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October 15, 2007

Jaclyn A. Brillling, Secretary
New York State Public Service Commission
3 Empire Plaza
Albany, New York 12223-1350

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PUBLIC SERVICE COMMISSION

CASE 07-M-0548 In the Matter of the Proceeding on Motion of the Commission
Regarding an Energy Efficiency Portfolio Standard—Joint
Comments on Staff Preliminary Proposal

Dear Secretary Brillling:

On August 28, 2007, the New York State Department of Public Service (Department) issued for public comment a Staff Preliminary Proposal for Energy Efficiency Program Design and Delivery (Proposal). The Proposal: describes general principles for natural gas and electricity efficiency program design; discusses the current state of energy efficiency delivery practices in New York; identifies new programs and enhancements to existing programs which could be implemented on a “fast track”; addresses questions related to evaluation and monitoring of efficiency gains; discusses the Staff’s thinking for establishing a natural gas efficiency program; and lists ideas for further consideration in appendices.

The Proposal was issued by the Department as the result of the May 16, 2007, New York State Public Service Commission (Commission) Order with regard to designing an Energy Efficiency Portfolio Standard in New York. The Order established an out-year electric efficiency target as set by Governor Eliot Spitzer in an April 2007 speech. In that speech, Governor Spitzer called on New York to reduce its demand for electric power 15 percent from forecasted levels by 2015. Reaching this goal would help New York regain its position as a leader among states in reducing greenhouse gas emissions levels.

We, the undersigned organizations representing public interest environmental organizations, consumer advocates, and public health interests, appreciate the opportunity to comment on the Proposal. General comments on the overall document are provided, as well as specific comments on the section of the report that identifies potential new programs and enhancements to existing programs that could be implemented on a “fast track.”

1. Introduction

Generally speaking, the undersigned organizations support, and have supported, efforts to enhance and expand current electric efficiency and to develop natural gas efficiency programs.

Electricity demand continues to grow, with consumption projected to increase by approximately 1.3 percent through 2015.¹ Building large-scale hydroelectric projects and new nuclear facilities, and siting even the cleanest fossil fuel-fired power plants to meet rising electricity demand raise many serious environmental, public health, and safety concerns. The lack of sustainable supply-side alternatives means that energy efficiency and renewable energy must play a critical role in our energy future.

Our organizations have consistently advocated expanding New York's investment in energy efficiency. Most recently, in the matter of continuing the System Benefit Charge III (SBC) and System Benefit Charge Funded Programs (Case 05-M-0090), a larger coalition of groups, of which the undersigned groups were a part, argued that the proposal to reauthorize the SBC under consideration in 2005 did "not go far enough to capture the opportunities for, and benefits of, cost effective energy efficiency in New York."² We believed then that New York's investment in energy efficiency was significantly lower on a per capita basis than those of other states; that based on research conducted for the Renewable Portfolio Standard (RPS) proceeding six out of seven kilowatts of cost-effective energy efficiency went unrealized; and that the current SBC framework invested too large a portion of available funds in demand response programs that do not result in long-lived energy savings. At that time, we also argued that the Commission should implement a natural gas SBC.³

These points remain true today. We welcome this renewed attention to energy efficiency and appreciate the leadership exercised by the Department and the Spitzer Administration related to this effort.

2. General Comments

We concur with the Proposal that developing this initiative should begin by expanding existing programs that are most effective.⁴ However, new programs involving new implementers should be entered into cautiously. It is our understanding, based on contacts with New York State Energy Research & Development (NYSERDA) staff, that most current electric efficiency programs are oversubscribed. Adding new fast-tracked programs administered by groups other than NYSERDA could cause confusion and redundancies, and may also jeopardize the long-term success of this initiative.

Updating building codes and appliance efficiency and equipment standards also holds vast potential for achieving energy savings. Revising these codes and standards, ensuring their enforcement at the local level, and issuing standards for products already required by law, while outside the scope of the Department's authority, should be discussed in cooperation with the New York State Department of State.

¹ 2007 Load & Capacity Data, Page 4. New York Independent System Operator.

