

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on October 13, 2011

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman  
Patricia L. Acampora  
Maureen F. Harris  
Robert E. Curry, Jr.  
James L. Larocca

CASE 07-M-0548 - Proceeding on Motion of the Commission  
Regarding an Energy Efficiency Portfolio  
Standard.

CASE 08-E-1132 - Petition of New York State Energy Research and  
Development Authority (NYSERDA) for Approval of  
an Energy Efficiency Portfolio Standard (EEPS)  
NYSERDA-Administered Electric Energy Efficiency  
Program.

ORDER APPROVING AN EMERGENCY AGRICULTURE  
DISASTER ENERGY EFFICIENCY PROGRAM

(Issued and Effective October 18, 2011)

BY THE COMMISSION:

INTRODUCTION

In this Order, the Commission approves an October 5,  
2011, petition by the New York State Energy Research and  
Development Authority (NYSERDA) seeking to reallocate electric  
Energy Efficiency Portfolio Standard (EEPS) funding to implement  
an Agriculture Disaster Relief Program. The program will assist  
farm and on-farm producers replace systems and equipment damaged  
or lost due to Hurricane Irene and/or Tropical Storm Lee. The  
program will provide much needed assistance for storm-damaged  
farms to incorporate energy efficient electric and natural gas

equipment and measures into the replacements and repairs. The total amount reallocated to the Agriculture Disaster Program is \$5,861,664.

#### BACKGROUND

Hurricane Irene, Tropical Storm Lee and the massive flooding that followed have wreaked havoc in many of New York State's agricultural communities. Both storms were declared "major disasters" by the Federal Emergency Management Agency.<sup>1</sup> The record flooding that followed Hurricane Irene alone has caused severe damage to many communities including the loss of nearly 140,000 acres of farmland, numerous barns, outbuildings and agricultural systems and equipment.<sup>2</sup> NYSERDA's petition indicates that other sources of assistance funds are primarily focused on crop loss and soil conservation and that many damaged farms will need to replace equipment and systems if they are to survive. The combined disaster has created a critical situation for many affected farmers and according to the New York Farm Bureau, threatens a significant permanent loss of many family farms with associated negative effects on the surrounding rural economies already impacted severely by the storms.<sup>3</sup>

NYSERDA proposes an Agriculture Disaster Program designed to provide storm-damaged farms economic and technical assistance to incorporate energy efficient electric and natural gas equipment, measures, systems and improvements into replacements and repairs. The program would also incorporate face-to-face, on-line, and telephone support regarding energy efficiency technical knowledge, project review, outreach and general guidance. NYSERDA proposes to employ efficiency

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<sup>1</sup> DR-4020 (Hurricane Irene) and DR-4031 (Tropical Storm Lee). See <http://www.fema.gov/news/disasters.fema?year=2011> for additional information.

<sup>2</sup> <http://www.governor.ny.gov/press/09222011NewYorkFarms>.

<sup>3</sup> [http://www.nyfb.org/resources/topic\\_detail.cfm?ID=421](http://www.nyfb.org/resources/topic_detail.cfm?ID=421).

standards similar to those currently utilized by its existing Agriculture Energy Efficiency Program (a component of the Existing Facilities EEPS Program).<sup>4</sup> The program is designed to emphasize rapid deployment and strong support for participants.

NYSERDA proposes to limit eligibility for the program to farm and on-farm producers located within counties identified by Executive Orders 17, 21, and/or 22.<sup>5</sup> Farms and on-farm producers located in counties listed in any succeeding Executive Order addressing Hurricane Irene and/or Tropical Storm Lee would also be eligible. In order to participate in the Agriculture Disaster Program, a farm would need to demonstrate a loss suffered as a result of one or both of the storms. Farm residences are not eligible for funding under the proposed program. Otherwise eligible repair/replacement costs incurred before commencement of the program, but after the occurrences of the storms,<sup>6</sup> would be reimbursed.

