FOR ENVIRONMENTAL JUSTICE

November 29, 2021

Oral Testimony
ASSEMBLY STANDING COMMITTEE ON ENVIRONMENTAL CONSERVATION
ASSEMBLY STANDING COMMITTEE ON ENERGY
ASSEMBLY CLIMATE CHANGE WORK GROUP

Good afternoon, thank you for the opportunity to testify today regarding climate spending for New York State. My name is Sonal Jessel, and I'm the Director of Policy at WE ACT for Environmental Justice. Over the past 32 years, WE ACT has been combating environmental racism through community organizing in Northern Manhattan, and policy advocacy at the City, State and National Levels. We are a prominent leader in the national environmental justice movement. I have received my master's in public health from Columbia University, with a concentration on climate change and population health.

The State's Climate Leadership and Community Protection Act of 2019 mandates emissions cuts across all industries, with 35-40% of the benefits going to disadvantaged communities. As a member of the CLCPA's Climate Justice Working Group tasked with defining "disadvantaged communities," I am deeply invested in ensuring climate spending and benefits go to the communities that have been hit hardest by climate injustice and environmental racism. To realize this goal, I have five important items that must be done by the State:

1) **Defining Benefits**
What does the term "benefits" in the CLCPA mean? This has been a topic of light discussion in the Climate Justice Working Group and the Climate Action Council, but there is no clear definition. "Benefits" must be defined adequately and immediately so that tracking the 35-40% can be accurate. Benefits must not just mean financial investments. Benefits mean public health benefits, and workforce benefits as well. I believe the Climate Justice Working Group will be an appropriate body for advising on the final definition of "benefits."

2) **Tracking Benefits**
Tracking the 35-40% has been opaque. The State must establish a cohesive and clear tracking system, in which advocates and communities can see what benefits they are receiving for their locales. Without transparent tracking, not only will we likely miss the 35-40% goal, but lack of trust in government will continue in historically pushed aside and under-resourced communities.

3) **Aligning with Justice40**
The Biden Administration established Justice40 to ensure all climate spending focuses at least 40% of the investments in environmental justice communities. Incredibly, this spending tactic came from the hard work of NY Renews and legislators, advocates, and communities in New York State. Justice40 must also be closely tracked, and it will be most efficient to have New York combine

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tracking for both initiatives. The State must also make clear what spending and programs fall under Justice40 and the CLCPA. Does the Environmental Protection Fund and the potential Bond Act fall under Justice40?

4) **Federal investments**
The Bipartisan Infrastructure Plan just passed, and the Build Back Better Act is getting close. How is the State tracking the incoming federal funding? How is the State ensuring the funding is going towards disadvantaged communities? There is:
   - $9.8 billion over 5 years under BIP for public transportation
   - $175 million over 5 years under BIP for EV charging network expansion
   - $3.5 billion in weatherization under BIP, a portion of which goes to New York State
   - The Build Back Better Act hold promise of around $500 billion for buildings, transportation, industry, electricity, agriculture, a Civilian Climate Corps, parks, and other funding for resilience, and mitigation and adaptation practices.

   These federal investments offer an unparalleled opportunity to address the climate crisis while centering communities of color and low-income through Justice40 and in New York State through the CLCPA.

5) **Environmental Justice Advisory Group**
The Environmental Justice bill signed in 2019 creates a permanent Environmental Justice Advisory Group for the State. The group is written into the CLCPA, to provide guidance on the law's implementation. Under State law, the Group was supposed to be formally created in January 2021, however it has not yet been announced. Why is it taking so long for this group to be created? When will the group be formed? This group is vital for overseeing the rollout of the 35-40% of benefits. Without it, I question how committed the State is to centering environmental justice in the CLCPA.

This is an exciting opportunity to make improve the environmental health of low-income communities and communities of color across the State through smart, equitable, climate investments. To be successful, adequate tracking, transparency, and establishing definitions and advisory groups is key.

Thank you for your time.

Sincerely,

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ASSEMBLY STANDING COMMITTEE ON ENVIRONMENTAL CONSERVATION
ASSEMBLY STANDING COMMITTEE ON ENERGY
ASSEMBLY CLIMATE CHANGE WORK GROUP
Hearing on the Climate Leadership and Community Protection Act Implementation
November 29, 2021

Chair Englebright, Chair Cusick, and members of the Assembly Committees on Environmental Conservation and Energy, and the Assembly Climate Change Working Group, thank you for the opportunity to provide an update on the progress being made to implement the Climate Leadership and Community Protection Act (CLCPA) and discuss the success of climate-change related expenditures by the New York State Energy Research and Development Authority (NYSERDA) and the state. I am John Williams, Vice President of Policy and Regulatory Affairs at NYSERDA. I am pleased to inform you that the Climate Action Council remains on track to achieve the critical milestones established by the CLCPA passed by the State Legislature in 2019, and state agencies and authorities are continuing to make robust and impactful investments toward climate infrastructure – helping put New York State on a path to carbon neutrality as we drive spending and benefits in disadvantaged communities across the State.

After bringing together experts from key sectors of the economy to put forth their best recommendations, the Council has been hard at work developing the draft Scoping Plan to reduce economy-wide greenhouse gas emissions and meet the State's ambitious clean energy targets. With the support of State agency staff, the Council is producing that draft Scoping Plan for public review in accordance with the timeline established by the State Legislature in the CLCPA – by the end of this year.

As directed by the State Legislature in the CLCPA, the Council and advisory panels have engaged with the Climate Justice Working Group for feedback on the recommendations throughout the development of the draft scoping plan. The Working Group's feedback has informed assumptions built into the analysis that will be incorporated into the draft scoping plan scenarios. We recently completed the "integration analysis" on the mitigation strategies, incorporating the sector specific recommendations into statewide scenarios designed to meet the CLCPA goals. This analysis provided data on the societal costs and benefits and emission reductions that can be expected from the full set of recommendations that could be included in the scoping plan. The results of the analysis show that the public health and environmental benefits well exceed the necessary investments we'll need to make as a state in the coming decades.

