STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on December 19, 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 APPROVING EEPS PROGRAM CHANGES

(Issued and Effective December 26, 2013)

BY THE COMMISSION:

INTRODUCTION

This Order is a companion decision to the Commission's decision on the two petitions filed by the New York State Energy Research and Development (NYSERDA) seeking to form the Green Bank[1] and modify New York's solar program.[2] As is evident by this trilogy of orders, our overarching policy objective is reliable access to electric power at just and reasonable rates through regulatory frameworks that stimulate innovation and

---

1 See Case 13-M-0412, Petition of New York State Energy Research and Development Authority to Provide Initial Capitalization of the New York Green Bank.

2 See Case 03-E-0188, Proceeding Regarding a Retail Renewable Portfolio.

economic investment in an environmentally sound manner.[3] When the Commission began the System Benefit Charge (SBC) almost 15 years ago, it recognized that along with research and development and support for low-income customers, energy efficiency and environmental protections are important elements of a comprehensive energy policy. In the time since the SBC was commenced, the retail and wholesale markets have aged and evolved and so too has the Commission’s understanding of the legal, policy and political barriers that are preventing energy efficiency and clean energy resources from achieving their full potential.

The Commission and other policy makers[4] can no longer afford to think of energy efficiency and distributed clean energy resources as peripheral elements of the electric system that require continuous government support. Rather, the time has come to manage the capabilities of these customer based technologies as a core source of value to electric customers. In addition, full integration of load management capabilities into energy supply and grid management decisions will improve system wide reliability, efficiency, and resiliency at just and reasonable rates for New Yorkers. The Commission is obligated to ensure that the clean energy programs, the roles and responsibilities of the regulated utilities and the retail markets are aligned to achieve robust market driven investment that supports the deployment and use of economic energy efficiency and clean technologies as critical components of New York’s 21st Century power system design and operation.

---

[3] See The New York State Public Service Commission – Mission Statement, available at http://www3.dps.ny.gov/W/PSCWeb.nsf/ArticlesByTitle/39108B0E4BEBAB3785257687006F3A6F?OpenDocument.

[4] See New York State Energy Law Article 6.

In this Order, the Commission adopts for immediate implementation several improvements in the administration of EEPS programs for 2014-2015 that Staff identified to better achieve our goals in the current programs.[5] The Commission also identifies a number of more complex technical or programmatic aspects of energy efficiency regulation and funding that require further examination and should be addressed as soon as practicable.

Further, the Commission finds that in order to ensure that energy efficiency as well as the initial capitalization of Governor Cuomo’s Green Bank initiative and the modifications to the Commission’s solar program are successful in achieving their full potential, it is necessary that the Commission expand its consideration beyond the policy of EEPS and the relative roles of program administrators to achieve these policies. To that end, in this Order the Commission begins the process of articulating the broad policy based outcomes intended for the clean energy programs and the Commission directs Staff to recommend, in first quarter of 2014, a process that will result in timely decisions regarding changes to our regulatory model, including performance and outcome based incentives, that will be required to achieve our broad policy objectives.

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.[6] The Commission directed NYSERDA and the six large investor-owned electric utilities to submit electric energy

[5] The current EEPS programs are currently approved through 2015.

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

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. The Commission has authorized the collection from ratepayers of approximately $2.6 billion through 2015 to fund the EEPS program.[7]

In July 2011, Staff issued a white paper[8] presenting numerous issues related to the EEPS program. On October 25, 2011, among other actions, the Commission reauthorized most of the previously approved EEPS programs through 2015.[9] In 2013, Governor Cuomo's Moreland Commission on Utility Storm Preparation and Response issued an interim and a final report,[10] which included a critique of the EEPS program and a number of general recommendations. The Moreland Commission report reflected many of the issues identified by Staff's whitepaper.

On September 13, 2013, Staff issued an EEPS Restructuring Proposal. The proposal "is intended to initiate a dialogue regarding near-term and long-term changes to New York's energy efficiency program that would best serve to achieve a robust clean energy market in New York."[11]

---

[7] Authorized collections through July 2013 are $1.4 billion.

[8] Case 07-M-0548, supra, Department of Public Service Staff -Energy Efficiency Portfolio Standard Program White Paper (July 6, 2011).

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

[10] See Moreland Commission on Utility Storm Preparation and Response Interim Report, January 7, 2013 and Moreland Commission on Utility Storm Preparation and Response Final Report, June 22, 2013.

[11] Case 07-M-0548, supra, Staff of the Department of Public Service - Energy Efficiency Portfolio Standard (EEPS) Restructuring Proposal (September 13, 2013).

SUMMARY OF STAFF'S PROPOSAL

Staff proposes that two principal areas of EEPS require adjustment - i) role and role-related issues and ii) core technical and system infrastructure issues. The proposal states that accomplishing a constructive resolution regarding the roles and responsibilities of the stakeholders is fundamental to developing a strategic approach to energy efficiency measures and mechanisms.

Role and Role Related Issues

Staff proposes a process for approving a multi-year Statewide Program Plan providing for sector level budgets and metrics for each utility service territory, on five year planning cycles. The Commission would thereby maintain its oversight of the most significant policy issues, including scale and focus of efficiency programs, as well as regional and sector equity issues. In response to the broad parameters established in the statewide plan, the utilities and NYSERDA, working cooperatively, would develop and submit an Implementation Plan detailing specific programs to be administered by the applicable utility, NYSERDA or both as appropriate. The Implementation Plan would be a public document subject to routine updating as appropriate.

Staff further proposes to work with NYSERDA and the utilities to develop a multi-year Technical Resource and Evaluation Plan (TREP) for Commission approval. The proposed TREP would identify the resources, financial and otherwise, necessary to support the development and cyclical revision of key centralized technical resources including i) a statewide E^2 project database, ii) standardized statewide application processes, and iii) various technical guidance documents and tools necessary for estimating and verifying program performance. The TREP would also identify the resources needed to evaluate the E^2 statewide program and conduct statewide potential studies such that information is available to support the development of the subsequent E^2 Statewide Program planning cycle and revision of the key technical resource documents. The TREP would be supplemented by a more specific Implementation Plan developed jointly by program administrators and submitted to Staff and made available to the public. Updating and Commission approval of the broader TREP would occur on a cyclical basis.

For itself, Staff proposes a collaborative role including working with NYSERDA and in consultation with the utilities to oversee and facilitate the development of the statewide Program Plan and the TREP. To address resource constraints, NYSERDA would solicit and assist with management of appropriate contracted resources to support these efforts. Within cyclical planning periods, Staff would review updates and changes to the detailed implementation plans; work with NYSERDA, consultants, and a newly formed E^2 Advisory Council in the maintenance and revision of various technical guidance documents, potential studies and evaluation studies; review routine progress reports and submitted studies; prepare progress reports for the Commission; facilitate E^2 Advisory Council meetings; monitor program performance; address issues arising from evaluation studies, review annual retrospective analysis of program cost effectiveness, customer complaints or suggestions and otherwise work with NYSERDA and the utilities to identify new opportunities to continually advance and improve the E^2 Program. In addition, Staff would also help identify new programs or technologies by reviewing best practices from other states or countries to ensure continuous program advancement and improvement.

Staff proposes that NYSERDA serve as the coordinator of a statewide approach to program evaluation as well as provide assistance to DPS Staff in the facilitation of the E^2 Advisory Council, the development of the statewide Program Plan and the TREP and Implementation Plan, the development and maintenance of various technical guidance documents, as well as a statewide database. Staff also proposes that NYSERDA continue in its role as a direct program administrator but in a manner that reflects a more cooperative than competitive relationship with the utility program administrators. NYSERDA's statewide role would include the oversight and coordination of a customer-centric model for program delivery. A key component of the model would include common statewide application forms and a fulfillment portal.[12] Marketing messages would also be controlled through a coordinated outreach strategy. NYSERDA would continue to deliver programs and NYSERDA's efforts in each utility service territory would contribute to the utility service territory's energy efficiency achievements.

Staff would have the investor owned utilities continue their role in designing and delivering programs. However, the utilities would collaborate with NYSERDA in an effort to exploit the strengths of the different organizations, rather than highlighting each others' weaknesses in the competition for energy savings. Ideally, the cooperative effort would result in the best service, experience, and quality to their customers. E^2 program budgets and metrics would be set on utility service territory basis and all achievements would be attributed to the service territory metrics. Staff proposes that the utilities play a key role in marketing and outreach and develop leads for

[12] Similar to the Governor Cuomo's successful centralized portal for New York State student interns, "New New York Leaders," available at http://nysinternships.com/nnyl/.

all of the programs available to customers in their service territory, whether the particular program is delivered through the utility, NYSERDA or jointly.

To facilitate collaboration, Staff proposes that the existing Evaluation Advisory Group (EAG) and Implementation Advisory Group (IAG) be merged into a more efficient structure which it terms the E^2 Advisory Council including Staff, NYSERDA and the utility program administrators. As appropriate, the advisory group would convene subcommittees that may include other stakeholders in order to address discrete issues and projects. Staff states that a more integrated advisory group is necessary to support the development and implementation of an integrated E^2 program planning cycle and prioritization of technical and infrastructure needs in support of this cycle. Staff proposes to continue to chair the meetings, but suggests that NYSERDA and contracted resources would provide supportive expertise and other resources. The E^2 Advisory Council would also be tasked with providing recommendations and progress reports to the Commission.

Staff's proposal encourages the Commission to direct the utilities and NYSERDA to develop and submit an organizational proposal, within a set time period, for a coordinated statewide E^2 program, clearly delineating NYSERDA and utility roles. Staff offers optional directional concepts including: the development of a coordinated marketing and statewide E^2 message; the development of joint utility service territory metrics; coordinated potential and evaluation studies; centralized customer application platforms; introductory and comprehensive E^2 programs; fuel neutral/customer centric programs; and centralized information and technology platforms that improve the standardization and sharing of information and support the targeting, delivery, tracking and evaluation of E^2

programs and projects, while also providing necessary customer privacy controls and protections. Staff suggests that the Commission would need to approve the utility/NYSERDA organizational proposal as soon as possible in 2014 in order to move the programs toward a 2016 transformation schedule.

Staff proposes that the Commission also revamp the incentive structure so that the incentives reflect metrics that more accurately recognize the breadth of objectives critical to overall success of the E^2 programs. Staff also suggests that utility incentives be appropriately integrated into core utility objectives and responsibilities.

Technical and System Infrastructure

Staff states that efforts to develop certain technical and system infrastructure improvements should begin in the very near term to inform the next cycle, regardless of the final organizational structure the Commission approves. Staff suggests that to-date, the overall program cycle or scheduling of the cycle has not been optimally managed and that there is a need to re-examine and reconnect the components of program cycles to the overall program objectives.

In order to address program cycle planning and evaluation, Staff proposes that the Commission immediately task it and NYSERDA, with contractor assistance and in consultation with the utilities, with the completion of a number of preliminary steps including i) identifying a suite of directional goals for the E^2 program that aligns with the energy vision for New York; ii) review and assess the current cycle of evaluation and technical products and activities and compile an integrated schedule for the completion of planned Cycle 2 activities; iii) analyze Cycle 1 and Cycle 2 (EEPS1 and EEPS2) program performance and design, to identify positive and negative outliers and inform program design for Cycle 3 (E^2); iv) prepare a Cycle 3 action plan by March of 2015 that works within the bounds of currently authorized evaluation and technical support budgets to provide the most relevant information to support NYSERDA and utility submittal of the E^2 Program Plan and TREP no later than August of 2015; v) develop a conceptual program planning cycle schedule for the E^2 program years 2016-2020 that shows the completion of EEPS 2 activities and their usefulness and applicability to the E^2 program. Staff further suggests that NYSERDA be tasked with identifying a way of more fully evaluating and capturing the savings associated with the market transformational effects of the State's energy programs.

In addition to the broader program cycle planning and evaluation concepts, Staff's proposal addressed more specific technical areas including data collection and reporting, cost-effectiveness testing, and the Technical Resource Manual, and includes recommendations for efforts to begin in these areas. Regarding data collection and reporting issues, Staff describes concerns including the lack of standardization of terms leading to inconsistent reporting across program administrators; reporting compliance issues; multiple non-integrated databases; customer privacy protection concerns inhibiting the sharing of data between the utilities and NYSERDA, evaluators and other contractors; and the number of required reports. Staff recognizes that the Moreland Commission identified similar data and reporting recommendations and concerns and states that the Moreland Commission's recommendation to develop a centralized information technology platform that warehouses all EEPS data would appear to provide significant additional capabilities and benefits beyond those provided by the EEPS Statewide database that was launched in July 2013. Recognizing such an endeavor would take significant resources and several years to develop, Staff proposes that NYSERDA procure the services of a contractor to define the scope and assess the benefits and costs of undertaking the development of a centralized information technology platform. In the near-term Staff proposes that a proceeding be commenced to address privacy protections and controls for sharing utility customer information with NYSERDA; data reporting requirements be revised to reduce frequency, increase lag, and streamline and define content; and the EEPS Statewide database be revised to align with all near-term changes to reporting.

Staff proposes a complete overhaul of how measures and programs are screened for cost-effectiveness. Staff's proposal would continue the use of the total resource cost (TRC) test but at the sector level for each utility rather than at the measure level. Staff proposes using the TRC, program administrator cost test (PACT) and participant cost tests (PCT) at the program level to supplement program assessments. Staff further proposes expanding the TRC and PACT benefits to include environmental damage assessment costs for SOx and NOx, a revised CO_2 cost, and updating to include LRACS, discount rates, etc. appropriate for the E^2 program cycle. Staff proposes the development of a Cost-Effectiveness Test Reference Guide, to be updated regularly, that documents the information sources, methodologies, and assumptions associated with estimating the benefits and costs of each test.

Staff proposes the development of a standardized cost-effectiveness calculation tool to provide transparency and ensure the ability to provide consistent results. Specifically, Staff proposes that all sectors, with the exception of the low-income sector and "specific targeted programs" included in the Statewide Program Plan should be demonstrated to pass the TRC on a theoretical basis. A TRC of less than one will be allowed for the excepted class of programs – the exact value will be determined as the various TRC input parameters are finalized. For assessment purposes, program level test results for the TRC, PACT and PCT should be filed as a supplemental report to the initial Statewide Program Plan implementation. Staff proposes that during the five-year implementation cycle, the program administrators, coordinated by NYSERDA, annually submit retrospective program and sector-based TRC, PACT and PCT analyses based on program performance to-date.

Program Administrators would analyze sectors that are not cost-effective using program level analyses to identify the program(s) that are causing the sector to be non-cost-effective. Program administrators would propose a corrective action plan to improve cost-effectiveness and if a second annual retrospective cost-effectiveness analysis of cumulative program performance to-date shows that the sector does not pass the TRC, any program that caused the sector to be not cost-effective for two consecutive years would be discontinued. Staff suggests that a qualified consultant be obtained to support the development of the Cost-Effectiveness Test Reference Guide and the selection and development of the standardized cost-effectiveness calculation tool.

Staff proposes the formation of a joint DPS and NYSERDA staff team (TRM Team) assisted by an appropriately qualified third party contractor or team of contractors dedicated to the development and maintenance of the Technical Resource Manual (TRM). Staff would have the Commission charge the TRM team with facilitating and managing input from a proposed E^2 Advisory Council TRM subcommittee that would routinely meet to establish TRM revision priorities in the context of the overall program planning cycle. Staff also proposes that the TRM Team be responsible for working with the TRM subcommittee to implement priority changes. TRM subcommittee members would provide data and studies supporting priority changes and the TRM team would develop the proposal for subcommittee review. While TRM subcommittee consensus should be sought, it should not be required. Staff, in consultation with the TRM Team would retain the authority to make final decisions. Routine reports summarizing TRM revisions and pending TRM changes would be provided to the Commission and program administrators could petition the Commission to re-consider Staff decisions.

Staff also recommends broader systematic reviews of the TRM be completed on a planned schedule coordinated with a statewide evaluation plan schedule, e.g., residential sector evaluations might be completed in a particular quarter with TRM revisions proposed in the following quarter. The goal of the TRM should be to produce technically valid energy savings estimates, regardless of the impact on targets and all TRM changes would be prospective with a specified effective date.

2014-2015 Proposed Changes

Staff proposed a number of specific changes to EEPS for program years 2014 and 2015 intended to increase the efficiency of the programs and reduce the administrative burden associated with program oversight. The proposed changes include reducing approval requirements and reporting, eliminating unnecessary or duplicative analyses and improving the process for determining eligible efficiency measures.

Staff proposes eliminating the requirement that it authorize changes in measure incentives and budget and target reallocations within a customer sector. Staff also recommends that the Commission grant program administrators authority to "borrow" from future EEPS 2 program year funding without Staff approval or having to provide separate notice of the change. Staff states that removing these requirements will reduce unnecessary administrative steps without affecting sector budgets or targets or weakening oversight of the programs.

Regarding data collection and reporting requirements, Staff proposes reducing scorecard reporting frequency from monthly to quarterly and increasing the lag between program activity and submission of reports. Staff further recommends eliminating duplicative reporting requirements and otherwise reducing the required reporting content to include only key budget categories and performance metrics. Staff proposes that lifetime savings be a key performance metric to be reported and that a methodology for calculating it be defined. Staff also proposes that consistent definitions for all reported data be developed to improve the comparability of data. Under Staff's proposal separate reporting related to outreach and education expenditures and activities would be eliminated but program administrators would continue to report outreach and education spending. Finally, Staff proposes revising the statewide energy efficiency database to align with all near-term changes to reporting.

Staff also proposes eliminating i) the twenty-seven current Classification Groups in favor of a more streamlined list(s) of eligible EEPS measures; ii) customer payback testing for measures and iii) the pre-screening requirement for prescriptive (fixed dollar rebate amount) measures. In place of the numerous classification groups, Staff would collaborate with program administrators to develop a simplified listing of eligible measures. Although pre-screening of prescriptive measures would be eliminated, program administrators would continue to be required to maintain auditable records sufficient to demonstrate that each type of prescriptive measure is cost-effective in a majority of actual installations.

NOTICE OF PROPOSED RULEMAKING

On September 13, 2013, the Secretary issued a notice soliciting comments on, among other things, Staff's proposal. The notice encouraged the submission of initial comments by October 28, 2013 and replies to those comments by November 12, 2013. Notices of Proposed Rulemaking concerning Staff's proposal was published in the State Register on September 25, 2013 [SAPA 07-M-0548SP77 and 07-M-054878]. The minimum time period for the receipt of comments pursuant to the State Administrative Procedure Act (SAPA) regarding these notices expired on November 12, 2013.

SUMMARY OF COMMENTS

A summary of the comments related to Staff's proposal is attached as an appendix. To the extent comments are relevant to the actions taken in this order, they are addressed below.

DISCUSSION

Roles and Goals

A number of parties comment that the restructuring of EEPS and other clean energy programs should occur in the context of changes to the State's overall energy policy. Advocating a "fundamental refocus" toward a more customer-centric orientation, NYSERDA identifies four specific goals: increasing efficiency through programs and markets; reducing greenhouse gases with demand-side resources; increasing New York economic activity in green energy markets; and better integrating demand-side resources into system planning. Other commenters also emphasize the need to integrate clean energy program restructuring with broader policy goals. The Joint Utilities describe the need for continued evolution toward programs that optimize value to customers. Pace and NRDC state that the State's energy policy is at a crossroads warranting careful consideration of the role of clean energy programs. We agree with the commenters that the reauthorization of clean energy programs should be informed by principles reflecting broader energy policies.