Farms seeking assistance would be required to provide supporting documentation for the equipment or systems for which they seek funding. Farms must also demonstrate that they pay the Systems Benefit Charge (SBC). NYSERDA proposes to reimburse the farms for projects already completed or to pay upfront based on invoices. Applications for assistance would be processed in the order in which they are received and NYSERDA will fund as many eligible applications as possible with the reallocated funds. Applications will be reviewed for eligibility and accepted or rejected at NYSERDA's discretion.

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<sup>4</sup> Case 07-M-0548, et al., Energy Efficiency Portfolio Standard (EEPS), Order Approving Three New Energy Efficiency Portfolio Standard (EEPS) Programs and Enhancing Funding and Making Other Modifications for Other EEPS programs (issued June 24, 2010).

<sup>5</sup> <http://governor.ny.gov/sl2/ExecutiveOrderindex>.

<sup>6</sup> Hurricane Irene struck New York on Saturday, August 28, 2011, and Tropical Storm Lee began on September 4, 2011.

NYSERDA proposes providing funding at a 100% of eligible costs minus other aid or insurance proceeds received with a maximum assistance amount of \$100,000 per farm. Payments would be calculated and documented based on invoice totals as billed to the farm. Internal labor costs would not be eligible for reimbursement and progress payments would be issued where appropriate. Assistance would be available for a variety of projects involving energy efficiency measures including those measures listed in Appendix A and any necessary repairs to the customer-sided electric and natural gas distribution systems associated with eligible measures. Assistance would also be available for custom projects providing well-documented energy efficient measures or components.

Assistance would not be available for equipment or systems purchased prior August 28, 2011, for sites affected by Hurricane Irene or September 4, 2011 for sites affected by Tropical Storm Lee. Repairs to structures would not be eligible for assistance except for those that are necessary to access/install eligible electric and gas improvements.

NYSERDA proposes reallocation of electric EEPS funding from its existing Benchmarking and Operations Energy Program of \$5,861,664 divided into various budget categories. NYSERDA states that no previously approved EEPS gas funds are currently available for reallocation to the Agriculture Disaster Program, and given the emergency nature of need, requests authorization to use up to 10% of the reallocation of electric EEPS funds for repair/replacement of natural gas equipment and systems.

#### DISCUSSION

We authorize NYSERDA to implement an Agriculture Disaster Program with funds reallocated from its Benchmarking and Operations in the amount of \$5,861,664 divided amongst the

budget categories listed in Appendix A. The destruction caused by Hurricane Irene and Tropical Storm Lee was unprecedented and the farming communities in the affected areas sustained historic damage. Authorizing the program will provide a dual benefit of offering some relief to those communities in the face of tremendous need and avoiding lost opportunities for energy efficiency gains as those farms begin to repair and rebuild their operations.

Previously, our policy has been strictly against utilizing EEPS funding supported by electric customers for the implementation of gas-related measures and vice versa. However, given the nature of the current emergency and the lack of other available funding sources, we will allow NYSERDA to use up to 10% of the reallocated funds for natural gas repair and replacement measures as part of the Agriculture Disaster Program only. However, we direct NYSERDA to utilize gas funds previously approved for its existing Agriculture Energy Efficiency Program for gas measures prior to utilizing electric funds should those gas funds become unencumbered or otherwise available.

We recognize that NYSERDA developed its proposal on an expedited basis. However, the proposal does not include a description of NYSERDA's plans for communicating to the target communities the availability of this program and the benefits it offers, nor does the proposal include a description of the evaluation methods NYSERDA will employ to determine the effectiveness of the program both in terms of energy savings achieved and in meeting the emergency needs of the farming community. In that regard, we will direct NYSERDA to file, within five days of the issuance of this Order, a plan describing, at a minimum, the outreach and communication activity it plans for the first 15 days of the program and the

plans for follow-up outreach after the initial effort. Within 30 days of the issuance of this Order, NYSERDA shall file a description of its planned evaluation activities for the Agriculture Disaster Program. Information concerning the status of the Agricultural Disaster Program should be included in NYSERDA's regular EEPS status reports.

