

October 24, 2023

New York City Department of Buildings
Office of the General Counsel
280 Broadway, 7th floor
New York, NY 10007

Subject: Solar One Comments on DOB's Proposed Rules on Local Law 97

On behalf of Solar One, I am writing to share comments on the NYC Department of Building's (DOB) proposed rules on Local Law 97. We appreciate the thoughtful work that DOB, the LL97 Advisory Board, and all stakeholders have undertaken to outline the rules of the law while navigating the complex needs of our diverse city. We are in support of LL97 implementation that moves New York City buildings towards our emission reduction mandates with urgency and practicality based on the realities of retrofitting buildings. We support many aspects of the proposed rules in achieving this balance and recommend a few areas where the rules should be strengthened to increase accountability and effectiveness of this groundbreaking law.

Passed in 2019, Local Law 97 set greenhouse gas emissions limits on buildings over 25,000 square feet starting in 2024. Given the fact that the vast majority of NYC's greenhouse gas emissions come from our buildings, this law is intended to reduce emissions from buildings by 40% by 2030 and achieve an 80% reduction citywide by 2050.

Solar One respectfully submits these comments on the following aspects of the proposed rules:

Strengthen 'Good Faith Effort' Rules to increase accountability

In Solar One's experience providing technical assistance to building owners pursuing solar installations, we understand it can take a long time to complete solar installations and other retrofit projects, even when there is a plan set in place. We support DOB's provision that a building owner can show evidence that DOB applications and permits have been secured for the work necessary to comply with emissions limits, along with a timeline for completion of a project and the projected emissions reductions. Securing permits typically means a building owner has signed a contract with a contractor and is well underway to completing the work.

The option to submit a 'decarbonization plan', however, introduces more opportunity for noncompliance, and we suggest adding more guardrails to ensure accountability. We want to emphasize the importance of assessing capital plans within the decarbonization plan for realistic timelines and financing opportunities. We've worked with buildings that "plan" to go solar for many years. But it is not until there is financing secured that these "plans" become realistic. Even once there is a financing plan in place, it can take years for buildings to take the

necessary steps to sign contracts, get necessary approvals, and commence the work. There must be sufficient oversight to ensure that buildings are taking these necessary steps within the timeline required by the law.

We also would like to see the rules specify that the relevant agencies will assess the decarbonization plans within a reasonable timeframe. If building owners are following this pathway, they need to be able to receive confirmation that the plan has been accepted relatively quickly so that they can proceed with the measures described. Delays due to lack of staff capacity at DOB will significantly diminish its effectiveness in getting building owners to make the needed changes.

DOB should consider additional up-front requirements for the decarbonization plan option by requiring buildings to submit bids from qualified contractors. This step would demonstrate that buildings are planning based on accurate pricing and have taken steps to secure contractors to perform the work. It also provides additional assurance that DOB staff have realistic information on which to base their assessment.

We support and want to emphasize the importance of accountability measures written into the rules for decarbonization plans. It is critical that a building must show that work has been completed within two years and that the applications are secured to complete the required work for 2030 emissions limits. If a building fails to complete their decarbonization plan, we agree they should be subject to back fines for the years it was out of compliance. This ensures an equitable approach with other buildings that have completed work on time and gives more teeth to what otherwise could be an easily disregarded plan.

Support for More Credits to Incentivize Beneficial Electrification *And* Solar

We applaud DOB's inclusion of a credit for beneficial electrification, and we believe more resources for buildings and "carrots" like this measure will move buildings to act beyond the bare minimum and decarbonize their fossil-fuel based systems. We urge DOB to also offer a similar credit for installing solar. Currently, the value solar provides from a LL97 compliance perspective is tied to the decreasing grid electricity greenhouse gas coefficient, thus making solar less valuable over time. We believe solar should receive a separate or additional incentive because it is not only reducing kilowatt hours that would otherwise be used by the building from the grid, but it is helping to *build a local* zero-carbon grid, which NYC needs. Especially given the delays and price increases of the large-scale renewables that are seen as key to cleaning NYC's grid, local rooftop solar that can be installed quickly is all the more important to accelerate clean energy production and help reduce building owner's growing electricity costs.

Adequately enforce tenant protections for buildings undergoing retrofits

We are supportive of efforts to protect tenants from being displaced due to building owner upgrades. However, we want to see administering agencies equipped with adequate resources to enforce this requirement.

Limit the use of RECs for LL97 Compliance

We support the rules that limit the purchase of RECs for offsetting electricity emissions only, and agree with restricting buildings to *either* choosing to purchase RECs *or* showing a good faith effort through one of the pathways. However, we would like to see further limits on the ability to purchase RECs to offset electricity, such as adopting the LL97 advisory committee's recommendation of limiting REC's to 30% of electricity usage.

We think buildings should first be encouraged to pursue a reduction in electricity usage by undertaking basic energy efficiency measures and installing solar where feasible to offset electricity.

Further, purchasing RECs for electricity emissions from renewable projects outside of Con Edison territory does not address pollution within New York City that is harming environmental justice communities. While we recognize that the large transmission and renewable projects in New York State are critical to cleaning our grid, we believe LL97's efforts should prioritize cleaning the air within New York City. We would be interested to know what opportunities exist for local, smaller-scale renewable energy projects to generate RECs within Con Edison territory, and whether these RECs would be made available for buildings to purchase to offset a small portion of their remaining electricity emissions.

Increase Resources for Implementation

While it is clear DOB made efforts to include accountability measures in the "good faith efforts" pathways, these measures are meaningless if DOB and other agencies are not fully resourced with staff and knowledge to administer the complex requirements. Well-trained staff will be needed to assess whether decarbonization plans are legitimate, to track project completion, and to assess whether buildings are indeed acting "in good faith" and submitting accurate projections for emissions reductions. We are very concerned that given the existing hiring freeze and lack of necessary staff capacity, there will not be sufficient resources to uphold the intention and requirements of the law.

We also believe additional resources and financing options are needed to better support building owners who are taking steps to comply. The Mayor's report "Getting 97 Done" relies heavily on the assumption that incentives from the Inflation Reduction Act will be available and accessible to buildings. However, these rules and incentives are still rolling out and owners will need much more technical support to understand how to access them. Importantly, because of the unique ownership structure of NYC's co-ops and condos, they are largely excluded from many of the most beneficial tax incentives in the Inflation Reduction Act. Thus, it is essential that the city provide funding directly to buildings that face the highest barriers and have the least resources, as well as continue to fund technical assistance programs like the NYC Accelerator and the Clean Energy Hubs.

Overall, Solar One supports many aspects of DOB's proposed rules for taking a major step toward full implementation of the law. We support the efforts to strike a balance between addressing challenges faced by buildings such as co-ops and affordable housing, and the urgency to reduce climate-warming emissions and achieve the long-term goals of Local Law 97. And we urge DOB to further strengthen the rules with more guardrails for RECs and 'good faith efforts' to increase accountability.

New York City must lead the way in moving us away from fossil fuels and to fight climate change. Solar One urges DOB to consider our concerns as they finalize the proposed rules, and we urge the City to properly resource DOB and other implementing agencies so that we move one step closer to a more sustainable city.

Sincerely,

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Solar One is a New York nonprofit organization whose mission is to design and deliver innovative education, training, and technical assistance that fosters sustainability and resiliency in diverse urban environments. We provide comprehensive solar technical assistance to building owners, affordable housing providers, and community organizations to facilitate high-impact solar projects, prioritizing increasing access to solar for low-to-moderate-income residents.