Long term modification of the roles and responsibilities and energy efficiency program design must be accomplished within the larger context of determining how best utility regulation and wholesale and retail markets should be modified to support self-sustaining and pervasive clean energy deployment for the benefit of New York energy consumers. One of our primary missions is to oversee the regulation of electric utilities. Over time, as regulated industries changed, so too has the scope of our authorities, regulatory focus and the methods and tools employed to carry out our statutory mission.[13]

In 1993, the we commenced a proceeding to investigate ways that the electric industry could be restructured in light of increasing competitive options facing consumers - taking into account the desire to lower rates to spur economic development and to avoid reducing the safety or reliability of electric

[13] For example, the Public Service Law firmly establishes the Commission’s obligation to encourage those within its jurisdiction to “carry out their public service responsibilities with economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources.” Public Service Law §5(2). See also Energy Ass’n v PSC, 169 Misc.2d 924, 936 (1996)(explaining that the Commission has “broad discretion to select the means for achieving the Legislature’s goals of ‘just and reasonable rates’ and economic, efficient service”).

service.[14] In 1994, we instituted a further proceeding to identify regulatory and ratemaking schemes to assist in the transition to a more competitive electric industry designed and to increase efficiency of the system without impinging safety, environmental, affordability, or service goals.[15]

In 1996, we issued the Competitive Opportunities Order, wherein it identified the following factors in its future regulatory vision

> "(1) effective competition in the generation and energy services sectors; (2) reduced prices resulting in improved economic development for the State as a whole; (3) increased consumer choice of supplier and service company; (4) a system operator that treats all participants fairly and ensures reliable service; (5) a provider of last resort for all consumers and the continuation of a means to fund necessary public programs;(6) ample and accurate information for consumers to use in making informed decisions; and (7) the availability of information that permits adequate oversight of the market to ensure its fair operation."[16]

The order explained that as the electric industry became more competitive, adjustments to the regulation of the industry were also appropriate. The order suggested that longer rate-setting horizons, together with increasing regulatory flexibility,

---

[14] Case 93-M-0229, Proceeding on Competitive Opportunities, Order Instituting Proceeding (issued March 19, 1993).

[15] Case 93-M-0229, supra, Order Instituting Phase II of Proceeding (issued August 9, 1994). The case name and number were subsequently changed to reflect that the later portion of the proceeding was limited to electric service. See 94-E-0952, Matter of Competitive Opportunities Regarding Electric Service, Opinion and Order Regarding Proposed Principles to Guide the Transition to Competition (issued December 22, 1994).

[16] Case 94-E-0952, supra Opinion and Order Regarding Competitive Opportunities for Electric Service pp. 25-26.

earnings cap relaxation, and realigning regulatory risks to make investment decisions more market-oriented should become the new normal for the electric industry. Our approach at that time was intended to increase reliance on market forces but to maintain cost-of-service regulation for monopoly providers.

At the same time and to ensure that an increase in competition did not preclude consideration of environmental and other public policy considerations, the costs and benefits of which had not been sufficiently monetized to be addressed by a competitive market, we approved a non-by-passable system benefit charge (SBC). In 1998, we initiated the first SBC to fund broad based programs to encourage energy efficiency, promote a cleaner environment and reduce the financial burden of energy costs for New Yorkers. The SBC was intended to provide funding "during the transition, and possibly over the long term, for public policy initiatives" that competitive markets were not expected to adequately address.[17] At the time, we believed that SBC funded programs combined with innovative programs expected to be developed by energy services companies would result in cost-effective energy conservation measures, including demand side measures, and would push energy efficiency levels higher than in the non-competitive environment.[18] We extended the SBC in 2001, 2005 and again in 2010.

In addition to the broad based SBC programs, in 2003 we commenced a proceeding to develop a more focused Renewable Portfolio Standard (RPS) specifically to increase the percentage of renewable energy that is consumed in New York.[19] The RPS proceeding specifically recognized the relationship between

---

[17] Id., p. 61.
[18] Id., p. 62.
[19] Case 03-E-0188, Proceeding Regarding a Retail Renewable Portfolio Standard, Order Instituting Proceeding (issued February 19, 2003).

other public benefits steps and programs it had undertaken, but believed renewable generation resources warranted particular attention as "a significant potential energy reserve, which (if properly developed) could lower air emissions and increase system reliability."[20] Separately, but for similar reasons, we established the EEPS programs in this proceeding.[21]

Despite the common goals and recognized relationships between the SBC, RPS and EEPS, the programs have been approved and overseen primarily as stand-alone programs, separate from other aspects of the electric distribution system and utility regulation.[22] Given the breadth of issues raised by the individual programs and the novelty of some of the approaches taken therein, a compartmentalized approach often had merit. However, the separation has resulted in the balkanization of various demand-side resources that has slowed or prevented the widespread adoption of some resources and technologies into the regulated and competitive electrical power and services industry, resulting in many lost opportunities.

The Commission's Orders establishing the retail competitive markets and the various clean energy programs were prescient in their recognition that features of these programs, just as in the case of all regulatory matters, would be subject to change as technology, markets and the economy evolved. Our experience, the maturation of the wholesale and retail markets

---

[20] Id., at p. 2.

[21] Case 07-M-0548, Proceeding Regarding an Energy Efficiency Portfolio Standard, Order Instituting Proceeding (issued May 16, 2007)(explaining that increased awareness of the environmental and other "common" costs of burning fossil fuels led to a renewed emphasis on sustainable growth including more efficient use of electricity), p. 1.

[22] Case 03-E-0188, Retail Renewable Portfolio Standard, Order Regarding Retail Renewable Portfolio Standard (issued September 24, 2004), p. 12.

and clean energy technologies have changed significantly overtime. We now have a greater understanding of both the capabilities and gaps of all of these elements, the devastating effects of major storms on local communities as well as the driving forces of an increasingly digitalized economy and its attendant dependency on a secure electric grid. This greater understanding requires us to consider and re-tool now more than decade old approaches to achieve our overarching policy objectives of providing economically priced, efficient, reliable and environmentally sound electric service.

We applaud Staff's thoughtful proposals to restructure the energy efficiency programs including better definition of the roles and responsibilities of the utilities and NYSERDA. At the same time, we observe that even the best designed clean energy programs will not succeed in their essential purposes if the regulatory regime and market design within which they operate inhibit rather than promote their success.

As one of our own esteemed regulators, the late, Alfred Kahn observed, "all regulation is incentive regulation." We must carefully identify the behaviors and outcomes we wish to incent. For example, in 2011 we revised the shareholder incentives directly associated with EEPS targets. That in no way reflected a reduction in our commitment to the goals of EEPS; it was a practical response to implementation issues identified by Staff and others. NRDC/Pace state that we need to have an incentive structure in place that not only makes utilities indifferent to revenue losses from efficiency (as revenue decoupling does) but provides affirmative motivation. We agree and we intend to change the regulatory model so that efficiency incentives are not confined to a narrow silo of meeting certain single metric targets but are integrally bound to the utilities' business model.

Consequently, we conclude that the time has arrived for a fundamental refocus of, not only the system benefit programs,[23] but also comprehensive consideration of how our regulatory paradigm and the retail and wholesale market designs either effectuate or impede progress of our policy objectives underlying these programs. In order to effectuate this more comprehensive approach, we are directing Staff to develop a proposed scope for a proceeding that will result in timely decisions regarding how we can best realize our regulatory framework and improve the retail and wholesale markets to assure that the success of the post-2015 course of energy efficiency and other clean energy programs.

In order to provide guidance to Staff in the development of the structure and scope of this proceeding as well as in the companion decisions we are issuing today, we are identifying the core policy outcomes that we wish to achieve in the near term and in this more comprehensive inquiry and redesign. These outcomes are intended to serve our overall mission of ensuring economic, efficient reliable electric service while reducing emissions including greenhouse gases.

1. **Customer Knowledge and Tools that Support Effective Management of their Total Energy Bill** – As we recognized in

[23] See Case 13-M-0412, Petition of New York State Energy Research and Development Authority to Provide Initial Capitalization for Governor Cuomo's New York Green Bank, Order Establishing New York Green Bank and Providing Initial Capitalization (issued December 19, 2013) and Case 03-E-0188, supra, Order Authorizing the Redesign of the Solar Photovoltaic Programs and the Reallocation of Main-Tier Unencumbered Funds (issued December 19, 2013).

our Proceeding Regarding Competitive Opportunities,[24] a hallmark of an efficient market is ubiquitous information and knowledge by consumers and the tools to both procure supply and services that they value. By focusing on consumer needs, we can best determine if regulation and the markets are effective at delivering our policy objectives.

2. **Market Animation and Leverage of Ratepayer Contributions** – A key goal of all of our clean energy programs as well as our regulatory structures is developing sustainable robust markets that support continued innovation in all areas and animate private financing to achieve market sustaining tools to support deployment of energy efficiency measures and renewable resources deployment rather than continued dependency on rate payer or other forms of government financing. In addition, as customers begin to invest in community based energy systems, micro-grids and distributed supply resources to meet their own needs, our market and regulatory systems should be designed to allow these resources to be used to maximize both the individual customer's and system benefits of their deployment.

3. **System Wide Efficiency** - The present electric system is designed and operated on the assumption that electric demand is inelastic. Historically, we limited our consideration of efficiency measures to the singular objective of reducing individual consumer demand. However, rapid innovation in demand management technologies, storage and distributed generation combined with smart market design and regulatory measures that facilitate and reward

[24] Case 93-M-0229, Proceeding on Competitive Opportunities, Order Instituting Proceeding (issued March 19, 1993).

demand-side responsiveness provide the opportunity to substantially increase system wide efficiency, support business model innovation and private financing of clean energy deployment and, as a result reduce energy costs and the production of green house gases.

4. **Fuel and Resource Diversity -** Successful market and regulatory design requires maintenance of fuel and resource diversity as a critical outcome measurement. New York is rich in hydroelectric resources and other resources that provide assurance that our energy system is robust and affordable. Increased use of clean and renewable generation on customer premises increases the diversity of supply. In addition, a stronger emphasis on demand response will effectively add a new type of resource. It is critical that we ensure that the fuel mix remains diverse and our regulatory, market and grid systems are designed to accommodate and value this diversity.

5. **System Reliability and Resiliency –** Assurance of a secure, reliable and resilient electric system remains and indeed is growing in importance as a critical feature of our daily lives and the development of our State’s economy. Our policies and practices should be designed to ensure the deployment and use of customer based resources that support achievement of economically efficient system resiliency.

In addition to these five guiding policy objectives, we are directing Staff to propose a proceeding that is both comprehensive and structured in a manner that allows for timely implementation of a revised energy efficiency structure beginning in 2016. Thus, in the proposal to be made in the first quarter of 2014, we are requesting that the scope of the proceeding be sufficiently broad to address the following key questions:

A. What should be the role of the distribution utilities in enabling system wide efficiency and market based deployment of distributed energy resources and load management?
B. What changes can and should be made in the current regulatory, tariff, and market design and incentive structures in New York to better align utility interests with achieving our energy policy objectives?[25]
C. What are the further changes that need to be made to energy efficiency delivery including better alignment and definition of the roles and responsibilities of NYSERDA and the utilities and by when to ensure that there is no implementation gap between our current and future programs? Also with regard to this latter issue, what entities and market players other than the utilities and NYSERDA, such as technology providers, energy service companies (ESCO) and demand response aggregators, will be instrumental in effectuating our policies and what regulatory and/or market rules need to be altered to support their participation?

These guiding policies and scoping issues are not intended to be exclusive. We anticipate that as our inquiry into both energy efficiency and utility regulatory and market redesign evolves, other desirable outcomes will emerge and will

[25] Effectuation of these changes in retail regulation and market design changes will likely involve required changes to how the bulk power grid is dispatched and how it values demand based resources. These design changes clearly require coordination with the New York Independent System Operator (NYISO) and the Federal Energy Regulatory Commission (FERC). We anticipate that this issue of State and Federal coordination will be addressed as part of this proceeding.

be added to this list. For example, the outcomes described above should serve the goal of reducing greenhouse gases, but an outcome more specifically tied to emission reductions could be considered. We also welcome and encourage Staff to use its experience to propose a scope and design of the expanded proceeding to ensure comprehensive and timely resolution of these critical matters.

Mid-range E^2 Working Group, Technical Development and Investigation Action Plan

The majority of commenters support the merger of the IAG and EAG to create an E^2 working group to improve the effectiveness of the current groups and to provide input regarding the restructuring to EEPS for the 2016-2020 time period. The Joint Utilities and National Fuel Gas Distribution Corporation (NFG) emphasize the need for program administrators, particularly the utilities, to provide meaningful input to the E^2 working group. NYSERDA recommends that it partner with Staff in facilitating the E^2 working group. Both NYSERDA and NEEP propose that the E^2 working group function at a higher level providing priority and directional input and guidance for the E^2 portfolio while subcommittees support detailed implementation and evaluation issues.

We agree that the functions of the IAG and the EAG should be merged. Because of the time constraints associated with having an E^2 program ready to launch by the end of 2015, some activities must run in parallel with the broader energy policy efforts we are launching. In this vein, Staff is directed to work with NYSERDA and the utilities, to form a E^2 Transformation working group (E^2 working group) by February 1, 2014 to replace the current IAG and EAG, and to convene subcommittees, including other stakeholders as appropriate, to begin sharing and developing concepts for an optimized E^2

portfolio that supports a scale-up of energy efficiency and overall system efficiency.

The E^2 working group's efforts should be informed of and by the activity in the upcoming broader restructuring proceeding. However, we believe the mid-term investigations we direct in this order will also help to inform the broader proceeding and in some cases may lead to shorter-term improvements for energy efficiency and other types of carbon reduction and green energy programs. Therefore, we direct staff to work with NYSERDA and the E^2 working group to develop a prioritized action plan and schedule for activities and concepts discussed below to be filed with the Secretary and posted to the Commission's website no later than June 1, 2014. NYSERDA is authorized to fund the development of the action plan and associated activities identified in the action plan with up to $5 million to be reallocated from SBC III and EEPS I funds that are unencumbered during 2013. The plan should identify schedules, resources and proposed budgets for the activities described below as well as a path for integrating newly created or improved technical tools and resources into existing programs or developing proposals for Commission review and action, as appropriate. We intend for the action plan to be a working tool for Staff and the E^2 working group – not an end in itself. As such, the action plan should be reviewed frequently and updated[26] as needed, particularly in the context of the afore-mentioned utility restructuring proceeding and other evolving policy initiatives.

[26] Updates to the plan shall be filed with the Secretary and posted to the website.

Assessment of Programs and Status of Evaluation Studies

In order to move forward, it is important to realize where we are and develop a plan for getting to where we would like to be. Commenters are supportive of the formal, systematic, multi-year program planning cycle suggested in the Restructuring Proposal where each program cycle informs the goals and design of the next cycle. The City of New York (the City) believes that periodic review and revision of programs is essential to their successful implementation but recommends a review period of less than five years and a process where stakeholders could raise systemic or programmatic concerns for Commission consideration between review cycles. NYSERDA believes the goal of holistic scheduling is attainable and suggests evaluation activities that should become part of this approach to best inform an optimal program planning process.

The City recommends a substantive review of the current programs to identify opportunities for near-term improvements during the 2014-2015 program cycle and suggests that the Commission direct Staff and/or NYSERDA to compile and present for public comment and Commission review historic and projected program performance with respect to budgets, expenditures, and energy savings. TRC notes that in its experience new programs take 3-6 months to be properly designed and launched and suggests that this be considered in the development of a high level planning schedule to ensure that program administrators can incorporate any new program guidance into program design and procurement cycles. NFG cautions that taking on too much change at one time could be deleterious and problematic from a resource and program administration perspective and recommends not accelerating the implementation of any additional changes beyond the 2014-2015 changes proposed by Staff.

Staff's proposal appropriately recognizes the importance of developing a systematic multi-year cycle for program planning and evaluation. Staff also points out that it is difficult or impossible to connect the current EEPS evaluation process to a planning cycle because there is no integrated schedule of the various studies to show when results will be available to support decisions about future program cycles. No matter what form energy efficiency programs may take in the next cycle, we believe that it is worthwhile to assess the current status of existing program cycle evaluation and technical products as proposed by Staff. Therefore, we direct Staff to work with the E^2 working group to conduct a review and assessment of current EEPS activities with the goal of compiling a report or reports that include a factually accurate representation of:

(1) the performance of each of the currently authorized programs, including Program Administrator commentary regarding under- and over-performance; and

(2) the status of all evaluation and statewide study activities, including budget, cost and schedule information.

The reports shall be prepared and submitted as part of the E^2 working group action plan, to be filed by June 1, 2014 as discussed above. The action plan and report(s) shall also contain a comprehensive evaluation plan indicating – for each current evaluation/study activity – a proposal for terminating or continuing the activity as determined by a value-based rational that connects the activity and its relevance/importance to future program cycles. To support this rationale, the action plan shall include an integrated program and evaluation cycle plan/schedule showing the connection between study activities that are recommended to go forward and each study's availability and benefit to informing and improving the next or successive program and technical document development cycles.

Cost Effectiveness Screening Guidance and Tools

Staff proposes the development of an alternative approach to cost effectiveness screening from the measure level Total Resource Cost (TRC) test used to date in the EEPS programs. Seventeen different entities comment on Staff's proposal to modify the cost effectiveness testing practices used in EEPS. The majority support the concept of moving away from measure level TRC and toward program or sector level cost effectiveness testing as the primary screening methodology, citing the administrative burden, program administrator and contractor delays, and lost opportunities to achieve energy savings as the primary reasons for supporting the change. NYSERDA and NFG propose the use of the Program Administrator Cost Test (PAC or PACT), as opposed to the TRC, as the primary screening tool. NYSERDA believes the PACT test is better aligned with State energy policy, reflected in the creation of the Green Bank, which values program interventions that maximize energy savings based on the least cost to the program, while leveraging customer investments. NFG supports the PACT because it simplifies energy efficiency decisions to the price an administrator is willing to pay per unit of energy savings. MI recommends a more stringent test, the RIM test, as the primary cost effectiveness screening tool. NEEP suggests the Societal Cost Test is worth consideration and CEC points to a Societal Externality Assessment Model (SEAM) in order to incorporate environmental externalities into the cost effectiveness assessment.

NYSERDA, NRDC-PACE, NEEP, CWF and ACE-NY supported Staff's proposal to expand and update cost and benefit input parameters. NYSERDA supports the idea of a primary screening test with supplemental evaluative tests while NFG rejects it as adding administrative burden.

We agree with Staff that an alternative approach is necessary. The development and application of appropriate and sufficiently flexible screening tools is essential to achieving the potential scale of energy efficiency in New York. We acknowledge that if an improper method is used, programs and opportunities that would otherwise support our objective may be excluded – in addition to the inclusion of activities that should not be funded. For that reason, in addition to consideration of the various cost benefit concepts identified by Staff and commenters, we direct Staff to work with NYSERDA to expand their inquiry to determine how best to develop screens that fully consider the benefits of programs designed to remove behavioral, informational or other barriers that unnecessarily limit customer demand or otherwise impede market transformation and development. Accordingly, Staff should include a process for broadly addressing cost-effectiveness screening issues with the goal of developing a comprehensive suite of screening tools for Commission supported programs over the long term. The plan should contain a budget and expected schedule for developing appropriate cost effectiveness tools and guidance and updating of cost and benefit input parameters, with the ability to implement additional future changes, as needed and appropriate.

