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Comments

ACE NY
ALLIANCE FOR CLEAN ENERGY NEW YORK, INC.
Promoting Clean Energy, A Healthy Environment
And A Strong Economy For The Empire State.

Carol E. Murphy
Executive Director

July 11, 2007

Honorable Jaclyn A. Brilling
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Re: Case 07-M-0548 – Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard

INITIAL COMMENTS OF ALLIANCE FOR CLEAN ENERGY NEW YORK (ACE NY)

Dear Secretary Brilling:

The Alliance for Clean Energy New York (ACE NY) hereby submits for filing an original and five copies of its Initial Comments in the above referenced proceeding. Copies of this filing are being served electronically and via U.S. Mail to the active parties in this proceeding.

Please contact the undersigned if you require any further information in connection with this filing.

Respectfully submitted,

Carol E. Murphy

Enc.
Cc: Active Parties

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New York State
Public Service Commission

Proceeding on Motion of the Commission
Regarding a Retail Renewable Portfolio Standard **Case 07-M-0548**

COMMENTS OF THE
ALLIANCE FOR CLEAN ENERGY NEW YORK (ACE NY)[1]
Regarding an Energy Efficiency Portfolio Standard

The Alliance for Clean Energy New York (ACE NY) respectfully submits the following comments on the questions posed by the Department of Public Service (DPS) staff. ACE NY reserves the right to comment more fully and to address questions not addressed here at a later point during this proceeding.

GOALS

1. What approaches hold the greatest potential to contribute to New York achieving the overall target of 15% electricity consumption reduction by 2015? Are there any energy consuming sectors and markets that are currently underserved by the existing available portfolio of energy efficiency programs and services in New York State? How should those deficiencies be addressed in implementation initiatives?

ACE NY fully supports the goal of reducing electric consumption by 15% by 2015. Given this target is aggressive, we believe all sectors will need to contribute substantially in order to reach the goal. In addition, as discussed more fully below, market forces can be used to guide investment in order to achieve the greatest rate of return. Therefore, the Commission should establish broad policies and funding mechanisms but should allow consultants and participating businesses providing energy savings services to determine the best mechanisms for implementation. Lessons learned from elsewhere could be instrumental, as several other states have efficiency standards or goals and/or aggressive public benefit funds.

However, it is also true that New York can use its substantial experience with efficiency programs to date to inform this next phase of support for increased efficiency statewide. NYSERDA has sponsored a number of studies on possible efficiency gains by market and sector; these should be used as guides with no need to "reinvent the wheel." Early indications of where additional gains can be had immediately are in those programs

[1] The Alliance for Clean Energy New York's mission is to promote the use of clean, renewable electricity technologies and energy efficiency in New York State, in order to increase energy diversity and security, boost economic development, improve public health, and reduce air pollution.

currently run by NYSERDA where demand outstrips the currently available NYSERDA funding. In addition, also discussed elsewhere in these comments, investments in efficiency measures may very well be most effective – in terms of easy implementation, amount of energy savings and cost effectiveness – on a larger scale such as commercial and industrial applications. But residential efficiency must also be pursued aggressively in order to provide "returns" to the most people and to help build public understanding and support for energy conservation.

2. What is a reasonable goal for natural gas energy efficiency programs?

No comment at this time.

3. What are the most appropriate methods and processes for establishing program specific goals and for measuring progress towards long term goals (including program monitoring, measurement, and evaluation)?

The Commission should provide an overall state goal, but individual program goals for particular sectors and efficiency technologies or standards should be determined and developed by the program administrators with guidance from the Commission and NYSERDA. The 2003 NYSERDA analysis of energy efficiency and renewable resource development can serve as a good starting point.[2]

The Commission should allow program administrators flexibility in developing programs and shifting resources among programs over time. This flexibility will enable the allocation of resources to shift over time and to respond more quickly to newly identified opportunities – or failures. ACE NY believes that the Commission also should provide some guidance and oversight to ensure that the distribution of resources balances the need to achieve the greatest gains in efficiency with ensuring a reasonably equitable distribution of resources (geographic, demographic and sectoral).