Supplementing the work undertaken by the advisory panels, the Climate Justice Working Group, comprised of representatives of Environmental Justice communities across the state, has been developing the criteria to identify disadvantaged communities, which will be used to track investments and associated benefits to these communities. The Working Group continues to work hard to arrive at reaching the final criteria, which is expected soon. That definition, and the associated benefits framework, will be critical to shaping how relevant state investments are delivered in alignment with the CLCPA, and NYSERDA and other agencies will be directing our respective relevant investments to report statewide progress to meet the terms of CLCPA.

As members of the Committee may be aware, NYSERDA has been working with interim criteria of disadvantaged communities since 2020, as the work of the Climate Justice Working Group continues. At the same time, NYSERDA, DEC and other State agencies are also accelerating their work to achieve the CLCPA goals to deliver benefits and spending to disadvantaged communities. NYSERDA has posted information regarding the interim criteria identified for a disadvantaged community on its' website, including an interactive map to determine if an address is located in a disadvantaged community meeting the interim criteria. (NYSERDA Disadvantaged Communities: www.nyserda.ny.gov/ny/disadvantaged-communities)

I want to highlight some of the initiatives that NYSERDA has already undertaken and the many areas in which we have achieved substantial investment and progress. A core pillar of NYSERDA's strategy is the development of an inclusive clean energy economy. NYSERDA is working to achieve this goal through holistic planning that looks to simultaneously create jobs, reduce high home energy burdens, dramatically improve the quality and availability of affordable housing, and drastically reduce pollution in disadvantaged communities.

The Clean Energy Fund (CEF) Order, approved in September by the Public Service Commission (PSC), strengthens New York's commitment to ensure those historically underserved reap the advantages of clean energy by reaffirming at least 35 percent with a goal of 40 percent of the benefits of its investments will be delivered to disadvantaged communities, as called for in the CLCPA. The action taken by the PSC bolsters NYSERDA's work in prioritizing expanded access to clean, energy efficient solutions for all New Yorkers and further advances the state's just and equitable approach to achieving the CLCPA goals.

While continuing to drive financing market transformation broadly across clean energy and sustainable infrastructure markets, going forward NY Green Bank will take action to achieve the $350 million investment target under the CEF plan to ensure that at least 35 percent with a goal of 40 percent of the benefits of its investments accrue to low-to-moderate income and disadvantaged communities. NY Green Bank will support clean energy improvements in affordable housing properties, financing to help clean transportation businesses locate or expand in New York, and strategic energy storage-related investments. NY Green Banks ever-growing, diverse pipeline in clean energy investment spans various sectors, including solar, energy efficiency, wind, storage, sustainable transportation, across every region of New York State. In May, NY Green Bank issued a Request for Proposals to focus on projects that prioritize energy efficiency and electrification in multifamily affordable housing within disadvantaged communities across the State. And in September, NY Green Bank announced it is seeking to make investments in clean energy lenders serving disadvantaged communities – enabling community-based financial entities to support more high-impact, emissions reducing, clean energy infrastructure projects that benefit underserved New Yorkers.

In addition, over the past decade, the NY-Sun program has helped make New York a national leader in distributed solar development. While maintaining a suite of existing programs, a strategic priority for the future of the NY-Sun program is the solar energy equity framework, which commits no less than $200 million to serve low to moderate income households, affordable housing providers, disadvantaged communities, and environmental justice populations. Additionally, the NY-Sun Community Solar approach, designed to making solar energy available to residents in underserved communities, is seen as a model approach by other states.

New York is laser-focused on driving down energy demand through investment in energy efficiency. Through NYSERDA and utility programs, over $6.8 billion is being invested to decarbonize buildings, making them more efficient and switching heating and cooling systems to high-efficiency all-electric technologies. As we build an inclusive clean energy economy and support economic recovery, the CEF market development portfolio is a primary vehicle by which the State will advance strategies to decarbonize buildings. NYSERDA will invest in a comprehensive suite of market development programs – ranging from clean heating and cooling to multifamily and commercial buildings to workforce development – that will steer toward increasing investments in low-income and disadvantaged communities to advance climate justice and ensure an equitable transition. Through NYSERDA's collaboration with the joint utilities on the statewide low to moderate income implementation plan for energy efficiency programs, filed in summer 2020, we have together committed $880 million for Low to Moderate Income energy efficiency programs through 2025 including $540 million coming from NYSERDA through the CEF.

An example of this effort is the first-of-its kind Clean Green Schools initiative recently announced by Governor Hochul, which will benefit more than 500 public and private schools in disadvantaged communities bringing clean energy education into the classroom while investing in much needed infrastructure improvements across the State. 100 percent of this $59 million funding is directed towards schools in disadvantaged communities, helping ensure that no New Yorker is left behind in our transition to a carbon-neutral economy. The initiative will help schools evaluate, plan for and facilitate energy reduction projects, clean energy projects and indoor air quality projects as well as projects which will decarbonize their buildings.

To ensure all New Yorker's benefit from the State's clean energy transition, NYSERDA is increasing community engagement as seen through the launch of the $36 million Regional Clean Energy Hubs program. This new initiative, led or co-led by local community-based organizations, will help spark new collaborations and partnerships with communities across the state, so that all New Yorkers are involved and their voices are heard as we move ahead with our clean energy transition. Dedicated and knowledgeable local Energy Advisors will be available at each Hub to provide free support to help community members apply for NYSERDA and other relevant clean energy programs, as well as help with accessing energy saving programs for homes and businesses that can lower monthly expenses and improve overall well-being, access to renewable energy options that reduce reliance on fossil fuels and participation in job opportunities in the growing clean energy economy.

