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February 22, 2021

The Honorable Andrew M. Cuomo
Governor of New York State
NYS Capitol Building
Albany, NY 12224

Dear Governor Cuomo,

The New York Building Congress' Energy & Sustainability Committee commends your environmental leadership and supports the provision, Part R of Transportation, Economic Development and Environmental Conservation Article VII, in the New York State FY 2022 Executive Budget.

Climate change is at the forefront of policy making in the United States and throughout the world, and New York State is no exception. In its simplest form, the obvious solution is to use less energy generated from fossil fuels while at the same time generating more electricity with renewables like wind, solar and hydropower. Towards this end, building owners are increasingly looking to obtain NYS-generated renewable energy to meet the demand created by commercial and residential customers. The issue is that today this resource is not available to be purchased within the City of New York.

Local Law 97 (LL97), signed by Mayor Bill de Blasio in 2019, imposes carbon limits on buildings over 25,000 square feet beginning in 2024. The law is pitched as one that encourages upgrades to make buildings more efficient, but focuses solely on the reduction of carbon. Among the ways that an owner can comply with these mandates is by sourcing power from renewable sources in the form of renewable energy credits (RECs) from various regions in the state. However, the way the law is written, if a building owner invests in existing upstate renewables, these Tier 2 RECs are not recognized for the purpose of LL97 compliance. This severely diminishes the value of this upstate source of renewable power and prevents the building owner from complying with LL97. Currently, only Tier 4 RECs, renewable energy "delivered" into Zone J, can be counted towards compliance.

Absent a local renewable energy source, compliance with LL97 relies heavily on owners attempting to control the electric consumption of their large commercial tenants. We know from our experience with master meters that conservation can only occur if the actual consumer of that resource is held responsible for its consumption. LL97 ignores the fact that owners do not and cannot control their customers' electric demand. In fact, on average 60 percent of a building's electric demand is tenant generated. For those buildings where companies work extended hours, this percentage is even larger. These are the companies that make NYC "the city that never sleeps."

What will happen to those buildings that cannot invest in upstate renewable resources? On one hand, without the proposed solution of allowing Tier 2 RECs, they

will pay steep fines to the City. Further, these penalty revenues will go into the City's general fund with no obligation to be spent on climate-related initiatives. On the other end, the City could issue mass waivers, in which case no one wins – neither update renewable energy producers nor the City of New York through a reduced carbon footprint.

The NYS Executive Budget acknowledges this challenge by allowing NYC building owners to source renewable energy credits from a broader geography to comply with LL97 and invest in upstate renewable resources. By allowing Tier 2 credits to be utilized, more renewable energy will be consumed, less carbon will be created and incentives to expand the upstate renewable resources will be enhanced. This is a smart and calculated first step that enables NYC property owners to invest in the renewable economy.

The future of NYC energy includes offshore wind and transmission lines that bring renewables to the five boroughs. We want that day to come as soon as possible. The reality is that this will not happen before LL97 becomes effective in 2024. For this reason and more, we fully support the Executive Budget's proposal as a means for building owners to invest in the renewable economy in New York State and decrease their carbon footprint. Moreover, this provision will not discourage building owners from making their properties more efficient, as this effort is ongoing with its own calculation of investment return.

The Energy & Sustainability Committee of the Building Congress supports this commonsense provision.

Very truly yours,

Members of the New York Building Congress Energy & Sustainability Committee

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