ALLIANCE FOR CLEAN ENERGY NEW YORK, INC.

DATE: August 9, 2023

TO: New York State Department of Environmental Conservation

FROM: Alliance for Clean Energy New York

RE: Comments on Proposed Cap and Invest Policy

The Alliance for Clean Energy New York (ACE NY) submits this initial feedback in response to the seven webinars on the proposed cap-and-invest policy discussed by NYS Department of Environmental Conservation (DEC) that took place in June, 2023.

ACE NY is a member-based organization with a mission to promote the use of clean, renewable electricity technologies and energy efficiency in New York State, in order to increase energy diversity and security, boost economic development, improve public health, and reduce air pollution.

I. SUPPORT FOR AN ECONOMY-WIDE CAP-AND-INVEST POLICY THAT ADDRESSES EQUITY AND ENSURES THAT EMISSIONS MEET CLCPA MANDATES

First, ACE NY supports New York State's pursuit of an economy-wide cap-and-invest policy. The cap-and-invest policy is an important recommendation of New York's Climate Scoping Plan and a critical measure for DEC to pursue to meet its obligations under the Climate Leadership and Community Protection Act (CLCPA). ACE NY supports this recommendation in general, and further supports the accompanying directives from the Climate Action Council that were included in the Climate Scoping Plan to address equity, particularly:

> "**The Council recommends implementation of a cap-and-invest program designed to meet the Climate Act's requirements and goals, including meeting the economywide emission limits, promoting climate justice, and mitigating leakage. Mindful of current energy price burdens on New York households, the Council recommends gradually phasing in the program with cost containment mechanisms and rebates or subsidies to offset the burden of increased energy prices on LMI households**" (Climate Scoping Plan, Section 17.2); and
>
> "**In addition, DEC should evaluate and adopt program design elements that would provide additional assurance that emissions will decline in Disadvantaged**

Communities. Potential mechanisms for DEC to consider, based on continued engagement with environmental justice and other stakeholders, could include limits on trading allowances that preclude sources within, proximate to, or impacting Disadvantaged Communities from purchasing allowances from outside Disadvantaged Communities; source-specific caps or other mechanisms designed to prioritize reduction of GHG or co-pollutant emissions from sources in, proximate to, or impacting Disadvantaged Communities; and targeted air quality monitoring to ensure continued air quality improvement in Disadvantaged Communities. DEC should also consider whether requiring a multiple of allowances for sources within, proximate to, or impacting Disadvantaged Communities would provide additional protection. In addition, emissions in Disadvantaged Communities would be mitigated by other Scoping Plan strategies and DEC clean air regulatory programs and can be targeted to address areas of higher pollutant levels identified by DEC's comprehensive air monitoring initiatives" (Climate Scoping Plan, Page 343, Addressing Equity and Energy Affordability); and

"**In addition, the agencies should develop and implement measures to mitigate any impact of higher energy prices on New York households and small business, particularly LMI households. One mechanism would be to use some portion of the auction proceeds for per-household rebates, or climate dividends, that mitigate the impact of higher energy prices. Mitigation methods benefiting LMI households should be designed in a way that does not disqualify them for other assistance, thereby canceling out the intended benefit. In designing and implementing a cap-and-invest system, the State should also evaluate affordability for non-LMI households and businesses and consider mechanisms to manage these impacts**." (Climate Scoping Plan, Page 344, Addressing Equity and Energy Affordability).

II. SUPPORT FOR THE INCLUSION OF THE ELECTRICITY SECTOR IN THE CAP-AND-INVEST POLICY

A threshold question raised by DEC during the recent webinars was inclusion of the electricity sector in the cap-and-invest policy. <u>It is the position of ACE NY that the cap-and-invest policy should include the electricity sector</u>. The reasons for including the electricity sector as an obligated sector include:

I. The electricity sector is a major source category for greenhouse gas (GHG) emissions in New York, which will need to be reduced to meet the 2030, 2040, and 2050 economy-wide emission reduction goals of the CLCPA.

II. The electricity sector has relatively small number of emitters (compared to, for example, non-fossil fuel agricultural sector emitters, or refrigerant users) for the size of the sector.

Compliance and enforcement of the cap-and-invest policy would be relatively simple for this sector, as it is already regulated by DEC, and compliance could be integrated into the existing regulatory structure.

III. Reducing the use of fossil fuel for electricity generation and significantly increasing renewable electricity generating capacity is another discreet goal of the CLCPA and the Climate Scoping Plan, as is gradually reducing electricity production at fossil-fueled facilities, starting with the most polluting and inefficient power generating facilities in New York's fleet. Therefore, establishing an additional, strong, and clear price signal for reducing emissions from the electricity sector and reducing New York's reliance on fossil fuel for power generation would help achieve other goals of the Climate Scoping Plan. A robust carbon price combined with NYISO's location based marginal price (LBMP) structure sends a strong, transparent price signal at the very locations where renewable energy solutions are needed. And, a robust carbon price will incentivize private investment outside of NYSERDA's procurement process, increasing the chances of successfully meeting the CLCPA goals and placing risk on investors (where it should be) and not on consumers.

