NY RENEWS

Doreen Harris, President and CEO
New York State Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203

Re: Comments on the “Draft Blueprint for Consideration of Advanced Nuclear Technologies”

Dear President and CEO Harris:

On behalf of the NY Renews coalition, we thank you for the opportunity to comment on the Draft Blueprint for Consideration of Advanced Nuclear Technologies**.** NY Renews, a multi-sector coalition of over 380 organizations, founded following the People’s Climate March, brings together organizations from across New York State to build sustained action for climate, jobs and justice. The NY Renews coalition championed the Climate and Community Protection Act (CCPA) to mandate a transition to a just and renewable economy in New York State, which ultimately became the Climate Leadership and Community Protection Act (CLCPA or the Climate Act).

Summary

The Draft Blueprint neglects to incorporate key factors associated with nuclear and meeting CLCPA mandates in New York State, including the following:

1. A robust accounting of the impacts of nuclear on Indigenous Nations, as made clear in the Red Paper "Nuclear Reactors Are Not Green" by the Onondaga Nation, the Haudenosaunee Environmental Task Force, and the American Indian Law Alliance;

2. The recommendations on nuclear made by the Climate Justice Working Group and advanced in the Scoping Plan;

3. A review of the economic impacts of nuclear on New York ratepayers in comparison to the lower cost of renewable energy sources like utility-scale solar and wind;

4. A meaningful consideration of New York State's progress toward CLCPA mandates through key policies like Cap, Trade, & Invest and the Build Public Renewables Act, and whether New York State is doing all it can to implement these policies to their greatest effect before considering nuclear, including whether alternatives like accelerating the development of renewable energy generation and battery storage are feasible;

5. Addressing the failure of many state agencies, including those with the most funding (i.e., the Departments of Health, Transportation, Education, and Economic Development), to follow the CLCPA's whole-of-government approach and analyzing the impact of state agency decisions on greenhouse gas emissions, pollution, and Disadvantaged Communities;

6. A failure to adequately consider the impact of nuclear energy on section 7(3) of the CLCPA, which prohibits state agencies from "disproportionately burdening" Disadvantaged Communities in permitting decisions and in other contexts.

In response to the Draft Blueprint, we are reiterating previous comments NY Renews has offered in the discourse around the future of nuclear power in New York State:

Nuclear Impacts to Indigenous Communities

The future of nuclear power in New York State must grapple with the content of "Nuclear Reactors Are Not Green," a Red Paper by the Onondaga Nation, the Haudenosaunee Environmental Task Force, and the American Indian Law Alliance.[1] The paper was written so that the voice of Indigenous Peoples can be heard, in order to document the vast harms from the nuclear power industry and so that the process of healing from these harms can begin. The list of past and ongoing treaty violations is long and troublesome and the deaths of, and devastating human health damage to, Indigenous Peoples are merely collateral damage to corporations and US governments. Prolonging the use of aging nuclear reactors without a viable plan for the handling of spent fuel rods at the expense of electric ratepayers is not an acceptable "solution." The billions of dollars that have been designated for nuclear bailouts would be better spent on promoting truly green alternative energy generation, electric car promotion and infrastructure, and high-speed rail projects. The Red Paper brings light to the dangers of the three aging nuclear power reactors in Scriba, New York and the direct harm that would result to the Onondaga people, and Nation lands and waters, from the continued operations of these aging nuclear reactors and from any accidental release of radiation, or worse; how these three aging nuclear reactors in Scriba are interfering with the stewardship responsibilities of Nation leaders to protect the natural world for future generations; and the dangers to the Onondaga Nation, its waters and its people from the current transport of nuclear wastes down Interstate Route 81, directly through the Nation's currently recognized territory. This legacy of impact must be the guide to discussions around the fate of nuclear power in our state.