We recognize that the broader restructuring proceeding is likely to directly impact the specific cost and benefit inputs of any cost-effectiveness screening tools and identification of all the appropriate inputs may need to await the outcome of that proceeding. We also recognize MI’s and other’s concerns regarding modifications to cost-effectiveness screening and agree as a general matter that ratepayer funds should only be used where the benefits of an activity exceed its costs. Ideally, every energy efficiency measure installation supported by captive ratepayers is cost-effective. However, it has become apparent that the exercise of demonstrating such a result at the measure level has become too unwieldy to be administered effectively and is likely to be hurting the economics of EEPS in general. Therefore, in addition to directing the E^2 working group to develop comprehensive cost-effectiveness screening guidance and tools, we will also encourage the working group to consider more immediate modifications to the application of or inputs to the TRC, and if appropriate, make recommendations to the Commission for changes prior to 2016.

Fuel Neutrality and Comprehensive Clean Energy Fund

Staff proposed two possible paths to a fuel neutral approach, one where surcharges would continue to be collected from both electric and gas customers, but a pooling of the funds would be allowed to enable program administrators to administer their programs with a "whole-customer" approach without the requirement to track and allocate funding based on fuel type. The other approach raised by Staff would eliminate surcharges on gas customers and collect the entirety of energy efficiency funding from the electric customer.

Many of the comments received address Staff's proposal for a fuel neutral concept; although most support the concept, the Joint Utilities, NFG and Multiple Intervenors (MI) oppose it. NYSERDA believes that in order for a clean energy program portfolio to be truly customer-centric, it needs to be fuel neutral, stating that fuel neutrality is the lynch-pin to providing truly customer-centric energy efficiency programs, and support Staff's proposal to collect all energy efficiency funding from electric customers. The Joint Utilities believe that the Commission should consider alternative methods for raising public funds to support programs for non-utility energy consumption, and also recommend the Commission gather explicit customer input on the cross-subsidization issues that a fuel neutral fund creates. MI and NFG strongly oppose the fuel neutral concept, in particular the proposal to collect energy efficiency funding entirely from electric customers.

In particular, we direct Staff to work with the E^2 working group to explore the concept of fuel neutral programs, including the possibility of a comprehensive clean energy fund. The fuel neutral fund mentioned in Staff's proposal is attractive because it would reflect the reality that energy customers often consume multiple types of energy and measures to reduce or otherwise manage that energy consumption frequently impact more than one type of energy use. A comprehensive green energy fund may reduce the complexity and barriers to delivery of whole building or whole customer programs. Similar to the support for the New York Green Bank,[27] a comprehensive green energy fund could receive monies from a number of distinct sources with the flexibility to fund projects or programs (within broad parameters) based on market forces and customer needs rather than overly restrictive limitations related to fuel type.

<u>Self-Directed or "Banking" Approach for Large Customers</u>

We disagree with MI's assertions regarding energy efficiency inequities and believe a volumetric surcharge remains the proper method for allocating costs for these public benefit

[27] See Case 13-M-0412, <u>supra</u>, Order Establishing New York Green Bank and Providing Initial Capitalization (issued Decebmer XX, 2013).

programs. However we believe that MI’s proposed concept of “self-directed” or “banked” program design warrants consideration. The Business Council supports MI’s recommendation regarding “self-directed” or “banked” funds for large commercial and industrial customers stating such an approach would maximize investments in clean energy and efficiency, moderate rate impacts and reduce competitive inequities. We are intrigued by how this concept may be integrated into a restructured energy efficiency environment beyond 2015 and believe the issues should be explored as part of the overall upcoming restructuring proceeding. Specifically, we are interested in how the concept may support our twin goals of ensuring flexibility to meet customer demand and limiting ratepayer burdens by leveraging private capital. Further, to the extent MI or other stakeholders have an interest and the resources to develop a detailed plan for implementing the concept prior to 2016, they are encouraged to consult with the E^2 working group and submit a specific proposal for our consideration.

Technical Resource Manual Improvements

NYSERDA supports the proposal to have a dedicated team consisting of DPS, NYSERDA, and an appropriately qualified third party contractor(s) fully engaged in the process, to develop a more systematic approach to using and updating the TRM, including facilitating input from the TRM subcommittee and a defined plan for the incorporation of evaluation results into the TRM. The Association for Energy Affordability agrees and state that the development of the TRM Team should be expedited, and stakeholders who have been directly involved in the delivery of programs should be included on the TRM subcommittee. The Joint Utilities stress the need for a transparent decision-making process for the E^2 Advisory Council, especially with regard to the Technical Resource Manual, while NFG desires flexibility in implementing TRM changes and equal opportunity for program administrators to provide input regarding the TRM through the Advisory Council and its subcommittees. The Northeast Energy Efficiency Partnership (NEEP) recommends a review of the TRM Updating Process Guidelines that it's Evaluation, Measurement & Verification Forum developed as part of the recent Mid-Atlantic TRM.

We agree that improvements must be made to the technical resource manual, as well as the process for completing and implementing cyclical updates and improvements to technical and other guidance documents. Therefore, we direct Staff and NYSERDA, as part of the action plan described above, to develop and propose a formal process for reviewing, updating, improving and otherwise modifying the technical resource manual and other technical resources needed to support energy efficiency in New York. The proposal should include a budget and additional pertinent details for ensuring that the proper level of resources (contracted for or otherwise) are sufficiently dedicated to overseeing and maintaining the technical resources in a manner that provides for sufficient input from the E^2 working group but maintains uniformity, transparency and technical accuracy and consistency.

The process should also require that all changes be prospective with a specified effective date. This will help minimize uncertainty among program administrators and program participants regarding savings expectations.

Sharing Customer Data with NYSERDA

Staff's proposal also raised the issue of broader access and sharing of customer data between NYSERDA and the utilities. NYSERDA strongly supports Staff's recommendation to address privacy protections and controls required to allow for the sharing of data between the utilities and NYSERDA. The Joint Utilities stress that protection of consumer information is a basic tenet of Public Service Law and Commission policy, and the proposal and these policies need to be reconciled. The Joint Utilities agree that a proceeding would be necessary to fully explore this issue. We agree that a more efficient, clearer protocol for sharing utility customer information with NYSERDA is needed. Although we recognize the importance of customer privacy, we believe that utilities understand the types of safeguards and procedures necessary to ensure customer privacy is appropriately protected because such information is regularly shared with the utilities' vendors within the appropriate safeguards. Therefore, we direct NYSERDA and the utilities, facilitated by Staff as necessary, to develop and present for our approval a comprehensive plan to put forth the most robust possible sharing of utility data with NYSERDA without lowering the standards of protection the utilities currently require when sharing customer data with their contractors. The development of this comprehensive plan should be included in the action plan described above.

Near-term 2014 – 2015 Changes

Many of Staff's 2014 – 2015 proposals involve the streamlining of program oversight, which conceptually is supported by a majority of the commenters. In addition, much of Staff's proposal included the development of guidance and several parties, including NYSERDA, NFG and the Joint Utilities, recommend that guidance developed by Staff should be developed with meaningful input from program administrators. We agree and direct Staff to collaborate with program administrators through the E^2 working group to develop guidance documents related to the various subject-specific notification and reporting requirements discussed below. The requirements should be such that they allow us to maintain proper oversight of ratepayers' dollars without creating unnecessary administrative burden. Guidance documents should be developed expeditiously, but in no case later than March 31, 2014, and shall become effective upon filing with the Secretary and posting to the Commission's website. With the exception of the existing requirements eliminated completely, as discussed specifically below, existing approval and notification requirements will remain in effect until such time that alternate guidance becomes effective. Many of the comments included suggestions for additional changes to program years 2014 – 2015, some of which are incorporated herein. In some cases, the actions we take here will help to ameliorate the concerns addressed by additional proposed changes. Suggestions not specifically addressed here may be further examined in the E^2 working group and proposed later for our consideration.

<u>Customer Incentive Levels</u>

With the exception of those from NYSERDA, comments regarding Staff approval of incentive level changes supported eliminating the requirement. NYSERDA commented that increasing flexibility on this issue will likely exacerbate competition between program administrators and supports maintaining the approval requirement. As an alternative, NYSERDA recommends that program administrators cooperate to align incentives between programs. In reply, Joint Utilities recommends that NYSERDA's proposal be rejected, stating that it would maintain the current time-consuming oversight that Staff is trying to reduce.

We agree with Staff and the supporting comments that requiring approval for changes to incentive levels adds an unnecessary administrative step, without corresponding benefit. Program administrators will no longer be required to obtain approval for changing program incentive levels and will only be required to submit notice of the change to the Secretary. Program administrators are best positioned to determine what level of incentive is necessary to achieve program success. Although NYSERDA's concerns about increased competition are not without merit, we believe that program administrators can collaborate to construct a solution that optimizes results and avoids unnecessary administrative steps. Staff is directed to develop guidance prescribing what information shall be included in notifications of incentive level changes. At a minimum, program administrators should be required to show that some level of collaboration with other program administrators expected to be affected by the change in incentive levels has occurred, and that the change in incentive will help either achieve or exceed the program target within the program budget.

Program Budgets/Targets

We agree with Staff that eliminating the need to obtain authorization from the Director of OEEE to reallocate budgets and targets within customer sectors will ease administrative burden and has the potential to improve overall program performance. In fact, in recent orders, we have provided program administrators this flexibility by allowing programs within a sector to be combined into one program. Eliminating this approval requirement provides that same flexibility for all program administrators and is approved. Staff is directed to develop guidance outlining the information to be included in notifications of reallocations of program budgets and targets among programs within a customer sector.

We will not take the further step, suggested by NFG, of permitting reallocations across customer sectors without prior authorization from the Director of OEEE. Currently, such reallocations must be approved by the Director of OEEE, who must certify that the reallocations (a) do not result in net reductions in aggregate energy savings; (b) do not materially affect the overall balance between customer market segments; and (c) do not appear to be detrimental in any other manner to the EEPS program. Allowing reallocations across customer sectors without appropriate safeguards risks the balance between customer segments which remains an important element supporting equitable use of ratepayer funds.

Banking and Borrowing

There were no objections to Staff's proposal to eliminate the requirement for program administrators to obtain approval from or provide notification to the Director of OEEE to borrow from future EEPS 2 program year funding. We find that the required scorecard reporting provides the information to inform Staff that borrowing from future year funding may be necessary, and the requirement to provide separate notification is unnecessarily duplicative. We continue to expect program administrators to properly modulate the delivery of programs to ensure their availability to each sector through the end of 2015, but eliminate the requirement to obtain approval or provide notification in order to borrow from future EEPS2 program year funding.

Reporting

Parties were generally in favor of all proposed changes to reporting requirements. The Joint Utilities state that in addition to reducing program administrative costs, decreasing reporting frequency and increasing the time to report should improve the quality of reporting. NFG recommends that a Staff and program administrator collaborative be organized to identify and eliminate duplicative reporting requirements, determine future reporting requirements and allow sufficient time to implement reporting changes. NFG took exception to the elimination of the outreach, education and marketing reporting requirements, stating they should be reduced but not eliminated We agree with Staff and those submitting comments that the reductions to reporting will reduce the administrative burden without forgoing the information necessary to properly monitor EEPS2 programs, and increasing the lag time for reporting will provide additional time for program administrators to perform audits of program data for completeness and accuracy. We will therefore eliminate monthly scorecard reporting in favor of quarterly scorecard reports to be filed no later than 90 days after the conclusion of the calendar quarter being reported, effective January 1, 2014. In addition, we eliminate the requirement for program administrators to file annual reports.[28] The information contained in annual reports can be obtained from the roll-up of required quarterly reports and does not necessitate the filing of an additional report.

We do not agree with NFG that OEM reporting should be maintained and eliminate the requirement.[29] We will however require program administrators to notify the Director of the Office of Consumer Policy, in a filing to the Secretary, when OEM budgets are modified, and direct Staff to develop guidance

[28] In addition to reports for program years 2014 - 2015, the requirement to file an annual report for program year 2013 is eliminated.

[29] In addition to OEM reports for program years 2014 - 2015, the requirement to file an OEM report for program year 2013 is eliminated.

outlining what information should be included in such notification.

In addition to the elimination of monthly scorecard reporting, annual reporting, and OEM reporting, we find that the required reports listed in Table 1 below add unnecessary burden without corresponding benefit and we will eliminate these requirements.

Table 1

Report Title	**Order Date**
Gas Conversion	5/19/2009
NYSERDA Multifamily and Low Income Multifamily Quarterly Reporting	12/23/2009
Central Hudson Commercial Financing	10/18/2010

Beyond the specific changes to reporting requirements we order here, Staff is directed to work with program administrators through the E^2 working group to eliminate and/or streamline all EEPS-related reporting and develop guidance outlining reporting requirements, that provide, together with the quarterly scorecard report, the information necessary for Staff to sufficiently monitor the performance of EEPS programs through 2015. This guidance, as well as future revisions, should be filed with the Secretary and posted to the website. In addition to listing the required reports, the guidance established by the collaborative effort shall include definitions to ensure consistency of data such that it can be compared across program administrators as well as market sectors.

Measure Classification Lists

Generally, comments we received are supportive of eliminating the current Measure Classification Lists. However, the Joint Utilities opposed the proposal unless and until the lists are replaced with another mechanism for adding measures to EEPS programs. We agree with Staff that more streamlined guidance outlining the eligible measures and a process to maintain an accurate list should be developed, and therefore direct Staff to work in conjunction with program administrators through the E^2 working group to develop a streamlined list of eligible EEPS measures. We will maintain the process outlined in our June 20, 2011 order to add new measures to the list and for program administrators to add eligible measures from the list to their existing programs, and will further allow this process to be used to make necessary changes to the construct of the eligibility list. Until a streamlined list is developed, the current lists shall be used to provide program administrators the flexibility they now have. We do not agree, as NFG suggests, that the Technical Resource Manual should be used as a replacement for an eligible measures list.

Payback Testing

We did not receive any comments objecting to Staff's proposal to eliminate payback testing and develop regulatory guidance prior to re-implementing a payback requirement. NFG suggested that because the proposal for the 2016 – 2020 program cycle includes the possibility for enhanced cost-effectiveness testing at the program level and not the measure level, the payback testing requirement should be permanently eliminated. We will eliminate payback testing for program years 2014 – 2015, but will not decide here whether payback testing should be re-implemented for the 2016 – 2020 program cycle.

Pre-screening of prescriptive measures

There was general agreement to eliminate the requirement to pre-screen prescriptive measures with fixed dollar rebate levels and require program administrators to maintain auditable records sufficient to demonstrate that each type of prescriptive measure is cost-effective in a majority of actual installations. The Joint Utilities commented that eliminating this requirement will improve project cycle time, reduce administrative costs, allow more customers to be served, and reduce customer confusion about measure eligibility. NYSERDA suggests that the definition of the term prescriptive and the appropriate pre-screening requirements should also be considered over the longer-term particularly in relation to programs that have standard incentives based on a fixed percentage of costs rather than a fixed dollar amount. NFG agrees that the requirement should be eliminated, it comments that guidance should be developed jointly with program administrators to properly define "auditable record," provide detail on how an audit process will work and the impact of any audit findings and conclusions, and to ensure that the elimination of this requirement does not inadvertently increase administrative burden.

While pre-screening of prescriptive measures with fixed dollar amount rebates may prevent the completion of a small number of projects where the measure is not cost-effective, its benefits are outweighed by increased project completion times, customer confusion concerning program eligibility and administrative costs. The requirement to pre-screen prescriptive measures with fixed dollar rebate levels is eliminated for program years 2014 – 2015. Concerning NYSERDA's comment that the definition of prescriptive be considered, particularly in relation to programs with fixed percentage of cost rebates rather than fixed dollar amounts, we provide the following clarification. The requirement to pre-screen prescriptive measures is eliminated for measures that have been demonstrated to be cost-effective in a majority of actual installations, whether the rebates are fixed dollar amounts or fixed percentages. Staff is directed to develop guidance, in conjunction with program administrators, outlining what records shall be maintained by program administrators to demonstrate that each type of prescriptive measure is cost-effective in a majority of actual installations.

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

The Commission orders:

1. We direct Staff of the Department of Public Service (Staff) to recommend, for commencement in the first quarter of 2014, a process that will result in timely decisions regarding the broad restructuring of distribution utility regulation, such that the post-2015 course of energy efficiency programs and other clean energy programs can be determined in the context of these more sweeping changes.

2. Staff, the New York State Energy Research and Development Authority (NYSERDA) and utility program administers are directed to convene an E^2 working group to begin sharing and

developing concepts for an optimized E^2 portfolio that supports a scale-up of energy efficiency and overall system efficiency within the upcoming overall restructuring proceeding.

3. The E^2 working group is directed to develop the E^2 action plan described above. NYSERDA is authorized to fund the development of the plan and any necessary preliminary technical or foundational materials with up to $5 million to be reallocated from System Benefit Charge (SBC) III and Energy Efficiency Portfolio (EEPS) I funds that became uncommitted in 2013.

4. The changes to EEPS specifically described above for program years 2014-2015 are approved. Staff is directed to work with the E^2 working group to develop the guidance documents related to reporting as described in the body of this order. Such guidance documents and any subsequent updates shall be filed with the Secretary.

5. The Secretary in her sole discretion may extend the deadlines set forth in this order, provided the request for such extension is in writing, including a justification for the extension, and filed on a timely basis, which should be on at least one day's notice prior to any affected deadline.

6. This proceeding is continued.

By the Commission

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

KATHLEEN H. BURGESS
Secretary

SUMMARY OF COMMENTS

Air Compressor Engineering

ir Compressor Engineering participated in National Grid's energy efficiency programs and supports National Grid as an energy efficiency program provider. Air Compressor believes National Grid programs are received very favorably because of the energy savings realized by the customer and the ease of the process.

Alliance for Clean Energy – New York (ACE-NY)

ACE begins by stating that the post-2015 EEPS programs should have more aggressive targets and build in structural changes to be more effective. In general, it views the restructuring proposal favorably.

The comments here support, but do not repeat the comments that ACE provided jointly with the Natural Resources Defense Council (NRDC) and the Pace Energy and Climate Center. Specifically, ACE stresses that the cost-effectiveness testing currently done should be revised by taking the current wholesale energy price reductions into effect in the cost effectiveness calculations. Additionally, it believes that cost savings for New York electricity customers should be a priority over both out of state generators and fossil fuel based energy providers. It goes on to state that the assigned program responsibilities of NYSERDA and the utilities in delivering EEPS programs should be revised to prevent customer confusion and avoid unnecessary confusion. Lastly, PACE states that EEPS programs should ensure that appropriate metrics are used in evaluating and measuring program progress and performance.

American Intermodal Container Manufacturing, Inc. (American Intermodal)

American Intermodal supports National Grid and their efforts to assist the company identify potential energy savings in a variety of areas. American Intermodal participated in National Grid's program and received an incentive for its lighting project.

Association for Energy Affordability (AEA)

AEA agrees with the overall, broad direction provided in the EEPS restructuring proposal including the directional goals and metrics which provide the starting point for the 2016-2020 programs. Regarding the goals and metrics, it states that programs should differ by sector and that those for prescribed programs should be different than those for comprehensive (or custom) programs. AEA also states that the metrics should differ by region in able to respond to the diversity of New York's markets and energy infrastructure.

