% of the total energy generated (on a Btu basis) by these six facilities.² These facilities are currently making investments to meet the requirements of the existing mandate of Local Law No. 38 to phase out fuel oil No. 4 by 2030, and certain investments would have to be accelerated in order to meet an earlier fuel oil No. 4 phase out in 2025.

¹ For example, the rate of asthma emergency room visits attributable to PM_{2.5} is three times higher in the most disadvantaged neighborhoods compared to more affluent ones.

²Based upon analysis of 2015 filings of electric generating facilities and steam plants to NYS Department of Environmental Conservation.

The costs to the power plants and residential and commercial buildings will need to be evaluated in an Environmental Assessment Statement (EAS). This assessment must take into account not only the environmental benefits of the proposed action, but the economic impacts. Depending on the economic and environmental impacts of this legislation, it is possible a significant impact may be found that could impede the implementation of this regulation. As a result, the de Blasio administration suggests including a targeted waiver provision to address unique situations based on a set of comprehensive criteria. In addition, to give flexibility while achieving the same substantive outcome, the Administration would recommend allowing fuel oil No. 4 to be used until 2030 in cases where the equivalent of the fuel oil will meet fuel oil No. 2 emission standards.

In summary, the Administration's analysis shows that assuming fuel oil No. 4 is phased out by 2025 rather than 2030, the estimated incremental reduction in different emissions due to the five-year acceleration across these buildings and the six electric generating facilities and steam plants would be:

- Approximately 1.7 million tons of GHG emissions, with buildings accounting for 99% of this benefit.
- Approximately 750 tons of PM_{2.5}, with buildings accounting for 87% of this benefit.
- Over 7000 tons of oxides of nitrogen and 7500 tons of sulfur dioxide, with 85% of this benefit coming from buildings. (For electric generating facilities and steam plants, these numbers do not assume emissions controls and DEC permit limits on emissions, so the actual reductions for oxides of nitrogen will be lower).

From a public health outcomes perspective, the accelerated legislation would prevent 150 premature deaths and 300 emergency room and hospitalizations attributable to PM_{2.5} over the five years.

VI. INTRODUCTION 1503-A

Please allow me to speak briefly about Introduction 1503-A. The Mayor's Office of Sustainability (MOS) applauds Chairman Constantinides and the Council for their leadership and partnership in working with the Mayor on addressing the important effort to increase citywide energy conservation, sustainability, and resiliency through Local Law 92 of 2015, which required all stores to keep their doors and windows shut while an air conditioner or central cooling system is operating.

As we testified to in 2015, businesses that leave their doors open with air conditioners running during summer months waste energy, threaten the reliability and affordability of our energy supply, and generate unnecessary greenhouse gas emissions. A store with opened doors pumping cool air onto the sidewalk is one of the most conspicuous wastes of energy in New York City. MOS' analysis of Local Law 87 Energy Audit data showed that 10% to 20% of energy use and greenhouse gas emissions from buildings are from cooling in commercial spaces.

A significant amount of GHG emissions in New York City are generated by heating and cooling systems, which themselves are also often outdated. For example, when a business leaves its doors open with a cooling system running, large amounts of cool air escape the building, forcing the cooling system to expend more energy to maintain the lower temperature; this expenditure of more energy increases emissions, which in turn contributes to pollution and climate change.

While the emission reductions stemming from Local Law 92, will help the City reach its 80 x 50 goal, it also has helped deliver an important message about energy conservation. It is wasteful energy practice to run air conditioners with open doors, which places an economic burden on the rest of New York City ratepayers. Furthermore, during the summer, store air conditioners often operate while windows are open, which not only increases emission but also increases financial costs to businesses.

We acknowledge that energy conservation measures like Local Law 92 require a change of long-held business habits, many of which business owners deem crucial to attracting customers. At the same time, we are proud that our broader business community has helped support our overall goals of keeping the city cleaner and greener for everyone. We continue to have various agencies that are ready and willing to help businesses through any transitions they need to make in order to comply with the broader conservation goals.

For example, DCA launched a “Shut the Front Door Campaign” to coordinate public education and outreach letting store owners know they must shut their doors while air conditioners or central cooling systems are on. As members of the committee are aware, the current law includes an exemption for restaurants with doors or full-length windows that must remain open so that sidewalk cafes can be serviced. The relatively small number of licensed cafes in New York City was a small enough figure compared to the total number of brick-and-mortar businesses in our city to justify this exemption. In addition, the current law includes an exemption for windows that are actively being used to serve food or beverages to an outdoor space.

We would like to also briefly note that if Local Law 92 of 2015 is to be amended, the Administration would like to highlight for the Council an apparent drafting error that made it a violation of the law for chain stores to fail to comply with a requirement that they post a 311 complaint sign on their front doors, but failed to provide a penalty for this violation. We believe this is an error that needs to be corrected.

Introduction 1503-A proposes to effectively exempt all restaurants from this air conditioner law by changing the current exemption for doors that are adjoining to “outdoor space, or outdoor seating areas” to any restaurant door that is adjacent to simply just the “outside”. The bill also adds an exemption for windows that “adjoin indoor seating areas where food or beverages are served and link such areas to the outside,” resulting in a proposed exemption for virtually all restaurant windows and doors.

These proposed changes are broad and could undercut our combined success with an air conditioner law that includes commonsense exemptions that we have already deliberated. The bottom line is that one of the easiest ways in which businesses in our city can curb their demand for energy is by keeping their doors and windows closed while air conditioners are running.

The Council and the Administration have made it a priority to protect our City’s environment and help reduce harmful greenhouse gases – and we will work to ensure that our efforts remain effective and strong. We look forward to hearing from members of the public regarding this bill and would be happy to further discuss this proposal with the Council to see if a very limited adjustment is warranted and can be done in such a way that it does not undermine the current law.

V. NEXT STEPS

The Mayor and the City are committed to inclusive climate action and progress on air quality for all New Yorkers. This means continuing to drive to down GHG emission and improve on air quality citywide to alleviate disparities across communities, especially for vulnerable populations.

The steps the City has taken to date will improve overall air quality; facilitate the retirement of older, less efficient building boilers and power plants, while preserving the reliability of the electric system. Equally importantly, these efforts will also continue to move us toward our OneNYC goal of having the cleanest air of any major city in the country.

VI. CONCLUSION

Thank you for the opportunity to testify. We share your goals to reduce citywide greenhouse gas emissions, to protect and improve air quality in New York City, and to benefit all New Yorker’s health prosperity. We are happy to answer any questions that you may have at this time.

Testimony of Con Edison
Before the New York City Council
Committee on Environmental Protection
April 24, 2017

Good afternoon. Thank you, Chair Constantinides, and members of the committee for the opportunity to appear today. My name is Constantine Sanoulis and I am the Vice President of Steam Operations at Con Edison.

I am submitting comments today on Council Bill 1465, which would require the phase out of #4 fuel oil by October 2025. My comments today are focused on the financial and operational considerations this legislation would have on Con Edison's steam and electric generating facilities in New York City. Under current law, Con Edison made plans to phase out the use of #6 fuel oil by 2020 and #4 fuel oil by 2030. If the legislation being considered today becomes law, we would accelerate phasing out #4 fuel oil by 2025 and replacing it with #2 fuel oil.