The progress in meeting interim and final goals must be monitored on a consistent and on-going basis. The findings should be used to inform decision-making such that program delivery improves with time. Needless to say, monitoring and evaluation should be unbiased and transparent and based on clear methods and assumptions.

4. What load forecasting models and methodologies should be used in developing and refining the objectives of the EPS Proceeding?

No comment at this time, other than baseline discussion in Question 5 below.

5. What other national, state, and municipal government and private initiatives would help New York meet the objectives of the EPS Proceeding? In what ways can we leverage the impact of these initiatives to help us meet the objectives of the EPS Proceeding? How should the impact of these initiatives be counted and measured?

Existing initiatives that can be clearly identified and are already clearly being implemented should be factored into the baseline used for monitoring progress in meeting

[2] See, http://www.nyserda.org/sep/EE&ERpotentialVolume1.pdf.

goals. However, those initiatives that are expected but may not materialize need not be included in the baseline. Initiatives such as efficiency standards, tax incentives and the proposals in PlanNYC should be leveraged to help meet the EPS objectives. The ultimate goal of decreasing expected energy use by 15% by 2015 is the key. How we achieve that goal is secondary. If the other efforts underway make achieving the goal easier, that is only a plus. To the extent resources are then available to achieve a greater decrease, the Commission can address that in due time.

6. The Commission instituted a pilot natural gas efficiency program within Consolidated Edison Company of New York, Inc.'s (Con Edison) service territory. As part of that pilot program, the Commission directed the New York State Energy Research and Development Authority (NYSERDA) to prepare a study of the natural gas energy efficiency potential within Con Edison's service territory. NYSERDA filed that study on June 22, 2006, and it was then issued for comment. Subsequently, NYSERDA prepared a study entitled "Natural Gas Efficiency Programs Resource Development Potential in New York," which was issued on October 31, 2006 and is available on both the Commission's and NYSERDA's web sites. In considering issues associated with a Con Edison electric efficiency/demand management program, the Commission specified how the total resource cost test should be applied to measure the cost effectiveness of measures under that program. In the statewide study, NYSERDA used a different benefit/cost approach to measure cost effectiveness.

a. Please comment on the appropriateness of the approach used in the statewide study.

b. If a different test of cost effectiveness should be used (i.e., other than the total resource cost test), what test should be adopted and why?

If you have not already commented on this previously, please provide your observations, critiques, and other comments on the data, assumptions, methodologies, and analyses used to develop the estimated potential savings and benefits in the statewide study.

No comment at this time.

PROGRAM ELEMENTS

7. What role should building codes and appliance standards play in reaching New York's energy efficiency goals and should such standards vary by geographical area (i.e., metropolitan New York City versus upstate)?

Building codes and appliance standards should play as large a role as possible in reaching New York's goals. New York should consider strengthening appliance standards, and should pursue this goal by working with other states given the appliance market is national. However, New York and California have shown previously they can impact corporate decision-making and push market changes by acting as leaders in energy savings efforts. In addition, a number of other states are adopting efficiency goals. Markets do respond to demand and New York should ensure there is demand for higher efficiency appliances and "greener" buildings. While appliance standards could be developed in conjunction with other states, building codes may need to vary by location. Codes for New York, for example, may very likely need to be different than those of California given differences in climate.

As discussed in the comments of Pace and NRDC, New York could also follow the lead of a number of communities on Long Island in adopting the Federal ENERGY STAR label as a requirement for residential new construction. In addition, New York expects to implement its new commercial energy code in August of this year. This new code is based upon the 2003 IECC with New York amendments. New York should also quickly consider the 2006 IECC standards and should revise the code again within two years. Recent changes in other codes establish far higher levels of energy efficiency in new construction, particularly with regard to lighting efficiency. Therefore, following through on maintaining the latest and most efficient standards will help New York meet its own energy efficiency goals.

8. What role should outreach and education play in an enhanced energy efficiency effort and what changes in approach should be made in various demographic or market segments from the methods now being used?

