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Climate Action Council Draft Scoping Plan Comments
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The New York Climate Action Council Draft Scoping Plan, a plan to meet the ambitious goals of the Climate Leadership and Community Protection Act (CLCPA) has designed a "*comprehensive roadmap to build a clean, resilient and affordable energy system*" with the primary goal of addressing the adverse impacts of climate change on public health and mitigating extreme weather events in New York. The draft scoping plans outlines a bold strategy that would fundamentally impact Niagara County families in countless ways, significantly impacting major sectors of our economy, by an aggressive implementation of policies to achieve reduction targets established for 2030 and mid-century.

The United States Environmental Protection Agency (EPA) lists the combustion of fossil fuels as the largest source of greenhouse gas emissions in the United States. While New York has shuttered the last of its coal powered energy plants, much of the nation continues to use fossil fuels (i.e. coal and natural gas) as its energy source. In fact, five states immediately west of New York (Ohio, Indiana, Illinois, Michigan and Wisconsin) have a sum of 120 coal fired energy facilities. That fact is important because, as any meteorologist can tell you, the wind direction in western New York is almost always from the west. So, the emissions in those states west of us drift into our community, yet New York State has no regulatory authority over those states. And it's not just power generation. A February 12, 2020 New York Times article "Calculating Air Pollutions' Death Toll, Across State Lines," found that nearly two-thirds of premature deaths in New York related to air pollution were attributable to sources from other states, making us a net importer of pollutants.

The draft scoping plan begins with four examples of extreme weather to show the impacts of climate change, none of which had any direct impact on western New York, but did have an impact on multiple other states besides New York. For further perspective, the United States is ranked second, at 12.67% in global emissions of greenhouse gases, China is first at 26.1%. New York accounts for 3% of total U.S. emissions, or globally 0.8%. These examples underscore the point that unilateral action by New York State will not have any appreciable impact unless there is equal commitment throughout the nation and the global community to collectively combat climate change. In fact, New York's sweeping changes may only make the situation worse with an out-migration of people and business. Page 47 of the scoping document refers to out-migration as "leakage." It is interesting that in a 341-page document only five paragraphs address the adverse intention of reduction in emission of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside of the state.

Our region knows all too well what "leakage" looks like. New York's inhospitable business climate of the 1980's and forward caused our community to lose a generation of young women and men to opportunities in other states. This trend has only begun to reverse in the last decade or so, but our progress is precarious, as our job growth post-COVID 19 lags the national average.

The impact of climate change and other environmental justice issues on Disadvantaged Communities is mentioned throughout the report, yet the definition of what constitutes a Disadvantaged Community remains in development. Niagara County urges that the definition of a Disadvantaged Community include Army Corps of Engineers Formerly Utilized Sites Remedial Action Program (FUSRAP), commercial hazardous waste treatment and storage, and disposal facilities. Inclusion of these sites would render tracts in the Towns of Lewiston and Porter as disproportionately burdened.

There are a number of prohibitions in the draft scoping plan that will exasperate the already high cost of doing business in New York. In its entirety, the draft scoping plan is woefully inadequate in providing assurance of electric grid reliability, cost impacts related to meeting the goals of the CLCPA and availability of government incentives to offset those expenditures, let alone the source of that money. It should be noted that small business is the backbone of the Niagara County economy. According to the latest data from the Census Bureau (2018 Business Patterns), 86% of all businesses in Niagara County have less than 20 employees. The largest cohort, at 53% of our local business community, are those with less than five employees. Many of these businesses struggled to navigate the uncertainty associated with government mandates, regulations and loss of revenue due to the COVID-19 pandemic and remain so to this day. The addition of costs to manage a building, provide a good or service and/or operate a fleet will likely lead to consumer cost increases or "leakage" as these businesses determine how to meet the objectives of the draft scoping plan.

The draft scoping plan lays out a vigorous strategy for six energy intensive sectors; transportation, buildings, electricity, industry, agricultural & forestry and waste that places the lifestyle of Niagara County residents in the cross-hairs of policy. Single family homeowners that enjoy residing among tracts of forests and farm land or along the Lake Ontario and Niagara River shoreline, and those that prefer the individual freedom of an automobile to commute to work, or to farm and raise livestock on land that has been passed down for generations, will bear the brunt of financing this gargantuan effort. As the broad regulatory arm of government is churning out regulations to meet the CLCPA goals, New York's primary concern will no longer be the impacts of climate, rather it will be the inhospitable economic implications that the political climate has created within the state.

