



Testimony of Raya Salter, Esq.

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Before the

Senate Standing Committees on Finance,

Energy and Telecommunications, and Environmental Conservation

Hearing to Examine the Legislative and Budgetary Actions

Necessary to Implement the Climate Action Council Final Scoping Plan.

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Dear Committee Chairs and distinguished Members,

Thank you for this opportunity to testify today. My name is Raya Salter. I am an energy attorney and founder and executive director of the Energy Justice Law and Policy Center, based in New Rochelle, NY with offices in Birmingham, AL. The Energy Justice Law and Policy Center is an energy justice think tank and the nation's first grassroots public interest law firm dedicated to energy justice. I am also a Member of the New York State Climate Action Council (Council), the body tasked with developing the scoping plan for New York to achieve its statewide greenhouse gas (GHG) emissions goal of 85% from 1990 levels by 2050. I was appointed to the Council by Senate Majority Leader Andrea Stewart-Cousins.

I started my legal career as an energy associate with the law firm of Dewey & LeBoeuf in New York City. In prior roles I was a Regulatory Attorney for the Environmental Defense Fund and a Senior Attorney with the Natural Resources Defense Council. I have worked with utilities, community stakeholders, activists and other thought leaders in multiple jurisdictions, including New York, Hawaii, Tonga and Fiji to promote the just and equitable integration of clean and renewable energy onto the electric grid. I was also the policy organizer for NY Renew, a coalition of over 300 environmental justice, labor, environmental and community groups, and the force behind the 2019 New York Climate Leadership and Community Protection Act (the "Climate Act" or "CLCPA"). I am an adjunct professor of law at Cardozo Law School and my book, "Energy Justice, Domestic and International Perspectives" was published in 2018.

New York is on the vanguard of climate action and this may well be one of the most important inquiries these committees make. The approval of the Council Scoping Plan was a landmark moment for State climate justice leadership. We must, leading with justice and equity, act on climate now, and that means closing the state's fossil fuel plants and moving away from the combustion of fossil fuels.

The evidence of why we must act now is irrefutable: the scientists of the world have told us that our mitigation window has closed to 10 years. GHGs from fossil fuel burning are choking our State and our planet. Frontline communities in New York and across the globe are dying from the impacts of fossil fuels. This is, quite literally, the most decisive decade in human history.

The CLCPA and the Scoping Plan provide a comprehensive approach to reaching the state's nation-leading climate goals with a focus on justice and equity. The next step is to see the Scoping Plan and the Climate Act fully implemented to the letter of the law. This will require the full force of the New York state government on every level.

First and foremost, we must ensure the enforcement of the CLCPA's GHG limits which must result in 100 percent zero-emissions electricity by 2040 and net zero emissions economy wide by 2050. This must mean a full transition away from fossil fuels and the closure of the state's fossil fuel facilities. The CLCPA requires that the Department of Environmental Conservation (DEC) promulgate rules and regulations to ensure compliance with the statewide emissions reduction limits and work with other state agencies to do the same. Importantly, the DEC rules must:

- ensure that aggregate emissions of GHGs will not exceed the statewide GHG emissions limits;
- include legally enforceable emissions limits, performance standards, or measures or other requirements to control emissions from GHG sources, with the exception of agricultural emissions; and
- reflect, in substantial part, the findings of the Scoping Plan.

Thus, it is the DEC's mandate to enforce its GHG limits in a way that reflects the Scoping Plan. It must work with other agencies to do the same. This is the bedrock of the CLCPA - enforcement of GHG limits and the closure of the most polluting facilities. Further, the Act requires that the rules created by the DEC focus on equity and justice, in that they must:

- design and implement all regulations in a manner that seeks to be equitable, to minimize costs and to maximize the total benefits to New York, and **encourages early action to reduce GHGs**;
- ensure that GHG reductions achieved are **real, permanent, quantifiable, verifiable, and enforceable by the DEC**;
- ensure that activities undertaken to comply with the regulations **do not result in a net increase in co-pollutant emissions or otherwise disproportionately burden disadvantaged communities**; and
- **prioritize measures to maximize net reductions of GHG emissions and co-pollutants in disadvantaged communities.**

In this way, the CLCPA creates a guide for lawmakers to follow. In order to implement the CLCPA and the Scoping Plan, the State must act in ways that: (1) encourage early action, (2) do not increase co-pollutants, and (3) do not disproportionately burden disadvantaged communities and prioritize emissions and co-pollutant reductions in disadvantaged communities. Let this guide be your compass to achieving the goals of the CLCPA and implementing the Scoping Plan. In doing so, do not lose focus on the true answer: moving away from the combustion of fossil fuel and shutting down the state's polluting fossil fuel facilities.

I was a member of the Council's Gas Transition Subgroup and worked on the Scoping Plan's vision to retire fossil fuel plants and decarbonize the buildings sector. It includes a Public Service Commission (PSC) blueprint for the retirement of New York City's most-polluting fossil fuel plants and their sites by 2030 that will inform broader planning to retire fossil fuel plants throughout the State. This is what it means to prioritize emissions and co-pollutant reductions in disadvantaged communities. Shut down fossil fuel plants where they are both polluting and harming frontline communities the most.

This also means ensuring a just transition for the fossil fuel industry workforce. The Scoping Plan offers answers for this. It recommends the creation of an office of Just Transition

and an accompanying Worker Support and Assurance Fund. This will provide the needed state architecture for a just transition. The PSC's blueprint for plant closure should be implemented immediately. Likewise, the Office of Just Transition and the Worker Support and Assurance fund should be set up and funded now.

Lawmakers should approach so-called "alternative fuels" and market based approaches to reducing GHGs with caution. While the state's climate law should ultimately prohibit the use of most "alternative fuels," like "renewable natural gas" and hydrogen for use in pipelines on an emissions basis, the Plan is wrong to contemplate these false solutions. Likewise, looks into so-called "advanced-nuclear" are a dangerous distraction. False solutions will keep new yorkers paying ever more money for dirty and polluting energy. Right now, New Yorkers pay some of the highest energy costs in the nation, including widely fluctuating costs for fossil gas. This must change.

With regards to a "cap and invest" program to reduce emissions, the approach recommended by the Scoping Plan last month, attempts to address long standing environmental justice concerns about such programs. The devil, however, will be in the details. No cap and invest scheme can be effective without simultaneous action to close the polluting fossil fuel plants that are hurting frontline communities the most. Any plan that places a disproportionate burden onto disadvantaged communities will not be compliant with the CLCPA.

Thank you again for this opportunity to testify as a part of this important investigation. I look forward to working with advocates and state officials to implement the CLCPA and the Scoping Plan.

Regards,



Raya Salter

Founder and Executive Director, the Energy Justice Law and Policy Center