STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 05-M-0090 – In the Matter of the System Benefits Charge III.

STAFF PROPOSAL FOR THE EXTENSION OF THE SYSTEM BENEFITS CHARGE (SBC) AND THE SBC-FUNDED PUBLIC BENEFIT PROGRAMS

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INTRODUCTION

Competition is a vital force towards minimizing costs, but cost-cutting in itself is not responsive to all of society's needs. The societal implications of introducing competition into electricity markets in New York State made it imperative that the Public Service Commission (Commission) act to preserve the public benefits of programs previously provided to our society by regulated monopoly utilities. Until market-based or better alternative methods can be devised to provide such public benefits, the imperative will remain.

The System Benefits Charge (SBC) program was initiated in 1998 for a three-year period by the Commission with the goal of providing programs to encourage energy efficiency, a cleaner environment and to reduce the financial burden of energy costs on low-income New Yorkers. In 2001, the Commission reviewed the record of the SBC-funded programs, extended them for a 5-year period, and increased the annual funding level from about $78 million to about $150 million. The current SBC funding authorization ends on June 30, 2006.

In anticipation of that pending milestone, the Commission, on January 28, 2005, issued a public notice seeking feedback on 14 critical questions regarding the future of the SBC program. The questions included whether the program should

continue after June 30, 2006, and, if so, what should be its goals, time frame and funding level. Over 160 responses were received. The majority of the comments expressed an overall favorable view of the SBC program and recommended its continuation. A summary of the public comments appears in Appendix B attached hereto, and a copy of a complete set of the responses is available for public viewing at the Commission's internet Web site.[1] Before preparing this proposal, Staff carefully reviewed the comments, examined the performance of SBC programs, and considered the degree to which the SBC program is still a necessary ingredient in New York's energy mix. This proposal is not designed to analyze every individual SBC-funded program, but rather to offer a strategy for the future of the overall SBC program beyond June 2006. Interested persons or parties are invited to share their comments on the SBC program in general and the Staff proposal in particular.

Background

In Opinion No. 96-12,[2] the Commission called for the establishment of the SBC to fund public policy initiatives that were not expected to be adequately addressed by New York's competitive electricity markets. A specific concern was the future of energy efficiency programs that were formerly administered by New York's electric utilities. In Opinion No. 98-3,[3] the Commission provided additional direction on the use of SBC funding and named the New York State Energy Research and Development Authority (NYSERDA) as third-party administrator

[1] See: http://www.dps.state.ny.us/sbc.htm

[2] Case 94-E-0952, et al., In the Matter of Competitive Opportunities Regarding Electric Service, Opinion 96-12 (issued May 20, 1996).

[3] Case 94-E-0952, et al., In the Matter of Competitive Opportunities Regarding Electric Service, Opinion 98-3 (issued January 30, 1998).

(subject to Staff oversight), established an initial SBC term for three years (July 1, 1998 to June 30, 2001) and called for the establishment of an independent program evaluator to evaluate the programs and to report its findings (the Independent System Benefits Charge Advisory Group, hereinafter referred to as the "Advisory Group").

The Commission also identified four major program areas that represented permissible uses of SBC funds. These areas included:

- PSC-approved energy efficiency programs and services;
- PSC-approved public benefit research, development and demonstration projects related to energy service, generation or energy storage, the environment (including monitoring and assessment), and renewables;
- PSC-approved low income energy efficiency and energy management pilot programs; and
- environmental protection programs that go beyond compliance with law or permit requirements, as deemed necessary, including programs designed to monitor and mitigate environmental impacts of electric industry restructuring.

On September 29, 2000, Staff issued a report outlining its vision for the future of SBC (i.e., SBC II) after the conclusion of the initial three-year funding period. This report was circulated for public comment. After reviewing Staff's report and the public comments, the Commission, on January 26, 2001, issued an order extending the SBC program for an additional five years (July 1, 2001 to June 30, 2006.)[4] In the SBC Extension Order, the Commission increased the SBC

[4] Case 94-E-0952, et al., In the Matter of Competitive Opportunities Regarding Electric Service, Order Continuing and Expanding the System Benefits Charge for Public Benefit Programs (issued January 26, 2001).

program's annual funding level from approximately $78.1 million to $150 million "to provide program flexibility and to accomplish the important electric demand reduction component while maintaining the momentum of ongoing market transformation programs, and as necessary to provide the appropriate level of renewable resource development and low-income energy affordability programs."[5]

Together SBC I and SBC II have provided a total budget for NYSERDA of about $962 million. The following chart summarizes the funding allocation by major program area for NYSERDA's SBC program portfolio referred to as New York Energy $mart[SM]:

New York Energy $mart[SM] Program Funding Allocation Summary

(1998-2006)

Program Area	8-Year Funding Allocation	Percent of Total SBC Funding for NYSERDA
New York Energy $mart[SM] Program Area		
Business and Institutional	$359.1 million	37.3%
Residential	$170.7 million	17.7%
Low-Income	$128.4 million	13.4%
Research and Development	$210.8 million [a]	21.9%
Subtotal Program Areas	$869.0 million	90.4%
New York Energy $mart[SM] Program Administration, Evaluation, Environmental Disclosure, and Cost Recovery Fee		
Administration	$64.6 million	6.7%
Evaluation	$16.2 million	1.7%
Subtotal Administration and Evaluation	$80.8 million	8.4%
Environmental Disclosure	$2.9 million	0.3%
NYS Cost Recovery Fee	$9.0 million	0.9%
Total 8-Year Budget	**$961.8 million [b,c,d]**	**100%**

a. Research and Development also includes renewable energy technology development and demonstration and environmental monitoring, evaluation, and protection programs.

b. Includes ratepayer contributions, interest earnings over the 8-year period, and unexpended funds from previous utility-run programs.

c. Totals may not sum due to rounding.

d. Not all of the SBC funds were assigned to NYSERDA. Some funds were used for a small number of utility-run programs, including obligations related to demand side bidding contracts and low-income programs.

[5] Ibid. at p. 12.

SBC Program Results

Staff's September 29, 2000, SBC II proposal considered program results from July 1, 1998 through July 1, 2000. During this period, NYSERDA's focus was on developing a comprehensive portfolio of programs and competitively soliciting qualified contractors to implement these programs. At the conclusion of SBC I, NYSERDA had encumbered about $65 million of the total SBC I funding. While NYSERDA performed effectively in developing and implementing a large number of diverse programs relatively quickly, for many programs there was insufficient data to fully analyze program benefits and impacts, including energy savings. During this period, the key evaluation approach was case studies, an approach that Staff found "reasonable" but not "ideal."

As of June 2005, NYSERDA had committed over $882 million or about 92% of its SBC I and II allocation of approximately $962 million. Most of the New York Energy $mart^{SM} programs now have substantial track records. For example, NYSERDA's technical assistance program, targeted at the business and institutional sectors, has provided funding for about 900 comprehensive energy audits. The Keep Cool program provided financial incentives for over 141,000 units for the replacement of inefficient room air conditioners with energy efficient Energy Star® replacements.

New York Energy $mart^{SM} program highlights through December 2004, as reported by NYSERDA, include the following:

- Annual electricity use in the State has been reduced by approximately 1,400 GWh as of year-end 2004. Peak demand reduction of 860 MW has been achieved through installed efficiency measures and demand response programs.

