

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

ORDER ESTABLISHING TARGETS AND STANDARDS
FOR NATURAL GAS EFFICIENCY PROGRAMS

(Issued and Effective May 19, 2009)

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on May 14, 2009

COMMISSIONERS PRESENT:

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

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BY THE COMMISSION:

INTRODUCTION

Efficiency programs funded by gas surcharges are currently being administered under six separate interim programs established in utility-specific cases.¹ Efficiency programs have

¹ Case 06-G-1332, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Gas Service, Order Continuing Gas Energy Efficiency Programs (issued and effective September 18, 2008).

Case 06-G-1186, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island for Gas Service, Order Adopting Gas Rate Plans for KeySpan Energy Delivery New York and KeySpan Energy Delivery Long Island (issued and effective December 21, 2007).

Case 06-G-1185, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York for

also been authorized pursuant to the April 9, 2009, Order Approving "Fast Track" Utility Administered Gas Energy Efficiency Programs With Modifications (Gas Fast Track Order).² This order will establish a comprehensive approach to gas efficiency, including a transition from the interim and fast track programs.

This order establishes a gas efficiency target among firm customers of 4.34 Bcf annually through the end of 2011, based on an estimated annual cost of \$130 million, or an incremental cost of approximately \$56 million in addition to funds already being collected under the interim and fast track programs. Beyond 2011, the efficiency target is reduced to 3.45 Bcf annually, while maintaining annual spending at \$130 million. The downward revision of the target following 2011

Gas Service, Order Adopting Gas Rate Plans for KeySpan Energy Delivery New York and KeySpan Energy Delivery Long Island (issued and effective December 21, 2007).

Case 07-G-0141, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation for Gas Service, Order Adopting Conservation Incentive Program (issued and effective September 20, 2007).

Case 08-G-0609, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation for Gas Service, Order Adopting an Interim Energy Efficiency Program and Modifying the Joint Proposal (issued and effective September 18, 2008).

Case 07-M-1139, Petition of Central Hudson Gas & Electric Corporation for Expedited Approval of Interim Energy Efficiency Programs, Deferral Accounting, Interim Revenue Decoupling Mechanisms and an Interim Economic Incentive, Order Authorizing Energy Efficiency Program for Low-Income Customers, (issued and effective October 16, 2008).

² Cases 08-G-1004, et al., Petition of Orange and Rockland Utilities, Inc. for Approval of an Energy Efficiency Portfolio Standard (EEPS) "Fast Track" Utility-Administered Gas Energy Efficiency Program, Order Approving "Fast Track" Utility Administered Gas Energy Efficiency Programs With Modifications (issued and effective April 9, 2009.)

reflects a likely change in program balance following the exhaustion of stimulus funding sources. Combined with reductions anticipated from other sources, this target will result in a 14.7% reduction in estimated gas usage by 2020, independent of any fluctuations in usage caused by fuel switching or other economic factors.

The annual savings and cost targets established here are estimates, from which future Commission decisions may vary based on review of specific programs and related considerations such as rate impacts and the overall mix of programs. Because of the wide range of factors that could influence the need for, and cost of, efficiency programs in the years following 2011, the targets established through 2020 are intended to be used for planning purposes and do not reflect a formal commitment of the \$56 million of incremental funding through 2020.

In establishing these targets, the order takes into account recent appropriations under the American Recovery and Reinvestment Act³ (ARRA), commonly known as federal stimulus funding. ARRA contains large sums devoted to energy efficiency, which must be assumed to be non-recurring funding. For that reason, the process established pursuant to this order will be consistent with the stimulus funding in the near term, while anticipating the exhaustion of the stimulus funding in coming years. Because stimulus funding is heavily weighted toward low-income programs, the targets established in this order are less weighted toward low-income programs through 2011 and more heavily weighted toward low-income programs following 2011.

Gas efficiency programs and electric efficiency programs will be considered together, in order to achieve integrated program delivery where it is efficient and reasonable to do so. Toward that goal, the Commission will soon consider

³ Public Law 111-5 (2009)

gas efficiency proposals that have been submitted with parties' "90 day filings", as well as proposals submitted in response to a Notice Requesting Proposals issued by the Secretary on April 20, 2009.

PROCEDURAL HISTORY

On May 16, 2007, the Commission issued its Order Instituting Proceeding, establishing the goals for this proceeding. In that order, the Commission established a goal of reducing electric usage by 15% from projected levels by the year 2015. The instituting order did not establish a quantified goal for natural gas efficiency, but rather stated that "targets should also be established and programs designed to optimize the state's efficient use of natural gas."

On June 23, 2008, the Commission issued its Order Establishing Energy Efficiency Portfolio Standard and Approving Programs (June 23, 2008 Order).⁴ The June 23, 2008 Order adopted goals for electric efficiency programs, and specific Megawatt-hour targets and a process for achieving those goals through 2011. It also identified the creation of a natural gas energy efficiency program as an additional issue to be pursued in this proceeding. The June 23, 2008 Order further authorized the creation of a gas system benefit charge, authorized annual collections of \$13,190,693, and required gas utilities to submit program plans to implement residential gas heating ventilation and air-conditioning energy efficiency programs. The June 23 Order also required all electric utilities, and invited the New York State Energy Research and Development Authority (NYSERDA), to submit proposals within 90 days (the "90-day filings") to meet the remainder of the electric efficiency targets

⁴ The procedural history detailed in the EEPS Order includes matters pertaining to the development of natural gas efficiency programs and targets, and is hereby incorporated in this order.

established in that order. In complying with the 90-day filing deadline for electric programs, some parties added gas efficiency proposals and some did not.

On July 3, 2008, the administrative law judges issued a Procedural Ruling Concerning EEPS Design Issues. Among other things, the ruling convened a natural gas efficiency working group (Working Group V). The working group consisted of 35 participants representing a variety of interests, including utilities, environmental groups, industrial customers, consumer representatives, efficiency providers and government entities. The working group conducted numerous meetings and telephone conferences and issued a final report on October 17, 2008 (Working Group Report). On November 3, 2008, a conference of the parties was conducted, during which the results of the working group were presented and were subject to questions.

On December 30, 2008, the administrative law judges issued a Ruling Establishing Comment Process and Schedule Concerning the Report of Working Group V. The ruling articulated two different models for a natural gas efficiency target and program, and invited comments on the models as well as all other aspects of the working group report.⁵ The first model was limited to appliance rebates for residential and small commercial customers, to be administered by utilities at an annual cost of approximately \$135 million. The second model included building envelope programs as well as rebate programs at an approximate annual cost of \$160 million. Comments were submitted by thirteen parties.

On April 20, 2009, the Secretary issued a Notice Requesting Proposals. The primary purpose of this Notice was to

⁵ On December 31, 2008, a Notice of Proposed Rulemaking was published in the *State Register*. Party comments were received on January 30, 2009, replies were received on February 24, 2009 and sur-replies on February 27, 2009.

allow persons that had not filed gas efficiency proposals with their 90-day filings to file such proposals. Proposals for multifamily, low-income multifamily, and large industrial programs were due to be filed by April 30, 2009. Proposals for other types of programs are due to be filed on or before June 5, 2009.

THE WORKING GROUP REPORT

The Working Group Report concluded that there are substantial opportunities for cost effective natural gas efficiency programs in New York. This conclusion is based in large part on the results of a 2006 study commissioned by NYSERDA (the Optimal study) which examined the natural gas efficiency potential in New York State over a period from 2007-2016.

The Optimal study concluded that if all economic potential for gas efficiency were exploited, total consumption could be reduced by 28.3% below forecasted load for 2016. The study acknowledged that not all economic efficiency is practical to achieve through program initiatives, and found that the "maximum achievable potential," taking into account market barriers and penetration rates of efficiency programs, was an 18% reduction in consumption over a ten-year period, in addition to any gains to be obtained from improvements in building codes and appliance and equipment efficiency standards. The Optimal study also analyzed a program scenario assuming \$80 million in

annual funding and found that this would achieve a 2.8% reduction in usage in the tenth year.⁶

The Working Group developed an analytical tool to allow the Commission to identify the gap between what is currently being achieved and what could be achieved at various higher levels of spending.

The Working Group Report contains nine specific recommendations. These are summarized as follows:

1. There are real opportunities for cost effective gas efficiency savings in New York.
2. The Commission should rely on the natural gas forecast contained in the State Energy Plan that is being prepared.
3. The Commission's goals with respect to natural gas efficiency should take into account that increased gas usage may be beneficial in many respects.
4. The Commission should establish a process that requests utilities, NYSERDA, and third parties to submit program proposals.
5. Natural gas efficiency programs should be accompanied by rigorous monitoring and evaluation.
6. The model developed for establishing goals should be supplemented as specific programs are identified for approval.
7. Efficiency programs should be periodically reviewed and their effectiveness should be assessed in light of new developments.
8. Program development should recognize the diversity of natural gas markets across the State.
9. Interruptible gas customers should be exempt from participation in the near term, but methods of including them should continue to be examined.

⁶ The 2006 Study initially found that \$80 million in spending for five years would result in 1.4% reduction in usage by 2016. An update to that study in early 2008 showed that ten years of spending at \$80 million would result in savings of 2.8% at the end of the ten years.

SUMMARY OF PARTIES' COMMENTS

Comments were submitted by thirteen parties. Replies were submitted by nine parties, with a supplemental filing submitted by Joint Utilities. A summary of each party's comments is provided in Appendix 1.

Several themes emerge from the parties' comments, reflecting near-consensus on some issues and great divergence on others. Generally, parties agree that integrated gas and electric programs hold the most potential for cost-effective and comprehensive savings. On the other hand, it may not be practical to deliver integrated programs in non-combination service territories; and integrated programs may result in inequities if gas customers are funding programs that benefit oil and propane customers.

Almost all parties support inclusion of building envelope programs in order to obtain more comprehensive usage reductions; however, concern is expressed as to whether such programs can be initiated by the proposed November, 2009 starting date. Many parties caution that building envelope programs will result in inequities unless they are restricted to gas customers.

Regarding the establishment of a goal, most parties are of the opinion that a usage-per-customer goal would be cumbersome to implement and of limited value. Instead, reduction targets should be established with respect to reasonable rate impacts or achievable cost-effective savings.

A majority of parties argue that the Optimal Study provides a reasonable basis for establishing a natural gas efficiency program, because it is the most comprehensive evaluation of efficiency potential that has been performed in New York. Some oppose this conclusion, arguing that the study

is outdated in light of changed economic circumstances, or that its assumptions have not been fully examined.

