

**MINUTES OF THE CLIMATE ACTION COUNCIL MEETING  
HELD ON NOVEMBER 21, 2022**

Pursuant to Notice and Agenda, a copy of which is annexed hereto, a meeting of the Climate Action Council (“Council”) was convened at 9:00 a.m. on Monday, November 21, 2022, at Meeting Room 6, Empire State Plaza, Albany, New York 12203. The following Members attended, and a quorum was present throughout the meeting:

**Council Co-Chairs**

- Doreen Harris, President and CEO, New York State Energy Research and Development Authority
- Basil Seggos, Commissioner, New York State Department of Environmental Conservation

**Council Members**

- Richard Ball, Commissioner, New York State Department of Agriculture and Markets (Elizabeth Wolters, Designee)
- Mary T. Bassett, Commissioner, New York State Department of Health (Gary Ginsberg, Designee)
- Rory Christian, Chair and CEO, New York State Public Service Commission
- Mario Cilento, President, New York State AFL-CIO
- Donna L. DeCarolis, President, National Fuel Gas Distribution Corporation
- Gavin Donohue, President and CEO, Independent Power Producers of New York (by videoconference)
- Justin Driscoll, Interim President and Chief Executive Officer, New York Power Authority
- Dennis Elsenbeck, Head of Energy and Sustainability, Phillips Lytle
- Thomas Falcone, CEO, Long Island Power Authority
- Rose Harvey, Senior Fellow for Parks and Open Space, Regional Plan Association
- Dr. Bob Howarth, Professor, Ecology and Environmental Biology at Cornell University
- Peter Iwanowicz, Executive Director, Environmental Advocates of NY
- Hope Knight, President and CEO-designate and Acting Commissioner, Empire State Development
- Roberta Reardon, Commissioner, New York State Department of Labor
- Anne Reynolds, Executive Director, Alliance for Clean Energy New York
- Robert Rodriguez, Secretary of State, New York State Department of State (Kisha Santiago-Martinez, Designee)
- Raya Salter
- Dr. Paul Shepson, Dean, School of Marine and Atmospheric Sciences at Stony Brook University (by videoconference)

- RuthAnne Visnauskas, Commissioner and CEO, New York State Homes and Community Renewal

Also present were Climate Action Council Executive Director Sarah Osgood, various State agency staff and members of the public. Mr. Seggos and Ms. Harris, Co-Chairs of the Council, welcomed all in attendance.

### **Consideration of October 25, 2022 Meeting Minutes**

This Agenda item was to advance the minutes from the October 25, 2022 meeting. Upon a motion duly made and seconded, the minutes were adopted.

### **Co-Chair Remarks**

Co-Chair Seggos highlighted that Governor Hochul is the first woman elected Governor of New York State and welcomes the opportunity to continue the climate work that has been underway. He also announced the passage of the State's \$4.2 billion Clean Water, Clean Air, Green Jobs Environmental Bond Act that will fund resilience and mitigation projects and mandates that 35-40 percent of the investments be earmarked for Disadvantaged Communities.

Co-Chair Harris announced the State's \$3.7 million investments to bring climate technology manufacturing and products to the State through its M-Corps Program; a program to be administered by NYSERDA that will connect start-up companies with supply chain partners. The New York Clean Transportation Prize Program awards to ten grand prize winners and collectively totaling \$85 million were also announced. This is a collaborative effort between NYSERDA and the New York State Department of Public Service to enhance clean transportation mobility options and to reduce harmful emissions through innovative transportation solutions. Co-Chair Harris also announced the approval of a major offshore wind transmission line from the Sunrise Wind Farm off of the Long Island coast.

Co-Chair Seggos reviewed the timeline of the Climate Act implementation process in developing a final Scoping Plan from the process that began in earnest in 2020 to the present. This effort will set the stage for implementing a series of programs and regulatory initiatives to carry out the directives of the Climate Act.

Co-Chair Harris reviewed the process of revising the Draft Scoping Plan as the Council works toward a final Scoping Plan, slated for release in December 2022. She reviewed the process for incorporating member feedback and what is to be expected during the final meetings of the Council.

### **Discussion of Potential Edits to Draft Scoping Plan Chapters**

#### *Gas System Transition*

Jessica Waldorf, Chief of Staff and Director of Policy Implementation, NYS Department of Public Service, presented recommendations based on feedback received for the Gas Transition Chapter, which included addressing issues related to leak prone pipes; use of the terms "fossil gas" and "natural gas"; and the language regarding the recommendations pertaining to the use of alternative fuels. She reported that follow-up items included:

- Using the term “fossil natural gas” as a compromise to address Council Member concerns about the use of the words “fossil gas” versus “natural gas”
- Adding language on the protection of the industry workforce for the opportunity for the decarbonization and operation of the gas system as it transitions, including potential use of alternative fuels
- Consider adding financial incentives for the retention of the gas system workforce while the gas system transitions when describing protections for the existing workforce and equitable transition plan
- Ensuring language on review of existing statutory provisions is consistent throughout
- Connecting specific actions described in Chapter 12, B1 and B2 to the detailed actions that assure reliability, energy delivery resilience and an affordable transition for customers; and
- Deleting a particular item in the “Consider use of existing gas infrastructure” section.