- Annual bill savings by electricity, oil, and natural gas consumers were estimated at $198 million.

- The investment of approximately $735 million in SBC funds is expected to result in additional public and private sector investments of approximately $1.3 billion, primarily in cost-effective energy efficiency improvements.

- The program has delivered environmental benefits. Nitrogen oxide (NO_x) emissions have been reduced by 1,280 tons, sulfur dioxide (SO_2) emissions by 2,320 tons, and carbon dioxide (CO_2) emissions by one million tons.

- The program is expected to create and sustain an average of 4,800 jobs annually over the eight-year SBC program period (1998 through 2006).

The Advisory Group concluded that the most recent evaluation report "demonstrates that the New York Energy $mart^{SM} program has made substantial progress in achieving energy efficiency, providing reductions in demand, encouraging renewables, supporting energy R&D in New York, and improving affordability for many low-income customers."[6]

In general, Staff agrees with the assessment of the Advisory Group. Staff reviewed the evaluation reports thoroughly upon submission, including meeting with the evaluation contractors, and found that NYSERDA's programs were generally cost-effective, well-managed and consistent with the Commission's SBC's goals. In cases where programs were not meeting expectations or needed to be revised to reflect changing conditions, Staff has continuously worked with NYSERDA to make the necessary changes. The New York Energy $mart^{SM} program portfolio has been continually modified based on progress toward

[6] Correspondence of May 19, 2005, transmitting NYSERDA's Program Evaluation and Status report of May 2005 to the Commission Secretary and Director of the Office of Electricity and Environment [hereinafter "May 19 Correspondence"].

goals, evolving energy markets, feedback from stakeholders, program experience and evaluation results.

During SBC II, NYSERDA implemented several program changes including program consolidation, modifying incentive levels, and more targeted marketing. For example, incentives were eliminated for advertising Energy Star® home electronic products because most electronic products now meet the Energy Star® efficiency standards. Rebates for the purchase of energy efficient room air conditioners were eliminated because the program contributed to moving the market to the point where Energy Star® models represented about 70% of the units sold by retailers participating in NYSERDA's Keep Cool program. There also has been an increased focus on whole building performance approaches to energy efficiency by offering higher incentives when multiple measures are installed. The installation of multiple measures can maximize energy efficiency gains from the interaction of the measures. For example, energy efficient cooling/ventilation systems, lighting and energy management controls can be optimized to further minimize electricity usage and peak demand.

Program Evaluation

With guidance from the Advisory Group and Staff, NYSERDA significantly strengthened its program evaluation process as a result of an increase in its evaluation budget from approximately 0.4% of program funding under SBC I to two percent under SBC II, and adopting a more comprehensive evaluation strategy. The result was more rigorous and reliable evaluations which included assessments of program gaps and opportunities, market effects, non-energy benefits, macroeconomic impacts, causality and a more comprehensive program cost effectiveness analysis. To assist NYSERDA in this effort, competitive

solicitations were issued for a general evaluation assistance contractor and five specialty evaluation contractors in the areas of measurement and verification (M&V); process evaluation; program analysis; macroeconomic analysis; and market characterization, assessment and causality/attribution. The contractors have national reputations in their fields. Earlier evaluation work had been conducted primarily by NYSERDA's in-house evaluation group with assistance from two general evaluation assistance contractors.

The enhanced evaluation approach allowed NYSERDA to report to Staff and the Advisory Group answers to a number of critical questions including:

- Did measures installed with NYSERDA assistance actually achieve the expected energy benefits?
- Are NYSERDA programs adminstered effectively? Were customers satisfied with the services?
- Are program goals appropriate?
- Are NYSERDA programs stimulating the economy? Resulting in job creation?
- Are NYSERDA programs causing changes in consumer behavior? The marketplace?
- How can the programs be improved?

The Advisory Group and Staff recommended that with the new evaluation team in place and an SBC funding renewal case approaching, an in-depth evaluation of the bulk of the New York Energy $mart^{SM} program portfolio was necessary. Considering the large scope of the program portfolio, the programs targeted for in-depth evaluations were divided over two reporting periods, 2003 and 2004. The results of the evaluations are summarized in NYSERDA's Energy Smart^{SM} Program Evaluation and Status Reports of

May 2004 and May 2005.[7] In addition, over 100 more detailed evaluation reports that provided the foundation for the NYSERDA reports were made available to the public and reviewed by Staff.[8]

In assessing NYSERDA's most recent evaluation and status report (May 2005), the Advisory Group found that the report represented "a comprehensive, objective and professional effort." It also noted that the report "addresses many of the limitations in previous evaluation reports, limitations that primarily related to the fact that programs of this nature require time to develop a track record and that evaluation efforts require additional time and resources to collect and evaluate performance data." It commended NYSERDA and the independent evaluation consultants for doing an "excellent job."[9]

In addition to Staff's involvement with NYSERDA in the design of the evaluation program and the selection of the evaluation contractors, Staff also carefully reviewed the evaluation reports and met on several occasions with the evaluation contractors and NYSERDA's evaluation staff to better understand the process, the data and the results. NYSERDA's current more comprehensive and sophisticated evaluation approach is better able to capture the program impacts and gives Staff increased confidence in the reliability of the program results (although Staff does recommend elsewhere in this Proposal some additional improvements to the evaluation process). Staff was also impressed with the evaluation team's ability to make sound recommendations for program improvement based on analytical research. These evaluation team recommendations played a key

[7] These reports, and other relevant reports, are available at NYSERDA's internet website: http://www.nyserda.org/Energy_Information/evaluation.asp

[8] These reports are available to the public at no charge. Contact NYSERDA at 1-866-NYSERDA for additional information.

[9] May 19 Correspondence.

role in many of NYSERDA's program modifications over the past two years.

A critical element of the evaluation effort was the cost-effectiveness assessment. Utilizing six scenarios, the NYSERDA evaluation team calculated benefit-cost ratios for 18 major Energy $mart[SM] Program initiatives. The evaluators used multiple scenarios because there is not universal agreement on the most appropriate method to calculate benefit-cost ratios for energy efficiency programs. The Commission's policy in this regard, first articulated in 1988,[10] remains the controlling basis on which cost-effectiveness should be judged, including:

- a consideration of the immediate effects on rates;
- the ability to avoid lost opportunities by including energy efficiency measures in new construction instead of undertaking later, less cost-effective, retrofitting;
- the ability of an energy efficiency program to enhance the competitiveness of local industry by reducing its energy costs (which are not considered in current economic tests);
- the environmental benefits or costs of substituting energy efficiency for increased generation
- the impact of energy efficiency on the total amount paid for energy services by utility customers;
- the benefits of providing conservation services to low-income consumers whose bills are often paid by other customers or by taxpayers and who otherwise might pay for but not benefit from energy efficiency programs; and
- the increased control over electricity bills offered to customers by some energy efficiency programs.

[10] Case 29409, Proceeding on Plans for Meeting Future Electricity Needs, Opinion No. 88-20 (issued July 26, 1988).