Con Edison is committed to reducing our carbon footprint while providing our customers with safe and reliable energy service. As a company, we reduced our carbon footprint by 48 percent from 2005 to 2015.

In recent years, Con Edison added natural gas capability to its generating facilities to significantly reduce reliance on fuel oil. Fuel oil is primarily used as a back-up supply to natural gas which allows Con Edison to provide reliable service to our customers.

While Con Edison divested most of its in-city electric generating facilities in 1999, the Company continues to own steam generating plants, some which also produce electricity. These serve the largest district steam system in the country. The steam system has approximately 1,650 customer accounts in Manhattan and is used for space heating, hot water, air conditioning, and various other processes such as sterilizing hospital medical equipment. The steam system provides significant environmental benefits by reducing the need for on-site boilers at customers' premises. Steam is also used for cooling systems in buildings, offsetting nearly 290 megawatts of electric demand. Steam customers include hospitals, schools, firehouses, NYCHA developments, and buildings such as the Empire State Building.

Over half of the steam produced for our system is cogenerated. This means that we are able to produce both steam and electric using the same amount of fuel. This is good for the environment and good for the steam customers.

Con Edison has already made significant investments to add gas firing capability at the 74th Street and 59th Street Generating Stations. This enables these stations to use natural gas as the primary supply with fuel oil as a backup. This dual-fuel capability is particularly important for maintaining reliability and moderating price impacts during periods of high demand for natural gas.

This expansion of the use of natural gas has served to reduce carbon dioxide (CO₂) emissions substantially along with saving our customers

money. In 2016, the two stations combined saw an almost 37 percent reduction in CO₂ emissions compared to the 2008-2009 average.

In 2016, Con Edison's steam system achieved its lowest levels of fuel oil burn, relying on natural gas for 98 percent of its supply.

During the course of the fuel transition, we will be modifying equipment such as burners, pumps, and tanks to convert to a lighter fuel oil. The total cost to convert from #6 oil to #4 oil is approximately \$1 million. The cost to convert from #4 to #2 oil is much higher because of the amount of work and equipment involved. The conversion costs from #4 to #2 oil are projected to be in the tens of millions of dollars.

The accelerated conversion from #4 fuel oil to #2 could also impact supply costs for both electric and steam customers if #2 oil remains more expensive. This commodity cost increase will be directly passed along to customers, as are all current commodity costs or credits. The magnitude of any potential change in cost will depend on fuel oil market prices at the time of the conversion.

The proposed bill may also impact the other electric generators in the City that are currently burning #6 and/or #4 fuel oils as a backup fuel. Just as fuel diversity is necessary for the steam system, fuel diversity is also necessary for the electric system reliability as well. The impacted generators have approximately 30% of the in-city generation capacity.

Therefore, the acceleration of the #4 fuel oil phase-out should take into account any comments from affected generators that indicate a potential impact on reliability.

As a gas provider, Con Edison has already worked with over 5,000 buildings in Manhattan, the Bronx, and parts of Queens to convert from oil to cleaner natural gas over the past several years. We will continue to maintain and expand that effort as more buildings that are still on #4 fuel oil seek to comply with the new deadline. Buildings currently using #4 oil which are in proximity of the steam system also have the option of converting to steam for their energy needs. Con Edison will work with any building that wishes to investigate steam as a potential heating and cooling alternative.

In summary, Con Edison is prepared to meet the requirements of Council Bill 1465 and will comply with the proposed acceleration of the phase out of #4 fuel oil. Thank you for this opportunity to speak here today.

###



April 24, 2017

New York City Council

Re: Int. 1465

Honorable Councilmembers,

Good Afternoon. My name is Abbey Brown, and I am the Clean Energy Project Manager for Environmental Defense Fund's New York Clean Energy Program. I respectfully submit the following testimony regarding Intro. No. 1465, a local law to accelerate the timeline to phase out the use of No. 4 heating oil.

Environmental Defense Fund (EDF), is a not-for-profit, non-partisan, international environmental organization with headquarters in New York City. With over two million members, more than 35,000 of which are New York City residents, we work to advance market-based policy to address the world's greatest environmental challenges.

In 2011, the Council took the first step toward cleaner air by regulating the phase-out of No. 6 and No. 4 heating oils by 2015 and 2030, respectively. This, in addition to the NYC Clean Heat program which EDF managed in partnership with the Mayor's Office of Sustainability, set this city on the path to dramatically cleaner air.

When used in buildings, No. 6 and No. 4 heating oils both emit harmful pollutants such as fine particulate matter (also called PM_{2.5}), sulfur dioxide, nickel, and others. When inhaled, these substances can become lodged in people's lungs, creating or worsening cardiovascular and respiratory conditions. No. 4 oil is a blend of No. 6 oil and the much cleaner No. 2 oil, and while it is less polluting than No. 6 oil, it does still emit harmful toxins.

The young, the elderly, and those with existing respiratory and cardiovascular ailments -- myself included -- are most at risk, and have the most to gain from the City's improvement in air quality. Since the launch of the NYC Clean Heat program in 2012, over 6,000 buildings have made the switch to cleaner fuels, and particulate matter contamination from these buildings has dropped 65 percent. In February 2016, Mayor de Blasio cited the decreased use of these heating oils as preventing 210 premature deaths and 540 hospitalizations each year.

Buildings can lead the way in making their communities healthier, and there are resources to help them do so. The NYC Retrofit Accelerator, a City-run program built off of the foundation of

NYC Clean Heat with the goal of helping buildings to improve their energy use, offers free assistance to buildings handling heating oil conversions.

EDF supports moving up the timeline to phase out No. 4 heating oil from 2030 to 2025. In doing this, the Council will ensure that New Yorkers public health and quality of life improves more quickly and that communities throughout the five boroughs will thrive.

Thank you,

Abbey Brown
New York City, Clean Energy Project Manager
Environmental Defense Fund
(212) 616-1328
abrown@edf.org



**Testimony of Adriana Espinoza
New York City Program Manager
New York League of Conservation Voters
Committee on Environmental Protection
Intro 1465
April 24th, 2017**

Good morning. My name is Adriana Espinoza, and I'm the Manager of the New York City Program at the New York League of Conservation Voters (NYLCV). NYLCV represents over 28,000 members in New York City, and we are committed to advancing a sustainability agenda that will make our people, neighborhoods, and economy healthier and more resilient. I would like to thank Chair Constantinides and all members of the Committee on Environmental Protection for the opportunity to testify regarding the burning of Number 4 heating oil in New York City.

NYLCV is committed to preserving healthy air quality in NYC, and would like to offer support for Intro 1465, which would speed up the phasing out of Number 4 heating oil to October 1, 2025. This proposal can help drastically improve air quality in New York City.

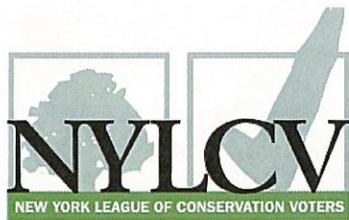
Today, New York City's air is cleaner than it has been in over 50 years, but we know there is still work to do, as air pollution still causes an estimated 6% of deaths in NYC every year. A large portion of this pollution comes from the burning of dirty heating oils in our buildings.

