



April 30, 2024  
VIA ONLINE SUBMISSION

Hon. Doreen M. Harris  
New York State Energy Research and Development Authority  
17 Columbia Circle  
Albany, New York 12203-6399

Hon. Sean Mahar  
New York State Department of Environmental Conservation  
Bureau of Air Quality Planning  
Division of Air Resources  
625 Broadway  
Albany, New York 12233-3251

Hon. Michelle L. Phillips, Secretary  
New York State Public Service  
Commission 3 Empire State Plaza  
Albany, New York 12223-1350  
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URL: [www.capandinvest.ny.gov](http://www.capandinvest.ny.gov)

**RE: New York Cap-and-Invest Program: Initial Pre-Proposal Comments of Advanced Energy United and Alliance for Clean Energy New York**

Dear President Harris, Interim Commissioner Mahar, and Secretary Phillips,

Advanced Energy United (“United”) and the Alliance for Clean Energy New York (“ACE NY”) submit for filing the attached comments in response to the New York Cap-and-Invest Program (“NYCI”) requesting comments concerning the Mandatory Greenhouse Gas Reporting Program Rule, Cap-and-Invest Rule, and Auction Rule, regarding anticipated program design.

Respectfully submitted,

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## Introduction and Background

Our two organizations, United and ACE NY, are together submitting these comments in response to the Second Stage Engagement and three [Technical Conferences](#), as well as the [pre-proposal outreach](#). Additionally, we support New York State's ("New York") pursuit of an economy-wide [cap-and-invest](#) ("NYCI") policy and greatly appreciate the opportunity to comment on the NYCI proceedings as well as all the work that has already been put into these proceedings by regulatory agencies and other stakeholders.

United is a national association of businesses that works to accelerate the move to 100% clean energy and electrified transportation in the U.S. The term advanced energy encompasses a broad range of products and services that constitute the best available technologies for meeting our energy needs today and tomorrow. These include electric vehicles, energy efficiency, demand response, energy storage, solar, wind, hydro, nuclear, heat pumps (ground-sourced and air-sourced), and smart grid technologies. United represents more than 100 companies in the \$374 billion U.S. advanced energy industry, which employs 3.2 million U.S. workers, including 157,000 individuals in the Empire State.

ACE NY is a member-based organization with a mission of promoting the use of clean, renewable electricity technologies and energy efficiency in New York to increase energy diversity and security, boost economic development, improve public health, and reduce air pollution. ACE NY's diverse membership includes companies engaged in the full range of clean energy technologies as well as consultants, academic and financial institutions, and not-for-profit organizations interested in this mission.

New York's NYCI program represents a cornerstone in the state's efforts to combat climate change and transition to a sustainable clean energy future. Our comments focus on the critical importance of prioritizing clean renewable energy projects and infrastructure development within the framework of the NYCI program. By focusing on renewable energy, including wind, solar, offshore wind, hydroelectric power, energy storage, distributed generation ("DG"), and Distributed Energy Resources ("DER") as well as demand response ("DR") and transmission upgrades, New York can effectively achieve its clean energy mandates. Significant renewable energy development is integral to achieving New York's climate mandates and advancing clean energy directives within NYCI. Wind, solar, offshore wind, hydroelectric power, and other renewable sources ("Renewables") offer sustainable alternatives to fossil fuels, reducing greenhouse gas ("GHG") emissions and dependence on non-renewable energy sources. Additionally, investments in energy storage, transmission upgrades, DER, and DR are essential for integrating Renewables into the transmission and distribution grids while ensuring reliability and resilience. DR can be an effective tool to avoid building emitting resources. This is a crucial

consideration because once an emitting resource is built, its likelihood of running is significantly increased.

With NYCI, New York has embarked on a journey towards a cleaner, more sustainable energy future. As the impacts of climate change become increasingly severe and costly, urgent action is needed to mitigate GHG emissions and transition to renewable energy sources. The significance of advancing clean energy mandates within NYCI is critical. NYCI is specifically designed to reduce GHG emissions by setting an annual cap on total emissions permitted in New York. NYCI mandates that these capped emission amounts do not increase and are legally mandated to be reduced over specific timeframes, placing the state on a clear path to meet the emission reduction requirements of 40 percent by 2030 and at least 85 percent by 2050 (relative to 1990 levels), as mandated by the [Climate Act](#). These emission reduction mandates represent a key component of New York's broader climate action plan, which includes clean energy mandates aimed at transitioning to a no carbon economy.