AEA provides more detailed comments on aspects of EEPS beginning with perceived market confusion between NYSERDA and utility programs stating that although market overlap may seem to present difficulties, it does not necessarily lead to customer confusion. In some cases, AEA argues, the outcome can be positive when product differentiation and market segmentation resulting from two "competing" programs can result in increased market participation and hence, increased realized EEPS goals. Regarding other forms of customer confusion, AEA states that placing (incentive) caps on multi-family sector programs can force multi-family building owners to seek other sector (such as C & I) funding which may not be able to serve the multi-family sector in that particular region, which needs to be rectified according to AEA by establishing a multi-family building sector that addresses programs within that sector.

AEA states the importance of recognizing the diversity of New York City's real estate market and that a "one size fits all" approach does not effectively address the market. AEA explains that the current practice of phased-in energy efficiency improvements, with the highest energy value improvements performed first and the others phased in later, is responsive to customers who may not want to or have the resources to implement all potential energy efficiency upgrades and improvements at once. AEA contends that this measure-based approach can also work well for utilities because it reduces high volume gas and electric infrastructure needs in key zones within their service territories.

AEA further explains that fair and equitable treatment of apartment dwellers is important as they are a key component of the residential class of customers, and have historically been underserved due to the split incentive issue in apartment buildings. AEA continues that because most apartment dwellers are direct-metered, they receive the benefits of energy efficiency upgrades with the owner receiving very few, resulting in owners choosing not to participate. AEA explains that if the measures are provided free of charge, this problem would be eliminated. AEA states the current limitation of EEPS to offer incentives to only apartments dwellers of 5 to 75 units limits participation, and eliminating this cap would successfully address this issue.

AEA notes that throughout the Moreland Commission documents, the issue of program overlap between NYSERDA and utility programs is mentioned, and contends that these are not necessarily duplicative, because they are typically different, insofar as multi-family programs are concerned. AEA posits that Con Ed's contractors are not confused by the differences or overlap, rather they seek measures and financing products that best “fit” their customers and provide choice, especially in buildings with different levels of energy intensity and heating systems, and differences in investment timelines.

AEA adds that the current practice of a building owner having energy saving measures installed first, by the utility contractor, in all his buildings in sequence and then moving on to other measures in a phased-in approach works well financially and is easier to manage than installing all measures at one time. It also explains that another NYSERDA-provided incentive one year after all project work is completed is also a valuable option. In sum, AEA explains that having utility and NYSERDA programs can confuse the market place, but that effective program education and transparency regarding program requirements and incentives is important in reducing confusion.

Regarding roles and responsibilities, AEA generally agrees with the Staff proposal of customer-centric program models that are specific to a sector and address sector needs. It goes on further to support Staff’s proposal of establishing joint utility-NYSERDA roles and responsibilities by sector and region, explaining that effective coordination between these parties would provide the best customer service experience and quality.

AEA takes issue with the characterization that utility programs are “introductory” and different than comprehensive programs. It states that introductory implies that those participating in such programs are for those just testing the market and not convinced of the value of energy savings and in its experience it has encountered building owners who start by installing limited measures in large groups of properties to gauge the program process and administrative burdens. It goes on further to state that these owners may continue with further energy saving measures dependent upon budgeting constraints and other factors. It states further that offering these owners additional loan products may not address other underlying issues which constrain further involvement such as existing syndication agreements or bylaws. AEA states that these market forces must always be taken into consideration when evaluating future program design and financing products.

AEA concludes with its agreement with Staff that: a systematic review of both best program practices and cost effectiveness testing, particularly at the sector level should be undertaken; a formal multi-year planning cycle be implemented with each cycle of program planning informing the next cycle; a centralized database of all energy savings programs be designed; that designing such a database is a very complex undertaking and one in which it would like to participate; the creation of a Technical Resource Manual team with E^2 Advisory Council should be expedited and include those directly involved with program delivery; and supports the fuel neutral approach to energy efficiency upgrades to promote market transformation and maximize total societal benefits of EEPS.

Bluestone Energy (Bluestone)

Bluestone supports National Grid’s energy efficiency program, states it has had favorable experiences with their utility representatives and they achieved greater success than they experienced with other programs in New York State.

Building Performance Contractors Association of New York State (BPCA)

The BPCA expresses its overall support for the proposed restructuring of EEPS and provides the following comments on particular aspects of it.

As its market growth has declined recently, BPCA states that it is focusing on expanding the marketplace through market transformation for energy services. To that end, BPCA supports the following: a fuel-neutral fund which will lead to a more comprehensive approach to energy efficiency and reduce market confusion; shifting the day to day administrative tasks including budget management from Staff to NYSERDA; the effort for enhanced data sharing between NYSERDA and the utilities; and administration of the TRC test at the sector level instead of the measure level as is currently done.

Business Council of New York State (Business Council)

The Business Council states that the Commission should use the EEPS restructuring process to move toward elimination of the current assessments including those for EEPS, which would help lower energy rates, particularly for the manufacturing sector. It believes this is necessary as New York State has historically high overall energy rates which surpass other states' energy rates, which have contributed to a decline in New York State's economy. The Council contends that although New York State's wholesale electricity prices for 2012 were the lowest in 12 years, due to energy assessments, these prices have not lead to low overall energy costs. It goes on to state its support for NYSERDA's Green Bank petition which seeks to transition away from customer-funded subsidies such as those for EEPS.

To further support its position and in support of MI, The Business Council explains how a large, (hypothetical) non-residential National Grid customer with a 20 MW demand and 85% load factor, would end up paying almost twice as much for EEPS, RPS and SBC charges combined than it would for traditional delivery services alone from National Grid. To reduce these assessments, it suggests the Commission establish alternatives to the current volumetric assessments such as imposition of a maximum amount of assessments on individual customer accounts. It also recommends permitting these large customers to "bank" their assessments for future use by only the same customer class, within a certain time period. This would do away with the current subsidization by large, non-residential customers to other customer classes.

Regarding services to customers under EEPS, it states the importance of allowing the utilities to take advantage of their direct communication and interface with customers in marketing and outreach efforts.

Center for Working Families (CWF)

CWF states its support for the EEPS restructuring proposal because it believes the proposal has similar goals to CWF's Green Jobs Green New York (GJGNY) program, such as key features of GJGNY including low-interest loans and on-bill recovery intended to make the program more customer friendly and reduce barriers to retrofits.

In addition, CWF supports the coordination of NYSERDA and utility programs to streamline programs and reduce customer confusion; a fuel neutral approach to energy savings which would support whole building retrofits and expand program access; replacing the measure level TRC test in with project or program level cost effectiveness testing and including non-energy benefits in those test; the sharing of customer data between NYSERDA and the utilities in a secure manner which would help hasten project completion by removing barriers to energy usage data; providing program administrators greater control in budgeting and target establishment; and reducing EEPS reporting frequency.

CWF concludes its EEPS comments by recommending that: funding be provided to assist contractors in obtaining accreditation through the Building Performance Institute (BPI) to ensure all work is performed in a quality manner; funding for multi-family buildings be increased so that the obstacles faced by building owners can be overcome; and quality assurance (QA) and quality control (QC) procedures are in place to ensure customer satisfaction with work performed.

Community Environmental Center (CEC)

CEC supports Staff's restructuring proposal for the next EEPS program cycle particularly in regard to the "fuel neutrality" proposal and the less-competitive coordination of programs administered by utilities NYSERDA. In addition, CEC suggests closer coordination with other non-PSC energy efficiency resources in New York State and the incorporation of post-retrofit monitoring and support for buildings that benefit from these programs.

Conservation Services Group (CSG)

CSG applauds Staff's restructuring proposal for the next EEPS program cycle particularly in that it addresses a number of barriers and inconsistencies that have negatively impacted the current programs with regards to cost-effectiveness methodology, fuel neutrality, and program overlap that results in customer confusion. Additionally it puts forth a recommended template for overall program design.

CSG supports the proposed move to a TRC test at the sector or portfolio level. It characterizes the current process as a complex, awkward process that confuses and frustrates customers and considers the proposal to be more customer-centered.

CSG considers the fuel-neutrality proposal to likewise reduce complexity and ease customer frustration and confusion. CSG believes that fuel-neutrality will simplify program delivery, lower administrative costs, increase trade ally participation, and improve customer experiences.

CSG supports reduction in program competition and overlap which has only led to customer confusion, and supports the Staff proposal to have introductory programs being offered by the utilities and comprehensive programs by NYSERDA. CSG suggests that the design of a coordinated program between the utilities and NYSERDA have four key features; one-stop shopping to provide customers one place to find all services; scalability to provide programs that are adaptable to customers' changing goals; integrated program delivery to coordinate promotions, services, and technical standards; and enhanced services to offer new . technologies as they became available, linking them to prior measures accordingly.

Consolidated Edison Solutions (CES)

CES, an energy service company, requests that programs be administered consistently on state-wide basis for the next EEPS program cycle, encouraging consistency in program eligibility, front-end program application, and back-end measurement and verification. CES considers the current approach too fragmented and complicated, and in CES' opinion, it dilutes the value of the SBC funds from the viewpoint of the energy service company and creates artificial barriers from the viewpoint of the customer.

City of New York (City) and the New York City Energy Efficiency Corporation (NYC-NYCEEC)

Initial Comments

The City generally supports Staff's restructuring proposal for the next EEPS program cycle but the City has significant concerns regarding the implementation of EEPS program during the current program cycle.

The City agrees with and supports Staff's proposed "guiding principles and objectives" for the E^2 program cycle but recommends that carbon reduction be included as a specific goal; supports the concept of not focusing on a single target; supports periodic program review and revision cycles more frequently than every five years including a mechanism by which stakeholders can raise systemic or programmatic concerns for Commission consideration between review cycles; supports a customer-centric program model that includes an easily accessible portal that presents information clearly and eases the customer application and participation process; and supports clear delineation of roles and responsibilities, as soon as possible, but no later than January 1, 2016.

The City believes Staff's proposal essentially ignores opportunities for improvements that could be made for the 2014-2015 program cycle and recommends that Staff and/or NYSERDA compile historic and projected program performance as expeditiously as possible to identify opportunities for near-term program improvements.

The City urges the Commission to adopt a fuel neutral approach to energy efficiency programs that supports oil-to-gas conversion costs beyond the cost of an efficient gas boiler; extends eligibility for NYSERDA's comprehensive programs to all buildings that contribute funds to SBC and EEPS, whether through gas or electricity bills; reserves a portion of such funding for low-income customers; and eliminates the fuel restrictions that previously hamstrung the Geothermal Heat Pump program so that a geothermal heat pump program could be reinstated.

The City urges the Commission to direct Staff and the IAG to resume consideration of options that would allow interruptible gas customers to participate in EEPS programs, provided that the program is designed to preserve the benefit of the interruptible rate and proposes the possibility of working with Staff and the IAG to develop an opt-in and opt-out program that would allow an otherwise ineligible interruptible customer to elect to participate in EEPS programs for a limited period of time, and then be allowed to opt-out under certain circumstances.

The City believes a number of changes should be made to EEPS to address different regional needs, including: (1) immediate creation of upstate and downstate regional IAG subcommittees to identify region-specific barriers to efficiency program implementation to improve near-term program performance and assist with design to the E^2 program; (2) an increased NYSERDA presence in New York City dedicated to the promotion and administration of in-City efficiency programs and support and in-City program focused on accelerating the deployment of energy efficiency measures in mid-to large-size buildings; and (3) a Commission directive that NYSERDA invest $2 million per year of uncommitted EEPS funds to support the City's GGBP accelerator program.

The City agrees with Staff that the TRC test should no longer be applied and the measure level and supports Staff's proposal to evaluate cost effectiveness at the sector level. The City recommends that a number of strategies be deployed to reduce the upfront cost of program participation, including; (1) free energy audits that meet the standards of an ASHRAE Level 1 energy audit, with the opportunity to opt into higher level audits, for a fee, to any building willing to participate in an energy efficiency program; (2) free installation of a list of measures that are inexpensive to procure and install; and (3) a reduction in administrative burden that is informed by an objective NYSERDA evaluation of the administrative requirements imposed on participating customers.

Reply Comments

The City supports the positions of the Natural Resources Defense Council and Pace Energy and Climate Center (NRDC/ Pace) regarding increased investment and improvements to low income efficiency programs, including providing financing options through the Green Bank; a thorough Commission review, in 2014, of low-income funding levels for energy efficiency programs; and a directive to NYSERDA to coordinate with the New York State Division of Homes & Community Renewal in its administration of efficiency programs that include weatherization as an eligible measure.

The City supports relaxation of fuel use restrictions in favor of a more fuel neutral approach and urges NYSERDA to modify program eligibility requirements to include any privately-owned building regardless of fuel used by such buildings or targeted by the efficiency program. If the Commission elects to adopt NYSERDA's proposal to eliminate the gas surcharge and collect all EEPS funds from electric customers, then the City urges the Commission to ensure program eligibility for all customers that have paid the gas surcharge but would lose EEPS program eligibility if NYSERDA's proposal is approved

Cummins, Inc.

Cummins supports continuing to have the utilities operate the energy efficiency programs as it is in the best interest of businesses. Cummins states it is participating in National Grid's energy efficiency programs and has found the utility program expert to be very helpful in processing the incentive applications and other documents. Cummins believes that having National Grid manage the electric energy efficiency programs in their area is helpful.

D. Jaszka Energy Consulting (Jaszka)

Based on its experience, Jaszka believes that the utility programs operate in a superior manner to those of NYSERDA because the utility has designated points of contact that provide prompt responses to the company regarding the application process. Jaskza states it has worked with both National Grid and NYSERDA on energy efficiency projects and has experienced a faster and easier process with the National Grid programs, and maintains that efficiency programs should remain with the utilities.

Dot Foods NY

Dot Foods states it has participated in National Grid's energy efficiency programs and found the utility to be very helpful and a good partner. Dot Foods believes that National Grid's program applications are easy and straightforward.

Eastern Energy Solutions, Inc.

Eastern Energy supports maintaining National Grid's position in operating their own energy efficiency programs because National Grid employs a strong team of professionals that are both highly knowledgeable in energy efficiency and highly responsive in handling the influx of projects. Eastern Energy states that the National Grid application is streamlined and efficient as compared to NYSERDA's application. Eastern Energy believes that merging energy efficiency programs into one source would likely cause a slow-down in the implementation of energy efficiency projects. It supports the operation of utility energy efficiency programs because it brings choice to commercial and industrial customers.

Efficiency First New York (EF-NY)

EF-NY generally supports the EEPS Restructuring proposal and believes that the recommended changes will provide significant benefit to the EEPS programs. Specifically, EF-NY supports the recommendations to pool the EEPS electric and gas funding to provide a "whole customer approach", ending the more recent and failed system of fuel "siloing." EF-NY states that the residential energy efficiency industry needs simply managed and robust programs to create the market transformation critical for our industry and our state, and believes that Staff's recommendations regarding fuel neutrality represent the single most important part of the proposal.

EF-NY supports the recommendation to replace the current system of competition and establish complementary EEPS programs, stating that the current system of competing programs does not encourage cooperation between utility and NYSERDA on comprehensive energy efficiency projects. EF-NY comments that although it is possible to take advantage of incentives from both EEPS utility programs and NYSERDA, due to the lack of program coordination, to do so requires redundant paperwork, energy modeling and quality assurance. EF-NY believes that complementary EEPS programs represents a unique opportunity to increase the effectiveness of EEPS, citing the example of LIPA's Market-Rate Incentive program as one in which the coordination of EEPS utility incentives with those of NYSERDA can increase participation. EF-NY states that it has worked directly with both LIPA and NYSERDA to consolidate their paperwork and process to provide a streamlined method for awarding additional incentives for customers participating in NYSERDA's residential program.

EF-NY strongly supports the proposal to eliminate payback testing for the remainder of EEPS2. It also states that cost-effectiveness testing on the measure level has made it difficult and in some cases impossible to complete energy efficiency work on homes heated by natural gas. EF-NY contends that the low cost of natural gas combined with the stringent cost-effectiveness requirements has led contractors to forego work on homes that could have otherwise benefitted from their services. EF-NY believes that cost-effectiveness testing should not be used to determine the eligibility of a project, because it does not take into account the environmental, societal, and resiliency benefits associated with home performance projects, and that as the future of EEPS is decided, the tests used to measure a project's effectiveness account for the true benefits of residential energy efficiency work.

EF-NY strongly supports improved information sharing between EEPS utility programs and NYSERDA. EF-NY believes that utility data can help to make NYSERDA's programs more effective in that customer contact information and audit results can help to streamline the intake into NYSERDA's programs, customer billing history can help to pre-qualify/qualify customers for financing, and customer energy usage information can streamline energy modeling and savings reporting. EF-NY states that access to this type of data will be a benefit to all parties involved and improve the process of creating complementary EEPS programs.

EF-NY supports the recommendation to shift responsibilities of the day-to-day program changes from DPS Staff to Program Administrators and believes it would be effective at improving performance and interoperability of the EEPS programs.

En-Tech Associates, Inc, (En-Tech)

En-tech supports the elimination of competition between NYSERDA and the utility companies and streamlining the process so end users see easy to reach financial incentives. En-Tech believes that a well-defined energy plan and appropriate funding should be the template for immediate and future upgrades to HVAC systems, lighting, air quality, and shell treatments and will let customers improve their systems as they see fit. En-Tech urges the Commission to better define separate and unique roles for the utilities and NYSERDA, each assuming their highest value to serve the customer.

Environmental Advocates of New York (EANY)

Environmental Advocates supports a shift in emphasis from the 15 x 15 goal to program goals that focus on a set of specific benchmarks such as reduction in peak demand, carbon emission reductions, deployment of smart grid and advanced efficiency technologies, and the identification and utilization of best practices. It states that EEPS should be restructured to coordinate with other New York State clean energy initiatives. Environmental Advocates recommends eliminating duplicative program offerings; clearly delineating roles by putting NYSERDA in charge of program administration and directing utilities to serve as chief program marketers and providers of basic efficiency measures; offering fuel neutral programs; implementing program level cost-effectiveness assessments; and simplifying performance reviews and reporting to free up DPS staff and the Commission to focus on program-wide progress and macro policy evaluations and improvements.

F.X. Matt Brewing Company (Matt Brewing)

Matt Brewing states it has participated in several National Grid commercial programs and supports the programs offered by the utility because of the close relationship it has with the account executives and the ease of program participation. Matt Brewing urges the Commission to keep in mind the support utility companies like National Grid have given to its customers.

GE Power and Water (GE)

GE comments that it has participated in several energy efficiency projects and supports National Grid's continued role as a provider of energy efficiency programs, stating it has fostered a relationship as their trusted energy advisor.

Glauber Equipment Corp. (Glauber)

Glauber supports the continued role of National Grid as an energy efficiency program administrator because they have knowledgeable account executives that are easily accessible and responsive, the incentive programs are more diverse than the alternative provider's incentives, and they provide more attractive incentive rates on custom projects than the alternative provider. Glauber believes that the utility provides the best assistance in planning and implementing projects using energy efficiency incentives.

Glens Falls Hospital (GFH)

Glens Falls Hospital supports National Grid's role as an energy efficiency program administrator, stating it has developed a long-standing relationship with National Grid and appreciates the information provided by National Grid relating to energy procurement, energy conservation, and new technologies.

Gloversville Enlarged School District (Gloversville)

Gloversville comments that it has participated in National Grid's energy efficiency programs and has found the utility account executives to be very helpful navigating through the paperwork and maximizing their return on investment of energy efficiency projects.

Gore Mountain

Gore Mountain states that it has participated in National Grid's energy efficiency programs and found the process to be very streamlined and beneficial to their operations.