However, some advocate comparing the total cost of the measures to benefits limited to the value of the energy and capacity saved by the measures. Others recommend including the monetary value of additional benefits such as environmental and economic advantages. Using the former calculation method, the overall New York Energy $mart[SM] program portfolio achieved a benefit-cost ratio of approximately 2:1, based on program data collected through December 2004. The three major program areas (business/institutional, residential, low-income) all achieved benefit/cost ratio of at least a 1:1, and business/institutional programs achieved a ratio of nearly 3:1. Using scenarios that include potential benefits beyond energy savings, the benefit-cost ratios were considerably higher.[11]

Rationale for SBC Renewal

When the Commission approved SBC II in 2001, it recognized advances toward retail competition, but also recognized that New York was still in a transition period. It noted that competitive markets had not developed for providing energy management services to small and medium sized energy consumers, making energy more affordable for low-income customers and providing funding for important energy-related research and development (R&D) projects. In addition, the Commission directed that SBC funds be spent on programs that targeted electric peak demand and/or distribution constraints. Considering the long lead time for review, approval, and construction of new large generation units, the Commission considered achievement in this area to be critical.

The competitive electricity markets have grown over the past five years. For example, approximately 55% of the

[11] New York Energy Smart Program Cost-Effectiveness Assessment, NYSERDA, June 2005.

large commercial/industrial consumers are purchasing electricity from non-utility suppliers. "Green power" service is now an option for millions of New York consumers. At the residential level, progress has been more restrained, with about 6% of consumers migrating from their utility to competitive energy suppliers. In a policy statement issued in August 2004, the Commission concluded that retail competition has, in many ways, been highly successful, but acknowledged that there is "much work remaining to be done."[12]

On July 26, 2005, high heat and humidity drove New York State to record electricity demand when the peak load reached an hourly average of 32,075 MWs. This milestone broke the record set in the previous week. Electricity consumption in New York will continue to grow. Based on projections in the 2002 State Energy Plan, electricity consumption during the period 2006-2011 will grow by an average over 1.3 percent per year.[13] Simply satisfying this demand will require periodic significant additions of new generation capacity and/or energy efficiency resources.

New York's Article X power plant siting law has not been renewed. Article X of the Public Service Law was designed to serve as a "one-stop" method for reviewing and approving power plant siting proposals. Without Article X, power plant siting will generally revert to being governed by local zoning regulations. A number of projects that were in the Article X process before the law's expiration in 2004 were able to move forward, but the lack of a streamlined permitting process could present future obstacles to the timely construction of new generation capacity.

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[12] Case 00-M-0504, Statement of Policy on Further Steps Toward Competition in Retail Energy Markets (issued August 25, 2004), mimeo p. 2.

[13] State Energy Plan-2004, Annual Report and Activities Update, prepared by the Energy Coordinating Working Group, February 2005, p 7.

Another major challenge is that electricity prices are both volatile and rising, not just in New York, but worldwide. This situation is being triggered by increasing demand for and rising prices of the fuels that are used to generate electricity. In 2000, the price of a barrel of oil was about $28, but in August 2005 the cost per barrel exceeded $65. During the same period, the domestic commodity cost of natural gas at the wellhead increased from about $3.50 to over $9.00 per decatherm. These factors have resulted in rising electricity commodity prices for New York consumers. Low-income consumers, who spend a higher percentage of their income on energy costs, are especially negatively impacted by rising energy prices.

Considering the current status of competitive electricity markets, the solid achievements of the Energy $mart[SM] program portfolio, rising energy prices, electricity price volatility and the challenge of keeping pace with rising energy demand, Staff recommends a continuation of funding of the SBC program for an additional five years.

A five-year period would provide NYSERDA with time for planning and program development, and offer its contractors and customers a reasonable level of predictability essential for effective program operations. Staff does not recommend a longer extension because of the need to maintain flexibility considering the difficulty in accurately predicting energy prices and the status of the electricity markets over the long term. The interaction with NYSERDA, Staff and the Advisory Group provides for regular monitoring and the ability to make adjustments to modify programs consistent with Commission guidelines. In addition, extending SBC for a longer period might negatively impact the marketplace from developing at least some of the services currently funded by SBC. Shorter extension

periods would reduce program predictably and add unnecessary administrative burdens.

SBC III PROGRAM

Program Goals

The SBC goals originally established by the Commission of promoting energy efficiency, a cleaner environment and reducing the burden of energy costs on low income citizens continue to be relevant. However, after consulting with NYSERDA, Staff recommends revisions to the goals for SBC III to more accurately reflect today's energy realities, Commission policies and the evolving nature of SBC programs. Staff proposes the following goals:

- Improve New York's energy system reliability and security by reducing energy demand, supporting innovative transmission and distribution technologies, and enabling fuel diversity, including renewable resources.

- Reduce the energy cost burden of New Yorkers by offering energy users, particularly the State's lowest income households, services that temper the effect of energy price volatility and provide access to cost-effective energy efficiency options.

- Mitigate the environmental and health impacts of energy use by increasing energy efficiency, encouraging the development of a renewable energy resources infrastructure, and optimizing the energy performance of buildings and products.

- Create economic opportunity and promote economic well-being by supporting emerging energy technologies, fostering competition, improving productivity, growing New York energy businesses, and helping to meet future energy needs through efficiency and innovation.

Program Category Spending Levels

Staff does not advocate major changes to the scope and objectives of NYSERDA's program portfolio. As discussed, Staff has regularly worked with NYSERDA to refine, update and improve programs. This has contributed to an effective alignment of NYSERDA programs, Commission priorities and the changing electricity environment. As for SBC III, Staff will work with NYSERDA to develop an operating plan that will better define specific program details and goals. Staff recommends spending priorities for major program areas at levels generally consistent with SBC II. The following table outlines recommended spending levels in the following major program categories:

Major Program Category	July 1, 2006 Through December 31, 2006	Calendar Year 2007	Calendar Year 2008	Calendar Year 2009	Calendar Year 2010	January 1, 2011 through June 30, 2011
Peak Load, Energy Efficiency, and O&E	$38,124,333	$76,307,364	$76,297,501	$78,269,845	$78,504,669	$39,250,781
R&D	$16,000,000	$32,000,000	$32,000,000	$32,000,000	$32,000,000	$16,000,000
Low Income	$13,490,000	$26,980,000	$26,980,000	$26,980,000	$26,980,000	$13,490,000
Administration, Evaluation and Fees	$8,884,934	$17,775,673	$17,774,698	$17,969,765	$17,992,989	$8,996,341
TOTALS	$76,499,267	$153,063,037	$153,052,199	$155,219,610	$155,477,658	$77,737,122

Program Recommendations

While Staff does not advocate major changes in funding levels among major program categories, there are areas where program priorities should be modified. Staff recommends program changes dealing with program consolidation, transmission and distribution R&D, development of renewable resources infrastructure, demand response programs and evaluation. The following are Staff's key recommendations:

Program Consolidation -- the evaluation results found that SBC program participants would prefer a simplified approach to access NYSERDA program offerings. NYSERDA should conduct a review of its entire program portfolio to identify opportunities for consolidation and simplification. For example, NYSERDA operates multifamily building programs dealing with financing, metering and comprehensive energy management. These three programs should be combined into one program to provide a single point of entry to better serve the multifamily building owners and managers. Another opportunity is the consolidation of programs designed to encourage businesses involved in providing energy-related products and services to the business sector to promote energy efficiency. Currently, there are separate programs targeting motors, lighting, HVAC (heating, ventilation and air conditioning), and innovative technologies. These programs could be combined into one, making administration easier for NYSERDA, the programs more user friendly for consumers and more effective overall. Staff would expect that the consolidation would also be accompanied by increased coordination of program marketing, a simplified application process and a simplified program monitoring and evaluation-tracking database. NYSERDA’s program-tracking database was identified as less than optimal by the evaluation team. Improvements in this area are already underway.