Although Number 6 home heating oil was phased out of 6,000 buildings by the end of 2015 as part of the NYC Clean Heat program, other buildings all around New York City are still burning Number 4 heating oil, which releases large volumes of fine particulate matter into the air. Additionally, Number 4 heating oil combustion disproportionately occurs in neighborhoods of lower socioeconomic status, therefore contributing to environmental injustice in NYC.

The emissions released from burning Number 4 heating oil are correlated with higher frequencies of cardiovascular disease, respiratory illness such as asthma and bronchitis, and death. Particulate matter, Nitrous Oxides, and Sulfur Dioxide, are all emissions from burning No.4 oil which, when inhaled, can cause respiratory illness and dysfunction.

According to the Environmental Defense Fund, replacing Number 4 with Number 2 cuts particulate matter emissions by 90%, Nitrous Oxide emissions by 10%, and Sulfur Dioxide emissions by 68%.¹

¹ https://www.edf.org/sites/default/files/10071_EDF_BottomBarrel_Ch3.pdf



Current schedule for phasing out Number 4 heating oil-- January of 2030-- is not aggressive enough: pushing the deadline forward to 2025 is a step the city can take to accelerate meeting the air quality goals spelled out in OneNYC. Just this five year difference would mean hundreds of deaths and thousands of emergency room visits averted.

I'd like to thank the City Council for support over the years on environmental health issues that concern our members, and look forward to continuing this work in the future. Thank you for your time.



440 Mamaroneck Avenue, Suite 402
Harrison, NY 10528-2423
(914) 328-6700

NEW YORK CITY COUNCIL
COMMITTEE ON ENVIRONMENTAL PROTECTION

Int. No. 1465

A Local Law to Amend the Administrative Code of the City of New York,
in Relation to Phasing Out the Use of Fuel Oil Grade No. 4

April 24, 2017

My name is Steven J. Levy. I am a Managing Director of Sprague Operating Resources LLC, a wholly owned subsidiary of Sprague Resources LLP. Founded in 1870 as the Charles H. Sprague Company, Sprague is one of the largest independent wholesale suppliers of energy and materials handling services in the Northeastern United States. In addition to owning the largest fuel storage terminal in the City of New York, Sprague owns and operates twenty plus fuel storage terminals, leases tanks, and maintains throughput positions at multiple third-party terminals in New York. Sprague-supplied terminals provide critical heating, transportation, and power generation fuels to City and State agencies, utilities, and public and private entities. Sprague supplies heating oil to wholesalers as well as a diversified customer base of commercial and residential buildings, ranging from small structures to large, high-rise buildings.

Over the years, Sprague has worked closely with City Council and City Hall to achieve clean air and sustainability goals, from reducing harmful emissions in the rebuilding of the World Trade Center to the OneNYC goal of achieving the cleanest air of any large U.S. city by 2030. In fact, much of the City's clean air progress would not have been possible without Sprague's pioneering and commercialization of ultra-low sulfur diesel fuel to reduce emissions and allow for equipment `best available emission technology, as well as, Sprague's leadership role with biodiesel and other innovative programs and services implemented by City agencies.

Sprague has been a consistent, long-time advocate for cleaner, lower carbon, renewable fuels. The recent result of these initiatives is apparent in the April 20, 2017 announcement by the New York City Health Department. "Even as the federal government attempts to weaken critical environmental protection standards, New York City is successfully demonstrating how local action can protect the health of all New Yorkers," said Daniel Zarrilli, New York City's Senior Director of Climate Policy and Programs and Chief Resilience Officer. "Today, we are excited to announce that **our air is the cleanest** it has been since monitoring began and that our OneNYC efforts to reduce emissions and improve air quality are working as we continue to build a more sustainable and equitable city." This accomplishment is a direct result of this Committee's excellent work and all the stakeholders in this room. We look forward to these continued efforts.



When the City passed legislation to eliminate the use of no. 6 oil and phase out the use of no. 4 oil in 2030, Sprague and others, including building owners, invested money and made business decisions based on the understanding that the use of no. 4 oil in New York City would be permitted until the year 2030. Indeed, Sprague itself has spent considerable money upgrading its fuel terminal in the Port Morris section of the Bronx to ensure our ability to continue supplying no. 4 oil through 2030, money we might not have invested at all had we known the return on that investment would be curtailed by a period of five years. Changing the no. 4 oil phase out date after money has been spent and business decisions have been made and implemented would damage this Council's credibility and make property owners and fuel suppliers reluctant to invest resources to comply with rules that may be changed arbitrarily in the future.

Changing the no. 4 oil phase out date would be arbitrary. The existing legislation was the result of a protracted process that exhaustively examined the data and encompassed the input from all stakeholders. The current rule was adopted in 2011 and the use of no. 6 oil was eliminated in 2015, only two years ago. The Department of Health's April 20, 2017 announcement proves that the current rule has worked, as expected, to reduce levels of harmful sulfur dioxide. Nothing has happened since the original rulemaking that warrants a shorter phase out window for no. 4 oil. If, as the Department of Health reports, there has been an 84% reduction in sulfur dioxide emissions, it is doubtful that any additional incremental reduction would justify the adverse financial effects on building owners, particularly individuals and families who own one or a few smaller apartment buildings. Furthermore, emission reductions will continue to occur as property owners integrate more efficient technology equipment and software, convert to cleaner fuels such as natural gas and transition to higher biodiesel blends including B5 in October of this year and B10 in 2025.

In conclusion, we support maintaining the current legislation which in 2030 phases out the use of no. 4, and oppose any shortening of the phase-out period.

Steven J. Levy
Managing Director



**STATEMENT OF THE NATURAL RESOURCES DEFENSE COUNCIL
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON ENVIRONMENTAL PROTECTION
REGARDING LEGISLATION TO PHASE OUT DIRTY FUEL OIL #4**

April 24, 2017

Good afternoon, Chairman Constantinides and members of the Committee. My name is Eric A. Goldstein and I am New York City Environment Director of the Natural Resources Defense Council (“NRDC”). As you know, NRDC is an international, non-profit legal and scientific organization that has been active on a wide range of environmental issues since its founding in 1970. NRDC has over two million members and on-line activists around the world, including more than 65,000 right here in New York City, where our main offices are located. For more than four decades, one of NRDC’s primary objectives in the region has been to insure that New Yorkers in all neighborhoods of the city have safe, clean air to breathe.

NRDC is pleased to be here today to testify regarding Intro. No 1465. This simple and straightforward bill would prohibit the burning of dirty fuel of no. 4 in all buildings as of October 1, 2025. NRDC strongly supports this legislation.

New York City is the nation’s most densely populated urban area. As such it has suffered some of the most severe air pollution problems over the years. Things got so bad in the 1960s that a task force created by then Mayor John Lindsay concluded in 1966 that New York City was pumping more poisons into its air than any other city in America. Shortly thereafter, the New York City Council passed legislation in 1966 and 1971 to reduce the sulfur content in home heating oil (and coal). This was the beginning of what has been a fifty year effort by the Council to provide clean air for New York City residents. And over the decades, it has been the New York City Council that has provided the leadership in advancing more than a dozen major pieces of clean air legislation.