ICF International (ICF)

ICF comments that EEPS programs have contributed to job and economic development in New York State. ICF agrees that DPS resources have been insufficient to provide detailed administrative oversight of the EEPS programs, and advocates for the utilities/NYSERDA to have the ability, without Commission approval, to modify programs to quickly respond to market changes.

ICF states that redesigned EEPS programs should complement each other in an effort to eliminate customer confusion currently caused by competing programs.

Joint Utilities

Initial Comments

The Joint Utilities are Consolidated Edison Company of New York, Inc., Orange & Rockland Utilities, Inc., Central Hudson Gas and Electric Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, The Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation.

The Joint Utilities generally support Staff's restructuring proposal for the current EEPS cycle. The Joint Utilities also generally support Staff's proposal for the E^2 program cycle, 2016 and beyond.

Regarding Staff's proposal for modifications to the EEPS 2014-2015 program years, the Joint Utilities support eliminating the requirement for approval by the Director of the Office of Energy Efficiency and the Environment (OEEE) to reallocate budgets and targets among programs within the same customer sector; support eliminating the requirement for approval by the Director of OEEE for revisions to customer incentive levels; support reducing reporting frequency from monthly to quarterly and streamlining report content; support eliminating the measure payback test; support eliminating the requirement for approval by or notification to the Director of OEEE for banking and barrowing EEPS 2 program funds; and support eliminating the requirement to pre-screen prescriptive measures (i.e., measures with a fixed dollar rebate).

The Joint Utilities agree with Staff's proposal that creative solutions to cost-effective screening in E^2 programs will be important for 2016 and beyond. In addition, the Joint Utilities ask the Commission to consider a streamlined TRC test for the remaining EEPS II program cycle that does not include the current measure level screening requirement. The Joint Utilities argue that eliminating the measure level screening requirement for the 2014-2015 program years should allow Program Administrators to move more quickly with cost-effective projects using known energy-saving measures that meet the needs of the customer, significantly reduce Program Administrator and contractor delays by allowing them to quickly propose cost-effective projects without measure-by-measure analysis, increase program achievements by increasing the number of measures used within EEPS programs, and increase customer satisfaction.

The Joint Utilities agree with Staff that there is a need to improve the process by which measures are added to the measure classification lists. Although Staff proposed eliminating the Classification Group lists and developing guidance on eligible measures, the Joint Utilities recommend that prior to eliminating the lists Staff and the Program Administrators develop an alternate approach for adding measures to programs. The Joint Utilities note that if the measure-level TRC test is eliminated, the measure classification groups may no longer be necessary as measures would no longer need individual approvals.

The Joint Utilities request that the EEPS 2 programs be evaluated based on the Commission's anticipated framework for E^2. The Joint Utilities believe that the utilities must have the opportunity to provide meaningful input to the E^2 Advisory Council. The Joint Utilities also stress the need for a transparent decision-making process, especially with regard to the Technical Resource Manual.

The Joint Utilities believe that the NYSERDA roles of Program Administrator, E^2 evaluator and DPS Staff supporter, which are set forth in Staff's proposal for E^2, are overlapping and appear to create potential conflicts of interest. The Joint

Utilities suggest it is inappropriate for NYSERDA to evaluate utility-administered programs if NYSERDA also administers and implements its own energy efficiency and DSM programs. The Joint Utilities agree with Staff's proposal that utilities and NYSERDA have different strengths and recognize the benefits of having a stronger cooperative relationship between NYSERDA and the utilities. The Joint Utilities believe that in order to provide optimal results during E^2, the utilities should be at the forefront of implementing resource acquisition programs that support their customers' and their own needs. The Joint Utilities suggest that NYSERDA implement resource acquisition programs in those areas in which it has developed special expertise, such as its upstream and market transformation programs. The Joint Utilities go on to suggest that NYSERDA could also provide technical support to Staff, undertake research, development, and demonstration activities to support resource programs, provide clean energy implementation support via the New York Green Bank financing and conduct statewide evaluation studies.

The Joint Utilities disagree with Staff that there is a need for a centralized and coordinated model for E^2 programs, arguing that customers who seek, or are approached, regarding clean energy options are more likely to trust the utility based on the relationship established through years of interaction rather than a centralized entity. The Joint Utilities agree that utilities can play a key role in marketing, outreach and developing leads. The Joint Utilities state that Staff's concept of "introductory" and "comprehensive" programs are unclear and feel that it is premature to delineate Program Administrator roles at this time, the Joint Utilities believe the roles will be best addressed in the course of developing the joint organizational proposal. The Joint Utilities request that the Commission avoid any framing of the Program Administrator roles that would relegate utilities to a role that would not take advantage of their strengths or would remove the utility from the customer interface.

The Joint Utilities generally support Staff's proposed marketing role for utilities during the E^2 program cycle. The Joint Utilities fully support a customer-centric model for energy efficiency program delivery, but recommend that a statewide message platform be used only for education and general outreach. The Joint Utilities feel that utilities should retain their role as the primary marketing entity. The Joint Utilities believe that a statewide education platform may be useful as long as utilities effectively market programs, marketing for E^2 programs reflects regional needs and existing brands, and the statewide platform has different facets and allows regions and utilities to adopt and include portions, but not all, of the statewide platform. The Joint Utilities urge the Commission to establish a workable timeline for development of the statewide education approach, and to also incorporate a plan to transition over time to the new approach. The Joint Utilities state that challenges to adopting a statewide education platform – such as limited resources, diverse media coverage, and current levels of marketing in other programmatic areas – need to be successfully addressed in the development of statewide education and utility-specific outreach plans. The Joint Utilities would like to retain the customer connection for energy efficiency and other DSM programs, and with an appropriate process, agree with Staff's proposal that the utility role could include encouraging customer participation by generating leads for NYSERDA programs. The Joint Utilities agree with Staff's proposal that utilities should perform E^2 program customer outreach and marketing, using their existing customer relationships and channels to the combined benefit of utilities, customers, and NYSERDA.

The Joint Utilities believe application of the Commission's established guiding principles, including the principle of directing program benefits, at least in part, to the type of customer who is providing the program funding, provides the best framework to assure inter-regional and inter-rate class equity, and avoid cross-fuel and cross-customer class subsidization. The Joint Utilities go on to raise concerns with each of Staff's proposals for establishing a fuel neutral energy efficiency fund for the E^2 program cycle, suggesting that the introduction of fuel neutrality and either blending of electric and gas System Benefit Charge (SBC) collections, or funding through a single electric SBC collection, ignores the regional and customer type delineation associated with service territory and customer type-specific targets. The Joint Utilities argue that Staff's proposition fails to recognize that a) not all electric customers have access to gas; b) electric and gas service territories are not congruent and within certain electric service territories, there may be multiple providers of natural gas; and c) although it is best environmentally for oil, propane, and other non-natural gas fueled equipment to be of the highest possible efficiency, it is not incumbent upon electric and gas ratepayers to provide funding to improve the efficiency of equipment fueled by other means. The Joint Utilities believe that forcing electric and gas customers to cross-subsidize the use of such fuel, may have the unintended consequence of influencing customers to choose an alternate fuel which currently pays no energy efficiency SBC. The Joint Utilities recommend that the Commission give consideration to other mechanisms for raising public funds to help manage non-utility energy consumption. In addition, the Joint Utilities recommend that in evaluating Staff's proposal the Commission solicit specific customer input on cross-subsidization issues that a fuel neutral energy efficiency fund presents.

In response to the Staff proposal's invitation for comments regarding goals and metrics as well as the development of a more effective utility financial incentive structure, the Joint Utilities suggest that any such metrics must align both utility and State performance objectives and may influence the direction of the E^2 program portfolio. The Joint Utilities propose that electric peak demand reduction and lifecycle carbon dioxide (CO_2) emissions may be appropriate metrics for evaluating long-term and system impacts of the E^2 programs. The Joint Utilities oppose the establishment of metrics based on customer behavior such as reduced turn-offs or decreased arrears. The Joint Utilities feel Staff's proposal for statewide and utility service territory metrics is problematic because the Joint Utilities believe such metrics would necessarily include performance of programs by NYSERDA, LIPA and NYPA, within discrete utility territories. The Joint Utilities recommend that shared performance metrics should not apply toward utility incentives. The Joint Utilities believe that collaboration with NYSERDA would necessitate tracking several key metrics, including leads and referrals generated, lead conversion rates, and savings achieved per project or customer and suggest that establishing reliable communications and a bi-directional flow of information between the organizations is more productive than metrics based upon achieved savings for encouraging collaboration on any programs for which the utilities themselves are not responsible. Regarding the incentive structure for the E^2 Program, the Joint Utilities suggest an incentive mechanism designed to, not only encourage the achievement of program targets but also to reflect the overall effectiveness of delivering the programs (e.g., metrics such as program or portfolio acquisition costs – the Joint Utilities believe that such an incentive structure would reward not only achievement of savings but also fiscal responsibility. The Joint Utilities caution that such an incentive mechanism would need to be based not only on the sound establishment of targets, but also budgets, which would need to have inter-regional parity such that program resources would account for cost variations and other differences across utility service territories. The Joint Utilities recommend three principles for consideration when developing the incentive structure 1) the design of the metrics, goals and utility shareholder incentives should be established in a transparent and detailed manner at the outset of the planning cycle, therefore, the Joint Utilities urge that the Statewide market potential studies recommended in Staff's proposal be conducted and completed as soon as possible during the 2014-2015 EEPS 2 program years to facilitate final program design and implementation by 2016. The Joint Utilities suggest that the statewide potential studies could be funded from unspent EEPS 1 monies after accounting for utility shareholder incentives and before additional monies are distributed to other initiatives. The Joint Utilities recommend that the E^2 goals be based on realistic and eligible market potential and that actual EEPS performance data from 2009-2013 be a guiding factor in determining targets. 2) The Joint Utilities recommend that the methods used to calculate achievements and adjustments to those values be simple, straightforward, transparent, and established from the outset. 3) The Joint Utilities recommend that goals or metrics should not be established that are wholly or largely out of the utilities' control. To further develop an effective and equitable shareholder incentive structure, the Joint

Utilities propose including a collaborative effort as part of the E^2 proceedings during 2014 and 2015.

The Joint Utilities believe that Staff's proposal to provide broader access and sharing of customer data between NYSERDA and the utilities would be a major undertaking requiring considerable dedication of resources by each of the utilities in light of the Commission's longstanding privacy principles. Therefore, the Joint Utilities suggest that more emphasis be placed on understanding the hurdles to be addressed if utilities are asked to share customer data with NYSERDA, program evaluators, and contractors. The Joint Utilities state that the establishment of an on-demand data warehouse must employ the same or stronger cyber security standards than are already required by the Commission and state that the resources to do so will be on top of the efforts by the individual utilities to protect their respective sensitive customer information. In addition, the Joint Utilities suggest that should a breach of customer data occur, the impact could be far more devastating and widespread than a breach of a single utility's system. The Joint Utilities propose that the Commission provide the utilities and NYSERDA the opportunity, in the course of developing the joint organizational proposal for the E^2 program, to also address alternatives to an on-demand data warehouse that, while advancing the customer-centric model, will preserve the customer privacy rules and protections in place today between the utilities and their customers. The Joint Utilities recommend that if the Commission deems it appropriate to move forward with the data warehouse, the protocols and practices surrounding customer consent and standards to be employed for data deposited in the warehouse should be developed and formally adopted. The Joint Utilities also state that the types of information that NYSERDA will be storing in the data warehouse should meet the utilities' requirements.

Regarding Staff's recommendation to develop a centralized information technology (IT) platform, the Joint Utilities believe that Staff's proposal to hire a qualified contractor to define the scope and asses the benefits and costs is reasonable but do not believe that it can substitute for working with the system experts of the utilities and NYSERDA. The Joint Utilities recommend that the scope of the centralized IT platform be realistic, taking into consideration the needs of the Program Administrators, market partners, customers and the availability, functionality, and limitations of each utility's internal systems. The Joint Utilities also suggest, as an alternative to a large system implementation, Staff could limit the first step to building a functional, efficient and scalable data warehouse that is easy to use. To support this more limited approach, the Joint Utilities suggest that each Program Administrator must be active in participating and contributing to the data collected and stored in the statewide system, and there should be capability to ensure a two-way flow of information.

Reply Comments

The Joint Utilities disagree with the position of the City and NYCEEC that Staff and/or NYSERDA be directed to begin a process to consider enhancements for the remaining years of EEPS 2. The city recommends that the Commission direct Staff and/or NYSERDA to compile and present for public comment and Commission review historic and projected program performance. The City requests that the process begin immediately and focus on identifying barriers to program spending, recommending solutions to identified barriers and recommending program modifications that could facilitate cost-effective program spending. The Joint Utilities urge the Commission to reject the city's proposal arguing that such a process would require Program Administrators to commit to a lengthy process that would delay the proposed changes for 2014-2015 and prolong the very process Staff is seeking to eliminate through its Restructuring Proposal. Although the City specifically recommends that the process should be resolved expeditiously to ensure that opportunities to improve program performance in 2014 are not unduly delayed, the Joint Utilities argue that such a process would inevitably require a significant expenditure of resources by all participants, diverting those resources from the more important task of addressing the important E^2 Program issues raised in Staff's proposal.

The Joint Utilities disagree with NYSERDA's proposal that revisions to customer incentive levels continue to require Staff pre-approval. The Joint Utilities recommend that the Commission reject NYSERDA's proposal as it would simply maintain the current time-consuming oversight of Program Administrator decisions that Staff is trying to reduce. The Joint Utilities believe that NYSERDA's premise that there is currently a level of parity of incentive levels among PAs in a given region, which it uses to justify the continuance of the Staff approval process, is unsupported. The Joint Utilities argue that regardless of whether there is current parity among incentive levels, Staff approval should be eliminated because Program Administrators are in a better position than Staff to identify the incentive level that is necessary to move the market at minimal cost to customers. Further, the Joint Utilities argue that NYSERDA provides no support for its assumption that continuation of the Staff approval process is necessary to avoid damaging competition, program overlap, and market confusion. In addition, the Joint Utilities suggest that NYSERDA's justification for continuing the Staff approval process for incentive levels disregards' Staff's recommendation that Programs Administers should be encouraged to collaborate on incentive levels; the recent and successful collaboration between NYSERDA and Consolidated Edison Company of New York, Inc., on the development of the Indian Point Reliability Contingency Plan; ongoing communications between Program Administrators through the Implementation Advisory Group or the planned communication through the E^2 Advisory Council; the Director of OEEE's ongoing ability to raise any concerns with Program Administrators and, if necessary the Commission; and lastly, the fact that NYSERDA will be working with the utilities to develop a joint organizational proposal.

The Joint Utilities do not agree with NYSERDA's proposal that prior to defining program delivery roles for the E^2 Program there should first be a fundamental refocus on strategies that will advance broader clean energy goals. The Joint Utilities disagree with the order suggested by NYSERDA because the Joint Utilities feel that there are critically important role-related decisions that need to be made as soon as possible so that the Program Administrators can ensure continuity of program delivery and contractual relationships with their implementation contractors. The Joint Utilities also suggest that the analysis of possible strategies should be done in conjunction with the determination of appropriate roles. The Joint Utilities believe that the Staff proposal appropriately urged for the completion of the organizational structure of the E^2 program to be completed as early in 2014 as possible if programs are to be in place by 2016.

The Joint Utilities suggest that a number of issues raised in the comments of other organizations, such as NYSERDA's discussions of program design, metrics, alternative cost-effectiveness screening tests, and Natural Resources Defense Council (NRDC) Pace Energy and Climate Center & Supporters (Pace) discussion of the shareholder incentive structure must be addressed prior to actual implementation of the E^2 Program, but are better addressed at a later date. The Joint Utilities believe that resolution of these issues now is unnecessary and premature because of the anticipated State Energy Plan and the identification of directional goals that Staff proposes be undertaken by itself and NYSERDA, with contractor assistance and in consultation with the utilities, will necessarily inform these issues.

The Joint Utilities request that the Commission clarify that it has no preconceived position on the respective roles of NYSERDA and the utilities as they develop their organizational proposal. The Joint Utilities also request that the Commission respond to the concerns raised in the Joint Utilities initial comments 1) ensuring that utilities have an opportunity to provide meaningful input to the E^2 Advisory Council and 2) addressing potential conflicts of interest that would exist if NYSERDA has the policy, evaluation and program administration roles set forth in Staff's proposal. Finally, the Joint Utilities request that the Commission clarify that overall budgets will not be increased as a result of the transition from EEPS to the E^2 Program – the Joint Utilities oppose any increases in collections from their customers.

Multiple Intervenors (MI)

Initial Comments

MI is an association of approximately 60 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York

State. It supports certain proposed modifications contained in the EEPS Restructuring Proposal and opposes others, but is very concerned with the lack of detail contained in the Proposal and the fact that it contains no real analysis on some of the most important issues in this proceeding, such as the magnitude, the allocation and the recovery of EEPS surcharges from customers, and the types of efficiency programs that should be implemented, modified or discontinued prospectively. MI believes given the magnitude of EEPS collections, the Proposal should have contained analysis and recommendations pertaining to future budget and surcharge levels, the level and recommended regulatory treatment of unspent and uncommitted funds, potential changes to the manner in which EEPS costs are recovered from customers, and ways to transition efficiency programs from reliance on customer-funded subsidies.

MI comments that EEPS surcharges are exorbitant, should be reduced expeditiously, and should be considered both individually and in conjunction with SBC and RPS surcharge levels. EEPS surcharges, MI argues, are not unduly onerous or exorbitant for many customer types, but for large high-load-factor customers, where they frequently amount to 30% - 60% of the cost of "traditional" delivery, they are not only exorbitant but detrimental to their efforts to attract and retain business activity and jobs within the State. MI urges the Commission to reduce EEPS surcharges on large high-load-factor customers by among other things, ensuring that EEPS costs are allocated on an equitable basis for various customer classes, modifying the manner in which EEPS surcharges are recovered from customers, adopting a cap or ceiling on the amount of EEPS surcharges that can be imposed on individual customer accounts, and adopting a self-directed or "banking" approach for large non-residential customers.

MI advocates that EEPS surcharges be allocated by customer class or segment in accordance with cost causation principles, with each customer class or segment being responsible for only the costs associated with efficiency programs targeted to that particular customer class or segment. MI argues that in utility rate proceedings, the Commission typically tries to allocate costs to customer classes in a fair and equitable manner, consistent with cost-of-service and cost causation principles, and sees no compelling reason why EEPS costs should be treated differently. With respect to customer segments, MI is concerned with the combination of large and small C&I customers into one customer segment, stating that large C&I customer have very different characteristics than small C&I customers. In fact, MI asserts, small C&I customers have more in common with residential customers than they do with large C&I customers. MI is concerned that if the line between large and small C&I customers becomes blurred, it will lead to or make worse interclass inequities, and only increase the already disproportionate share of EEPS costs paid by large C&I customers compared to their participation in the programs.

MI comments that the Commission should modify the manner in which EEPS surcharges are recovered from customers, stating that the existing volumetric recovery methodology is inequitable to and penalizes large high-load factor customers, and from an economic perspective, it is counterproductive to unduly burden large employers such as manufacturers, and doing so only serves to make alternate locations in other states and countries more attractive to conduct business and/or allocate capital. In addition, MI argues that EEPS costs are not incurred nor intended to produce benefits on a purely volumetric basis, stating that when the Commission started this proceeding it emphasized that demand reductions were an essential objective of the EEPS portfolio. The current volumetric cost recovery methodology, MI contends, does not match the intent of EEPS and it conflicts with cost causation principles.