The issue of a funding level is directly tied to the issue of a reduction goal. Some parties argue that \$100 million per year is an adequate funding level; others support \$160 million per year; others do not specify a funding level but state that it should be determined by an assessment of how much cost-effective efficiency can be supported. Several parties state that funding for a gas efficiency program must be analyzed in the context of other programs that contribute to energy prices, i.e. the System Benefits Charge, Renewable Portfolio Standard, the electric Energy Efficiency Portfolio Standard, and the Regional Greenhouse Gas Initiative.

Most parties support the inclusion of large commercial and industrial customers in the program, because they represent a large portion of potential savings. Some utilities also caution that it would be difficult to distinguish among large and small commercial and industrial (C/I) customers. Some parties argue that large customers should be exempted or, in the alternative, program funding should be allocated so that the amount spent on large C/I customers equals the surcharges contributed by that set of customers.

Almost all parties agree that interruptible customers, in contrast to large firm customers, should be exempt from the surcharge, and from participating in the programs, at the outset. This is due to the fact that interruptible customers' choice of fuel is price sensitive; moreover, many utilities' firm rates reflect imputed revenues from interruptible customers. Several parties argue that interruptible customers should only be exempt during the initial phases of the program, and that a process should be developed to include them.

With respect to eligible end-use technologies, most parties would not restrict eligible technologies without further

examination of costs and benefits. In particular, water heaters using storage tanks, and micro combined heat and power (CHP), receive support from several parties. Staff cautions that micro-CHP can have the effect of increasing gas peak levels, as centralized gas-fired electric generation tends to be dual-fueled and does not present the same load profile at peak times.

Appliance rebate programs provoked a wide range of positions among the parties. Some parties support appliance rebates as the simplest and fastest way to capture opportunities for savings among smaller gas customers. Others argue that rebates alone do not transform markets, and achieve fewer savings than whole-building programs. The utilities argue that incentive levels for rebate programs should be allowed to vary among service territories because of the differences in markets across the state. Oil heat dealers argue that energy efficiency funds should not be available for customers converting from oil to gas heating equipment.

Parties disagreed widely on the question of utility incentives. Disagreement also existed among utilities, some of which expressed concern that incentive mechanisms can be counterproductive or unfair as applied in the context of efficiency programs.

DISCUSSION

PROGRAM GOAL

At the outset, it is essential to note that we are not adopting a policy of reducing the overall usage of natural gas. Rather, we are implementing a policy of encouraging end-uses of gas to be as efficient as they can reasonably be made. Establishing a goal for natural gas efficiency gains must not be done in a way that inhibits increases in the beneficial use of natural gas.

Beneficial increases in gas consumption may result from electric efficiency programs. They may also result from customer conversions from other fuels, or dual-fueled customers increasing their relative usage of gas, or increased use of gas for electric generation. Increased reliance on gas for beneficial purposes supports a need to enhance the efficiency of gas usage, generally, in order to minimize the strain on gas resources that increased end-uses might represent.

The method by which we established efficiency targets for electricity in the June 23, 2008 Order can be used to establish a gas target without inhibiting beneficial increases in gas usage. An efficiency reduction target will be established, based on estimated system-wide usage for a given date, cost-effective reductions achievable by that date, reasonable rate impacts on non-participating customers, and estimated reductions coming from sources other than gas surcharges. The specific target resulting from that exercise is established in terms of billions of cubic feet (Bcf) to be saved. This is consistent with the manner in which electricity reduction targets were established, as a fixed number of megawatt-hours to be saved by 2015.

The Working Group Report presents various scenarios leading to system-wide reductions in estimated usage by 2020. We agree that 2020 is a reasonable reference year. Given that gas efficiency programs are relatively new, and that some programs pursuant to this order are not likely to commence before 2010, achieving ambitious gas reductions by 2015 would require a steep increase in gas surcharges that would be unwise given current economic uncertainties.

For those reasons, we will adopt a target of a fixed number of Bcf to be reduced by the end of 2020. While this target may also be described in terms of a percentage reduction in estimated 2020 gas usage, the target itself is independent of

any changes in gas usage stemming from activities unrelated to the efficiency programs authorized by this Order. In light of the exclusion of interruptible customers from the program at its outset, as discussed below, the target will be established in terms of usage by firm gas customers.

We also adopt a target for programs through the end of 2011. The annual savings under this target differ from the longer term targets, due to the fact that federal stimulus funding available through 2011 will be heavily weighted toward low-income programs. Our near-term target assumes a program balance that is less weighted toward low-income programs than is likely to be needed in the years following 2011.

We find that the Optimal Report provides a reasonable, but not definitive, basis for estimating achievable reductions. It is the most comprehensive assessment of achievable reductions that has been performed in New York, and employs a reasonable methodology. We will, however, make conservative use of the Optimal Report's conclusions. This is in part because the effects of changed economic circumstances and stimulus funding are not fully known, and in part because the portfolio of efficiency programs resulting from this Order and from future implementation orders will not be identical to the reference portfolio used by Optimal.

The Working Group Report presents a "wedge" analysis describing estimated contributions from other sources. We adopt the analysis of the Report with minor modifications, as follows.

The wedge analysis employed in this order assumes cumulative gas reductions from gas surcharge-funded programs extending through 2020, as well as from electric surcharge-funded programs extended through 2020. These reductions are assumed for planning purposes, but they do not represent a commitment of a given level of ratepayer funding for electric and gas efficiency programs through 2020. That would be

premature, in light of the wide range of variables that could affect policy decisions concerning ratepayer-funded efficiency programs between now and 2020. In particular, changes to codes and standards may have a large impact and may reduce the need for ratepayer-funded programs; also, the development of on-bill financing (or another form of financing) may allow for greater reliance on participant-funded efficiency improvements. Conversely, there may be a need for a higher percentage of low-income programs, or other programs with relatively low benefit-cost ratios. Another factor that could affect the total amount of gas surcharges devoted to efficiency programs would be a reevaluation of the System Benefits Charge.

We have also revised the wedge analysis to include estimated savings from federal stimulus funding. In doing so, we assume that stimulus funding will be non-recurring, with the result that the contribution of stimulus funding to annual savings in 2020 is relatively small.

With respect to cost and benefit assumptions, the Working Group Report also presents a variety of program portfolios and savings estimates resulting from those portfolios. For purposes of adopting a target through 2011, we will use cost and savings estimates reflecting a program portfolio consisting of appliance rebate programs, low-income assistance programs, and commercial/industrial (C/I) programs. For purposes of extending program assumptions through 2020, we will use the "medium" program scenario employed by the Working Group.

Given all these considerations, and employing estimates developed in the Working Group Report as amended in this Order, we adopt the following as a gas efficiency target:

Gas usage reductions resulting from gas surcharge-funded programs will be 4.34 Bcf per year through the end of

2011.⁷ In order to meet this target, we estimate that a total of \$130 million will be required annually, collected through a surcharge on firm gas customers, commencing upon approval of individual programs and extending through December, 2011. This total includes sums now being spent on interim programs and "fast track" programs. The net increase in estimated efficiency spending is approximately \$56 million.⁸

The assumed program portfolio underlying this target through 2011 is a mixture of 75% residential programs, of which 20% is allocated to low-income; and 25% commercial/industrial programs, of which 50% is allocated to small commercial and industrial and 50% is allocated to large commercial and industrial. These figures represent the approximate contributions to total surcharges represented by firm customers among these classes. The estimated cost was derived from the benefit/cost estimates underlying the Gas Fast Track Order and from reported benefits and costs of existing commercial and industrial programs. It is important to note that these are not prescriptive formulas but simply represent assumptions used to establish targets. Ultimately, the programs and funding sources we authorize may not conform to these assumptions.

Gas usage reductions resulting from gas surcharge-funded programs are targeted to be 44.04 Bcf annually by the end of 2020. Combined with contributions from other sources, these reductions are estimated to decrease 2020 firm usage by 112.07 Bcf, or 14.7%, independent of any changes in usage that may result from other factors. The analysis of the various

⁷ The dates at which the targeted savings begin will be a function of the program approval process described below.

⁸ The approximate increase of \$56 million includes the increase in collections of \$9.6 million beginning October 1, 2009, as currently scheduled for the third year of Con Edison's interim program.

"wedges" contributing to the total reduction by 2020 is provided in Appendix 2.

The long-range target assumes a program mix more heavily weighted toward low-income customers and a resulting annual reduction of 3.45 Bcf. We emphasize that the target established for 2020 will be used for planning purposes but does not represent a commitment of funding at that level, taking into consideration the numerous factors that could affect the cost of, or need for, gas efficiency programs in the years following 2011.

For purposes of eligibility and surcharge contributions, we will maintain the distinction that was drawn in the June 23, 2008 Order, that gas companies with more than 14,000 customers will be eligible to participate and to collect surcharges.⁹ For smaller companies, at this time, administrative costs outweigh the benefits of participation.

PROGRAM ELEMENTS

In the June 23, 2008 Order, we articulated a policy that favors balanced energy efficiency portfolios. In authorizing a program portfolio for gas efficiency, we will maintain the policy that favors balance, while taking into account a number of factors that influence the optimal mix of gas surcharge-funded programs through 2011: the influx of federal stimulus funds into low-income programs; the availability to NYSERDA of discretionary funds under both the ARRA stimulus funding and the sale of allowances from the Regional Greenhouse Gas Initiative (RGGI); the argument that gas efficiency does not produce system wide savings for all

⁹ At this time eligible utilities are invited, but not required, to submit proposals. The smaller among the eligible utilities may find that relatively high administrative costs outweigh program benefits; these utilities, however, are not precluded from submitting proposals in cooperation with NYSERDA or other utilities.

customers to the same extent that electric efficiency does; the need to avoid subsidies by gas customers of oil and propane customers; and the need for timely and straightforward approval and implementation of programs.

We will not delineate a program portfolio in this order, but will establish a process for considering proposals that have already been made or that will be made pursuant to the April 20, 2009 Notice Requesting Proposals. Our principal reason for taking this approach is to allow for the consideration of gas and electric programs on an integrated basis to the maximum extent possible, and as rapidly as possible. We will, however, articulate policy concerns that should guide the parties and Staff in framing proposals and recommending program portfolios for our approval.

