

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on June 17, 2015

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair  
Patricia L. Acampora  
Gregg C. Sayre  
Diane X. Burman, abstaining

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

ORDER AUTHORIZING REALLOCATION OF SYSTEM BENEFITS  
CHARGE FUNDS TO THE EMPOWER PROGRAM

(Issued and Effective June 19, 2015)

BY THE COMMISSION:

INTRODUCTION

On September 23, 2014, the New York State Energy Research and Development Authority (NYSERDA) filed a request to reallocate \$11 million of unspent System Benefit Charge (SBC3) funds to the EmPower New York program (EmPower), in order to fully fund the program budget previously approved by the Commission.<sup>1</sup> The EmPower program performs cost-effective energy efficiency upgrades, at no cost, for income-eligible low-income New Yorkers. Energy efficiency upgrades include air sealing; insulation; replacement of inefficient refrigerators and

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<sup>1</sup> Case 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule (issued October 25, 2011).

freezers; installation of energy efficient lighting, programmable thermostats, faucet aerators, and low-flow showerheads; and heating system repairs. The program also includes checks for health and safety concerns such as gas leaks, inadequate venting of furnaces or hot water heaters, and non-functioning smoke detectors. NYSERDA's September 23, 2014 request is consistent with the Commission's instructions in its October 25, 2011 order for NYSERDA to maximize the use of unspent funds that might become available and file notice with the Commission six months prior to an expected deficit between the authorized program budget and the funds already made available to cover the costs.<sup>2</sup>

In this order, the Commission approves the originally requested reallocation of \$11 million of uncommitted SBC3 funds to fully fund the EmPower budget previously authorized by the Commission. This funding will enable EmPower to provide energy efficiency services to approximately 3,140 low-income gas customers.

Additionally, in response to inquiries from Department of Public Service Staff (Staff) regarding the adequacy of the previously authorized budget to provide services throughout 2015, NYSERDA indicates that the previously authorized budget, inclusive of the remaining \$11 million, will be fully committed in September 2015. Based on EmPower's current rate of committing funds to approximately 600 projects per month the EmPower budget would need to increase by \$7.5 million to enable EmPower to continue to process referrals and provide continuity of services

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<sup>2</sup> Id. at 16.

to low-income customers throughout the remainder of 2015.<sup>3</sup> The Commission finds such an increase is warranted to ensure that our most vulnerable customers continue to receive services during the fall and winter season when they most need the energy and bill savings and health and safety checks delivered through EmPower. Therefore, the Commission approves an increase of up to \$8 million for EmPower and directs NYSERDA to utilize the flexibility provided under EE-07: Reallocation of Budgets and Targets Between Customer Sectors<sup>4</sup> to transfer uncommitted funds of up to \$8 million from other programs to EmPower. The EE-07 guidance document, in compliance with Commission directive,<sup>5</sup> limits individual or multiple gas-to-gas reallocations between customer sectors to 10% of NYSERDA's total approved gas portfolio for EEPS2. Additional between customer sector transfers of up to \$15.5 million remain permissible under the 10% reallocation cap established by the Commission therefore the increased budget authorization of up to \$8 million can be fulfilled through this mechanism without increasing collections.

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<sup>3</sup> NYSERDA is implementing other actions, such as termination of all NYSERDA outreach and marketing, and reducing average and maximum per household expenditures in an effort to potentially reduce the funding needed to support services for the remainder of the year.

<sup>4</sup> EE-07: Reallocation of Budgets and Targets Between Customer Sectors, New York State Department of Public Service Office of Energy Efficiency and the Environment Energy Efficiency Guidance (issued February 14, 2014, revised October 24, 2014 and March 23, 2015)

<sup>5</sup> Case 07-M-0548, supra, Order Approving Three New Energy Efficiency Portfolio Standard (EEPS) Programs and Enhancing Funding and Making Other Modifications for Other EEPS Programs at 43 (issued June 24, 2010) and Case 07-M-0548, supra, Order Approving EEPS Program Changes at 37 (issued December 26, 2013).