ACE NY has previously submitted comments in the NYCI proceeding indicating that the electric generation sector should be included within the NYCI program as well as an explanation as to why the Regional Greenhouse Gas Initiative (“RGGI”) alone is not adequate to ensure all of New York’s GHG mandates are timely achieved. Looking decades out, while we hope RGGI will still be around, it is not a guarantee. Additionally, it is possible that RGGI gets weakened during its review/evaluation periods over the next few decades. Therefore it is our continued position that the NYCI policy and regulations should include the electric generation sector. There are multiple reasons for including the electricity sector as an obligated sector which are described in detail in ACE NY’s [August 9, 2023 comments](#) formally submitted in the NYCI proceeding.

United and ACE NY believe strongly that New York should continue to evaluate and improve its RGGI program. New York's RGGI program should commit to achieve additional carbon pollution cuts through 2030 and beyond and to make other program improvements to capture even more benefits for the region’s consumers, economy, and environment. New York must continue to work with diverse stakeholders to continue enhancing the program. This is crucial to having a successful RGGI program. However, for the numerous reasons stated previously and above, RGGI alone is not enough to help New York achieve its clean energy mandates which is why NYCI must include the electric generation sector within the NYCI regulatory framework.

The NYCI Program should incorporate periodic program reviews akin to RGGI. While modeling is a valuable tool for developing expectations around how a NYCI program will function, the magnitude of the price on GHG emissions and the precise response that market actors will take in response to that price will not be known until the program is up and running. Additionally, at this early stage it is much too premature for the state to put any emissions cost caps and/or trading encumbrances on the vital free market aspect of the program. We therefore support regular NYCI

reviews, akin to the quadrennial program reviews in the RGGI during which program elements such as price floors, trigger prices for any emissions containment reserve or cost containment reserve, and any price ceiling can be reevaluated and potentially modified. We note that the RGGI program reviews—and the adjustments to the program made as a result of those reviews—have been critical to the successful functioning of the RGGI program, including dramatically increasing the ambition of the program while maintaining allowance prices at very manageable levels.

### Meeting the 70% Renewable Electricity by 2030 Mandate

To ensure we are on track to meet the NYCI GHG emission reduction goals, it is critical that we achieve the 70% renewable electricity mandate of the Climate Leadership and Community Protection Act (“CLCPA”) by 2030 (“70/30”). To achieve 70/30, New York must implement robust policies and incentives to accelerate renewable energy deployment and NYCI as well as the CLCPA complement each other in helping to ensure the mandates of both programs are achieved. This includes expanding renewable energy capacity, investing in grid modernization, and incentivizing private investment in clean energy projects. Successful achievement of these program milestones is crucial for laying the foundation for further emissions reductions and advancing towards a sustainable clean energy future. That being said, it is imperative that we all collectively maximize these efforts so that we ensure the 70/30 mandate is achieved with an eye toward all of the future mandates that must be met in the coming years and decades. Some of New York’s other important targets include: 10 GW of distributed solar by 2030; 6 GW of storage by 2030; 9 GW of offshore wind by 2035; and the 2025 energy efficiency target of reducing on-site energy consumption by 185 trillion BTUs of end-use energy savings. Only with a strong foundation of achieving all of these mandates can New York continue transitioning to a 100% emissions-free grid and GHG reductions as required by the CLCPA and NYCI. To achieve these clear targets NYCI must foster much more collaboration between all stakeholders<sup>1</sup> as well as more inter-agency collaboration to overcome these challenges, complement these program mandates and accelerate decarbonization and GHG emissions reduction efforts.

### Overcoming Challenges and Barriers

Several challenges and barriers must be addressed and overcome to accelerate renewable energy deployment within NYCI. These include current regulatory uncertainty, financial constraints, technological limitations, improved coordination between agencies, and public/political acceptance. Strategies for overcoming these challenges include streamlining permitting processes, adjusting large scale renewable (“LSR”) procurement methodology and project evaluation, possibly holding additional LSR solicitations, providing financial incentives, improved interagency coordination, engaging with communities and continuing outreach and

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<sup>1</sup> This includes but is not limited to all utilities in NY, as well as the NY Independent System Operator (“ISO”) to ensure proper coordination and advanced planning.

education initiatives to build additional public and political support for clean energy initiatives and infrastructure development. Policy recommendations for advancing clean energy mandates within NYCI include strengthening renewable energy targets, increasing funding for clean energy projects, and implementing market-based mechanisms to incentivize emissions reductions. Additionally, enhancing stakeholder engagement and increasing public outreach efforts, especially in disadvantaged communities as early as possible will build support for clean energy initiatives and foster collaboration between policymakers, industry stakeholders, and communities. These public and industry outreach efforts are also needed to ensure proper and timely reporting of emissions, which is another key component of NYCI.