Transmission and Distribution (T&D) Research and Development (R&D) -- In New York State and nationally, utility investments in T&D related R&D has declined significantly. New York's annual spending in this area is about half the level invested in the early nineties. At the same time, the State is experiencing steady increases in electricity demand that may require major upgrades in T&D infrastructure in the years ahead. As the transmission and distribution systems are improved, it is important that the upgrades utilize the latest technologies to further promote the safety, reliability and efficiency of the electricity grid. In approving SBC II, the Commission reaffirmed its opposition to using SBC funds for T&D related research. It viewed T&D as a utility responsibility and expected an appropriate level of R&D expenditures. While New York's utilities have had successful R&D projects, such as Con Edison's Electric Power Research Institute Cable Testing Network, Staff's view is that more can be achieved to promote increases in the efficiency of electric power delivery, including technologies such as micro grids and superconducting cables. With a focus on reducing power delivery loss, Staff believes using SBC funds for T&D R&D to be consistent with the Commission's SBC objectives of promoting energy efficiency and enhancing electric system reliability. More efficient T&D systems will assist in the transmission of electricity from new renewable generation resources sited in remote areas and in the accommodation of additional distributed generation resources onto the grid. Staff recommends the use of a limited amount of SBC funds in this area and encourages NYSERDA to aggressively seek matching funds and technical assistance from other interested parties. NYSERDA should ensure that any SBC-funded program is coordinated with utility programs and does not lead to the elimination of utility T&D programs.

Renewable Resources -- The emergence of the Renewables Portfolio Standard (RPS) program has addressed funding needs for incentives for increased generation from renewable resources. However, there remains a continued need to enhance New York's renewable resources infrastructure. This would include activities such as promoting renewable resources, training of renewable energy professionals, market development, technology development and manufacturing incentives to leverage RPS funding for increased economic development in New York. These are appropriate SBC functions as they have not been supplanted by the RPS program and are not being provided by the competitive electricity market.

Demand Response Programs -- These programs, designed to reduce peak load demand, remain a critical element of the SBC program portfolio. In addition to NYSERDA continuing to encourage participation in demand response programs operated by the NYISO, Staff recommends increased emphasis on encouraging additional methods such as retail time sensitive electricity pricing for all customers, load shedding, and distributed generation. These initiatives will increase the diversity of demand response resources available to meet the needs of growing peak demand. Moreover, these initiatives are consistent with recent Commission policies supporting dynamic electricity pricing and distributed generation.

Evaluation and Monitoring -- Staff concurs with the Advisory Group that NYSERDA's enhanced evaluation effort was laudable and represented a significant enhancement over earlier evaluations. Staff sees building upon this successful evaluation effort under SBC III. A difficulty with the recently-completed evaluation process is that the NYSERDA evaluation team was tasked to evaluate, in detail, a wide range of programs under the time constraints of having the results

ready for the May 2004 and May 2005 evaluation and status reports. Producing this volume of complex material in a short period of time was not only a challenge for the NYSERDA evaluation team, but also for Staff to conduct its detailed review.

Now that most of the Energy $mart^{SM} programs have been subject to comprehensive evaluation, Staff plans to work with the Advisory Group to update the evaluation strategy and NYSERDA reporting format. While Staff is not advocating a reduction in the overall evaluation and monitoring effort, Staff's objective is a more streamlined evaluation process that will not only be more efficient for NYSERDA to administer, but will facilitate Staff's ability to provide SBC oversight.

Realistically, it is not necessary to conduct a rigorous evaluation of every element of every program, every year. Staff proposes identifying evaluation priorities to balance limited evaluation resources with NYSERDA's data requirements and Staff's monitoring objectives. As in the past, it is expected that on-going results from the evaluation effort will be used by NYSERDA to enhance its program portfolio. At a minimum, however, NYSERDA will be expected to provide, for public and Staff review, a report of program progress, financial data, and other related data on a quarterly and annual basis. Consistent with the current SBC evaluation process, every two years NYSERDA should provide a detailed overall evaluation and progress report. Additional evaluation reports on specific programs or issues should be provided periodically. The details of the revised evaluation and reporting plan should be developed along with the SBC III operating plan.

Natural Gas -- In the Commission’s Notice Soliciting Comments on the future of the SBC, issued January 28, 2005, various questions were posed regarding the desirability of

expanding the scope of the SBC program to provide services to New York's natural gas customers. Feedback on this issue was received from some 76 parties. While the majority of comments were in support of expansion, significant opposition was expressed by the utilities and several other parties. The filed comments, while helpful to developing informed recommendations, do not contain detailed information including the significant differences that exist between upstate and downstate utilities, as well as among the State's diverse utility service territories.

In the current gas rate plan for Consolidated Edison Company of New York, Inc. (Con Edison), Order Approving Joint Proposal dated September 27, 2004 in Case 03-G-1671, the parties proposed and the Commission approved a Gas Efficiency Program, with funding of $5.2 million. The provision requires that a study of the potential for natural gas energy efficiency be performed for the Con Edison service area, at a cost not to exceed $200,000. The study includes an examination of the following: gas price reduction benefits; gas usage and bill reduction benefits; environmental and other societal benefits; potential program designs; implementation recommendations; lost revenue recovery mechanism recommendations; an evaluation and quantification of the proposed program costs; and a comparison of the costs and benefits of each proposed program. Considering the potential value of having such information beyond the Con Edison service territory, the parties reflected in the Request for Proposal (RFP) an optional provision to enable the expansion of the project scope to include additional service territories. NYSERDA recently decided to fund the optional study component. Statewide and regional data are expected to be available in early 2006.

As a result of this forthcoming study, Staff recommends that a Commission determination regarding the potential expansion of the SBC to gas customers be made after the completion and analysis of the Gas Statewide Study, and in consideration of other available information, including the comments received in response to the January 2005 Notice Soliciting Comments. It is recommended that a notice regarding Commission consideration of this matter be issued by the Secretary to the Commission.

SBC REVENUE REQUIREMENTS

Overall Revenue Requirements

While the challenges faced are great and the demands for program services remain high, maintaining funding at the current $150 million annually allows adequate funding for a comprehensive program portfolio without generally raising the SBC assessments on New York consumers. While Staff does not advocate increased SBC funding at this time, it is important to recognize that the Commission identified specific energy needs (high demand in load pockets, need for increased generation from renewable resources) and developed targeted non-SBC responses. For instance, in the Consolidated Edison Company of New York, Inc. (Con Edison) service territory - which is a load pocket, has the highest electricity rates in the state, and growing electricity demand - additional energy efficiency related programs and services are expected to become available as an outcome of the company's 2005 rate case settlement. For example, if certain conditions are met, funding will be provided by Con Edison to NYSERDA at a level sufficient for NYSERDA to procure at least 150 MW and up to 300 MW of energy efficiency, distributed generation and load management reductions that are

incremental to SBC II and, if approved by the Commission, SBC III.[14]

In addition, in September 2004, the Commission approved a renewable portfolio standard (RPS) that will place New York on target to have approximately 25% of the state's electricity derived from renewable sources by 2013. The RPS offers the potential to reduce air emissions and greenhouse gases; increase energy diversity and security; secure economic development opportunities; provide opportunities for increased distributed generation; and increase customer choices by providing energy alternatives that promote a cleaner and healthier environment.