Furthermore, the new renewable energy infrastructure created by our investments will focus the economic growth and job creation power of renewable energy to prioritize hiring in environmental justice areas and delivering benefits to disadvantaged communities. These workforce efforts not only support the growing demand for workers in these sectors, but they prioritize training programs for the state's most underserved populations – low-income individuals, veterans, disabled workers, single parents, the formerly incarcerated, and individuals from disadvantaged communities and will also help integrate displaced workers into the clean energy industry. To support this, NYSERDA has committed nearly $120 million for existing workforce development and training initiatives, which is directly targeting and benefitting priority populations and disadvantaged communities. NYSERDA's workforce development efforts are supporting career pathway programs that provide education, training and services to help place new workers into clean energy occupations like high-efficiency heating, ventilation and air conditioning (HVAC), building electrification and energy efficiency. These efforts will help train and prepare more than 40,000 New Yorkers for growing clean energy job opportunities and assist clean energy businesses in recruiting, hiring, and training workers.

Additionally, NYSERDA has provided funding to support important partnerships with labor, colleges and universities, community-based organizations, non-for-profits, manufacturers, trade associations and others, to ensure workers are trained through continuing education courses, certificate programs, degree programs, internships, apprenticeships and on-the-job training. NYSERDA programs are also integrating benefits and outcomes in program offering, for example, all large-scale renewable projects receiving awards from NYSERDA will be required to meet prevailing wage requirements and developers will negotiate Project Labor Agreements for project construction.

Of course, another area of focus is clean transportation. New York State's $1 billion investment in electrifying New York's transportation sector is growing access to and availability of electric vehicles and clean transit while scaling the necessary infrastructure benefits to all New Yorkers, including those in low-income or disadvantaged areas, by reducing carbon emissions to create cleaner air and healthier communities. NYSERDA announced the $85 million New York Clean Transportation Prizes to enhance clean transportation and mobility options and reduce harmful emissions across the state, exclusively focused on solutions in underserved communities. In addition, NY Green Bank's $100 million in financing is set to attract EV-sector manufacturers and other related businesses to the state. Under a range of initiatives, we are rapidly multiplying the number of charging stations to have at least 10,000 chargers available across New York by the end of 2021. Under NYSERDA's Drive Clean Rebate program, more than $35 million in rebates have been issued associated with more than 25,000 electric vehicle purchases as of June of this year.

In accordance with the CLCPA, NYSERDA has also taken steps to ensure that we are advancing initiatives through the Regional Greenhouse Gas Initiative (RGGI) operating plan adopted in January 2021 that was set up to deliver 39 percent of benefits from post-2019 RGGI commitments to disadvantaged communities. We are in the process of preparing the next RGGI operating plan update and will continue to focus on delivering benefits to disadvantaged communities in a similar manner in the upcoming plan proposal.

Our investments in clean energy will leverage billions of dollars of private sector capital, create thousands of new family-sustaining green jobs, and shape a cleaner, more resilient economy. As we build back our economy better with clean energy infrastructure and workforce-focused investments, the nation and the world will be watching, and our actions will once again affirm New York State as a leader in clean energy, environmental protection, and the fight against climate change.

Thank you for this opportunity to provide an update on this critically important progress. We look forward to finalizing the draft Scoping Plan that will inform our future efforts in clean energy and climate, building on New York's already impressive track record.

NYLPI
JUSTICE THROUGH COMMUNITY POWER

Comments of Justin Wood, Director of Policy of
New York Lawyers for the Public Interest
to the NYS Assembly Committees on
Environmental Conservation, Energy, and Climate Change
November 29, 2021
Regarding the Climate Leadership and Community Protection Act

Good morning, my name is Justin Wood and I am the Director of Policy at New York Lawyers for the Public Interest (NYLPI). We are proud members of the steering committee of NY Renews – a coalition of over 300 organizations statewide dedicated to climate justice.

Ratification of the Climate Leadership and Community Protection Act (CLCPA or "the Act") in 2019 was a landmark achievement for New York State and for this legislature, and has made our state a model for other governments seeking to transition to a regenerative economy while addressing the historic injustices of environmental racism and the iniquitous burdens of the climate crisis.

This law was the first in the nation to mandate that disadvantaged communities burdened by legacies of cumulative pollution, environmental racism, and the ongoing climate crisis should be prioritized by dedicating at least forty percent of state investments in renewable energy, transportation, housing, efficiency, and workforce development programs as part of our State's Just Transition from fossil fuels. Over the past year, the CLCPA has informed President Biden's Justice 40 Initiative contained in Executive Order 140008 – and we should celebrate and thank New York's Environmental Justice leaders including Peggy Shepard of WE ACT, who are on the White House Environmental Justice Advisory Council and have helped to shape the l climate justice plans of the Biden Administration.

We are heartened to see the CLCPA put into action by the DEC, which recently denied two permit applications for fossil fuel-fired peaker plants in Astoria and Newburgh on the grounds that these projects would have interfered with the mandate that New York achieve a zero-emissions electricity system by 2040. Additionally, DEC rejected both permits on the grounds that operation of these peaker plants would not comply with Section 7 of the Act, which precludes agencies from issuing permits for any operation that would result in disproportionate impacts to disadvantaged communities, including those identified on an interim basis.

NYLPI and NY Renews were also glad to see that plans to potentially combust hydrogen gas in power plants were also rejected in the DEC's denial decisions, and we call on the legislature, executive branch, and agencies like the New York State Energy Research and Development Authority (NYSERDA) to clearly state that New York will not entertain or invest in hydrogen combustion or other false climate solutions such as carbon capture and storage and geoengineering.

