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To: erda.sm.scopingplan
Subject: Submit a Public Comment on NY"s Draft Scoping Plan
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Thank you for this opportunity to provide comments on the draft scoping plan. As required by New York's nation-leading climate law, the Climate Leadership and Community Protection Act (CLCPA), climate and environmental justice must be the driver of the outcomes of this scoping plan. To achieve this, please ensure that the following recommendations on including a top-line section are included in the final draft:

The mandates put forth by the Climate Action Council must be legally enforceable against industries and include timelines for the reduction of emissions by sector. Provisions for environmental justice and emission reduction mean nothing if they cannot be enforced or if there aren't rules in place for what happens when our climate justice laws are broken.

To ensure no false solutions are included, the scoping plan should set mandates for the state to establish, if necessary by legislation, a system to fund reductions in greenhouse gas emissions and co-pollutants as well as the transition to a renewable-energy economy. The plan already states a need for a policy that prices greenhouse gas emissions to serve as a funding source that will advance CLCPA goals and provide a consistent "market signal" to influence individuals and businesses to engage in actions that reduce their emissions and support clean technology market development. There must be full acknowledgment of the climate crisis and environmental injustice in New York and significant government investments to serve the public and complement private investments to make massive transitions to a clean energy economy (such as public transportation expansions).

The final scoping plan must specify the level of mandated reductions in greenhouse gas emissions and co-pollutants that each industry sector must achieve by 2050 and the other dates set forth in the CLCPA, as well as a timeline for achieving such reductions. The final plan should also specify the state agency or agencies responsible for enforcing the CLCPA targets for each sector. In total, the industry sector reductions should achieve the CLCPA targets. The draft scoping plan does not clearly specify GHG emissions targets for certain sectors, indicate current targets that are inadequate to the overall CLCPA targets (i.e. 85% reductions in GHG emissions by 2050), or include legally enforceable goals for industry action.

The final scoping plan must have detailed recommendations for regulations for each sector of the economy to ensure that CLCPA targets are achieved. "Negative emissions" technologies should not be relied on to meet CLCPA targets. The plan must also provide interim annual benchmarks that specify the reductions required for each period and by industry sector. The principles embodied in the Gas Transition and Affordable Energy Act can be looked to as a model for these policies.

There must be legally enforceable mandates for each sector applicable to both businesses and individuals, as well as specific business targets when feasible. The final scoping plan must specify in detail the regulatory mechanism by sector once targets are set per industry. This is to ensure that each can achieve its goals, and the regulatory steps, including legislation,

necessary to achieve these goals. While the current scoping plan has instances where regulatory measures are set forth, such as in the buildings sector, this is not true for every sector.

To further these incentives, the CAC must review the state's regulatory structure by industry sector to determine what legislative and regulatory changes are necessary to ensure that structures are put in place to mandate that all businesses in New York comply with the clear GHG and co-pollutant reduction targets by a schedule the conforms with the CLCPA and put recommendations for such changes in the final scoping plan.

Additionally, there should be more clarity on each agency's obligations in regard to CLCPA climate and equity mandates: Sections 7(1), 7(2), and 7(3) in Article 75 of the Environmental Conservation Law. The provisions that are set forth in section 7(1) require all state agencies to "assess and implement strategies to reduce their greenhouse gas emissions;" section 7(2) the "climate screen" that requires all state agencies and other entities to consider whether the permitting actions, contracts and other decisions in regard to GHG emission goals and identify alternative mitigation measures; and section 7(3), the "equity screen" that provides that permits, contracts, and other decisions cannot "disproportionately burden" disadvantaged communities. These provisions have a significant number of ambiguous or unresolved legal issues. But this will also require broad expertise in climate policies, including how to implement internal operations in collaboration with state agencies to make well-informed changes with internal practices and evenly implement the CLCPA.

Lastly, the final scoping plan should establish a process to ensure the achievement of the CLCPA investment mandate. Under the CLCPA, 40% of the benefits of energy and related programs must benefit "disadvantaged communities" to allow economic development through clean energy. This "investment mandate" is intended to ensure that communities of color and low-income communities will get their fair share of the benefits of our state's transition to a renewable energy economy and that we can begin to address the historic harms suffered by so many of these communities. The Climate Justice Working Group (CJWG) or another state entity should provide formal guidance to state agencies that are subject to the investment mandate as to how to modify budgeting, contracting, grant-making, and other procedures so as to implement this critical provision. Without this guidance and strong leadership, the investment mandate provision is unlikely to be implemented in accordance with the statutory intent.

Sincerely,

Leonel Ponce