Utility-Run Programs

A portion of the total SBC low-income program budget had been allocated to utility programs. During 2001 to June 2004, Niagara Mohawk Power Company (Niagara Mohawk) and the New York State Electric & Gas Corporation (NYSEG) both retained a portion of their SBC collections to provide energy efficiency, weatherization and educational services to participants in each utility's program for low-income customers. Upon the July 1, 2004, transfer to NYSERDA of the responsibility and SBC funding for the delivery of those services to participants in the utility programs, Niagara Mohawk and NYSEG were each allowed to retain $90,000 per year for referring eligible customers to the new NYSERDA EmPower New York[SM] program.[15] Referring their customers to programs that assist the customers to afford and pay for utility service is beneficial to both the affected customers and to the utilities. The customer referral process

[14] Case 04-E-0572, Consolidated Edison Company of New York, Inc., Electric Rates, Order Adopting Three Year Rate Plan (issued March 24, 2005).
[15] Case 94-E-0952, et al., In the Matter of Competitive Opportunities Regarding Electric Service, Order Modifying and Approving Low Income Energy Affordability Program (issued May 26, 2004).

is now established and working effectively as an integrated part of the utilities' customer service function, and Niagara Mohawk and NYSEG should no longer need to perform additional training or to retain SBC funds for this purpose. It is preferable to allocate the entire EmPower New York[SM] program funding to NYSERDA to support services to more low-income customers.

Staff believes that it is most efficient and equitable to have all SBC funded research and development be administered by NYSERDA. Therefore Staff recommends that the $200,000 previously allocated to RG&E for a self administered research and development program now be remitted to NYSERDA.

Staff recommends that the SBC continue to fund the remaining demand-side bidding contracts and other demand-side management obligations of the utilities, but phase such funding out as the obligations expire. Therefore, Staff recommends that the Commission approve SBC funding for unexpired utility-run programs as follows:

Utility	July 1, 2006 Through December 31, 2006	Calendar Year 2007	Calendar Year 2008	Calendar Year 2009	Calendar Year 2010	January 1, 2011 through June 30, 2011
NYSEG (EE)	$339,110	$660,818	$672,557	$684,687	$517,465	$262,878
NMPC (EE)	$151,123	$255,145	$254,244	$95,703	$4,877	$0
RG&E (EE)	$1,010,500	$2,021,000	$2,021,000	$0	$0	$0
TOTALS	$1,500,733	$2,936,963	$2,947,801	$780,390	$522,342	$262,878

Note: "EE" = Energy Efficiency, "LI" = Low-Income Energy Affordability, “RD” = R&D.

The utilities should be directed to transfer to NYSERDA any approved SBC funds not expended on these programs. On an annual basis, any approved SBC funds not expended on those programs should be transferred to NYSERDA by March 31st of the following year. Any unexpended funds related to utility administered programs from 2001 through June 30, 2006, should be remitted to NYSERDA by September 30, 2006.

NYSERDA Programs

The table below shows Staff's recommended SBC III budget for NYSERDA:

Item	July 1, 2006 Through December 31, 2006	Calendar Year 2007	Calendar Year 2008	Calendar Year 2009	Calendar Year 2010	January 1, 2011 through June 30, 2011
SBC Collections	$75,000,000	$150,000,000	$150,000,000	$150,000,000	$150,000,000	$75,000,000
Utility-Run Programs	($1,500,733)	($2,936,963)	($2,947,801)	($780,390)	($522,342)	($262,878)
Transfer Payments to NYSERDA	$73,499,267	$147,063,037	$147,052,199	$149,219,610	$149,477,658	$74,737,122
Projected Interest Income	$3,000,000	$6,000,000	$6,000,000	$6,000,000	$6,000,000	$3,000,000
NYSERDA Budget	$76,499,267	$153,063,037	$153,052,199	$155,219,610	$155,477,658	$77,737,122

SBC REVENUE ALLOCATION & COLLECTION

Allocation Formula

Staff proposes that the allocation formula adopted by the Commission for SBC II be updated based on the 2004 utility electric operating revenues and used for the five year term of SBC III. Using the updated formula, the SBC utility collection allocations recommended by Staff are shown in the table below:

SBC Utility	2004 Electric Revenues	Percentage of Total	Annual Collection Amount	Collection as a % of Rev
CH	$430,586,411	3.49%	$5,237,396	1.22%
Con Edison	6,164,406,553	49.99%	74,980,159	1.22%
NYSEG	1,529,822,159	12.41%	18,607,843	1.22%
NMPC	3,175,168,934	25.75%	38,620,858	1.22%
O&R	368,129,383	2.99%	4,477,706	1.22%
RG&E	663,962,122	5.38%	8,076,039	1.22%
TOTALS	$12,332,075,562	100.00%	$150,000,000	1.22%

The SBC collections statewide have decreased from 1.23% of electric operating revenues to 1.22% of electric operating revenues. Because Con Edison was the only utility, since 1999, not to experience a decrease in electric revenues, Con Edison's contribution to the SBC will increase by 3.46% to

approximately 50% of the statewide SBC collections. The other utilities' contributions will have a slight decrease.

Transfer Payments to NYSERDA

The table below shows the net annual amount (allocation minus "utility administered programs") that Staff recommends each utility remit to NYSERDA. Any unexpended funds related to "utility administered programs" should be turned over to NYSERDA as previously stated. The utilities should establish with NYSERDA a schedule of payments, no less frequent than quarterly.

Utility	July 1, 2006 Through December 31, 2006	Calendar Year 2007	Calendar Year 2008	Calendar Year 2009	Calendar Year 2010	January 1, 2011 through June 30, 2011
CH	$2,618,698	$5,237,396	$5,237,396	$5,237,396	$5,237,396	$2,618,698
Con Edison	$37,490,080	$74,980,159	$74,980,159	$74,980,159	$74,980,159	$37,490,080
NYSEG	$8,964,812	$17,947,025	$17,935,286	$17,923,156	$18,090,378	$9,041,044
NMPC	$19,159,306	$38,365,713	$38,366,614	$38,525,155	$38,615,981	$19,310,429
O&R	$2,238,853	$4,477,706	$4,477,706	$4,477,706	$4,477,706	$2,238,853
RG&E	$3,027,520	$6,055,039	$6,055,039	$8,076,039	$8,076,039	$4,038,020
TOTALS	$73,499,268	$147,063,038	$147,052,200	$149,219,611	$149,477,659	$74,737,123

Reconciliations

It is important that the SBC funds and programs are accounted for properly to ensure there is not an over-collection or under-collection of revenue from customers. Staff is proposing that each utility submit a full comprehensive reconciliation for the five year period ended June 30, 2006, of their over/under collection of revenues from customers and of their self-administered programs by September 1, 2006. On a going forward basis, Staff proposes that each utility perform an annual reconciliation of their over/under collections and submit

them to the Commission by June 1st for the previous calendar year's activity.