However, we remain concerned that the renewable energy and emissions reduction mandates of our climate law will be hollow without stable and ongoing funding, including a substantial down payment on the transition to regenerative economy in this year's budget.

NYSERDA and the state's Climate Action Council recently published an extensive cost-benefit analysis determining that the benefits of immediate bold action on climate change substantially outweigh the staggering human and economic costs of delayed or tepid action. The call to action is crystal clear: billions of dollars in *new spending now* will have immediate benefits for communities, resiliency, emissions reduction, job creation, and will save lives.

In short, we urgently need to begin investing $10-15 billion per year to electrify our buildings and transportation systems, to simultaneously move our electric grid to zero emissions, and to invest in efficient, smart buildings and infrastructure. While unprecedented, this level of expenditure would be a fairly modest 5% of the state's overall budget, and only .5-.6% of our state's gross product.

These investments must be guided on the principles of a Just Transition. working toward an equitable and just strategy that puts decisions in the hands of local communities, ensures that working families are protected from cost increases associated with this transition, and prepares workers for the sustainable jobs we will need throughout our state to undertake this transition.

The initial funding needed in the 2022 budget can come from a variety of sources including incoming federal funds from the recently signed infrastructure bill and under the Build Back Better plan now being negotiated in the US Senate with the leadership of New York's own Senator Schumer. Beyond this year's budget, we continue to firmly believe that that a polluter fee such as that contained in the Climate and Community Investment Act (S4264A/A6967) is by far the best mechanism to generate stable, dedicated revenue for climate investments over the next twenty years while incentivizing the private sector, economy wide, to rapidly transition away from fossil fuels.

We thank the Assembly for holding this hearing and for the opportunity to present testimony today. We hope to work closely with you to craft a budget and pass legislation ensuring that we make the principles of equity, solidarity, and prosperity enshrined in the CLPCA a reality for communities across our state.

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New York Lawyers for the Public Interest has fought for more than 40 years to protect civil rights and achieve lived equality for communities in need. NYLPI combines the power of law, organizing, and the private bar to make lasting change where it's needed most.

Testimony of Peter M. Iwanowicz
Executive Director
Environmental Advocates NY

Before the Assembly Standing Committee on Environmental Conservation, the Assembly Standing Committee on Energy, and the Assembly Climate Change Work Group

November 29, 2021

On behalf of Environmental Advocates NY, it is my pleasure to be with you today to present our perspective on climate change expenditures by state entities.

The main message we are here to deliver today: there is an urgent need for realignment of the state budget and spending by state entities to match the impacts of climate change.

We are in a climate crisis. The extreme weather events New York and other states around the country are experiencing are just what climate scientists have been warning us about for decades. Communities all across the state are being dramatically impacted, people are losing their livelihoods and some, sadly, are losing their lives.

Last year, the State Department of Environmental Conservation (DEC) assessed the damage caused by each ton of greenhouse gas emitted; commonly called the Social Cost of Carbon.[1] The DEC found that each ton of carbon dioxide caused more than $120 in damage.

Multiply this by each ton of carbon dioxide emitted in New York each year and the annual damage cost is a staggering $27.5 billion dollars per year.

Recognizing the need for a plan of action, The Legislature and the Executive worked together to enact the 2019 Climate Leadership and Community Protection Act (CLCPA), a law that *The New York Times* called "one of the world's most ambitious climate plans."

The CLCPA mandates the most aggressive pollution cuts in the nation and commits us to ensure that the transition to a 100% renewable energy economy will ensure justice and equity for frontline communities and workers. The CLCPA created the

[1] https://www.dec.ny.gov/docs/administration_pdf/vocguidrev.pdf (last accessed November 21, 2021)

state Climate Action Council of which I am a member. I am one of the three members appointed by Assembly Speaker Carl Heastie.

Recently the Council received an analysis that assessed the benefits and cost of acting on climate.[2] It was a sobering reminder of the impacts that climate change is having on our state and the 20 million people that call it home.

It was also a reminder that the benefits of acting to protect our environment and health always outweigh the costs. The analysis presented to the Council showed that the net benefits for acting ranged from $80 to $150 billion.

The higher range of the benefits would be realized if we rapidly moved away from the combustion of fuels to full electrification of our energy systems.

Because our economy is so diverse, the costs are a small share of New York's economy: 0.5-0.6% of Gross State Product in 2030 and 1.9-2.1% in 2050.

The main takeaway for the benefit-cost analysis is this: the faster we move to full electrification the fewer people will get sick, the fewer lives we will lose and the faster we will reap the net economic benefits.

The analysis also showed that the state needs to be spending at least $10 billion dollars annually to ensure that we secure the benefits of acting.

The climate crisis should be sufficient motivation to spend this amount. That the benefits accrue to those that act first, makes the spending at this level common-sense.

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Turning to the current state climate spending, here is a look at some key appropriations and current spending by state entities.

Environmental Protection Fund (EPF)

A significant source of environmental funding in the state budget is the $300 million EPF.

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[2] https://climate.ny.gov/-/media/Migrated/CLCPA/Files/2021-10-14-CAC-Meeting-presentation.ashx (last accessed November 21, 2021)

The spending from the EPF provides resources to a host of important programs. But it's not nearly enough. Furthermore, the climate portion of the EPF is just $19.1 million or 6.4% of the total fund.[3]

Let's quickly put the EPF spending in the state budget into some context climate-wise. New York spends more in the budget to support the combustion of fossil fuels and the oil and gas industry that all the appropriations of the EPF. Legislation has been introduced to end these subsidies which the sponsors believe cost the state treasury $336 million per year.[4]

The Clean Energy Fund

The Clean Energy Fund (CEF), established by the Public Service Commission in 2016, was developed to scale clean energy market opportunities in the state.

