

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on April 15, 2010

COMMISSIONER PRESENT:

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

CASE 08-E-1133 - Petition of Niagara Mohawk Power Corporation
for Approval of an Energy Efficiency Portfolio
Standard (EEPS) Utility-Administered Electric
Energy Efficiency Program.

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

ORDER ON REHEARING GRANTING PETITION FOR REHEARING

(Issued and Effective April 19, 2010)

BY THE COMMISSION:

INTRODUCTION

In this order, the Commission grants the relief sought by Niagara Mohawk Power Corporation (Niagara Mohawk) in its August 26, 2009 petition for rehearing of the Commission's July 27, 2009 Order Approving Multifamily Energy Efficiency Programs with Modifications¹ (July Order). In its petition, Niagara Mohawk requests that the Commission permit the inclusion of compact florescent light (CFL) fixtures in its multifamily energy efficiency programs. Upon reconsideration, the Commission grants the relief requested by Niagara Mohawk.

¹ Case 08-E-1133, et al., Energy Efficiency Portfolio Standard (issued July 27, 2009).

BACKGROUND AND SUMMARY

The July Order authorized, with some modifications, Niagara Mohawk's proposed Energy Wise Multifamily gas and electric energy efficiency programs, as well as other multifamily energy efficiency programs. As relevant to Niagara Mohawk's petition for rehearing, the July Order directed that "CFL lighting fixtures should not be included in EEPS programs because this technology could easily become obsolete as LED [light emitting diode] lighting applications become readily available."² As a result, Niagara Mohawk was required to remove CFL lighting fixtures from its Energy Wise program.

On August 25, 2009, Niagara Mohawk filed a Petition for Rehearing requesting the Commission to reconsider the exclusion of CFL fixtures from the list of eligible measures in its multifamily energy efficiency programs. In its petition, Niagara Mohawk states that limitations still exist for LED technology. The petition also references product testing conducted by the United States Department of Energy (U.S. DOE) that suggests LEDs are not yet ready to replace CFLs in fixtures requiring omnidirectional light distribution and that LED manufacturers often overstate their product's performance. Niagara Mohawk further states that although LED replacement lamps are expected to be available in the next few years, the cost of the lamps could remain prohibitive. The company argues that although LED is a promising technology, it is not sufficiently developed or proven to be considered a viable substitute for CFL fixtures at this time.

The Commission has previously considered the issue of CFL eligibility in response to a rehearing petition filed by the

² Case 08-E-1133, et al., Energy Efficiency Portfolio Standard, Order Approving Multifamily Energy Efficiency Programs with Modifications (issued July 27, 2009) at 35.

New York State Energy Research and Development Authority (NYSERDA). In its petition, NYSERDA asserted that LED fixtures are not readily available at the retail level and are limited to low-wattage applications such as down-lights and decorative and task lighting. NYSERDA cited the same U.S. DOE study as Niagara Mohawk does in its petition. In its order responding to NYSERDA's petition, the Commission authorized NYSERDA to include CFL fixtures in its Multifamily Home Performance Program.³

NOTICE OF PROPOSED RULE MAKING

A Notice of Proposed Rulemaking concerning Niagara Mohawk's petition for rehearing was published in the State Register on December 16, 2009 (SAPA 08-E-1133SP1). The minimum time period for the receipt of public comments pursuant to SAPA regarding that notice expired on January 30, 2010. The comments are summarized below.

SUMMARY OF PUBLIC COMMENTS

New York State Electric and Gas and Rochester Gas and Electric (NYSEG/RG&E) filed comments in support of Niagara Mohawk's petition for rehearing, noting the same reasons set forth by Niagara Mohawk in its petition. In addition, NYSEG/RG&E cite the Commission's recent decision to grant relief to NYSERDA and allow CFL fixtures in its Multifamily Performance Program. Moreover, NYSEG/RGE believe that the inclusion of CFL fixtures should be expanded to all utility multifamily programs. In their view, allowing CFL fixtures will strengthen and support the energy savings goals and successful implementation of the multifamily energy efficiency programs.

³ Case 08-E-1132, NYSERDA's Energy Efficiency Portfolio Standard Programs, Order On Rehearing Denying in Part and Granting in Part Petition for Rehearing (issued December 23, 2009).

DISCUSSION

Our rules provide that a rehearing may be sought only on the grounds that the Commission committed an error of law or fact or that new circumstances warrant a different determination (16 NYCRR 3.7[b]). In this instance, Niagara Mohawk alleges a factual misunderstanding as well as new evidence.

The July Order did not allow for the installation of replacement fixtures designed for CFL bulbs because the development of LED lighting application has the potential to render CFL fixtures obsolete. Niagara Mohawk refutes that argument stating that LED technology is not sufficiently developed or proven as a viable substitute for CFL fixtures at this time. In addition, Niagara Mohawk points out that the U.S. DOE's current list of Energy Star qualified residential LED lighting equipment does not include the fixture types commonly installed in multifamily buildings.

As stated in our December 23, 2009 order regarding NYSERDA's petition for rehearing, we now recognize that there is widespread acceptance of a pin-based socket light fixture design that accommodates both CFL and LED bulbs. These pin-based fixtures accommodate multiple types of bulbs, thereby minimizing our concerns about obsolescence or the possibility of bulb replacement with other inefficient screw-based bulbs.

For the reasons given above, we will modify the July Order to allow the inclusion of cost-effective light fixture replacements that are designed to accommodate both CFL and LED bulbs in Niagara Mohawk's Energy Wise program.⁴ We will continue to monitor the development of LED technology and the availability and pricing for comparable LED products.

⁴ In reference to NYSEG/RGE's comments that we should authorize all utility-administered multifamily energy efficiency programs to include CFL fixtures, we have recently solicited comments on this issue. Comments are due May 8, 2010.

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

For the reasons discussed above, the Commission grants the relief Niagara Mohawk has requested in its Petition for Rehearing dated August 26, 2009.

The Commission orders:

1. Niagara Mohawk, d/b/a National Grid is authorized to continue administering its Energy Wise program in the manner approved on July 24, 2009, and as modified herein.
2. Niagara Mohawk shall, within 60 days of the issuance of this order, submit a revised implementation plan incorporating the modifications discussed in this order to the Secretary.
3. The Secretary may extend the deadlines set forth in this order.

4. These proceedings are continued.

By the Commission

(SIGNED)

JACLYN A. BRILLING
Secretary