



## Resolution No. 130-22

# Resolution to Submit Comments on New York State Climate Council's Draft Scoping Plan for New York's Climate Leadership and Community Protection Act (The "Climate Act")

**WHEREAS**, in 2019, New York State Legislature enacted New York's Climate Leadership and Community Protection Act (the "Climate Act") that requires the total carbon emissions from New York State population be no more than 60% and 15%, respectively, of the 1990 carbon emissions (the average New Yorker's annual carbon footprint is reduced from 22.7 tons/year to 13.6 by 2030 ("2030 Mandate") and 3.0 tons per year by 2050 ("2050 Mandate").

**WHEREAS**, in the 2030 and 2050 Mandates, the Legislature created an energy rationing system that puts all New Yorkers (and their communities) in competition for the affordable energy needed for a sustainable community and/or "healthful environment" (the state cap is 61.47 million metric tons of carbon dioxide equivalent).

**WHEREAS**, in order to enforce the rationing system, the Climate Act Section 7 requires all state agencies to evaluate whether each and every decision (in particular infrastructure decisions) will be inconsistent with the 2030 and/or 2050 carbon footprint mandates and, if inconsistent (or will interfere with the attainment of the mandates), determine whether it is necessary and, if so, require alternatives or greenhouse gas mitigation measures. If not necessary, deny/terminate.

**WHEREAS**, the Climate Act Section 12 provides each aggrieved person standing to commence an Article 78 proceeding in the NYS Supreme Court to enforce compliance with the Climate Act including compliance with the mandates and Section 7.

**WHEREAS**, the Climate Act has granted to each and every state agency veto power over any and all projects requiring a state agency approval or decision and has granted the wealthy aggrieved person (who may be in competition for those carbon emissions) a tool to kill and/or delay a competitive and/or disliked project including even the renewal of an existing permit.

**WHEREAS**, the rationing of carbon emissions will exacerbate the upstate/downstate divide; the urban versus rural divide; the wealthy versus the working-class divide; the divide between municipal officials struggling to provide critical services and the environmental organizations. New York State Department of Environmental Conservation ("DEC") has recently used Section 7 authority to deny the repowering of two natural gas power plants in Orange County. DEC is under pressure to deny a permit renewal to a crypto currency facility because some feel the fossil fuel energy should not be rationed to that product. DEC is holding up numerous Title V air permits due to its inability to make a consistency determination under Section 7.

**WHEREAS**, in order to achieve the 2050 Mandate, the Climate Act mandates by 2040 that all the electricity generated by fossil fuels and the anticipated demand growth will have to be provided/replaced by wind (onshore and offshore), solar, hydro from Canada and other renewable sources ("2040 Mandates"). Due to lobbying efforts, biomass is no longer considered a renewable energy source in New York.

**WHEREAS**, the New York Independent System Operator ("NYISO") - which manages New York's energy grid - divides the state into two distinct areas - Upstate Energy (Zones

A-E) and Downstate Energy (Zones F-K). The Upstate Energy zones currently use about 1/3 of the total electricity generated each year. According to NYISO 2021 Report of 2020 usage, the upstate sources of electricity are 90% zero carbon emission.

**WHEREAS**, with respect to the Downstate Energy zones, which represent two-thirds of the state electricity consumed, the story is quite different. According to NYISO 2020 Power Trend Report of 2019 usage and NYISO 2021 Power Trend Report of 2020 usage, the downstate sources of electricity were 69% fossil fuel in 2019 and 77% fossil fuel in 2020 (and are projected to be well over 90% fossil fuel in 2022).

**WHEREAS**, the NYISO 2020 Climate Change Impact and Resiliency Study, which analyzed the Climate Acts 2040 zero emission electricity target determined that the 2040 Zero-emission Grid Mandate is not feasible and would result in an unreliable (and thus unsafe) electric grid. In other words, the 2040 Mandate and 2050 Mandate are fantasies.

**WHEREAS**, in 2019, the GHG emission sources in New York State breakdown as follows:

Transportation (mostly travel over land)	28%
Buildings (mostly heating buildings)	32%
Electricity	13%
Industry	9%
Agricultural and Forestry (mostly livestock)	6%
Waste (mostly methane from landfills)	12%

**WHEREAS**, the Climate Act delegates to an appointed council of 22 individuals' responsibility to develop a draft plan by December 31, 2021 to reduce the average New Yorker's carbon footprint to near zero. The Draft Scoping Plan was issued in December, 2021 and this resolution and its attachments constitute the initial comments of the Greene County Legislature.