The New York State Energy Research and Development Authority (NYSERDA) and the Public Service Commission have begun making progress in aligning CEF programs and spending with the CLCPA. A September 2021 decision by the PSC assigned a specific goal to CEF to ensure 40% of its funds are dedicated to disadvantaged communities, including at least 35% of NY Green Bank funding. The NY Sun program has also increased its goal to achieve 10 gigawatts of distributed solar by 2030, creating 6,000 new solar jobs and allowing the state to meet its 70% renewable electricity goals by 2030.

The Regional Greenhouse Gas Initiative (RGGI).

Since the CLCPA became effective January 1, 2020, New York State has participated in seven RGGI pollution allowance auctions which generated $261.76 million in proceeds.[5] These funds are clean energy funds under the CLCPA and subsequent regulatory modifications[6] by NYSERDA. Thus, the state should be dedicating at least 35% of the RGGI auction proceeds to the benefit of "disadvantaged communities." It is not clear how much of these funds have been spent as legally required.

Furthermore, in the State Fiscal Year 2020-2021 and 2021-2022 budgets, a total of $46 million was redirected from NYSERDA to the general fund. As a direct result of the last two years of sweeps, more than $16 million has been denied to

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[3] https://www.dec.ny.gov/energy/109181.html (last accessed November 21, 2021)
[4] Assembly bill 8483 by Member of the Assembly Cahill
[5] Auction 47-53 proceeds NY: $50,269,615.50 + $43,080,511.98 + $42,091,429.60 + $36,519,192.06 + $33,611,456.12 + $28,338,098.75 + $27,845,262.25
https://www.rggi.org/Auctions/Auction-Results/Supply-Bid (Last accessed November 22, 2021).
[6] https://www.nyserda.ny.gov/Researchers-and-Policymakers/Regional-Greenhouse-Gas-Initiative/21-NYCRR-Part-507 (last accessed November 21, 2021)

disadvantaged communities. This is a practice that commenced in 2015 and should have ended with the enactment of the CLCPA.

We have asked the Hochul Administration to end the practice that started with its predecessor, and we call on The Legislature to end the annual raid of RGGI funds and allow NYSERDA use them as intended, to increase energy efficiency, to deploy clean energy technologies and to provide at least 35% of the funds to be spent in disadvantaged communities.

The Public Service Commission

Under the PSC order Authorizing Utility Energy Efficiency and Building Electrification Portfolios through 2025 issued in January of 2020[7], private utilities are now required to fund electric and gas efficiency and heat pump programs. This order authorizes the utilities to collect and spend $1.9 billion helping their customers cut energy waste and reduce their energy bills to meet the CLCPA 2025 energy efficiency obligations We believe the funds of these programs fall within the CLCPA definition of clean energy funds and, therefore, the PSC needs to ensure that the utilities are spending at least 35% of the funds to benefit disadvantaged communities.

Electric Vehicle Rebates

As part of the SFY 2016-2017 budget, the state created an electric vehicle rebate program to be administered by NYSERDA.[8] There are more than 60 vehicle models that are eligible for some level of rebate. The program has been a success as the number of electric vehicles being sold and used in New York State has steadily increased.

It is time for the program to be modified so more New York consumers can participate. Additional incentives for qualifying low or moderate-income New Yorkers should be added to the program. The state should also develop a rebate program for used electric vehicles.

The state also has several programs to support the build out of public EV charging.[9] Up to $4,000 is available per charging station with an additional $500 for charging stations located in disadvantaged communities.

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[7] Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios through 2025 (Case Number 18-M-0084): https://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={06B0FDEC-62EC-4A97-A7D7-7082F71B68B8}

[8] https://www.nyserda.ny.gov/All-Programs/Drive-Clean-Rebate (last accessed November 21, 2021)

[9] https://www.nyserda.ny.gov/All-Programs/ChargeNY/Charge-Electric/Charging-Station-Programs (last accessed November 21, 2021)

The budget's climate test

The CLCPA also contains an often overlooked but key section – Section 7.[10] This portion of the law requires that all state agencies, offices, authorities, and divisions consider whether their decisions are inconsistent with or will interfere with the attainment of the statewide greenhouse gas emissions limits of the CLCPA. The decisions captured by this section include issuing permits, licenses, and other administrative approvals and decisions, including but not limited to the execution of grants, loans, and contracts.

In practical terms, all decision of the state must be run through a "climate test." It is meant to ensure that we don't dig the hole any deeper.

Because it covers divisions of the state, this section of law clearly applies to the State Division of Budget.

Now that the CLCPA is law, our state's annual spending plan must not be inconsistent with the state's climate goals and it must also prioritize pollution reductions in disadvantaged communities.

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To sum up EANY's positions: we need to tackle the climate crisis and current levels of state spending are inadequate.

We call on the Executive and the Legislature to enact a SFY 2022-23 budget that includes at least $15 billion to advance the objectives of the CLCPA. Anything short of this will delay the public health and economic benefits that we all know are there for the taking.

Thank you for the opportunity to provide this testimony.

[10] Chapter 106 of the Laws of 2019

Testimony of

Maureen Leddy

Director, Office of Climate Change

New York State Department of Environmental Conservation

New York State Legislature

Assembly Standing Committee on Environmental Conservation

Assembly Standing Committee on Energy

Assembly Climate Change Work Group

Hearing:

Review of Climate Change Expenditures by State Entities

November 29, 2021

Chair Englebright, Chair Cusick, members of the Assembly Committees on Environmental Conservation, Energy, and the Assembly Climate Change Work Group, thank you for the opportunity to provide testimony on the State's sustained progress to implement the Climate Leadership and Community Protection Act (CLCPA) and to highlight the success of New York's climate change-related expenditures. My name is Maureen Leddy, and I am the Director of the Office of Climate Change for the New York State Department of Environmental Conservation (DEC).