The legislation that is the subject of this afternoon’s hearing fits squarely into this pattern and represents another big step by the Council to compel polluters to end harmful practices that are endangering the health of city residents.

In New York City, buildings are a primary source of localized air pollution and global warming emissions. To address that problem, Local Law 43 of 2010 began the process of

NATURAL RESOURCES DEFENSE COUNCIL

40 W 20TH STREET | NEW YORK, NY | 10011 | T 212.727.2700 | F 212.727.1773 | NRDC.ORG

cleaning up the dirty oil that some of our city buildings were continuing to burn. That statute required a phase-out of #6 heating oil and directed building operators to convert to #2 or #4 oil or natural gas by 2015. According to the city, more than 75 percent of the buildings that were using the dirtiest fuel have converted to ultra-low sulfur #2 fuel or natural gas.

Unfortunately, a very small number of buildings, which represent about 1 per cent of all city buildings, are continuing to burn #4 oil. (Number 4 oil is a combination of the dirtiest #6 oil and #2 oil.) And these buildings contribute disproportionately to building emissions and to localized air pollution problems.

The New York City Health Department recently released a Community Air Survey of Neighborhood Air Quality from 2008 – 2015. It concluded that while levels of PM10, nitrogen dioxide and sulfur dioxide were declining, higher levels of these pollutants were measured at sites with the greatest concentration of boilers using #4 and #6 oils. New York City has adopted ambitious goals for enhancing air quality and reducing global warming emissions. And in order for the city to achieve those worthy goals, it will be necessary to completely eliminate #4 fuel oil.

This should not be a major burden for building owners. For one thing, as noted above, the vast majority of buildings have already converted to cleaner #2 oil or natural gas. Second, the evidence clearly demonstrates that buildings that have converted to cleaner fuels are finding short pay-back periods to amortize their costs and reduced maintenance expenses; they will actually be saving money for their owners and tenants in relatively short periods of time. For example, Joshua Soble of Bright Power, an energy management firm, reports that at one building he worked with, Chelsea Gardens (a six-story, 151 unit building) building managers converted the #6 Boiler, upgraded heating, installed new boilers, (as well as lighting and water saving measures) and achieved a 16 per cent energy reduction, almost \$200,000 in energy savings in the first year and a projected payback period of 3.3 years.

Finally, the timing for the proposed #4 oil phase-out is still quite generous. Building owners were put on notice as early as 2009 that a phase out of #6 and #4 heating oil were coming. Local Law 43 of 2010 contained a 2030 date for the demise of #4 oil. But that is both too long from an environmental health standpoint and unnecessary from an economic perspective. Why should New Yorkers who happen to live near buildings that are burning dirty #4 heating oil have to wait another 13 years for clean air? The proposed legislation provides another seven plus years for the small number of building owners who still haven't made the switch to do so. That's more than enough time. Converting the small number of #4 oil buildings will greatly reduce neighborhood pollution, reduce global warming emissions, and improve public health. Such a move would support Mayor De Blasio's OneNYC objectives and be consistent with the New York City Council's long history of combatting air contamination.



MEMORANDUM IN SUPPORT – INTRO 1465:

**A Local Law to amend the administrative code of the city of New York, in relation to the use of clean heating oil in New York City
September 1, 2016**

Renewable Energy Group (REG) is writing in support of Intro. 1465, a bill that would move the phase out of the use of No 4 oil in New York City from 2030 to 2025 . This bill is a common-sense approach to improving air quality in New York City; as the city's own findings 2011 showed, reducing the use of higher sulfur viscous heating oil (commonly referred to No 6 and No 4 oil) reduces harmful emissions and reduces particulate matter. These steps will lower rates of asthma, lung cancer and ultimately save lives.¹

REG is the leading North American advanced biofuels producer and developer of renewable chemicals. REG utilizes a nationwide production, distribution and logistics system as part of an integrated value chain model to focus on converting natural fats, oils and greases into advanced biofuels and converting diverse feedstocks into renewable chemicals. With 12 active biorefineries across the country, research and development capabilities and a diverse and growing intellectual property portfolio, REG is committed to being a long-term leader in bio-based fuels and chemicals.

New York City has been a leader in initiatives to improve the health and well being of its residents. Measures that support the use of environmentally friendly biodiesel in heating oil are an excellent example. The adoption of biofuel in heating oil, first passed by law in New York City in 2012, has delivered documented benefits of cleaner air and meaningful reduction in fossil fuels use. Intro 1465 is the next logical step for the City of New York as it works to improve the air for its residents. The year 2030 is simply too long to wait.

For those concerned that the cost of updating existing equipment (geared for viscous heating oil) to equipment capable of using ULSD or natural gas, the reality is there are already renewable alternatives available. Biodiesel and/or heavy esters (a viscous by product of biodiesel production) used as a blend or a strait replacement for No 4 oil is available to use in the heating oil market today and does not require an expensive conversion. This material has been very cost competitive with ULSD and No 4 oil and is available throughout the City

And building owners have found that it is not only safe and seamless to use, but actually improves fuel efficiency; helps clean and preserve building equipment; and reduces the need for periodic heating system maintenance.

¹ Pope CA 3rd, Dockery DW. Air Pollution and life expectancy in China and Beyond, Proceedings National Academy of Sciences, USA 2013: 110 (32) 12861-2 <http://m.pnas.org/content/110/32/12861>

We commend the sponsors of this legislation and urge the committee to move it forward for consideration at the full City Council. Renewable Energy Group appreciates your consideration and supports the prompt passage of Intro 1465.

Sincerely,



Scott R Hedderich,
Director, Corporate Affairs



MEMORANDUM IN OPPOSITION

INTRO. 1465

The Rent Stabilization Association of New York represents over 25,000 owners and managers of multiple dwellings in New York. Collectively their buildings contain over 1 million units of housing. Intro. 1465 would renege on the agreement owners of rental and coop buildings negotiated with the City of New York in 2011 to phase out #6 oil.

Conversion of buildings from #6 to #4 oil was recognized as an affordable alternative for many low and moderate income buildings as opposed to converting to natural gas or low Sulphur #2 oil. The cost of converting to #4 from #6 was generally less than \$10,000. To go from #6 or #4 to gas or oil can range from \$25,000.00 to several hundred thousands of dollars. Buildings and the respective residents require long lead time to line up prospective financing of the cash required for such conversion. This may involve refinancing of the building or set asides of cash reserves. For tenants the major capital rent increase can be high.

The City recognized many of these issues in 2011 and if anything the financial situation of many of these buildings is worse now due to 3 consecutive years of no rent increases. Knowing the amount of planning this phase-out would require is the reason the City agreed to a 2030 date.

For the above reasons RSA is strongly opposed to Intro. 1465.



Teamsters Local Union No. 553

Affiliated with the International Brotherhood of Teamsters



265 West 14th Street, Suite 305, New York, NY 10011-7189

Phone: 212-929-6828 Fax: 212-691-8025

Daniel J. Gatto
President

Demos P. Demopoulos
Secretary-Treasurer & Executive Officer

Michael Spinelli
Vice President

Local 553 Testimony to the New York City Council Committee on Environmental Protection Regarding Intro-1465, a Bill to Phase-Out of Fuel Oil Grade No. 4 in Boilers by October 1, 2025.

