

February 21, 2024

Doreen M. Harris, President and Chief Executive Officer  
New York State Energy Research and Development Authority  
17 Columbia Circle  
Albany, NY 12203-6399

Basil Seggos, Commissioner  
New York State Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-1010

RE: New York Cap-and-Invest Program must Prioritize Ambition in Line with Climate Act

Dear Commissioner Seggos and President Harris,

With the advancement of the New York Cap-and-Invest Pre-Proposal, the Hochul administration has demonstrated its continued commitment to doing the essential and challenging work required to tackle climate change while delivering health and economic benefits to New Yorkers.

Designed properly, an ambitious and equitable cap-and-invest program in New York would drive national momentum on climate, cut costly greenhouse gas emissions and toxic air pollutants, and invest billions of dollars in our communities – accelerating the transition to a safer, healthier future for New Yorkers.

The Scoping Plan recommended a cap-and-invest program as a means of setting an enforceable, declining limit on emissions across New York’s economy to ensure that “aggregate emissions do not exceed the statewide emission limits”. Governor Hochul’s FY24 budget similarly directed DEC and NYSERDA to “design a program [...] that ensures compliance with New York’s statewide emissions reductions goals”.

A program with any of the three price ceiling scenarios presented as part of the Pre-Proposal Analysis webinar on January 26, 2024 is inconsistent with this recommendation, and would mean the cap would fail to act as a critical emissions backstop. With a predetermined price ceiling, unlimited price ceiling units (similar to allowances) are sold above the cap, undermining the integrity of the cap to in fact limit emissions. The State’s analysis suggests that none of the price ceilings modeled drive emissions reductions in line with New York’s targets, with emissions exceeding the Climate Act-aligned 2030 target for obligated sources by 25-28 MMT CO<sub>2</sub>e, or about 15-17%, across the three price ceiling scenarios. While the Scenario A price ceiling would get the State closest to its 2030 emissions target, even at that level additional policies would be needed to close the remaining gap.

We encourage the administration to prioritize setting a cap level capable of ensuring emissions reductions consistent with the Climate Act’s targets and to reject inclusion of anything – like the proposed price ceilings – that would undermine this cap. While we recognize the importance of mitigating any impacts of market volatility on New Yorkers, a price ceiling must at a minimum exceed modeled allowance prices consistent with that cap and should exceed cost containment reserve price tiers – which serve as soft price

ceilings without undermining cap integrity. Further, the program should ensure that if a price ceiling is hit and price ceiling units are sold above the cap, resulting revenues are used to secure greenhouse gas reductions on at least a ton-for-ton basis.

Governor Hochul has rightly prioritized affordability in designing this program, particularly for low- and moderate-income households, in part by returning a third of revenues raised directly to New Yorkers. A program that is designed with a high-integrity cap aligned with Climate Act targets would scale investments that will help transition New York businesses and families more quickly to clean energy and away from dependence on costly and harmful fossil fuels.

New York has a critical opportunity to raise the bar for climate action nationally by designing a program with a high-integrity cap in line with the level of ambition enshrined in the Climate Act's statutory targets, and one that prioritizes equity and full stakeholder input in all aspects of its design. We urge the Hochul administration to seize this opportunity and look forward to working together to properly craft this critical program.

Signed,

Building Decarbonization Coalition  
Environmental Advocates New York  
Environmental Defense Fund  
Natural Resources Defense Council  
New York Geothermal Energy Organization  
New York League of Conservation Voters  
New Yorkers for Clean Power  
Regional Plan Association  
The Climate Solutions Accelerator of Finger Lakes-Genesee Region  
The Nature Conservancy  
Vote Solar  
WE ACT for Environmental Justice

cc:

The Honorable Peter Harckham, Chair, Senate Environmental Conservation Committee  
The Honorable Deborah Glick, Chair, Assembly Environmental Conservation Committee  
The Honorable Kevin Parker, Chair, Senate Energy and Telecommunications Committee  
The Honorable Didi Barrett, Chair, Assembly Energy Committee  
John O' Leary, Deputy Secretary for Energy and the Environment  
Sean Ewart, Assistant Secretary for Energy  
Ashley Dougherty, Assistant Secretary for the Environment  
Caroline Wolfe, Senior Policy Advisor for Energy