Ms. Waldorf also presented a summary of the editorial feedback for the Gas Transition Chapter to be addressed by Staff.

Dr. Howarth expressed his belief that there may be insufficient data in the New York context on the greenhouse gas footprint of renewable natural gas and suggested a closer look and a better understanding is necessary to ensure its use is compliant with the Climate Act.

Raya Salter agreed with Dr. Howarth’s sentiment regarding renewable natural gas, notwithstanding that the Chapter framework does include further investigation of the issue. In response to her inquiry for clarification on the framework recommendation regarding the use of alternative fuels, Ms. Waldorf explained the request was to express the recommendation as to consider the role of alternative fuels along with certain caveats associated with them, without specifying that there is necessarily a strategic role for them. Regarding the use of the term “fossil natural gas”, Ms. Waldorf explained that this has been a subject of great debate among the Council. There is tension between the statutory language of NYS Public Service Law, which uses to the term “natural gas” and those who prefer the words “fossil gas”. Other issues include definitions and a preference to use terms that the general public are familiar with and can understand, the need for the consistent use of terminology, and a suggestion that developing a Scoping Plan glossary may be helpful.

Ms. Salter also expressed her strong support of language that would require an assessment of the viability, realistic application, and the cost of certain technologies, such as renewable natural gas. She also requested to strike the references to “decarbonize” in the context of a strategic downsizing of the infrastructure, stated that there should be no support for untested, unknown fuels that may maintain business models that could prove to be noncompliant with the Climate Act.

Recognizing that the issue of definitions would likely persist throughout the comments being offered at the meeting, Co-Chair Harris requested that Peter Costello, Co-Counsel for the Climate Action Council and General Counsel, NYSERDA provide insight as to any legal implications by the use of certain terminology. Mr. Costello explained that the Scoping Plan, while not a legally binding document, will inform future legal actions and stressed the importance of having clarity in order to inform those later actions. He suggested the use of a glossary as one mechanism that could achieve that. Co-Chair Harris suggested that contextual changes, rather than wholesale terminology changes, may be necessary given that the use of the term may slightly differ from Chapter to Chapter.

Donna DeCarolis expressed her appreciation for the efforts to compromise and her preference for use of the term “natural gas” given that it is the verbiage used in commodity procurement contracts, in the NYS Public Service Law, and in educating the public on natural gas safety. She also objected to the recommended deletion of language regarding the strategic use of alternative fuels stating that the approach was fully vetted, suggested that it be clarified that there is, in fact, data on renewable natural gas. She further encouraged the agreed-upon approach of pursuing independent analysis of alternative fuels of all types. Ms. DeCarolis also disagreed with striking the word “decarbonizing” in the Chapter.

Gavin Donohue agreed with many of the comments made by Donna DeCarolis. In response to his inquiry as to whether the word “fossil” appears in any regulation or statute pertaining to NYSERDA or the NYS Public Service Commission, Mr. Costello stated that he had not undertaken an exhaustive review of the term, but it does appear and is defined in certain ways within the NYS Energy Law and “fossil fuel” is an undefined term in the Climate Act. Mr. Donohue reiterated his objection to the word “fossil” given the lack of definition in the Climate Act. He also reiterated an earlier suggestion to qualify the recommendation for the denial of fossil gas infrastructure permits, with a requirement for maintaining safety and reliability. He otherwise felt that the Staff editorial efforts were very good.

Dr. Shepson appreciates the Staff efforts toward a compromise term regarding natural gas and fossil gas and strongly suggested a glossary be developed to mitigate confusion. Co-Chair Harris noted general consensus regarding the need for the development of a glossary.

Mario Cilento thanked Staff for the inclusion of unions as stakeholders and references to the NYS Department of Labor and Office of Just Transition. He also wanted to ensure that labor standards and protections appear throughout the Chapter and any other appropriate chapters.

Raya Salter fully supported Mr. Cilento’s suggestion about labor standards. Ms. Salter also strongly expressed her opinions on the use of the terms “natural gas” and “fossil natural gas” stating that the issue, to her, is not about the statutory language, but about making the discussion clear for the audience reading the Scoping Plan. She is concerned about the lack of descriptors, particularly when the term “renewable natural gas” is used. She also expressed her belief that the issue is one of marketing terminology and that there was no agreement surrounding the use of the word “decarbonize”. She also supports the creation of a glossary.

