

**STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE**

Proceeding on Motion of the Commission to
Consider a Clean Energy Fund.

Case 14-M-0094

**INITIAL COMMENTS OF
UTILITY INTERVENTION UNIT**

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INTRODUCTION

In response to the Public Service Commission's ("Commission" or "PSC") Notice Soliciting Comments, the Department of State Utility Intervention Unit ("UIU") submits these initial comments on the New York State Energy Research and Development Authority's ("NYSERDA") Clean Energy Fund (CEF) Information Supplement. The CEF is intended to act as a funding mechanism to support the State's energy goals, without burdening consumers and taxpayers with unnecessary costs. While the UIU believes that the CEF and NYSERDA's Information Supplement will do much to help promote energy efficiency in a manner that would benefit the residential and small commercial consumer sectors, the UIU would like to highlight the following issues for the Commission and NYSERDA to consider before going forward with this proceeding.

COMMENTS

I. Low Income

The UIU commends NYSERDA for its continued commitment to the low-to-moderate ("LMI") income market segment. As stated in the Information Supplement, "If New York State is to meet its ambitious clean energy, environmental, and affordability

goals, it must enhance access to and uptake of renewable and energy efficiency solutions for LMI households and communities.”¹

To address the unique barriers that LMI customers face when evaluating clean energy products and services in the marketplace, NYSERDA, as part of the CEF, proposes to continue many of the current LMI initiatives and also implement some new initiatives.² Current initiatives include the existing EmPower New York program, Assistance Home Performance with Energy Star, and Multifamily Performance Program for both existing and new construction. In addition to these initiatives, NYSERDA also proposes to continue technical assistance and quality assurance tied to these current programs and also continued outreach and education. New initiatives proposed under the Information Supplement for LMI customers include continued financial support for homeowners, renters, and affordable multifamily building owners through a combination of incentives and low-interest financing, greater statewide coordination and alignment of programs with other agencies, and LMI Solar initiatives that increase affordability of solar for LMI customers, including Community Solar opportunities.

The UIU is particularly supportive of NYSERDA’s plan to facilitate greater statewide coordination and alignment of LMI programs with other state agencies, including the Department of Public Service (“DPS”), Homes and Community Renewal (“HCR”) and the Office of Temporary and Disability Assistance (“OTDA”). The UIU has long asserted that greater statewide coordination of these state agencies’ respective programs is essential to better serve the LMI population. With several publicly funded programs serving the same consumer population, redundancies in the administration of these programs often occur; a lack of communication may result in delays or gaps. Improved coordination among the various state agencies would reduce and streamline the administrative costs between the programs.

One of the positive effects that may arise from better state-wide coordination would be the improved leveraging of resources across local, state and federal programs to better serve the LMI community with these clean energy and energy saving initiatives. In the

¹ Information Supplement, p. 81.

² “In addition to the initiatives that will be implemented specifically for the LMI market, NYSERDA expects that the initiatives implemented for the residential and multifamily sectors will have a positive impact on the state’s LMI population.” Information Supplement, p. 82.

recent rate case proceedings of Central Hudson Gas and Electric Corporation (“Central Hudson”) and Orange and Rockland Utilities, Inc. (O&R”), the UIU learned that hundreds of households in these utilities’ service areas who were recipients of the Home Energy Assistance Program (“HEAP”) - and thus eligible for weatherization services - may not have applied for weatherization services due to the lengthy wait list for such assistance. The UIU also learned that EmPower, a state-funded program, does not maintain such waiting lists, and that, in contrast, Homes and Community Renewal’s Weatherization Assistance Program (“WAP”), a federally funded program administered through counties, does maintain waiting lists. It appears that WAP does not work with EmPower to share resources with the goal of eliminating WAP’s waiting lists.

