NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION RELEASES "VALUE OF CARBON" GUIDANCE THAT COULD SPUR MORE AGGRESSIVE CLIMATE POLICIES

Hodgson Russ Renewable Energy Alert
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On December 30, 2020, the New York State Department of Environmental Conservation ("DEC") released guidance for New York State agencies to estimate the value of reducing one ton of greenhouse gas emissions, such as carbon dioxide, methane and nitrous oxide. DEC issued this guidance pursuant to the Climate Leadership and Community Protection Act of 2019 ("CLCPA"), which directed DEC, in consultation with the New York State Energy Research & Development Authority ("NYSERDA"), to establish a social cost of carbon in terms of $/metric ton CO_2 equivalent. This guidance, which serves as "a monetary estimate of the value of not emitting a ton of greenhouse gas emissions,"[1] is expected to influence a range of energy and related rulemakings and state policy for years to come.

The new guidance adopts a damage-based approach based on the same values and methods used by the Interagency Working Group to establish a federal "social cost of carbon." According to the guidance, State entities should provide an assessment using a central value at the 2% discount rate as the primary value for decision-making, while also reporting the impacts at 1% and 3% to provide a comprehensive analysis. Using this lower central discount rate translates into a 2020 central value of carbon dioxide of $125 per ton; methane of $2,782 per ton; and nitrous oxide of $44,727 per ton.

Notably, the recommendation is lower than the 3% discount rate used by the Public Service Commission ("Commission") in setting the value for zero emission credits under the Clean Energy Standard or establishing the environmental value under the Value of Distributed Energy Resources ("VDER") tariff. DEC's guidance would therefore result in a higher social cost of carbon – for 2020, the value is $125/ton CO_2 using a 2% discount rate vs. $53/ton using a 3% discount rate.

Depending upon Commission adoption and implementation, this could result in higher incentives for Commission programs that rely on social cost of carbon calculations, and set a higher metric for future programs. To take one example, the Commission could increase the $/kWh environmental value or "E-Value" in the VDER value stack, which determines compensation for distributed resources such as community or commercial-scale solar. The environmental value is currently set at the higher of the Commission-determined social cost of carbon or the latest Tier 1 REC price. For the past few years, the Commission-determined social cost of carbon has set the E-value; employing the DEC-recommended value, which places a higher value on avoided emissions, could result in a significant increase, providing a boost to solar and other distributed resource revenues.

The effects of DEC's guidance will extend beyond the electricity sector to inform the work of the Climate Action Council's Scoping Plan – a comprehensive roadmap to achieve emission reductions across all sectors of the State's economy. The CLCPA established a Climate Action Council ("Council") and charged it with approving a Scoping Plan outlining recommendations for attaining the statewide greenhouse gas emissions limits for 2030 (reflecting a 40% reduction from 1990 emission levels), 2050 (reflecting an 85% reduction from 1990 levels), and more stringent limits beyond 85% net zero emissions. The Council must approve the Scoping Plan by January 1, 2022.

As part of the Scoping Plan, the Council must evaluate "the total potential costs and potential economic and non-economic benefits of the plan for reducing greenhouse gases." The CLCPA expressly directs the Council to quantify the "economic and social benefits of greenhouse gas emissions reductions, taking into account the value of carbon, established by the [DEC][.]" In this way, the DEC's guidance will influence performance-based metrics for the transportation, building, industrial, commercial, and agricultural sectors, as well as land use and carbon sequestration measures. A higher value of greenhouse gas reduction could allow State agencies to justify and pursue more ambitious emission-reduction actions, as the measured benefits of such actions could outweigh their costs.

Additionally, the new guidance is likely to play a role in reviews under the State Environmental Quality Review Act and specific permits where the DEC and state and local agencies have been expanding reviews to include greenhouse gas emission impacts/avoidance measures.

To learn more about how the DEC's social cost of carbon could influence your business or the broader New York State renewable energy market, please contact Daniel Spitzer (716.848.1420) or any member of Hodgson Russ's Renewable Energy Practice.

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[1] N.Y. Envtl. Conserv. Law § 75-0113.