STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on October 17, 2013

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman

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

ORDER ADDRESSING UTILITY ENERGY EFFICIENCY PORTFOLIO STANDARD PROPOSALS

(Issued and Effective October 23, 2013)

BY THE COMMISSION:

INTRODUCTION

In this order, the Commission (i) approves Niagara Mohawk d/b/a National Grid's (Niagara Mohawk), KeySpan Gas East Corporation d/b/a National Grid's (KEDLI), and Brooklyn Union Gas Company d/b/a National Grid NY's (KEDNY), proposals to terminate certain residential gas and electric programs and reallocate the associated budgets and savings targets to other programs; (ii) denies Niagara Mohawk's proposal for additional funding and savings targets for its residential electric programs, (iii) denies KEDLI's and KEDNY's proposal to remove the size limitations for participation in their multifamily gas programs; and (iv) denies KEDLI and KEDNY authorization to utilize their commercial and industrial programs to serve the common areas of multifamily buildings that exceed multifamily program size limitations.

BACKGROUND

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

On October 25, 2011, among other actions, the Commission reauthorized most of the previously approved EEPS programs,[3] including Niagara Mohawk's and KEDLI/KEDNY's High-Efficiency Heating, Water Heating and Controls (HVAC) programs and KEDLI/KEDNY's multifamily programs for the years 2012 – 2015. Niagara Mohawk's and KEDLI/KEDNY's residential Enhanced Home Sealing Incentive (Home Sealing) programs were authorized

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

[2] Case 08-G-1015, et al., supra, Order Approving "Fast Track" Utility Administered Gas Energy Efficiency Programs with Modifications (issued April 9, 2009); Case 07-M-0548, et al., supra, Order Approving Certain Commercial and Industrial; Residential; and Low-Income Residential Customer Efficiency Programs with Modifications (issued January 4, 2010); Case 08-E-1127, et al., supra, Order Approving Multifamily Energy Efficiency Programs with Modifications (issued July 27, 2009).

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

only through 2012 due to the failure to report savings in either 2010 or 2011, and the companies' Energy Star Products programs were authorized only through 2012 as they had too few measures to run as separate programs. As a condition for continuing those programs during the years 2013 – 2015, the companies were required to file petitions by July 1, 2012.[4] The Commission also directed program administrators to submit any program modifications that would result in substantial impacts on targets and budgets by March 31, 2012.[5] In response, Niagara Mohawk and KEDLI/KEDNY filed petitions on June 8, 2012 proposing substantial modifications to their EEPS residential electric and gas programs and KEDLI/KEDNY filed a petition on May 11, 2012 proposing modifications to their multifamily program.

SUMMARY OF PETITIONS

Residential Programs

Niagara Mohawk's and KEDLI/KEDNY's June 8, 2012 petitions request termination of their gas Enhanced Home Sealing Incentives (Home Sealing) and gas Energy Star Products (Energy Star) programs and reallocation of the budgets and energy savings targets associated with those programs to each company's existing HVAC programs. The companies propose that the expanded HVAC programs continue to offer cost-effective space and water heating units and controls, and incorporate thermostats, which are currently offered in the Energy Star programs. The companies state that additional cost-effective measures will be added to the expanded HVAC programs through the flexibility afforded to EEPS program administrators in past Commission

[4] Funding for the residential gas programs was provided through 2015, subject to review and reallocation, whereas funding for the residential electric programs was provided only through 2012.

[5] Id., p. 12.

orders. Niagara Mohawk, KEDLI and KEDNY claim that the proposed changes will better serve their customers while minimizing marketplace confusion caused by three separate residential gas programs.

Niagara Mohawk's June 8 petition also seeks to terminate the company's electric Home Sealing program and reallocate the 2012 budget and savings targets to the electric Energy Star Products and Recycling program. The 2012 combined annual budgets and targets would apply to the years 2013-2015. The company states that it would also add new cost-effective measures to the expanded electric Energy Star Products and Recycling program.[6]

Multifamily Programs

KEDLI/KEDNY's May 11, 2012 petition requests elimination of the eligibility restriction related to the number of units in a multifamily building. Currently, KEDLI's program is limited to buildings with between 5 and 50 units, while KEDNY's program may serve buildings with 5 to 75 units. The companies claim that the multifamily programs have experienced limited success during the first eighteen months of operation due to a number of factors, including these limitations.[7] KEDLI/KEDNY describe the restrictions as an undue constraint on the programs' performance and customer choice and argue that eliminating the limits would improve the programs. Alternatively, KEDLI/KEDNY propose to serve the common areas of

[6] The existing Energy Star Products program recycles inefficient, currently in-use, second refrigerators and freezers.

[7] The companies claim that other factors such as existing building stock, average natural gas usage per building, the prevalence of steam heating systems, cost-effectiveness of some measures on a stand-alone basis and Technical Manual assumptions have negatively affected the success of the multifamily programs.

multifamily buildings not eligible under the unit restrictions through their commercial and industrial programs.