Outreach and education efforts will be needed to ensure adoption of efficiency measures and to ensure public support for the efficiency programs. A variety of methods should be used to both increase general awareness of energy use and easy-to-implement conservation measures as well as to build support for longer term, more capital-intensive investments. Clearly, different messages will be needed in different communities. In addition, accessing information on any incentives provided must be made easier. Improved web sites and informational brochures will be useful as well as workshops held throughout the state targeting specific subpopulations.

Providers of efficiency services also need to be specifically targeted for outreach efforts. Third party energy managers, technicians, retailers, manufacturers and consultants all need to be able to understand the state programs and need avenues by which they can both participate in and contribute to the development of innovative mechanisms for delivering efficiency services. Therefore, recruitment and training efforts should also involved workshops where advice is solicited from the very sectors expected to provide services. Marketing and business plan development assistance will be needed as well to help service providers reach out to expected customers/consumers.

9. What role could innovative rate design play in enabling greater penetration of energy efficiency and how might this vary by market segment? Should energy tariffs recognize and differentiate between the relative level of energy efficiency designed into new buildings?

Innovative rate designs may be able to encourage some amount of energy efficiency but is unlikely to be able to produce the level of investment needed to reach the state's goals. Rate design to promote efficiency should be used where such rates have been proven effective.

ACE NY has supported "decoupling" of utility profits from volume of energy sold and applauded the recent decision of the Commission to move forward in implementing rate decoupling mechanisms in New York. If decoupling is instituted on a timely basis, utilities will have no reason to oppose efficiency measures. Rate designs that encourage and "reward" utilities supporting efficiency measures may be useful,

however, they should be balanced by the need to also "reward" the ratepayers for energy conservation measures. It will be a difficult, though not impossible, task to explain to ratepayers why they see increased utility bills while they are simultaneously implementing – and paying for – energy efficiency measures. Therefore, costs that are incurred on a volumetric basis should be collected volumetrically through energy charges rather than fixed costs on customer bills.

10. What programmatic and outreach efforts, within and beyond the current scope of the Commission's jurisdiction, that have not been generally considered as energy efficiency programs, should be integrated into overall strategies and plans to reach energy usage reduction targets?

New York's programs to meet the 15% by 2015 goal should be available to all New Yorkers. Therefore, NYPA, LIPA, and municipal utilities should also have programs such as those made available to ratepayers of the major utilities under PSC jurisdiction. In addition, there should be some integration of effort and coordination with other state-level efforts such as Executive Order 111. The Dormitory of the State of New York's (DASNY) role in providing financing and construction services to hospitals, universities and other institutions could also be used to leverage efficiency improvements.

11. Should customers of natural gas utilities served under value of service or market-based rates, such as interruptible customers, be included in the overall efficiency program? If so, what types of programs are appropriate for these customers? In what ways would a natural gas efficiency program affect the oil and propane competitive markets and what steps could be taken to eliminate or minimize such impacts (e.g., limiting the program to non-dual fuel customers)?

No comment at this time.

12. What role should a) distributed generation, b) demand response, and c) combined heat and power play in reaching New York's energy efficiency goals?

All three should be encouraged and widely used. However, it should be noted that distributed generation and combined heat and power (CHP) involve energy use and not just conservation. ACE NY strongly supports development of renewable distributed generation and believes continued State support for adoption is needed. However, that support should come via the Renewable Portfolio proceeding, Executive Order 111 and other initiatives. A strong EPS and a strong RPS are both essential pieces of a comprehensive approach to environmental protection, improved public health and energy security. Demand response that results in actual kwh savings should be eligible for participation in the EPS.

13. How can gas efficiency programs best compliment electric efficiency programs? Similarly, how can electric efficiency programs be adapted to serve the needs of gas customers?

No comment at this time.

IMPLEMENTATION

14. What could be an appropriate role for utilities with respect to the delivery of energy efficiency programs within their service territories? How might that role vary by market segment?

ACE NY believes utilities can play an important role in delivery of energy efficiency services but believes private sector providers of energy efficiency services should be encouraged. Clearly, private sector suppliers for energy supply have been more successful among large users of power versus small-scale and residential customers. That may very well be the case for energy efficiency measures as well, particularly where a broad array of different efficiency measures can be offered to consumers as a package of options. Care should be taken in program implementation to avoid confusing ratepayers/consumers about how and where to gain access to energy efficiency options and financing. Statewide programs and single points of contact are important to increase participation rates, particularly for small and residential customers.

