

July 18, 2024 marked the fifth anniversary of the Climate Leadership and Community Protection Act (CLCPA). This milestone is an opportune time to evaluate the law and its implementation to date as well as consider necessary adjustments to the state's climate change legislation and response strategies.

Importantly, we recognize the profound risk of global climate change, and the need for governmental and societal action. We also must recognize that climate change is a global challenge and understand the limits of state-level initiatives and weigh those efforts against the costs and uncertainty that would be imposed on New York residents and businesses by unrealistic mandates. While New York can and should take steps to reduce greenhouse gas (GHG) emissions, its goal should be to present a model path forward, not a cautionary tale of unaffordable costs, harmful economic disruptions, and threats to future economic growth. Unattainable mandates erode public confidence and undermine the state's efforts to achieve its emission reduction goals.

Despite billions in state spending (including but not limited to \$43.7 billion in climate-related spending and commitments under several PSC-directed programs according to the June 2023 Commission report), it is now generally expected that the state will not meet two of the CLCPA's principal mandates - 70% renewable energy generation and 40% greenhouse gas emission reductions by 2030. We note that the June 2023 report only looked out to 2026 and did not assess the significant incremental and compounding impacts to customers and taxpayers between 2026 and 2030.

The state is simply not on track to meet these goals. Based on recent state data and projections, New York would have to reduce GHG emission from 348 mmtCO<sub>2</sub>e in 2025 (when its "cap and invest" program is expected to be launched) to 245 mmtCO<sub>2</sub>e in 2030. This is a nearly 30% reduction in just five years, a level of emission reductions that is not achievable even with full implementation of the state's major emission reduction strategies identified to date, including offshore wind, electric vehicle mandate, its "clean energy fund" efficiency programs, New York City's building performance mandate (LL 97), Tier IV transmission projects, on shore solar and wind, and others.

The July 2024 "Clean Energy Standard Biennial Review," issued by the Department of Public Service and the New York State Energy Research and Development Authority, illustrates the limited progress made to date to meet the CLCPA's 2030 renewable energy mandate. It suggests that the goal could be met by 2033 if the state can achieve a dramatic increase in the pace of project development. However, the scope of that report is narrow, and only looks to the progress of renewables, failing to focus on capacity issues as reported by the New York Independent System Operator, the growing demand for both natural gas and electric, and the impact of the state's economic development policies driving growth with little deference to energy issues.

But the report also acknowledges that the 70% target set forth in the CLCPA is ambitious and is facing significant challenges including load growth, supply chain issues, inflation, workforce availability, permitting and interconnection delays, and global competition, among others. While the report acknowledges these challenges, it provides no recommendations capable of overcoming these state, regional, national, and global-level obstacles, and does not address root causes such as supply chain limitations, or availability of alternative energy sources.

Delays in meeting the 70% by 2030 renewable mandate for the electric grid also affect the achievability of the 40% all-sectors GHG emission reduction mandate for 2030. The main

emission reduction strategy is to electrify current uses of fossil fuels with renewable energy. For example, offshore wind could provide significant zero-emissions electric power and be a significant source of GHG emission reductions with up to one-quarter of all reductions from major state initiatives. As the state's offshore wind deployment schedule is delayed, OSW's contribution to GHG reductions in other sectors will be delayed as well.

We cannot lose sight of the significant challenges and barriers to decarbonizing buildings, industry, and transportation, as illustrated in the state's Scoping Plan and Integration Analysis. Even with an emphasis on electrification, there will be an ongoing need for fuels in the buildings, industrial and transportation sectors. Delays in deployment of renewable electricity resources reinforce the need to expand consideration of other viable decarbonization options, including clean alternative fuels like Renewable Natural Gas and clean hydrogen. Further, policies based on the CLCPA's economy-wide goals like the All-Electric Building Act and Local Law 97 in New York City, which is poised to begin fining building owners for failure to meet arbitrary decarbonization benchmarks, must be reexamined and reconfigured to allow for alternative compliance pathways now that we know renewable electricity deployment is lagging behind.

And while missing the renewable energy mandate may not have direct compliance or enforcement consequences, the GHG emission reduction mandate will have real world compliance impacts, and New York business are already facing difficult, costly choices regarding future investments and operations. Under the pending "cap and invest" regulation, major emission sources in the power generation, waste management, manufacturing and fuel sectors must obtain (through state auctions or third-party trades) enough emission allowances to cover the GHG emissions for which they are responsible, with an annual statewide limit on total allowances that decreases each year. By 2030, if the state fails to meet the CLCPA-imposed state emission cap, there will not be enough allowances available to cover emissions from "obligated" emission sources. As a result, entities with limited feasible emission reduction options will have to either curtail operations – with significant adverse impacts on the state's economy, jobs, and households - or face the consequences of noncompliance enforcement. This outcome would be counter to the state's economic development efforts aimed at attracting chip fabs, hydrogen, AI, and other key industries to the state.