As co-chairs of the Climate Action Council (Council), DEC and the New York State Energy Research and Development Authority (NYSERDA) remain hard at work ensuring the successful implementation of the CLCPA which was passed by the State Legislature two years ago. In particular, I am proud of the work our teams have accomplished in meeting the CLCPA milestones laid out in the legislation, including developing the Value of Carbon guidance for state agencies, enacting strong statewide greenhouse gas emissions limits through regulation, and designing a broad community air quality monitoring initiative in the state, which was recently announced by Governor Hochul. In addition, DEC and NYSERDA are currently finalizing the first annual greenhouse gas emissions report and the barriers and opportunities report required by the CLCPA. We look forward to sharing this analysis soon and the Council is on track to release the draft Scoping Plan for public comment by the end of the year as required by the CLCPA.

Throughout the State's response to COVID-19, the Council continued to work through virtual meetings, bringing together 127 experts from key sectors of the economy and society to share their recommendations to help develop the draft Scoping Plan. Since its first meeting in March 2020, the Council has held 16 meetings in which they, among other work, appointed the advisory panels, approved their work plans, received progress reports, received their final recommendations, received feedback from the Climate Justice Working Group (CJWG) on the benefits and impacts to disadvantaged communities of the advisory panels' recommendations, and received data on costs and benefits of the mitigation strategies from the integration analysis. In undertaking their work, the Advisory Panels and Just Transition Working Group held more than 90 public meetings, sought the perspectives of additional experts and other stakeholders, held public engagement sessions, conducted public surveys, and solicited public comment. The Council has advanced a comprehensive and transparent public process to develop the draft Scoping Plan.

We have made incredible progress on these critical efforts. New York is on the path to net zero carbon emissions and ensuring climate justice for disadvantaged communities. Outside of our direct work to advance the CLCPA, DEC staff across the agency are prioritizing climate action in all programs and initiatives and many serve on key roles in the various working groups associated with the Council process.

In addition, the CJWG, which includes representatives of Environmental Justice communities across the state, met 19 times over the past year and a half to develop a draft definition of "disadvantaged communities." The CJWG is also conducting critical work to help ensure the State's investments to reduce climate-altering pollution benefit all New Yorkers, particularly those communities that have borne the brunt of pollution for decades.

The CJWG and our colleagues from Environmental Justice communities across the state have worked tirelessly over the last year and a half engaging in a public process to develop the draft criteria. To aid in identifying disadvantaged communities, the CJWG is considering indicators corresponding to all three categories of criteria specified in the CLCPA: (1) environmental burdens; (2) population characteristics and vulnerabilities; and (3) climate change risks. The New York State Department of Health (DOH) and DEC were especially involved in identifying relevant environmental exposures, potentially hazardous facilities, and public health data that could be relevant to the disadvantaged community definition as well as providing data and guidance to the CJWG. The CJWG is also considering how to address low- to moderate-income (LMI) households that may be outside of designated disadvantaged community census tracts, which would allow for individual LMI households to be considered as part of a disadvantaged community for the purpose of allocating funding toward the 40 percent goal. The CJWG expects to finalize its identification of draft criteria for public comment shortly and will begin the hearing process as outlined by the CLCPA.

The work of the CJWG is foundational to the success of our collective efforts and is also some of the most complex work advancing through the CLCPA process. As a preliminary step while criteria development continues, NYSERDA developed an interim approach to identifying disadvantaged communities to assist agencies in their work in meeting the 40 percent investment goal in the CLCPA.

Although current DEC programs generally fall outside the scope of the investment goal, DEC has started evaluating its grant programs to better understand the distribution of funds across communities and to identify funding that might have a climate benefit that would warrant further analysis. In particular, I will highlight two Environmental Protection Fund (EPF) programs administered by DEC's Office of Climate Change (OCC), which are making critical investments in community actions to combat climate change across the state. These are the Climate Smart Communities (CSC) grant program and the Municipal Zero Emission Vehicle (ZEV) grant program.

Since program inception in 2016, OCC has awarded 132 CSC grants totaling more than $40 million. CSC grants are issued annually on a competitive basis and are organized into two categories: certification grants; and implementation grants. Certification grants provide support for municipalities to develop plans, inventories, and assessments that are part of seeking designation as a Certified Climate Smart Community. Implementation grants provide awards of up to $2 million for construction projects focused on climate adaptation and greenhouse gas mitigation in the non-power sector. Since 2016, approximately $37 million has been awarded for implementation projects. Under ECL § 54-1507, the CSC program is limited to funding projects that demonstrate an ability to identify, mitigate, and/or adapt to climate change vulnerability and risk or demonstrate potential to reduce greenhouse gas emissions outside the power sector.

The evaluation criteria for these competitive grants favor projects located in low-income communities and Potential Environmental Justice Areas (PEJAs). Since 2016, the CSC grant scoring criteria have awarded points to municipalities that experience financial hardship, creating a competitive advantage for low-income communities in securing this funding. Since 2018, the CSC grant scoring criteria have awarded points for implementation projects in DEC-defined PEJAs.

Recently, DEC undertook an evaluation of the CSC grants to assess how the funding is distributed across communities, and we can provide some preliminary metrics for these grants. Under the CSC grant program, municipalities with a Median Household Income (MHI) of 80 percent or less of the statewide MHI as calculated by the U.S. Census Bureau (i.e., less than

$57,686) are defined as low income. Low-income municipalities have received 52 percent of the awarded funds. OCC has awarded 36 percent of CSC implementation funds to projects located in PEJAs.