MI agrees with the Staff proposal to move away from rigid adherence to a single numeric goal for EEPS, and instead focus on more broadly defined goals. MI comments that the "15X15" goal was overly aggressive, too narrowly-focused on consumption savings while ignoring other potential benefits of energy efficiency, and resulted in the implementation of too many efficiency programs and insufficient attention devoted toward efforts to promote reductions to peak demand and other demand response initiatives. MI also agrees that it may be appropriate to establish different goals or metrics for the various customer segments. Although MI agrees that indentifying goals and metrics is important, there are numerous factors that can and should impact the appropriate goals, and for this reason the Commission should exercise flexibility in adopting and modifying goals and metrics in a manner that makes sense, achieves system benefits, and addresses customer rate impact concerns.

MI agrees with Staff's proposal to delineate the roles of NYSERDA and the utilities to reduce unproductive competition and customer confusion, but contends that rather than eliminating all competition between NYSERDA and the utilities, such competition be redirected and refocused to be beneficial to customers. MI is concerned that if NYSERDA and the utilities simply divvy up the entire range of energy efficiency programs, the incentives to design and implement the programs as efficiently as possible may be reduced or lost. MI suggests that programs be grouped into three buckets: 1) programs that based on experiences and competencies NYSERDA should implement; 2) programs that based on experience and competencies the utilities should implement; and 3) programs that neither NYSERDA nor the utilities possess unique experiences or competencies. For those programs in the third bucket, MI suggests that the Commission foster competition between NYSERDA and the utilities to take place in the program design process prior to Commission approval, and once program approval is granted, the competition would end.

In addition to changing the way EEPS surcharges are allocated, MI recommends that the Commission adopt a cap on the amount of EEPS surcharges that can be imposed on individual customer accounts, on either a monthly or annual basis. MI contends that a cap on surcharges is not unprecedented, stating that several states already have such caps in place, citing New Mexico, Nevada, and Illinois as examples. MI states that from its perspective, it is difficult to justify imposing EEPS surcharges in excess of $25,000 per year on any individual customer account, especially given the existence of other surcharges such as the SBC and the RPS. MI suggests also seriously considering a single annual cap of $50,000 per customer account encompassing the EEPS, SBC and RPS surcharges.

MI’s strongest recommendation regarding energy efficiency programs targeted at large non-residential customers is that such customers be allowed to self-direct or “bank” EEPS surcharges and be afforded the first opportunity to recoup that money to fund their own efficiency projects. MI suggests that such projects include not only energy efficiency projects, but also system efficiency and energy infrastructure projects, and that eligible projects be subject to mandatory verification procedures to ensure that the funds involved are invested consistent with State and Commission policies. MI recommends that large non-residential customers be allowed a specified period of time in which to use their funds before they lose exclusive access to such funds, and large non-residential customers utilizing all of their own "banked" funds be allowed to access funds not utilized by other non-residential customers. MI contends that this approach allows large non-residential customers to better manage their ultimate costs, satisfactorily addresses interclass and intraclass subsidies, provides a stronger incentive to undertake energy efficiency projects at their own facilities, and provides maximum flexibility to large non-residential customers to implement energy efficiency, as well as system efficiency and infrastructure projects, while recouping the surcharges they pay. MI states that it was recently determined that 24 states permit large non-residential customers to "bank" or obtain exemptions from energy efficiency-related surcharges.

MI disagrees with proposals to relax existing cost-effectiveness screening requirements, and states that if anything, the Commission should be making the requirements more stringent to help ensure that only energy efficiency programs and measures that are cost-effective are implemented. MI continues that authorizing the implementation of energy efficiency programs or measures where cost-effectiveness screening indicates that costs exceed benefits does not represent a prudent use of customer funds. Rather than relaxing the screening requirements, MI argues to make the criteria more stringent and focus on implementing the most cost-effective "biggest-bang-for-the-buck" programs. MI recommends that the Commission adopt the Ratepayer Impact Measure (RIM) test as the primary cost-effectiveness screening criteria, and if that test is not adopted, to continue using the TRC test without the incorporation of difficult-to-quantify environmental and other externalities. MI also recommends refraining from the authorization of any program or measure that is not demonstrably cost-effective, requiring a "safety cushion" such that no program or measure is authorized unless it produces a benefit-cost ratio comfortably above 1.0, and discontinuing programs that after a full year of implementation are evaluated and shown not to be cost-effective.

MI disagrees with both proposals put forth by Staff to accomplish a fuel neutral approach, and in particular the proposal to collect the entirety of EEPS surcharges solely from electric customers. MI contends that Staff does not adequately justify the alleged harms caused by the existing cost allocation rules that segregate electric efficiency programs from gas efficiency programs, and states that those rules are consistent with longstanding cost causation principles. MI states that to stray from such basic cost allocation principles, the need should be overwhelming and the circumstances extraordinary, neither of which, it argues, are present here. MI asserts that the additional work and regulatory oversight required by the cost allocation rules is justified when dealing with projected annual EEPS expenditures in the hundreds of millions of dollars. MI states it would be inequitable for electric customers to subsidize gas customers, or vice versa, or to require either set of customers to subsidize customers who use alternative energy sources. MI contends that Staff's proposal to only charge electric customers, although maybe not as egregious for residential customers, is enormously unfair to large non-residential customers who consume a lot of electricity and very little gas. MI continues on to say that this proposal raises two more situations of extreme unfairness, both of which are common in New York State. Because some electric utilities provide gas service to only limited portions of their service territory, MI argues that customers of such a utility that to not take gas service will be forced to subsidize the utility's gas energy efficiency programs in which they will be unable to participate, and in cases where customers take electric and gas service from different utilities, electric customers of one utility will be forced to subsidize gas efficiency projects that benefit customers of another utility.

Finally, MI recommends that all shareholder incentives related to EEPS be eliminated, stating that the adoption of new incentive measures will potentially reward utilities for doing what they are required to do consistent with State and Commission policy, focus efforts on a limited set of performance characteristics potentially detracting focus from other performance characteristics, and divert limited Staff resources to the development and the administration of incentives rather than more pressing EEPS issues requiring remediation. MI is concerned with Staff's preliminary concept for a revised incentive structure, stating it is fraught with problems. MI fears that Staff's proposal formulates objective criteria on amorphous goals, such as "cooperation in planning deadlines" and "efficient data sharing" and this approach will be exceedingly difficult and likely, controversial. MI contends that other performance metrics the Commission hold the utilities to, such as customer service and service reliability, are based on identified, objectively-measurable criteria and are penalty-only mechanisms with readily achievable targets. These metrics, MI asserts, seek to prevent unsatisfactory performance, recognizing that the rates customers pay entitle them, at a minimum, to acceptable performance. MI suggests that a similar course adopting a penalty-only mechanism for EEPS could be followed to ensure that utilities fulfill their obligations to administer their energy efficiency programs responsibly and prudently, but recommends that the most productive action is to move forward without utility shareholder incentives, positive or negative, and focus efforts on more pressing EEPS issues.

Reply Comments

MI urges the Commission to reject NYSERDA's proposal to couple Staff's proposal for a fuel neutral approach with an expansion of the EEPS portfolio to allow all customers in New York State to participate in the EEPS programs, regardless of whether they currently pay, or have previously paid, the EEPS surcharge. MI contends that if allowed, this proposal would increase the cost of the E^2 program materially and would be grossly inequitable to most of the State's electric utility customers. MI states that NYSERDA's proposal would extend program eligibility to more than one million "new" electric customers, most of whom are located on Long Island, and argues that if customers on Long Island are allowed to participate in EEPS programs, they should be forced to pay EEPS surcharges. MI argues that it should not be the burden of Upstate customers to benefit Long Island customers who are exempt from the EEPS surcharge, and questions whether a decision to transfer payments from customers within its jurisdiction to customers outside its jurisdiction can be consistent with the Commission's statutory obligation to ensure that utility rates for jurisdictional customers are just and reasonable. MI adds that as LIPA declares itself to be a national leader in energy efficiency programs, it is unclear why its customers need or should be granted access to EEPS programs.

National Association of Energy Service Companies (NAESCO)

NAESCO supports comments that the EEPS portfolio of programs should be re-designed to be more customer-centric. Specifically, NAESCO comments that the Commission should begin the planning process by establishing the goals of the program ("goals before roles"); ensure that the work of all of the PAs, including NYPA and LIPA, is coordinated such that the customer sees a unified set of program offerings; replace the tools the Commission uses to evaluate program cost effectiveness, apply different and more realistic discount rates to different classes of customers; and allow the PAs more flexibility in setting incentive rates to achieve the program goals.

NAESCO supports comments that urge the Commission to structure the EEPS programs around the goals of the State Energy Plan - the planning for the next phase of the EEPS programs should start with the state's energy policy goals, as embodied in the State Energy Plan and other documents. NAESCO opines this means coordinating the EEPS and Green Bank programs so that both are contributing to the achievement of the goals. This means putting EE first in the "loading order" for both programs and individual customers.

NAESCO supports the comments of several parties about the proper role for the Department of Public Service in the ongoing EEPS programs, and cautions that failing to properly match the responsibilities of the DPS to its staff capabilities may seriously harm programs. NAESCO strongly urges the Commission to define the ongoing role of the DPS staff as oversight, rather than assigning the DPS key roles in program development and implementation.

NAESCO supports the comments of several parties that urge the Commission to abandon the TRC as the primary tool for evaluating cost-effectiveness, because it is cumbersome and inappropriate at the measure or project level, and the TRC does not adequately value the Non Energy Benefits (NEBs) that motivate many customers to undertake energy efficiency projects. NAESCO states that applying the TRC at the measure level violates the principles of customer- centric programs, as most customers who are implementing multi-measure projects are interested in the total project payback, not a complex analysis of individual measures. NAESCO urges the Commission to replace the TRC with a more appropriate evaluation tool.

NAESCO supports comments which urge the Commission to establish a new EEPS Program Advisory Group (PAG) that is representative of all of the stakeholders in EEPS programs (*e.g.*, the SBC Advisory Group) and is fully involved in planning the next phase of the EEPs programs. NAESCO notes that the SBC AG, which was designed by the Commission to represent all program stakeholders, is much more useful to stakeholders like project implementers than the EEPS Evaluation Advisory Group, whose role is limited to technical aspects.

National Fuel Gas Distribution Corporation (NFG)

Initial Comments

NFG is generally in support of the majority of Staff proposed modifications, but offers the following suggestions related to the EEPS Proposal. NFG has emphasized throughout their comments, that any guidance being developed for Staff proposed modifications or suggestions by NFG be jointly developed with program administrator input. NFG believes this collaboration will ensure that program modifications do not inadvertently increase administrative burdens for program administrators. NFG has provided comments on a majority of the topical areas as outlined in Staff's EEPS proposal.

NFG advocates that the Company's Conservation Incentives Program (CIP) is an established program with a proven track record, the Company's CIP should continue in the short-term, 2014 and 2015 ("remainder of EEPS 2"). CIP should also continue in the long-term, 2016 through 2020 ("EEPS 3"), regardless of the examination of a potential fuel neutral concept. NFG believes there is some unique program and administrative features to CIP and has provided comments in support of the Companies programs, and comments on a majority of the topical areas as outlined in Staff's EEPS proposal.

NFG agrees that the program administrators should be provided with flexibility to reallocate program budgets and targets with proper notification. The Company also suggests that this program modification should be extended even further, so that proposed budget and target changes crossing customer sectors can also be accomplished upon proper notification.

NFG agrees that the requirement for approval by the Director of OEEE to revise incentive levels should be eliminated. NFG agrees that reporting frequency should be reduced from monthly to quarterly, reporting lag times should be increased, and duplicative reporting requirements should be eliminated. NFG proposes that a Staff and program administrator collaborative be convened to jointly identify and eliminate duplicative reporting requirements.

NFG is in support of eliminating the current measure classification lists, asserts that Staff guidance is not necessary, and recommends that the list of measures identified in the New York Technical Manual be used for identifying qualified measures going forward. With respect to identifying which programs are operating in which space, NFG believes Staff could maintain a master program inventory/catalogue for regulatory/oversight purposes, and such a listing could be placed on the EEPS section of the Department of Public Service website.

NFG agrees that the requirement that a measure pass payback criteria should be eliminated for the remainder of EEPS 2. Given that, the proposal for EEPS 3 includes possible enhanced cost effectiveness testing at the program level and not the measure level, NFG suggest permanently eliminating this payback-testing requirement. NFG agrees that the requirement to obtain approval by or provide notification to the Director of OEEE to borrow from future EEPS 2 program year funding should be eliminated. NFG believes that upon Commission authorization of an EEPS cycle, each program administrator should maintain the flexibility to manage program-specific, multi-year budgets as a single source of funding.

NFG agrees that the requirement to pre-screen prescriptive measures should be eliminated. NFG also agrees with the EEPS Proposal, which suggests that program administrators maintain auditable records inclusive of the inputs necessary to demonstrate that each type of prescriptive measure is cost effective. To ensure no inadvertent increase in administrative burdens Staff should provide clarification of an "auditable record" and a detailed audit process to the program administrators.

NFG agrees that program administrators should be allowed to change OEM budgets upon notification to the Director of the Office of Consumer Policy. The Company maintains, the current outreach, education and marketing ("OEM") quarterly and annual reporting requirements should be reduced, instead of eliminated. NFG maintains that each program administrator should continue to provide an annual outreach implementation plan filing only, specifically focused on EEPS programs. NFG believes flexibility should be provided to program administrators, with respect to the content included in such an implementation plan.

Given the intent of Staff proposed 2014 and 2015 program changes, in order to help to reduce administrative burdens on both program administrators and Staff, NFG recommends the abandonment of the EEPS reporting database. NFG believes reverting to traditional filings through the Document and Matter Management (DMM) system and Staff provided templates would prove to add efficiencies to program administrator reporting processes.

NFG recommends not accelerating the implementation of any additional changes, other than those previously described above, in 2014 or 2015. The company emphasizes that taking on too much change at one time could be deleterious and problematic from a resource and program administration perspective.

NFG provides the following comments regarding Staff's proposal to move towards a suite of key directional metrics. The current Staff proposal seems somewhat problematic. Moving from a single metric to multiple metrics requires the development of a weighting scheme, so that the multiple metrics ultimately result in a single measure of effectiveness. NFG maintains that metrics should produce objective, relevant quantitative information on program performance that can be used internally and externally for program monitoring and reporting, strategic planning, budgeting and financial management, performance management, quality and/or process improvement, contract management, external benchmarking and public communication and transparency. In addition, NFG maintains that metrics, and the budgets supporting metrics, should be program administrator specific, rather than utility service territory and sector specific, in order to uphold transparency and accountability. NFG recommends the adoption of a model for the review and approval of program performance metrics, and has provided an example in the Company's initial comments.

NFG believes, if financial incentives are to continue as part of EEPS 3, that the basis of those incentives, both the funding source for them as well as the method for awarding them, should be identified. NFG recommends the following EEPS2 financial incentive structure, were financial incentives would only be awarded on a positive results basis, A funding source for incentives identified for all parties involved. The basis and magnitude for awarding incentives be identified, made clear and simple to understand NFG recommends tying financial incentives to program administrator developed, and Staff/Commission approved metrics.

NFG recommends that the EEPS proposal be structured and developed requiring a regional-geographic area focus, which can then be aggregated into one statewide proposal. Through the development of a coordinated joint proposal, the roles and responsibilities of NYSERDA and utilities can be delineated and defined. NFG also recommends greater transparency for NYSERDA and NYSERDA contractors. Currently, the Commission does not require NYSERDA to report the number of utility customers receiving services back to each individual utility.

NFG strongly supports combining the Evaluation Advisory Group ("EAG") and the Implementation Advisory Group ("IAG") into one, single Energy Efficiency Advisory Council ("EEAC"). NFG believes the EEPS proposal left the impression that with the development of the EEAC program administrators, with the exception of NYSERDA, would not remain as members of the EEAC, nor would have input on EEAC decisions being made. NFG emphasizes that program administrator involvement is paramount in the development of an EEAC.

NFG finds a number of these suggested directional concepts within the EEPS proposal fundamentally problematic and offers the following comments below. NFG notes that the Companies comments should not be misconstrued as an unwillingness to jointly develop a proposal with NYSERDA. A statewide marketing initiative was previously attempted with the BEAM NY advertising campaign, consuming significant resources and dollars, and resulting in minimal effectiveness. NFG believes in maintaining the current status quo, in that each program administrator should be responsible for developing messaging, delivering messaging, and maintaining customer contact in an effective manner.

NFG maintains that metrics should produce objective, relevant quantitative information on program performance that can be used internally and externally for program monitoring and reporting, strategic planning, budgeting and financial management, performance management, quality and/or process improvement, contract management, external benchmarking and public communication and transparency.

NFG supports the idea of NYSERDA coordinated statewide potential and evaluation studies. NFG believes program administrators should maintain responsibility, however, for each of their programs' evaluation, measurement and verification ("EM&V") budgets, and to the extent that statewide coordination of evaluation studies occurs with NYSERDA, companies should enter into contracts with NYSERDA and pay for their share of the evaluation study from their program budget. Program administrators should retain flexibility to pursue program-specific evaluation studies, round out scopes from statewide studies, or assess unique program processes, in order to inform program administration, design, and execution, also funding these studies from EM&V budgets.

NFG is open to evaluating the idea of a centralized customer application and application fulfillment platform. The Company points out that a centralized technology solution could be resource intensive and no source of funding has been identified to pursue such a project. NFG appreciates Staff's delineation and definition of introductory and comprehensive programs. NFG believes that clarifying roles, responsibilities, and introductory and comprehensive program delivery, is necessary as part of the upcoming joint proposal. The EEPS Proposal delineates two distinct options for the development of a fuel neutral funding concept, both of which NFG opposes and finds fundamentally problematic. NFG further notes that such a concept supports cross-subsidization of ratepayer funding. NFG believes the first option would pool program administrator natural gas and electric funds collected from ratepayers, without any dollar tracking, to be used on a first come, first serve basis. NFG states this idea eliminates transparency and accountability, with respect to tracking dollars between entities, this idea would foster competition amongst program administrators.

The EEPS Proposal mentioned that duplicative programs administered by NYSERDA and the investor-owned utilities have resulted in programs that are often in direct competition with one another. Furthermore, the EEPS Proposal attempts to alleviate this competition. By having one pool of program administrator funding, regardless of fuel source, utilities within a service territory would be competing against one another to utilize "pooled funds" first for their customers. From NFG's perspective, this would also offer the possibility that customers from a natural gas-only utility would be funding the installation of electric measures within the Company's service territory, or alternatively would be funding installations outside of the service territory. The Company also believes the second option would eliminate surcharges collected from natural gas customers and allow electric utilities to collect the entirety of energy efficiency funding. Eliminating the collection of surcharges from natural gas customers would eliminate all energy efficiency programs offered by natural gas-only utilities, precluding NFG from offering programs to its customers.

NFG currently recommends no change to the method of collecting ratepayer funds in order to administer energy efficiency programs in New York State. The upcoming joint proposal, if organized regionally as recommended by NFG, not only would ensure coordination between NYSERDA and individual utilities, but coordination amongst multiple utilities together, by region and sector regardless of fuel type, while minimizing market confusion and direct competition. Fuel-specific funding should be maintained, consistent with Commission Order previously established for EEPS program funding.