New York's business community is facing additional uncertainties under the CLCPA, including its impact on the cost, availability and reliability of electric power delivered through a grid increasingly reliant on intermittent solar and wind generation, as well as the future cost and availability of natural gas for activities for which electrification is technically or economically infeasible.

We have always known that the state's response to climate change – including implementation of the CLCPA – would be expensive and disruptive, with those impacts potentially offset by environmental and economic benefits including local public health benefits, new investments, and new jobs in "green" industries and, eventually, savings from reduced fuel consumption.

Now that we more clearly understand the real-world challenges of meeting the CLCPA's mandates, we urge the state to conduct a comprehensive assessment of the CLCPA mandates, implementation efforts to date, and future actions. New York needs to make reasonable, necessary adjustments that can keep New York on a path to reduced GHG emissions while avoiding significant adverse energy supply and cost impacts. These essential steps include:

- As part of its "cap and invest" rulemaking, evaluate the achievability of the 40% by 2030 mandate, and if it is not reasonably achievable, make amendments to the CLCPA's

emission reduction timetable. This would include a realistic assessment of the GHG emission reduction impacts of existing state initiatives and additional economically and technically achievable emission reduction programs. Recognizing real-world problems faced by other jurisdictions with similar programs, New York should assure its cap and invest program is flexible, allows reasonable offsets and linkage with other jurisdictions, and has a workable implementation timetable that allows for monitoring and necessary adjustments to avoid economic and emission leakage.

- Develop an accessible and understandable “dashboard” of the state’s climate change efforts, including a comprehensive accounting of direct state spending and state “directed” spending, the source of funds and their use, and the impact of these expenditures on achieving GHG emission reduction and renewable energy production goals.

- Evaluate the impact CLCPA compliance existing and proposed policies and programs intended to achieve the CLCPA’s goals on electricity wholesale prices, delivery rates and total bills that New York businesses and residents will pay, including indirect energy costs, and the impact of additional compliance measures. The projected impacts of cost factors on the pace of progress toward the CLCPA goals should also be considered. This assessment would include the impacts of renewable energy project subsidies, the build-out of electric transmission and distribution infrastructure necessary to connect utility customers to renewable power resources, subsidies for energy storage projects, and the addition of new loads associated with deep electrification efforts in the heating and transportation sectors. All of this information should be sufficiently detailed to assess and compare costs and emissions impact by regions of the state.

- Assess the impact of existing and potential future policies for meeting CLCPA mandates on the reliability of the state’s natural gas system, its ability to support manufacturing processes for which today there are not any known replacement fuels, its role in avoiding the substantial and unnecessary build-out of the electric grid to meet peak winter demands, its potential to economically supply clean alternative fuels such as renewable natural gas and hydrogen, and the impact on natural gas market prices, delivery rates and total bills that NYS businesses and residents will pay. The analysis should address long-term costs, including the potential impacts of accelerated depreciation of natural gas assets, stranded gas costs, subsidies of non-pipeline alternatives and depleting gas supplies.

- New York’s accounting methodology should be aligned with the approach recommended by the Intergovernmental Panel on Climate Change (IPCC), the federal government and the vast majority of other jurisdictions with respect to the appropriate application of lifecycle analysis of GHG emissions and the treatment of biogenic CO<sub>2</sub> emissions, to enable the deployment of near-term emissions reductions that can be achieved via the use of alternative fuels and to ensure the state’s ability to efficiently link its cap and invest program with similar programs in other jurisdictions. The state’s existing approach results in the double-counting of emissions from bioenergy and ignores the lifecycle emission benefits of alternative fuels.

- Assess power quality, system reliability, and public safety considerations on a seasonal basis including extreme weather sensitivities to ensure businesses can operate smoothly, and New York residents can live safely throughout the year, and during more extreme events.

- The commercial availability of various clean energy technologies, including end-user equipment as well as energy production and storage technologies, should be explicitly addressed in a comprehensive assessment. As part of an ongoing Department of Public Service

proceeding, a technical conference was held in December 2023 entitled “Zero Emissions by 2040” that raised issues related to the acknowledged need for a new dispatchable emissions-free resource for extended periods of low wind and solar resource availability. The associated issues need to be resolved sooner rather than later because the outcome could affect the planned deployment of wind, solar, and energy storage, and the potential retirement of existing resources. The technical assessment must include both short term (same day) and long term (multi-day) events.