REVIEW PROCESS

State Environmental Quality Review Act

The current SBC program includes environmental mitigation measures to the restructuring of electricity markets in New York State. Staff will prepare an environmental assessment regarding this Proposal for renewal of the SBC program with some modifications, for the Commission's consideration.

Public Input on this Proposal

Notice of this Staff Proposal will be published in the *State Register* on August 31, 2005. In conformance with the State Administrative Procedures Act (SAPA), written comments of interested parties will be received through October 17, 2005. Public input is solicited on this proposal.

Appendix A

List of Commentators

**[Public Comments
Received in Response to
January 28, 2005, Notice
in Case 05-M-0090]**

Action for a Better Community, Inc.
Adirondack Historical Association, The
Adirondack Lakes Survey Corporation
Adirondack Landowners Association
Adirondack Chapter of The Nature Conservancy
Adirondack Park Agency
Advantage Energy, Inc.
Aitken, Nancy
Alfred University, Center for Advanced Ceramic Technology
Alliance to Save Energy
American Council for an Energy-Efficient Economy
American Energy Care, Inc.
American Wind Energy Association
Aspen Systems Corporation
Assemblyman Paul D. Tonko
Association for the Protection of the Adirondacks, The
AWS Truewind
Battery Park City Authority, Hugh L. Carey
Bergey Windpower Co.
Board of Hudson River-Black River Regulating District
Brookhaven National Laboratory
Brown, Eleanor F.
Building Performance Contractors Association of New York State
Business Council of New York, Inc, The
Butts, Jessica
Cattaraugus Community Action, Inc.
Center for International Earth Science Information Network,
Earth Institute, Columbia University
Citizens Campaign for the Environment
City of New York
Clean Air Task Force
Clean Energy Advocates
Clean Power Research
Comlinks, Community Action Partnership
Commission on Economic Opportunity For the Greater Capital
Region, Inc.
Community Energy, Inc.
Community Environmental Center

Connected Energy Corp.
Community Power Network of New York State, Inc.
Consolidated Edison Company of New York, Inc.
Consumer Power Advocates
ConsumerPowerline
Cornell University
Conservation Services Group, Inc.
Cook & Fox Architects LLP – Robert F. Fox Jr.
Daystar Technologies, Inc.
DDB Bass & Howes
De Chiro, Mark – Capital/Saratoga Energy $mart^{SM} Communities
Demand Response and Advanced Metering Coalition (DRAM)
E3, Inc.
E Cubed Company, L.L.C., The
Electric Power Research Institute
Emerald Power Corporation
EME Group
Energy Center of Wisconsin
Energy Doctors, The
Energy Research Company
ENrG Incorporated
EnSave Energy Performance, Inc.
Envair/Aerochem
Environmental Business Association of New York State, Inc.
Erie County
Fox & Fowle Architects
Fox-Przeworski, Joanne
Geothermal Heat Pump Consortium
Global Resource Options, Inc.
GM Powertrain Group/UAW
Great Brook Enterprises, David M. Austin d.b.a.
H&W Management Science Consultants
Heat Wise, Inc.
Head, Melissa M.
Herdman, Laurel
Hirschfeld, P.E., Herbert E.
Honeywell International
Hamilton, Rabinovitz & Alschuler, Inc.
Hoen, Benjamin D.
Hudson Valley Community College
ICF Consulting
Institute of Ecosystems Studies
International Brotherhood of Electrical Workers and Utility Workers Union of America, AFL-CIO
Interstate Renewable Energy Council
Independent Power Producers of New York, Inc. (IPPNY)
Joseph Technology Corporation

KeySpan [The Brooklyn Union Gas Company d.b.a. KeySpan Energy Delivery New York and KeySpan Gas East Corporation d.b.a. KeySpan Energy Delivery Long Island]
Kolmar Laboratories, Inc.
Krause, Richard, High Tech Rochester
Landsberg, PhD, PE, CEM, Dennis R.
Lighting Research Center of Rensselaer Polytechnic Institute, The
Lowenstein & Sons Inc., Jos. H.
Manufacturers and Traders Trust Company
MechoShade Systems, Inc.
Metal Arts Company Inc.
Middlebrooks, John R.
Mid-Hudson Energy $mart^{SM} Communities
MTI MicroFuel Cells Inc.
Multiple Intervenors
Murray, Jennifer
National Association of Energy Service Companies
National Fuel Gas Distribution Corporation
National Grid [Niagara Mohawk Power Corporation]
Nature Conservancy of New York, The
New York Energy Consumers Council, Inc.
New York Indoor Environmental Quality Center, Inc.
New York Interfaith Power and Light
New York Power Authority
New York-Presbyterian Hospital
New York State Attorney General
New York State Builders Association, Inc.
New York State Consumer Protection Board
New York State Department of Environmental Conservation
New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation
New York State Energy Research and Development Authority
New York Times Company, The
NORGEN Consulting Group, Inc.
North Country Energy $mart^{SM} Communities and Community Energy Services, Inc.
Northeast Combined Heat and Power Initiative
Northeast Energy Efficiency Partnerships, Inc.
Northeast Gas Association
Northeast Natural Homes, Inc.
Northeast Regional Combined Heat and Power Application Center, Pace Law School Energy Project
Northern Development LLC & Harbec Plastics, Inc.
Nucor Steel Auburn, Inc.
New York City Energy $mart^{SM} Communities
Olinsky-Paul, Ronda

Onondaga-Cortland-Madison Board of Cooperative Education Services
Opportunities for Otsego, Inc.
Orange & Rockland Utilities, Inc.
Patterson Farms, Inc.
Paul, Todd
People's Equal Action and Community Effort, Inc.
Perez, Richard – University at Albany
Performance Systems Development, Inc.
Philips Semiconductors East Fishkill
Plug Power, Inc.
Polytex Environmental Inks, Ltd.
Public Utility Law Project of New York, Inc.
Rensselaer Polytechnic Institute
Resources for the Future
Rochester Institute of Technology
Rupprecht & Patashnick Co., Inc.
Rutgers, The State University of New Jersey
Saint Vincents Hospital and Medical Center
Saratoga County Economic Opportunity Council, Inc.
Savage, Arthur V.
Sea Gull Lighting Products, Inc.
Schoch, M.S., D.V.M., Nina
Science Applications International Corporation
Sethi, Gautam
Schindledecker, Katrina R.
Solar Energy Industries Association and the New York Solar Energy Industries Association
Stearns & Wheler, LLC
SUNY College of Environmental Science & Forestry – Professor Myron J. Mitchell
SUNY College of Environmental Science & Forestry – President Cornelius B. Murphy, Jr., Ph.D.
SunWize Technologies
SuperPower Inc.
Syracuse University
Taitem Engineering
TRC Companies, Inc.
Ulster County Board of Cooperative Educational Services
Underwood's Greenhouse
United States Combined Heat and Power Association
United States Environmental Protection Agency
WebGen Systems
Wojnar, Zywia
Zollner, Tom

Appendix B

Summary of Comments

This appendix summarizes the comments received pursuant to a Notice Soliciting Comments from the Secretary, issued January 28, 2005 (Notice) in Case 05-M0090, Matter of System Benefits Charge III. Staff received over 160 separate sets of comments in response to the Notice.

