STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on June 13, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
James L. Larocca
Gregg C. Sayre

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

ORDER MODIFYING CERTAIN ENERGY EFFICIENCY PORTFOLIO STANDARD (EEPS) PROGRAMS

(Issued and Effective June 19, 2013)

BY THE COMMISSION:

INTRODUCTION

In this order, the Commission (i) denies New York State Electric & Gas Corporation's (NYSEG) and Rochester Gas & Electric Corporation's(RG&E) proposal for new multifamily gas programs as well as their proposal to modify the range of eligibility for their existing electric multifamily programs from 5-50 units to 2-75 units; (ii) authorizes modifications to the budget and savings targets for NYSEG's and RG&E's residential gas HVAC programs for the years 2012–2015; (iii) grants Consolidated Edison Company of New York, Inc.'s (Con Edison) request to discontinue its residential Direct Install program; (iv) approves modifications to the budget and savings targets for Con Edison's residential gas HVAC program, residential electric HVAC program, residential Appliance Bounty program and residential Room Air Conditioner Rebate program for the years 2012–2015; and (v) directs Con Edison to consolidate its existing residential electric programs.

BACKGROUND

By order issued June 23, 2008, the Commission created an Energy Efficiency Portfolio Standard (EEPS) for New York State to develop and encourage cost-effective energy efficiency programs.[1] The Commission directed the New York State Energy Research and Development Authority (NYSERDA) and the six large investor-owned electric utilities to submit electric energy efficiency program proposals. Gas utilities serving more than 14,000 customers were also directed to submit proposals for residential heating, ventilation and air conditioning (HVAC) energy efficiency programs. In 2009 and 2010, the Commission approved a number of energy efficiency programs for the utilities' residential and multifamily customers, including NYSEG/RG&E's and Con Edison's residential and multifamily programs discussed here.[2]

On October 25, 2011, among other actions, the Commission reauthorized most of the EEPS programs it had

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[1] Case 07-M-0548, Energy Efficiency Portfolio Standard (EEPS), Order Establishing Energy Efficiency Portfolio Standard and Approving Programs (issued June 23, 2008).

[2] Case 08-E-1003, et al., Energy Efficiency Portfolio Standard (EEPS), Order Approving "Fast Track" Utility-Administered Electric Energy Efficiency Programs with Modifications (issued January 16, 2009); Case 08-G-1004, et al., Energy Efficiency Portfolio Standard (EEPS), Order Approving "Fast Track" Utility-Administered Gas Energy Efficiency Programs with Modifications (issued April 9, 2009); Case 08-E-1127, et al., Energy Efficiency Portfolio Standard (EEPS), Order Approving Multifamily Energy Efficiency Programs with Modifications (issued July 27, 2009); and Case 08-E-1127, et al., Energy Efficiency Portfolio Standard (EEPS), Order Approving Certain Commercial and Industrial; Residential; and Low-Income Residential Customer Energy Efficiency Programs with Modifications (issued January 4, 2010).

previously approved,[3] including NYSEG/RG&E's and Con Edison's residential and multifamily programs for the period 2012 through 2015. The October 25, 2011 order also directed program administrators to submit any program modifications that would result in substantial impacts on targets and budgets by March 31, 2012.[4] In response, NYSEG/RG&E filed petitions on March 30, 2012,[5] and Con Edison filed petitions on May 11, 2012 and August 15, 2012,[6] proposing substantial modifications to their residential and multifamily EEPS programs.

SUMMARY OF PETITIONS

NYSEG/RG&E

Concerning the companies' residential programs, NYSEG/RG&E's March 30, 2012 petition requests: (i) decreases to NYSEG's 2012–2015 annual residential gas HVAC program budgets and savings targets from $2,051,290 to $1,415,642 and from 103,530 to 71,461 dekatherms (Dth) and (ii) decreases to RG&E's 2012–2015 annual residential gas HVAC program budgets and targets from $4,591,988 to $2,101,685 and from 247,987 to 113,500 Dth. With respect to their multifamily programs, NYSEG/RG&E's petition seeks (i) authority to create a residential/non-residential multifamily gas program and (ii) a modification to the range of eligibility for their existing electric multifamily programs from 5-50 units to 2-75 units.

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[3] Case 07-M-0548, supra, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule (issued October 25, 2011).

[4] Id., p. 12.

[5] On May 21, 2013, NYSEG/RG&E filed an amendment to the March 30, 2012 petition to revise the proposed annual budgets and targets for NYSEG to reflect the program's 2012 performance.