With respect to low-income programs, we have consistently made a priority of funding low-income programs as part of any efficiency portfolio. In 2009, the Department of Housing and Community Renewal (DHCR) has received an allocation of \$394,686,513 in federal stimulus funds to support the Weatherization Assistance Program (WAP), as well as an addition of \$36.9 million in its annual weatherization allowance. This represents a very large increase over the approximately \$62 million allowance dedicated to WAP in the last fiscal year.

The expanded WAP allocation, which must be spent within a limited time period, will tax the capacity of existing contractors and will stimulate the training of new workers in the field.¹⁰ Our primary concern with respect to low-income programs is the potential exhaustion of the federal stimulus funds in the future. The stimulus funding creates an invaluable

¹⁰ This conclusion is supported by the findings of a working group on workforce development, which submitted a report entitled "Working Group VII - Workforce Development and Training Report to the Public Service Commission" on October 17, 2008.

opportunity to expand weatherization programs, but is also likely to increase interest, expectations, and participation among customers and contractors to levels that may be unsustainable after the federal stimulus funds are exhausted. Adding low-income funds at this time, to further increase the number of participating households, would only exacerbate that potential problem. We find it more important to plan now to continue support of low-income programs after 2011.

For that reason, we intend to concentrate funding for low-income programs through 2011 on appliance replacement assistance and on multifamily housing efficiency programs. Because federal rules governing WAP cap the amount that can be spent per household, many weatherization projects are not able to fund replacement of inefficient heating equipment as part of the project. The Assisted Home Performance with Energy Star program, administered by NYSEERDA, is designed to supplement WAP funding to allow households undergoing comprehensive weatherization to also replace their boiler or furnace, where increased efficiency makes the replacement cost-effective. Gas-surge funding for low-income programs may be allocated to this type of a program, but will be restricted to gas heating equipment only.

Use of gas surcharges to support multi-fuel programs creates the potential for cross subsidies of oil and propane customers by gas customers.¹¹ At present, such programs are supported entirely with electric surcharges; this does not

¹¹ A converse equity argument can be made to support the use of gas surcharges to increase the reach of efficiency programs. Where a program is oversubscribed, customers that wish to participate, but are not able to participate due to limited program funding, experience inequity because they have paid a surcharge but are unable to participate. Increasing the funding for such a program, regardless of the funding source, helps alleviate the inequity experienced by those customers.

present the same issue of cross-subsidies because virtually all participating customers are electric customers.

Several parties urge that the equity issue can be resolved by limiting the allocation of gas-funded measures to gas customers. This is simple to accomplish with equipment rebate programs, but more difficult with whole-customer building envelope programs that are co-funded through electric surcharges and serve oil and propane customers. If gas surcharge money for these programs is restricted to gas customers, and electric surcharge money within the same program is then disproportionately allocated to oil and propane customers, a similar cross-subsidy will occur; that is, the gas customers who have paid the electric surcharge will see their electric surcharge payments disproportionately allocated to non-gas customers.

For that reason, multi-fuel programs will only be approved for gas funding with a condition that ratepayer surcharge funds, whether electric or gas, will not be used to support assistance to customers that are not gas customers. This condition can be met either by restricting eligibility to gas customers, or by the program administrator committing to funding a percentage of the program, proportional to the participation of oil and propane customers, from sources other than ratepayer surcharges authorized under this proceeding.

In approving programs benefiting large commercial and industrial customers, we intend that the allocation of gas surcharge funds will reflect the percentage of the surcharge contributed by such customers. In doing so, we vary slightly from our practice with electric-funded programs, in which inter-class and intra-class equity is a goal, but proportional program allocations are not strictly required. Electric efficiency gains produce substantial benefits for all customers by reducing wholesale commodity prices. Because natural gas markets tend to

be regional, individual state programs to reduce natural gas usage are unlikely to produce significant impacts on natural gas prices. Statewide reductions in electric usage can result in more significant reductions of market prices, especially at times of peak usage, benefiting all users of electricity at those times; the same cannot be said for natural gas. For that reason, allocation of gas-funded programs should be more precisely aligned with the customer classes that contribute the surcharge.¹² Considering the likely mix of utility and NYSERDA programs and the regional and interclass variations among them, however, it will not be possible to achieve this goal with complete precision.

Allocating gas surcharge funding to programs serving large multi-fuel customers does not create the type of cross-fuel subsidy concerns that arise from gas-funded programs for smaller customers. In most cases large customers that are dual-fueled will pay interruptible gas rates, and will thereby be ineligible to participate. There is less risk of electric surcharge funds being disproportionately allocated to these interruptible customers, because many large electric customers that are interruptible gas customers are likely to be exempt from electric funded programs as well.

Several utilities comment that rate classifications across the state do not indicate a clear definition of "large" C/I customers. Conversely, the proposed definition of 12,000 decatherms per year does not fit easily into existing rate classifications. We direct each utility to identify a rate classification (or classifications) that encompasses large C/I

¹² We note that more precise allocation among customer classes does not resolve all of the equity issues surrounding efficiency programs. In particular, issues involving historically underserved customer groups including tenants and multifamily housing must be resolved within the residential class.

customers, using as a reference either a usage level reasonably close to 12,000 decatherms per year, or a level distinguishing customers that purchase commodity through an aggregator versus customers that purchase commodity individually, or another reasonable reference that fulfills the policy articulated here.

PROCESS FOR PROPOSAL AND SELECTION OF PROGRAMS

All parties agree that integrated programs, where practical to administer, are generally more effective than electric and gas programs conducted in isolation from each other. Achieving integrated programs in a context where program administrators consist of utilities, NYSERDA, and public authorities, and where gas and electric utilities often have non-combination service territories, is a substantial challenge. In some cases it will not be possible, but in many cases integration of programs will be practical and effective.

The benefits of integrating programs vary with the nature of the programs. For appliance rebate programs, integration allows for more efficient program delivery. The fewer customer contacts required to solicit participation, the lower program costs will be and the higher participation rates are likely to be. This is also true where a rebate may be offered as part of a more comprehensive "whole customer" approach. For industrial process and building design programs applicable to large customers, integration allows more flexibility in making optimal design choices.

We anticipate approving efficiency programs through a sequence of orders that will consider discreet program categories. For example, Notices of Proposed Rulemaking were recently issued with regard to multifamily, multifamily low-income, and large industrial programs.¹³ We will consider

¹³ 08-E-1127SP1, 08-E-1127SP2, New York State Register, April 8, 2009

electric and gas efficiency proposals that are applicable to these categories, and to the extent that we find it efficient and cost-effective, we will authorize programs among those categories on an integrated basis. To the extent it is possible to consider electric-only efficiency programs at an earlier date, we may do so. Additional categories will be considered on a similar basis in further orders.

The requirements for the 90-day filings did not include gas efficiency proposals. Several parties submitted gas efficiency proposals within their 90-day filings, while others did not. In order to place all parties on an even footing with respect to gas efficiency proposals, the Secretary on April 20, 2009 issued a Notice Requesting Proposals, allowing parties that had not submitted gas efficiency proposals to file them, and allowing parties who had submitted gas proposals within 90-day filings to supplement their proposals. The Notice established two separate deadlines, one for proposals related to multifamily, multifamily low-income, and large industrial programs, and a later deadline of June 5, 2009 for other categories. This schedule conforms to our plan to begin by authorizing integrated programs in those three specified categories, and to subsequently authorize programs in other categories.

The gas efficiency proposals received to date, with the addition of proposals that we anticipate receiving on or before June 5, 2009, are likely to comprise a comprehensive set of proposals sufficient to meet the target established in this Order on a cost-effective basis. In the interest of timely program approval, and achieving approval of gas and electric-funded programs on an integrated basis without unduly delaying the approval of electric-funded programs, we do not intend at this time to solicit further gas efficiency program proposals. In the event that the proposals in hand following June 5, 2009

are found not to be adequate, an additional notice requesting proposals may be issued.

Programs authorized pursuant to this process will be funded through December 31, 2011. This is a departure from our preferred practice of funding programs for a minimum of three years. Because many of the programs funded pursuant to this order are expected to be expansions or continuations of existing programs, and because gas funding should be synchronized with electric funding that presently expires in 2011, a somewhat shorter program term is reasonable.

Interim programs that are currently operating pursuant to Commission approval in utility-specific cases will be phased into the comprehensive program established under this order. Interim programs that have a fixed termination date will continue to operate through that date. Interim programs that are operating on an indefinite term and/or pending approval for a further phase of the program, will remain in operation until they are specifically superseded by a subsequent order of the Commission. Such an order might have the effect of continuing the interim program in substance, or might have the effect of terminating the interim program, depending on our analysis of the program proposals before us.

FUNDING ALLOCATIONS

Because the distribution of programs among utilities and NYSERDA will not be known until all programs are authorized, specific funding allocations by utility will not be determined at this time. Programs authorized for NYSERDA will be funded through utility surcharges collected based on the percentage of statewide firm load served by each utility. Programs authorized for individual utilities will be funded through individual utility surcharges.

INTERRUPTIBLE CUSTOMERS

Applying a gas surcharge to interruptible customers could have the effect of causing those customers to increase their use of oil. Moreover, because revenues from interruptible customers are often imputed in rates for the benefit of firm customers, new rate mechanisms would have to be established. For these reasons, interruptible and negotiated rate customers will not contribute to surcharges and will not be eligible to participate in programs at this time. We note, however, that interruptible load represents approximately 16% of total statewide load, and we will continue to consider methods of including interruptible customers in efficiency programs.

REBATE PROGRAMS

Eligible Measures

As reflected in our "fast track" order of April 9, 2009,¹⁴ we have recently completed a review of gas appliance rebate programs and identified several types of programs that are known to be cost-effective. Parties have shown support for other types of potentially eligible equipment, for example micro-CHP. We will not preclude any proposals at this time but will consider all proposed measures based on the best available estimates of benefits and costs.

¹⁴ Cases 08-G-1004, et al., Petition of Orange and Rockland Utilities, Inc. for Approval of an Energy Efficiency Portfolio Standard (EEPS) "Fast Track" Utility-Administered Gas Energy Efficiency Program, Order Approving "Fast Track" Utility Administered Gas Energy Efficiency Programs With Modifications (issued and effective April 9, 2009.)

Eligible Customers

Consistent with the policy we established in the Order adopting an interim program for National Grid,¹⁵ customers converting from oil or propane to gas heating equipment will be eligible for rebates, to encourage them to install more efficient equipment than they otherwise might.¹⁶ To do otherwise would lose opportunities for efficiency gains over the life of the new equipment.