The CSC ZEV program provides funding to municipalities to offset the costs of acquiring ZEVs for municipal fleets and for installing publicly available ZEV infrastructure, such as charging stations. Since program inception in 2016, approximately $5 million of EPF funds have been awarded for eligible equipment. The ZEV grant program is not competitive but has recently eliminated the matching funds requirement for infrastructure projects in low-income communities. In the past, municipalities had to provide 20 percent matching funds to qualify for these grants. A preliminary analysis indicates that 37 percent of ZEV infrastructure funds have been awarded to projects in PEJAs and 18 percent have been awarded to low-income municipalities.

These preliminary metrics only examined funding in PEJAs or low-income communities and the final definition of disadvantaged community will likely be broader, capturing many more disadvantaged community attributes. This preliminary analysis provides an indication that the CSC program is delivering investment to disadvantaged communities as envisioned under the CLCPA. Based upon this information, and other considerations, the CSC program has formed an equity working group to develop program design changes that can serve to increase the funding flowing to these communities.

These are just two examples of the many actions DEC and other state agencies and authorities are evaluating and incorporating to help increase investments in disadvantaged communities. In addition to the specific requirements codified in the CLCPA, DEC is committed to continuing these investments because of the far-reaching and transformative impacts we know they can have on these communities and the lives of their residents.

Thank you for consideration of this testimony and I look forward to working with you as the State continues to advance the implementation of the CLCPA.

Good morning and thank you for your time this morning.

My name is Frank McCleneghen and I am the President and Founder of Active Solar Development. I am pleased to be able share with you some of the successes that the team at Active Solar has achieved within the framework of the current incentive programs. I would also like to reinforce the importance of the funding which the state has provided to help us and others in the industry continue to build out an infrastructure which will reap benefits to the state and its ratepayers.

Active Solar is a Solar Development and Construction company which is located in Saratoga County. I started the company in 2012 with the vision of building a team of industry experts who were passionate about building renewable energy projects and ultimately a building a company that could span in expertise from the beginning of a project, to the long-term ownership of the project. We have achieved that goal over the last 9 years with the help of the state's incentive programs.

Active Solar has built a team of 15 people in its development group and another team of 30 people in its construction group. In the last year we developed 36MW of projects and installed another 27MW of projects in NY. In layman's terms that is roughly $90 million in renewable investments in the state. This year we currently have 24 properties in NY under development totaling 660 acres which will be the home to 164MW of solar projects or roughly $320 million in renewable investments. We have been lucky enough to complete projects for such organizations as PepsiCo, Hyatt Hotels, Regeneron, NYS DOT, NYS Thruway Authority and The NYS Bridge Authority. In addition to holding certain projects long term, we have sold projects to major investors such as Goldman Sachs, Blackstone, Brookfield Renewables and Key Bank. We also continue to service these projects through operations and maintenance activities and asset management.

It has been a busy 9 years and we continue to grow and are grateful for the help that the state has provided by incentives such as the NY Sun Program and On the Job Training Programs. In the earlier years of the company we participated the NYSERDA Solar Thermal program and were able to build innovative projects which paired renewable technologies with multifamily affordable housing projects. This opened up the commercial markets to us through relationships with affordable housing developers and helped us to envision our current projects where we are helping build net zero affordable housing apartments in Rome, NY or working with market rate multifamily developers to create net zero apartment complexes in Rotterdam and Saratoga. These incentives have allowed us explore other opportunities such as developing Community Solar Sites which presented financing challenges due to diversified credits. Community Solar would never have gotten off the ground as quickly without the help of NYSERDA incentives. Incentives such as the community adder have helped NY become a leader in the Community Solar space and helped attract investment capital into the state.

As the assembly weighs the merits of distributing further incentives to this industry I would ask you to recognize that this money is not only spent on green initiatives but on economic growth and job creation. Many times, when a solar project is presented to a community the project itself is seen as creating very few long term jobs due to the relatively short build cycle and minimal operations and maintenance. I think this is misleading as the average person does not realize the benefits that a solar project creates for the state and community. I would like to explore these numbers a bit.

For instance, NY has seen incredible growth in the Community Solar sector at a size of 5MW. These projects typically involve a development team which works for 12 months getting permitting. That process will include the hiring of local engineers for Survey, Environmental, Civil Design and Electrical Design. This is typically a $150,000 investment. The Construction will typically involve not only an Engineering Procurement and Construction Company, that may or may not be local, but will involve a variety of subcontractors who are local. This includes fencing contractors, civil workers for roads, steel workers for racking and panels and electricians for electrical work. After this, the project is interconnected and a typical project is paying anywhere from $150,000 to $1,400,000 in electrical upgrades to the local utility infrastructure. For Active Solar we are typically spending over $3,000,000 on outside contractors to do work of which all are local. Last year we averaged $422,000 on interconnection upgrades to the local utility infrastructure per project of 5MW. When you look at all of the direct local investments in a single 5MW community solar project it is roughly $3.5 million dollars. In addition, consider the Tax PILOT money which gets distributed to the taxing jurisdictions and then any community benefit money that is given to the municipalities on approval of the project. Active Solar gave out over $500K in community benefit money for solar projects in the last year. All of this directly benefits the community, and the utility infrastructure investments benefit the ratepayer. Our last round of NYSERDA incentives for a project this size was $690,000. As I evaluate that $690,000 investment by the state, I see an immediate return of over 5 times in local economic activity and direct utility infrastructure investment. This is before we analyze the ongoing benefits to the local economy of operations and maintenance, asset management and other secondary businesses that are created by the deployment of renewables. As a taxpayer in this state I applaud this type of economic development as it has direct and immediate benefits.