**WHEREAS**, the Draft Scoping Plan mandates over a hundred (if not several hundred) different measures affecting all aspects of our daily lives and community activities. The following four prohibitions are responsible for the majority of the reductions:

1. Elimination of the use of fossil fuels for land travel
2. Elimination of the use of fossil fuels for all aspects of residential living including heating, cooking, outdoor equipment, hot water, and clothes dryer
3. Conversion of the electric grid to all renewable and zero emission sources.
4. Transformation of the solid waste management system

**WHEREAS**, the prohibition on the use of gas, propane or home heating oil in our daily activities is schedule to occur over the next 13 years (in 2024 for new homes; starting in 2030 for existing homes).

**WHEREAS**, the prohibition of the use of fossil fuels for land travel is more gradual and includes the following measures:

1. Provide direct rebates on zero emission vehicles supported by **new fees on purchase of fossil fuel vehicles.**
2. Adopt mechanisms to discourage vehicle use and generate funds for public projects, including congestion pricing, variable cost parking, **increased registration fees on carbon intensive vehicles, adoption of a per mile vehicle user fee system**, and increase municipal use of special assessment districts to fund public transportation investments.
3. Adopt California's Advanced Clean Car 2 Regulations, expected to require one hundred percent light-duty zero emission vehicle sales by 2035;
4. Adopt California Advanced Clean Truck Regulations requiring increase percentage

of zero emissions Micro Hybrid Drives through 2035;

**WHEREAS**, in 2018, DEC issued an order to close Indian Point Nuclear Power Plant due to the aquatic impacts from the withdraw of non-contact cooling water from the Hudson River. In April, 2020, Indian Point was required to shut down Unit 2, and in April, 2021, Indian Point was required to shut down Unit 3. In 2019, when Indian Point was in full operation, it provided 25% of the downstate annual electric load (**16.7 million** megawatt-hours of zero-emission power).

**WHEREAS**, in an April 29 press statement marking the closure of Indian Point, NYSEDA CEO **Doreen Harris** implied that the zero-emission electricity lost from Indian Point would be addressed stating that "New York State's electric grid is undergoing a transformative evolution in pursuit of the nation-leading goals of the Climate Leadership and Community Protection Act" including "developing a tremendous renewable energy project pipeline." As a follow up to that press statement, in November 2021, NYSEDA submitted a petition to the PSC seeking approval and ratepayer funded subsidies for two massive transmission projects to bring non-fossil fuel electricity to NYC. The Petition states that "[t]he selected projects are expected to deliver **18** million megawatt-hours of renewable energy per year to Zone J (i.e., New York City), more than a third of New York City's annual electric consumption, from a diverse generation portfolio including onshore wind, solar and hydroelectric power from Upstate New York and Québec. ...Total investment into both projects is expected to amount to **nearly \$24 billion.**" Under NYSEDA's Petition, ratepayers throughout New York State (both upstate and downstate) are being required to fund two transmission projects.

**WHEREAS**, the GCL support the Climate Council objective of promoting the transition to electric heating from fossil fuel heating. The GCL do not support (and vigorously object) to the mandate approach selected by the Climate Council to require all homes to install electric heating regardless of cost and feasibility. In lieu of a mandate, we suggest and encourage that the Climate Council develop a plan to make electric heat pumps the preferred and affordable technology when the homeowners need to replace their existing heating system. The correct approach is for the Climate Council to take an enabling approach - create the reality where the typical homeowner would select an electric heat pump system over fossil fuel system to heat their home. In Greene County the average low temperature during December, January, February, and March are 23°F, 16°F, 17°F, and 24°F, respectively-which is at or below the temperature that electric heat pumps provide reliable and efficient heat.

**WHEREAS**, the GCL do not support the mandate approach selected by the Climate Council to require all outdoor equipment to be all electric. Homeowners and users should have the choice whether to use gas fueled equipment and/or electric equipment - each has their own benefits and costs. Homeowners in New York State should have the same rights as homeowners in other states. Gas is mobile and is readily available; it allows a landscaper to move from site to site without stopping to recharge the battery; it allows the work to be performed where it is needed and in different weather. There is a role for both gas and electric power equipment and the decision should be left to the individual that is using the equipment - not to an elected official's political objective.