Peter Iwanowicz agrees with the creation of a glossary and that labor interests will be included as a key stakeholder. He stated that the faster electrification of buildings and transportation can occur, and the faster society can move away from burning of any fossil fuels.

CEO Falcone understands the passion on both sides of the issue regarding the terminology, believes the general public is familiar with the use of the words, and is in agreement with the compromise. He noted that the issue is perhaps more symbolic than what will actually be accomplished through the Scoping Plan. Dr. Howarth and Rose Harvey also agreed with the compromise position, and reiterated support for a glossary.

In referencing the issue of consultation with the utilities, environmental justice communities and sectoral experts, Gavin Donohue stated his belief that it is important to also add “power plant owners” so that they are also part of the process moving forward.

## *Buildings*

Vanessa Ulmer, Program Manager, Policy Development, NYSERDA, presented the detailed clarifications made to the Buildings Chapter. This included a recommendation regarding distribution system readiness and alignment with the gas system transition framework, clarifying the definition of “clean” thermal energy networks, alignment with the final Integration Analysis, and explaining the underlying characterization of regional distinctions for the coldest regions in the State (defined as the North Country, Mohawk Valley, and Capital Region). Ms. Ulmer presented winter temperature patterns and heat pump performance for these areas, and how cold climate technologies are designed and rated. Ms. Ulmer also explained the basis behind the 99 percent heat design temperature metric used to design and size building heating systems and which represents outdoor temperature that a location stays above for 99 percent of hours in the year, based on a 30-year average.

Ms. Ulmer also presented follow-up items and editorial feedback to be addressed in the Buildings Chapter. Items included an emissions overview for the Chapter, characterization of heat pump performance and lifecycle cost, adjustments related to codes and standards, and recommendations to adjust terminology and text regarding the use of alternative fuels and public funding.

Dennis Elsenbeck noted that the Buildings Chapter addressed workforce development quite a bit and suggested clarifying the definitions of what types of workforce activities are being referenced. He also believes that economic development is not sufficiently highlighted throughout all of the Scoping Plan Chapters, fears a missed opportunity, and inquired as to whether the appropriate studies and market assessments are being undertaken. He noted that many communities are poised to take advantage of new opportunities if provided with the appropriate infrastructure, electric capacity, and awareness.

Raya Salter agreed with the need to work in additional language regarding economic development and referenced the NYS Public Service Commission Reforming the Energy Vision regulatory proceeding as an opportunity to revisit the utility business model reform and inclusion of private capital efforts.

Mario Cilento emphasized the points made by Mr. Elsenbeck regarding that the skills and training upgrades that are necessary for workers become available.

Dr. Howarth suggested more clarity as to the use of alternative fuels in the building sector. Regarding renewable natural gas, he suggested that it is a finite source and, practically speaking, will be unable to contribute greatly to decarbonization, particularly given its carbon footprint. As for hydrogen, he believes that there is sufficient literature to dispel hydrogen as a viable building heating fuel given its inability to compete with other renewable technologies. He did, however, point out that a certain population continues to heat their homes with #2 fuel oil, which in rural and remote parts of the state may be difficult to electrify and biodiesel may be a better alternative during the transition to electrification.

Regarding thermal energy networks, Peter Iwanowicz suggested that the State should strive to ensure that the energy source behind them be zero emissions, as to do otherwise would limit the reduction of combustion overall.

Kisha Santiago-Martinez stated that smart growth and advancing comprehensive planning are addressed within the Land Use and Local Government Chapter and agreed that the State's "rust belt" communities are prime opportunities for acquiring long-term jobs and long-term manufacturing opportunities, adding that the update of municipal comprehensive plans is great preparation for the future. She also stated that much of the discussion of economic development is addressed throughout several chapters, although the Buildings Chapter provides an ideal opportunity for addressing these issues as they relate to the trades.

Dennis Elsenbeck suggested that the topic of economic development, while addressed throughout the draft Scoping Plan, has components of market and skills assessments which should be applied to the Climate Act requirements at a component product, service, or component sub-assembly level. This information can then be used to create a marketing effort to attract businesses to New York, culminating in a comprehensive economic development plan based upon the Climate Act requirements. Co-Chair Harris offered examples, such as the recent Micron announcement, of ways in which the State is beginning to align policies.

Rose Harvey questioned whether addressing economic development issues throughout was sufficient, suggesting that perhaps a chapter specifically devoted to the topic is in order.

President Knight suggested that there are many initiatives within the Scoping Plan chapters that address developing strategies, expanding opportunities, and looking for additional ways to infuse economic development in the Scoping Plan. She also suggested that perhaps a separate chapter to combine many of these efforts might prove useful. Co-Chair Harris was skeptical that a separate economic development chapter could be developed at this late date, but noted general consensus that these issues are important and should be further examined during the next draft of the Scoping Plan.