One of the items I must bring attention to as you evaluate how and why you allocate funds is the importance of Distributed Generation Projects. These projects are renewable projects that get connected to the local utility infrastructure at sizes 5MW and below. There are a multitude of benefits to these projects to both the ratepayer and the grid. When Distributed Generation projects connect in the local infrastructure they help with support the transmission infrastructure which can help reduce transmission costs and capacity issues. The same projects help with resiliency of the local grid. Unfortunately, The NYSERDA incentive money was exhausted in the NY Sun program for these projects in a large portion of the state since last spring. This has created the majority of Community Solar and Remote Crediting projects who did not get an allocation to go on hold. Active Solar currently have 13 projects at 5MW (65MW or $130M) and know of another 500MW with related Investors which are waiting to see what will happen in the PSC case Regarding the Value of "E". As much as solar investors and developers are willing to deal with market risks and small delays they will not wait indefinitely. The guidance for the Value of "E" case was expected in the summer by the industry and the whitepaper as of last week was still not issued. This is delaying capital investments and has put a lot of developers and new entrants to the market in stressful situations. They may also begin looking to neighboring states that have incentive programs.

NY state has been a pioneer in its incentive programs and other states have looked to these programs as a model. As you examine how to move forward, I want to remind you that it is not just the state renewables industry that will notice but all the states that are developing programs.

I thank you for the opportunity to speak and appreciate your time.

Frank McCleneghen - President Active Solar Development - 518-469-1082

ASSEMBLY LEGISLATIVE HEARING

Climate Change Expenditures

WITNESS LIST

- *Maureen Leddy – Director, Office of Climate Change, **NYS Department of Environmental Conservation**
- *John Williams, Vice President Policy and Regulatory Affairs, **NYS Energy Research & Development Authority (NYSERDA)**
- Peter M. Iwanowicz – Executive Director, **Environmental Advocates NY**
- Sonal Jessel – Director of Policy, **WE ACT for Environmental Justice**
- Frank McCleneghen – President, **Active Solar Development**
- *Rahwa Ghirmatzion – Executive Director, **PUSH Buffalo**
- *Justin Wood – Director of Policy, **NY Lawyers for the Public Interest**

*Indicates request to testify virtually.

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Public Testimony

Hello my name is Rahwa Ghirmatzion. I want to begin by thanking the members of the standing committees on Environmental Conservation and Energy and the Assembly Climate Change Working Group for giving me an opportunity to testify today.

I am the Executive Director of People United for Sustainable Housing, or PUSH Buffalo. PUSH is a member directed community-based organization working at the intersections of racial, economic, social and environmental justice in a frontline community. Our theory of change revolves around community control, community ownership of resources and the Just Transition Strategy framework for transformative structural change. PUSH's Green Development Zone (GDZ), founded in 2008, is a 30sq block place-based strategy that combines green affordable housing construction, community-based renewable energy projects, housing weatherization, green jobs training, green infrastructure, and vacant land restoration projects toward the goal of creating pathways to employment for neighborhood residents while, reducing our carbon footprint. By gaining control over public and private capital for "triple bottom line projects" that create economic growth, equity and environmental sustainability, a community growth machine can help build the foundation for a new community economy.

I've also had the privilege to serve on the Climate Justice Working Group... In that capacity I've played a direct role with other environmental and climate justice leaders and NYS agency representatives to create the criteria and definition for a DAC and give feedback and recommendations on the advisory group recommendations through an equity lens. My participation in the Working Group has revealed many of the challenges involved in developing and operationalizing definitions of "disadvantaged communities" and "benefits of spending" for the purposes of delivering on the equitable investment mandate found in the CLCPA...
I'm testifying today to share my perspective as the director of a frontline community-based organization that has spent the first 15 years of its life building community power and organizational capacity needed to effectively draw down public investments around affordable and healthy housing, weatherization, community-scale renewable energy, workforce development, and green infrastructure and nature-based climate solutions. For a just transition through CLCPA implementation, I recommend the following:

- *Cancel utility debt as a part of a comprehensive investment strategy* - As of August 2021, 1.2 million NYers and over 140,000 businesses were more than 60 days behind on their energy bills and collectively owed more than $2 billion... utility shareholders should cover some if not all of the costs associated with debt forgiveness... ignoring the debt crisis disproportionately impacting low to moderate income households and disadvantaged communities will erode public trust in CLCPA implementation
- *Benefits of spending standard* will likely create confusion and complexity and allow goals not to be met

    - Revert to a simpler and more easily communicated *spending standard* where the equitable investment goals of the CLCPA would be met on the basis of a minimum investment of 35% to 40% of state spending in disadvantaged communities
- Investments must be intersectional and seek to maximize benefits...following the Jemez Principles, communities should be self-determined in defining appropriate economic and environmental benefits associated with climate and clean energy investments... intersectional in the sense that investments are creating multiple overlapping benefits for the natural environment, workers, community members, the energy system, etc.
- Democratize the transition - The state needs to wholesale adopt principles of co-governance and co-design to ensure that those closest to the problem have a seat at the table to advance solutions and hold decision makers accountable... We've helped advocate for and participate in recent program co-design initiatives led by NYSERDA, including the recently announced Regional Clean Energy Hubs program which was conceived by community-based organizations with track records in providing clean energy and job training services to marginalized residents.
- Create the enabling conditions and resource the frontlines - Frontline community-based organizations need to be resourced to organize, educate, and mobilize communities to participate in a transition that is just and equitable... ground truthing... create feedback loops to test and adjust interventions based on the degree to which they're addressing people's needs and lived experience... organizational capacity building... combating misinformation and disinformation... creating culturally resonant and relevant messaging and positioning the right messengers... language access...
- Make direct public investments in cooperatively owned and democratically controlled distributed energy resources... paradigm shift where state makes meaningful upfront investments in community-scale projects that can generate annual revenues to support ongoing operations, management, and maintenance of projects and programs in disadvantaged communities... example of that is PUSH's Sustainable Workforce Training Center project.