The EEPS Proposal suggests that a centralized information and management platform that improves the standardization and sharing of information and supports the targeting, delivery, tracking, and evaluation of energy efficiency programs and projects, while also providing necessary customer privacy controls and protections must become a priority to ensure accurate valuation of energy efficiency.

Rather than tasking NYSERDA and utilities to address the concept of a centralized IT platform as part of their upcoming joint proposal, NFG believes this idea should be addressed as part of the suggested separate proceeding to address privacy protections, controls, and the sharing of customer data with NYSERDA. NFG emphasizes that an assessment of such a centralized IT platform would require significant utility involvement, rather than NYSERDA operating on its own.

A number of changes are being recommended for cost effectiveness screening, as part of the EEPS Proposal, to remedy a situation that Staff describes as administratively burdensome and unsustainable, NFG offers the following comments for consideration:

The Program Administrator Cost ("PAC") test may put demand-side measures on the similar footing as utility supply options and turns efficiency into a simple transaction – the price that a program administrator will pay for a unit of energy savings. NFG also recommends program-level cost effectiveness testing, as opposed to sector-level cost effectiveness testing, in order to ensure cost effectiveness accountability and transparency.

NFG recognizes that different cost effectiveness tests can provide different types of information about the impacts of energy efficiency programs. NFG is open to evaluating the idea of a standardized cost effectiveness calculation tool. A standardized technology solution, including the use of a qualified contractor, could be resource intensive and no source of funding has been identified to pursue such a project. NFG maintains that all types of programs in every sector should be treated equally with cost effectiveness. Program administrators should maintain responsibility for the delivery of cost effective programs to ratepayers.

NFG believes that the establishment of annual retrospective cost effectiveness analyses, although administratively burdensome, should not become effective until the centralized cost effectiveness calculation tool is assessed and possibly developed. NFG states creating retrospective cost effectiveness analyses without this type of standardization in place will result in an inconsistent use and application of cost effectiveness tests. NFG recommends limiting this type of submission to the primary, decision-making cost effectiveness tests only.

NFG recognizes Staff's prerogative of ensuring that EEPS programs are delivered in a cost effective manner to ratepayers. The Company feels the proposal of a two strikes and you are out rule seems extreme to the extent that one of the EEPS Proposal's guiding principles and objectives is to support a long-range view and commitment to the continuity of energy efficiency programs. NFG maintains that flexibility is key, especially for smaller utilities, when it comes to implementing changes resulting from Technical Manual revisions. NFG recommends maintaining this flexibility prospectively. In addition, NFG emphasizes that program administrator involvement is paramount in the development of an EEAC or EEAC Technical Manual sub-committee.

NFG notes that significant resources (internal labor, contractors, and professional services) would be required in order to address the ever-increasing administrative requirements for EEPS programs, based on all of the topical changes outlined in the EEPS Proposal. NFG's chief concern is that in the majority of cases, no source of funding has been identified for increased administrative requirements. NFG's states if programs are expected to fund these items, significant dollars would be diverted away from energy efficiency spend, and placed into administrative/oversight functions. This inadvertently could skew the cost effectiveness of EEPS programs, relegating customer bills to merely energy efficiency taxes to support an agenda in New York State and the continued practice of fostering "unsustainable administrative burdens".

Reply Comments

NFG maintains all of the positions outlined in the Company's initial comments. The Company strongly emphasizes refraining from establishing a fuel neutral approach for EEPS programs and refraining from pursuing statewide marketing efforts, as more fully described below in detail, while also providing reply comments on supplementary topical matters.

NFG is troubled, with respect to NYSERDA's process of resolution to utility and NYSERDA program delivery roles; in that the outlined approach seems to avoid an open EEPS restructuring dialogue with utilities and/or Staff, wastes valuable time to resuscitate the remainder of EEPS 2 and properly develop EEPS 3, and sends signals to utilities that NYSERDA is not looking to work together. NFG believes NYSERDA's approach also seems to contradict the approach Staff recommends in the EEPS Restructuring Proposal. NFG recommends that the forthcoming utility and NYSERDA joint organizational proposal as outlined by Staff, be accepted and developed with a regional-geographic area focus. The Company emphasizes to NYSERDA that "overall program goals, metrics, and program types" could be developed concurrently or perhaps jointly as part of a joint organizational proposal.

NFG notes that no program administrator in New York State supports this first proposal outlined by Staff, and it appears that the only party in support of this first option is the National Resources Defense Council ("NRDC") / Pace Energy and Climate Center ("PACE").

NFG comments that it appears two parties are in support of this second option – The New York Oil Heating Association, Inc., / Oil Heat Institute of Long Island, Inc. ("NYOHA/OHILI") and NYSERDA. NFG provides an alternative, an equitable approach, in order to serve the needs of these customers, energy efficiency programs should be established, designed, and paid for by heating oil customers.

NFG observes that NYSERDA's Green Bank Petition, fails to recognize fuel neutrality as an item of significance or even importance, although NYSERDA characterizes the topic as the "lynch-pin" to the EEPS proceeding. Specifically, the guiding principles outlined in the Green Bank Petition, do not make any mention at all of fuel neutrality.

NFG ask the Commission to continue to observe its long-standing practice of ensuring that ratepayers do not cross-subsidize services for fuels they do not use and from which they will not benefit. NFG emphasizes that the outlined long-standing, established practice has been in place over two decades ago, even before the establishment of EEPS.

NFG maintains the position initially submitted in its initial comments, in that the Company currently recommends no change to the method of collecting ratepayer funds in order to administer energy efficiency programs in New York State.

NFG welcomes an open dialogue of information sharing with NYSERDA, so that the "amassed market intelligence" can be effectively shared with all program administrators. The Company maintains, however, that a clear distinction exists between amassing market information, developing, and running successful outreach and education programs. Certainly, market information will inform the development of marketing programs to a certain degree, but NFG maintains that across New York State, there is a wide-ranging difference between service territories, geographical areas, and customer demographics.

As mentioned in NFG's initial comments, having third parties deliver messaging on behalf of a program administrator, regardless of the program in question, proves challenging from an administration and staffing level perspective. NFG believes, for marketing delivery to be effective, the deliverer of messaging needs to be familiar with intimate program design and delivery details. Program administrator should be responsible for developing messaging, delivering messaging, and maintaining customer contact in an effective manner.

NFG notes although a cohesive marketing strategy is now characterized by NYSERDA as "critical missed opportunity", NFG questions NYSERDA as to why jointly branded applications for NFG's Conservation Incentive programs could never be executed. NFG questions NYSERDA's sudden change with respect to cohesive marketing.

NFG recognizes and notes that NYSERDA "suggests a suite of three categories of metrics, to measure program achievements, market effects, and customer awareness and satisfaction." Regardless, the Company strongly opposes a number of metrics set forth by NYSERDA, for the same detailed reasons provided in the Company's initial comments. The Company maintains that a clear distinction needs to be made, delineating the difference between program-specific metrics and macro-level metrics. Program-specific metrics, regardless of their tie to financial incentives, should produce objective, relevant quantitative information on program performance that can be used internally and externally for program monitoring and reporting, strategic planning, budgeting and financial management, performance management, quality and/or process improvement, contract management, external benchmarking and public communication and transparency. NFG maintains that metrics, and the budgets supporting metrics, should be program administrator specific, rather than utility service territory and sector specific, in order to uphold transparency and accountability. It is important that these metrics remain within a program administrator's control, in that they allow program administrators to reasonably track and report data and progress.

In contrast, macro-level metrics (many of which have been set forth by NYSERDA and appear in a number of comments in this proceeding) may be necessary, above and beyond program administrator developed metrics, to compare and contrast programs statewide, and to aggregate individual results and achievements into a statewide result and achievement. NFG believes that this could be addressed separately, as part of developing prospective reporting requirements. Program administrators should not be responsible for the tracking, reporting and monitoring of macro-level metrics. These metrics remain outside of the control of program administrators and data is not available to track and report progress on these items. Based on a review of initial comments for this proceeding, NFG notes the following comment from NRDC/PACE: "Though the utilities faced certain challenges in meeting their targets in the first phase of the EEPS program, it is also important that penalties be included for poor performance on utilities' savings goals and that there is a balance of potential risks and rewards." NFG opposes this position and asserts that penalty mechanisms should not be reincorporated into EEPS financial incentives.

NFG notes, significant resources (internal labor, contractors, and professional services) are required in order to address the ever-increasing administrative requirements for EEPS programs, based on all of the topical changes outlined in the EEPS Proposal. The Companies chief concern is that in the majority of cases, no source of funding has been identified for increased administrative requirements. NFG believes if EEPS programs are expected to fund these items, significant dollars would be diverted away from energy efficiency spend, and would be placed into administrative/oversight functions, which inadvertently could skew the cost effectiveness of EEPS programs.

The company respectfully requests that the Commission consider its initial and reply comments, while determining the future construct of EEPS and energy efficiency in New York State.

Natural Resources Defense Council/Pace Energy and Climate Center (NRDC/Pace)

Initial Comments

NRDC/Pace state that the Commission should explore ways to ensure that the non-jurisdictional components of EEPS (LIPA and NYPA) are assessed to monitor their contributions and shortfalls, and to identify what steps need to be taken by the Department of State, LIPA and NYPA to ensure New York meets its targets.

NRDC/Pace believes the PSC should institute a policy to acquire all cost-effective energy efficiency before looking to other resources (investments in generation or distribution) to meet electricity demand. To help achieve this end, NRDC/Pace state it is important to establish targets for energy savings and demand reduction.

NRDC/Pace states that adopting "directional metrics" for transforming energy markets is a worthy idea, however they hold that it's critical for New York to adopt an overarching target based on energy savings for the post-2015 period. NRDC/Pace recommends building upon the 15 by 15 goal by establishing an aggressive new target to reduce forecasted electricity consumption an additional 10 percent by 2020.

NRDC/Pace strongly supports adopting a metric associated with energy efficiency services to the low-income sector. The State should ensure that additional support is put in place to scale up energy efficiency in this sector.

NRDC/Pace strongly supports the adoption of a market transformation metrics. Without a robust initiative to promote market transformation and address barriers to energy efficiency, New York will not succeed in ensuring widespread adoption of its efficiency strategies through EEPS.

NRDC/Pace strongly supports a delineation of roles and responsibilities among PAs to maximize the use of each entity’s resources and core strengths while ensuring the PSC statutory obligations to further the public interest protected. While oversight and coordination of EEPS programs are necessary, NRDC/Pace states that the Commission and DPS staff should focus on the “what” and not on the “how” of efficiency goals and corresponding dollar budgets.

NRDC/Pace agrees that the proposal provides the sufficient level of program regulation and flexibility to protect ratepayers while maintaining PSC authority over the policy issues and allowing staff sufficient oversight to ensure that Program Administrators are working prudently and effectively toward the Commission’s goals - rather than focusing on program minutia. Redundancy of programs and a lack of coordination have led to customer and vendor confusion, sub-optimal use of ratepayer dollars, and unnecessary competition for projects.

NRDC/Pace strongly agrees that there should be a “customer-centric model” with coordinated messaging and marketing efforts between the utilities and NYSERDA, as well as a centralized customer application platform.

NRDC/Pace believes the PSC should adopt measures to ensure that information regarding the implementation of energy efficiency measures is as straightforward as possible. The State should support and coordinate with New York City’s efforts to create energy efficiency resource centers. NRDC/Pace believes it is critical that the PSC do what it can to promote whole building retrofits where possible.

NRDC/Pace claims it is critical that any centralized IT platform ensure standardization and sharing of information that supports energy efficiency program delivery, and enable the implementation of a user-friendly, web accessible location where New Yorkers can obtain information regarding EEPS programs and progress to date.

NRDC/Pace fully support the creation of a "fuel neutral" fund that would "reduce the complexity and barriers to delivery of 'whole' building programs to cover all heating and cooling needs of a customer. They oppose the elimination of natural gas efficiency collections, as these funds play an important role in supporting robust efficiency projects. They strongly support maintaining and extending the collections from both electric and gas customers, and allowing those funds to be utilized holistically to tackle all cost-effective efficiency regardless of fuel type (including oil).

NRDC/Pace believes the current approach to cost-effectiveness screening used by DPS staff is flawed. They urge the Commission to consider the following: calculate benefit-cost ratios at the program or portfolio level instead of the measure level; account for the wholesale price suppression effect caused by energy efficiency investments; decrease the TRC discount rate to accurately reflect current low borrowing rates - adopt a societal discount rate; prioritize New York electricity consumer savings over out-of-state generation owners and fossil fuel provider losses instead of treating them equally; and reassess the DPS societal cost of carbon.

NRDC/Pace agrees that a more effective incentive structure needs to be developed and properly integrated into utility operations. The incentive should align utility compensation with the objectives of making energy efficiency part of the utilities' core business. The PSC should adopt a clear and effective shareholder incentive structure for utilities to ensure that the utilities assign the requisite corporate management attention and programmatic and fiscal resources to utility efficiency programs.

NRDC/Pace suggests that the award of shareholder incentives should be scaled, with higher incentives for higher achievement, and the opportunity to earn greater incentives for exemplary performance beyond the base target, to maintain the utilities' incentive to pursue cost-effective efficiency beyond the targeted level and ensure a consistent incentive to improve performance. NRDC/Pace states that even though utilities faced certain challenges in meeting their targets in the first phase of the EEPS program, it's also important that penalties be included for poor performance on utilities' savings goals.

NRDC/Pace supports shareholder incentives based on multi-year goals; providing utilities with the flexibility to modify their programs as needed over time. NRDC/Pace recommends against a structure in which a portion of the total funds would be allocated based on achievement of the entire statewide jurisdictional goal. If the PSC is determined to set aside a portion of the total "incentive pool" for this purpose, they urge them to limit this number to a very minimal amount – perhaps five percent of the total. Incentive should be tied to not only metrics that support the achievement of the 15 by '15 target, but additional metrics tied to other criteria, such as low-income participation.

New York Oil Heating Association (NYOHA) and Oil Heat Institute of Long Island (OHILI)

NYOHA/OHILI supports Staff's proposal to adopt a fuel neutral approach to implement and offer consumers energy efficiency measures regardless of fuel usage. NYOHA/OHILI suggests that the current EEPS requirement that the direct benefits of EEPS programs be limited to the type of customers who provide funding for the program is too restrictive.

NYOHA/OHILI argues that every state energy customer uses electricity and thus pays the electric surcharge and by limiting such customers to those programs exclusively for electric energy efficiency upgrades, the state misses the opportunity to improve the state's overall energy efficiency goals, enhance its environmental objectives, and produce real and substantial customer cost savings.

NYOHA/OHILI believes that although Staff's suggestion to pool both electric and gas utility funds to be administered under a whole-customer approach may offer administrative benefits, it would most likely involve providing energy efficiency measures only to electric and gas customers and would not be the most effective option for reaching the greatest number of consumers statewide.

NYOHA/OHILI supports Staff's proposal to fund a customer-centric, fuel neutral approach by eliminating the gas surcharge and collecting all energy efficiency funds from electric customers. NYOHA/OHILI believes that this approach would allow for non-electric measures, based on expected environmental, reliability and overall economic benefits rather than simply on fuel type, and would provide funding for a sizeable segment of consumers that have been largely denied the benefits available through EEPS.

Reply Comments

NYOHA/OHILI disagrees with the position of the Joint Utilities and MI against a fuel neutral approach to energy efficiency. NYOHA/OHILI believes that by limiting programs to only utility heating customers, as the Joint Utilities and MI propose, the State misses the opportunity to offer efficiency measures to all energy consumers, is prevented from offering a whole building approach to individual customers, and fails to achieve energy conservation, environmental, and economic benefits for the entire state.

NYOHA/OHILI agrees with NYSERDA in preferring to fund a fuel neutral approach by eliminating the surcharge on natural gas customers and collecting only the surcharge from electric customers. NYOHA/OHILI disagrees with the City of New York and the New York City Energy Efficiency Corporation’s (City) comments to encourage and fund customer conversions from oil to natural gas. NYOHA/OHILI believes transforming the state's energy efficiency program into a conversion program would represent a fundamental shift in the purpose and goal of the EEPS case. NYOHA/OHILI concurs with City’s support of a fuel neutral approach and urge the Commission to adopt a fuel neutral policy and maintain its current position to not fund conversion programs.

New York Public Interest Group (NYPIRG)

New York Public Interest Research Group (NYPIRG) supports many of the recommendations previously made in this proceeding by our environmental colleagues regarding EEPS and have added some additional comments of our own.

NYPIRG joins the Sierra Club, NRDC, PACE, and others in emphasizing the importance of the Green Bank as an additional tool to supplement these programs, not replace them. NYPIRG is very concerned as to where the funding for Green Bank comes from and the potential impact it might have on the state’s other clean energy programs. NYPIRG endorses the comments of Environmental Advocates of New York, which requests more information about potential future funding sources and amounts and recommends thorough evaluation and public review of the potential impacts of removing funding from other clean energy programs.

NYPIRG endorses the comments submitted by NRDC and PACE, et al. in support of program improvements to help meet the EEPS "15 x 15" target. In addition, NYPIRG supports their recommendation that the PSC extend the EEPS and set a new target to reduce forecasted electricity consumption an additional 10% by 2020 and 20% by 2025. NYPIRG states that energy efficiency is the cleanest, most cost-effective approach to addressing our energy needs, and therefore should be our highest priority. NYPIRG states that there are barriers to achieving these goals that are beyond the purview of the PSC and must be pursued through other forums. NYPIRG strongly agrees with NRDC and PACE's comments that the state needs to do a much better job of communicating information to the public regarding the implementation of energy efficiency measures.

NYPIRG supports the comments of NRDC/ Pace to improve energy efficiency programs to meet the EEPS 15 by 15 target as well as setting a new target to decrease electricity use 10% by 2020 and by 20% by 2025. The State should enhance ways to communicate information regarding the implementation of energy efficiency measures to the public.

New York State Energy Research and Development Authority (NYSERDA)

Initial Comments

NYSERDA generally supports Staff's restructuring proposal for the next EEPS program cycle and the recommendations to reduce the administration burdens of the current EEPS program. NYSERDA agrees that two key areas identified in Staff's proposal adjusting the EEPS program: "Role and Role-related Issues," and "Core Technical and System Infrastructure Issues" bear addressing. NYSERDA recommends that the EEPS restructuring process be approached in a different sequence, while adhering to the timeframe for the E2 program portfolio launch at the beginning of 2016. NYSERDA recommends that the E2 portfolio should be examined in the broader context of New York's energy policy, including statewide renewables, financing, and other efficiency efforts; a portfolio approach to programs that includes efforts to reduce soft costs and for outreach, education and marketing (OEM) should be developed; and PA program delivery roles should be clearly defined to leverage inherent strengths and capabilities and to eliminate confusion in the market.

NYSERDA agrees that a singular energy reduction goal for energy efficiency programs will not provide the correct portfolio orientation, and agrees that separate goals may need to be established for different sectors. NYSERDA offers a number of goals for consideration, including to significantly increase the scale of energy efficiency investments and deployment in New York State, reduce GHG emissions and other environmental impacts of energy use through demand side energy efficiency resources, grow the State's economy through a robust energy efficiency market, and provide system benefits that help to right size supply side transmission and distribution system upgrades. To measure progress toward these multiple goals, NYSERDA suggests a suite of three categories of metrics, to measure program achievements, market effects, and customer awareness and satisfaction.

NYSERDA agrees and supports Staff's eleven "guiding principles & objectives' but recommends adding "regardless of their heating fuel' to the second- "emphasize energy efficiency services that provide the greatest net benefit for all ratepayers as a whole while ensuring equitable opportunities for all contributing customer classes.”