Donna DeCarolis believes that, given the large challenge of improving building efficiency by achieving 100 percent zero emissions by the year 2040, all options should be considered in meeting the goals, including a full evaluation of renewable natural gas, green hydrogen and hydrogen that involves carbon capture. She added that there was a substantive and detailed effort on behalf of the Alternative Fuels Subgroup to consider the wide range of issues, including that the feedstocks for renewable natural gas (*e.g.* food scraps) will continue to grow and the associated emissions should be captured in some usable manner. Ms. DeCarolis also stated that there is involvement in a national consortium, the Low Carbon Resources Initiative, that is also investigating environmentally responsible ways to move forward on these issues.

Dr. Shepson disagrees with the blending of hydrogen with natural gas, stating that in his opinion it is bad for the State, the environment, and thermodynamically unwise. He also agreed with the comments of Mr. Elsenbeck regarding the need for a green economic development plan in New York. He stated that much of the focus has been on the net benefits and on human health, and suggested that one of the greatest contributors to good human health is a strong economy.

Commissioner Reardon stressed the need to know what the underlying economic development drivers are and the need to assist young people to fully understand viable career path options. She cautioned that the more nebulous the plan, the less prepared the workforce. Using Micron as an example, she suggested increasing awareness of those opportunities that are coming, identifying the ancillary support systems that are necessary to support them, and being as specific as possible to encourage job seekers to engage.

Anne Reynolds highlighted three items regarding the Buildings Chapter, including the new building code, benchmarking and disclosure, and addressing existing buildings. While disappointed in the practical time horizon for updating New York's building code, she understands the benefits of the approach presented at a previous meeting and appreciates the clarifying text in this regard. She also mentioned that she believes the crux of the Buildings Chapter is to highlight the need to dramatically scale up incentives to weatherize, insulate, update building envelopes, and decarbonize existing buildings. This work is also the type that cannot be easily outsourced, and represents real, local, in-State jobs and opportunities. Co-Chair Harris added that the Jobs Study also identified these types of jobs as making up the vast majority of those expected to be created in the near term.

Gavin Donohue agreed with the discussion points and importance of economic development. He also stressed the need to emphasize the need for continued and consistent electric reliability, referencing the excess of 70 inches of snow that had fallen in the Buffalo area just a few days prior without the occurrence of any widespread power outages.

In the context of identifying additional opportunities and while mentioning the 2 million Climate Friendly Homes by 2030 effort, CEO Falcone stated that about 40 percent of Long Island homeowners heat with oil, with about 95 percent having air conditioning units that need replacement about every 15 years. He identified an opportunity to replace air conditioning units with cold climate heat pumps given that the payback period is less than two years when considering the State and federal incentives available, thus saving approximately \$1,500 annually per household on oil heating expenses while reducing carbon footprints – benefits which will only increase over time as the electric grid becomes more reliant on renewable sources. He also stated that the current electric grid can support this amount of new capacity given that it is built to accommodate summer peak load for air conditioning. Both NYSERDA and the Long Island Power Authority are working toward increasing awareness of this opportunity and to provide installers the tools they need to bring this opportunity to nearly 400,000 homes on Long Island, which are not considered rural and have no access to natural gas. CEO Falcone also pointed out the tremendous amount of economically viable opportunities to pursue in the short term, while the longer-term issues, such as the future of the natural gas infrastructure are addressed.

Adding to the earlier comments by Gavin Donohue regarding reliability, Donna DeCarolis reported that there were only two natural gas related outages during the historic snowstorm, which was a very good outcome. In response to comments by CEO Falcone, she agreed that many parts of the State differ from each other in marked ways, with the Western New York area being about 45 percent colder than the Long Island Region, with one-third of the homes more than 80 years old and one quarter use boilers, making the air source heat pump less viable and more costly. On a cold day, more than 95 percent of the fuel used by homes is natural gas; a significant element in the State's energy mix. She stressed the need to keep issues of reliability and resiliency in mind as more frequent and more challenging storm events are expected. She expressed concerns about the hard dates for electrification beginning in year 2030, given regional differences.

Dr. Shepson cautioned against using the most recent storm as a means of discouraging New Yorkers from pursuing new opportunities and stated that New York is not getting colder, but rather it is becoming steadily warmer. He believes the Scoping Plan adequately addresses, and perhaps over-emphasizes, the issues of reliability and resiliency.

Chair Christian agreed that the Scoping Plan does address reliability and it was approached in a manner to ensure that the system could maintain reliability to the highest degree and standards that customers expect. Agreeing with Dr. Howarth on the inefficiency of hydrogen and its unsuitability for certain applications, Chair Christian stated that its availability is important in complementing the use of renewable energy technologies, such as when there is abundant excess renewable energy that could be used to produce hydrogen and the Scoping Plan text goes to great lengths to address the issue. In further support of comments made by Commissioner Reardon and Donna DeCarolis, he commended the authors of the Buildings Chapter on the discussion of workforce development and the need for education at the earliest of ages and for the long term.