[1] Onondaga Nation, et al. Nuclear Reactors Are Not "Green." 30 Jan. 2020, www.allianceforagreeneconomy.org/sites/default/files/NukeRedPaper1-30-20.pdf

Standing at less than 272 words of the draft blueprint, the "Environmental and Climate Justice" section fails to acknowledge these real, deadly harms faced by the Onondaga Nation, the Seneca Nation, the Ramapough Munsee Lenape Nation, and other environmental justice communities along the entire fuel chain of nuclear energy, including those who live close to existing reactors, uranium mines and enrichment sites, and nuclear waste dumps. NYSERDA staff must address concerns identified in the Red Paper and incorporate its content into the final Blueprint in a meaningful way, as it provides one of the best compilations of environmental injustices experienced by Indigenous peoples in New York and across the U.S., perpetrated by the nuclear industry and the governments that support it.

Climate Justice Working Group Recommendations on Nuclear & The Scoping Plan's Conditions for Using Nuclear Energy to Meet the CLCPA Electricity Targets

The Public Service Commission's Energy Policy Planning Advisory Council has already begun modeling new nuclear in their planning meetings, a concerning deviation from transparent energy planning, without also following the Climate Justice Working Group's (CJWG) recommendations in the Draft Scoping Plan for CLCPA:

"The CJWG also recommends a lifecycle analysis of the environmental, health, safety, emissions, and environmental justice impacts of nuclear fuel be conducted and the State proactively plan for the scheduled shutdown of the four reactors upstate."[2]

Similarly, the Scoping Plan produced by the Climate Action Council (CAC) outlined the issues that the state should evaluate before adding nuclear to the mix of technologies available to comply with the CLCPA's 100x40 electricity target (Public Service Law § 66-p(2)):

"The State should evaluate the role of existing nuclear reactors within the 100x40 requirements as part of policy actions needed prior to the cessation of the State's Zero Emissions Credit program in 2029, and include the time needed for potential federal and State relicensing of these facilities and the time to determine refueling options for the different reactors. In addition, the State should consider the potential contribution of advanced nuclear technologies in achieving 100% zero-emission electricity by 2040. Advanced nuclear reactors may provide a way to develop and deploy new nuclear resources faster, at lower cost, with improved safety mechanisms and with lower residual nuclear waste, *but this potential has not been demonstrated and must be carefully and rigorously evaluated*. Within this evaluation, *the State should analyze the expense, health, safety, security, opportunity costs, community impact and environmental impacts of nuclear power generation, including but not limited to, fuel mining and production, nuclear waste disposal and site remediation."*[3]

[2] Draft Scoping Plan, at 177
[3] Scoping Plan, at 256 [emphasis added]

The Draft Nuclear Blueprint has not addressed many of the issues set forth, except in some cases in the most cursory fashion. And, when the Blueprint did touch on an issue, its analysis was often highly speculative or did not make the case for expansion of nuclear:

1. The Blueprint did not determine what percentage of the "emissions free"[4] electricity goal could be achieved by nuclear technology and the alternatives.

2. The Blueprint did not purport to analyze the "time needed for …relicensing of" of existing nuclear plants or for refueling options -- a critical factor given that the CLCPA electricity targets must be met in specified years. As the Blueprint authors seemed to acknowledge, we cannot determine or even reasonably estimate when this new "advanced" generation of reactors will be available to address the state's power needs and what contributions it can make, if any, to meeting the CLCPA targets.

3. The Blueprint did not even estimate the extraordinary costs of an expansion of nuclear generation in New York State. In fact, the Blueprint correctly recognized the virtual impossibility of projecting costs at all, given the "long history of substantial cost overruns" of the nuclear industry, the cost overruns as to the most recent commercial reactors to be completed in the U.S.[5]

4. As to safety, the Blueprint cautioned that legitimate concerns have been raised about the Nuclear Regulatory Commission's (NRC's) ability to ensure safety "for the large number of very different reactor designs that are likely to enter full-scale licensing in the next several years."[6]

Nuclear Zero Emission Credits (ZEC)

The Public Service Commission order for the Clean Energy Standard included the ZEC requirement as part of the CES, which mandates that utilities/load serving entities procure ZECs from nuclear facilities in the State to fund their continued operation. It directs the revenue from sales directly to nuclear facilities in the State to fund their continued operation.

