Dormitory Authority
State of New York

***Gail H. Gordon**, Chair*
***David D. Brown, IV**, Executive Director*

January 25, 2008

Honorable Jaclyn A. Brilling
Secretary
State of New York
Public Service Commission
Three Empire State Plaza, 19th Floor
Albany, New York 12223-1350

Re: CASE 07-M-0548 - Proceeding on Motion of the Commission
Regarding an Energy Efficiency Portfolio Standard.
"Ruling Establishing Comment Schedule" (issued January 15, 2008)

Dear Secretary Brilling:

The above-referenced ruling of Judges Stein and Stegemoeller in the above captioned proceeding gave parties until January 25, 2008 to comment upon a Consensus Recommendation submitted by a number of parties to this proceeding. Under this Consensus Recommendation, responsibility for the development and implementation of objectives and programs consistent with the EPS goals would largely fall on the regulated utilities.

The Dormitory Authority of the State of New York ("DASNY") is not inclined to take a position on the various governance model structures that have been suggested for the administration of the NYPSC-funded portion of the 15 x 15 initiative. DASNY, however, does want to emphasize that, regardless of which entities are assigned this responsibility, the energy efficiency goals of this proceeding will be difficult to achieve unless all parties to the proceeding acknowledge at the outset that:

- Rate-payer funded subsidies alone cannot get the job done.
- We must maximize the use of non rate-payer funds and encourage the investment of private capital to fund energy efficiency initiatives.
- NYPSC's longer-term goal of relying on private sources of capital, rather than public and ratepayer subsidies, cannot be achieved unless the EPS provides the necessary tools to accomplish this objective.
- The investment of private capital is essential at this time to help finance the costs of necessary energy efficiency projects for residential and commercial sectors;

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- The only program being considered by the PSC that will unlock the potential of private capital investment is on-bill financing.

All of the parties to this proceeding acknowledge that one of the major barriers generally preventing full utilization of energy efficiency programs is the customers' inability to raise the up-front costs needed to implement the improvements. Since utility energy costs in New York State are already amongst the highest in the country, the NYPSC and regulated utilities share a common interest in avoiding general rate increases across their ratepayer bases to cover these upgrade costs. The use of private capital to fund energy upgrades therefore must be one of the key components of any program to achieve the EPS goals.

An 18-month study by GDS Associates on a New Hampshire pilot program which covered up-front costs for energy upgrades and received repayments via utility bills, found that it was effective in attracting customers who would not otherwise install energy efficiency upgrades at their own cost.[1] The study also showed that the New Hampshire program encouraged customers to take further energy efficient actions in pursuit of additional energy saving measures[2], which benefits the State. A copy of this GDS Associates study is attached hereto.

Attracting the investment of private capital to facilitate the achievement of the goals of the EPS is attainable. Utility customers will welcome the opportunity to complete energy efficiency improvements because the projects will pay for themselves; that is, the total savings achieved by the energy efficient projects will exceed the annual cost of borrowing the money. One caveat is that the customer must have confidence that the project is well conceived and will be properly executed. Therefore, the expertise of the Consensus Parties and other parties to this Proceeding will be invaluable to the development of any program that is able to meet these expectations on the part of customers.

Private investors should likewise be willing to invest their capital provided that they are educated as to the soundness of the investment and there is a mechanism to provide for the repayment of investments made in energy efficiency upgrades. On-bill financing is a simple effective means to achieve this objective.

Under this approach, the utility acts as a collection agent and the repayment amount appears as a separate item on customers' lowered monthly utility bills rather than an additional monthly bill. From the customer's perspective, these repayments might be considered an expense rather than a debt. Another benefit is the ability to lock the repayment obligation to the utility meter. If the property benefitting from the energy retrofit is sold, the purchaser inherits the obligation to make all remaining payments, thus increasing the incentive for participation in cases where the owner or tenant may be moving in the future. NYPA effectively uses this on-bill financing tool for energy retrofits it funds with its own capital.