Each sector is briefly explored from the perspective of Niagara County.

Transportation

The draft scoping plan intends to rapidly convert our existing transportation system to accommodate full electrification, including a transition of on-road and non-road (i.e. aviation) fuel use to zero emission. All trucks, busses, construction and farm equipment must become zero emission by 2050, along with transitioning all marine operations and port facilities to full electric.

By 2030, just 7.5 years from today, the draft scoping plan anticipates on swiftly increasing zero emission vehicle sales (ZEV) that currently account for a mere 0.5% of the 9 million registered vehicles in the state. The plan intends to motivate ZEV purchase by banning fossil fuel vehicle sales, and cleverly implementing fees and programs such as:

- Imposing a fee on purchases of carbon intensive vehicles,

- Implementation of pricing strategies (i.e. "fee-bate") to discourage driving into and parking in central cities,
- State may enact legislation to establish a per mile fee system to fund investment in transportation infrastructure which will incentivize less mileage or impose fees on higher mileage (done through NYS inspection process),
- State will prioritize low-emission transportation zone projects such as car-free streets, and
- The state will control the distribution of renewable diesel, green hydrogen, and other low-carbon fuel to incentivize the transition to zero emissions.

The challenge of how to balance growth and foster a zero emission, carbon neutral New York are at odds. New York intends to finance transferring to a zero emission transportation system by placing a series of fees on carbon intensive purchases to sway an individual consumers' preference for larger, less fuel-efficient vehicles (see Pages 113, 126 and 143). Trips as a single occupant in a vehicle, "next day delivery" of goods, and the quest for a quieter life that results in greater vehicle miles traveled (VMT) are all at risk in this plan, in the next few years. Electric non-road equipment such as those used in lawn care, construction, and farming are expected to gain market share, but all new sales must be zero-emissions by 2035. The draft scoping plan lays out that residents must elect to travel further to obtain and pay a premium for fuel to power equipment commonly associated with a western New York season such as our lawn mowers, snow blowers, and tractors or recreational vehicles including UTVs and boats.

The Tourism and Hospitality industry is one of Niagara County's top economic drivers. A recent report by Tourism Economics states that visitors spend nearly $6.9 million annually in Niagara County, which sees 80% of its visitors commuting by automobile. The draft scoping plan's intention to rapidly convert our existing transportation system to encourage full electrification provides no consideration to the effect it will have on the tourism industry. Penalizing those who travel into New York with gas fees or prohibiting them from entering a city center and the lack of availability and price security to charge LEV will only discourage travelers from coming here. Frustrated tourists will have a profound economic impact on the livelihoods of the nearly 15,000 tourism and hospitality employees in Niagara County. The unintended consequences of this plan will only shorten the already small tourism window Niagara Falls has and the cost of visiting one of the world's largest clean energy producers will become, ironically, inefficient in an attempt to encourage the use of clean energy!

Buildings

New York's residential and commercial buildings are targeted for the energy they use for HVAC, water heating, lighting, refrigeration, cooking, electronic equipment and small appliances. The draft scoping plan intends to decarbonize building operations by switching from equipment and systems powered by burning gas, oil or other fossil fuels to emissions-free energy sources by 2050. By the end of this decade, the expectation is that two million homes will become electrified with electric heat pumps, starting with Disadvantaged Communities first, followed by 250,000 home each year after 2030. This will require a significant investment to train personnel to accomplish such as task, finance conversions for Disadvantaged Communities and the personal wealth for single family homeowners to convert. As of today, it is estimated a heat pump will cost single family home owners two to three times the rate to install when compared to furnace/air conditioning replacement.

The draft scoping plan also calls for the adoption of all-electric state codes that prohibit gas/oil equipment for HVAC, hot water, cooking and appliances in new construction of single family and low rise residential buildings by 2025, followed by multifamily and commercial buildings in 2027. When 2030 rolls around residents will be prohibited from replacing gas/oil heating, cooling and hot water systems in their homes and by 2035 the sale of gas appliances will be eliminated.

The state will undertake efforts to structure programs that provide appropriate price signals to consumers to incentivize deployment of low emission products, meaning they will artificially inflate the relatively low cost of fossil gas to current and future electricity rates to align prices and policy goals. The expectation is that our current electric service delivery system will support all homes, from single family to high-rise; public institutions (i.e. schools, prisons, libraries) and private buildings (grocery stores, shopping centers, warehouses) as they are forced to undertake a transition from reliance on fossil gas and the gas distribution system to an all-electric supported system by 2050. Furthermore, all products requiring cold storage, refrigeration or freezing will have to convert from HFC refrigeration to alternatives and additional measures to monitor, track and report refrigerant and energy use will be implemented.

