

April 13, 2021

Testimony to: Todd Kaminsky, Chair of Senate Environmental Conservation and
Kevin Parker, Chair of the Senate Energy and Telecommunications Committee

Presented by: Richard Berkley, Executive Director and Laurie Wheelock, Deputy Director &
Counsel, the Public Utility Law Project

Re: The Climate and Community Investment Act (S.4264-A)

The Public Utility Law Project appreciates the opportunity to testify today at this Joint Hearing of the Senate Environmental Conservation and Energy Committees. The purpose of today's hearing is to discuss and receive input from various stakeholders on the Climate and Community Investment Act "CCIA" (S4264-A).

The Public Utility Law Project ("PULP") is a 40-year-old nonprofit with the mission of educating, advocating, and litigating on behalf of NYS' low-income utility customers. PULP participates on the State and Federal level when it comes to policy proceedings and is a party to all New York major rate cases involving utilities. PULP also operates a state-wide hotline where we offer direct assistance to utility customers in need of assistance; this has been especially necessary due to the COVID-19 public health crisis, and the subsequent economic downturn, which strongly harmed existing low-income people statewide and created a large group of "newly low-income" individuals for years to come.

When the Climate Leadership and Community Protection Act (“CLCPA”) became law in 2019, New York State committed to the most aggressive clean energy and climate agenda in the country. To achieve our State’s climate targets, the State must reconsider how every sector operates, including our economy. Due to the as yet unclear but obviously large costs of carrying out the transition required by the CLCPA, PULP has been advocating that close attention must be paid to the impacts of said transition upon energy justice and environmental justice communities, and disadvantaged communities generally.

The Climate and Community Investment Act (“CCIA”) is a vital companion piece of legislation to the CLCPA. In fact, it is fair to say that the CLCPA and Climate Action Council’s prescriptions for solving New York’s “fossil fuel addiction” cannot be put into effect without CCIA. It is also, as compared to the New York ISO’s “carbon tax” plan, a far more equitable and “light touch” method of paying for the change New Yorkers have demanded in the CLCPA.

The CCIA furthers the goals of the CLCPA by raising the funds laying the groundwork for the “just transition” to a clean, renewable energy economy for all New Yorkers. In particular, the CCIA will mandate equitable distribution of the funds collected from polluters so that such funds could address some of the burdens under which New York’s low-income residents, many of whom live in environmental justice and energy justice communities, currently suffer.

The manner in which the CCIA would raise these funds is by implementing a polluter fee similar to that imposed under the Regional Greenhouse Gas Initiative (“RGGI”) and other “cap and

trade” environmental plans, and which is planned for the Transportation Climate Initiative (“TCI” or “RGGI for transportation”). These new fees will provide New York State with the funds necessary to “pay as we go” while meeting our ambitious climate goals. At the same time, the CCIA recognizes that the polluter fees will result in higher costs that New York’s most vulnerable residents cannot afford nor bear. As a result of this recognition, and to keep environmental justice and energy justice communities from once again “being left behind,” the CCIA includes provisions that are specifically meant to help offset the costs associated with the Act.

1) Energy Rebate Program

To begin, Article 43 of the CCIA creates an energy rebate program to ensure that qualifying households, small business, and non-profits receive a rebate, so that their energy costs do not become more unaffordable. Approximately 30% of the total funds raised by the CCIA would be directed toward this Program. The rebates will be provided starting with the lowest income New Yorkers (those who are under 150% of the Federal Poverty Line, using means-tested assistance programs).

Upon determination by the authority that there are adequate funds, moderate income households will then receive their abatement, followed by middle income households, until funds are depleted. The rebate is calculated to provide support to up to sixty percent (60%) of the households in New York and the amount is calculated to be equal to or exceed the average estimated impact of the polluter fee. For that reason, households and small businesses outside

New York City will receive at least fifty percent (50%) more than the rebate amount applicable to New York City households and small businesses. The Energy Rebate program would be implemented through the use of the existing Home Energy Assistance Program (“HEAP”) grant process or weatherization credit, and for others, a tax credit would be used.

Ultimately, we all know that CLCPA will be costly. And, we know that we must exercise sweeping foresight and implement a plan of equitable action to prevent polluters from passing the penalty down to New York’s low- and moderate-income residents. While low-income/fixed-income/moderate income households are already unable to afford increases, they are also those households that particularly bear the brunt of environmental justice problems, health comorbidities (many of which arise from proximity to energy, chemical and other pollutant sites), and other challenges common to distressed census tracts. Creating a rebate program and directing supportive financial funds through existing programs will help assure that increased costs are offset for those who need the help, and need to be able to receive the benefits of a carbon-free energy grid without paying disproportionately for that future.

2) Public Service Commission and the Department of Public Service Oversight of Utility Prices

Another important aspect of the CCIA is within six months of the CCIA’s enactment, the Public Service Commission will be required to start a process to identify and mitigate any increase in utility prices as a result of the CCIA, with a focus on avoiding price increases for the lowest earning 60% of New Yorkers (essentially, anyone eligible for the rebate).

Such an approach is particularly important due to the pandemic and economic downturn. PULP has determined that the current total monthly arrears for the regulated energy utilities as of February 2021, which does not include PSEG-LIPA on Long Island (which, according to Newsday has approximately \$187 million in arrears), have exceeded \$1.2 billion in arrears with 1,144,574 accounts in arrears. It is highly likely that like recovering from the Great Recession, it will take New York's struggling utility customers at least ten years or more to recover from the economic downturn, and that is before the costs that will arise to pivoting our economy to a carbon free energy system.

For over a year now, energy utility companies filing rate cases with the Department of Public Service, have pointed to the CLCPA as a reason for the increases they are seeking, and simultaneously look for significant new expenditures to future-proof the businesses against climate change and the clean energy transition. For instance, Corning Natural Gas wrote in their case filing that the uncertainty surrounding the CLCPA's mandate creates significant financial and market risk for natural gas distribution companies. PULP expects this pattern to continue as energy utilities seek rate increases going forward. Among other things, gas companies will seek to raise annual charges to customers for new infrastructure and electric companies will ask for additional billions to re-engineer their networks to be more reliable and resilient in the face of a transition to replacing all natural gas, heating oil and propane with electricity. Consequently, It will become even more essential for the Department of Public Service to monitor the utility companies' actions and rate filings under the CCIA, for the purpose of maintaining fair and equitable rates.

Conclusion

In conclusion, PULP believes that the CCIA is a vital piece of legislation if we New Yorkers want to keep the commitment we made to effectuating the CLCPA. We appreciate the Senate Environmental Conservation and Energy Committees for hosting today's hearing and for inviting PULP to testify.

We regret conflicts made it impossible to attend in person and reserve the right to supplement the record with additional testimony.