

December 6, 2022

VIA ELECTRONIC MAIL

Amanda Hiller
Acting Tax Commissioner and General Counsel
New York State Department of Taxation and Finance
William A. Harriman Campus, Building 9
Albany, NY 12227

Dear Ms. Hiller:

The Natural Resources Defense Council, Sierra Club, and the Sabin Center for Climate Change Law respectfully request that the Department of Taxation and Finance take two concrete actions that will remove barriers to achieving the State's renewable energy goals pursuant to the Climate Leadership and Community Protection Act (CLCPA). First, we request that the Department publish the annual Solar and Wind Appraisal Model draft discount rates for 2023 assessment roles. Second, we request that the Department begin the process of publishing the Solar and Wind Appraisal Model pursuant to the State Administrative Procedure Act (SAPA). These points were raised in a November 4, 2022, joint letter by the Alliance for Clean Energy New York and New York Solar Energy Industries Association, and we join the comments raised therein.

Pursuant to Real Property Tax Law §575-b, the Department is obligated to develop an appraisal model for solar and wind energy systems and publish preliminary discount rates on its website so that it may receive and consider any comments before publishing final discount rates. However, the Department has yet to publish discount rates for 2023 assessments. Importantly, the temporary restraining order issued by the Albany County Supreme Court in the *Matter of Town of Blenheim v. Hiller* on April 29, 2022, provides no basis for delay. While that order temporarily enjoined the Department from using the Solar and Wind Appraisal Model that the Department published on January 6, 2022 (the "Model"), it did not enjoin the Department from publishing the annual Solar and Wind Appraisal Model draft discount rates for 2023 assessment roles on its website.

We respectfully recommend that the Department publish these annual draft discount rates for 2023 assessment roles on its website as it did for the 2022 assessment roles. Publishing draft discount rates on the Department's website is a prerequisite to publishing final discount rates and doing so would be required regardless of the final disposition in *Blenheim* given that the temporary restraining order only affects the Model and does not prohibit the Department from publishing discount rates. Making draft discount rates available online also empowers parties to prepare for 2023 assessments and make decisions about future clean energy investments critical to the State's climate goals under the CLCPA.

In addition, we encourage the Department to publish the Model through the SAPA process without waiting for a final disposition in *Blenheim*. For the Department to issue the Model in time for the 2023 assessment roles, it will need to complete the SAPA process by Spring 2023. Given the relatively early stage of the litigation, this issue is unlikely to be resolved until late 2023 at the

earliest. Issuing the Model through the SAPA process would resolve the only issue raised in the lawsuit (*i.e.*, whether the Model constitutes a rule or regulation that was not adopted in compliance with SAPA), allow the Department the opportunity to update the Model based on stakeholder feedback, and ensure that the Model is put into action without unnecessary delay.

Thank you for your consideration.

Sincerely,

Natural Resources Defense Council

Cullen Howe, Senior Attorney

Sierra Club

Josh Berman, Senior Attorney

Sabin Center for Climate Change Law

Matthew Eisenson, Legal Fellow

Cc:

John O'Leary, Deputy Secretary for Energy & Environment

Sean Ewart, Assistant Secretary for Energy

Doreen Harris, President & CEO, NYS Energy Research and Development Authority

Basil Seggos, Commissioner of the NYS Department of Environmental Conservation

Rory Christian, Chair, NYS Public Service Commission

Mr. Houtan Moaveni, Executive Director, NY State Office of Renewable Energy Siting

Carolyn Dee, Senior Policy Advisor for Finance & Technology