NYSERDA agrees with the Staff’s restructuring proposal with regard to elevating the level of Commission involvement to one that provides overall policy direction through approval of multi-year budgets and metrics. NYSERDA also agrees that empowering DPS Staff to focus on its oversight role will make the best use of its resources, as well as fulfill the findings and recommendations stated in the Moreland Commission Reports.

NYSERDA recommends, with respect to authorizing and reviewing program budgets and targets, that such Commission decision-making and DPS oversight must be set in a manner that facilitates a new form of programmatic flexibility that ensures that customers’ changing needs are promptly addressed without an overly time-consuming or administratively burdensome process.

NYSERDA supports the Staff’s restructuring proposal recommendation that NYSERDA would have the responsibility to coordinate a statewide approach to evaluation and provides a number of responsibilities to fill a coordinating role.

NYSERDA agrees that there are appropriate program delivery roles for both it and the utilities in the administration of a comprehensive portfolio of energy efficiency programs, including defined roles in new, customer-centric approaches along with other market transformation strategies. NYSERDA supports the stated objective of improving the efficiency and effectiveness of the Implementation Advisory Group (IAG) and Evaluation Advisory Group (EAG), and believes that it should partner with DPS and play a substantive role in facilitating the E2Advisory Council process and purpose.

NYSERDA supports the program delivery role resolution process outlined in Staff’s restructuring proposal, but reiterates its strong concern that overall program goals, metrics, and program types should be identified prior to delineating PA program delivery roles and supports using the "directional concepts" listed as a base from which to start discussions.

NYSERDA supports the formal, systematic, multi-year program planning cycle as suggested in the Staff's restructuring proposal, particularly where each program cycle informs the goals and design of the next cycle. However, NYSERDA believes the goal of holistic scheduling is attainable and suggests that three related areas of evaluation activity should become part of this approach so that evaluation activities can best inform an optimal program planning process: portfolio effects on the market; formative process and market evaluation; and program level impact evaluation. NYSERDA supports the devotion of greater attention to larger EEPS policy and planning issues, and welcomes the opportunity to work with DPS staff on these issues.

NYSERDA supports the recommendations in the Staff's restructuring proposal to modify, streamline and standardize EEPS data collection and reporting. However, for the reporting of benefits, due to the volatility of energy savings estimates for comprehensive projects which are only in an application acceptance stage, NYSERDA recommends that reporting of benefits be limited to projects which are installed or committed under contract (corresponding to dollars expended and outstanding contract encumbrances), but not include estimated savings associated with projects which are only financial commitments of funds. NYSERDA would seek to exchange data in standardized file transfers where the data, metadata and file structure follow a standard protocol.

NYSERDA supports the proposed development of a centralized information technology (IT) reporting platform. NYSERDA recommends that it be used as a data warehouse to store program performance data, financial data, evaluation data and utility usage data. NYSERDA supports the proposed use of a contractor to conduct a proper assessment of current information assets and project scoping. NYSERDA strongly supports the Staff's restructuring proposal recommendation to address privacy protections and controls required to allow sharing of customer data with NYSERDA.

NYSERDA supports the stated policy goal of developing an approach to program screening based on the costs and benefits of energy efficiency activities, while ensuring transparent and consistent application by PAs. NYSERDA agrees with DPS that the current application of the TRC screening at the measure, project, and program level is administratively burdensome and unsustainable. NYSERDA recommends application of the Program Administrator Cost Test (PACT) at the program level as the primary screening test.

NYSERDA agrees that annual, retrospective program and sector-based cost-effectiveness assessments, based on multiple tests, combined with periodic cost-effectiveness testing to monitor program performance, allows for appropriate checks and balances to assure that programs are cost-effective.

Recognizing that cost-effectiveness criteria could be different by sector or type of program, NYSERDA supports a uniform approach to such practices to ensure consistency amongst PAs, including the development and use of a standardized cost-effectiveness calculation tool, a test reference guide, and an incremental cost reference guide. NYSERDA also supports DPS's suggestion to select an appropriately qualified contractor to assist with the development of these tools.

NYSERDA supports the proposal to expand and regularly update PACT and TRC benefits to include environmental damage assessment costs for SOx, NOx, and particulate matter (PM), a revised CO_2 cost, and other environmental, public health or economic externalities, as well as more routine updates to long-range avoided costs (LRACs), discount rates, etc., appropriate for the E2 program cycle. NYSERDA encourages the Commission to include all other appropriate benefits and costs in the calculation of PACT, TRC, and PCT.

NYSERDA requests that the updating of LRACs and other inputs used to calculate savings in the models be a transparent process, with input from the E2 Advisory Council and other stakeholders and recommends that the discount rate currently applied be re-evaluated, and that a rate based on a societal rate rather than utility Weighted Average Cost of Capital be considered. NYSERDA supports the proposal to have a dedicated team consisting of DPS, NYSERDA, and an appropriately qualified third party contractor(s) fully engaged in the process, to develop a more systematic approach to using and updating the TRM, including facilitating input from the TRM Subcommittee and a defined plan for the incorporation of evaluation results into the TRM.

NYSERDA agrees that the current fuel-based implementation approach to efficiency devalues the broad societal benefits that can be provided by energy efficiency programs and is directly contrary to a customer-centric approach. NYSERDA concurs with the DPS recommendation that a fuel neutral approach should be adopted, resulting in reduced program costs and increased savings to utility customers and agrees with the DPS acknowledgment that there are interactive savings effects and many measures installed under EEPS programs save both electric and heating fuel. NYSERDA suggests the Commission approve use of E2 collections for all New York customers.

NYSERDA supports simplifying the administrative process with regard to revisions to customer incentive levels. However, NYSERDA is concerned that the elimination of the approval by the Director of the Office of Energy Efficiency and the Environment (OEEE) may exacerbate the damaging competition among PAs. NYSERDA recommends that PAs, in conjunction with DPS, work together to align incentives, as appropriate.

NYSERDA recommends that DPS retain approval rights on incentive level changes and develop a process to ensure that DPS is provided with the appropriate level of information to determine how a proposed change relates to ratepayer impacts and overlapping programs in order to make an informed decision. NYSERDA supports the recommendation in the Staff's restructuring proposal to eliminate the requirement to pre-screen 'prescriptive' measures in favor of the maintenance of auditable records to demonstrate the cost-effectiveness of the measure. However, NYSERDA notes the recommendation appears to limit this flexibility to only 'fixed-dollar rebates' without further definition of the term.

NYSERDA recommends that Staff develop, with the support of the proposed E2 Advisory Council, guidance related to pre-screening including definitions and the level of detail expected to be maintained to provide for clarity and consistency.

<u>Reply Comments</u>

NYSERDA addresses Joint Utilities' conflict of interest concern regarding the Staff's restructuring proposal's expanded role for NYSERDA as the evaluator of both the programs it administers and those administered by the utilities, and as support to DPS Staff. In response to Joint Utilities' concern NYSERDA believes it can institute measures and processes that will protect against conflict and the appearance of conflict, and further notes that firewalls can be established, separating information and responsibilities, core evaluation assessments are conducted by independent third parties, oversight responsibilities can be expanded for the Advisory Council and finally, NYSERDA, as a public benefit corporation has no economic stake in the outcome of the E2 portfolio.

NYSERDA replied to NFG's concerns regarding the coordinated statewide messaging and marketing approach. NYSEDA reiterates the purpose of the statewide outreach, education, and marketing (OEM) serving the entire E2 portfolio and generating demand for all programs. NYSERDA notes that adopting an umbrella OEM does not require abandonment of current utility-specific branding activities and acknowledges that utility branding has proven to be effective.

NYSERDA responds to the Joint Utilities' concern regarding the "on-demand data warehouse" and "centralized IT platform". The Joint Utilities' concern is the amount of dedicated resources that would be required, along with the protection of customer information. The Joint Utilities proposes the Commission provide the utilities and NYSERDA the opportunity to address alternatives as part of the Joint Organization Proposal development process. NYSERDA replies that the centralized IT platform for program reporting and evaluation metrics is not envisioned to be a replacement of individual PA databases. NYSERDA does not agree with the Joint Utilities 's suggestion to develop the database in the course of developing the Joint Proposal but rather it should be developed parallel to developing the joint proposal.

NYSERDA opposes MI's recommendation that the Commission adopt a self-directed or "banking" approach to energy efficiency for large non-residential customers. NYSERDA is concerned that a self-directed or “banking” program may result in a potential erosion of the system benefits that underscore these energy efficiency activities.

Northeast Energy Efficiency Partnership (NEEP)

NEEP is generally supportive of Staff’s proposal and states that it provides a thoughtful approach to addressing the recommendations identified in the Moreland Commission report as well as concerns from other stakeholders. NEEP supports the creation of an E^2 Advisory Council that combines the IAG and EAG groups and recommends that the E^2 group should begin meeting prior to the submission of the E^2 program plans. The Advisory Council, led by DPS Staff, should not attend to focus on the minute elements of program implementation but instead provide high level guidance and direction. Energy efficiency advisory boards from other Northeast and Mid-Atlantic states can provide a model that can be used by New York. The advisory council is a forum that can be used for all energy efficiency stakeholders to provide their perspectives on programs. NEEP believes that NYSERDA will hold an important role with the council by developing performance goals and providing timely information on how well the programs are meeting the State’s objectives.

NEEP supports Staff’s proposal to alleviate unnecessary competition of EEPS program offerings between NYSERDA and the utilities. Duplicative and overlapping programs have been a source of customer confusion and have hindered goal achievement. Clearly delineating the roles of PAs is the first step in extinguishing the confusion. NEEP states that comprehensive, clean energy programs should be administered by NYSERDA because of their well developed experience with program design, evaluation and market transformation. Introductory programs that necessitate customer connections and knowledge should remain with the utilities. NYSERDA should continue to track and analyze the energy efficiency data as well as assist utilities with program design. Additionally, the coordination of programs includes leveraging the energy efficiency programs of NYPA and LIPA.

NEEP states that the first task for the E2 Advisory Council should be that DPS, NYSERDA and utilities design specific performance goals. . NEEP offers some criteria for discussion when developing performance metrics: link savings and goals with the current program cycle, maintain and energy saving component, include program participation goals, align goals with cost effectiveness screening, promote market transformation, and endorse PA cooperation.

NEEP agrees with Staff that the TRC test should no longer be applied at the measure level and supports Staff's proposal to evaluation cost effectiveness testing at the sector level. NEEP also suggest utilizing the Societal Cost Test which can be used to calculate cost and benefits to the general public and recommends looking to Synapse Energy Economics for Regional Evaluation, Measurement and Verification (EM&V) forum for guidance as it is currently working on developing a Cost-Effectiveness Test Reference Guide.

NEEP has long advocated for a fuel neutral funding approach for a whole-building, holistic approach to energy efficiency and agrees with Staff that the cost of avoiding cross subsidization may outstrip any benefits to the ratepayer. NEEP recommends a merged fuel neutral fund instead of eliminating the surcharge for gas customers and to make energy efficiency program options available to unregulated fuels customers as well. Fuel neutrality permits a whole-building approach and should allow unregulated fuel customers to participate in building envelope and equipment replacement efficiency improvements. NEEP also suggest that Staff develop an opt-in fund that would be available for municipal electric companies in Long Island to participate in energy efficiency programs.

NEEP states that revising performance goals to be more in line with the program term as well as clearly delineating PA roles will create conditions for a performance incentive to motivate program performance and suggests using performance incentive models developed by Massachusetts and Vermont for insight into what could work for New York State.

NEEP supports Staffs efforts to improve evaluation planning, program performance measurement and the proposed Technical Resource and Evaluation Plan. NEEP supports the development of the EEPS Statewide Database that can provide timely information on program performance obtained from consistent program tracking and reporting from PAs. This data will be valuable to regional efforts through the Regional Evaluation, Measurement and Verification Forum (EM&V) which is working to reporting consistency across the Northeast and Mid-Atlantic states through its Regional Energy Efficiency Database (REED).

NEEP recommends that the Technical Resource and Evaluation Plan (TREP) continue with joint statewide evaluations and leveraging evaluation funds across PAs. For assistance in developing a multi-year evaluation planning framework, NEEP suggests researching other states; such as Massachusetts, which has recently issued its 2013-14 Evaluation Plan. NEEP encourages EAG/E^2 Advisory Council participants to continue their participation in the Regions EM&V forum in an effort to support consistency in energy efficiency evaluation and reporting across the region.

NEEP supports Staff’s efforts to develop a well-designed and flexible Technical Reference Manual (TRM) and recommends reviewing the TRM Updating Process Guidelines the Forum developed as part of the recent Mid-Atlantic TRM for insight on updating New York's Technical Manual. Recommendations include: Review and summarize TRM update processes in place in other jurisdictions for comparison and guidance; Recommend an overarching strategy to update the TRM in a timely and appropriate manner, to best meet the needs of the organizations using it; Interview regional stakeholders to identify needs and schedules relevant to the update process, commonalities that are mutually supportive of a single process and schedule, as well as any unique needs or situations that necessitate extra attention; Identify cyclical activities that may benefit or detract from the TRM update process, and propose a schedule for measure review and update; Identify measures to be added or updated in the next round of TRM measure development.

NEEP urges Staff and PAs to work together to prioritize evaluation and reporting while implementing the changes.

Saint-Gobain Structural Ceramics (Saint-Gobain)

Saint-Gobain supports having National Grid maintain their energy efficiency programs for large commercial and industrial customer in their service territory. Saint-Gobain has had positive experiences working with National Grid and is confused as to why the Public Service Commission would want to eliminate this valuable program from National Grid and the other investor-owned utilities in New York State.

SmartWatt Energy, Inc. (SmartWatt)

SmartWatt states it has participated in dozens of utility programs across the country, both as a utility program implementer and as a participating installation contractor; and this experience has demonstrated the importance of several critical energy efficiency program design considerations that are critical to the continued success of the EEPS Program Portfolio in New York.

SmartWatt's view does not advocate that the role of the utilities exceeds those of other stakeholders. NYSERDA has developed a national reputation for advancing emerging technologies and innovation in program design and impact evaluation. Consumer advocates, regional economic development agencies, workforce training providers and representatives of underserved customer segments are all stakeholders that should play to their strengths to design and deliver a complementary set of cost effective program and in exploring the potential direction of energy initiatives in New York for many years to come.

SmartWatt states that energy efficiency is a proven means of meeting energy demand, and also delivers a range of social, sustainability, environmental, and economic benefits by providing reliable, efficient, affordable, and clean energy. The utilities, by virtue of their reach into local markets and their commitment to energy efficiency, as well as their stake in maintaining reliability of the systems that deliver that energy, should play a critical role in planning these programs.

SmartWatt advocates that the utilities of New York have the most to gain or lose, based upon success or failure of EEPS programs that can impact critical planning for the production and distribution of energy that is critical to the overall quality of life of the citizens of New York. SmartWatt recommends that the utilities focus on designing and delivering E^2 programs, in cooperation with NYSERDA, that provide the best service, experience, and quality to their customers and address some of the unique needs of their system. SmartWatt states that the utilities should foster and maintain customer relationships as a trusted energy advisor, providing service as a likely information source on energy options, since customers are more likely to trust the existing relationship with the utility providing service on such products.

SmartWatt states customer decisions on how and when they consume energy can have significant impacts on utility infrastructure investments and energy procurement efforts. Since utilities have insight into the needs of customers in their service territories, and are uniquely situated to develop and promote energy efficiency programs and services that can meet those needs and support the efficiency and reliability of energy production, delivery and distribution facilities that serve the needs of those customers, the utilities are positioned to integrate an overall customer solution package, which may include EEPS, RPS, demand response, and/or distributed generation measures. SmartWatt believes that the utilities are in a position to encourage customers to use energy efficiently, offer price signals to wiling customers to manage their exposure to energy market price volatility, aggressively manage energy supply contracts, and exploit onsite generation opportunities. Tailoring the wide variety of program models, eligible measures and market approaches is important to the effectiveness of each utility's overall program portfolio. This total range of efficiency program design options should not be diluted to a state-wide, one-size-fits-all program or suite of programs that fail to meet the needs of the customers, the local market and the utility.

SmartWatt states that municipal leaders across the country are facing growing economic, social, and sustainability challenges are increasingly interested in partnering with local utilities on initiatives that achieve broad regional and state energy objectives. Community leaders responsible for framing strategic approaches to energy often look to develop and champion local energy projects, may feel that lack the knowledge and expertise to do so. Local utilities have demonstrated willingness and capability to gather grassroots support to address local needs and develop local energy plans that can drive increased energy efficiency activity.

SmartWatt states that in order for the ratepayers, stakeholders and other market actors to get the most from energy investments requires an integrated approach, understanding and managing both energy use and energy supply options.

SmarttWatt looks forward to the Commission's decisive action to integrate demand-side energy efficiency and load management opportunities with supply-side opportunities and offer customer tools and options for customers seeking to change their energy consumption behavior.

TRC Environmental Corporation (TRC Environmental

TRC Environmental supports the implementation of a fuel neutral approach for the remainder of EEPS 2 and for E^2. TRC Environmental states that a fuel neutral approach supports New York's goals to transform energy markets and holistically address energy market needs in a way that EEPS 2 requirements do not allow. TRC Environmental asserts that most current EEPS2 programs can incorporate this change quickly. In TRC Environmental's experience with NYSERDA's MEPP, it found that buildings using heating fuels other than natural gas and electricity can easily meet the 15% energy savings threshold but are unable to access EEPS funds.

TRC Environmental supports removing the measure level and project level total resource cost test for the remainder of

EEPS 2. The company believes that this can be accomplished quickly and would help reduce program administrative costs as well as participation costs for customers. In addition, it believes that cost effectiveness screening at the sector level will provide flexibility for innovative program design and implementation models in the future.

TRC Environmental encourages the Commission to review the high level planning schedule to ensure that Program Administrators can incorporate the new program guidance into program design and procurement cycles. Typically, it has been TRC's experience that new programs take 3-6 months to be program designed and launched.

TRC Environmental comments that current data analytics tools being used to evaluate EEPS programs are unable to present a clear performance comparison of the numerous program administrators across the State, and the current collection of program performance data only tracks first-year savings where most energy efficiency programs, especially those of larger scale that promise greater efficiencies, will take years to realize energy efficiency and financial forecasting goals. For these reasons, TRC Environmental supports a group shared information technology platform that would facilitate market analysis, evaluation of programs, and resource planning efforts, stating that this new platform is crucial to meeting upcoming statewide energy efficiency goals in the future. TRC Environmental recommends that input from program administrators and evaluators, as wells as implementation contractors should be included in the planning process for such a platform, and that it should be developed by a third party contractor with experience working in this sector. TRC Environmental welcomes the opportunity to join in the discussion. TRC recommends that design of the platform should include a description of: 1) specific data elements that will be collected, 2) necessary privacy and security controls, 3) an adaptable format that would allow frequent updating of input parameters; 4) an incentive or other mechanism to compel data input and reporting necessary to track the success of an energy efficiency investment; and 5) a data collection procedure that may, in the future, include data from other states, for the purpose of building a national model and a more accurate deliverable. TRC Environmental believes the platform should also include an interface tied to data analytics to allow building owners, contractors, and investors to build a business case for new investment opportunities.

TRC Environmental states that program goals structured for NYSERDA and local utilities jointly by utility territory will benefit the customer and supports the concept of eliminating competing programs, thus allowing the customer greater access to the full range of energy programs available in New York State.