Raya Salter agreed with Chair Christian's comments on education and suggested that, given the broad consensus on the need for additional language on economic development, suggested addressing the legal and regulatory changes that may be needed to implement new utility business models. She also expressed her expectation that food scrap waste will decline in the future, as related to the earlier references to it as a feedstock for renewable natural gas. Ms. Salter also stated that, in her opinion, carbon capture and sequestration have no place in New York State.

Dr. Howarth agreed with Chair Christian that there is a role for green hydrogen as storage, but does not believe it appropriate for use in residential heating. In response to comments made by CEO Falcone, he suggested that a cold source heat pump can be a successful, cost-effective application even the coldest parts of the State.

Dr. Shepson agreed with the comments made by Ms. Salter regarding carbon capture and sequestration, describing it as an unproven technology and a better investment would be in nonfossil energy storage.

Peter Iwanowicz added to earlier comments regarding solid waste by Ms. Salter stating that the Scoping Plan as it is currently drafted calls for the diversion of all organics from landfilling and combustion which will stem the methane issue from legacy landfills.

### *Electricity*

Jessica Waldorf, Chief of Staff and Director of Policy Implementation, NYS Department of Public Service, presented feedback received for the Electricity Chapter. These included expanding language about how microgrids could be further explored as opportunities for decarbonization, adding language to better model and plan for demand-side management of electricity, including mention of the hybrid heating approach as a pathway to be explored to better match supply and demand throughout the State, and providing higher priority for alternative fuels given the need for dispatchable resources and a counter calling for deletion of the reference to renewable natural gas.

Ms. Waldorf also presented a series of follow-up items including clarifying certain topics such as "peaking units", resource planning and how the State undertakes and coordinates various



energy planning processes, the need to protect the existing renewable fleet, “zero-emission” qualifiers in relation to microgrids, clarifying eligibility for community choice aggregation, and the need for zero-emission, dispatchable generation resources by 2040. She also described in detail several suggestions for editorial changes.

Anne Reynolds generally agreed with all that was presented and suggested that the discussion regarding transmission, while solid, does not adequately address, or emphasize, the timing of when transmission decisions will be made to spur additional renewable energy development in a timely and more cost-effective manner. Regarding the current State goal for offshore wind development and the Integration Analysis identification for additional offshore wind capacity, Ms. Reynolds suggested that this further emphasizes the need for earlier transmission decisions. She also raised the issue of how fossil fuel generation phase-out and retirements is discussed within the draft, suggesting that the current text may not adequately emphasize this need Statewide, and not just specific to the blueprint being developed for phasing out peaker plants in New York City. She further suggested that a Statewide blueprint as such could potentially be updated as part of the State energy planning process. Ms. Waldorf confirmed that many of these suggestions reflect planned edits to this Chapter.

Dr. Howarth clarified his suggestion surrounding green hydrogen as one of many forms of “long duration” storage being considered for the electric system and expressed disagreement that the text should be adjusted to further emphasize a decarbonized natural gas system.

Raya Salter is supportive of the suggestions regarding resource adequacy planning to ensure all of the plants, Statewide, are being examined and the goals of the Climate Act are adhered to in that process. She applauded the care to define the need for “peaker” plants. She also agreed that community-based organizations, schools, and communities are necessary stakeholders and should be able to participate in the economic opportunities provided.

Dennis Elsenbeck agreed with the points previously raised by Anne Reynolds regarding transmission, stating that there are projects in the transmission implementation queue, and suggesting that perhaps the queue should be revisited based on the probability of particular projects to go forward in areas where there is available capacity to accommodate them. He also stressed the need for greater coordination in transmission project site development activities with local economic development organizations. On the topic of electric distribution infrastructure in Disadvantaged Communities, Mr. Elsenbeck suggested that the State should not rely exclusively on the interest of developers. He suggested a regulatory proceeding on microgrids either be resurrected or started, specifically given the different types of ownership that now exist. He also suggested further examination of the design of distribution systems, generally, with a look toward hour-to-hour peak shifting and load leveling rather than seasonal so as to optimize the system.

Gavin Donohue expressed concern about how the State will protect existing renewable resources into the future, along with how to identify additional needed resources. He added that these issues involve investments, economic development, reliability, and job and worker training and standards. Mr. Donohue raised the issue of an outstanding Petition before the NYS Public Service Commission to identify emission-free electricity resources. Ms. Waldorf stated the specific intention to refrain from mentioning any pending actions before the NYS Public Service Commission so as to not predetermine any actions but did highlight additional text to direct attention to them.