BACKGROUND

By an order dated October 25, 2011, the Commission authorized NYSERDA to provide energy efficiency services through EmPower to low-income gas and electric customers.<sup>6</sup> NYSERDA was authorized to continue the program from 2012 through 2015 at a budget of \$97,855,444 for the gas component of the program.<sup>7</sup> The order directed \$54,492,244 in collections from gas customers to fund approximately 56% of the budget and instructed NYSERDA to carry-forward the unencumbered Energy Efficiency Portfolio Standard (EEPS1) balances anticipated at year-end 2011 in NYSERDA's other gas low-income programs to partially satisfy the Commission's authorized EmPower budget. The EEPS1 carry-forward of NYSERDA's other gas low-income programs totaled \$3,285,978. The order further directed NYSERDA to provide not less than six months' notice of any date in which it estimated that total expenditures would equal or exceed total available funds so that alternate funding could be arranged to satisfy the remainder of the authorized budget.<sup>8</sup>

While the October 25, 2011 order provided provisions for the roll-over of uncommitted gas funds from NYSERDA's other low-income programs, reallocations of uncommitted funds from non-low-income programs required Commission approval. On March 30, 2012, NYSERDA filed a petition seeking reallocation of \$13,767,918 of non-low-income EEPS1 gas funds to EmPower to

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<sup>6</sup> Case 07-M-0548, supra, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule (issued October 25, 2011).

<sup>7</sup> The electric component of EmPower was provided \$73.7 million of funding for the period 2012-2015 in the October 25, 2011 Order in Case 07-M-0548. Id.

<sup>8</sup> Id. at 16.

further fund the Commission authorized budget for EmPower.<sup>9</sup> On December 17, 2012, the Commission approved NYSERDA's petition for the reallocation of non-low-income EEPS1 funds, recognized that a funding shortfall remained and again directed NYSERDA, as it did in the October 2011 order, to provide Staff at least six months' notice of any date on which NYSERDA estimated total expenditures for EmPower will exhaust all funding provided in the October 2011 and December 2012 orders.<sup>10</sup> The intent of this multi-stage process toward fully satisfying the total Commission authorized budget for EmPower was to maximize the use of unspent funds that might become available, thereby minimizing the need for new collections from ratepayers.

In the December 17, 2012 Order, the Commission also approved a reduction in the energy savings target previously authorized for EmPower due to an increase in the projected cost of savings achieved. Among the factors contributing to the increased cost was a shortfall in utility referrals to the program. As such, NYSERDA proposed, and the Commission approved, an increase in EmPower's outreach, education and

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<sup>9</sup> Case 07-M-0548, supra, NYSERDA Petition for Allocation of Uncommitted EEPS Funds to the Combined Heat and Power Performance and EmPower Programs (filed March 30, 2012). Because NYSERDA already received administrative and evaluation funds related to EEPS1, the uncommitted EEPS1 funds reallocated through the roll-over (\$3,285,978) and subsequent petition (\$13,767,918) are net of administration, cost recovery fee and evaluation. NYSERDA transferred the corresponding amount of administrative, cost recovery fee and evaluation costs (\$2,599,071) from EEPS1 to EEPS2 and reflected this in its EEPS Supplemental Revision to the SBC Operating Plan filed February 15, 2013.

<sup>10</sup> Case 07-M-0548, supra, Order Modifying Budgets and Targets for Energy Efficiency Portfolio Standard Programs and Providing Funding for Combined Heat and Power and Workforce Development initiatives at 50 (issued December 17, 2012).

marketing (OEM) budget to compensate for the lack of robust utility referrals. The Commission further stated that while NYSERDA's proposed solution was reasonable, the root cause of the issue needed to be resolved.<sup>11</sup>

The Commission has consistently recognized the important role in the success of EmPower that utilities can, and should, play as the primary source of referrals of eligible low-income customers. In a January 4, 2010 order, the Commission provided an incentive for that role by allowing each utility to claim 15% of the energy saved from measures installed under EmPower toward the utility's energy savings goal, for shareholder incentive purposes, when the customer being served was referred by the utility.<sup>12</sup> In the December 2012 order, the Commission further incented the utilities' involvement by permitting the utilities to claim 7.5% of the energy saved from measures installed under EmPower toward the utility's energy savings goal, for shareholder incentive purposes, when a customer is referred by an entity other than the utility and the utility provides the required data to NYSERDA on behalf of the customer.<sup>13</sup> The Commission made the obligation of utility referrals to EmPower uniformly clear and directed NYSERDA and

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<sup>11</sup> Case 07-M-0548, supra, Order Modifying Budgets and Targets for Energy Efficiency Portfolio Standard Programs and Providing Funding for Combined Heat and Power and Workforce Development Initiatives at 51 (issued December 17, 2012).

<sup>12</sup> Case 07-M-0548, supra, Order Approving Certain Commercial and Industrial; Residential; and Low-Income Residential Customer Energy Efficiency Programs with Modifications (issued January 4, 2010).