The UIU also became aware of the long delay between the time of notification of a referral to the EmPower program and the time that the assessment verification of services takes place. When a customer receives HEAP benefits, the HEAP grant is issued to their providing utility to apply towards the customer’s bill and consequently, the customer is automatically enrolled in their utility’s low income discount program, whereby the customer receives a monthly discount on their utility bill. Upon being enrolled in the low income discount program, the utility then refers the customer to EmPower. At some point following this referral, EmPower staff contacts the customer to assess what services they may be able to provide the customer. The UIU learned that delays in this process are significant; in particular, one utility has taken 3-4 months to contact a customer following referral to EmPower.

Utilities refer customers in different ways to EmPower. Some refer eligible customers on a monthly basis and others refer on a yearly basis. This variance contributes to a delay in beginning the energy efficiency upgrades. To prevent consumer hardship due to these delays, there should be consistency amongst the utilities regarding the timeframe in which utilities refer customers in their discount programs to EmPower, the nature by which they refer them, and what customer data is included with the referral. NYSERDA can also assist in the process by committing to better communication with the utilities on the referrals they have received, thus reducing duplicative work by EmPower staff. If the referral process can be made more consistent with these recommendations

the program can be administered more timely and efficiently and most importantly, provide services to these customers that are most in need.

II. Residential

The UIU would also suggest a modification to the Information Supplement with respect to residential consumers, which may improve consumer participation in NYSERDA's energy efficiency programs.³ The UIU recognizes NYSERDA's efforts to explore the possibility of developing an online communications platform which will provide customers with their personal energy audit information and may be used as an online planning tool for energy efficiency projects. This proposed tool can be particularly beneficial for homeowners who wish to view their personal home energy audits and better prioritize home improvement projects.

Though there are many benefits to the proposals in the CEF, the UIU is concerned about the lack of consumer protections pertaining to NYSERDA's home energy audits⁴ and the guidelines/rules for Home Performance Contractors,⁵ which are recognized by the Building Performance Institute to provide residential home energy assessments and installations.⁶ While an online planning tool is convenient for consumers to upload their personal energy audit information, there is no known process that will allow a residential customer to transfer their existing home energy audit information to a second contractor, should the residential customer decide to have a different Home Performance Contractor to do the work.

As an example, some Home Performance Contractors have declined to provide home energy quotes to residential consumers who obtain energy audits from another Home Performance Contractor and/or that some Contractors have decided to provide

³ I.e., Home Performance with Energy Star Program; <http://www.nyserda.ny.gov/All-Programs/Home-and-Residents>.

⁴ NYSERDA's Home Energy Assessment application can be found here: <https://www.nyserda.ny.gov/-/media/Files/EERP/Residential/Programs/Existing-Home-Renovations/Energy-Audits/HPwES-Assessment-Application.pdf>.

⁵ NYSERDA's list of Home Performance Contractors can be found here: <https://nyserda.energysavvy.com/contractors/>.

⁶ Work can range from installing a high-efficiency furnace, adding insulation, installing energy-efficient light bulbs, and installing ENERGY STAR certified appliances.

their services only if a new home energy audit was to be performed by them at an additional cost. The UIU has concluded that audit process would be more effective if homeowners who receive a NYSERDA energy audit had the choice to solicit the services of any contractor in NYERDA's Home Performance Contractor list, regardless of whether that contractor had performed the original audit. Similarly, the UIU recommends that homeowners not be charged additional fees for a second or third audit in the event that the homeowner chooses another Home Performance Contractor to perform the energy efficiency work.

In brief, the UIU recommends that consumer protections be incorporated to allow NYSERDA's home energy audits to be universal and transferrable to any identified Home Performance Contractor in a given service territory to provide energy efficiency services to residential customers who seek energy efficiency improvements through NYSERDA's residential programs. With the implementation of proper protections, homeowners be able to avoid being charged twice for an energy audit and will be free to choose any Home Performance Contractor listed in their county after a home energy assessment is complete. Additionally, Home Performance Contractors listed on NYERDA's website that provide services to consumers in a specific county should be required to provide energy efficiency quotes to consumers that have received an energy audit from a different Home Performance Contractor in that county.