Electricity

The Climate Act requires 70% of statewide electricity to come from renewable energy sources by 2030, starting with 6,000 MW of solar power by 2025, 3,000 MW of energy storage (i.e. batteries) by 2030, 9,000 MW of offshore wind by 2035, and zero emissions electricity by 2040. To the scoping plans credit, it does acknowledge the need to increase overall electric load to shift peak demand, however complete reliance on land-based and offshore renewables to deliver more than 4,500 gigawatt hours needed to meet the directive is suspect.

Ironically, at peak performance in 2007, the Somerset Operating Company generated 5,609 gigawatt hours of electricity. That facility, Niagara County's largest taxpayer at the time, was recently shuttered due to The Power NY Act that phased out all remaining coal-fired plants in the State. The remaining 44 full time employees, and the community that relied on P.I.L.O.T payments, such as the Barker Central school district, are now displaced. A New York Times article published on March 20, 2020 accurately summarizes that the plants closure was a "…early test of the state's new climate law" and underscores the tensions around how rural areas, which tend to be more conservative, embrace these changes. Chapter 7 of the Draft Scoping Plan outlines "Just Transition" by defining it is as one that builds connections, creates opportunity and provides for an equitable transition. Where was this assistance to Niagara County, the Barker Central School District and the 44 remaining full time employees when the Somerset Operating Company was forced to close?

Niagara County is all too familiar with how the New York Climate Act has, seemingly overnight, transitioned our prime agricultural lands into prime solar power generation opportunities. New York created the Office of Renewable Energy Siting (ORES), which is "the first in the nation" office to "…*improve and streamline the process for environmentally responsible and cost effective siting of large-scale renewable energy projects across New York, while delivering significant benefits to local communities.*" Considering that the state has trumped not only local zoning to site these projects, but has also usurped the local government's ability to fairly assess them (thereby leading to gross under assessments that will undoubtedly be challenged in court) we are curious of the claim of "significant benefits to local communities."

Through the creation of ORES, New York has effectively developed a conduit of passage for utility scale renewable energy projects that blatantly ignores the community in which these projects are planned. Page 171 specifically calls out the resistance of upstate communities by adding an action item for the state to "*…address resistance and concerns of siting ground mounted solar projects, particularly in upstate and western New York*". Niagara County questions how New York and ORES, through a legislative process, can arrest the voice of a rural community that does not wish to host utility scale renewable energy projects, and how that is any different from siting undesirable operations within disadvantage communities many years ago.

The draft scoping plans call for 9,000 MW of offshore wind by 2035, of which five total projects totaling 4,360 MW are in development off Long Island. It bears reminding that the shoreline communities of Niagara and Orleans County were the first true test of New York's "Article 10" that circumvented Home Rule for utility scale energy projects and placed it in the hands of the state. The wounds of the 2016 failed attempt to site offshore wind along the Lake Ontario shoreline may have scabbed over, but shoreline residents must now prepare for the mounting offense offshore wind developers are planning as result of the CLCPA goals.

Industry

Energy and jobs are synonymous with Niagara County. The hydroelectric power generated from the mighty falls of Niagara afforded the region to prosper from an abundance of low-cost power. After 100 years, the turbines of the Robert Moses plant still turn, but nearly all of the manufacturing jobs have long been gone. Despite producing enough electricity to power nearly two million homes per year, Niagara County residents pay some of the highest electricity rates in the country.

The draft scoping plan intends to create an incentive-based strategy for mitigating direct emissions from certain industrial activities, such as: production of food, paper, bulk chemicals, glass, cement, metals, semiconductors, wood products and plastics. Each of these sectors of business exist in Niagara County and it remains to be seen the impact the draft scoping plan strategies would have on Niagara County's ability to continue to conduct and attract industrial activity, the economic impact of goods and service availability, and prices in our region.

Agriculture & Forestry

The draft scoping plan recommendations for Agriculture and Forestry covers a broad range of economic sectors ranging from livestock management, crops, dairy, and timber to decomposition of dead trees and development of agricultural and forest areas. The Vision for 2030 will impose changes to livestock operations and cropland management, including additional restrictions to precision feed management, herd management, advance alternate manure management and Climate Resilient Farming. Section 10 claims that "*Net Direct costs are small relative to the size of New York's economy*". Niagara County implores the state to tell that to a fourth generation farmer as he/she attempts to implement the states reformulated manure management and animal feeding practices, while financing the transition to a zero emissions farm fleet and climate focused bio-economy.

