

STATE OF NEW YORK
SUPREME COURT

ALBANY COUNTY

In the Matter of the Application of

CITIZENS ACTION OF NEW YORK, PEOPLE UNITED
FOR SUSTAINABLE HOUSING BUFFALO, SIERRA
CLUB, and WE ACT FOR ENVIRONMENTAL
JUSTICE,

Petitioners-Plaintiffs,

For a Judgment Pursuant to Article 78
of the Civil Practice Law and Rules

Decision & Order
Index No. 903160-25

-against-

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION,

Respondent-Defendant.

Supreme Court, Albany County
Motion Return Date: December 12, 2025

Present: Julian D. Schreiber, JSC

Appearances: Earthjustice
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Schreibman, J.:

This is a special proceeding under Article 78 of the CPLR. Petitioners Citizen Action of New York, *et al.*, sought relief in the manner of mandamus to compel respondent New York State Department of Environmental Conservation (“DEC”) to comply with statutory deadlines contained in the Climate Leadership and Community Protection Act (“Climate Act”). By Decision & Order dated October 24, 2025 (the “Decision”), the Court granted the petition. Despite having missed the statutory deadline by nearly two years at that point, the Decision afforded respondent until February 6, 2026, to come into compliance. Now pending before the Court is respondent’s motion to reargue and renew for the limited purpose of asking the Court to extend that deadline. (*See*, CPLR 2221[d],[e]).

The motion is denied for two reasons. First, the motion is moot. Because respondent has filed a notice of appeal, this court’s deadline for compliance is stayed by operation of law. Second, respondent has not met the legal threshold to renew or reargue on this point. Indeed, the Decision already grants respondent essentially the relief it now seeks: the opportunity to obtain more time to pursue the regulatory process. Under the Decision, respondent has the opportunity to obtain this extension from the body better equipped and constitutionally responsible for making decisions about what measures should be taken in what timeframe: the Legislature.

As a preliminary matter, the parties’ submissions reflect some uncertainty as to the scope of the relief afforded by the Decision. This Court was not asked to modify the substantive legislative mandates of the Climate Act. Nor, for that matter, would it have been appropriate for the Court to have done so. Accordingly, the relief granted was limited to requiring DEC to fulfill the mandate of the law and to do so by a date certain. The deadline in the Decision, therefore, is

the deadline for DEC to do what the Climate Act directed be done by the original statutory deadline of January 1, 2024: no more, no less.

Separately, the Court notes that, contrary to the implication of DEC's papers, the Court did not order DEC to conduct an entire rulemaking process in a little over three months. The issuance of the Decision was not "Day 1" of the regulatory process. (*See* NYSCEF Doc. 106, Reply Memorandum of Law, 4). For that matter, the filing of the petition was not Day 1 of the regulatory process. Presuming the good faith of the DEC – something the Court has no reason to doubt – it has been actively working on these regulations continuously for the past several years and has been well aware that it had left the deadline in the rearview mirror long ago. As noted in the Decision, DEC had ample opportunity to seek relief from the statutory deadline from the Legislature at any time prior to, or during, this litigation, yet it failed to do so.

The Motion is Moot Because the Court's Deadline is Stayed

As noted by petitioners, the Court's deadline is a legal irrelevance at this point. Respondent has filed a notice of appeal of the Decision. Because respondent is a state agency, by operation of law its obligation to comply with the Decision is stayed while the appeal is pending. (CPLR §5519[a][1]). Absent intervening legislative action, the Appellate Division may, *inter alia*, modify the deadline set forth in this Court's Decision. Due to the stay, the DEC is in no danger of being held in contempt for non-compliance with the Decision. Therefore, the Court sees no purpose in tinkering with a deadline that is currently unenforceable and subject to the jurisdiction of a superior tribunal. Because the deadline is now inoperative, respondent's motion to change it is moot.

The Decision Already Affords Respondent the Opportunity to Obtain an Extension

To the extent that the Court could, technically, alter the deadline, however pointlessly, the Court finds that respondents have not satisfied the statutory threshold for reargument or renewal.

A motion to reargue is addressed to the sound discretion of the court and may be granted only upon a showing that the court “overlooked or misapprehended the relevant facts, or misapplied any controlling principle of law.” (*In re Oswald*, 138 AD3d 1343, 1344 [3rd Dept. 2016]; *see also e.g. Adderley v State of New York*, 35 AD3d 1043 [3rd Dept. 2006]. Reargument is not designed to allow a party successive opportunities to reargue issues previously decided or to present arguments different from those originally asserted. (*See Foley v Roche*, 68 AD2d 558, 568 [1st Dept. 1979]; *Wasson v Bond*, 134 AD3d 1224 [3rd Dept. 2015]). Similarly, respondent has not presented facts, newly discovered or otherwise, not previously offered that would change the prior determination, as is required on a renewal motion. (CPLR §2221 [e][3]; *see generally Tibbets v Verizon New York, Inc.*, 40 AD3d 1300 [3rd Dept. 2007]; *Hyman v Schwartz*, 127 AD3d 1281 [3rd Dept. 2015]). As petitioners correctly point out, to demonstrate entitlement to the requested relief, respondent must show that the Court misapprehended law or facts, not that it failed, in respondent’s view, to appreciate the merits of its argument.