Allowing consumers to explore all the options offered by a variety of Home Performance Contractors will serve to reduce customer frustration; increase the number of quotes a consumer receives; encourage price competitiveness and fairness; and provide the opportunity for consumers to review various technologies offered by each contractor.⁷ By creating additional consumer protections for residential consumers, positive customer/consultant relationships may develop and alleviate barriers that effectively prevent consumers from participating in NYSERDA's residential energy efficiency programs.⁸

⁷ There is a range of energy efficient heating systems with a variety of energy efficiency ratings and costs (i.e., Triangle Tube Prestige Excellence Series, Bosch Greenstar Series, Energy Kinetics Accel CS). And, not all contractors offer the same energy efficient technologies and services. https://www.energystar.gov/index.cfm?c=most_efficient_me_boilers.

⁸ The Information Supplement mentions the primary barriers for residential consumers on page 75.

An additional concern with the Information Supplement is that it does not mention how Home Performance Contractors will be monitored or what customer service will be available. It has come to the UIU's attention that contracts provided by Home Performance Contractors lack specific price details and are confusing to homeowners. The UIU suggests that work performed by Home Performance Contractors should be evaluated by a third party to ensure these contractors properly and cost effectively perform projects from start to finish.⁹ To ensure the necessary consumer service and protections are in place, the UIU offers the following suggestions: (1) all contractor work and prices of projects should be monitored and audited by a third party; (2) contractors should be required to offer services at reasonable prices to consumers; (3) specific details of the technologies, energy efficiency savings, and breakdown of costs of the project should be provided to consumers in an easily understandable format prior to the commencement of the project;¹⁰ and (4) a toll free number and email should be clearly marked on the NYSEERDA website and the Home Performance Contractor referral webpage so that customers can provide feedback or submit a complaint.

The UIU commends NYSEERDA's proposal to incorporate home performance project information on Multiple Listing Service (MLS) and to otherwise share this information with real estate agents and prospective buyers.¹¹ The UIU encourages NYSEERDA to work with residential consumers that have already completed energy efficiency projects through NYSEERDA's residential programs and provide energy star ratings to these consumers without any additional cost.

Additionally, the UIU encourages the expansion of NYSEERDA's proposed performance contracting solution called the Guaranteed Energy Savings Performance Contracting ("GESPC"), which is geared towards the commercial sector, to the residential sector.¹² The concept of this program is to allow Energy Service Companies (ESCOs) to guarantee savings from cost-effective energy efficiency measures to commercial end-

⁹ This should include projects that are incomplete.

¹⁰ I.e., detailed breakdown of the cost per square foot of installing insulation in a homeowner's attic, detailed breakdown of energy savings per technology, model number and specs of each technology offered.

¹¹ Information Supplement, p. 77.

¹² Id., pp. 55-56.

users. The UIU believes that this program may also benefit residential consumers who are seeking energy savings and may tie into the proceeding which is evaluating ESCO value added services and changes to the Uniform Business Practices.¹³ As NYERDA is proposing to develop a pilot project in 2016-2018, the UIU requests that residential sector also be incorporated into this pilot.

III. Oversight of Initiatives

NYSERDA is requesting a 10-year authorization to engage in program activities to implement the CEF with two distinct 5-year cycles. The first cycle from 2016-2020 will focus on transitioning from current incentive programs to launching new initiatives for market development and innovation and research.¹⁴ Older programs will be phased out while NYSERDA develops its administrative procedures that include pilot testing initiatives design and assessing its market effectiveness. As part of the pilot testing, NYSERDA will test-measure and adjust frameworks as appropriate to provide guidance for the full implementation of initiatives and apply the same method for monitoring established initiatives.¹⁵ These initiatives and testing approaches are expected to mature during the second 5-year cycle from 2021-2025 to the point where incentives programs, with the exception of low-to-moderate income programs, are no longer needed. NYSERDA also requests flexibility in moving funding between initiatives in a portfolio and among portfolios so that it can respond to evidence based on the test-measure and adjust process and to changes in the market.