<sup>13</sup> Case 07-M-0548, supra, Order Modifying Budgets and Targets for Energy Efficiency Portfolio Standard Programs and Providing Funding for Combined Heat and Power and Workforce Development Initiatives (issued December 17, 2012).

the utilities to work with Staff to develop a referral process as well as enhance feedback to the utilities on the status of utility referrals. The Commission further stated that once the Director of the Office of Consumer Policy (OCP),<sup>14</sup> in consultation with NYSERDA, has determined that the utility referral system is functioning as expected, NYSERDA is expected to transfer remaining uncommitted OEM funds, with the consent of OCP Staff, to the program budget to support the installation of additional efficiency measures. At that time, NYSERDA was directed to submit a revised operating plan incorporating the transfer of OEM funds including a commensurate increase in the energy savings targets. On June 11, 2015, NYSERDA utilized the processes previously established to transfer approximately \$1.3 million into incentives from other program categories within EmPower's EEPS2 gas budget.<sup>15</sup>

As part of an effort to reduce the administrative burden associated with the EEPS program, by an order dated December 26, 2013, the Commission directed Staff to develop guidance regarding reallocation of EEPS program budgets and targets.<sup>16</sup> Consistent with the December 26, 2013 order and subsequent

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<sup>14</sup> The Office of Consumer Policy has subsequently been renamed the Office of Consumer Services.

<sup>15</sup> The \$1.3 million transferred to incentives results from \$960,875 in available OEM funds and \$323,711 from available direct program implementation funds. In accordance with the Commission direction provided in the December 17, 2012 Order in Case 07-M-0548, supra, the transferred OEM funds results in an incremental energy savings goal of 8,599 Dth.

<sup>16</sup> Case 07-M-0548, supra, Order Approving EEPS Program Changes (issued December 26, 2013).

guidance documents issued on February 14, 2014,<sup>17</sup> NYSERDA requested, and Staff approved, an EEPS program budget reallocation of \$12,710,235 to EmPower.<sup>18</sup> Because the flexibility granted in the December 26, 2013 order was limited to the reallocation of EEPS2 program funds, the currently proposed reallocation of SBC3 funds to the EmPower program requires Commission approval.

The Commission continues its vigorous review of funding levels for low-income energy efficiency and other NYSERDA programs post-2015, as proposed by NYSERDA in its Clean Energy Fund Proposal in Case 14-M-0094.

#### SUMMARY OF PETITION

On September 23, 2014, NYSERDA filed a request to reallocate \$11 million of uncommitted SBC3 funds to the gas component of EmPower with an associated 97,756 dekatherms of savings.<sup>19</sup> This reallocation would fully satisfy the budget

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<sup>17</sup> Case 07-M-0548, supra, EE-07: Reallocation of Budgets and Targets Between Customer Sectors, New York State Department of Public Service Office of Energy Efficiency and the Environment Energy Efficiency Guidance (issued February 14, 2014, revised October 24, 2014 and March 23, 2015).

<sup>18</sup> Case 07-M-0548, supra, Letter from Peter Keane, NYSERDA to Colleen Gerwitz, DPS dated November 17, 2014, as amended on December 5, 2014, and Letter from Colleen Gerwitz, DPS to Peter Keane, NYSERDA dated December 23, 2014.

<sup>19</sup> The September 23, 2014 filing as supplemented by a November 17, 2014 filing requested additional reallocations, from various sources, to be utilized in 2015 for the following EEPS Gas programs: Assisted Home Performance with ENERGY STAR (AHPwES); Low-Income and Market Rate components of the Multifamily Performance Program(MMP-LI/MPP-MR); and Industrial Process Improvements (IPE). On April 27, 2015, NYSERDA withdrew the requested reallocations to all programs except EmPower.



previously approved by the Commission. NYSERDA's September 23, 2014 request is consistent with the Commission's instructions that NYSERDA file notice with the Commission six months prior to an expected deficit and maximize the use of unspent funds that might become available.

#### NOTICE OF PROPOSED RULEMAKING

A notice of Proposed Rulemaking concerning NYSERDA's proposal was published in the State Register on October 15, 2014 (SAPA 14-M-0094SP1). The minimum time period for the receipt of comments pursuant to the State Administrative Procedure Act (SAPA) regarding the notice expired on December 1, 2014. On November 6, 2014, the Secretary issued a notice soliciting comments on, among other things, NYSERDA's proposal to reallocate EEPS and SBC funds. The notice provided for the submission of initial comments by December 8, 2014 and reply comments by December 22, 2014.