As respondent concedes on Reply, the Court expressly solicited, and considered, both sides’ perspectives as to the appropriate timeframe within which to compel compliance. Accordingly, DEC not only had the opportunity to argue this issue, it affirmatively did so. Not only did respondent already argue that it needed more time to complete the regulatory process, in a very real sense it *won* on this point, as the Court rejected petitioners’ request to impose a 30-day deadline on DEC.

What the Court did not grant to DEC, however, was absolution from any deadline at all. DEC asked the Court to refrain from setting a deadline and instead to supervise an open-ended pursuit of the regulatory process. DEC’s current motion simply reasserts this request; nowhere in its motion papers does it propose an alternative firm date by which it can comply with the Climate

Act. DEC has been heard on this point, and it has identified no legal basis for it to be heard again. DEC's argument was rejected both because it was contrary to the relief to which petitioners were entitled by law and because this Court lacks the expertise to oversee and assess the development and roll-out of complex economy-wide environmental regulations. It has not acquired such expertise in the two months that have elapsed since issuing the Decision.

To that end, while the Court granted the petition, the Court expressly accounted for respondent's argument by postponing DEC's obligation to comply with the Climate Act until it had had time to make precisely these arguments to the body that has the expertise, the authority, and the political responsibility for making this determination: the Legislature. In the Decision, the Court explained that it would be inappropriate for the Court to impose a deadline that effectively supplanted the Legislature's authority to control this process. While DEC's motion reiterates its argument as to why it needs more time to complete the regulatory process – the same argument that lay at the heart of its opposition to the petition itself – nowhere does DEC claim that it is unable to timely make these arguments to the Legislature as contemplated by the Decision. If the Legislature concludes that it should modify either what DEC must do, or by when, it will do so. Alternatively, if the Legislature believes DEC can fulfill its legal mandate by February 6, 2026, it would be improper for this Court to nevertheless extend that deadline.

In short, DEC is again asking that this Court, rather than the Legislature, oversee the regulatory process.¹ The Court has already declined to take on this role and respondent has identified no basis for the Court to conclude that it erred in doing so. The Court's Decision did not create a mandate; it ordered DEC to comply with the Legislature's mandate. In doing so, the Court

¹ That respondent is asking the Court to fill this role – exactly what it argued the Court should do at oral argument on the petition – is made even clearer by the fact that, after this motion was submitted, DEC sent the Court a letter providing a “brief update” on the regulatory process. (See NYSCEF Doc. No. 107).

considered DEC's potential need for more flexibility and, in deference to that potential need, afforded it time to address the situation with the Legislature. It will do no more than that now.

While DEC expressly limits its renewal motion to the issue of the Court's deadline, in fact the essence of its argument is the very same with which it opposed the petition, and the relief it requests is identical: it does not want its compliance with the Climate Act, such as it is, to be governed by a hard deadline. For the reasons set forth in the Decision, DEC's argument fails. As DEC's arguments were considered in full, and explicitly accommodated by the choice of deadline that allowed it to pursue legislative relief, DEC has not identified a basis on which to grant its request to renew or reargue the petition.

Otherwise, any remaining contentions not specifically addressed herein have been considered by the Court and found to be either unavailing or unnecessary to reach.

Based on the foregoing it is hereby

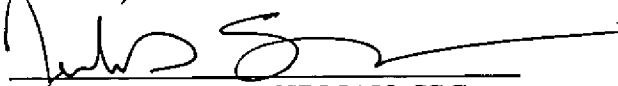
ORDERED that respondent's motion to renew or reargue is DENIED.

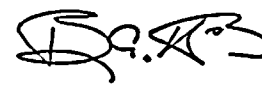
This shall constitute the Decision and Order of the Court. The original Decision and Order is being filed with the Albany County Clerk via NYSCEF. The signing of this Decision and Order shall not constitute entry or filing under CPLR §2220. Counsel is not relieved from the applicable provisions of that rule regarding notice of entry.

SO ORDERED.

Dated: January 8, 2026
Kingston, New York

ENTER,


JULIAN D. SCHREIBMAN, JSC



Papers considered: Respondent-Defendant's Notice of Motion to Reargue and Renew and Memorandum of Law in Support by Meredith G. Lee-Clark, Assistant Attorney General, dated November 25, 2025; Affirmation of Michael Sheehan affirmed November 25, 2025; Affirmation of Vladimir Gutman-Britten affirmed November 25, 2025; Petitioners-Plaintiffs' Memorandum of Law in Opposition dated December 5, 2025; and Respondent-Defendant's Reply Memorandum of Law dated December 11, 2025.