Increased inter-agency coordination is also critical in the context of the annual LSR solicitations. It is important to have more formal and more regular meetings between the Governor's office, New York Energy Research and Development Authority ("NYSERDA"), Public Service Commission ("PSC"), Department of Public Service ("DPS"), Office of Renewable Energy Siting ("ORES"), New York Independent System Operator ("NY ISO"), Department of Environmental Conservation ("DEC") and New York Power Authority ("NYPA"). Inter-agency coordination should also include the Department of Agriculture and Markets, Department of Transportation, and Department of Taxation and Finance.

### DEC's Mandatory GHG Reporting Requirement Rule 6 NYCRR Part 253 and Part 252

New York DEC administers the Mandatory GHG Reporting Requirement Rules, which will be developed and then codified under 6 NYCRR Part 253 and Part 252. This regulatory framework mandates certain entities to report their GHG emissions, providing critical data for assessing and managing the state's emissions profile. The GHG rules, outlined in 6 NYCRR Part 253 and 252 ("GHG Rules), will play a pivotal role in New York's efforts to monitor and manage GHG emissions. Our comments and other public comments will help to shape these rules which will eventually become formally proposed rules where there will be an additional comment and hearing period which will culminate in final rules with reporting requirements and mandatory compliance. Under the GHG Rules, covered entities across various sectors are required to report their annual GHG emissions to DEC, providing valuable data for assessing the state's emissions profile, tracking progress towards emissions reduction targets, and informing policy decisions. The scope of the reporting requirements encompasses a wide range of sources, including stationary combustion sources, industrial processes, waste management activities, and certain transportation sources. Covered entities include facilities that exceed specified emissions thresholds or engage in activities identified by DEC as subject to reporting requirements. By capturing emissions data from diverse sectors, the rule provides a comprehensive understanding of New York's emissions profile and facilitates targeted emissions reduction strategies.

In addition to reporting requirements for covered entities, the GHG Rules establishes protocols for data collection, ensuring the accuracy and reliability of emissions data. This includes specifying reporting methodologies, emission factors, and calculation procedures to standardize reporting practices and facilitate comparability across sectors and reporting periods. This data collection through the GHG Rules also serves as a valuable resource for policymakers, regulators, researchers, and the public. It enables informed decision-making, supports the development of emissions reduction strategies, and facilitates transparency and accountability in addressing climate change. By tracking emission's trends over time and identifying key sources of GHG emissions, the GHG Rules inform the development and implementation of policies and initiatives to mitigate climate change and its associated costs. Furthermore, the GHG Rules complement other important regulatory proceedings aimed at reducing GHG emissions including but not limited to Implement A Large-Scale Renewable Program And A Clean Energy Standard ("15-E-0302"), Energy Related Data ("20-M-0082"), the Value of Distributed Energy Resources ("15-E-0751"), the Energy Storage Deployment Program ("18-E-0130"), and the numerous proceedings involving the transportation sector and electric vehicles as discussed further below.

### Funding the Transportation Sector and Electric Vehicles

The transportation sector is a significant contributor to GHG emissions in New York, accounting for approximately 35% of total emissions and therefore should get 35% of the funding so that NYCI funding is proportional to the pollution source. To effectively combat climate change and achieve the state's ambitious clean energy goals, it is imperative to prioritize investments in decarbonizing the transportation sector, with a particular focus on electric vehicles and its vital infrastructure.

The transportation sector encompasses various modes of transportation, including cars, trucks, buses, and trains. Emissions from the transportation sector contribute to air pollution, public health concerns, and climate change. Transitioning to cleaner modes of transportation, such as electric vehicles, is essential for reducing emissions and improving air quality and public health. Electric vehicles offer a cleaner and more sustainable alternative to traditional fossil fuel vehicles. By electrifying the transportation sector, New York can significantly reduce GHG emissions and reliance on fossil fuels. Electric vehicles also offer benefits such as lower operating costs, energy efficiency, and improved energy security.