The current absence of such incentives appears to be resulting in substantial lost opportunities. Consolidated Edison and the KeySpan companies report that fewer than 10% of customers converting to gas heating equipment are installing high-efficiency equipment. Because the life cycle of new heating equipment may extend from fifteen to twenty-five years, this represents a very substantial long-term loss of efficiency and presents a compelling reason to extend rebate opportunities to converting customers.

Another consideration is that converting customers will be paying the gas efficiency surcharge, presumably throughout the life of their new equipment. It would be

¹⁵ Case 08-G-0609, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation for Gas Service, Order Adopting an Interim Energy Efficiency Program and Modifying the Joint Proposal (issued and effective September 18, 2008).

¹⁶ This directive will also apply to rebate programs presently being offered on an interim basis. The Motion for Removal of the Prohibition on Offering Rebates to Conversion Customers Installing Gas High-Efficiency Heating Equipment under the Interim Gas Energy Efficiency Programs, filed October 8, 2008 by National Grid on behalf of the KeySpan companies in Cases 06-G-1185 and 06-G-1186, *supra*, is hereby granted, for the reasons stated herein. The Motion, which is more properly denominated a Petition, was the subject of a Notice of Proposed Rulemaking published in the State Register on November 26, 2008 (06-G-1186SA4). Comments were filed by parties regarding that petition, and those comments have been taken into account in reaching this decision.

inequitable to require these customers to pay the surcharge while preventing them from participating at the time they make equipment decisions.

We emphasize that rebates for converting customers, funded through surcharges for efficiency programs, will be limited to the size of rebates available to non-converting customers for the same equipment, which in no event will exceed the differential cost between standard and high-efficiency equipment. As the Oil Heat Institute of Long Island (OHILI) and the New York Oil Heating Association (NYOHA) have stated, some utilities have funds built into their rate plans to encourage fuel conversion. These funds will continue to be used for that purpose, but utilities will not be allowed to use efficiency surcharge funds to market fuel conversions, or to increase the size of efficiency rebates beyond those available to other customers. Utilities that use marketing funds to promote conversions will be required to report, in a manner to be determined by the Director of the Office of Energy Efficiency and the Environment, on the manner and extent to which energy efficiency surcharge funds are expended with respect to conversion customers.

OHILI and NYOHA observe that allowing converting customers to receive rebates would be contrary to prior Commission decisions. Past decisions related to this question were made in utility-specific, negotiated cases. As noted above, we have also authorized rebates for converting customers in a utility-specific case. In this order, we are establishing a comprehensive policy following review of practical experience under the past orders. We find that the avoidance of lost opportunities presents a compelling reason to authorize efficiency rebates for converting customers.

Uniformity of Rebate Levels

Utilities argue that they must have the discretion to determine rebate levels that meet the individual needs of their service territories. Utilities also argue that they must have operational flexibility to change rebate levels while a program is underway, in response to experience gained while administering a program.

A supplemental filing of the utilities demonstrated that equipment costs do not vary widely across the state, while labor costs vary considerably, as do weather and demographic factors.

With respect to differential labor costs, we are not convinced that they are relevant to rebate sizing. Where an appliance is being installed or replaced, the labor cost will not vary significantly based on the relative efficiency of the equipment.¹⁷ The most significant factor will be the difference in price between the standard and high efficiency models. With respect to this factor, there does not appear to be great variance across the state.

Weather and demographics, on the other hand, have more potential to influence the size of rebate needed to induce customer participation. However, in our April 9, 2009 order approving the fast track programs¹⁸ we found that there was no apparent correlation among the varied rebate levels proposed by utilities and potential differences in marketing needs caused by weather or demographics.

An important factor we considered in that order is that merchants and contractors involved in program implementation tend to work across service territory lines.

¹⁷ This may not be true in cases where high-efficiency equipment requires the installation of substantially different venting apparatus.

¹⁸ Cases 08-G-1004 et al, *supra*.

Varied rebate levels create the possibility of confusion among installers and customers and, at a minimum, increase the administrative burden for contractors implementing programs.

For those reasons, with respect to the end-of-life replacement programs approved in the fast track order, we determined that uniform rebate levels would be required. We remain open to the possibility that utilities can demonstrate the need for rebate levels unique to their service territories. In the absence of such a showing, however, we intend to require uniform rebate levels in order to reduce the difficulties of program administration across service territories.

Right-Sizing

Several parties observed that the effectiveness of rebate programs is impaired when oversized equipment is replaced without "right-sizing" or making the equipment consistent with actual customer needs. Oversized equipment that cycles more frequently than is needed will operate with less efficiency than properly sized equipment. Over-sizing can result from contractors seeking to avoid customer complaints, or from the failure to make adjustments in HVAC equipment size after building envelope improvements are made.

Where rebates are offered for emergency replacements, it is impractical to require a reassessment of equipment sizing as a precondition for receiving a rebate. Such a requirement could result in a customer rejecting a rebate and installing less efficient equipment.

In the case of planned replacements, right-sizing is more practical to achieve. An assessment and right-sizing requirement, however, would still present a risk of discouraging customers from participation. In order to strike a balance between optimal results and discouraging participation, we require that any rebate program when applied to replacements on a non-emergency basis must at a minimum provide information to

customers regarding the potential benefits of right-sizing, and must refer customers to any more comprehensive program that would provide an equipment sizing assessment.

In the case of new construction, it is difficult to justify rebates for equipment that is inherently inefficient because it is oversized for the application. Ideally this would be addressed through building codes. Until such time as that occurs, we will not allow rebates for equipment in new construction unless the construction conforms with a comprehensive new construction efficiency program that includes a right-sizing analysis.

UTILITY INCENTIVES

On August 22, 2008 we established policies in our Order Concerning Utility Financial Incentives.¹⁹ These policies were applied to electric efficiency programs but not, at that time, to gas programs. We also noted in the August 22, 2008 order that we were adopting a cautious approach pending greater experience with utility-administered efficiency programs.²⁰

Subsequent experiences with utility program filings, as well as the comments submitted by parties, cause us to alter slightly our approach to utility incentives, as applied to gas efficiency programs.

There is a risk that utility concerns, regarding the potential for incentives or for negative adjustments in the case of failure, may cause - and may already have caused - overly conservative utility estimates of potential program

¹⁹ Case 07-M-0548, Order Concerning Utility Financial Incentives, August 22, 2008 (Incentive Order)

²⁰ The mechanism adopted in the August 22, 2008 order would result in no adjustment if a utility achieves between 70% and 80% of a program target; the maximum positive incentive is earned if 100% of the target is achieved, while the maximum negative adjustment is imposed if 50% of the target is achieved. See Incentive Order at 43.

achievements. This in turn requires the Commission to substitute its judgment regarding reasonable program terms, which to some extent defeats the purpose of incentives.

Utilities were not unanimous in advocating for incentives for gas programs. In keeping with our approach of moving cautiously on utility incentives while gathering experience, we will allow individual utilities to choose not to participate in the incentive mechanism as it applies to gas efficiency programs.

An election not to participate in incentives must be made at the time that programs are submitted for approval. Utilities that have already submitted proposals may elect not to participate in incentives by filing a notice with the Secretary on or before June 5, 2009. Such an election, if made, will also apply to programs authorized in our Gas Fast Track Order.

This approach presents a risk of gaming where integrated gas/electric programs are approved and a utility has opted out of incentives for gas savings. Under such a scenario, a utility would have an incentive to bias its implementation toward electricity savings at the expense of gas savings. For that reason, when a utility has opted out of gas incentives, and an integrated program produces results that are disproportionately weighted toward electric savings, the utility may be required to demonstrate the cause of the disproportionate results, and may be subject to gas revenue adjustments as if the utility had not opted out of gas incentives.

In all other respects, we will apply the incentive mechanisms adopted in the August 22, 2008 order to gas efficiency programs approved subsequent to this order. Utilizing similar reference points of approximately 19 basis points on return on equity and 10% of the estimated program costs, the maximum positive or negative adjustments of \$13

million annually will be applied at the rate of \$3.00 per incremental Mcf.

UTILITY/NYSERDA COOPERATION

Several parties, including Con Edison/O&R and NYSEDA, propose a model in which utility programs and NYSEDA programs provide cross-referral of customers. Where a customer contacts a utility to receive a rebate, the utility will make the customer aware of more comprehensive programs administered by NYSEDA. Conversely, where a customer is in discussions concerning a NYSEDA-administered program, the customer will be made aware of utility-administered rebate programs. We find this to be a reasonable approach and we will require it as a condition for program approval.

SEQRA FINDINGS

By Order issued March 24, 2008, the Commission adopted and approved a Final Generic Environmental Impact Statement (FGEIS.) In the June 23, 2008 Order Establishing Energy Efficiency Portfolio Standard, we analyzed the FGEIS as it applied to electricity and gas efficiency targets and programs. On the basis of the discussion set forth in the June 23, 2008 Order and the FGEIS, we find and certify that: (1) the requirements of the State Environmental Quality Review Act, as implemented by 6 NYCRR Part 617, have been met; and (2) 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 practicable.

The Commission orders:

1. Efficiency programs authorized by the Commission subsequent to the effective date of this Order, and funded through gas surcharges, will be administered in a manner

consistent with the terms of this Order except as otherwise provided by the Commission.

2. The Director of the Office of Energy Efficiency and the Environment will publish, within ninety days of the effective date of this order, reporting requirements for natural gas utilities with respect to their use of energy efficiency surcharge funds to provide rebates or other incentives to customers converting from other fuels to the use of natural gas. Each utility subject to such requirements will file required reports on a timely basis.

3. Natural gas efficiency programs currently being administered pursuant to Cases 07-M-1139, 06-G-1185, 06-G-1186, 07-G-0141, 08-G-0609, and 07-M-1139, *supra*, shall, to the extent applicable, make appliance rebates available to customers converting from other fuels to the use of natural gas.

4. The Petition, filed as a Motion for Removal of the Prohibition on Offering Rebates to Conversion Customers Installing Gas High-Efficiency Heating Equipment under the Interim Gas Energy Efficiency Programs, on October 8, 2008 by National Grid on behalf of the KeySpan companies in Cases 06-G-1185 and 06-G-1186, *supra*, is hereby granted.

5. Any utility may serve notice upon the Secretary on or before June 5, 2009, that it chooses not to be eligible for performance incentives and associated revenue adjustments, with respect to gas efficiency programs, as established in this order.

6. Each utility eligible to participate in natural gas efficiency programs pursuant to this order shall, within sixty days of the effective date of this order, file by letter to the Secretary an identification of rate classifications that encompass large commercial and industrial customers as defined in this order.

7. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary

COMMENTS OF THE PARTIES

Initial comments were received from 13 parties.²¹

National Fuel Gas Distribution Corporation (NFG)

NFG argues that:

1. Its already existing conservation incentive program is an accepted and well-established fixture in the Company's service territory.
2. Efficiency programs should be administered primarily by utilities for their customers, with specific programs administered by others, according to state-wide guidelines.
3. The common assumptions included in the December 30, 2008 ruling are reasonable, provided that they are not utilized to justify major modifications to the Company's existing efficiency program.
4. Energy efficiency programs where the utility is the primary administrator can avoid geographic inequity.
5. Large volume industrial and interruptible customers should be exempted from contributing to the cost of efficiency programs, due to the current economic circumstances, unless it can be demonstrated that usage reductions from small customers will provide price benefits to large customers.
6. Gas consumption by industrial customers may be reduced substantially by a slowdown in economic activity.
7. Because efficiency gains in large industrial customers require significant capital investments, these investments might not be timely when the future of industrial facilities is in doubt.

²¹ Parties submitting comments were: National Fuel Gas Distribution Corporation, NYSEG and RG&E, National Grid on behalf of Niagara Mohawk, Brooklyn Union Gas, KeySpan Gas East Corporations, Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc., Department of Public Service Staff, Pace Energy and Climate Center and Natural Resources Defense Council, The E Cubed Company on behalf of the Joint Supporters, New York Oil Heat Council and the Oil Heat Institute of Long Island, New York State Consumer Protection Board, Multiple Intervenors, New York City Economic Development Corporation, and NYSERDA.

8. Appliance rebates are an effective means of delivering energy efficiency and are the most cost effective and simple to administer. They should be allowed for high-efficiency hot water tanks as well as tankless and instantaneous water heaters, because storage water heaters are more affordable.
9. Building envelope programs produce significant energy savings for low-income participants, but customers who do not qualify under a low-income program may find them prohibitively expensive.
10. Rebate levels should not be standardized across all utilities. Information regarding the most beneficial long-run program design can be achieved by utilities offering diverse features.
11. Subsidized financing methods should be explored in the context of the on-bill financing working group. For purposes of instituting gas efficiency programs, rebates are the most effective form of incentive.
12. Varying incentive levels by customer income presents significant administrative difficulties. Verifying customers' income would cause confusion among administrators and customers.
13. Programs should be selected using the total resource cost test, supplemented by a service territory net benefits factor as well as a societal test reflecting environmental benefits associated with carbon dioxide reductions.
14. Performance incentives for gas utilities managing energy efficiency programs are unnecessary and potentially counterproductive.
15. Independent proposals for program administration can be administered through utility programs.
16. Micro-CHP should be eligible for incentive funding.
17. Adoption of a total statewide budget for gas efficiency should be sensitive to current economic condition and a less-expensive model ought to be preferred even if the ultimate long-term effect of a more costly alternative might be to lower participating customers' bills.
18. The optimal study provides a reasonable basis for initiation of gas efficiency programs, and results of NFG's efficiency programs support the cost benefit conclusions included in the Optimal study.
19. A total statewide funding level of approximately \$103 million would be appropriate and would be consistent with NFG's existing program.

20. Cost allocation inequities can be eliminated if utilities are the administrators of efficiency programs. NFG's program dedicates all of its program funds to NFG customers. There should be a nexus between the customers paying the cost of the programs and the customers directly receiving program benefits.
21. A use-per-customer goal would be difficult to calculate. A much simpler goal would be the expenditure of the energy efficiency budget on effective initiatives.
22. High-load factor customers tend to be served under negotiated rates which cannot be increased for efficiency program costs.
23. Integration of efficiency services between gas and electric may result in lower costs due to economics of scope.
24. Allocation of services can be accomplished by the program vendors, even among utilities with overlapping service territories.
25. The magnitude of the split-incentive problem needs further quantification, through a survey of rebate participants and low-income customers to identify the mix of owner and renters.
26. The use of direct-fired natural gas appliances as an alternative to appliances that use power off the electric grid will substantially reduce greenhouse gas emissions.

New York State Electric & Gas and Rochester Gas & Electric Corp.

NYSEG and RG&E argue as follows:

1. An appliance rebate model is the only option that will allow for program implementation by November 2009. Based on past experience with the timeline for Commission approval of efficiency programs, it would be unrealistic to assume that the more comprehensive program model could be approved and implemented by November 2009.
2. In addition to regulatory approval, a number of utility implementation preparation activities must be completed prior to launching an energy efficiency program. These include: competitive procurement; finalization of budgets, scope and schedules; development of outreach and education and evaluation plans; development of business processes; training; marketing and outreach. These activities cannot be conducted simultaneously, because the level of regulatory review programs creates a risk that the utility's operating decisions and implementation plans will be overturned.

3. In order to achieve a timely implementation of programs, the initiating order should clarify the criteria that the utility plans must meet for program approval; address the sequence of implementation activities and specific regulatory review steps; take workload into consideration when establishing timing expectations; resolve the issue of program uniformity; approve simple, straightforward rebate programs; base SBC surcharges on existing tariff structures; and recognize that programs, in order to be effective, cannot be static.
4. Appliance efficiency programs are cost effective and easy to administer.
5. Rebate levels should not be standardized among utilities. Standardization of rebate levels creates risks including, inflexibility, inability to adapt to changing circumstances, and failure to meet specific regional customer needs. It is not more important to carefully track and explain poor results than it is to actually achieve favorable results. In order for programs to be improved, experiences from different programs should be compared with each other. This will be impossible to accomplish if all programs are identical.
6. Requiring identical programs among the utilities eliminates many of the benefits of utility implementation; if programs are to be uniform throughout the state, they should be implemented by NYSERDA.
7. It is impractical to separate small commercial customers from large commercial customers for purposes of implementing an efficiency program. Only interruptible rate customers and negotiated rate customers should be exempted from contributing to, and participating in, efficiency programs. Creating a new service class solely for purposes of allocating SBC charges would be expensive and complex. Instead, efficiency programs should be developed to benefit all classes of customers that contribute to the programs.
8. Subsidized financing should not be included as an incentive option, until issues surrounding on-bill financing and other financing methods have been resolved in a different forum.
9. Differentiating residential rebates by income level raises implementation issues. Utility access to and management of customer household income data is inappropriate. Rebate levels differentiated by income level will also pose issues for multi-family buildings and building

- owners; the criteria uses to determine income eligibility for a multi-family building will not be clear.
10. The value and legitimacy of incentives and negative adjustments are questionable where utilities are not allowed to make independent program design and customer recruitment decisions.
 11. A cost cap provides the best method of determining program targets. Savings achieved will ultimately be determined by the funding level presented by the cost cap.
 12. Appliance program savings estimates developed in the Tech Market Manual should be analyzed and approved by the evaluation advisory group prior to the approval of new gas efficiency programs.
 13. The recommendation of an appliance-only rebate program is primarily due to the fact that it can be implemented in a timely manner; certain elements of the more comprehensive model should be deferred for later consideration. These include the simultaneous implementation of whole-house and rebate measures by multiple program administrators, and the potential for double counting of savings.
 14. Participation of independent program administrators should be accomplished through a block-bidding program.
 15. The Optimal report should not be used as a basis for establishing target levels. The maximum achievable potential identified by Optimal is greater than achievable potential identified in other reports, and difficult for any suite of programs to successfully capture all achievable potential. The suite of programs suggested in the Optimal study represents a very aggressive program. Finally, the Optimal study needs to be reconciled with the New York standard approach for estimating energy savings from energy efficiency programs prepared for Staff by Tech Market Works.
 16. Gas and electric programs should be integrated to deliver the following benefits: integrated program design; single competitive procurement; outreach and education synergy; one-stop shopping for customers; simplified referrals; quicker implementation and reduced negotiation among different organizations.
 17. For locations where gas and electric delivery services are provided by different investor-owned municipal utilities, or power authorities, it is unrealistic to expect true integration.

18. The Commission should approve an agile program model that will enable utilities to respond to changing circumstances.

National Grid New York

National Grid, representing Niagara Mohawk Power Corporation, Brooklyn Union Gas Company, and KeySpan Gas East Corporation, argues as follows:

1. The Optimal report provides a reasonable basis for an initial funding level of \$100 million annually, with the caveat that the design of suite of programs in the Optimal study may be outdated and has not been subject to sufficient review.
2. Funding level should begin at \$100 million per year and be increased to \$160 million per year over a five-year period. This would be achievable.
3. The appliance-only model allows for relatively quick implementation and immediate measurable savings; it does not however comprehensively address the opportunities to improve customer efficiency and does not address the needs of large commercial and industrial customers.
4. National Grid supports a model that includes a comprehensive portfolio of utility-administered programs.
5. Funding building envelope programs through gas surcharges will create significant customer inequities. These inequities can be avoided by funding building envelope programs through electric SBC charges collected from all electric customers.
6. Establishing gas savings goal in terms of usage per customer is not workable, and would not take into account changing customer behavior, which is a critical element in achieving savings targets. A statewide gas savings target would be a better approach than a use-per-customer savings goal.
7. While interruptible customers should be exempt from funding gas efficiency programs at this time, large firm customers should not be exempt. Large firm customers represent a sizable portion of achievable efficiency savings. The diversity of customer needs in different regions of the state supports variation in program characteristics. In New York City and Long Island, National Grid has over 500 eligible large customers, whereas in upstate New York there are only 38 such eligible customers.

8. Upstate New York contractors have shown much more willingness to participate in the high-efficiency and water heating program; this may be attributable to colder temperatures, longer heating season, higher heating degree days, and differences in contractors' familiarity with high-efficiency equipment, as well as the history of available efficiency programs in each region.
9. Integrating gas and electric efficiency programs provides multiple benefits; in territories not served by a single combination utility, integration can be facilitated by ongoing collaboration.
10. The split-incentive problem can be addressed by using relatively high customer incentives, through social marketing and use of social norms to encourage owners to act, and through green lease programs.
11. A November 1 operational date is reasonable and provides for an orderly transition from interim programs. The transition should allow for no gap of services for customers or trade allies.
12. If a water-heating appliance program is approved, rebates for indirect water heaters attached to forced hot water boilers should be eligible. Energy Star qualifying gas storage water heaters should also be eligible; 2009 is the first year that an Energy Star label will be affixed to storage water heaters, and a national campaign to transform the market to Energy Star water heaters is under way.
13. Subsidized financing is a relatively ineffective form of rebate and most customers prefer a direct rebate over a financing option; both tools, however, should be offered.
14. Differentiating rebate levels by income will be less effective than creating special programs targeted specifically to low-income customers.
15. Incentives for micro-CHP may be effective, if standards can be developed, but only in an environment that allows for net metering.
16. With respect to the eligibility of customers converting from oil to gas appliances: customers converting from oil to gas should be eligible for rebates, in order to prevent lost opportunities for efficiency gains. Recent experience has shown that residential customers converting from oil to gas have only chosen high-efficiency equipment at a 1% rate in New York City and 9% on Long Island.