IV. Establishing an additional price signal for carbon reductions from the power generating sector will integrate a (higher) price for carbon in the electricity market. This will increase revenue for non-fossil fuel power suppliers, such as hydroelectric, wind, solar, offshore wind, and fuel cell generators. This will be a recognition of the clean attributes of these generators in electricity wholesale prices, which for so-called "Tier 2" resources is currently not compensated. Further, for those renewable generators that are holding contracts with NYSERDA, including nuclear facilities, this will reduce the levelized net renewable energy credit (LNREC) price (or the ZEC price) paid by NYSERDA. These are both positive aspects to integrating a carbon price into the electricity markets. The benefits of integrating a carbon price into the NYISO market were reviewed in a 2017 study by the Brattle Group, *Pricing Carbon into NYISO's Wholesale Energy Market to Support New York's Decarbonization Goals*[1] discussed the benefits of this approach at length. While the quantitative benefits described in the report are outdated and dependent on the carbon price selected, the qualitative and directional benefits outlined in this study are still valid and relevant.

V. The Electricity Chapter of the Climate Scoping Plan directs DEC to study and assess means for phasing out the most polluting power generation facilities, subject to reliability needs and requirements. This policy will complement that goal and financially benefit those

[1] The Brattle Group, 2017. *Pricing Carbon Into NYISO's Wholesale Energy Market to Support New York's Decarbonization Goals.* https://www.brattle.com/insights-events/publications/brattle-economists-nyiso-carbon-charge-could-help-meet-new-york-decarbonization-goals-more-cost-effectively/.

generators that are either carbon-free or more efficient and lower-emitting. This market signal will help support retirement of the most polluting facilities.

VI. Given the foundational importance of the electricity sector in New York's plan to combat climate change, the electricity sector could and should benefit from investment of proceeds from a cap-and-invest policy. This would include, for example, programs to provide more access to renewable energy to moderate-income and low-income New Yorkers, and to provide electricity affordability or bill relief to low-income New Yorkers. But if the electricity sector was not included in the cap-and-invest policy, it would then not have access to those revenues.

The reasons for including the electricity sector in the cap-and-invest greatly outweigh any arguments against inclusion. One such argument is that the Regional Greenhouse Gas Initiative (RGGI) already establishes a price signal for this sector. While that is true, and RGGI has been a very successful program in terms of generating revenue for reinvestment in New York's clean energy programs, the cap levels negotiated with other RGGI states have not been, nor will be, strict enough to ensure that the electricity sector of New York reaches the necessary levels to comply with the CLCPA. An additional policy is required and the economy-wide cap-and-invest should be that policy, combined with the Clean Energy Standard. Second, while inclusion of the electricity sector has the potential to raise wholesale electric prices, this impact will be mitigated by lower REC payments by NYSERDA, as discussed above. And while a higher electricity price may complicate electrification efforts, a lower price makes energy efficiency and building envelop initiatives less attractive, requiring higher incentives. This tradeoff will continue to exist; an appropriate balance can be struck within the framework of including the electricity sector in the economy-wide cap-and-invest program.

DEC has asked: • **What should be considered when establishing which source categories should be obligated?** Our opinion is that obligated source categories should be those that are contributing a significantly high portion of emissions; that have a relatively low number of sources that can be effectively regulated with relatively simple enforcement and compliance; that do not have an overly significant risk of emissions leakage; where DEC has the legal authority to regulate emissions; and where the establishment of a price signal to reduce emissions would further other goals in the Climate Scoping Plan.

The electricity sector clearly meets these criteria.

Finally, in its initial comments on the cap-and-invest, dated July 1, the Sierra Club discusses issues associated with including the electricity sector in the cap-and-invest policy. Sierra Club raises some valid concerns regarding complications associated with including the electric sector, such as the requirement that New York achieve a 100% emissions-free grid by 2040 (so no allowances could be purchased for the electric sector after that date) and the need to address the affordability of electricity. ACE NY shares those concerns. Further, we agree with the Sierra's Clubs brief review of the benefits of including the electric sector, where they state on page 3:

> **If affordability considerations can be adequately addressed in the context of an electric sector-only cap-and-invest program (akin to what Massachusetts has implemented[5]) that tracks the CLCPA's requirement of 100 percent zero emissions electricity by 2040, there are several benefits to creating a stronger price signal than RGGI currently provides. First, it increases economic pressure on the dirtiest and least efficient fossil fuel generators to exit the market, benefiting air quality and public health in the communities in which these facilities are located and providing significant lead time to address any reliability issues raised by the retirements. Second, it provides a pathway to address upstream methane and other GHG emissions associated with the fossil fuels burned in power plants. These emissions are not covered by RGGI, and it would not be feasible for New York to modify its RGGI-implementing regulations to address these emissions under the current construct of the RGGI program. Third, it readily enables New York to include smaller power generators (below 15 MW), which are presently excluded from RGGI compliance obligations, providing broader coverage of electric sector emissions.**

III. CONCLUSION

ACE NY appreciates the opportunity to submit these brief comments in favor of the design and implementation of a cap-and-invest policy that addresses equity concerns and ensures that CLCPA mandates will be met, and in favor of inclusion of the electric sector in the cap-and-invest policy. We intend to comment again during this policymaking process and can be reached at areynolds@aceny.org with any questions regarding this input.

Sincerely,

Anne Reynolds

Anne Reynolds
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