Advanced Energy Economy, Alliance for Clean Energy New York, Coalition for Community Solar Access, New York League of Conservation Voters, Natural Resources Defense Council, Nature Conservancy, New York Solar Energy Industries Association, Sabin Center for Climate Change Law, Solar Energy Industries Association, Sierra Club, Vote Solar

August 20, 2020

The Honorable Basil Seggos
Commissioner, New York Department of Environmental Conservation
625 Broadway
Albany, New York 12233

Dear Commissioner Seggos:

We write concerning your Department's forthcoming determination of New York's social cost of carbon ("SCC"). We acknowledge and appreciate DEC's role in New York's COVID-19 response and economic recovery efforts, and we recommend DEC moves quickly to finalize SCC guidance to help lay the foundation for the clean energy economy and spur economic growth. The outcome of this process will have a critical impact on the state's regulatory decisions and on New York's ability to meet the CLCPA's ambitious climate and environmental justice goals. Establishing a robust SCC will also send a public signal that New York acknowledges the widespread harms of greenhouse gas emissions – which already fall disproportionately on disadvantaged communities and threaten to compound inequities for future generations. For these reasons, this upcoming guidance is of great interest to the listed organizations. We therefore respectfully request that DEC consider the following four principles as it develops the SCC:

First, we urge the Department to ensure that the SCC is established by the end of the year. The CLCPA requires DEC to establish the SCC "no later than one year after the effective date" of the legislation,[1] meaning that this process must be completed by the end of 2020. The absence of clear guidance to state agencies about the appropriate value to use when considering the climate impacts of possible actions risks delaying progress on accelerating the state's path toward decarbonization. Moreover, the establishment of the SCC by this date will help ensure timely progress on the Climate Action Council's work to develop a Scoping Plan, which must take into account the SCC when evaluating the costs and benefits of its recommendations.[2]

[1] CLCPA § 2, ECL § 75-0113(1).
[2] § 75-0103(14)(b)(i).

Second, we recommend that DEC establish a <u>single, uniform</u> SCC to be used by state agencies. The CLCPA requires DEC to establish "<u>a</u> social cost of carbon."[3] Establishing a single cost of carbon to be used across the state's agencies will significantly streamline regulatory processes and allow for apples-to-apples comparisons of the carbon impacts of various agency actions. The CLCPA explicitly directs DEC to determine the appropriate SCC, and it is crucial that the department provide clear guidance on this issue to ensure consistency across all state agencies.

Third, we recommend that DEC adopt a SCC that is based on the damages arising from greenhouse gas emissions. The CLCPA provides that the SCC "may be based . . . on the global economic, environmental, and social impacts of emitting a marginal ton of greenhouse gas emissions into the atmosphere."[4] This damages approach is preferable to the alternative of using "marginal greenhouse gas abatement costs," which could be time-consuming and labor-intensive to develop – potentially leading to an impermissible delay in the issuance of this guidance. For this reason, we urge DEC to adopt an initial SCC that is based on carbon damages by the end of 2020.

In the longer-term, determining marginal abatement cost (per-unit cost of the most expensive abatement measure required to meet a climate goal, such as reducing emissions 85% below 1990 levels by 2050) could also play a role in CLCPA implementation as the Climate Action Council will need to analyze abatement measures and costs through the Scoping Plan. Once the Council has quantified "the costs of implementing proposed emissions reduction measures and the emissions reductions that the council anticipates achieving through these measures,"[5] DEC could consider developing an alternative SCC based on marginal abatement cost. At a later date, updated guidance could direct agencies to transition to using this marginal abatement cost SCC instead, if doing so were deemed useful for staying on-track to achieve CLCPA mandates.

Fourth, we recommend that DEC guide state agencies toward using the 95th percentile SCC estimates in the IWG report. We recommend that DEC look to the Interagency Working Group on the Social Cost of Carbon's ("IWG") 2016 report to establish the SCC on an interim basis.[6] Although the estimates used in this report could be improved in several important ways, its methodology represents a strong, consensus-based point from which to set an SCC by year-end that agencies can begin utilizing. Once DEC has established an initial SCC, the agency can move forward with refinements to the SCC over time, drawing on new technical literature (e.g., updated models incorporating improved understandings of economic trends and climate impacts) as it becomes available.