[6] On April 1, 2013 Con Edison withdrew its May 11, 2012 Petition for Approval of Multifamily Program Redesign and Modification of Budgets and Targets.

NYSEG/RG&E state that the October 2011 EEPS reauthorization order set the annual program budgets and savings targets for their residential gas HVAC programs unrealistically high. The companies claim that the budgets and targets set in the October 2011 order were improperly based on the 2011 budgets and targets as set in a June 24, 2010 order.[7] That order, the companies explain, authorized incremental funding and savings targets for their residential gas HVAC programs because the original budgets were exceeded in less than a year - NYSEG in the first nine months of program operation and RG&E in the first six months. NYSEG/RG&E assert that the early success of the programs was due to factors that no longer exist including: the novelty of the programs; high natural gas prices; an economic recession causing elevated customer concern regarding energy costs due to the economic recession; and the additional energy efficiency incentives provided by a $1,500 Federal income tax credit during the first 18 months of the programs. NYSEG/RG&E contend that the additional funding and savings targets authorized in the June 2010 order were incorrectly assigned to forward periods (2010–2011) without acknowledgement that a portion of the savings and costs had already occurred. NYSEG/RG&E maintain that because the June 2010 order applied the savings and spending targets primarily to the single year 2011, rather than distributing the targets/budgets in accordance with actual annual achievements during 2009, 2010, and 2011, it resulted in unrealistic annual savings targets and program budgets for 2011 that were subsequently carried forward through the 2012-2015 period. The companies also call attention to a March 20, 2012 order in which the Commission authorized the

[7] See Case 07-M-0548 et al., supra, 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).

companies to allocate a portion of the incremental residential gas HVAC funding to previous budget overages.[8] Thus, the companies propose the reductions in annual residential gas HVAC program budgets and targets described above.

NYSEG/RG&E state that they remain committed to developing and implementing residential and non-residential gas energy efficiency programs and propose a new residential/non-residential multifamily gas program to function in conjunction with their existing multifamily electric program. According to the companies, the proposed program is designed to encourage the installation of energy efficient natural gas equipment in apartments and condominiums with natural gas space heating and/or water heating. The companies propose to offer measures currently included in Classification Group 15 and offered in other EEPS programs,[9] including low flow showerheads, low flow faucet aerators, water heater pipe wrap and programmable thermostats. For the period 2012–2015, the companies propose total savings targets of 31,347 and 137,376 Dth and total program budgets of $635,942 and $2,299,048, for NYSEG and RG&E, respectively. NYSEG/RG&E propose utilizing funds that would be made available if their requests to lower residential gas HVAC program budgets are approved to support this new program.

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[8] Case 07-M-0548 et al., supra, Order Approving Application of Additional Gas Residential HVAC Program Funding to Previous Budget Overages (issued March 20, 2012).

[9] On June 20, 2011, the Commission issued an Order in Case 07-C-0548 that organized all approved Energy Efficiency Portfolio (EEPS) programs into specific Classification Groups, and established a specific list of approved energy efficiency measures for each Classification Group. Case 07-M-0548 et al., supra, Order Approving Modifications to the Energy Efficiency Portfolio Standard (EEPS) Program to Streamline and Increase Flexibility in Administration (issued June 20, 2011).

NYSEG/RG&E state that their multifamily electric programs are currently authorized to serve buildings with 5-50 units, and they propose modifying the range of eligibility to 2-75 units, with the requirement that eligible properties contain a total of at least five dwelling units on one site. The companies claim that this modification would enable them to more effectively serve multifamily customers and eliminate some situations which in their view appear to be discriminatory. The companies state that the unit per building requirement has resulted in situations where some buildings in a multifamily complex qualify and other do not despite the fact that the entire group of buildings is under the same ownership. NYSEG/RG&E assert that the unit limitation causes customer confusion and frustration. The companies state that as NYSERDA’s multifamily program is available to buildings with five or more dwelling units, allowing their requested modification to their multifamily programs will enable customers to choose which program best meets their needs.

Con Edison

Con Edison’s August 15, 2012 petition requests modifications to its residential programs including: (i) discontinuance of the Direct Install Program; (ii) reduction of the program budgets and savings targets for the residential electric HVAC program, residential gas HVAC program, and residential Appliance Bounty program for 2012-2015; and (iii) an increase in the program budgets and savings targets for its residential Room Air Conditioner Rebate program during the same period.

