REBNY Testimony | January 27, 2021

The Real Estate Board of New York to

The New York State Joint Legislative Budget Hearing on Environmental Conservation

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY appreciates the opportunity to testify at today's joint legislative hearing to express our support for provision in the budget that will advance efforts to reach the goals of the Climate Leadership and Community Protection Act (CLCPA).

Part R: Deduction of Renewable Energy Credits in New York City

REBNY strongly supports Part R of the FY 2022 New York State Executive Budget Transportation, Economic Development and Environmental Conservation Article VII Legislation. This thoughtful proposal accomplishes three important policy objectives: (1) it reduces costs on ratepayers, (2) it unlocks private capital to be invested in New York renewable generation, and (3) it ensures City law conforms to New York State policy as established in the CLCPA. For these reasons, we encourage the adoption of this proposal.

Building owners in New York City are increasingly looking to obtain New York generated renewable power. This is the case for several reasons include demand from tenants, to fulfill the owner's own environmental commitments, and to comply with local law mandates. Unfortunately, today, there are relatively few sources of New York generated renewable energy credits (RECs) for city building owners to buy. While this reality will change as the Tier 4 and Offshore Wind programs come online in future years, in the short-term the only viable way for a property owner to secure renewable power is to look to existing generators in New York who conceptually can sell a building owner a "Tier 2" REC.

However, city building owners are currently discouraged from investing in Tier 2 RECs because the building owner cannot use those credits to comply with local obligations. In other words, even if a building owner purchased these RECs, the City of New York would not consider those RECs to be proof that the building was using renewable power.

This unfortunate reality results in some building owners being unable to comply with local law mandates and means that instead they will very likely have to pay significant fines to the City of New York's general fund. Unfortunately, if this happens, the City is under no obligation to use that penalty revenue – which could be many millions of dollars as soon as 2025 – to further environmental goals.

Part R address this problem head on by providing New York City's building owners with the temporary ability to use Tier 2 RECs to help comply with local obligations until such a time as there is more renewable power directly reaching New York City. Once there is a more robust supply of New York City associated RECs, the provision ensures that city building owners invest in those prior to utilizing Tier 2.

This modest practical change provides multiple benefits.

First, it protects ratepayers. Currently, the costs of procuring RECs are socialized across all ratepayers in New York. By allowing city building owners to procure RECs, however, those costs are not borne by ratepayers but rather by private businesses. As a result, this reduces the overall cost burden on New Yorkers, saving money for all ratepayers while shifting the cost on to those more able to pay.

Second, it incentivizes city building owners to invest in New York renewables more aggressively. As mentioned previously, City law does not allow a building owner to use a REC toward their local carbon reduction mandate unless that REC is associated with renewable power from a capacity resource generated in or directly entering the electric grid in New York City. The simple truth is that there are no sources of these RECs available today, nor is there likely to be a meaningful supply available in 2024 when these local mandates begin. For certain buildings – particularly very large, densely occupied buildings that contain energy intensive operations – this challenge makes compliance with the local requirements practically impossible and means that they will almost surely be paying significant financial penalties to the City of New York for whatever purpose the City deems fit.

Part R addresses this problem by providing a pathway for city building owners to comply with the law – and avoid penalties – by investing in renewable power in New York. In doing so, it will help ensure that existing renewables remain in New York State, helping to reach the goals set out in the CLCPA. It is simply good policy to encourage building owners to invest in renewable power, particularly if the alternative is paying penalties. In addition, by reducing the overall burden on ratepayers for Tier 2 RECs, it frees up additional options for ratepayer investments in other renewable projects.

Finally, it is clearly a matter of State interest that local policies align with and support the goals of the CLCPA. Recent changes to the Clean Energy Standard provide a mechanism for NYSERDA to resell Tier 2 RECs to voluntary buyers who could include building owners. As stated previously, this policy was designed to both support ratepayers and provide a means for New York entities to buy RECs associated with New York power (which was not previously possible until these changes were made). Part R ensures that New York City law appropriately accounts for these changes – aligning City policy with the overall framework established by the State of New York.

For these reasons, REBNY strongly supports adoption of Part R of the FY 2022 New York State Executive Budget Transportation, Economic Development and Environmental Conservation Article VII Legislation.

Part Q: Technical changes to the Accelerated Renewable Energy Growth and Community Benefit Act

REBNY supports Part Q of the FY 2022 New York State Executive Budget Transportation, Economic Development and Environmental Conservation Article VII Legislation, which would make technical changes to the Accelerated Renewable Energy Growth and Community Benefits Act.

REBNY was proud to join with many other organizations across New York in supporting the Accelerated Renewable Energy Growth and Community Benefits Act. This Act establishes an important new framework to hasten the deployment of renewable energy projects, which must be done to accomplish CLCPA targets.

To ensure the effectiveness of this Act, Part Q would exclude siting permit applications from the Office of Renewable Energy Siting from the State Environmental Quality Review Act (SEQRA). Ensuring a more expedited transition away from fossil fuels is consistent with the widely recognized public policy benefits of renewable energy related to equity, health, and sustainability. As the underlying statute includes strict environmental review standards, this change will not erode environmental protections.

Part DD: Rail Advantaged Housing Act

REBNY generally supports Part DD of the FY 2022 New York State Executive Budget Transportation, Economic Development and Environmental Conservation Article VII Legislation, which will support transit-oriented development needed to address the New York City metropolitan region's housing shortage and encourage the use of mass transit to further reduce carbon emissions.

It has been well documented that the New York City region is suffering from a lack of housing that exacerbates our affordability challenges. As stated in the New York City Department of City Planning's report *The Geography of Jobs*, "[the] Region's housing supply has not been keeping up with job growth in recent years." As the report documented, in the decade following the Great Recession the Region produced 30% fewer housing units per year than in the prior decade.[i]

Part DD would help address the challenge by encouraging the development of more housing in the metropolitan region located near rail stations by streamlining land use and zoning regulations for those developments. Targeting development near rail stations is smart public policy as it will also help to reduce reliance on private vehicles that produce significantly more carbon emissions than public transit. With a urgent need to reduce carbon emissions from the transportation sector, encouraging greater reliance on mass transit for commuting is an important priority for the region. Research has also found that transit oriented development can benefit communities and economies through mixed land-use development, avoiding health spending, decreased maintenance costs through higher population densities and decreased sprawl, and facilitating social transactions.[ii]

As this provision is considered, we would encourage a careful evaluation of whether it could be expanded to also include the adjacent area around certain commuter rail station located in New York City. There are a number of Metro-North stations in the Bronx and Long Island Rail Road stations in Queens that share similar characteristics and land use patterns with the commuter rail stations in Westchester and Long Island and could benefit from being incorporated into this framework. These sites could also accommodate additional housing and would present an integration opportunity aligned with Fair Housing goals.

Finally, REBNY also supports Part X of the FY 2022 New York State Executive Budget Revenue Article VII Legislation to promote the development of renewable energy projects. This provision would help establish a uniform method of real property tax assessments for solar and wind infrastructure projects to ensure that these needed projects can predictably move forward. In doing so, this provision will help these projects come to fruition in a timely manner, consistent with CLCPA objectives.

Thank you.

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[i] https://www1.nyc.gov/assets/planning/download/pdf/planning-level/housing-economy/nyc-geography-jobs2-1019.pdf
[ii] https://thecityfix.com/blog/how-transit-oriented-development-benefits-local-economies-nossa-cidade-priscila-pacheco-lara-caccia/