² Response of the Clean Energy Advocates to the Staff Proposal for the Extension of the System Benefit Charge (SBC) and the SBC-Funded Public Benefit Programs. Case 05-M-0090. October 17, 2005.

³ Ibid.

⁴ Staff Proposal, Page 6.

We are also encouraged that the Proposal recognizes that this proceeding is—at its core—a greenhouse gas reduction program. As Governor Spitzer remarked in his April 2007 energy policy speech, by moving forward with core elements of this plan “we are implementing a practical strategy that will lower energy bills, *address climate change* and create jobs.”⁵ Therefore, as a practical matter programs that may result in fuel switching that increase certain fuel uses, such as natural gas or even electricity, should not be dismissed if they also result in greenhouse gas emissions reductions.

Additionally, we are encouraged that the Proposal includes initiatives that move beyond market transformation strategies and provide direct incentives to consumers. As the Proposal notes, other states, most notably California and New Jersey, have had success with various rebate programs and other forms of direct incentives.

3. Funding Mechanisms

We continue to support a small non-bypassable charge on natural gas use for residential, commercial and industrial end users. We recommend setting a natural gas goal similar to that which has been established for electric efficiency. Based on the Optimal study as referenced in the Proposal, the 15 percent reduction by 2015 would seem to be a reasonable starting point.

As part of a long-term strategy, another option to create parity in the market place, while decreasing pollution, is to place a similar fee on oil use. Connecticut recently created an oil efficiency program funded by a per gallon oil surcharge. Setting up a similar program in New York would enhance this regional effort, bring fuel parity in New York, and address a serious source of local and global pollution.

We support the use of proceeds from the auction of emissions allowances to fund further efficiency projects. The draft pre-proposal for a New York State Department of Environmental Conservation (DEC) rulemaking establishing the Regional Greenhouse Gas Initiative in New York has called for the auction of 100 percent of New York’s allocation of allowances and for the proceeds to be spent on energy efficiency and renewable energy programs. The auction of other emissions allowances associated with the recently finalized Clean Air Interstate Rule should be included for this purpose.

Monies raised through emissions auctions may be a long-term solution to this program’s financial needs. In the near term, we encourage the Staff to explore financing options associated with the issuance of authority bonds, or Power Authority of the State of New York voluntary contributions, as a way to leverage funds quickly for energy efficiency projects. The use of uncommitted SBC funds to be reimbursed with emissions allowance revenue should also be explored.

4. Resource Allocation

While the Proposal suggests a total cost range of between \$100 million to \$350 million per year for a combination of enhanced energy efficiency programs and significantly enhanced building codes and appliance efficiency standards⁶, it provides no clear explanation as to how this figure was arrived upon. The Proposal states that Department staff examined the budgets for existing programs, scaled these programs for

⁵“15 x 15: A Clean Energy Strategy for New York” Page 2. Governor Eliot Spitzer. April 19, 2007.

⁶ Staff Proposal, Page 7.

New York using reasonable assumptions, and arrived at budget levels and energy savings targets.⁷

Our understanding is that the detailed benefit/cost tables provided in the appendices included assumptions related to direct program operator and administrative costs. Costs to the *operator* (i.e. NYSERDA) should be highlighted to inform the question of how much public support to dedicate to each program. Analysis and review of the fast-track programs is incomplete without a discussion of the relative resources devoted to each program area. The detailed and summary tables should be made available electronically on the Department's website for further analysis.

5. Comments on Specific Fast-Track Proposals

Low- Income Weatherization Assistance and EmPower Programs

The Proposal recognizes the importance of greater investment in programs to benefit low-income New Yorkers. We have argued in the past that electric energy efficiency programs targeting low-income households are severely under-funded.⁸ While we recognize that experience with programs targeting commercial end-users provides the highest rates of energy savings, the Order initiating this proceeding clearly states that the Commission is charged with:

Developing energy efficiency programs to ensure all New Yorkers, especially those with low incomes, have the opportunity to benefit from lower bills resulting from lowered usage and consider environmental justice concerns in program design.⁹

Low-income families spend a larger portion of their total income on energy than other families. Programs run by the New York State Division of Housing and Community Renewal and NYSERDA should clearly be expanded. Only a small portion of the low-income population has been served by such programs, as the Proposal points out, and there is a long waiting list. Working to expand low-income programs would not only achieve great returns for the state, it would also help those families who will benefit the most from lower utility bills. The expansion of these programs should be a high priority.