**WHEREAS**, the GCL do not support the mandate approach selected by the Climate Council to force the consumer to purchase an electric car. The Climate Council should focus on developing a plan/program that makes electric vehicles the preferred choice because they become affordable, available, and feasible. In Greene County a car or truck is a necessity - not a luxury. As a necessity, it must be affordable, available, and feasible to the vehicle owner. Affordability will depend, in part, on whether electricity remains affordable. Availability and feasibility will depend on the whether the necessary infrastructure is available and affordable to meet the needs of the vehicle owner. In our cold climate, parents need to know that they will get to their destination, that the car will work in the cold, that there is enough charge to get back home; and that the car can meet the family hauling needs. There needs to be enough electricity in the local grid to handle the additional load; the charging station must be accessible, convenient, and not be inordinately time

consuming.

**WHEREAS**, the GCL do not support imposition of a carbon tax, a mileage surcharge, increased registration fee for gasoline powered cars, or any additional tax on gas, propane, natural gas or home heating oil or a tax on solid waste. A carbon tax on the building heating sector and the transportation sector would simply make natural gas, gasoline, fuel oil and propane more expensive and thus make a vital necessity less affordable (transportation and heating) to residents. While the wealthy can afford an all-electric car and home, and second home and third home, the working class (the median family income in Greene County is \$56,681) will more likely rely on fossil fuel to heat their home or fuel their car. Greene County residents are more likely to have to travel day-to-day long distances and heat a home in a cold climate. The utility bills and gas bills are already too high and not sustainable on the median family income. As the use of fossil fuels decreases, the cost of maintaining the fossil fuel infrastructure will be spread over a smaller base increasing the costs to the remaining users.

**WHEREAS**, the GCL finds that in adopting the Climate Act with its 2030, 2040 and 2050 Mandates, the Legislature made a grave mistake - the Legislature prioritized their goal of being recognized as a world leader in fighting Climate Change over the energy security of the state’s residents. Under the recently adopted Green Constitutional Amendment, every New Yorker has a constitutional right to “healthful environment”. Available and affordable energy is a critical component (comparable to air, water and food) to a healthful environment. Energy security is a constitutionally protected right. In the Climate Act, the Legislature effectively ordered the cessation of the use of fossil fuels; required all the state agency officials to enforce it the mandate in each and every decision; and empowered every aggrieved well-heeled donor/person the right to go to court to enforce it. The Climate Act mandates are the law and are enforceable in court regardless of whether the alternative energy sources are affordable, achievable, and available. The Climate Council selected its wish list of lofty directives without determining the cost and funding for those directives. GCL agrees that reducing the use of fossil fuels for building heating, electric generation and land travel will reduce CO2 emissions and is admirable goal. The Legislature can support that goal by enabling the availability, affordability, and the feasibility of the alternative energy sources so that the public/consumer selects those technologies over fossil fuel powered technology. The Legislature and the Climate Council should focus on enabling carbon reductions; not ordering those reductions against the will and at the expense of its citizens’ constitutional rights to choose the technology that protects their families.

**NOW, THEREFORE, BE IT RESOLVED** the Greene County Legislature petitions DEC, DOH and DEP for the following relief:

1. GCL adopts this resolution and the attached white paper at its initial comments and directs the County Planning to submit these documents as comments on the Draft Scoping Plan.
2. GCL requests that County Planning, County DPW, and County Emergency Services review the draft scoping plan and provides comments as they deem appropriate.

**ATTACHMENTS:**

- Climate resolution, 2019 Report, attachment (PDF)

**Meeting History**

04/18/22 Government Operations **MOVED FOR ADOPTION**

<b>RESULT:</b>	<b>MOVED FOR ADOPTION [UNANIMOUS]</b>
<b>MOVER:</b>	Gregory Davis, Chairperson
<b>SECONDER:</b>	Linda H. Overbaugh, Legislator
<b>AYES:</b>	Davis, Martinez, Overbaugh, Hobart, Lucas, Legg, Linger, Luvera, Lennon

**Current Meeting**

04/20/22

Greene County Legislature

ADOPTED

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Gregory Davis, Legislator
<b>SECONDER:</b>	Linda H. Overbaugh, Patrick Linger
<b>AYES:</b>	Bloomer, Bulich, Davis, Handel, Hobart, Legg, Lennon, Lucas, Luvera, Martinez, Overbaugh, Thorington, True, Linger

10,000  
Ayes 14 Noes 0 Absent 0

APPROVED AS TO FORM  
EDWARD I. KAPLAN, ESQ.  
GREENE COUNTY ATTORNEY