

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on March 15, 2012

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca

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

CASE 09-G-0363 - Petitions for Approval of Energy
Efficiency Portfolio Standard (EEPS) Gas Energy
Efficiency Programs.

CASE 08-G-1012 - Petition of New York Electric & Gas
Corporation for Approval of an Energy Efficiency
Portfolio Standard "Fast Track" Utility-Administered
Gas Energy Efficiency Program.

CASE 08-G-1013 - Petition of Rochester Gas and
Electric Corporation for Approval of an Energy
efficiency Portfolio Standard "Fast Track" Utility-
Administered Gas Energy Efficiency Program.

ORDER APPROVING APPLICATION OF ADDITIONAL GAS RESIDENTIAL HVAC
PROGRAM FUNDING TO PREVIOUS BUDGET OVERAGES

(Issued and Effective March 20, 2012)

BY THE COMMISSION:

INTRODUCTION

In this order, the Commission approves New York State
Electric & Gas Corporation and Rochester Gas and Electric
Corporation's petition dated August 23, 2010, for authorization
to apply a portion of the Commission-authorized additional

funding¹ for the companies' gas residential HVAC programs to previous budget overages. According to NYSEG/RGE, allowing a portion of the additional funding to their previous program budget overages would allow for recovery of costs which exceeded original program budgets because of the initial success of the programs.

BACKGROUND

On June 23, 2008,² the Commission created an Energy Efficiency Portfolio Standard (EEPS) program for New York State to develop and encourage cost-effective energy efficiency over the long term, and immediately to commence or augment near-term efficiency measures. In the order, gas utilities serving more than 14,000 customers were directed to submit for approval proposals for residential heating, ventilation and air conditioning (HVAC) "Fast Track" utility-administered gas energy efficiency programs and were authorized to establish surcharges to collect revenue to cover the associated costs.

In response, New York State Electric & Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RGE) (collectively NYSEG/RGE) submitted proposed gas Residential HVAC programs. The programs, approved April 9, 2009,³ are designed to

¹ See Case 07-M-0548 et al., Energy Efficiency Portfolio Standard (EEPS), Order Approving Three New Energy Efficiency Portfolio Standard (EEPS) Programs and Enhancing Funding and Making Other Modifications for Other EEPS Programs (issued June 24, 2010).

² Case 07-M-0548, supra, Order Establishing Energy Efficiency Portfolio Standard and Approving Programs (issued June 23, 2008).

³ Case 08-G-1004 et al., Orange and Rockland Utilities, Inc.'s Energy Efficiency Portfolio Standard Gas "Fast Track" Program, Order Approving "Fast Track" Utility-Administered Gas Energy Efficiency Programs with Modifications.

promote the installation of efficient, cost-effective gas furnaces, boilers, and other equipment at the time of replacement. The programs primarily provide rebates for the purchase and installation of approved equipment. They began on July 1, 2009.

NYSEG/RGE's programs experienced greater than anticipated participation, and due to this success, the companies had utilized a significant portion of the authorized 2009 budgets by the end of August 2009. On September 9, 2009, NYSEG/RGE submitted a letter to the Commission requesting approval to supplement the authorized 2009 budgets with already approved 2010 funding.

After discussions with Staff, it was agreed that in order for the companies to handle the number of customer applications being received, they could draw upon the future year funding. Additionally, it was agreed that NYSEG/RGE would notify the Commission and their customers that the gas residential HVAC program would be coming to an end. Staff and the companies agreed that an orderly end to the programs, that would allow customers that had started the process to receive a rebate, was preferable to an abrupt termination.

On December 21, 2009, RGE notified the Commission that it would achieve its 2009-2011 savings goals and exhaust its cumulative 2009-2011 budget by mid-January 2010, and planned to end the program on February 28, 2010. On February 18, 2010, NYSEG provided a similar notification to the Commission indicating that its 2009-2011 savings would be achieved and its budget would be committed by the end of February 2010, and that it planned a March 31, 2010 program end date. The companies began to systematically shut down their programs, but planned to honor rebates that had been submitted prior to the close of the programs. The program end dates allowed sufficient time for

customers who had begun the rebate process to fulfill the necessary requirements to receive a rebate.

