Testimony to the New York State Senate Hearing on the Climate Action Council Final Scoping Plan Implementation

Following the approval of its Final Scoping Plan by Atlantic Climate Justice Alliance urges the legislature and Governor Hochul to take the necessary legislative actions, without delay, towards making electricity the principal energy source for powering its residential, commercial, and public buildings as well its private, commercial, and public fleet of vehicles.

The fossil-fuel industry and its abettors have continued to engage in an intense, pervasive campaign of disinformation and deception to delay or dilute some of the most impactful

provisions of the scoping plan that pertain to electrification of buildings and transportation. We urge the New York State Senate to not only disregard the disinformation, but to also plan a hearing on the fossil-fuel industry's disinformation campaign within New York State, similar to the two recent Congressional hearings on this issue.

Effective and economical solutions are available today, and New York must demonstrate the political will to start the decarbonization of the two highest GHG emitting sectors of the state's economy in earnest. Among other legislative, regulatory, and fiscal actions that would help the state meet the goals of its Climate Act, we strongly urge the introduction and passage of the following legislation in this session:

1. **The All-Electric Building Act (S.562A|A.920A, Kavanagh|Gallagher):** This bill will prohibit on-site combustion of fossil fuels in any building with less than seven floors that starts construction in 2024, and any taller building that starts construction in July 2027 or later. The fossil fuel industry and its allies have been conducting a well-documented campaign to delay these implementation timelines, targeting legislators, the Governor, and the members of the CAC.

   We are including a letter in support of a 2024/2027 fossil-fuel prohibition in new construction signed by 126 statewide and regional organizations that was sent to the CAC and Gov. Hochul in October. It is well-understood that simple legislative changes to Sections 11-102 and 11-104 of the State Energy Law are sufficient to require the promulgation of a code by the NYS Codes Council for new low-rise buildings to be all-electric starting in 2024.

   CAC member Dr. Bob Howarth stated during the CAC's Dec. 5th meeting that the 2024/2027 start dates for all-electric new construction can be implemented via legislative action. The state does not have to, nor should it, wait for a comprehensive codes revision pursuant to the new (delay-prone) IECC codes, now expected to be released in 2024.

   The CAC's modeling and deliberations in 2021 during its work on the Draft Scoping Plan (DSP) had concluded that a 2024 start (sooner than was originally recommended by the Energy Efficiency and Housing Advisory Panel) was among the mitigation actions necessary to meet the CLCPA's emissions targets.

   The public comments on the DSP overwhelmingly supported these electrification timelines. We are also attaching a letter signed by over 200 state-wide organizations that includes support for the All-Electric New Buildings Act in the upcoming FY 2023-2024 Executive Budget.

   New York City has already passed these requirements. Washington recently became the first state in the nation to mandate heat pumps in new buildings of all sizes, leapfrogging New York with its "nation-leading" climate law by years. Recent studies (e.g., 1, 2, 3, 4,

5) show that new all-electric buildings are more affordable to build and heat than new fossil-fueled buildings are, so delaying this requirement will only help reduce housing and energy affordability for New Yorkers.

2. **The NY HEAT (Home Energy Affordable Transition), formerly, the Gas Transition and Affordable Energy Act (S.2016|A.xxxx, Krueger|Fahy):** This bill will align utility regulation with state climate justice and emission reduction targets. Specifically, it will repeal the subsidies and the entitlement for new gas hookups, will cap the energy burden of LMI households to 6% of their income, and minimize ratepayer impact from the replacement of leak-prone pipe (LPP) serving existing customers.

   A recent analysis by RMI revealed that free hookups to new customers added more than a billion dollars to ratepayers' future liability. This is akin to a tax levied on ratepaying families and small businesses to fund free new gas hookups, and it distorts building economics in favor of an uneconomical fuel.

   There are other egregious examples of the negative impact of the gas infrastructure investments by utilities on customers' energy burdens. For instance, in 2020, Con Edison received approval for a 25% increase in gas delivery charges over three years, largely to pay for maintenance and upgrades of the gas distribution system. More recently, the utility requested a billion dollars a year in ratepayer funds for maintaining the gas system's reliability and distribution integrity, with 40% of it earmarked for replacing LPPs.

   One of the biggest threats of a future cost spiral stems from the fact that new pipes – whether old mains' replacements or the fresh customers' service lines – will likely be utilized for only a fraction of their 60- to 80-year physical service lives. These pipes won't be delivering much, if any, fossil gas in just a couple of decades, and someone will be on the hook for massive charges associated with their accelerated depreciation.

   Every new gas hookup or pipe replacement locks in utility profits, while adding to the burgeoning liability of stranded assets foisted upon ratepayers. It's inevitable that the state will need to come to the ratepayers' rescue, but that doesn't alter the fact that new gas investments serve the gas utilities' bottom lines at considerable public expense.

3. **Provide enhanced Zero Emissions Vehicles (ZEV) purchase incentives through a revenue-neutral "feebate" program:** The Final Scoping Plan recommends offering strategic incentives to accelerate ZEV production, price parity, and purchases (Chapter 11, page 156). The FSP recommends a revenue-neutral "feebate" program that incorporates secondary policy goals, such as minimizing the impact on LMI customers. The legislature must introduce and pass a bill for implementing such a feebate program.

   The essence of a feebate program is to levy an emissions-fee on new fossil-fuel powered cars and light duty trucks (LDTs) and to use the revenue to offer a

point-of-purchase rebate to ZEVs. Since the proportion of ZEVs sold is relatively small in the very near term, respectable rebates can be funded through relatively modest fees.

A dynamically adjusting feebate program can be a continuous accelerator of ZEV adoption while shielding LMI customers from significant impacts. The following two features in a feebate program can accomplish these twin goals:

(a) Both the fees and the incentives must be technology agnostic and pegged to the actual fuel efficiency or the emissions of the vehicles involved. In order to avoid LMI impact and to avoid incentivising energy-extravagant EVs, vehicles with fuel efficiencies of 35–75 miles per gallon equivalent (MPGe) could be excluded from the program. As a result, inexpensive gasoline-powered vehicles (such as a Honda Civic) will incur no fees and EVs like the Hummer EV will not qualify for a rebate. The rebate should progressively increase for each MPGe that a ZEV exceeds 75 by, and the fee should progressively increase for each MPGe that a gasoline-powered car or LDT falls short of 35.
This feebate structure will ensure that lighter, less expensive, and more efficient vehicles receive the highest rebates and incur the lowest fee.

(b) The baseline value of the rebates should be fixed and adjusted to inflation. The fee should be adjusted annually based on the ratio of the statewide sales of ZEVs to the total number of vehicles sold that are covered under the program. This will result in a progressively increasing fee because the fraction of vehicles sold that are ZEVs is expected to continually grow.
As a result, incentives will drive up ZEV adoption rates in the early years of the program and disincentives from the fee will continue to accelerate the relative value of the incentives so that by 2035, the demand for gasoline-powered vehicles dries up.

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The Atlantic Climate Justice Alliance is a 501(c)3 not-for-profit international organization. It has several regional chapters across NY State, New Jersey, Florida, Puerto Rico and Dominican Republic.