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[1] *Process Evaluation of the Pilot "Pay As You Save" Energy Efficiency Program*, GDS Associates, Inc., page 73.
[2] Ibid.

Customers are very unlikely to default on any obligation that could result in the loss of their essential utility service. The possibility of disconnection has been demonstrated to dramatically decrease the number of non-collecting customers, as found by the Energy Efficiency Institute and the Pace Energy Project in the attached report[3]. In the New Hampshire pilot on-bill financing program for example, customer nonpayment was zero at one utility, and less than 0.1% at the other utility[4] (*i.e.*, only one user defaulted in the $4 million pilot). NYPA reports very few repayment problems with its financings and can extend repayment schedules when necessary for troubled customers. In fact, the threat of disconnection generally enables utility companies to achieve much higher repayment rates than those realized by credit card companies or even mortgages[5]. Thus on-bill financing creates a secure revenue stream that will assure capital providers of repayment, and avoids the possibility of significant defaults.

One possible objection to on-bill financing is the new incremental administrative costs that implementation would impose upon the billing utilities. DASNY believes that utilities should be compensated for these additional costs but further believes that the benefits achieved through the use of on-billing financing will greatly exceed these costs. One option is to impose a small charge to participating customers to recover these costs. The charge could be included in the repayment calculations to ensure that the customer's participation will still result in overall savings that meet the program criteria. Alternatively, utilities could assess a separate customer charge to recover these costs from participants. Other options might also exist.

In other jurisdictions, some have objected to on-bill financing because they assert that the shut-off of utility services is not a suitable mechanism to enforce what is essentially a debt owed to a private party. It is not clear whether this objection is premised upon the belief that the private investor should bear the risk of defaulting customers regardless of the reason for non-payment or a belief that there may circumstances where the shut-off of utilities is not appropriate because the reasons for non-payment are outside the customer's control. Regardless, inasmuch as in New York on-bill financing would be in furtherance of the attainment of the State's 15 by 15 goal, it cannot be validly argued in this State that solely private interests are being furthered.

To the extent that utility service shut-offs are a concern to some, DASNY believes that there are other options to cover the expected low number of defaults. An example of one such option is the creation a special fund established to absorb losses. It could be funded through a portion of the proposed EPS surcharge or a one-time risk-mitigation add-on for participants (as instituted in the New Hampshire pilot program). This fund would be used to mitigate only some of the default risk that would otherwise be assumed by the private investors. Investors would retain the risk of default beyond amounts available through this pool. Given the reality that customer defaults are likely to be the rare

[3] *Potential for Development of PAYS in New York State*, Cillo, P. and Lachman, H. from Energy Efficiency Institute; Rosenblum, D. and Zalcman, F. from Pace Energy Project, August 2005 page 3.
[4] Ibid.
[5] Ibid.

exception if the financed retrofit projects are competently designed and properly installed, DASNY believes that a creditworthy structure can be achieved through on-bill financing without exposing the utilities or their general ratepayer base to an open-ended default risk.

On-bill financing is being adopted on trial bases in New Hampshire as well as Kansas and Hawaii.[6] Other programs are being explored in Wisconsin and Massachusetts.

New York should play its traditional role of being the nation's leader in no-nonsense financial engineering. It should be a leader and implement its own on-bill financing program to incentivize the investment of private capital in energy efficiency. Unlike other more conventional ways of raising capital, on-bill financing has the transformative power to help achieve the goals of 15x15, by unlocking the capital markets and providing the necessary up-front costs to customers without the headaches of conventional financing. Without the participation of these customers, the goals of 15x15 will be more difficult to attain and even then, only at great cost to the ratepayers.

Sincerely,

David D. Brown, IV
Executive Director

Attachment
cc: Hon. Eleanor Stein
Hon. Rudy Stegemoeller
Active Parties (via EPS List-Server)

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[6] Pay As You Save Programs, October 2007.