Raya Salter agreed that the points made by Dennis Elsenbeck emphasize the need to continually look at distributed energy resources and their value, the interconnection queue, and utility incentives to optimize activities. Ms. Waldorf provided some specific illustrations of activity underway to accomplish some of these observations. Mr. Elsenbeck stressed the need to look beyond the development of a building, but to the greater decarbonization of the overall system.

Donna DeCarolis affirmed her support for independent analysis regarding the use of hydrogen in pipelines and mentioned several efforts underway through some hub activity and offered to share additional information on hydrogen blending in the United States and internationally.

Following up on comments made by Gavin Donohue regarding legacy renewable projects, Anne Reynolds clarified that it primarily refers to hydroelectric plants and wind facilities that are more than ten years old or no longer receive NYSERDA incentives and that some action might be necessary to send a market signal of their continued value. She also suggested that it is not too soon to think about how energy market price formation will occur once the State becomes emission free. She voiced her support for the State identifying potential emissions-free electricity generating technologies now and exploring, evaluating, and investing in pilots and research, stopping short of developing them which she believes should be undertaken by the private sector. She further suggested that NYSERDA take on much of this work on possible technologies, as it had done twenty-five years ago for solar and wind, and doing so with a life cycle analysis considering greenhouse gas emissions.

Peter Iwanowicz supports Anne Reynolds comments regarding the New York City blueprint and the clarification made regarding it. Acknowledging that the Scoping Plan is not legally binding, but will set direction, he suggested adding as much reference to the Climate Act as possible to convey the breadth and importance of the overall effort. Mr. Iwanowicz also suggested that the term State “agencies” be clarified so that all understand the applicability of Section 7 of the Climate Act to all State entities.

Raya Salter agreed with the breadth of the application of Section 7 the Climate Act. She believes the discussion of advanced nuclear is premature and is, in her opinion, deserves a more robust conversation.

### *Economywide*

Jared Snyder, Deputy Commissioner, Climate, Air, and Energy, NYS Department of Environmental Conservation and Vlad Gutman-Britten, Assistant Director, Energy and Environmental Analysis, NYSERDA, presented the feedback on the Economywide Chapter which included input from the Climate Justice Working Group, some of which had been solicited during the drafting of the Chapter and some based on more recent meetings.

Mr. Snyder stated that the Climate Justice Working Group expressed its concern regarding market-based programs such as “cap and invest”, and is skeptical that allowance trading will not mitigate hotspots, and will further disadvantage already burdened communities. Recommendations made by members of the Climate Justice Working Group include establishing a higher price for emissions in Disadvantaged Communities and pricing emissions of co-pollutants. Members of the Climate Justice Working Group inquired as to whether offsets would be permitted, whether rebate mechanisms would consider that rural households spend more of their monthly income on energy in

the rebate design, whether all revenues (beyond those required by the Climate Act) raised from sources within Disadvantaged Communities would be reinvested in those communities, and how co-pollutants would be tracked. Mr. Snyder responded that offsets were not envisioned as part of the program design, that the rebate design and re-investment in the community as suggested could be considered, and that co-pollutants and air quality are currently tracked by the NYS Department of Environmental Conservation. Members of the Climate Justice Working Group asked whether the State would consider other revenue raising ideas other than a cap and invest or carbon tax mechanism.

Regarding follow-up items provided by Council Members, Mr. Snyder stated that they included additional clarity on the whether the spending to benefit Disadvantaged Communities included in the Climate Act must occur within Disadvantaged Communities or is only required to benefit those communities, how co-pollutant emissions within Disadvantaged Communities would be addressed, how mechanisms to mitigate the impact of higher costs for residents and businesses under a cap and invest program would be handled, and the potential for emissions leakage. Mr. Snyder also highlighted several points of editorial feedback.

Anne Reynolds expressed her support for a cap and invest program, noting that she has received a plethora of emails from stakeholders and residents presenting feedback, concerns, and questions on the Scoping Plan and she believes that Staff have incorporated that feedback well. She also noted several specific items of feedback, one addressed during the review of the Electricity Chapter, about the possibility for key reductions from stationary sources using an iterative process in order to maintain reliability, to get more renewables online, and to make transmission upgrades. She believes New York capable of designing the best cap and invest program in the world.

Peter Iwanowicz agreed with Ms. Reynolds and thanked the Co-Chairs and Staff for the additional engagement with the Climate Justice Working Group to ensure a robust discussion, and complimented the Legislature for enacting an aggressive and forward-thinking Climate Act. He also noted that monitoring and regulating emissions from areas adjacent to Disadvantaged Communities remains an open issue and should be addressed within the Scoping Plan to ensure the goals of the Climate Act are appropriately met. He suggested an approach modeled after the Cross-State Air Pollution Rule implemented under the federal Clean Air Act. Mr. Iwanowicz specifically thanked Staff for specifically addressing that emission offsets are not intended to be part of a cap and invest proposal.