We believe NYSERDA should develop an array of core programs that can be delivered consistently throughout the state. NYSERDA also should serve as a facilitator to ensure good coordination between program administrators and to provide services that require a regional approach. This would include upstream marketing and outreach to distributors, manufacturers, the design community and others. There also should be mechanisms to approve innovative strategies outside of the statewide array of options. Where utilities are capable and willing to aggressively deliver efficiency programs, this can be done. However, they should be well coordinated, and based on the array of initiatives developed for consistent delivery throughout the state.

15. What role should key stakeholders play in an enhanced energy efficiency effort (e.g., Staff, Departments of State and Environmental Conservation, utilities, NYSERDA, Division of Housing and Community Renewal, NYPA, LIPA, NYISO and energy service companies), and how should they coordinate their efforts? What factors should be taken into account in determining how the implementation of various program elements should be managed and monitored?

The New York goal of 15% savings by 2015 should apply to all load-serving entities in the state: regulated utilities, power authorities, and municipal utilities. All of the key stakeholders mentioned above need to be involved directly in program development and delivery to ensure success. We believe coordination and central contacts for information and services are essential, and feel that NYSERDA may be best positioned to engage many of these stakeholders. However, provision also should be

made for energy service companies and others to offer cost effective solutions directly to customers as well, and should be encouraged to do so and still have the savings "count."

16. What role should the private sector (e.g., financing and educational institutions) play in program development and implementation? How should these efforts be coordinated with utility and government entities' programs? Are there additional incentives (or tax relief) that could be provided by Federal, State and Local governments, which would enable greater penetration of energy efficiency initiatives?

The private sector must play a vital role in implementation of efficiency measures in order for the State to meet its goals. Investment in efficiency programs by the State or utilities will be most effective if it is used to leverage investments by customers/ratepayers and others. The private sector will need to provide services, expertise and financing and, therefore, should be engaged in both program development and implementation. The state's role should be to facilitate close coordination among agencies, utilities, efficiency service providers and customers. Tax incentives could also be a very effective tool for encouraging investment in energy efficiency measures and technologies.

17. Should utilities (or other entities) receive incentives for implementing successful energy efficiency programs? If so, what is the appropriate level and form that these incentives should take and should such incentives be performance based?

Incentives should be considered for activities undertaken by utilities and others, and all incentives should be based on performance, i.e. actual results. While decoupling will remove one of the biggest disincentives to utility investment in efficiency, it is not sufficient to provide an adequate incentive for exemplary performance. Incentives should be made available for progress beyond initial goals and be scaled according to the amount of progress made in reaching identifiable targets.

The largest portion of incentives should be based on achieving actual kWh benefits. However, additional goals tied to other criteria should exist. These goals can be used as countervailing influences, to avoid simply focusing on savings at the potential detriment of things like equity, comprehensiveness, etc. Examples could include: targets for low income participation; geographic or demographic equity goals; comprehensive treatment goals (e.g., at least X% savings among new construction participants), etc. Incentives can be annual or multi-year but should not go beyond the level needed to induce participation and results.

Utility efficiency investments should not be rate-based, unless there are mechanisms to vary the utility return on rate base as a condition of performance. Once rate-based under traditional ratemaking, a utility would earn an authorized return even if the programs did not achieve good performance, thereby severing the important tie between performance and earnings.

All incentive earnings should be subject to independent verification of achievements, and not pre-specified based on simply completing certain milestones. For example, if incentives are based on a share of the TRC net benefits captured, actual

determination of utility awards should be done based on ex-post evaluation and estimation of net benefits, not on pre-established formulas. This can avoid gaming, and eliminate perverse incentives that can be created, such as promoting measures that are primarily going to free riders.

18. What are the best methods for ensuring that low income customers have access to efficiency programs?

Low-income consumers, by definition, do not have the financial ability to assume as high a proportion of the overall costs as other consumers. They also may be harder to reach with information on available programs. The State should have dedicated funding for the low income sector and explore innovative outreach strategies for reaching this sector of the population. In some circumstances, full funding of energy efficiency measures may be appropriate.