At the time of this decision, NY Renews raised concerns about whether the stabilization of these power plants was the best use of billions of ratepayer dollars, necessitating rate increases over other options available to the state. The ongoing economic impacts of nuclear investment are worth continual review given that the levelized cost of nuclear power is relatively high compared to other energy sources: the minimum cost per megawatt-hour to build a new nuclear plant is $112, compared to $46 for utility-scale solar and $30 for wind. Capital costs to build nuclear plants can run into the tens of billions of dollars, and are much more expensive compared to wind and solar projects.[7]

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[4] By using the term "emissions free," we are not conceding that nuclear energy meets the definition of "emissions free" in the CLCPA.
[5] Blueprint, at 16-18.
[6] *Id.,* at 14.
[7] https://www.mackinac.org/blog/2022/nuclear-wasted-why-the-cost-of-nuclear-energy-is-misunderstood

Meeting 2030 Mandates: Cap & Invest, Build Public Renewables Act, & Whole of Government Approach

Before nuclear power is proposed to meet CLCPA mandates, we must first consider whether New York is doing all it can to meet our targets. The comments we have provided to inform New York's Cap, Trade, & Invest program, the comments we have provided to the New York Power Authority (NYPA) during its latest conferral process, and the publication of our report, Flouting the Law, detail how our state is falling short, coupled with recommendations for rectifying the situation:

Cap, Trade, and Invest

More than five years after New York passed the Climate Act, the cap-trade-and-invest program is the single biggest policy proposed by the administration to make the emissions-reduction benchmarks real. Done right, the cap system could be a key tool in securing climate justice in New York: money for frontline communities, paid for by polluters. Done wrong, a cap system would only widen the gap between the haves and have-nots in our state: it could mean increased environmental harm for Black, Brown, Indigenous, and working New Yorkers. NY Renews is calling for a just cap-and-invest program—*without trading*—which would not allow corporations to trade their pollution permits for profit.

An emissions cap program will only benefit New Yorkers if it is implemented in a just way**.** Here's what we must see in an equitable, effective program:

1. **Statewide pollution limits must decline every year in every sector,** including the electric sector, and these limits must be strongly enforced. The limits must hit key benchmarks to ensure polluters reduce pollution to 50 % of current levels by 2040 and at least 85% by 2050.
2. **It must include facility-specific caps on greenhouse gas and co-pollutant emissions** in addition to a statewide pollution cap and sectoral caps.
3. **Greenhouse gas and co-pollutant emissions permits must be non-tradable and must have aggressive penalties for exceeding cap levels.** Permits must avoid loopholes that have weakened or undermined other efforts, including exemptions for any emissions and double allowances for facilities that utilize the same fossil fuel unit for multiple purposes, and avoid offsets and excessive banking. Polluters should not be permitted to play games with the system with any emissions offset regimes. Unused permits should not be banked year-on-year, and regulators must adjust the cap-trade-and-invest program design as needed to minimize any banking.
4. **No giveaways to polluters.** The program must not exempt the worst corporate actors from paying for their emissions or give them a free pass to dump toxic pollution in frontline neighborhoods.
5. **Expenditures must not harm vulnerable New Yorkers**. The cost burden for New Yorkers who can least afford it must not be made worse. The cap program must include rebates and targeted relief for low- and moderate-income households to ensure energy bills go down. We believe the strongest approach is to create a Climate and Community Protection Fund and direct any funds raised to that fund.

6. **Permits should have a clear and escalating price**, and there should be a policy to ensure both a price floor to ensure adequate revenue and a price ceiling to limit consumer impacts. There should be a higher price in Disadvantaged Communities and environmental justice areas. The price and regulations must be based on the CLCPA's current 20-year cost accounting for methane.
7. **Any cap system must be part of a broader regulatory approach to reducing pollution** and must ensure that New York can achieve the greenhouse gas reduction mandates in the CLCPA. The cap system must be complemented by other strong regulatory and enforcement tools.
8. **The system must include pollution reduction mandates for overburdened communities** by agencies including the NYS Department of Environmental Conservation and the Attorney General's office. In addition to a cap-and-invest system, we need a broad array of effective regulations and enforcement to reduce pollution.

Build Public Renewables Act (BPRA)

The BPRA, passed as part of the 2023-24 state budget, mandates that NYPA fill gaps in renewable energy generation to ensure that CLCPA goals are met. So far, NYPA leadership has not acknowledged this responsibility. They should acknowledge it and give the public frequent reports on how they plan to ensure CLCPA goals are met.