Central Hudson Gas and Electric Corporation

Central Hudson argues as follows:

1. The Optimal report relies on outdated information, and the propriety of relying on data developed prior to the current economic crisis is questionable. Targets should not be established based on assessments of statewide achievable potential; these studies are less preferable than either studies of individual markets, or actual experience in the markets.
2. Whole-customer billing envelope programs are preferable to an appliance-only model. They provide access to deeper and more comprehensive energy savings, and are more desirable from the consumers' standpoint.
3. A savings-per-customer goal would require considerable effort and administrative costs.
4. Exemption of interruptible on large firm customers is reasonable, based on the assumption that market economics are adequate motivations to induce these customers to make rational decisions.
5. Rebate levels should not be required to be identical on a statewide basis. Standardized programs mandated by the Commission will be less successful than energy efficiency programs developed by utilities operating under a profit incentive.
6. Integrated gas, electric, and low-income programs are superior to any other approach. If integrated programs are difficult to operate in areas not served by combination utilities, that is not an appropriate reason to prevent integrated programs from operating in areas served by combination companies.
7. Attempting to distinguish among income levels and establishing rebates presents substantial administrative difficulties.
8. Program funding must include funding for promotional activities.
9. Utilities are entitled to an opportunity to earn a reasonable level of profits for their efforts in administering efficiency programs.
10. Based on experience in program approvals, it is unlikely that new programs could be operational by November, 2009, unless the review process is made more efficient.

11. It is not clear whether funding for evaluation, outreach and administration will be recovered through a System Benefits charge.

Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.

Consolidated Edison and O&R argue as follows:

1. The Optimal report may serve as a starting point for estimating achievable gas efficiency, but it is not dispositive. Benchmark and detailed comparisons should be established with ongoing gas efficiency programs in the state, and baseline estimates should be updated with current empirical data.
2. Customers should be provided a choice between appliance-based measures or a performance-based whole building program.
3. Utilities should administer appliance rebate measures, while NYSERDA should continue to administer any whole building programs. A customer that approaches the utility for appliance and building envelope measures may decide to pursue a whole building project. That customer would be referred to NYSERDA. Customers inquiring with NYSERDA for a whole building project may decide to seek an appliance-based measure only; that customer would be referred by NYSERDA to the utility.
4. The hybrid model would require the utilities and NYSERDA to collaborate and develop marketing programs and establish referral processes.
5. Utilities should be eligible to receive financial incentives to reward successful implementation of programs.
6. Cross-subsidization issues of building envelope programs can be minimized by restricting eligibility to customers of gas utilities.
7. A per-customer savings goal is not practical; customer usage will vary widely and per customer use has little or no relevance to actual and achieved savings gained in the market.
8. Large firm customers should not be excluded from contributing to, and participating in, gas efficiency programs. In Consolidated Edison's service territory, there are nearly 12,000 firm customers with annual consumption greater than 12,500 decatherms. These include residential apartment buildings and the New York City Housing Authority.

9. With respect to interruptible customers, a pilot should be offered to the interruptible market to determine whether a viable program can be offered in a later phase of this proceeding.
10. Incentive levels should not have to be identical on a statewide basis. Programs should offer rebate levels that reflect differing costs and market dynamics of each service territory. Rebate levels should be graduated to reflect the extent to which appliances exceed standard efficiency ratings.
11. Low-cost financing may be a viable alternative to rebates, but should be addressed in the context of on-bill financing.
12. Rebate levels should be differentiated to allow low-income customers to participate, and a lower total resource cost score should be acceptable for low-income programs.
13. Storage water heaters should be eligible for rebates, as they are very prevalent and their exclusion would be a significant lost opportunity.
14. Inclusion of micro-CHP should be addressed in a different forum where the focus is centered on alternative power production. If CHP is deemed eligible, rigorous monitoring will be required to assure accountability.
15. Gas and electric programs should be integrated whenever possible. Major manufacturers provide products and services across many technology and fuel lines.
16. There are significant synergies for integrated programs at combination utilities, including marketing, implementation and evaluation spending.
17. Utilities sharing service territories on a non-combination basis can work cooperatively to provide energy efficiency programs.
18. There is not sufficient information or experience to recommend a solution to the problem of split incentives at this time.
19. The common assumptions identified in the December 30 Ruling are reasonable; however, the third year of Consolidated Edison's current gas efficiency programs will extend through September 30, 2010, which may be inconsistent with an intended start date of November 1, 2009.
20. With respect to the eligibility of customers converting from oil to gas appliances: fuel conversion marketing programs should remain separate from efficiency programs

except that converting customers should be eligible for efficiency rebates. Recent experience has shown that only 6% of converting customers chose high-efficiency equipment.

Department of Public Service Staff

Staff argues as follows:

1. The reduction target for natural gas should not be a fixed-usage number, because an overall reduction in natural gas usage is not necessarily a good outcome.
2. The two models put forward for comment are not mutually exclusive. Rather than choosing one over the other, a framework should be developed that incorporates the following elements:
 - Ease of implementation.
 - Ease of evaluation and a high level of accountability.
 - Benefits relative to cost, taking into account that appliance rebate programs generally have a higher benefit cost ratio than comprehensive building envelope programs.
 - Equitable cost allocation, meaning that all customer classes that fund energy efficiency programs should have access to measures appropriate for their customer class, and that building envelope programs that may benefit non-gas customers should not be funded by gas customers.
 - Flexible applicability to large customers.
 - Avoidance of unnecessary program duplication.

Multiple Intervenors

Multiple Intervenors argue as follows:

1. New York's retail gas prices are above comparable national averages, particularly for industrial customers.
2. Consideration of gas energy efficiency programs must take this fact into account, and must include analyses of the cumulative impact of new gas surcharges along with other initiatives including the electric EEPs, the Renewable Portfolio Standard, the Regional Greenhouse Gas Initiative.
3. In the midst of a severe economic recession, affordability of these programs must be seriously questioned.

4. The appliance-only model, because it would exclude customers using more than 12,500 decatherms annually, is strongly preferred.
5. The second model, incorporating building envelope programs, fails to distinguish between large commercial and industrial customers and small commercial and industrial customers. Because large commercial and industrial customers have already implemented many energy efficiency projects on their own initiative, any additional projects taken on by these customers will involve unique process-related improvements. Any program to which these customers are required to contribute, must take this into account.
6. A program that includes large commercial and industrial customers would not be opposed by MI if the programs (a) truly are tailored to the needs of large customers; and (b) ensure that the costs recovered from large customers are commensurate with the benefits provided to those customers by targeted efficiency programs. In either event, costs should not be recovered on a volumetric basis due to the disproportionate impact such recovery would have on large customers.
7. It is critical to exempt interruptible customers from any program requirements.
8. A surcharge on interruptible customers based on times during which gas is priced below oil would have no practical effect, because utilities would have to discount their interruptible transportation rates to account for the surcharge.
9. Utilities should not be rewarded with incentives to comply with Commission policy.

Pace Energy and Climate Center and Natural Resources Defense Council

Pace/NRDC argue as follows:

1. The Commission should adopt an energy efficiency portfolio standard for natural gas usage. The standard should be designed to produce a minimum 15% reduction in end-use natural gas usage below forecasted levels in 10 years.
2. The Commission's goal should be to capture all cost-effective efficiency. A target should be established, comparable to the way the electric EEPS target was established, articulated as a percent of future forecast load, without regard to any other factors affecting growth or reduction in usage.

3. The Optimal energy study provides a reasonable basis for the Commission to adopt a minimum 15% natural gas efficiency standard. The Optimal study is the only comprehensive analysis that has been performed on the potential for increased efficiency in New York; it represents the best and most reliable data that exists.
4. Optimal's general conclusions are confirmed by its analysis of a specific program scenario. Although it does not answer every question, complete knowledge should not be a prerequisite for prudent action.
5. Of the two models put forward for comment, the second model is preferable because it includes a building envelope program. Neither approach, however, is preferable to a 15% targeted, performance-based efficiency standard.
6. Residential appliance rebate programs are not among the most cost effective programs available, and are significantly more costly than commercial and industrial programs. Tighter appliance standards for these products would be a more fruitful approach for this market.
7. Appliance rebate programs primarily oriented toward market transformation, rely on consistent statewide messaging and outreach, and are more appropriate for NYSERDA administration than for utility administration.
8. Large customers should not be excluded; the large C&I sector is where some of the greatest potential for gas savings exists, and certainly where the most cost-effective opportunities are.
9. A gas EEPS should be adopted quickly, provided that a push for immediate implementation should not undermine long-term potential for gas savings.
10. The Commission should adopt an implementation strategy similar to the approach it employed in its adoption of an electric EEPS, namely a target of a 15% reduction, and direction to utilities and NYSERDA to submit for review and approval specific gas efficiency programs.
11. Recognizing this will require a significant investment of time, in the interim, the Commission should implement an expanded gas appliance rebate program and a mixed portfolio of cost-effective building envelope programs, similar to those put forward in the second model. This interim program should not be a substitute for a more comprehensive integrated gas efficiency program.

Joint Supporters

Joint Supporters argue as follows:

1. The second model would result in greater natural gas efficiency gains, greater reduction in emissions, and more savings for lower-income participants.
2. Any natural gas efficiency program should include funding for micro-CHP.
3. Guidelines offered in the U.S. EPA Climate Choice Program form the foundation for standards related to size and efficiency of micro-CHP.
4. Micro-CHP would offer significant emission benefits, compared with central generation of electricity and combustion of gas that does not also producing electricity.
5. For every 1,000 installations of a 1.2 kW micro-CHP system, emission reductions would equal the removal of 670 cars from the road.

