



240 West 35<sup>th</sup> Street ■ Suite 302 ■ New York, New York 10001

## **Testimony on Renewable Energy and New York City's Climate Adaptation**

Submitted to the New York City Council Committee on Environmental Protection

*October 13, 2022*

The Citizens Budget Commission (CBC), a nonprofit, nonpartisan think tank and watchdog dedicated to constructive change in the services, finances, and policies of the New York City and New York State governments, thanks you for the opportunity to submit testimony on renewable energy and climate adaptation in New York City.

The Climate Leadership and Community Protection Act (CLCPA) set ambitious goals for reducing greenhouse gases (GHG) statewide by 40 percent by 2030 and by 85 percent by 2050 through energy efficiency improvements and greater electricity generation from renewable sources. It created a Climate Action Council (CAC) to drive implementation of CLCPA by developing a Scoping Plan that identifies strategies to achieve the goals of the CLCPA and regulates emissions from all sectors of the economy. Local Law 97 (LL97) is similarly ambitious, aiming to reduce GHG emissions from large buildings in New York City by 40 percent by 2030 and by 80 percent by 2050. The CAC's Final Scoping Plan (FSP) is expected by the end of the year, while the Department of Buildings (DOB) recently released draft regulations on implementing aspects of LL97, with additional regulations expected this year and thereafter.

Today, CBC wants to share with the Council our work and perspective on these critical efforts. CBC's work has focused on implementing both the CLCPA and LL97 using the most cost-effective strategies and balancing economic incentives to further these ambitious GHG reduction goals while minimizing potential negative impact on jobs, New York's economic competitiveness, utility rates paid by residents and businesses, and public finances.

## Final Scoping Plan Recommendations

CBC's analysis found that the CAC's Draft Scoping Plan (DSP) was high-level, conceptual, and identified strategies and benefits, but did not provide sufficient detail to guide policymakers in defining specific regulations, incentives, and approaches to minimize carbon emissions efficiently and cost-effectively. To better guide policymakers in making regulatory and budgetary decisions, the FSP should:

- **Calculate and identify the cost-effectiveness of each mitigation strategy:** Implementation costs vary by sector and industry as well as by the selected technology. Only a detailed breakdown of mitigation costs per ton of GHG across the strategies can provide the information needed for prioritization.
- **Identify specific mitigation strategies and incentives:** The DSP only provides high-level mitigation strategies, such as the electrification of buildings, adoption of electric vehicles (EVs), or use of renewable energy. For policymaking, it will be important to better understand the specific measures that would incentivize businesses to adopt low-emission technologies, or households to invest in heat pumps and EVs, such as tax credits, subsidies, or peak-period utility pricing.
- **Determine the probabilities associated with different mitigation strategies:** Mitigation strategies such as EV adoption have much greater certainty than strategies that depend on the invention and success of new technology, such as carbon sequestration. In addition, some technologies might be more reliable than others in operation. Cost-effectiveness of strategies alone is not sufficient for prioritization; the probability of success also is essential.
- **Disaggregate the financial impacts of each strategy on businesses and households:** The FSP should identify each strategy's financial, and ideally economic, impacts on variously situated households and different businesses. This can help prioritize strategies to maximize equity and minimize negative economic impacts on jobs. Financial impacts may also provide incentives or disincentives for utility customers and the energy-consuming public to vary their demand for energy.
- **Identify the distribution of benefits and costs across stakeholder groups, industries, and geography:** Many of the benefits of GHG reduction, such as health improvements, will be spread widely across the residents of New York State, while the costs will fall heavily on a few sectors. Additionally, changing costs and financial impacts exclusive to New York State may reduce industries' ability to compete with bordering states.

## Local Law 97 Recommendations

Local Law 97 emissions limits will take effect in 2024, with buildings reporting their emissions by May 2025 and being fined if they exceed the limits. CBC's comprehensive report on LL97 made six recommendations that largely utilize the law's substantial rulemaking discretion to overcome implementation challenges and meet building emissions goals in a cost-effective manner without unnecessary and harmful disincentives.

- **Adjust credits appropriately for lack of renewable energy availability to encourage electrification:** If the greening of the grid is slower than established by the CLCPA, the law's credits for beneficial electrification should be calculated accounting for those missed goals.
- **Expand allowable Renewable Energy Credits (RECs) to offshore wind and a phased-down portion of Tier 2 RECs:** Provide buildings with flexibility while the New York City electric grid remains fossil fuel-powered by allowing buildings to purchase unlimited amounts of RECs associated with downstate offshore wind projects and limited amounts of RECs from existing generation.
- **Specify, expand, and continue emission limit adjustments for density and specific uses:** Alleviate counterproductive disincentives to density and certain economically vital uses by clearly adjusting and extending adjustments past the first compliance period.
- **Specify and extend need-based building-level adjustments:** Set an accelerated, public timeline for rulemaking that includes critical rules governing limit adjustments and penalty mitigation as well as universal criteria, so building owners can determine their eligibility and adjusted requirements as-of-right, rather than through individual petitions. This will encourage building owners to begin planning for compliance in good faith.
- **Allow carbon trading within an owner's portfolio:** Allow owners of multiple buildings to target the most cost-effective emissions reductions across their assets by establishing a carbon trading scheme that allows credits to be traded within a portfolio.
- **Adjust limits and penalties appropriately to the post-pandemic economy:** Study whether LL97 emissions limits or alternative compliance paths in the first compliance period should be modified due to permanent shifts in work patterns, delays in retrofit projects, or financial strain. Adjust limits as necessary to maintain citywide emissions targets.

DOB proposed initial rules for certain aspects of LL97 last week. Specifically, the proposed rules provide methodological information for calculating emissions and emission limits that will allow owners to determine the best energy efficiency strategies to meet their emissions limits. Additionally, the proposed rules include upward adjustments of the emissions limits for several energy-intensive and economically vital building uses, like data centers, grocery stores, and restaurants, alleviating disincentives for these economic activities in LL97, in line with CBC's

recommendation. The release of these proposed rules is a critical and welcome step which begins to provide building owners with the details necessary to make compliance and retrofit decisions.

However, many aspects of implementation were not covered in this initial rulemaking phase. The CBC urges DOB to release the remaining proposed rules in a timely manner and to provide building owners with cost-effective compliance paths that promote investment in emissions reductions, rather than simply paying penalties.