NYCI funding and incentives will play a crucial role in accelerating the adoption of electric vehicles and supporting the development of a robust charging infrastructure. Financial incentives, such as rebates, tax credits, and grants, can help reduce the upfront costs of purchasing electric vehicles and incentivize consumers to make the switch. Investments in charging infrastructure, including public charging stations and fast-charging networks, are

essential for addressing range anxiety and supporting widespread adoption of electric vehicles. NYCI needs to increase funding for electric vehicle incentives and expand funding for charging infrastructure deployment, particularly in underserved communities and high-traffic areas. Additionally, helping to implement policies to encourage fleet electrification and coordinating with utilities to support electric vehicle charging infrastructure deployment integrated with the grid will also help reduce harmful emissions and improve public health. Aiding transportation electrification also supports the economic interests of NYCI by supporting local manufacturing, job creation, and economic growth in the clean energy sector.

### Funding DERs

Within NYCI lies an opportunity to integrate DER into New York's emissions reduction strategy. Both DG and DR should be considered for NYCI funding. Unlike centralized power plants, DG sources generate electricity near the point of consumption, reducing the need for extensive transmission infrastructure and minimizing transmission/distribution losses. This localized approach to energy production enhances grid reliability, particularly during extreme weather events or natural disasters, by enabling critical facilities to maintain power independently. DG sources, such as solar panels and wind turbines, offer emissions-free electricity generation, serving to offset emissions from traditional fossil fuel sources. By properly incentivizing DG projects NYCI can allow them to generate emissions offset credits for electricity generated from DG sources, establishing renewable energy carve-out benefits, or offering incentives for DG projects that exceed regulatory requirements. DR is also an important consideration for NYCI funding. Once a generating facility that consumes fossil fuels is built, it will likely be in operation for years so it is best for the climate and the state to avoid the need for such a facility in the first place. DR can help avoid the need to build electricity generation facilities.

It is also important for NYCI to help ensure alignment and coordination with other state agencies, such as the PSC and the NY ISO. It will be necessary to synchronize policies and incentives for DER across different regulatory frameworks, leading to improved air quality and public health outcomes statewide. Furthermore, by promoting DER projects in underserved communities and low-income neighborhoods, NYCI can advance the environmental justice and equity goals, empowering disadvantaged communities to participate in the clean energy transition and benefit from economic opportunities. To fully realize the potential of DER, supportive policies and incentives are essential. Policies such as net metering, feed-in tariffs, and tax credits can further encourage the deployment of DER.

Moreover, DER promotes energy independence and security by empowering consumers to generate their own electricity. Rooftop solar panels, for instance, allow homeowners and businesses to harness clean, renewable energy on-site, reducing their reliance on grid-supplied electricity and mitigating exposure to volatile fuel markets. Combined clean heat and power



(CHP) systems further bolster energy security by simultaneously producing electricity and heat from a single fuel source, enhancing efficiency and resilience for industrial and commercial facilities.

Furthermore, DER empowers communities and promotes equity by expanding access to clean energy resources and economic opportunities. Community solar projects, for example, enable residents to subscribe to a share of a local solar array, regardless of their ability to install solar panels on their own property. By democratizing access to clean energy and economic benefits, DER helps address energy inequities and promotes environmental justice in underserved communities.

### Technological Advancements and Innovation

Technological advancements and innovation play a crucial role in advancing renewable energy deployment and achieving clean energy mandates within the NYCI Program. Emerging technologies, such as advanced energy storage systems (including long-duration and multi-day energy storage resources), grid management solutions, Virtual Power Plants (“VPP”), aggregation, and renewable energy integration technologies, offer opportunities to overcome barriers and accelerate the transition to a sustainable energy future. Investment in research and development, as well as collaboration between government, industry, and academia, is essential for driving innovation and scaling up clean energy technologies.

### Addressing Equity and Environmental Justice

Equity and environmental justice considerations are essential in the development and implementation of clean energy mandates within NYCI. Low-income communities bear a disproportionate burden of environmental pollution and climate change impacts. Policies must prioritize equitable access to clean energy resources and benefits, ensuring that all communities have the opportunity to participate in and benefit from the transition to renewable energy. Additionally, community engagement and empowerment strategies are crucial for fostering inclusive decision-making processes and addressing environmental injustices effectively.

### Conclusion

United and ACE NY appreciates the opportunity to submit these comments in favor of the design and implementation of a NYCI policy that addresses equity concerns and ensures that CLCPA mandates will be met, and in favor of inclusion of the electric generation sector within the NYCI policy.