The Notice established the beginning of Staff's review and inquiry into the extension or termination of the System Benefits Charge (SBC) on electric utilities, as well as the possible creation of an SBC for natural gas. The Notice asked a series of 14 questions. Overall the comments provided Staff with insights of the parties with regard either to continuing or terminating the SBC. The vast majority of the comments were in favor of the SBC and extending it past its current expiration date of June 2006, although there were also some parties who advocated allowing the SBC to expire.

The majority of comments, however, did not provide Staff with detailed recommendations. Responses to the 14 questions are summarized below by question number:

Question 1. To what extent have the goals and objectives established by the Commission been achieved during the past four years?

Many of the parties observed that a competitive market has not been achieved, especially in the residential and small-commercial sectors. Most parties that discussed the lack of a competitive market used that point to make a case for the extension of the SBC, noting that the Commission had observed that the charge was necessary until a competitive market was achieved because the types of projects funded by the SBC were unlikely to be provided absent competition.

A number of other parties approached the question from a different perspective, balancing their responses by noting that NYSERDA had demonstrated great progress toward meeting the Commission's goals, but that there was still plenty of work to be done. These parties specifically cited goals as either met or demonstrating progress as improving energy efficiency state-wide; peak-load reductions and expanded use of renewable resources for energy.

In addition to the general observations that the competitive market has not been achieved, some parties observed that renewables were not yet fully implemented into the market and that goals for developing distributed generation were not yet met. Finally, a few parties noted that the Commission has

not been clear in setting its goals so that they were unable to comment on this question. These parties recommended that any extension of SBC set specific and quantifiable goals so that the program could be evaluated better.

Question 2. Should the SBC program continue beyond its current expiration date of June 30, 2006? If so, for what duration should the SBC be extended and at what funding level?

The overwhelming majority of responses advocated extending the SBC beyond June 30, 2006. Notably, a few parties, such as the Business Council and Multiple Intervenors (MI) advocated letting the SBC expire in June 2006.

Those parties advocating expiration noted that New Yorkers pay some of the highest energy rates in the United States, noting that the SBC is an additional financial burden on those rates without demonstrating a corresponding benefit to the business sector and that the state's economy was suffering because of high energy prices augmented by programs like the SBC and the RPS.

In contrast, the state's Attorney General (AG) and the Consumer Protection Board (CPB) advocated retaining the SBC for at least five years at increased funding. The AG's office recommended increasing the fund to $250 million to better align New York with expenditures made by other northeastern states. Moreover, the AG's office recommended as optimum a 10 year extension to create certainty for long-term project planning. The Public Utility Law Project (PULP) advocated for a seven year extension using the same reasoning, noting that SBC I and II both demonstrated that 3 to 5 year terms are too short.

In all, for those parties that advocated continuing the SBC, the term mentioned by the vast majority was five years, although several used 5 years as a minimum advocating for a 7, 8 or 10 year extension and keeping the funding at the same level ($150 million) or increasing it to as much as $300 million. Of those parties that advocated allowing the SBC to expire, they also noted that should the Commission extend the SBC, the term should be no more than three years to ensure proper oversight and review of the program. These parties also insisted on no increase in funding and advocated decreasing the funding, noting that the RPS charge already worked as an increase.

Orange and Rockland Utilities, Inc. (O&R) advocated a different approach by noting that the program was achieving the hallmarks of a permanent program, despite its "transitional" roots. O&R then proposed developing a pilot program to start transferring SBC funds, either in whole or in part, from NYSERDA to the utilities for administration to ensure that the program's benefits would be tied better to the service areas of those utilities.

Question 3. Have conditions changed since the establishment of the SBC that would necessitate a change in the overall goals and objectives of the SBC? If so, what changes are recommended?

Those parties who responded to this question often mentioned increased energy prices. Most parties that cited the high energy prices did so in the context of advocating the continuation of the program to ensure energy efficiency to combat the high and rising prices. A few parties that noted higher prices for energy advocated terminating the program to provide consumers some relief from those prices.

Besides the comments regarding energy costs, other parties noted societal changes such as the terrorist acts of September 11, 2001 and the wars in the Middle East; the Blackout of August 2003; the economy and the continued attempt to develop a competitive market. All parties mentioning these concerns advocated for continued SBC funding, usually relying on the need to reduce dependence for energy on foreign sources.

Additionally, a few parties addressed the question more narrowly, focusing on the Renewable Portfolio Standard (RPS). These parties were split into those advocating that SBC funding be removed from any RPS activity, those parties that advocated shifting the SBC to better support the goals of the RPS by funding research and development, and those parties that advocated terminating the SBC because of the RPS to eliminate the extra charge on electric bills.

Question 4. If assuming continuation of the SBC, how should programs be prioritized for an extended SBC to meet those goals and objectives?

Many parties did not address this question. Of those that did, often they were parties that were involved in SBC-funded projects, and their responses were narrowly tailored to directing funding to their particular project area.

As with the previous question, a number of parties identified the RPS as a new program that should alter priorities. Of those parties, a few noted that the goal and priority of SBC should be research and development into renewable sources to fulfill the mandate of the RPS. In contrast, other parties noted that because of the RPS, SBC funding should be directed away from any renewable programs to avoid any duplication or overlap of the two programs.

Consumer Power Advocates took a more broad view, advocating that programs should be prioritized by economic benefit to those consumers that pay for the SBC.

A few parties mentioned specific areas such as trying to balance resource acquisition projects with longer-term market

transformation projects, or distributed generation and combined heat and power, while a few other parties responded that the program was adequate and that no major realignment should take place.

Question 5. How might the SBC programs be adjusted given the Commission's order, issued September 24, 2004, regarding a Renewable Portfolio Standard (Case No. 03-E-0188)?

As to program funding, most parties took the position that SBC funding should be considered irrespective of the RPS. Many of these parties had responded to question 2 that SBC funding should at a minimum remain at current levels or be increased. There were a few parties that advocated reducing funding by removing from the SBC budget those funds that in the past had been used for renewables. The parties, such as MI, that advocated reduction or elimination of the SBC because of the RPS reasoned that the RPS created another hidden tax on utility bills that would be a cumulative burden on consumers when coupled with the existing SBC.

As to program priorities, the parties that responded to this question were fairly evenly divided among those that felt the RPS should eliminate any SBC involvement in renewables, those that felt that SBC funds should be used to target renewables related research and development and those that suggested that that RPS should have no impact on SBC whatsoever. Those parties that recommended research and development, however, often pointed out that the two programs should be mutually supportive and not overlap. There were a few parties that advocated eliminating the SBC now that the RPS is in place.

Question 6. In what ways might the current SBC fund collection and allocation process be improved?

Many parties either did not address this question or noted briefly that the current fund collection and allocation process was fine as it exists currently. Other parties noted generally that the allocation and collection process should be equitably linked.