---

[3] § 75-0113.
[4] § 75-0113(2).
[5] § 75-0103(14)(b)(ii).
[6] This report is available at https://19january2017snapshot.epa.gov/sites/production/files/2016-12/documents/sc_co2_tsd_august_2016.pdf.

The IWG report presents a range of SCC estimates. Should the DEC draw on this report, we urge the selection of the "high-impact," 95th percentile damage value, which crucially accounts for the risk of catastrophic damages that were not captured in the IWG's underlying integrated assessment models. As the IWG developed its estimates, there was already "extensive evidence in the scientific and economic literature on the potential for lower-probability, but higher-impact outcomes from climate change, which would be particularly harmful to society and thus relevant to the public and policymakers."[7] The National Academy of Sciences has similarly recommended updates to IWG models to better account for "critical thresholds in climatic and climatically influenced socioeconomic tipping elements."[8] The adoption of the 95th percentile estimate would also reflect the widespread understanding that current estimates of climate impacts are highly uncertain and likely to be conservative, as the IWG's modeling largely excluded entire sectors (transportation, communication, fisheries, recreation) and effects (ocean acidification; increases in pests, pathogens, weeds, erosion, air pollution, and fires; changes to economic growth rates).[9] Beyond using the 95th percentile damage estimate to counterbalance those shortcomings, DEC's guidance should also acknowledge the significance of potential climate harms that cannot be reduced to monetary terms, such as biodiversity loss, increased conflict and displacement, and declines in mental health and wellbeing.

The IWG's 95th percentile damage estimates are only available at a 3% discount rate. While we recommend use of these estimates for DEC's interim SCC, we note that there are many reasons for using lower discount rates. As some states have recognized, state agency investment decisions made today will have implications for future generations. For example, Washington state has recently adopted a 2.5% discount rate,[10] with state agencies noting that "intergenerational" considerations warrant a lower rate than "private sector discount rates which seek profit, or the cost of governments to obtaining capital in a low-risk environment" and emphasizing how "public entities are under a unique responsibility to mitigate the risk associated with underestimation."[11]

That said, using the IWG's high-impact estimate would address similar concerns, and the available 3% discount rate would represent a reasonable, middle-of-the road approach that is appropriate as an initial starting-point for a wide range of regulatory purposes. Going forward,

---

[7] IWG Report at 3.
[8] National Academy of Sciences, Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide at 155 (2017), https://doi.org/10.17226/24651.
[9] Peter Howard, Cost of Carbon Project, Omitted Damages: What's Missing From the Social Cost of Carbon (2014), http://costofcarbon.org/reports/entry/omitted-damages-whats-missing-from-the-social-cost-of-carbon.
[10] Washington Utilities and Transportation Commission, Social Cost of Carbon (May 2020), https://www.utc.wa.gov/regulatedIndustries/utilities/Pages/SocialCostofCarbon.aspx.
[11] Washington Department of Ecology, Preliminary Cost-Benefit and Least-Burdensome Alternative Analysis: Chapter 173-442 WAC Clean Air Rule & Chapter 173-441 WAC Reporting of Emissions of Greenhouse Gases at 61-62 (June 2016), https://fortress.wa.gov/ecy/publications/documents/1602008.pdf.

DEC could consider the use of lower discount rates, or potentially a declining discount rate approach, which has been endorsed by the National Academy of Sciences.[12]

We appreciate the opportunity to provide initial feedback on what will be a crucial proceeding for the state's climate agenda and look forward to providing more detailed feedback on the SCC proceeding following the issuance of a formal draft proposal. Please contact David Gahl or Cullen Howe at the information listed below with any questions.

Respectfully submitted,

David Gahl
Senior Director of State Affairs
Solar Energy Industries Association
(518) 487-1744

Cullen Howe
Senior Renewable Energy Advocate, Eastern Region
Natural Resources Defense Council
(347) 232-3652

cc. Jared Snyder, NYS DEC
Maureen Leddy, NYS DEC
Doreen Harris, NYSERDA
John Williams, NYSERDA

[12] National Academy of Sciences, Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide at 171 (2017), https://doi.org/10.17226/24651.