Good afternoon.

Thank you to Committee Chair Richards for the opportunity to speak before your committee today and to Council Member Torres for sponsoring this important legislation.

I am Demos Demopoulos, Secretary-Treasurer of Teamsters Local 553. Our union represents workers in New York City's heating oil industry. This is an industry that creates middle-class jobs for New York families, with solid incomes, healthcare, and pensions.

We are proud of the work we do. We keep millions of New Yorkers warm every winter, at home, at work, and at school.

But we also care about the environment and clean air. New York City should be doing everything possible to reduce pollution to protect our climate and the public health.

For that reason, the Teamsters Union supports Intro 1465 and the phase out of No. 4 fuel oil.

We need to transition to cleaner forms of heating oil, whether cleaner grades or biofuels. This legislation is an important step.

Our union knows that we can both have good jobs and a safe environment. We will accept nothing less.

Thank you.

A handwritten signature in black ink, appearing to read "Demos P. Demopoulos".

New York Oil Heating Association, Inc.

Established 1939

Supporters of:

NEW YORK STATE ENERGY COALITION
NATIONAL ASSOCIATION FOR OILHEAT RESEARCH & EDUCATION
NATIONAL BIODIESEL BOARD
NATIONAL OILHEAT RESEARCH ALLIANCE
PETROLEUM MARKETERS ASSOCIATION OF AMERICA



ROCCO J. LACERTOSA
CHIEF EXECUTIVE OFFICER

Officers:

DANIEL SCHILDWACHTER III, PRESIDENT
JOHN MCCONVILLE, VICE PRESIDENT
THOMAS FLAHERTY, SECRETARY/TREASURER
TED KOLLAR, IMMEDIATE PAST PRESIDENT

Testimony of Rocco Lacertosa, CEO New York Oil Heating Association (NYOHA) Committee on Environmental Protection Hearing on Intro 1465 April 24, 2017

Good afternoon Council Members. My name is Rocco Lacertosa and I serve as the CEO of the New York Oil Heating Association, a 75-year-old trade association whose members are largely made up of family-owned heating oil distributors and terminal operators located throughout the City of New York. We are proud to be a unionized industry that has provided quality good-paying jobs and pensions to tens of thousands of working families in Brooklyn, Queens, the Bronx, Manhattan and Staten Island. Thank you for the opportunity to testify today.

NYOHA is pleased to support Intro 1465 which would expedite the phase out of #4 fuel oil from a current deadline of Jan 1 2030 to Oct 1 2025.

NYOHA has a strong track record of achieving key environmental initiatives. Over the last ten years, we have enthusiastically supported a variety of City and States measures that have made New York City's heating oil the cleanest heating oil in the United States, vastly improving air quality for New Yorkers and reducing our carbon footprint.

NYOHA and its members enthusiastically supported State measures to require ultra low sulfur heating oil, as well as New York City rules and legislation that have already eliminated #6 heating oil and significantly reduce the sulfur levels of #4 heating oil which is in the process of being phased out altogether.

The heating oil industry has evolved and has made significant innovations in the sector to meet increasing consumer demand for cleaner fuels. For example, NYOHA has been at the industry forefront of distributing and

New York Oil Heating Association, Inc.

Established 1939

Supporters of:

NEW YORK STATE ENERGY COALITION
NATIONAL ASSOCIATION FOR OILHEAT RESEARCH & EDUCATION
NATIONAL BIODIESEL BOARD
NATIONAL OILHEAT RESEARCH ALLIANCE
PETROLEUM MARKETERS ASSOCIATION OF AMERICA



ROCCO J. LACERTOSA
CHIEF EXECUTIVE OFFICER

Officers:

DANIEL SCHILDWACHTER III, PRESIDENT
JOHN McCONVILLE, VICE PRESIDENT
THOMAS FLAHERTY, SECRETARY/TREASURER
TED KOLLAR, IMMEDIATE PAST PRESIDENT

promoting bioheat – heating oil blended with renewable biodiesel that can be made from used cooking oil, soy oil and other sustainable feedstocks.

We worked closely with the Council and the Bloomberg Administration to implement the pioneering B2 heating oil standard put in place in 2012. And last year, we vocally supported a bill to increase New York’s biodiesel blend to 5% (B5) next year and scale it up to 20% (B20) over the course of the next two decades.

We are committed to continued improvements in the sustainability of heating oil. That is why NYOHA supports the accelerated phase-out of #4 fuel oil by 2025. As an industry, we have diversified our renewable energy offerings among heating oil products and we support the timeline suggested in this legislation.

Thank you.

Café Tallulah
240 Columbus Avenue
New York, NY 10023
Attn; Greg Hunt

New York City Council
250 Broadway
New York, NY

Re: Int 1503 / Revised Air Conditioning bill

Dear Councilmember:

I am asking you to support Int 1503, which revises the Air Conditioning law passed in 2016.

The original Air Conditioning law had the best of intentions. It targeted retail stores that blast cold air onto the street as a form of advertising. But it was never intended to target restaurants with sidewalk cafes. For such restaurants (with either enclosed or unenclosed cafes), having open doors is an intrinsic part of our business. If we are forced to close our doors, or turn off our air conditioning, our business will decline precipitously during the summer, leading to the loss of many jobs.

The restaurant I own, Cafe Tallulah, opened in 2013. After 3 years of slow business during the summer, last year we installed new doors that opened onto the street. Our business increased overnight by almost 20%. As a result, we hired 5 additional people - two waiters, one runner, a cook and a bartender - to handle the increased volume. If we have to close our doors or turn off our air conditioning, we will have to lay off all 5 employees. Multiply this by the hundreds of restaurants with sidewalk cafes, and it will result in the loss of thousands of jobs.

Int 1503 still protects the environment - by continuing to force retailers who blast cold air onto the street as advertising to close their doors. But it preserves outdoor cafes and jobs at the same time.

Sincerely,
Greg Hunt
Café Tallulah, LLC

Corner Table Restaurants

THE SMITH

RESTAURANT & BAR

**Committee on Environmental Protection, New York City Council Monday, April 24, 2017 at
1:00pm
Committee Room, City Hall, New York, NY**

Comments on Int. 1503, a Local Law to amend the administrative code of the city of New York, in relation to exemptions from air conditioning prohibitions.

My name is Michael Jacobs and I am a Partner at Corner Table Restaurants, the management company for The Smith restaurants in New York City and Washington D.C. I am testifying today to urge the City Council to pass Int. 1503 and for Mayor de Blasio to sign this legislation into law immediately. If this legislation does not become law our business as well as our employees will suffer a substantial financial hit and the experience our guests have come to expect from The Smith will be significantly impacted negatively.

The Smith currently operates in four locations in Manhattan and we employ over eight hundred workers whose income depend on the success of our restaurants. An important and vital component to our brand and design are the operable doors and windows that make up our storefronts. We have constructed this storefront design at our restaurants at substantial cost. The ability to open them during periods of nice weather such as during the Spring and Summer months is critical to our success and the experience of our guests. It represents a material part of the ambiance of our restaurant allowing for a semi-al fresco dining experience. This feature attracts guests and helps generate revenue for us which in turn allows us to increase staffing, resulting in more New York City jobs. The Smith is simply not the same brand without this element.

