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Developers Face Cost and Timing Challenges Due to Impending Natural Gas Ban

By David P. Flynn, Kimberly R. Nason, Benjamin Sugarman and Dennis W. Elsenbeck

Phillips Lytle LLP

In 2023, following the 2019 passage of the Climate Leadership and Community Protection Act (CLCPA), New York became the first state to enact legislation mandating the electrification of new buildings. The All-Electric Buildings Act amended the State laws governing New York's Energy Conservation Construction Code and the Uniform Fire Prevention and Building Code to effectively implement a ban on natural gas equipment and infrastructure in virtually all new construction.

David P. Flynn
Partner

Kimberly R. Nason
Partner

Benjamin Sugarman
Attorney

Dennis W. Elsenbeck
Head of Energy and Sustainability

In just 20 months, on January 1, 2026, the ban will go into effect for new buildings that are seven stories or less. Then, on January 1, 2029, the ban will be in effect for all new buildings. The installation and continued use and maintenance of fossil fuel equipment will not be affected in existing buildings or new construction that is occupied before the effective date of the ban. There are some exemptions for manufacturing and medical facilities.

As real estate developers lay the groundwork for the first generation of construction projects that will be completed after the ban goes into effect, the reality is setting in that these projects will have to contend with a State electric grid that does not have nearly the capacity required to meet electric demands following the ban. Since the CLCPA set aggressive emissions reduction goals for the State—40% by 2030 and 85% by 2050 from 1990 levels—it has been no secret that significant investments are needed to upgrade transmission and distribution systems to achieve that level of electrification across New York State. The push toward electrification in the building sector will entail a massive growth in consumer demand for electricity that the current grid cannot support. The State will need to find ways to accommodate this demand.

Under the system in effect today, depending on the increase in demand expected from a project, the electric utility may require an 8-12 month study to evaluate if the grid has enough capacity to accommodate the project, with months—if not years—of delays associated with bringing the necessary upgrades online. Additionally, under the existing utility framework, a developer whose project requires any system upgrades may ultimately have to shoulder those costs, despite conforming to the State mandate.

Certain reports, such as the Climate Action Council's Final Scoping Plan, have repeatedly emphasized the need for coordinated planning across various sectors to carry out the State's decarbonization efforts. Yet, the planning process has not involved significant engagement with developers constructing numerous projects and driving economic development across New York. With the natural gas ban on the horizon, it may be hard to continue overlooking their perspective.

Developers will be key figures in the electrification of the building sector, while economic development agencies will be vital in identifying energy needs and prioritizing targeted site development. These entities can provide key insights as to how the natural gas ban could affect the State's goals in areas such as revitalizing disadvantaged communities and creating affordable housing, green jobs and a robust clean technology supply chain in New York. In light of this, the ban should not inadvertently make new development so cost-prohibitive or the development timeline so attenuated that the State drives away valuable economic development opportunities.

David P. Flynn, Partner and Co-Leader of Phillips Lytle's Energy and Renewables Team, concentrates his practice in the areas of environmental law, energy and emerging technologies. He can be reached at (716) 847-5473 or dflynn@phillipslytle.com.

Kimberly R. Nason, Partner at Phillips Lytle LLP and member of the Real Estate and Energy and Renewables Teams, focuses her practice on land use and zoning, environmental law and energy matters. She can be reached at (716) 504-5784 or knason@phillipslytle.com.

Benjamin Sugarman is an attorney at Phillips Lytle LLP and brings his experience in the private and public sectors to land, environment and energy matters. He can be reached at (585) 238-2045 or bsugarman@phillipslytle.com.

Dennis W. Elsenbeck, Head of Energy and Sustainability at Phillips Lytle Energy Consulting Services, contributed to this article.