As directed under the 2023-2024 New York State Budget, the New York Power Authority must shut down over 400 MW of its fossil fuel power generation capacity and build any necessary renewable energy generation by 2030 to guarantee that New York State meets its CLCPA mandate of a 70% renewable electricity grid six years from now. As the state's largest clean energy power provider through NYPA's fleet of hydroelectric power plants, NYPA is uniquely positioned, well equipped, and obligated to swiftly develop, build, and own several gigawatts of renewable electricity generation and energy storage to meet the state's renewable generation mandate and secure a timely achievement of a zero-emissions grid. Incentives offered by federal legislation, such as the Inflation Reduction Act (IRA), should be used liberally by NYPA. They could be even more accessible in the coming years as federal guidance and criteria are finalized. For instance, the Authority is eligible for direct pay incentives and federal grants that private renewable energy and battery storage developers cannot otherwise attract, bringing significant additional federal funding for NYPA's mandated renewable energy investments and enhancing the Authority's existing billions of dollars in bond making capacity.

To meet CLCPA mandates, NYPA must build at least 15 GW of renewable capacity by 2030. By adopting this ambitious goal, the state can create a whole new sector of green union jobs, lower skyrocketing utility bills for the New Yorkers who need it the most and shut down dirty fossil fuel plants on the timeline required by law. And because NYPA can finance its own projects and secure even more funding through the federal Inflation Reduction Act, we can have all of these benefits without raising utility rates or taxes by a cent. By building 15 gigawatts – enough to power 12 million households – NYPA would create roughly 25,000 good-paying green jobs, while funding training programs and apprenticeships to make sure our workforce is prepared for the task. These programs will retrain fossil fuel workers so they can benefit from the energy transition and continue using

their important skills. They will also open up the green jobs sector to people in Disadvantaged Communities who have historically faced steep structural barriers to entering the trades. A 15 gigawatt plan would also help put the brakes on skyrocketing utility bills. NYPA can use profits from renewable energy to lower bills for New Yorkers currently struggling to pay them. As for-profit utilities seek massive rate hikes around the state, we have an opportunity to put money back in people's pockets. To do this NYPA could work with community organizations to develop community co-owned renewable energy projects with its industry expertise. At scale, this could become another way to meet the greenhouse gas reduction goals as well as ensure NYPA is complying with CLCPA mandates to prioritize DACs.

Importantly, NYPA must accelerate the shutdown of its remaining peaker plants. Unless NYPA builds aggressively, we are unlikely to shut down dirty peaker plants by the legally-mandated 2030 deadline. That means thousands more children suffering from asthma and other harmful effects of air pollution. NYPA's mandate to build public renewables sunsets in 2033. The Authority should do everything possible to retire dirty, harmful, expensive peaker plants and build renewable energy and energy storage before that point. At times, however, NYPA's actions suggest the authority is trying to run out the clock instead. To date, NYPA has taken few concrete steps toward developing renewable resources as the Authority's own fossil peakers continue to exacerbate the climate crisis and harm surrounding communities. Every year that the state slow-walks swift and equitable renewable energy deployment is another year that the state's Disadvantaged Communities continue to unequally endure expensive energy bills and toxic air pollution from fossil fuel-fired power plants located in their neighborhoods. NYPA should use its economic development arm to encourage green manufacturing in New York State and ease supply chain difficulties for renewable construction. To minimize and then eliminate use of its own peaker plants as well as large heavily polluting privately-owned peakers, NYPA should partner with other utilities to implement far more aggressive and opt-out, rather than opt-in, demand response programs targeted both at large energy users and individual households.

Whole of Government Approach

NY Renews recently released "Flouting the Law: Major State Agencies Are Ignoring New York's Climate Mandates" in conjunction with the New York Lawyers for the Public Interest.[8] The report details how, on the fifth anniversary of the passage of the CLCPA, almost every state agency is in violation of the clear climate and equity mandates of the law, including four of the state's best-funded agencies: the Departments of Health, Transportation, Education, and Development (Empire State Development).