19. How should environmental justice be considered in program design?

Equity considerations — demographic, sectoral, geographic – are important and should be considered. However, the Commission should not use strict equity criteria (e.g., every segment should get benefits exactly in proportion to funding contributions) to address important statewide social issues and should consider the investments that can increase the overall benefits for the state (e.g., geographic targeting to those areas with T&D constraints that offer the greatest overall benefits).

20. How should existing gas utility efficiency programs, and those under development in rate proceedings, be integrated into an overall energy efficiency effort?

No comment at this time,

21. Are there any modifications or adjustments that could be made in the current Systems Benefit Charge portfolio that would achieve higher levels of energy efficiency market penetration and saturation?

Increased funding could certainly result in much higher levels of energy savings and increased market penetration. Additional funding would allow programs to more aggressively target existing markets, reach out to additional markets that are under served, and offer more generous financial incentives. Administrators and planners should look to best practices throughout the country for strategies to increase savings.

Secondly, SBC programs could potentially benefit from a more holistic approach. Currently there are a large number of distinct programs, which can create "silos" that cause confusion and barriers to good customer service. NYSERDA has been consolidating programs into fewer initiatives targeted to specific markets, rather than services, and it should continue to look for opportunities to streamline program delivery from a consumer perspective. For example, offering a single source for services to existing commercial buildings, rather than say an audit program that is separate from programs with financial services.

Finally, NYSERDA's Energy $mart™ program is driven by a number of objectives beyond kW and kWh savings. For example, some programs have an emphasis on longer-term research and development. It may be worthwhile to reexamine whether the NYSERDA portfolio is appropriately balanced between exploiting near-term savings opportunities and longer-term research and development objectives in light of the 15 X 15 directive.

COSTS AND BENEFITS CALCULATION

22. How should the expected benefits and costs of various design options be measured and compared? What externalities should be included and why? What expenditures or benefits should be characterized as transfer payments and perhaps excluded from the analysis? Why?

ACE NY is limiting its response to this question at this time to the question of so-called externalities. We believe measurements of costs and benefits must include some measure of the environmental and public health benefits of reducing energy consumption. These may at times be difficult to measure or express in monetary terms but they show important and society wide results. Likewise, many of the "costs" of current energy use patterns are poorly reflected in prices such that the overall net benefits from conservation is underestimated.

23. What are the best methods for ensuring transparent and technically sound methods for evaluation of program energy savings (gross and net), non-energy benefits (e.g., economic, environmental) and program performance and administration?

There are a number of well-respected methods to estimate impacts and effectiveness but the precise methods used should be determined at a later date. In any case, New York should develop a single set of transparent methods and parameters for on-going estimation of impacts based on the best engineering, verification and evaluation knowledge. The evaluations of programs should be done by an entity other than the program administrator(s) to allow for an objective assessment and avoid any conflicts of interest.

24. How should customer satisfaction and program design efficacy be assessed?

See answer to question twenty-three.

FUNDING

25. What constitutes a reasonable level of funding for the electric and gas energy efficiency programs? How, and from whom, should the various program costs be funded, allocated and recovered?

The Commission's goal of 15% savings by 2015 is reasonable and should be pursued. This should be achievable through the pursuit of all energy efficiency that has lower societal cost than the alternative supply (*all cost-effective efficiency*). Funding sufficient to meet this target should be authorized.

Using a volumetric surcharge would be a reasonable approach. In addition, available funds outside of this traditional funding stream should be captured and aggregated for use for efficiency programs whenever possible. This would include, for example, RGGI funds. It could also include DOE grants and private funds. Some utilities have discussed the concept of rate-basing efficiency costs. While that could put efficiency resources on an equal footing with supply, under this scenario a mechanism would need to exist to ensure that any rate of return earned by the utility on efficiency investments was tied to performance and not automatic and is, therefore, not recommended.

Respectfully Submitted,

Carol E. Murphy
Executive Director

July 11, 2007