Statewide Residential Point of Sale Lighting Program

We are pleased the Department is considering point-of-sale lighting initiatives. This program has a lot of promise and is an excellent candidate for the fast track. The benefit/cost estimate in the Proposal provides evidence of its value. As part of this effort, the Department should work with the DEC to develop a program to collect used compact fluorescent lamps (CFLs), which contain small amounts of mercury.

⁷ Staff Proposal, Page 24.

⁸ Initial Comments of Clean Energy Advocates on Extension and Expansion of System Benefits Charge. Case 05-M-0090. March 3, 2005.

⁹ Order Instituting Proceeding: Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard. Case 07-M-0548. May 16, 2007.

The New York State Legislature introduced three bills in 2007 (A.8641 – Sweeney / S.6124 – Marcellino & S. 6190 – Wright) that would establish efficiency standards for lighting. Much like the new building construction program is intended to take effect in advance of updating statewide building codes, direct consumer rebates or manufacturer buy-downs could achieve real efficiency results before new standards could be required.

New York City Apartment Building Energy Efficiency Program

Programs to improve the energy efficiency of New York City apartments are long overdue. We fully support the inclusion of strong and dynamic programs to this end. The New York City metropolitan area's energy use is growing at a faster rate than other parts of the state. Unfortunately, the residential energy programs that have been offered to consumers to date have not tapped the uniqueness of this part of the residential sector.

For instance, many of the state's programs are geared toward single-family homeowners, or buildings with few units, which can afford to match funds. Yet the Bronx, Brooklyn, Queens and Manhattan all have a higher percentage of people living in poverty and renting in multi-unit dwellings. Developing, funding, and executing efficiency measures that are designed to match the characteristics of New York City will help area residents and business, as well as the state as a whole.

The newness of such a program, while badly needed, is also a reason to proceed with caution. A fast track is probably not the best avenue for creating a unique program with such widespread implications. There are many aspects to consider in order to maximize the program's effectiveness, such as the best administrator and key areas on which to focus.

While the undersigned groups support this program, we place a high priority on getting it right and understand that this requires rigorous deliberation that the fast-track timeline does not allow. However, certain initiatives that can help multi-unit dwellings should be pursued, such as the lighting initiatives that include CFLs and other programs to improve the efficiency in common spaces in buildings, as well as through new construction efforts.

6. Public Accountability

Programs and funding described in the Proposal will require rigorous and transparent accountability. NYSERDA has an advisory board that could be expanded and refocused to better examine these programs. In addition, all administrators should be required to regularly report on their progress in quantifiable numbers and language that the general public can understand. All reports should identify the amount of energy demand reduced in total and in comparison to the market potential and total sector use; the costs of the program in total and in comparison for the average project; the total and proportional amount of funds spent on administration versus program implementation; and other metrics that could be used across the board to judge the effectiveness and success of the programs, while providing full transparency. And all reports should be presented to the Governor, legislature and public for comment on a consistent and regular basis.

7. Program Alphabet Soup

Too often promotional, “educational” and summary materials prepared by state entities use language that is difficult to understand and could be considered “exclusionary” to many New Yorkers.

There is an alphabet soup of acronyms, jargon and terms that may seem simple enough to industry professionals, but are indecipherable to the average household. This is a significant barrier to how many will use the program and how these programs will be viewed by the public. All program administrators and implementers should be required to present all information in plain, easy-to-understand language. This will empower more individuals to partake in the programs. It will also enhance the integrity of the program in the eyes of the public.

The undersigned organizations appreciate the opportunity to submit comments on this matter.

Yours respectfully,

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