The report reveals that large state agencies with a combined annual budget of over $279 billion have made over 26,000 decisions without adequately analyzing whether and how those decisions will impact greenhouse gas emissions, pollution, and local Disadvantaged Communities across the state. Agencies have also spent nearly $2 billion on clean energy spending without ensuring that at least 35 to 40% of benefits reach Disadvantaged Communities, another requirement of the Climate Act.

[8] Flouting the Law: Major State Agencies Are Ignoring New York's Climate Mandates

The report highlights a lack of climate action at large and well-funded state agencies, including the Department of Transportation, Department of Health, State Education Department, and Empire State Development.[9] While these areas of government are often overlooked as drivers of environmental progress, they have immense resources, regulate sectors responsible for substantial portions of New York's emissions, and must play a pivotal role in reducing emissions and redressing our state's legacies of environmental discrimination. These findings come on the heels of reports that New York is currently three to five years behind on achieving its renewable energy targets, and as fossil fuel business interests have begun a lobbying campaign to weaken the state's climate mandates.

The report offers immediate and concrete policy recommendations that the Governor, the Comptroller, and State Agencies can take to rise to the challenge and promise of a renewable economy, fully meet the demands of the Climate Act and ensure a more just and sustainable future for all New Yorkers.

The Lack of An Analysis of the Comparative Costs and Benefits of Alternatives to Nuclear

Oddly, the Blueprint failed to clearly outline a rationale for New York expanding nuclear power in our state. The closest the Draft Nuclear Blueprint has come to such a rationale is the need for Dispatchable Emissions Free Resources (DEFRs), particularly during "prolonged periods of low solar and wind input."[10]

In contrast, the Scoping Plan said in 2022 that "[t]he renewable electricity requirement *can* be accomplished by aggressive deployment of existing renewable energy technologies such as wind, solar, and energy storage."[11] Undoubtedly, the Scoping Plan states New York will have to invest significantly in energy storage technologies. However, the Scoping Plan outlined steps that can be taken to address the need for long-duration storage." [12]

Battery storage is already building the grid of the future as technology advances and the costs come down.[13] No reason is provided in the Blueprint why an expansion of our state's battery storage capacity is not a more commercially viable and cost-effective strategy for addressing the need for additional dispatchable resources than nuclear; it appears almost certain that it is. At a minimum, before the expansion of nuclear energy is even considered, NYSERDA should do a comparative analysis of nuclear and renewables, considering such factors as cost, safety, and technological feasibility.

The Blueprint's Inadequate Discussion of the Impact of Nuclear on the CLCPA's Climate Justice Provisions

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[9] The report only covered these four state agencies. As already stated, this is not by any means an all-inclusive list of the agencies that are failing to comply with their obligations under the CLCPA.
[10] Blueprint, at 1.
[11] Scoping Plan, at 219-220 [emphasis added]
[12] *See Id.*, at 226, 255.
[13] https://www.iea.org/news/rapid-expansion-of-batteries-will-be-crucial-to-meet-climate-and-energy-security-goals-set-at-cop28.

CLCPA section 7(3) provides that in issuing permits, licenses, and other administrative renewables and approvals and decisions, all state agencies must not "disproportionately burden" Disadvantaged Communities. The Blueprint falls short by failing to examine the role of nuclear power in light of section 7(3). It is simply unacceptable to imply, as does the Blueprint, that the environmental justice issues are a secondary concern when it comes to nuclear plants, as "almost all" of the life cycle of advanced nuclear facilities will occur out of state.[14] This statement ignores the fact that state residents will be significantly impacted by concerns like waste storage and transportation of nuclear materials which *will* occur within the state. Moreover, in siting a nuclear plant, there are obviously multiple other issues that must be considered under section 7(3) and other provisions, including safety, noise, traffic and evacuation plans in the event of an accident. Given the enormous regional and statewide impacts of siting any new nuclear plant in the state, these broad issues should be analyzed from an environmental justice standpoint at the early stages of the state's examination of nuclear rather than when state agencies have permit applications before them for the construction of nuclear plants.

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Sincerely on behalf of the NY Renews Steering Committee and Coalition at large,

Stephan Edel, Executive Director, NY Renews

[14] Blueprint, at 16