New York Oil Heat Association, Inc. and Oil Heat Institute of Long Island, Inc.²²

The NYOHA and OHILI argue as follows:

1. Energy efficiency programs designed to upgrade energy efficient use of natural gas appliances should be supported.
2. Energy efficiency funds, however, should not be used for customers converting to natural gas appliances.
3. Some utilities in the state possess large promotional and marketing allowances that can be used to promote energy efficiency upgrades to conversion customers. Utilities should be required to use those funds to promote energy efficiency to conversion customers, rather than funds newly allocated under a natural gas efficiency program.
4. With respect to Consolidated Edison, KeySpan Long Island, and KeySpan New York, the Commission has prohibited use of efficiency funds to provide rebates to conversion customers. This prohibition should be continued.

²² Comments of NYOHA and OHILI in Case 08-G-1008 (Petition of Consolidated Edison Company of New York, Inc. for Approval of an Energy Efficiency Portfolio Standard (EEPS) "Fast Track" Utility-Administered Electric Energy Efficiency Program) and in Cases 06-G-1185 and 06-G-1186 (supra) are considered in this order. Comments of the Keyspan companies and Consolidated Edison in those proceedings are also considered in this order.

New York State Consumer Protection Board

The CPB argues as follows:

1. The Optimal report is a reasonable basis for initiating a portfolio of gas efficiency programs, subject to customer impact and other considerations.
2. The Commission must move forward expeditiously to reduce gas customers' bills and to increase the efficiency of New York's use of fossil fuels.
3. The Optimal reports' programs are based on a total resource cost test; the study used a board array of programs that can be easily tailored to specific identified needs, and comprehensively address each market in the context of its unique characteristics. The Optimal report also estimates the downward pressure on commodity prices from reduced demand.
4. A total funding level of \$160 million per year should be used to support gas efficiency programs, allocated as follows: 30% low income; 30% market rate residential; and 40% commercial.
5. A gas efficiency program should be designed viewing New Yorkers not simply as utility ratepayers, but as consumers facing many issues. Weatherization is labor-intensive activity, and a robust weatherization program will create thousands of jobs; efficient use of natural gas will also improve air-quality and result in reduced medical costs.
6. The Commission should adopt the model that includes whole-building approach. This is particularly important for low-income customers.
7. It may be appropriate to provide greater weight to building envelope programs upstate, and rebate programs downstate, reflecting demographic differences developed by Working Group V.
8. Only natural gas customers should be eligible for benefits under a gas efficiency program; this would reduce any risk of inequities.
9. Integrating gas and electric programs will also reduce issues of cross-subsidization because both electric and gas customers would contribute to the programs and participate in them.
10. Where non-combination utilities exist, utilities can act cooperatively, or NYSEERDA could be assigned to deliver all integrated programs in those areas.
11. A savings goal defined in use-per-customer terms is workable, although it does present difficulties in

measuring usage per customer due to variables that may change over time.

12. Interruptible customers should be excluded from participating in and contributing toward natural gas efficiency programs, but the Commission should continue to examine this issue.
13. If any large firm customers are to be excluded, lower-load factor commercial heating customers should remain included in gas efficiency programs; their inclusion would allow for the greatest reduction during peak load periods.
14. Great diversity in usage patterns across the state identified in the report of Working Group V, indicates that programs should be carefully targeted to achieve maximum savings potential from region to region.
15. The split incentive problem of landlords and tenants must be addressed; however, programs should begin immediately while this problem is explored. One solution that might address the problem of split incentives is the use of on-bill financing; another may be the use of "green leases."

New York City Economic Development Corporation

The City of New York argues as follows:

1. The common assumptions articulated in the ALJ's ruling are reasonable.
2. The second model, integrating utility rebates with building envelope programs, is best calculated to yield the highest overall gains in efficiency; a multi-faceted approach will best serve all the state's ratepayers.
3. The Optimal report provides a reasonable basis of a gas efficiency program, though its conclusions must be adjusted to apply to higher levels of funding; a total budget of \$160 million annually is reasonable.
4. As long as natural gas efficiency programs produce benefits as measured under the TRC test, building envelope programs should not be excluded on the grounds they would create customer inequities.
5. If an inequity exists, it should be addressed by allocating RGGI auction funds to customers using fuels other than natural gas.
6. Customers who convert to natural gas service will become contributors to efficiency programs under applicable gas surcharges.
7. Per-customer savings are a useful metric in approaching efficiency program goals, though more rigorous data

collection and analysis may be needed to use this metric. A per-customer usage target will accommodate an increase in the overall number of natural gas customers, and ensure that gas efficiency funding will correspondingly expand.

8. Interruptible customers need not be included in the efficiency program at this time, but ultimately they should be included. Program applicability should be as inclusive as possible, and a firm schedule should be established to ensure that interruptible customers will be integrated into the efficiency process.
9. Large firm customers should not be excluded from the program, given the fact their substantial gas consumption and the opportunity for large-scale efficiency savings that implies.
10. Integration of gas and electric programs will reduce transaction costs for programs, and is particularly important in the case of retrofit and new construction programs.

New York State Energy Research and Development Authority

NYSERDA argues as follows:

1. The Optimal study provides a reasonable basis for initiating a gas efficiency program.
2. Funding levels will be highly dependent on policy goals and objectives that have yet to be determined.
3. The proposed budgets and customer impacts in NYSERDA's 90-day EEPS proposal, including a whole-building program portfolio, could inform the Commission's decision regarding funding levels.
4. Of the two models presented for comment, the model including whole-building programs would achieve deeper savings levels and is more likely to avoid lost opportunities.
5. Rebate-only programs do not position the market for a self-sustaining efficiency industry; they do result in short term savings.
6. Achievement of aggressive targets will not be accomplished by rebate programs alone.
7. Rebate programs neglect the improvements afforded by whole-building and facilities systems, and often replace systems "in kind," missing a potential opportunity for "right sizing" new equipment.
8. Any potential funding inequities involving building envelope programs can be addressed through program design

- and delivery mechanisms that more accurately reflect the integration of programs addressing all fuels.
9. Exemption of interruptible and large customers will certainly limit the potential for energy savings and result in lost opportunities.
 10. All customers benefit from the system-wide benefits created by energy efficiency programs.
 11. Diversity of housing stock across the state creates significant differences between upstate and downstate needs; and NYSERDA's program design takes these differences into account.
 12. Notwithstanding geographic differences, integrated program designs should be consistent across the state because vendors typically cross multiple utility service territories.
 13. There are many benefits to integrating electric and gas funded programs; these include integration of gas in electric programs, particularly useful in the delivery of whole-building programs.
 14. NYSERDA's experience in administering the Con Edison gas efficiency program underscores the market's preference for integrated programs. Multi-family building owners, with a choice between individual gas measures, or a comprehensive energy reduction plan, opted for the integrated electric/gas offer 96% of the time.
 15. If rebate-only programs are allowed for heating equipment, they should include appropriate requirements for sizing, equipment standards, quality assurance, and contractor certifications.
 16. When a program participant receives an equipment rebate, information regarding additional programs and potential savings should be provided along with appropriate contact information. Conversely, when a customer participates in a whole-building program, the customer should be informed of single equipment replacement options.
 17. The split-incentive problem is not unique to the implementation of natural gas efficiency programs and the implementation of gas efficiency programs should not be delayed pending the resolution of this issue.
 18. Offering integrated programs to a full spectrum of eligible customers has the greatest potential for reducing greenhouse gases.

REPLY COMMENTS

National Fuel Gas

NFG replies as follows:

1. The addition of requirements such as sizing, equipment standards, quality assurance and contractor certifications will make the administration of rebate programs overly burdensome and costly. Such requirements would likely cause confusion among customers and contractors. A simple message is key to effectiveness.
2. Many opportunities to provide rebates for more efficient appliances occur when a decision to buy is made on short notice upon equipment failure.
3. Hot water appliances should not be excluded from eligibility without a thorough analysis of the cost and benefits of such a program.
4. Utilities are better adapted to provide rebate programs than a centralized state authority, because customers are more likely to respond to a utility conservation message.
5. The optimal message to consumers includes the credibility of the utility joined by the state.
6. It may be possible to integrate program administration among non-combination utilities in some territories; within the NFG territory, however, the electric market is Balkanized among numerous investor-owned and municipal electric utilities. Developing coordinated programs in that market would not be practical.

National Grid Companies

National Grid replies as follows:

1. Appliance rebates alone are not sufficiently comprehensive to deliver desired results. Significant opportunities for energy efficiency gains will be lost if the focus of the gas efficiency program is limited to appliance rebates.
2. Although rebate programs might be capable of more rapid implementation, National Grid has been delivering interim gas efficiency programs in its downstate service territories for 16 months.
3. Restricting programs to appliance rebates will be, in effect, cream skimming, and misses an opportunity for "right sizing" of equipment by integrating an appliance replacement with building envelope improvements.

4. Many appliance replacement decisions are made on an emergency basis, in which case it is not usually possible to coordinate the replacements with building envelope measures.
5. Significant customer inequities will be created if gas customers are required to fund building envelope programs through a gas SBC. To avoid such inequities, building envelope programs should be funded from the electric SBC.
6. Determining cost effectiveness on a single fuel basis, reasonable, in theory, but difficult in practice. Such an allocation should be performed at the program level and not required at the project or measure level.
7. Interruptible customers should be exempt because there is no existing mechanism to charge these customers and they are particularly price sensitive.
8. A comprehensive program would combine elements of the two models, so that customers replacing equipment on an emergency basis can take advantage of rebates, while building envelope programs are available to customers that are willing or able to take advantage of them. Building envelope programs need not be administered exclusively by NYSERDA.
9. There is great potential for efficiency improvements among the Company's large customers. If 15% of usage were reduced from 508 eligible large customers, over 33 million therms per year would be saved. This is nearly equal to the annual savings target from model 1 which would exclude large customers.
10. Staff's savings estimates from appliance programs are lower than those contained in the NYSERDA 2006 deemed savings database; further analysis of Staff's assumptions is needed.
11. Rebates should be larger than those proposed by Staff, in order to overcome barriers to customer participation. Rebates can be reduced at a later point, after the market for efficiency products has been stimulated.
12. Low-income customers should not be served by rebate programs, because they are not able to afford even the most inexpensive energy efficiency measures; low-income customers should be served under a program that provides savings at no cost.
13. Uniform statewide savings estimates used by Staff are not consistent with savings experienced in National Grid's programs.

Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.