Con Edison states that the savings acquired by its residential portfolio during the first EEPS cycle were limited, ranging from a low of 20% in the Direct Install program to a high of 88% in the residential Room Air Conditioner Rebate program. The company asserts that many constraints contributed to the limited achievements, including unrealistic assumptions concerning participation; staggered approval and delayed implementation of the programs and technical manual changes regarding allowable savings and assumptions regarding operating hours.

The company claims to have thoroughly explored and analyzed opportunities to increase cost-effective energy savings from its residential programs including a comprehensive review of existing measures and programs and consideration of new. Despite its commitment and review of cost-effective measures and program designs, Con Edison asserts that it is unable to develop a set of residential programs that can achieve the 2012-2015 energy savings targets set in the October 2011 order.

Con Edison states that due to lower than expected participation levels and measures that did not yield sufficient savings, its Direct Install program achieved only 20% of its savings goal during 2010 – 2011. The company further states that although each measure in the program passes the Total Resource Cost (TRC) test, the program as a whole is not cost-effective due to its high delivery costs. Con Edison argues that the Direct Install program was originally created as an introductory program intended to increase participation in its other residential programs but its program review indicates that very few participants in the Direct Install program also participate in other programs. For these reasons, the company proposes to discontinue the program.

In regard to its other residential programs, Con Edison states that increased savings acquisition and improved cost-effectiveness are needed. The company proposes adding various measures and discontinuing others in all programs, and states that it will work with the Department of Public Service Staff (Staff) to affect such changes through the flexibility granted in past Commission orders. In addition to those changes, Con Edison states that adjustments are needed to program budgets and savings targets for all programs to better align those targets with market potential. For the period 2012–2015, Con Edison proposes to reduce the program budgets and savings targets in its residential electric HVAC program from $16,186,653 to $13,616,663 and from 7,492 to 7,315 megawatt hours (MWh). For the same period, the company proposes reducing its residential Appliance Bounty program budgets from $18,182,284 to $9,786,091 and targets from 52,714 to 32,893 MWh, while increasing its residential Room Air Conditioner Rebate program budget from $5,348,572 to $8,550,847 and savings target from 4,166 MWh to 24,548 MWh. In addition, Con Edison proposes to reduce its residential gas HVAC program budgets from $11,209,625 to $10,066,906 and savings targets from 136,638 to 133,110 Dth for the 2012–2015 period.

Con Edison states that the proposed budgets and targets are based on realistic estimates of market penetration developed through examination of its experience during the period 2009 -2011 together with the proposed changes for each of the programs. The company points out that in all cases, the proposed budgets and targets result in lower unit costs ($/MWh or $/dekatherm) than currently approved.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking concerning requests for modifications to NYSEG/RG&E’s residential and multifamily programs were published in the State Register on May 9, 2012 [SAPA 07-M-0548SP60] and [SAPA 07-M-0548SP63]. The minimum time period for the receipt of public comments pursuant to the State Administrative Procedure Act (SAPA) regarding these notices expired on June 25, 2012. A Notice of Proposed Rulemaking concerning requests for modifications to Con Edison's residential programs was published in the State Register on September 5, 2012 [SAPA 07-M-0548SP73]. The minimum time period for the receipt of public comments pursuant to SAPA regarding that notice expired on October 22, 2012.

SUMMARY OF COMMENTS

On June 25, 2012, Multiple Intervenors (MI) filed general comments in response to various petitions by program administrators seeking EEPS program changes, including the NYSEG/RG&E petition described here. MI objects to any budget and savings target changes that increase program costs. In addition, MI objects to any modifications unless and until the Commission confirms that the programs will remain cost effective. MI also argues that any over collection of EEPS funds should be returned to ratepayers.

On June 25, 2012, NYSERDA filed comments in response to NYSEG/RG&E's proposed residential/non-residential multifamily gas program, and modification to the its existing multifamily electric program. NYSERDA comments that its Home Performance with ENERGY STAR and Assisted Home Performance with ENERGY STAR programs currently serve residential buildings with 1 to 4 units, offering comprehensive work scopes, including both electric and gas measures, and the measures proposed in NYSEG/RG&E's petition. NYSERDA states that it currently partners with NYSEG/RG&E to accept referrals of low-income households to deliver services through its EmPower New York Program. This program, NYSERDA comments, serves buildings with 1 to 4 units; provides the specific measures proposed by NYSEG/RG&E and provides these services to multifamily buildings of up to 100 units. In sum, NYSERDA comments that the proposed modification to lower the multifamily threshold from 5 units to 2 units will increase program overlap and customer confusion without commensurate benefits.