Raya Salter praised certain aspects of the Climate Act, particularly with regard to equitable policy, but expressed skepticism that the goals of prioritizing emission reductions in Disadvantaged Communities while not also creating hot spots would be adequately addressed through a cap and invest effort. In response to her inquiry as to how the questions, recommendations, and requests from the Climate Justice Working Group are integrated into the draft Scoping Plan, Mr. Snyder explained the elements of the proposed cap and invest effort directly address the feedback, such as disallowing the purchase or trade of allowances that would create emission levels higher than historic output, diminishing caps over time, targeting investments in Disadvantaged Communities to further reduce emissions in those areas, efforts to address adjacent pollution such as high-traffic areas, and other mechanisms. He also stated that any program would include rigorous regulatory and development processes that will include as many stakeholders as possible. Ms. Salter requested that these items be included in the final Scoping Plan for accountability in meeting the concerns of the Climate Justice

Working Group and other stakeholders, including specific language stating the types of investments to be made in Disadvantaged Communities, along with actual metrics, to allow for community self-determination.

Mario Cilento stated that the labor community completely supports protecting Disadvantaged Communities and that maintaining flexibility is key to ensure stable union jobs are maintained in any Scoping Plan process.

Anne Reynolds voiced her agreement with Ms. Salter for the inclusion of declining emission caps and that there should be measurable reductions in Disadvantaged Communities given that there is a definition for identifying these communities, coupled with ongoing monitoring. She suggested that the Scoping Plan text be clear as to exactly why an effort such as cap and invest is necessary, explaining that the “cap” ensures the public that emissions will be capped at the levels required by the Climate Act and the “investments” will cover incentives for emissions reductions, behavioral changes, workforce training, public education, and building decarbonization. Despite the legislative requirements of the Climate Act, Ms. Reynolds stressed the need for a Scoping Plan that can actually lead to success and goals met.

In response to an inquiry from Gavin Donohue as to how emissions leakage and job migration is addressed under a cap and invest effort, Mr. Snyder recommended an approach that identifies those facilities that are most energy intensive and trade exposed. This approach would include allocating free allowances based on these facilities’ output and using benchmarks to encourage increased efficiency and that they remain within New York. Mr. Donohue requested the determination and inclusion of definitions for “energy-intensive business” and “trade exposed industry.” In response to an inquiry from Donna DeCarolis if regional and national competition from business and industry from nearby states would be included in those definitions, Mr. Snyder confirmed that request would be taken into consideration.

Mr. Iwanowicz requested that if the cap and invest program is implemented that it not adversely affect income-determined public benefits. He also noted that many of the finer details raised would be determined during a rulemaking process and that community and stakeholder engagement prior to that rulemaking should be particularly robust.

Rose Harvey supported the comments of Anne Reynolds and Peter Iwanowicz, noting that New York has a real opportunity to be a model for other states by enacting a plan that can be successful in meeting the goals. She also expected that more public engagement will be needed.

Ms. Salter restated her request that the Scoping Plan include specific guidance language on this topic to ensure it aligns with the goals of the Council and the Climate Act.

### *Industry*

Vince Ravaschiere, Senior Vice President, Energy and Incentives, Empire State Development presented the feedback on the Industry Chapter including a suggestion that the “Vision for 2030” should also include the use of renewable natural gas to help decarbonize the industry sector, clarification as to whether electricity can meet the needs of high heat industrial manufacturing processes by 2050, research on green hydrogen should also address greenhouse gas

consequences and the opportunity cost of not using renewable electricity in other ways, and clarifying that the Climate Act requires prioritization of emissions reductions in Disadvantaged Communities. Mr. Ravaschiere also highlighted several editorial changes that will be made to the text of the Chapter.

Dr. Howarth stressed the need to not exclusively focus on one type of fuel, such as renewable natural gas, over another for decarbonizing the industrial sector, but to allow the research and market forces to indicate the best options for reducing greenhouse gas emissions in industry. He also emphasized that all gases are subject to leakage, so the focus should be on reducing leakage as much as possible. He offered that, although hydrogen is not considered a greenhouse gas, it can aggravate other greenhouse gases when emitted into the atmosphere. He also suggested that research should show the greenhouse gas emission and leakage rates for all the potential alternative fuels and allow market forces to determine the best fit.

Dennis Elsenbeck requested moratoriums be placed on products used to meet Climate Act goals that are manufactured in places that still rely on fossil fuels, specifically coal, to generate the electricity to manufacture those products. Admitting that is a bold suggestion, he believes that this will send a global message, but also create opportunity for those products to be manufactured in the United States or New York State. He suggested exploring this further as a next step.

Raya Salter supported the comments made by Dr. Howarth specific to renewable natural gas regarding allowing science and market forces to determine the path forward.