In the past, NYSERDA had been required to request approval from DPS to adjust program structure and/or funding which would require months of developing proposals and awaiting approval; however, at this time, NYSERDA is asking for the flexibility to be responsive to market developments and to avoid missing opportunities. The UIU

¹³ Case 12-M-0476. On February 25, 2014, the Commission issued the Order Taking Actions to Improve the Residential and Small Nonresidential Retail Access Markets. The Orders goal was to modify the Uniform Business Practices (UBP) and the structure of retail access to address concerns with respect to the provision of competitive service to residential and small-non-residential customers.

<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=41126>

¹⁴ Information Supplement, p. 169.

¹⁵ *Id.*, 149.

appreciates NYSERDA's position regarding the need for flexibility, but would like to ensure robust public engagement and feedback. Accordingly, the UIU recommends that the review process be clarified, especially in light of such an extended authorization time horizon. Also, UIU recommends greater stakeholder participation as discussed further below.

IV. Stakeholder Participation

NYSERDA recommends forming two new Advisory Groups, one for the Market Development portfolio and another for the Innovation and Research portfolio. Members of these advisory groups are expected to be "national experts in clean energy markets, technology research and development, consumer trend, and policy and program best practices, as well as New York based expertise about local clean energy markets and policy."¹⁶ This structure is comparable to the advisory group structure used in the SBC-funded T&MD portfolio. UIU commends this type of structure to provide guidance as the CEF evolves.

Consistent with the intent of REV and the CEF to create broader market and consumer participation, the UIU suggests that in addition to the advisory meetings, NYSERDA hold regular stakeholder/public forum meetings. These meetings could be held annually, perhaps prior to the release of the Investments Plans, and would be an opportunity for NYSERDA to present the status of its initiatives and provide preliminary thoughts on possible changes. This could also be an opportunity for stakeholders to provide feedback and ask questions. The input from these meetings could help inform the Investments Plans before they are finalized for the year.

¹⁶ Information Supplement, p. 13.

V. Coordination of Estimated Savings Among Initiatives

The CEF Informational Supplement notes that the NY-SUN initiative and the NYGB initiative are presented in the supplement to provide a comprehensive overview on the initiatives implemented to achieve State policy goals. Additionally, as part of the REV proceeding, the utilities have submitted energy efficiency transition plans that are intended to propose programs that will be implemented in 2016, with the expectation these programs would continue or be supplanted by alternatives with the full implementation of REV.¹⁷ The CEF Information Supplement proposes that NYSERDA will work with DPS and the utilities to eliminate redundancies in programs and competing offers in the market and that the details will be developed in the Implementation Plan,¹⁸ but the CEF Information Supplement does not discuss how the savings among the NYSERDA's initiatives and/or utilities will be evaluated to avoid double counting. For example, NYSERDA is proposing an initiative to incorporate the value of energy efficiency into a home and an initiative for no and low-cost energy saving tips. A homeowner may respond to the information gained from both of these initiatives and make modifications to its home, but it is unclear from the Supplement how the savings be allocated between the two initiatives.

Each initiative cannot claim full savings from the project if more than one state/utility initiative provided support, otherwise NYSERDA's proposal to test-measure and adjust its programs could be based on distorted data if the savings are not allocated appropriately to the respective programs. Additionally, without adequate accounting of savings, it will be difficult to reflect energy efficiency in long-term statewide forecasts. Therefore, the UIU recommends that the evaluation program described in the CEF Information Supplement clarify the methodology for savings allocation among the numerous initiatives and make clear that multiple counting of benefits will not inadvertently take place.

¹⁷ <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={0B599D87-445B-4197-9815-24C27623A6A0}> at page 72.

¹⁸ Information Supplement, p. 48 and p. 60.

CONCLUSION

For the foregoing reasons, the UIU recommends that the Commission consider the above-mentioned recommendations and concerns in developing its decisions in this proceeding.

Respectfully submitted,

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