DISCUSSION

NYSEG/RG&E's request to decrease the annual program budgets and savings targets for their residential gas HVAC programs for the years 2012–2015 is reasonable and will be approved. The October 2011 order set the companies' annual spending targets and savings goals for the period 2012–2015 based on the 2011 ordered budgets and targets, which included incremental funding authorized for these programs in a June 24, 2010 order. However, in a March 20, 2012 order, we authorized a portion of the 2011 program dollars to be allocated to previous years recognizing that there was sufficient unused 2011 funding to cover previous budget overages resulting from greater than anticipated initial success in these programs. We agree that the annual program budgets and savings targets set in the October 2011 order may not be a realistic representation of what is achievable in the years 2012–2015. Analysis of 2012 program performance shows that NYSEG/RG&E were able to achieve savings of 71,461 and 112,447 Dth, respectively. We will therefore authorize the companies' proposed 2012–2015 annual program budgets of $1,415,642 and $2,101,685 for NYSEG and RG&E, respectively, with corresponding annual savings targets of 71,461 and 113,500 Dths.

NYSEG/RG&E's proposals for a new residential/non-residential multifamily gas program and to modify the eligibility for its existing electric multifamily programs from 5 to 50 units to 2 to 75 units are not approved. Both proposals will increase program overlap and customer confusion without corresponding benefits.

Con Edison’s proposal to eliminate its Direct Install program is sound and will be approved. The Direct Install program’s performance since inception has been far below expectations and the program is not serving its intended purpose of driving consumers to Con Edison’s other residential programs. Con Edison has advised staff that it is prepared to close the program to new participants on June 27, 2013; the program budgets and targets for 2013 will therefore be adjusted to reflect only six months of program implementation.

Con Edison’s proposed revisions to the program budgets and savings targets for its remaining residential programs are supported by a comprehensive analysis of its residential program offerings, their past performance and forecasted future performance. The proposed program budget increase for Con Edison’s residential Room Air Conditioner Rebate program is offset by the proposed decreases in Con Edison’s other residential electric programs, and thus does not require increased collections. The proposed budgets and savings targets produce energy savings at a lower unit cost than currently ordered budgets and targets. We authorize the proposed modifications to Con Edison’s residential programs. Con Edison’s residential gas program budget for 2012-2015 is authorized at $10,066,906 and a savings target of 133,110 Dth. For Con Edison’s remaining three residential electric programs, we approve the modified budgets and savings targets, but direct Con Edison to consolidate these programs into one program, with a 2012–2015 budget of $31,953,601 and a savings target of 64,756 MWh, representing the sum of the proposed budgets and targets for the three separate programs. As we stated in a February 19, 2013 order, we are concerned that the multitude of different programs, especially those that target similar types of customers, has created unnecessary confusion and administrative burden. Consolidating Con Edison's residential electric programs will minimize customer confusion, provide operational flexibility, and reduce administrative burden on both the company and Staff.

We share MI's concerns that modifications to approved programs should not be made without consideration of the impact on cost and program effectiveness. The modifications approved here do not increase the overall budgets or targets for these programs and are not expected to increase costs. At this time, for the same reasons we stated in the October 25, 2011 order, we decline to conduct a comprehensive evaluation of the Total Resource Cost for each minor program change.[10]

SEQRA FINDINGS

Pursuant to our responsibilities under the State Environmental Quality Review Act (SEQRA), in conjunction with this order we find that programs modified here are within the overall action previously examined by us in Case 07-M-0548 and will not result in any different environmental impact than that previously examined. In addition, the SEQRA findings of the June 23, 2008 order in Case 07-M-0548 are incorporated herein by reference and we certify that: (i) the requirements of SEQRA, as implemented by 6 NYCRR part 617, have been met; and (ii) consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action being undertaken is one that avoids or minimizes adverse environmental impacts to the maximum extent possible.

[10] Case 07-M-0548, supra, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule (issued October 25, 2011), p. 6.

CONCLUSION

As discussed above, we deny NYSEG/RG&E's requests for an additional EEPS program and funding, and a modification to the range of eligibility for their existing electric multifamily programs from 5-50 units to 2-75 units. We grant NYSEG/RG&E's request to modify the 2012–2015 program budgets and savings targets for their residential gas HVAC programs in the manner explained above. We approve Con Edison's request to modify the 2012–2015 program budget and savings target for its residential gas program. We also approve Con Edison's request to eliminate its Direct Install residential electric program and its request to modify the 2012–2015 program budgets and savings targets of its three remaining residential electric programs, but direct the company to consolidate these programs into one residential electric program.

The Commission orders:

1. New York State Electric & Gas Corporation's (NYSEG) and Rochester Gas & Electric Corporation's (RG&E) proposal for a new multifamily gas program is denied.