I urge the City Council to pass Int. 1503 and for Mayor de Blasio to sign this legislation into law immediately. Thank you for your consideration and support for small businesses and workers.

Respectfully submitted,



Committee on Environmental Protection, New York City Council
Monday, April 24, 2017 at 1:00pm
Committee Room, City Hall, New York, NY

Comments on Int. 1503, a Local Law to amend the administrative code of the city of New York, in relation to exemptions from air conditioning prohibitions.

My name is Andrew Rigie and I am the executive director of the New York City Hospitality Alliance, a not-for-profit trade association representing thousands of restaurants throughout the five boroughs. I am testifying today to urge the City Council to pass Int. 1503 and for Mayor de Blasio to sign this legislation into law immediately. Otherwise small businesses and workers will take a significant financial hit and restaurant-goers' experiences will be diminished.

As way of background, back in 2015 an amendment was made to the sensible environmental law that prohibits retail businesses from keeping their doors open when the air conditioning is on. The amendment added the word "window" to the law. Unfortunately, it was written in such a way as to include, for the first time, restaurants constructed with open storefronts, an unintended consequence according to the amendment's main sponsor in the City Council.

That's why the Council Member has introduced Int.1503, a sensible, small business, restaurant worker and restaurant-goer friendly amendment to clarify the law by making it clear that certain restaurants are exempt from a law they were never intended to be regulated by.

This amendment is needed because unfortunately the law can now be interpreted to prohibit restaurants with enclosed sidewalk cafes (*which are required to have operable windows*), or restaurants with "French Doors" or the like from being open while their air conditioning is on. Such windows and doors are designed and built often at significant cost to the business. This feature also provides diners with a desired, semi-al fresco dining experience during the spring and summer months, they add charm and character to our city's streetscape, and the open air feature attracts customers helping to generate necessary revenue for restaurants. Restaurants have provided workers with additional hours and even hired additional employees because of the extra business these open-air features generate during the warmer months. Having French Doors and windows open are part and parcel for many restaurants and not an incidental feature as they are to other big box stores that may blow cool air onto the streets to attract customers inside on hot summer days.

Today is April 24th and the warm weather is upon us. So we need Int. No. 1503 signed into law immediately, so restaurants aren't hit with more fines and/or they and their employees don not lose significant income because they are shutoff from the open air.

Thank you for your consideration and support for small businesses and workers.

Respectfully submitted,

Andrew Rigie
Executive Director
New York City Hospitality Alliance
arigie@theNYCalliance.org



The North Shore Waterfront Conservancy of Staten Island, Inc.
P.O. Box 140502
Staten Island, New York 10314

April 23, 2017

NYC City Council, Committee on Environmental Protection

Reference: Intro No. 1465 the Phasing Out of Fuel Oil No.4 in New York City.

On behalf of the North Shore Waterfront Conservancy of Staten Island, Inc., we are in favor of the action being taken to phase out the use of fuel oil No. 4 and to have the various buildings and Power Plants transition to fuel oil No. 2.

Staten Island has horrible air quality because we are in the cross hairs of winds that contain pollution from as far away as Ohio and we sit next to New Jersey's industrial waterfront with its refineries and power plants. We have a high number of people that have asthma and our people are prone to stress related diseases.

Even though using No. 2 fuel oil is better in terms of reducing pollution and particulates into the air, it is still nowhere near where we need to be in eliminating our use of fossil fuels. We understand that the next goal is for New York City to transition to natural gas.

But once again natural gas is still a fossil fuel and it is essential that if we are going to keep up and with any hope counter the effects of Climate Change and provide our people with a better, cleaner, safer, healthier environment to which to live in. We are going to have to increase our efforts at establishing sustainable Greener Energy Alternatives that make sense, especially with the awareness that we now face an environmental clock that is ticking down.

Our planet like our crumbling infrastructure can no longer sustain the kind of let them eat cake lifestyle that we have chosen to live. We are moving way too slow for all that needs to get done.

Therefore, we urge NYC Council to expedite moving New York City into a more sustainable and Greener Energy solutions as other cities have already done or are in the process of doing.

Sincerely,
Beryl A. Thurman, Executive Director/President
NSWC

Int # 1465 is a local law to amend the administrative code of the city of New York, in relation to phasing out the use of fuel oil grade no. 4

Bill requires a phase out of fuel oil no. 4 by October 1, 2025 (amends subdivision D of section 24-168 of Administrative Code.

We Act for Environmental Justice supports the bill phasing out Fuel oil no.4 by 2025.

Fuel oil no. 4 typically consists of fuel oil no. 6, otherwise known as residual fuel, and is essentially the byproduct of the oil distillation process-mixed 50/50 with fuel oil no. 2. Fuel oil No. 2 is distilled to be cleaner, with a much lower sulphur and heavy metals content. The continued burning of fuel oil no. 4 in New York City Buildings represents an ongoing health hazard for City residents, and lays a disproportionate burden upon the city's most vulnerable. Environmental health hazards caused by burning fossil fuels disproportionately affects low-income communities as well as communities of color.

Burning no. 4 oil releases particulate matter into the air, coats boilers, and infiltrates indoor environments, which in turn can trigger or exacerbate asthma and other respiratory conditions. On a whole New York City residents are twice as likely to require hospitalization from asthma symptoms than residents of the US at large. Moreover, in 2000, children 0-4 years of age from low-income areas were more than four times as likely to be hospitalized for asthma than children from high-income areas. This fundamental inequity is perpetuated in part by our acceptance of burning dirtier fuel oils to heat our homes and places of work.

Phasing out fuel oil no. 6 has already provided health benefits to residents, and the corresponding reduction in emissions is a positive step in New York City's effort to combat climate change. Phasing out fuel oil no. 4 by 2025 would hasten positive safety and health outcomes for New York City's most vulnerable populations: oil no. 2 is significantly cleaner; once these dirtier fuel grades are completely phased out it will reduce the amount of fine particulate matter emitted from heating buildings by at least 63%. This impact is a significant one, and necessary for sustainable positive health outcomes in less advantaged neighborhoods.

Subject: Support Bill Int. 1503

Hello,

I am writing on behalf of BLT Steak, located at 106 East 57th Street, and The Wayfarer, located at 101 West 57th Street.

We encourage you to support bill Int. 1503, which amends Local Law 092. Int. 1503 would allow our restaurants, which feature large, operable windows, to remain open for our enclosed sidewalk dining, while still accommodating our indoor guests during the spring and summer months with air conditioning.

When Local Law 092 was enacted, it unintentionally posed a detriment to businesses like ours.

We urge to you support Int. 1503 and help us to continue serving our customers comfortably.

Best,

Melanie

Melanie Baker

Senior Manager of Digital

ESQUARED HOSPITALITY

950 Third Avenue, Floor 22 | New York, NY 10022

Office 212.329.2685 | **Cell** 203.969.4160

Email melanie@e2hospitality.com

www.e2hospitality.com

Subject: Support Bill Int. 1503

Hello,

I am writing on behalf of Horchata, located at 470 6th Avenue, and by CHLOE., located at 185 Bleecker Street.