NOTICE OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking concerning the request for modifications to KEDLI/KEDNY's multifamily programs were published in the State Register on June 6, 2012 [SAPA 07-M-0548SP66 and SAPA 07-M-0548SP67]. The minimum time period for the receipt of comments pursuant to SAPA regarding this notice expired on July 23, 2012.

Notices of Proposed Rulemaking concerning requests for modifications to Niagara Mohawk's, and KEDLI/KEDNY's residential programs were published in the State Register on July 18, 2012 [SAPA 07-M-0548SP69, SAPA 07-M-0548SP70 and SAPA 07-M-0548SP71]. The minimum time period for the receipt of comments pursuant to the State Administrative Procedure Act (SAPA) regarding these notices expired on September 4, 2012.

SUMMARY OF COMMENTS

The New York City Housing Authority (NYCHA) and NYSERDA filed comments in response to KEDLI/KEDNY's proposed modifications to its multifamily gas programs on July 23, 2012 and August 1, 2012, respectively. NYCHA supports KEDLI/KEDNY's proposal to remove the unit number restrictions for the companies' multifamily programs in the greater New York City area. NYCHA comments that the restrictions have limited it, as well as other multifamily building owners, from fully utilizing the benefits of the multifamily programs resulting in missed savings opportunities. NYCHA notes that some of its multi-family buildings have participated in Con Edison's commercial energy efficiency programs and the cost assistance they received allowed for greater energy efficiency improvements than they would have accomplished otherwise. NYCHA acknowledges the programs offered by NYSERDA, but believes the scope of those programs to be limited.

NYSERDA opposes KEDLI/KEDNY's request to serve the common areas of multifamily buildings through its commercial and industrial programs, stating that approval of this request will increase program overlap and customer confusion without commensurate benefits. NYSERDA further states that the Commission should prohibit Program Administrators from serving any part of a multifamily building, including common areas, through any program other than those specifically approved to serve the multifamily sector.

DISCUSSION

Niagara Mohawk's, KEDLI's and KEDNY's proposals to terminate the gas Home Sealing and Energy Star programs and reallocate the budgets and targets to enhanced residential gas HVAC programs are sound and will be approved. Both programs were recommended for termination by Staff in its July 6, 2011 White Paper,[8] for either poor performance or the lack of measures to constitute separate programs. The reallocation of the budget dollars and savings targets will shift resources from lower performing programs to stronger ones and simplify the administration and oversight of the programs for both the companies and Staff.

Similarly, Niagara Mohawk's proposal to terminate its electric Home Sealing program and reallocate the 2012 budget and target into an enhanced electric Energy Star Products and Recycling program is reasonable and will be approved. The company's request for additional funding for program years

[8] Case 07-M-0548, supra, Energy Efficiency Portfolio Standard Program Review White Paper, pp.21-22, (issued July 6, 2011).

2013 – 2015 is denied. Actual expenditures for 2012 indicate that sufficient funding remains from 2012 budgets to fund the enhanced program as proposed through 2015. We will therefore set the 2012 budget for the enhanced Energy Star Products and Recycling program to the approximate level of 2012 expenditures and reallocate the remaining dollars over 2013 – 2015. Targets for 2013 – 2015 are authorized based on the reallocated budgets and a dollar per Megawatt hour (MWh) rate of $420, the rate for the existing Energy Star Products and Recycling program. The attached appendix provides the approved program budgets and savings targets for the consolidated gas programs and the consolidated electric program.

KEDLI/KEDNY’s request to remove the restrictions related to unit number for its multifamily is not approved. Despite the comments of NYCHA, the proposal will increase program overlap and customer confusion without clear corresponding benefits. Similarly, the companies’ request to serve the common areas of multifamily buildings through the companies’ commercial and industrial programs is denied because of the likelihood that such a change will increase customer confusion and program overlap. With regard to NYSERDA’s contention that commercial and industrial incentives to improve common areas are already being provided to multifamily building owners by some Program Administrators, although we do not support using commercial and industrial incentives to improve any areas of multifamily buildings, we are not inclined to take any action at this time that would cause disruption to projects that are in process, and encourage Program Administrators to work together to reach a resolution to this issue for the future.

SEQRA FINDINGS

Pursuant to our responsibilities under the State Environmental Quality Review Act (SEQRA), in conjunction with this order we find that programs modified here are within the overall action previously examined by us in Case 07-M-0548 and will not result in any different environmental impact than that previously examined. In addition, the SEQRA findings of the June 23, 2008 Order in Case 07-M-0548 are incorporated herein by reference and we certify that: (1) the requirements of SEQRA, 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.

CONCLUSION

As discussed above, we approve Niagara Mohawk's and KEDLI/KEDNY's requests to terminate the gas Home Sealing and Energy Star programs and reallocate the program budgets and savings targets to the expanded residential gas HVAC programs. We also approve Niagara Mohawk's request to terminate the electric Home Sealing program and reallocate the program budgets and targets to the expanded electric Energy Star Products and Recycling program, but deny its request for additional funding and savings targets for program years 2013 – 2015. We deny KEDLI/KEDNY's request to remove the caps on the size of buildings eligible for participation in their multifamily program and for authorization to serve the common areas in buildings with greater than 75 units in New York City and greater than 50 units on Long Island with their commercial and industrial programs.