#### SUMMARY OF COMMENTS

The majority of commenters<sup>20</sup> are supportive of NYSERDA's proposed reallocations, agreeing that it is imperative to avoid market disruptions and maintain momentum during this time of transition. Commenters also specifically expressed support for the reallocation of funds to low-income programs. A number of comments sought further clarification and details

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<sup>20</sup> AARP, Alliance for Clean Energy NY, Association of Energy Affordability, Bloom Energy Corporation, Conservation Services Group, Consumer Power Advocates, Distributed Wind Energy Association, Energy Efficiency for All, Fuel Cell & Hydrogen Energy Association, Natural Resources Defense Council, New York City, NYS Department of State Utility Intervention Unit, New York State Homes and Community Renewal, Public Utility Law Project, and TRC.

including: calculation of the proposed incremental energy savings; details on the uncommitted SBC3 and EEPS1 funds by program; and the number of projected incremental customers to be served.

NYSERDA addressed many of the questions regarding calculations in its reply comments, submitted on December 22, 2014. The reply comments provide additional clarification and corrections to energy savings estimates and \$/Dth calculations. Some parties commented that the \$/Dth proposed in the November 17, 2014 supplement differed from the \$/Dth in the Letter to the Director of the Office of Energy Efficiency and the Environment dated November 17, 2014.<sup>21</sup> NYSERDA clarifies the variance in the savings calculations between the reallocations proposed in the November 17, 2014 supplement and those recently completed through the letter transfer process. The reallocations completed through the letter transfer process are based on "all-in" or "total budget" costs and include program, administration, evaluation, and cost recovery fee costs. NYSERDA's proposed November 17, 2014 supplement reallocations are based on "program" funds and are calculated absent any administration, evaluation and cost recovery fee costs. NYSERDA states in its supplement that it will use existing program administration and evaluation budgets to deliver the reallocated funds. Some commenters request that NYSERDA identify the programs from which the uncommitted funds originated. NYSERDA notes that it already provides this information on an annual basis as required by the Commission. By March 31 of each year, NYSERDA files a statement of any uncommitted funds by program for the SBC and EEPS1 portfolios. NYSERDA also notes in its reply comments that

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<sup>21</sup> Revisions to tables included in NYSERDA's November 17, 2014 letter were filed on December 5, 2014.

authorization to administer EEPS1 and SBC3 programs expired, and as such, uncommitted funds can no longer be used for the programs for which they were initially authorized.

The Joint Utilities, Multiple Intervenors (MI), and National Fuel Gas Distribution Corporation (NFG) object to the reallocation of SBC3 funds collected from electric customers to support EEPS2 gas programs, citing the Commission's longstanding opposition to cross-subsidization among electric and gas customers and cautioning that it may establish a precedent without appropriate consideration of the issue of fuel neutrality and cross-subsidization. In contrast, New York Geothermal, Energy Efficiency for All, and Mr. Roberti express support for the concept of fuel neutrality and the use of funds for any technology that will reduce pollution.

MI states that NYSERDA has failed to justify the proposed reallocations and argues that, with the possible exception of the IPE and MPP-MR programs, the proposed cost of achieving the projected gas savings is exorbitant, particularly when compared to the current cost of natural gas. MI states the Commission should require NYSERDA to conduct updated benefit/cost analyses for each of the programs before authorizing their continuation and the transfer of additional customer funds. MI requests that uncommitted funds be returned to all customer types, preferably in the form of credits, but alternatively in the form of reduced future collections.

NFG states that unused SBC3 funds should be used to reduce collections from ratepayers, and notes that the Commission previously stated it would consider employing unused SBC3 funds in this manner. Although NFG appreciates NYSERDA's efforts to ensure program continuity and longevity by repurposing SBC3 funding, NFG argues that transferring these monies to existing EEPS2 programming will not result in reduced

ratepayer surcharges. NFG suggests the uncommitted funds could be used to reduce future ratepayer surcharges.

DISCUSSION AND CONCLUSION

Continuity of energy efficiency services to low-income customers during this time of transition is a priority for the Commission. NYSERDA acted in compliance with the Commission's directive to provide notification with not less than six months notice of an expected deficit between the authorized budget and the funds already made available to cover the costs when it filed its petition in September, 2014. Further, in November 2014 NYSERDA took action within the flexibility provided to EEPS Program Administrators for EEPS2 budget reallocations, as outlined in EE:07: Reallocation of Budgets and Targets Between Customer Sectors by proposing a reallocation of \$12.7 million to EmPower, which was approved by Staff. Also, on June 11, 2015, NYSERDA utilized the processes previously established to transfer approximately \$1.3 million into incentives from other program categories within EmPower's EEPS2 gas budget.