We encourage you to support bill Int. 1503, which amends Local Law 092. Int. 1503 would allow our restaurants, which feature large, operable windows, to remain open for our enclosed sidewalk dining, while still accommodating our indoor guests during the spring and summer months with air conditioning.

When Local Law 092 was enacted, it unintentionally posed a detriment to businesses like ours.

We urge to you support Int. 1503 and help us to continue serving our customers comfortably.

Best,

Melanie

Melanie Baker

Senior Manager of Digital

ESQUARED HOSPITALITY

950 Third Avenue, Floor 22 | New York, NY 10022

Office 212.329.2685 | **Cell** 203.969.4160

Email melanie@e2hospitality.com

www.e2hospitality.com

Subject: Support Bill Int. 1503

Hello,

I am writing on behalf of BLT Prime, located at 111 E. 22nd Street in Gramercy. We encourage you to support bill Int. 1503, which amends Local Law 092. Int. 1503 would allow our restaurant, which features large, operable windows, to remain open for our enclosed sidewalk dining, while still accommodating our indoor guests during the spring and summer months with air conditioning.

When Local Law 092 was enacted, it unintentionally posed a detriment to businesses like ours.

We urge to you support Int. 1503 and help us to continue serving our customers comfortably.

Best,

Melanie

Melanie Baker

Senior Manager of Digital

ESQUARED HOSPITALITY

950 Third Avenue, Floor 22 | New York, NY 10022

Office 212.329.2685 | **Cell** 203.969.4160

Email melanie@e2hospitality.com

www.e2hospitality.com

April 24, 2017

Costa G. Constantinides, Chairman
Environmental Protection Committee
New York City Council
250 Broadway, Suite 1808
New York, NY 10007

Re: Testimony On Behalf of Eastern Generation LLC on Int. No. 1465-2017

Dear Chairman Constantinides and other Members of the New York City Council's Environmental Protection Committee:

Eastern Generation through its subsidiary Astoria Generating Company ("AGC") owns and operates the Astoria Generating Station ("Astoria") in Queens as well as two other electric generating facilities in Brooklyn. We are submitting these written comments in response to the New York City Council's Environmental Protection Committee (the "Committee") April 24, 2017 hearing to provide oversight for in-City power plants and to discuss its proposed Int. No. 1465 to accelerate the transition from Number 4 oil ("No. 4") to Number 2 oil ("No. 2") or Ultra Low Sulfur Diesel oil ("ULSD") from 2030 to 2025 for steam generators, such as Astoria.

Emission Reductions

In recent years, emissions by New York City based electric generation of sulfur dioxide and particulates have been significantly reduced. This has been driven by a combination of the Federal Mercury and Air Toxics Standards ("MATS"), and the abundant supply of lower cost, lower emission natural gas.

For example, the MATS program limits the amount of oil that Astoria can burn on an annual basis. Our compliance path for MATS requires that, as a percentage of the total annual fuel consumed by Astoria, we never consume more than 15% oil in any one year and no more than 10% on average over a rolling three year period. The balance of fuel consumed by Astoria is 100% natural gas.

To put this in perspective, in 2005, Astoria emitted over 4,000 tons of sulfur compounds and, in 2014, the highest of the last four years Astoria generated just over 200 tons - continuing a dramatic downward trajectory in emissions. That is a reduction of 95%. These reductions were achieved without cost to ratepayers.

Electric System Reliability

A significant portion of Astoria's oil consumption is for reliability purposes. As noted in the 2015 New York State Energy Plan, dual fuel capability in New York is critical. "[T]here is particular value in the continued availability of dual-fuel generation capability, i.e., natural gas and oil, especially in New York City and Long Island for continued ability to shift to oil should there be natural gas delivery problems."

The New York State Reliability Council, L.L.C. ("NYSRC") is a not-for-profit entity, whose mission is to promote and preserve the reliability of electric service on the New York State Power System by developing, maintaining, and, from time-to-time, updating the Reliability Rules which must be complied with by the New York Independent System Operator ("NYISO") and all entities engaging in electric

transmission, ancillary services, and energy and power transactions on the New York State Power System. The NYSRC is under the jurisdiction of both the state and the federal government.

The NYSRC rules require that Astoria be dual fuel capable and that we burn oil, at least in part, during certain high load conditions. These required actions are not under our control and it is difficult to accept the notion that storing vast amounts of oil for long periods of time is justifiable. Furthermore, under our gas transportation agreement with Consolidated Edison of New York (“ConEd”), we are obligated to affirm annually that we have five days of fuel oil either stored on site or under firm contract “in quantities sufficient to satisfy our projected peak winter period requirements.” There are no provisions in either the NYSRC rules nor in the ConEd agreement that provide for cost recovery for the replacement of oil tankage and the conversion of Astoria to ULSD from No. 6 residual oil (No. 6).

The Cost Impact of Regulations on Fuel Use

The New York Administrative Code Section 24-168 and regulations promulgated thereunder by the Department of Environmental Protection already require the phase out of No. 6 by 2020 and No. 4 by 2030. These looming actions will cost millions of dollars to undertake.

In the case of transition to No. 4, AGC will spend almost 6 million dollars to clean four existing tanks. Tank cleaning is required to ensure that the sulfur content of the oil consumed is compliant. The existing No. 6 has a 0.3% sulfur content and the compliant No.4 has a 0.15% sulfur content. Upon emptying the fuel tanks, there remains a residue of old oil that can only be removed by a labor intensive cleaning process. While this would account for less than 3% of the total oil in a tank, some mixing may occur and the 0.15% sulfur oil could become 0.155% or 0.16% sulfur oil and therefore be non-compliant. Without a change in the existing law to only limit purchases to 0.15% sulfur oil rather than storing and using oil, millions of dollars of costs will be incurred. As mentioned above, at present, we do not have the opportunity to directly recover these costs. The transition to No.2 is dramatically more expensive and will cost tens of millions of dollars. The existing Astoria tanks are not designed to store No. 2 and will need to be removed and new tanks constructed. Modifications to pumps, pipes and burner components will be necessary as well. The current law would have this transition occur by 2030. It is not unreasonable to imagine that the reliability need for oil burning at our facilities will have ceased by that time. This is due to a number of factors including requirements that new units have the ability to switch to oil automatically and shifting load requirements. Accelerating the timeframe by five years accelerates the cost and provides little in the way of annual emissions reductions. The proposed legislative modification before this Committee will make it difficult and uncertain for AGC to maintain oil burning capability that is required for reliability purposes by the NYSRC and ConEd. As discussed in several meetings, we urge you to have a full discussion on this topic with the New York Independent System Operator and the New York State Reliability Council before proceeding with this legislative change.

Conclusion

AGC fully appreciates the Committee’s goal for cleaner air in New York. The strides that have been made over the last twelve years are astounding, a 95.1% reduction in sulfur dioxide emissions without an impact on New York’s City’s electric ratepayers.