The Commission orders:

1. Niagara Mohawk Power Corporation d/b/a National Grid's (Niagara Mohawk) request to terminate its gas Enhanced Home Sealing Incentives and Energy Star Products programs and reallocate the program budgets and energy savings targets of those programs to its residential gas High-Efficiency Heating, Water Heating and Controls programs is approved, as described in this order and attached Appendix. Niagara Mohawk is directed to reflect the approved modifications in its quarterly revision to its implementation plans due February 15, 2014.

2. Niagara Mohawk's request to terminate its electric Enhanced Home Sealing Incentives program and reallocate the program budgets and savings targets to its electric Energy Star Products and Recycling program is approved, as described in this order and attached Appendix. Niagara Mohawk is directed to reflect the approved modifications in its quarterly revision to its implementation plans due February 15, 2014.

3. Niagara Mohawk's request for additional 2013 – 2015 funding and savings targets for its Energy Star Products and Recycling program is denied.

4. Keyspan Gas East Corporation d/b/a National Grid's (KEDLI) and Brooklyn Union Gas Company d/b/a National Grid NY's (KEDNY) requests to terminate their gas Enhanced Home Sealing Incentives and Energy Star Products programs and reallocate the program budgets and energy savings targets of those programs to their residential High-Efficiency Heating, Water Heating and Controls programs are approved, as described in this order and attached Appendix. KEDLI and KEDNY are directed to reflect the approved modifications in their quarterly revisions to their implementation plans due February 15, 2014.

5. KEDLI’s and KEDNY’s request to remove the caps on the size of buildings eligible to participate in their multifamily program is denied.

6. KEDLI’s and KEDNY’s request for authorization to serve the common areas of multifamily buildings with greater than 75 units in New York City and greater than 50 units on Long Island through their commercial and industrial programs is denied.

7. The Secretary may extend the deadlines set forth in this order upon good cause shown, provided the request for such extension is in writing and filed on a timely basis, which should be on at least one day's notice.

8. This proceeding is continued.

By the Commission

Kathleen H. Burgess
Digitally Signed by Secretary
New York Public Service Commission

KATHLEEN H. BURGESS
Secretary

Approved Electric Program Costs and Savings Targets

Niagara Mohawk

Residential Electric ENERGY STAR Products and Recycling Program

	2012	2013	2014	2015	2012-2015 Total	% of Budget
MWh Target	6,635	4,282	4,282	4,282	19,481	
Program & Administrative Costs	$ 2,649,645	$ 1,710,000	$ 1,710,000	$ 1,710,000	$ 7,779,645	95%
Evaluation/M&V Costs	$ 139,455	$ 90,000	$ 90,000	$ 90,000	$ 409,455	5%
Total	$ 2,789,100	$ 1,800,000	$ 1,800,000	$ 1,800,000	$ 8,189,100	

Approved Gas Program Costs and Savings Targets

Niagara Mohawk

Residential High-Efficiency Heating, Water Heating and Controls Program

	2012	2013	2014	2015	2012-2015 Total	% of Budget
Dth Target	229,538	229,538	229,538	229,538	918,152	
Program & Administrative Costs	$ 5,247,258	$ 5,247,258	$ 5,247,258	$ 5,247,258	$ 20,989,032	95%
Evaluation/M&V Costs	$ 276,171	$ 276,171	$ 276,171	$ 276,171	$ 1,104,684	5%
Total	$ 5,523,429	$ 5,523,429	$ 5,523,429	$ 5,523,429	$ 22,093,716	

KEDLI

Residential High-Efficiency Heating, Water Heating and Controls Program

	2012	2013	2014	2015	2012-2015 Total	% of Budget
Dth Target	55,909	55,909	55,909	55,909	223,636	
Program & Administrative Costs	$ 3,922,596	$ 3,922,596	$ 3,922,596	$ 3,922,596	$ 15,690,384	95%
Evaluation/M&V Costs	$ 206,452	$ 206,452	$ 206,452	$ 206,452	$ 825,808	5%
Total	$ 4,129,048	$ 4,129,048	$ 4,129,048	$ 4,129,048	$ 16,516,192	

KEDNY

Residential High-Efficiency Heating, Water Heating and Controls Program

	2012	2013	2014	2015	2012-2015 Total	% of Budget
Dth Target	64,590	64,590	64,590	64,590	258,360	
Program & Administrative Costs	$ 4,030,396	$ 4,030,396	$ 4,030,396	$ 4,030,396	$ 16,121,584	95%
Evaluation/M&V Costs	$ 212,126	$ 212,126	$ 212,126	$ 212,126	$ 848,504	5%
Total	$ 4,242,522	$ 4,242,522	$ 4,242,522	$ 4,242,522	$ 16,970,088	