Donna DeCarolis noted that emissions from difficult to electrify industries can be managed through good regulation while efforts are made to safely electrify or power them by use of alternative fuels, such as hydrogen.

Mario Cilento echoed comments by Dennis Elsenbeck regarding the need to recommend “Buy American”.

In response to a clarifying question from Peter Iwanowicz regarding the “Vision for 2030” recommendation to include renewable natural gas in the near term for decarbonizing the industrial sector and then implementing hydrogen in the future, Mr. Ravaschiere stated that the feedback was intended to suggest that industrial sector energy needs could be met with renewable natural gas to bridge the gap between the use of energy efficiency measures and full electrification. Mr. Iwanowicz and Ms. Salter voiced their opposition to the inclusion of this feedback as inconsistent with conclusions reached by the Alternative Fuels Subgroup.

### *Climate Justice*

Sameer Ranade, Climate Justice Advisor, NYSERDA, presented feedback on the Climate Justice Chapter which included ensuring electric infrastructure capacity is present in Disadvantaged Communities to decarbonize, promote smart growth, small business development and job opportunities, and that the activities in those areas build local opportunity. He also reported concern that the examples provided imply that funding would flow more toward nonprofit agencies that manage programs rather than to those efforts that emphasize job and business development that make needed products and services more affordable.

Mr. Elsenbeck expressed concern that spending programs are being created rather than community-building programs, and asked for clarification on the metrics for the spending within Disadvantaged Communities. Mr. Ranade explained that the exact metrics are yet to be decided, but will be based on the Disadvantaged Community criteria and feedback from communities on the benefits most important to them. He confirmed that additional information on metrics should be available before the scheduled December 19, 2022 meeting.

Raya Salter recommended inserting language into this Chapter noting that the metrics for tracking the 40 percent of spending and investment in Disadvantaged Communities and work with the Climate Justice Working Group are occurring in tandem. She also raised the issue of utility companies asking Indigenous Nations to either waive sovereignty or self-insure locally created utility systems, creating an untenable situation for the Nations. Mr. Ranade responded he would investigate this issue in the context of the Chapter text and follow up with Ms. Salter regarding her concern.

In response to an inquiry from Mr. Iwanowicz regarding what direction the Plan is taking to address communication and coordination with Indigenous Nations generally, Alanah Keddell-Tuckey, Director, Environmental Justice, NYS Department of Environmental Conservation, responded that Indigenous Nations, as sovereign nations, are addressed on a government-to-government basis, and the State makes Nation leadership aware of policies, procedures, issues, and opportunities that may have an impact on their community to provide space for engagement at the option of the Nations. She also noted she is not aware of the specific issue that Ms. Salter raised regarding the waiver of sovereignty. Co-Chair Seggos confirmed that the issue of engagement with Nations had come up in public comments and Staff is reviewing how best to address it. Mr. Iwanowicz also mentioned additional issues submitted in public comments regarding unmarked Indigenous graves in the context of renewable energy development and other State efforts to address them.

### *Health*

Henry Spliethoff, Chief of Prevention and Sustainability, Bureau of Toxic Substance Assessment, New York State Department of Health presented the recommendations for the Health Chapter. He noted that none of the comments received required follow-up or substantive changes to the Chapter, and were limited to editorial changes.

Peter Iwanowicz thanked Staff for their efforts on this Chapter to outline the health impacts that accrue to New Yorkers resulting from fuel combustion. He also encouraged the expansion of the language regarding battery and solar panel disposal to also include battery recycling and repurposing, particularly as it relates to electric vehicles.

### **Next Steps**

Sarah Osgood, Executive Director, Climate Action Council, reviewed the topics to be discussed at the remaining two meetings to take place on December 5, 2022 and December 19, 2022. She noted that the entire redline version of the final Scoping Plan will be provided to the Council prior to the December 5, 2022 meeting. The full Final Scoping Plan will then be distributed again, with the remaining discussion items from the December 5, 2022 meeting included. Ms. Osgood also announced that Staff will allot time during the December 19, 2022 meeting for Council Members to

present any brief written statements with their vote, which will then be published along with the final Scoping Plan.

In response to an inquiry from Ms. DeCarolis asking when the public comments would be posted to the Climate Action Council website, Ms. Osgood responded that Staff would endeavor to have all the comments posted by the December 19, 2022 meeting.

With that, the meeting was adjourned.

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## Climate Action Council

KATHY HOCHUL  
GOVERNOR

DOREEN M. HARRIS  
CO-CHAIR

BASIL SEGGOS  
CO-CHAIR

## Meeting Agenda

### November 21, 2022

- Welcome
- Consideration of October 25, 2022 Minutes
- Discussion of Potential Edits to Draft Scoping Plan Chapters
- Next Steps

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