- As part of this assessment, the state should examine the use of renewable liquid fuels, such as biodiesel, renewable diesel, and sustainable aviation fuel, which are also low to no-carbon alternatives to petroleum diesel, as well as clean nuclear energy, as existing alternative fuels, and new technology development to lower carbon emissions. Likewise, the state needs to re-evaluate mandates on new vehicle sales, including light and medium duty vehicles, heavy trucks, and school buses, in light of vehicle costs and availability, current market conditions, the cost of necessary fueling infrastructure, and the impact of new vehicle and infrastructure costs on vehicle users – including fleet users – and dealers, especially small businesses.

Some advocates are calling for the state to redouble its climate change mandates and expenditures. Despite efforts to date, there remains a wide range of unresolved practical and technical obstacles to achieving the CLCPA’s renewable energy and emission reduction goals. Until significant progress is made toward overcoming these obstacles, expanded deployment efforts would amplify rather than address the impact of existing implementation barriers, especially with respect to the cost of energy. The focus should be on enabling the greatest cost-effective emission reduction while ensuring New York’s residential, commercial, and industrial energy consumers maintain access to the safe, reliable, and affordable energy they need.

Importantly, a flexible approach to achieving the CLPCA goals does not mean the state is abandoning its commitment to act on climate change. New York is one of the most energy and carbon efficient states in the U.S. The most prudent path forward will be based on the best available and most up-to-date updated information and data, taking into account significant economic and market changes, and recognizing both the opportunities for and constraints facing New York in the context of the global threat of climate change. Unrealistic mandates erode public confidence and undermine the state’s ultimate GHG emission reduction goals. It is more important that New York leads by example by taking a workable approach to its energy and emission goals than failing to meet an arbitrary schedule.

Signed,

American Petroleum Institute, Northeast Region  
Amherst Chamber of Commerce  
Association of Contracting Plumbers  
Association of General Contractors of NYS  
Buffalo Niagara Manufacturing Alliance  
Buffalo Niagara Partnership  
Business Council of New York State  
Business Council of Westchester  
Capital Region Chamber of Commerce

CenterState CEO  
Council of Industry (of the Hudson Valley)  
Dutchess County Regional Chamber of Commerce  
Engineers Labor Employer Cooperative 825  
Empire State Energy Association.  
Empire State Forest Products Association  
Enterprise Association of Steamfitters Local 638  
Greater New York Auto Dealers Association  
Greater Rochester Chamber of Commerce  
Greater Rochester Enterprise  
Greater Utica Chamber of Commerce  
IBEW Local 97  
IBEW Local 2154  
IBEW Local 320  
IBEW Local 1049  
Independent Oil and Gas Association of New York  
Long Island Association  
Manufacturers Association of Central New York  
Manufacturers Association of the Southern Tier  
Multiple Intervenors  
National Federation of Independent Business  
National Fuel Gas  
National Waste & Recycling Association  
New York Construction Materials Association  
New York Farm Bureau  
New Yorkers for Affordable Energy  
New York State Association of Convenience Stores  
New York State Builders Association  
New York State Economic Development Council  
New York State Energy Coalition  
New York State Pipe Trades Association  
Niagara USA Chamber of Commerce  
NOCO  
Plumbers Local 200  
The New Bronx Chamber of Commerce  
The Plumbing Foundation City of New York, Inc.  
Power for Economic Prosperity  
Queens Chamber of Commerce  
RED-Rochester, LLC  
Revere Copper Products, Inc.  
Rochester Technology and Manufacturing Association  
Rockland Business Association  
Ulster County Chamber of Commerce  
United Association Plumbers & Gasfitters Local 1  
United Association Plumbers & Pipefitters Local 13  
United Association Plumbers & Pipefitters Local 112  
United Association Plumbers & Steamfitters Local 7  
United Association Plumbers & Steamfitters Local 21  
United Association Plumbers & Steamfitter Local 22  
United Association Plumbers & Steamfitters Local 81  
United Association Plumbers & Steamfitters Local 373

United Association Plumbers & Steamfitters Local 773  
Upstate United

For further information, contact Ken Pokalsky at The Business Council, 518-694-4460,  
[ken.pokalsky@bcnys.org](mailto:ken.pokalsky@bcnys.org)