2. NYSEG's and RG&E's request to modify the range of eligibility for their existing electric multifamily programs from 5-50 units to 2-75 units is denied.

3. NYSEG's and RG&E's requests to modify the 2012–2015 program budgets and savings targets for their residential gas HVAC programs are approved, as described in this order and attached Appendix. Within 60 days of the issuance of this order, NYSEG and RGE are directed to submit revised implementation plans reflecting the approved modifications.

4. Consolidated Edison Company of New York, Inc.'s (Con Edison) request to discontinue its Direct Install residential electric program is approved as described in this

order. The revised 2012–2015 annual budgets and targets are shown in the attached Appendix.

5. Con Edison’s request to modify the 2012–2015 program budgets and savings targets for its residential gas HVAC program is approved, as described in this order and attached Appendix.

6. Con Edison’s request to modify the 2012–2015 program budgets and savings targets for its residential electric HVAC, residential Appliance Bounty and residential Room Air Conditioner rebate programs is approved, as described in this order.

7. Con Edison is directed to merge its existing residential electric HVAC, residential Appliance Bounty, and residential Room Air Conditioner Rebate programs into a single residential electric program. The annual budget and savings targets for the combined program shall be equal to the sum of the revised 2012–2015 annual budgets and targets for the programs from which it was formed, as shown in the attached Appendix.

8. Within 60 days of the issuance of this order, Con Edison is directed to submit revised implementation plans reflecting the approved modifications.

9. The Secretary is authorized to extend the deadlines set forth in this order.

10. This proceeding is continued.

By the Commission,

(SIGNED)

JEFFREY C. COHEN
Acting Secretary

Approved Gas Program Costs and Savings Targets

NYSEG

	2012	2013	2014	2015	2012-2015 Total	% of Budget
Residential HVAC						
Dth Target	71,461	71,461	71,461	71,461	285,844	
Program & Administrative Costs	$ 1,344,860	$ 1,344,860	$ 1,344,860	$ 1,344,860	$ 5,379,440	95%
Evaluation/M&V Costs	$ 70,782	$ 70,782	$ 70,782	$ 70,782	$ 283,128	5%
Total	$ 1,415,642	$ 1,415,642	$ 1,415,642	$ 1,415,642	$ 5,662,568	

RG&E

	2012	2013	2014	2015	2012-2015 Total	% of Budget
Residential HVAC						
Dth Target	113,500	113,500	113,500	113,500	454,000	
Program & Administrative Costs	$ 1,996,601	$ 1,996,601	$ 1,996,601	$ 1,996,601	$ 7,986,403	95%
Evaluation/M&V Costs	$ 105,084	$ 105,084	$ 105,084	$ 105,084	$ 420,337	5%
Total	$ 2,101,685	$ 2,101,685	$ 2,101,685	$ 2,101,685	$ 8,406,740	

Con Edison

	2012	2013	2014	2015	2012-2015 Total	% of Budget
Residential HVAC						
Dth Target	34,158	32,984	32,984	32,984	133,110	
Program & Administrative Costs	$ 2,662,286	$ 2,300,425	$ 2,300,425	$ 2,300,425	$ 9,563,561	95%
Evaluation/M&V Costs	$ 140,120	$ 121,075	$ 121,075	$ 121,075	$ 503,345	5%
Total	$ 2,802,406	$ 2,421,500	$ 2,421,500	$ 2,421,500	$ 10,066,906	

Approved Electric Program Costs and Savings Targets

Con Edison

	2012	2013	2014	2015	2012-2015 Total	% of Budget
Consolidated Residential Program						
MWh Target	16,090	16,222	16,222	16,222	64,756	
Program & Administrative Costs	$ 9,432,908	$ 6,974,338	$ 6,974,338	$ 6,974,338	$ 30,355,921	95%
Evaluation/M&V Costs	$ 496,469	$ 367,070	$ 367,070	$ 367,070	$ 1,597,680	5%
Total	$ 9,929,377	$ 7,341,408	$ 7,341,408	$ 7,341,408	$ 31,953,601	
Residential Direct Install Program						
MWh Target	5,517	2,759	-	-	8,276	
Program & Administrative Costs	$ 2,862,214	$ 1,431,107	$ -	$ -	$ 4,293,321	95%
Evaluation/M&V Costs	$ 150,643	$ 75,321	$ -	$ -	$ 225,964	5%
Total	$ 3,012,857	$ 1,506,429	$ -	$ -	$ 4,519,286	