The Commission recognized that in the normal course of program delivery, some portion of SBC3 and EEPS1 funds may not be spent and anticipated that certain other programs would have greater demand than originally projected. Accordingly, the Commission did not increase collections in 2011 corresponding with the increased budget for EmPower, but instead established this multi-stage funding process. This process has enabled the Commission to fully satisfy the previously authorized budget without requiring any additional collections from ratepayers. Therefore, NYSERDA's request to reallocate \$11 million of uncommitted SBC3 funds to the EmPower budget previously authorized by the Commission is approved.

In response to Staff inquiry regarding the adequacy of the previously authorized budget to provide services throughout 2015, NYSERDA reports that based on the current rate of committing funds to EmPower projects, the \$11 million reallocated in this order is anticipated to be fully committed by September, 2015. NYSERDA further estimates, based on the current level of referrals into EmPower and rate of committing funds an additional \$7.5 million of gas funding would be required to enable EmPower to continue to process referrals and provide continuity of services to low-income customers throughout the remainder of 2015.

The Commission is disappointed to learn that the \$11 million reallocated in this order, in combination with the previous letter transfer, is not anticipated to meet program demand throughout the remainder of 2015. The Commission remains committed to providing energy efficiency services to our most vulnerable customers, and does not want to create a waiting list for EmPower services, nor disrupt the long-sought objective of having the utilities provide customer referrals to EmPower. The Commission is therefore authorizing a budget increase of up to \$8 million to ensure that our most vulnerable customers continue to receive energy efficiency services during the fall and winter seasons when they most need the energy and bill savings and health and safety checks delivered through EmPower. While the Commission is authorizing a budget increase of up to \$8 million, there will be no authorization of additional collections in this final year of EEPS to support this increased budget. Instead, the Commission directs NYSERDA to utilize the flexibility provided under EE-07: Reallocation of Budgets and

Targets Between Customer Sectors<sup>22</sup> to transfer uncommitted funds from other programs to EmPower. The EE-07 guidance document, in compliance with Commission directive,<sup>23</sup> limits individual or multiple gas-to-gas reallocations between customer sectors to 10% of NYSERDA's total approved gas portfolio budget for EEPS2. Additional between customer sector transfers of up to \$15.5 million remain permissible under the 10% reallocation cap established by the Commission therefore the budget authorization of up to \$8 million can be fulfilled through this mechanism without increasing collections. Transfer of uncommitted funds to meet EmPower's 2015 funding needs shall take precedent over any other potential NYSERDA funding transfer and is limited to no more than \$8 million.

The Commission further directs NYSERDA to improve its monitoring of EmPower referrals from all sources and to take other cost containment and management steps.<sup>24</sup> A description of all such actions should be included in the anticipated EE-07 request to transfer uncommitted funds to EmPower.

The Commission understands the concerns that have been raised about the use of SBC collections from electric ratepayers

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<sup>22</sup> EE-07: Reallocation of Budgets and Targets Between Customer Sectors, New York State Department of Public Service Office of Energy Efficiency and the Environment Energy Efficiency Guidance (issued February 14, 2014, revised October 24, 2014 and March 23, 2015)

<sup>23</sup> Case 07-M-0548, supra, Order Approving Three New Energy Efficiency Portfolio Standard (EEPS) Programs and Enhancing Funding and Making Other Modifications for Other EEPS Programs at 43 (issued June 24, 2010) and Case 07-M-0548, supra, Order Approving EEPS Program Changes at 37 (issued December 26, 2013).

<sup>24</sup> Such as termination of all outreach and marketing, reducing average and maximum per household expenditure in an effort to ensure the adequacy of funds to support year-end needs.

to fund gas efficiency measures but notes that the SBC was originally designed to encourage energy efficiency, promote a cleaner environment, and reduce the financial burden of energy costs on low-income customers. In an order dated January 26, 2001, the Commission gave NYSERDA authority to include non-electric measures in the SBC program, in order to develop more comprehensive packages for customers.<sup>25</sup> Many SBC programs, including EmPower, used a "whole building" approach to energy efficiency that included some non-electric, but cost effective, measures. In that context, the Commission finds that the reallocation of uncommitted SBC3 funds to the gas component of EmPower appropriately supports the objectives set forth for the SBC.