The transition to No. 4 in the existing law and the accelerating of No. 2 implementation will cost tens of millions of dollars for our company alone and save very little in emissions. Unlike ConEd, AGC does not

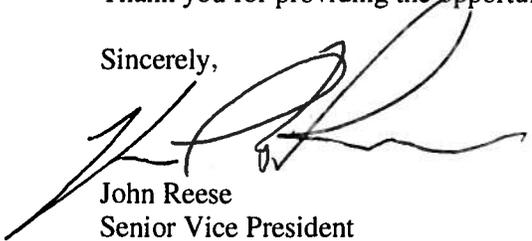
simply pass all of these costs on to ratepayers; we must bear these costs and recovery comes over a period of time in an often uncertain market place. The millions of dollars in accelerated costs to be compliant

with this proposed law change will have a dramatic impact on AGC's revenue stream. One way to allow facilities like Astoria to save on the compliance costs (particularly for cleaning the tanks and purchasing No. 4 oil) is to allow facilities that wish to transition to No. 2 by 2025 either to skip the step of transitioning to No. 4 oil or, at least, relieving the facility of having to clean its tanks before purchasing No. 4 oil. These allowances will be viewed as carrots for earlier emission reductions, rather than sticks.

We urge the Committee to recognize these facts and to mitigate the lost and wasted costs associated with transition to No. 4 oil in 2020 and No. 2 oil five years later by (1) eliminating the interim step to No. 4 or (2) keeping the 2030 implementation date for No. 2 rather than accelerating it.

Thank you for providing the opportunity to submit this testimony.

Sincerely,



John Reese
Senior Vice President
Eastern Generation LLC



NEW YORK
STATE
RESTAURANT
ASSOCIATION

In support of Int. 1503 – Adding exemptions to the City’s Air Conditioning Prohibitions

My name is Kevin Dugan and I am the Regional Director for the New York State Restaurant Association, a trade group that represents food and beverage establishments both in New York City and throughout New York State. The Association is the largest hospitality trade association in the State of New York and it has advocated on behalf of its members for over 80 years. Our members represent one of the largest constituencies regulated by the City as nearly every agency regulates restaurants in one aspect or another.

Restaurants are one of the most highly regulated industries in the City and face many challenges that normal retail spaces do not. To this end we are happy that Council members Constantinides and Gentile have recognized one of these unique challenges and have introduced sensible legislation to address the problem.

In 2015, environmental legislation was passed that for the first time would prohibit restaurants with french doors or enclosed sidewalk café spaces from operating while the air conditioning unit was on in the main restaurant. This was an unintended consequence of broader legislation and we are seeking to correct that. This proposed bill (Int. 1503) would build in an exemption for restaurants which allow them to operate as intended without hurting the customer experience.

The restaurant industry as a whole often survives on razor thin profit margins where every dollar is meaningful. Often these margins fall between three to five percent and change any can have devastating effects on an establishment’s ability to survive. As New York City prepares for what is sure to be another hot summer, it is imperative that restaurants can provide an experience that customers will enjoy. Having these french doors and enclosed sidewalk cafes open are an attractive feature for the eateries that dot this City, and may be the needed hook to attract the needed customers to stay in business.

In conclusion, the New York State Restaurant Association encourages the New York City Council to pass Intro. 1503 and allow these affected restaurants to operate as intended without facing the crippling fines associated with violating these air conditioning laws. We look forward to working with the Council on further legislation that helps protect the restaurant and hospitality industry in the City of New York.

Respectfully Submitted,

Kevin Dugan

Regional Director

New York State Restaurant Association

1001 Avenue of the Americas, 3rd Floor

New York, New York 10018

212-398-9160

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1405 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Adriana Espinoza

Address: _____

I represent: Ny League of Conservation Voters

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 4/24/17

(PLEASE PRINT)

Name: John Lee

Address: Deputy Director for Green

I represent: Buildings and Energy Efficiency - MOS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 4/24/17

(PLEASE PRINT)

Name: Susanne Des Roches

Address: Dep. Dir. of Infrastructure

I represent: Policy - ORR

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 4/24/17

(PLEASE PRINT)

Name: Gerry Kelpin

Address: Dir of Air and Noise Policy

I represent: Enforcement - DEP

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 4/24/17

(PLEASE PRINT)

Name: Iyad Kheirben

Address: Dir. Air Quality Program

I represent: DOHMH

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1503 Res. No. _____

in favor in opposition

Date: 4/6/17

(PLEASE PRINT)

Name: Robert Bookman

Address: 325 Broadway

I represent: small businesses

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1503 Res. No. _____

in favor in opposition

Date: 4/24

(PLEASE PRINT)

Name: ANDREW KIGIE

Address: 65 W 55 ST 10019

I represent: NYC HOSPITALITY ALLIANCE

Address: 65 W 55 ST 10019

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1503 Res. No. _____

in favor in opposition

Date: 4/29/17

(PLEASE PRINT)

Name: Greg Hunt

Address: 65 Central Park West, NY, NY 10023

I represent: Cafe Tallulah

Address: 240 Columbus Ave. NY, NY 10023

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1503 Res. No. _____

in favor in opposition

Date: 4/24/17

(PLEASE PRINT)

Name: Michael Jacobs

Address: 270 Lafayette Street, New York, NY 10012

I represent: Colors Table Restaurants

Address: 270 Lafayette Street, New York, NY 10012

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1465 Res. No. _____

in favor in opposition

Date: 4-24-2017

(PLEASE PRINT)

Name: PAVLA SPEER

Address: 138 71st St. Apt E5 Brooklyn, NY

I represent: MYSELF 11209

Address: 44

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1465 Res. No. _____

in favor in opposition

Date: April 24, 2017

(PLEASE PRINT)

Name: BERYL THURMAN

Address: P.O. Box 140502 Staten Island, NY

I represent: North Shore Waterfront Conservancy, Inc.

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1465 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Abbey Brown

Address: _____

I represent: Environmental Defense Fund

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: STEVEN J. LEVY (PLEASE PRINT)

Address: _____

I represent: Spoagve

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

Name: ROCO LACERTOSA (PLEASE PRINT)

Address: _____

I represent: New York Off Heal Association

Address: New York, NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. 1465 Res. No. _____

in favor in opposition

Date: 4/24/17

Name: LOUIS BAILEY (PLEASE PRINT)

Address: 2532 University Ave

I represent: WE ACT For Environmental Justice

Address: 1854 Amsterdam Ave

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1465 Res. No. _____

in favor in opposition

Date: _____

Name: ERIC GOLDSTEIN (PLEASE PRINT)

Address: 40 W. 20 ST

I represent: NATURAL RESOURCES DEFENSE COUNCIL

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1465 Res. No. _____

in favor in opposition

Date: 24 April 2017

Name: Bob Wyman (PLEASE PRINT)

Address: 203 West 85th Apt PH2, New York 10024

I represent: Self

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1465 Res. No. _____

in favor in opposition

Date: 4/24/17

(PLEASE PRINT)

Name: Amanda Gabai
Address: 265 State St, Apt 1502, Brooklyn, NY 11201
I represent: 350.org and Citizens Climate Lobby
Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1465 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Demas Demopoulos
Address: _____
I represent: Teamsters L 553
Address: _____

Please complete this card and return to the Sergeant-at-Arms