#### EMERGENCY ADOPTION

Approval of the Agricultural Disaster Program is adopted on an emergency basis pursuant to State Administrative Procedure Act (SAPA) §206(6). Hurricane Irene, Tropical Storm Lee and the resulting flooding have created an immediate need to rebuild and repair farms and agricultural infrastructure in order to preserve the public welfare. This program is designed to provide farmers harmed by the storms and flooding with quick and immediate access to funds for repairs and rebuilding. Failure to implement this program on an emergency basis would deny the damaged farms access to this necessary funding source. Moreover, if these funds are not available on an expedited schedule many opportunities for energy efficiency improvements could be lost if farmers are forced to choose inefficient equipment due to lack of funds and the immediate need to rebuild. As a result, compliance with the advance notice and comment requirements of SAPA §201(1) would be contrary to the public interest, and the immediate authorization to implement the Agriculture Disaster Program is necessary for the preservation of the public health, safety and general welfare.

#### CONCLUSION

We authorize NYSERDA to implement an Agriculture Disaster Program as described above. We appreciate NYSERDA's efforts to assist those farms damaged by the dual disasters of

Hurricane Irene and Tropical Storm Lee and believe the resources provided by authorization of the program will provide much needed help.

The Commission orders:

1. The Petition of the New York State Energy Research and Development Authority (NYSERDA) to implement an Agriculture Disaster Program is approved as described above.

2. NYSERDA shall file, within five days of the issuance of this Order, an outreach plan for the Agriculture Disaster Program and shall file, within 30 days of the issuance of this Order, an evaluation plan for the program.

3. NYSERDA shall include status information about the Agriculture Disaster Program in its regular Energy Efficiency Portfolio Standard status reports.

4. The Secretary is authorized, at her sole discretion, to extend any deadlines specified herein.

5. This proceeding is continued.

By the Commission,

JACLYN A. BRILLING  
Secretary

Table 1

**Previously Approved Budget and Goals**

	<b><u>Total Budget (2011-2013)</u></b>	<b><u>Savings Goal (MWh)</u></b>
Benchmarking and Operations Efficiency Program	\$11,111,110	56,000

Table 2

**Currently Approved Budget and Goals**

	<b><u>Total Budget (2011-2013)</u></b>	<b><u>Savings Goal (MWh)</u></b>
Benchmarking and Operations Efficiency Program	\$5,249,445	26,457
Agriculture Disaster Program		
- Participant Support, Implementation and Incentives	\$5,000,000	
- Administration	\$468,933	
- Evaluation	\$293,083	
- Cost Recovery Fee	<u>\$99,648</u>	
<b>Total</b>	\$5,861,664	2,500

Table 3

**Included Energy Efficiency Measures**

Variable Speed Drive for Milk Vacuum Pump	Water Heating Equipment
Scroll Compressor	Space Heating Equipment
Plate Coolers	Fans
Variable Speed Drive for Milk Transfer Pump	Electric Chillers
Compressor Heat Recovery	Premium Efficiency Motors
High Pressure Sodium Lighting	Other Variable Speed Drives
T-8 Lighting	Commercial Refrigeration
Other Efficient Lighting Systems and Controls	Commercial Kitchen Equipment
Stock Waterers	Commercial Washers
Individual HVAC Measures	Natural Gas Efficiency Measures:
- PTAC and PTHP Equipment	- High Efficiency Furnaces and Boilers
- Unitary HVAC and Split Air Systems	(≤300,000 Btu/h rated input capacity)
- Air-to-Air Heat Pump Systems	- High Efficiency Boilers
- Water Source Heat Pump Systems	(>300,000 Btu/h rated input capacity)
- Differential Enthalpy Economizer Controls and DCV Sensors	