The Commission-authorized EEPS2 Dth goal for EmPower, based on the fully authorized budget of \$97,855,444, is 746,987 Dth. As documented in NYSERDA's February 15, 2013 EEPS Operating Plan, EmPower's fully authorized budget was projected to serve 20,798 low-income gas customers. Staff discussions with NYSERDA have determined that savings estimates were based on average savings per household of 36 Dth. In the conduct of the EEPS2 program to date, NYSERDA is realizing less savings per household than originally anticipated, averaging 27 Dth per household. As a result, NYSERDA projects it will achieve approximately 80% of its total EEPS2 Dth goal. While savings have not materialized as expected, NYSERDA projects it will serve nearly 22,000 low-income gas households with its fully authorized budget, representing 106% of the original goal. Gas savings per household, while less than expected, still reduce

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<sup>25</sup> Case 94-E-0952, In the Matter of Competitive Opportunities Regarding Electric Service, Order Continuing and Expanding the System Benefit Charge for Public Benefit Programs (issued January 26, 2001).

the financial burden of energy costs for low-income consumers, an objective of the SBC, estimated at approximately \$240 annually per household. At this time, based on EmPower's performance to date, the Commission rejects NYSERDA's proposed Dth goal associated with the \$11 million of 97,756 Dth<sup>26</sup>, which would have resulted in an incremental Dth goal of 12,195 more than previously authorized by the Commission in 2011. As the \$11 million approved in this order will fully satisfy the previously authorized budget, the Commission maintains the corresponding previously authorized energy savings goal of 746,987 Dth. The Commission encourages NYSERDA to improve upon EmPower's performance in pursuit of obtaining greater energy savings per household and achieving a larger portion of their authorized goal than currently projected. NYSERDA shall file a revised Operating Plan, in compliance with Energy Efficiency Guidance EE-03: Process for Amending Implementation Plans<sup>27</sup> containing updated budget and target information, as well as number of customers to be served.

#### SEQRA FINDINGS

Pursuant to our responsibilities under the State Environmental Quality Review Act (SEQRA), in conjunction with this order, the Commission finds that programs modified here are within the overall action previously examined by us in

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<sup>26</sup> The December 17, 2012 order in Case 07-M-0548, supra, authorized a total EEPs2 Dth goal of 746,987, of which 661,426 Dth has already been funded, leaving a remaining Dth goal of 85,561 Dth.

<sup>27</sup> Case 07-M-0548, supra, EE-03: Process for Amending Implementation Plans, New York State Department of Public Service Office of Energy Efficiency and the Environment Energy Efficiency Guidance (issued June 21, 2013).



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<sup>28</sup> in Case 14-M-0094 are incorporated herein by reference and the Commission certifies 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. The New York State Energy Research and Development Authority (NYSERDA) is authorized to reallocate \$11 million of uncommitted System Benefits Charge (SBC3) funds to fully satisfy the gas budget previously authorized for the EmPower New York program (EmPower).

2. An increase to the EmPower gas budget of up to \$8 million is authorized to support the provision of energy efficiency services to low-income customers throughout the remainder of 2015.

3. The New York State Energy Research and Development Authority is directed to utilize the flexibility provided under EE-07: Reallocation of Budgets and Targets Between Customer Sectors, inclusive of additional specified in this order, to transfer uncommitted funds from other programs to EmPower to fund the increased EmPower gas budget.

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<sup>28</sup> Case 07-M-0548, supra, Order Establishing Energy Efficiency Portfolio Standard and Approving Programs (issued June 23, 2008).

4. The New York State Energy Research and Development Authority is directed to submit a revised operating plan reflecting the approved modifications discussed in the body of this order, inclusive of revised customer served targets. The changes shall be made in the next quarterly revision of the operating plan, due August 15, 2015 as outlined in Energy Efficiency Guidance Document EE-03 - Process for Amending Implementation Plans.

5. Within 30 days of the issuance of this order, the New York State Energy Research and Development Authority is directed to file a revised SBC3 uncommitted funds report reflecting the reallocation approved in the body of this order.

6. The Secretary in her sole discretion may extend the deadlines set forth in this order. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to any affected deadline.

7. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS  
Secretary

CASE 07-M-0548

Commissioner Diane X. Burman, abstaining:

As reflected in my comments made at the public session on June 17, 2015, I abstain.