Con Edison and O&R reply as follows:

1. Within the Con Edison service territory, there are 11,564 large commercial and industrial accounts, nearly 8,000 of which are residential buildings. Excluding these customers would have a major impact on potential savings.
2. The furnace-to-boiler ratio assumed in Staff's analysis is significantly different from that which exists in the Con Edison service territory. Because boiler replacements save fewer therms per unit than furnace replacements, this difference has a serious impact on energy savings potential.
3. In calculating the number of eligible customers, "homes" must be distinguished from "housing units."
4. The definition and allocation method for low-income customers must be more clearly defined.
5. Staff's assumptions regarding the number of gas water heaters sold annually in New York State conflict with figures provided by the Air-Conditioning, Heating and Refrigeration Institute, and require further analysis.
6. The assumption that commercial and industrial customers use twice as much hot water as residential customers requires support.
7. Rebates should not be restricted to replacement of equipment; the new construction market should be included to avoid lost opportunities.
8. Rebate amounts should be varied according to efficiency level and size of equipment.

Community Environmental Center

CEC replies as follows:

1. Whole-building approaches to efficiency are essential to capture meaningful reductions, and exempting large natural gas customers would significantly reduce potential for reductions.

New York Oil Heat Association, Inc. and The Oil Heat Institute of Long Island, Inc.

NYOHA and OHILI reply as follows:

1. It is not accurate to assume that all conversions from oil to natural gas will be automatically environmentally beneficial; low sulfur and ultra-low sulfur products will

soon be the standard for heating oil. Companies should be required to use their existing promotional and marketing budgets to encourage customers to convert fuels.

Pace Energy and Climate Center and Natural Resources Defense Council

Pace/NRDC reply as follows:

1. The Optimal study of efficiency potential is the only comprehensive analysis that has been performed on the potential for increased efficiency in natural gas usage in New York. Although it does not answer all questions, complete knowledge should not be a prerequisite for prudent action.
2. A gas savings goal should be established in the same manner as the electric EEPS targets; the goal should be to achieve significant, verifiable therm savings from programs regardless of how usage shifts going forward.
3. Rather than mandating specific funding levels, the Commission should establish an objective in terms of capturing all cost-effective efficiency savings. Much of this goal can be accomplished through federal stimulus funding.
4. Severe economic conditions should not be an obstacle to energy efficiency programs, because energy efficiency investments provide durable benefits and stimulate economic activity.
5. Rather than prescribing a specific model for programs, the Commission should establish a performance-based reduction target.
6. Appliance efficiency programs are less cost effective than many commercial and industrial programs. The large commercial and industrial sector is where some of the greatest potential for cost-effective gas savings exists.
7. High-efficiency micro-CHP should be included as an eligible measure under a gas efficiency program because it reduces gas usage and reduces emissions.
8. The benefits of consistent rebate levels are more significant than differences among utility territories.
9. Contractors, vendors, and distributors work across service territories, and these components of the up-stream market tend to drive decisions about efficiency.
10. Incremental costs among territories do not vary to such an extent that would warrant different rebate levels, and the primary differences in cost are contractor labor rather

then incremental equipment cost, which is what the rebate is designed to overcome.

11. Gas Networks offers consistent rebates across the New England region.
12. Although deviations from uniform rebate levels should be permitted, a high threshold should be established for demonstrating the need for such deviation.

Department of Public Service Staff

Staff replies as follows:

1. The cooperative arrangement that presently exists between National Fuel Gas and NYSERDA is a potential model for relationships between NYSERDA and other gas utilities; it supports maintaining the current uses of electric funds and using gas-generated funds for the specific goal of upgrading the efficiency of gas equipment.
2. Providing higher rebate levels for low-income customers should not be difficult to administer; LDCs routinely refer customers to low-income programs and to other benefit programs should as HEAP.
3. Multiple Intervenors' analysis of the per-therm cost of Model One fails to recognize that savings will recur annually over periods of approximately 20 years.
4. Ratepayer impacts must be taken into account in establishing a target. A \$160 million per year funding level is not justified, given the current state of the economy, unless the benefit-cost ratios are compelling.
5. Achieving a 15% reduction in gas usage by 2017 could cost as much as \$400 million per year, which would result in unacceptably high bill increases of 5%.
6. Rebate programs provide a suitable opportunity for utilities to participate as program administrators.
7. Low-load factor customers contribute significantly to system peak loads and programs targeted at such customers can delay the need for capacity additions.
8. A 12,000 decatherm per year eligibility cap should be considered illustrative and could be tailored for each utility; rebate programs for smaller customers should not preclude consideration of a customizable program for larger C&I customers.
9. Micro-CHP units could increase gas usage during peak load times for the gas system. Because natural gas burned at central electric generating facilities is interruptible load, it does not cause the same peak load concerns.

10. Parties have had ample opportunity to review the Optimal study and question its input assumptions.
11. The administrative structure designed for New York City, proposed by Pace/NRDC, fails to include Staff and would minimize the role of NYSERDA.
12. Staff's cost and savings assumptions for Model One, provided to parties on January 26, 2009, require revision. The data based on National Grid's KeySpan Long Island ratio of furnaces to boilers are not consistent with projected replacement percentages in the other utilities' 60-day filings.
13. The analysis, performed on a statewide basis, should be reviewed on the basis of specific territories; however, the apparent overall cost effectiveness of the Model One assumptions appears to be reasonable on an aggregate basis.

New York State Consumer Protection Board

CPB replies as follows:

1. Providing integrated electric and gas efficiency programs is difficult from a regulatory perspective, and requires an innovative approach.
2. Staff is correct that the definition of the term "gas appliance" should be broad enough to include any high-efficiency equipment that produces cost-effective savings.
3. Utility performance incentives are reasonable so long as they are included as a cost element in the TRC analysis.
4. The TRC analysis should be adjusted to accommodate low-income customer concerns, regional variations, and a societal test that includes environmental benefits.
5. Although the oil heat industry expresses a legitimate concern, on balance, public policy requires that New Yorkers should be encouraged to use a cleaner heating fuel as efficiently as possible.
6. Varying rebate levels for low-income customers should not be difficult to administer; for many years New York utilities have been administering low-income programs in which contractors participate.
7. Rather than offering higher rebates to low-income customers, a more effective approach is to refer these customers for a more comprehensive range of services.
8. Multiple Intervenors are correct that it would be inefficient and non-productive to attempt a surcharge on interruptible customers whenever gas is priced below oil.

9. CPB's earlier position regarding funding levels is modified to avoid the inequity dilemma; National Grid is correct that a portion of the \$160 million should be raised through an electric surcharge for purposes of building envelope programs.
10. Parties advocating a hybrid approach between the two models are confusing; the second model already represents a hybrid approach.
11. The assertion that only appliance rebates can be operational by November 1, 2009 is incorrect; NYSERDA is already administering relevant whole-building programs supported by the electric surcharge.
12. As evidenced by the number of large customers in Con Edison's service territory, large customer exclusions should be evaluated on a case-by-case basis.
13. Rebate amounts should not need to be identical, but should be determined as part of a collaborative process.

New York State Energy Research and Development Authority

NYSERDA replies as follows:

1. New York City and Con Edison are correct that a process should be developed with the intention of including interruptible customers in efficiency programs.
2. Large customers should be served by customized programs under a systems-based approach.
3. Low interest financing can be a useful vehicle for encouraging efficiency investments for households that are in a position to take on debt responsibly.
4. 33% of participants in the Home Performance with Energy Star Program use low interest financing, with a very low 3% default rate.
5. Over 150 contractors participate in the Home Performance with Energy Star Program statewide, which has served nearly 24,000 households.
6. Tiered rebates are not the best approach to serving low-income customers; they should be directed to comprehensive services available to them at no cost or a reduced cost.
7. There are important regional differences that warrant adjustments in incentive levels and outreach mechanisms.

COMMENTS ON UNIFORM REBATES FOR GAS ENERGY EFFICIENCY PROGRAMS

A joint filing was submitted by Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc., Corning Natural Gas Company, New York State Electric and Gas Corporation, National Fuel Gas Distribution Corporation, The Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc. and Rochester Gas and Electric Corporation (collectively, Joint Utilities). The Joint Utilities, in response to a request from the ALJs, submitted a filing supporting their argument that rebate levels should not be required to uniform across the state. The Joint Utilities argue as follows:

1. New York State's natural gas retail market is highly diverse.
2. Median household incomes and unemployment rates vary widely from county to county, and varying income levels are one of the factors used to design rebate levels and programs.
3. A nationwide cost data analysis showed that residential and commercial labor costs related to construction vary greatly across the state with the highest in Manhattan, the lowest in rural counties, and variations in between. Commercial labor rates in Manhattan, for example, are 94% higher than in Franklin County.
4. Long-term avoided costs of electricity also vary greatly from region to region.
5. Upstate New York contractors have shown more willingness to promote high-efficiency equipment than have contractors in New York City.
6. There are regional differences in equipment needs; downstate demand for hot-water boilers was relatively high compared to furnaces, while the market in upstate New York has demonstrated the opposite.
7. Average use per customer also varies widely with use per customer in Orange and Rockland being 100% higher than use per customer for Consolidated Edison.
8. Consumption characteristics of commercial customers also vary significantly.

9. Climate differences are an extremely important consideration in developing programs. In 2007, heating degree day totals in northern New York were nearly twice the number for New York City, with Buffalo in between; in the areas with lower heating degree days, residents may require higher rebates to induce participation.

APPENDIX 2

Natural Gas Savings Expected, by Wedge

Year	SBC III	Authorities	Codes/Strds	NYSERDA Elec.	DHCR	NYSERDA Stim	On Bill Fin.	\$130 Million	Total
2009	1.318	1.32	0.3	0.8	1.74	0.85		4.34	10.68
2010	1.977	1.99	0.66	1.6	3.48	0.85		8.69	19.25
2011	2.636	2.65	2.62	2.4	3.48	0.85		13.03	27.67
2012	3.295	3.31	5.23	3.2	3.48	0.85		16.48	35.85
2013	3.954	3.97	8.27	4	3.48	0.85		19.92	44.45
2014	4.613	4.63	11.47	4.8	3.48	0.85		23.37	53.22
2015	5.272	5.3	14.85	5.6	3.48	0.85		26.82	62.17
2016	5.931	5.83	19.28	6.4	3.48	0.85		30.26	72.04
2017	6.59	6.41	23.71	7.2	3.48	0.85		33.71	81.95
2018	7.249	7.05	28.13	8	3.48	0.85		37.15	91.92
2019	7.908	7.75	32.56	8.8	3.48	0.85		40.60	101.95
2020	8.567	8.53	36.99	9.6	3.48	0.85		44.04	112.07

Expected 2020 Load:
763.8

% of 2020 Load
14.67%