Niagara County finds the theme: Soil Health, Nutrient Management and Agroforestry, and Bolstering Local Agricultural Economies to be in contradiction to the Climate Plan that has rendered our vast agricultural and forestry resources ripe for poaching by the renewable energy industry. First, ORES side-steps community input and second, farmers are becoming increasingly willing to carve out portions of their arable land for solar lease payments, rather than have the state intervene with how they should plant and manage their crops and herds. The state must realize that the path of least economic resistance is going to prevail for landowners with vast tracts of farmable land, and a solar land lease is more attractive than waiting for the state to develop a strategy to incentivize farmers to foster local food security. Greater incentives and rewards are needed to keep agricultural communities farming for local food and not trading in farm fields for solar arrays.

On June 2, 2022, Governor Hochul touted the approval of 22 large scale renewable energy projects across the state, one of those projects is a 350 MW, one million panel project extending across 2,000 acres of private land located in the Town of Hartland. This project is anticipated to have 100 MW of battery storage and will cover 60-70% of Mineral Soil groups 1-4, which is considered prime agricultural farmland. According to the NYISO Interconnection Queue, Niagara County now has five utility scale projects totaling 850 MW, one of the highest levels of proposed large-scale solar projects in New York State. New York's strategy to meet renewable energy quotas, fast-tracked by the establishment of ORES, has arrested a community's voice through the accelerated development of projects in rural, agricultural rich communities.

Waste

Niagara County is home to three significant non-hazardous solid waste management units with capacity far exceeding the county's waste generation. As a whole, New York has an abysmal recycling rate of less than 18%, but the plan calls to improve upon materials recovery by:

- Implementing a surcharge (per ton fee) on all waste generated,
- Phase out single use packaging,
- Enhanced container deposits,
- Implementing food waste reduction and recycling programs,
- Transforming waste water treatment plants, and
- Enhanced end-of-life refrigerant management and conversion.

The draft scoping plan briefly mentions the need for extended producer responsibility (EPR) to cover the end-of-life management of solar panels and large-scale batteries as renewable technologies grow. Yet bills introduced in the 2021/22 Legislation session (A.8430 and S.5447) calling for a manufacturer funded Solar Panel Collection Act, did not advance out of committee. With such urgency for action throughout the body of the document, why has the state failed to introduce policy for the appropriate end-of-life management of solar panels, large scale batteries and wind turbines per recommendations in Chapter 16? Niagara County became the first local government in the nation to pass a local law requiring producers to finance solar panel recycling, yet with sample legislation already created, the state is failing to acknowledge that its aggressive alternate energy development agenda will produce a plethora of waste products with no end-of-life management strategy in place. This is too eerily familiar to Niagara County, who currently houses an overabundance of toxic and hazardous legacy wastes from previous government ambitions.

Niagara County agrees that reaching the scoping plan vision for 2030 and beyond, a dramatic shift in the way waste is managed is needed. In this past 2021/2022 Legislative session, the New York Assembly and Senate also failed to move from committee EPR to cover packaging and printed paper, which would target 40% of the entire municipal solid waste stream and move the needle on our stagnant statewide recycling rate. This came after Governor Hochul included EPR for Packaging and Printed Paper in her 2022/2023 Executive Budget. The State government's inability to pass its own recommendations, one that would have every resident of this state chipping in to address the waste and recycling crisis in our state, further underscores that the urgency of the draft scoping plan to meet the states ambitious Climate Act goals cannot motivate Albany law makers to compromise.

The inherent problem with the draft scoping plan is that New York State does not exist in a vacuum, and while undoubtedly steps need to be taken to address climate change, the unilateral action proposed in this document will produce substantial economic hardship on families and businesses in New York, while encouraging out-migration to states that do not adopt similar plans. That out-migration will negatively impact the larger battle against climate change.

Furthermore, Niagara County, by proximity and land use, should not tolerate a disproportionate cost to meet the states aggressive renewable energy goals without the option of local governments weighing in on the siting of these projects. Our farmers should not be told how to raise their cattle or manage their crops, our shores should not sprout wind turbines and our fields should not produce electricity rather than a local food source without community input. Our working class residents should not be involuntarily subjected to making expensive accommodations to their homes and automobiles and witness, or potentially join, the line of traffic fleeing New York to states that value smart, sustainable growth, where the cost of living and industry do not continue a steep trend to unfathomable levels and where government does not have such an expansive and detrimental reach.