Consumer Power Advocates commented that the funding process as exists is burdensome and should be streamlined to allow for faster review and approval of projects with funding made available more quickly. Echoing these comments was the American Council for Energy Efficient Economy which advocated streamlining the contracting process by setting specific deadlines for NYSERDA for approving projects and entering contracts. CPB recommended including municipal authorities into the SBC to allow for a greater base from which to collect funds. In contrast, MI advocated exempting all industrial users, not

just those with NYPA or flex-rate contracts, to promote economic development, especially in upstate New York.

New York State Electric and Gas (NYSEG) and Rochester Gas and Electric (RG&E) filed joint comments recommending that the fund disbursement periods for the RPS and the SBC should be synchronized, noting that the current SBC period is January, while the RPS period is October. The two utilities, along with O&R advocated allowing the utilities to retain some of the collected funds to allow the utilities to promote their own programs in their own service territories in an effort to prevent those utilities' consumers from cross-subsidizing the consumers of other utilities.

Finally, NYPA requested continuing the current SBC exemption from its customers to ensure that the SBC does not interfere with the goals of the State's Public Authorities Law §1005 of providing low cost power to assist economic development in the state. In making its case, NYPA noted that it conducts its own SBC-type programs promoting energy efficiency for its consumers, and, thus, any SBC charge would be duplicative.

Question 7. What specific program(s) should be eliminated, expanded or created?

Only a small number of parties responded to this question. Often, those that did respond offered comments mirroring their response to the preceding few questions. For example, Envair/Aerochem, a program participant and environmental related firm advocated expanding NYSERDA's Environmental Monitoring, Evaluation and Protection program. Likewise, WebGen Systems, a participant in Demand/Response programs funded by the SBC advocated expansion of the Demand/Response and Real Time Pricing programs, while Bergey Windpower recommended expanding funding to the small wind turbine rebate program.

In addition to the above, the RPS was again placed in the middle of the parties' responses with a number of parties actively advocating that research and development into renewables should be expanded to ensure meeting the goals of the RPS, while others argued that because of the RPS, funding for any projects related to renewables should be eliminated.

Similar to the RPS, a number of other parties took the opportunity to merge their response to this question with questions below regarding transmission and distribution, and SBC funding for natural gas.

A couple of parties specifically advocated expanding the SBC portfolio to address mixed-use buildings and public institutions, currently unaddressed by SBC programs. Finally, the United States Environmental Protection Agency advocated

expanding the SBC's funding of programs concerning Distributed Generation and Combined Heat and Power.

Question 8. How can future SBC funded programs be more responsive to the needs of New York's energy consumers?

Most of the responses were general comments on issues including streamlining the program review, approval, contracting and funding process.

Question 9. How can SBC funded programs be marketed more effectively?

Many parties did not respond to this question. Those parties that did respond often noted that the programs are marketed very well currently. A few parties recommend increasing funding for marketing as a solution to create more effective marketing. A few other parties noted that marketing should be directed more to residential and rural/agricultural consumers.

NYSEG and RG&E advocated for a more collaborative process between NYSERDA and the utilities so that consumers could be better educated as to the roles played by the respective entities in supporting the entire SBC program.

Question 10. In what ways can NYSERDA improve its administration of the SBC?

As with some of the questions above, the majority of the parties responded that NYSERDA is very effective in administering the SBC fund. Most of these parties added that they recommended no changes in NYSERDA's administration. A few parties echoed previous responses that certain processes could be streamlined to make NYSERDA's administration more effective. As above, the streamlining comments were targeted to the areas of approval of program proposals, contracting and funding.

Question 11. Is the current program evaluation process adequate? How might it be improved?

The parties that responded to this question most often responded that the evaluation process was adequate, some even noting that it was adequate to a fault in that it is sometimes too involved and intrusive, taking time away from work on projects to respond to evaluations. At least one party, however, took fault with the length of time that it takes to complete the evaluation process, noting that the Commission required in past orders for evaluations to be completed in December and that the current process does not provide final evaluations until May or later in the following year.

Question 12. Should SBC funds be extended to programs that encompass research and development into retail and/or wholesale electric market competitiveness issues, or transmission and/or distribution of the State's energy resources?

For the most part, the parties supported research and development into transmission and distribution. The parties that supported research in this area often used the blackout of 2003 as supporting evidence. A few of these parties recommended transferring funds from the current renewables program into a new T&D program because renewables will be addressed by the RPS.

The parties that advocated against such programs often noted that the utilities are already doing these programs, and are required to do so, and that putting these programs into the SBC would cause unnecessary duplication.

A few parties also took an intermediate position recommending that no T&D research be undertaken if it will affect adversely the current SBC portfolio.

Question 13. Should the scope of the SBC program be expanded to include programs for natural gas customers? If so: a. What kinds of programs would benefit New York's gas consumers? b. Which classes of customers would be served most effectively by a natural gas SBC program? c. How should a natural gas SBC program be funded and what annual level of funding might be considered reasonable? How might a natural gas SBC affect current electric SBC funding levels? e. What should be the initial duration of a natural gas SBC, and should that term coincide with the extension of an electric SBC, if the electric SBC is extended? f. How might a natural gas SBC be administered and evaluated and how should it differ from the administration of the electric SBC?

This question caused some of the strongest division between parties. Some of the parties that advocated extending the SBC were against instituting an SBC on natural gas. However, the majority of parties advocated for a natural gas SBC. Many of the parties noted that the gas industry could benefit from the same types of programs as contained in the electric SBC but few detailed rationale for creating a natural gas SBC.

The AG's office advocated for a natural gas SBC noting that of the other Northeast states, New Jersey, Massachusetts, Vermont, New Hampshire and Connecticut, all have SBC-type funding for natural gas.

Of the utilities, there was a split with NYSEG and RG&E, and Niagara Mohawk recommending a natural gas SBC, and Consolidated Edison (Con Edison), KeySpan, National Fuel Gas and

O&R opposed. Similarly, CPB, the AG, PULP and the EPA favored the natural gas SBC, with MI, NYPA, IPPNY, the Business Council and Northeast Gas Association opposed.

Where the gas SBC was recommended, the parties usually suggested a term equal to that of the electric SBC with NYSERDA as administrator. The funding recommended was generally around $50 million per year, although some parties recommended funding of as much as $150 million or higher.

The most noted opposition to the natural gas SBC was that natural gas, unlike electricity, exists in a competitive market against other fuels, such as oil. Thus, the underlying rationale that was used to establish the electric SBC is missing in the case of natural gas. The parties noted that because the competitive market exists, utilities and their customers already have an incentive to provide efficiency programs to stay competitive. Additionally, the parties raised issues such as targeting one class of customers based solely on their fuel choice (natural gas), while allowing the other class to not pay the surcharge based on their fuel choice (oil). Finally, the natural gas suppliers complained that placing the extra charge on gas, but not oil, would cost them business to their oil competitors, especially from the large industrial users who would stand to benefit the most from efficiency programs, thereby disrupting the purpose for the program.

Question 14. Do you have any other suggestions for improving the overall SBC program that are not addressed by the above questions?

This question was the one that was addressed by the fewest parties. Of those that did respond, most used the opportunity to praise NYSERDA and advocate for continuing the SBC beyond June 2006.