On June 24, 2010, the Commission recognized that due to greater than anticipated participation levels, some of the residential gas HVAC programs had either expended their entire 2009-2011 budgets, or would soon do so. In order to provide for the continuation of these programs, the Commission authorized additional funding for the residential gas HVAC programs of NYSEG/RGE, Central Hudson Gas and Electric Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, and Orange & Rockland Utilities, Inc.⁴ NYSEG/RGE received additional funding of \$1,846,758 and \$5,657,808, respectively. However, because the Commission was concerned about program management and oversight, it did not authorize application of the funds to previous cost overruns without its express approval. The Commission also required utilities to institute a rebate reservation process for program rebates, a process that would allow utilities to closely monitor the demand for program rebates and help to avoid future budget overruns.

THE PETITION

On August 23, 2010, NYSEG/RGE filed a petition, in response to the June 24, 2010 order providing additional funding, requesting authorization to apply a portion of those funds to offset costs which exceeded the originally authorized residential gas HVAC program 2009-2011 budgets. NYSEG and RGE state that they have only expended a portion of the additional funds approved in the June 24, 2010 order. Out of the additional \$1,846,758 approved for NYSEG, the company has

⁴ Case 07-M-0548 et al., Energy Efficiency Portfolio Standard (EEPS), Order Approving Three New Energy Efficiency Portfolio Standard (EEPS) Programs and Enhancing Funding and Making Other Modifications For Other EEPS Programs (issued June 24, 2010).

expended \$799,358. RGE has expended \$1,828,719 out of \$5,657,808 additional funds. NYSEG proposes to allocate \$610,922 to previously incurred costs leaving a balance of \$436,478 and RGE proposes to allocate \$2,643,903, leaving a balance of \$1,185,186.

According to the companies, allowing them to allocate a portion of the additional funding to their previous program budget overages would allow them to recover costs that exceeded the original budgets due to the success of the initial programs. The companies also state that the 2009-2011 budget overages were a direct result of the systematic shutdown process that was agreed to by Staff.

NOTICE OF PROPOSED RULE MAKING

A Notice of Proposed Rulemaking concerning the NYSEG/RGE petition under consideration here was published in the State Register on September 15, 2010 (SAPA09-G-0363SP5). The minimum time period for the receipt of public comments pursuant to the State Administrative Procedure Act (SAPA) regarding that notice expired on November 1, 2010. No comments were received in response to the Notice of Proposed Rulemaking.

DISCUSSION

It appears that the budget overages were a result of the programs' participation far exceeding what was initially anticipated, as opposed to imprudent management by the companies. Importantly, the companies provided the proper notification to Staff that the programs were on track to exceed their original budgets and worked with Staff to provide an orderly shutdown of the programs. Although the orderly shutdown resulted in the over expenditures of the original budgets, it was preferable to a sudden termination of the programs because it ensured that eligible customers who had begun the rebate

process while the programs were still open would receive the appropriate rebate. The companies made every effort to manage their programs within the original program budgets. For example, they directed unspent marketing funds to pay customer rebates. In addition, the companies' efforts resulted in savings achievements that surpassed the original targets. NYSEG/RGE restarted their programs in October 2010 and implemented a rebate reservation system, in compliance with the June 2010 Order.

NYSEG/RGE proactively worked with Staff once the companies realized that they were going to exceed previously approved budget levels. Also, the overspending was a result of higher-than-anticipated participation that produced additional gas energy savings and not simply mismanagement. Moreover, the companies are requesting to allocate funds that have already been approved and no further collections are required. For these reasons, NYSEG/RGE's petition is granted. The unspent additional funding balances of \$436,478 and \$1,185,186 for NYSEG and RGE, respectively, should be included as uncommitted funds in the companies' accounting of uncommitted balances due March 31, 2012, as required in the October 25, 2011 order.⁵

SEQRA FINDINGS

Pursuant to our responsibilities under the State Environmental Quality Review Act (SEQRA), in conjunction with this order we find that programs modified here are within the overall action previously examined by us in Case 09-G-0363 and will not result in any different environmental impact than that previously examined. In addition, the SEQRA findings of the

⁵ Case 07-M-0548 et al., supra, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule (issued October 25, 2011).

June 23, 2008 Order in Case 07-M-0548 are incorporated herein by reference and we certify that: (1) the requirements of SEQRA, as implemented by 6 NYCRR part 617, have been met; and (2) consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action being undertaken in one that avoids or minimizes adverse environmental impacts to the maximum extent practicable.

CONCLUSION

For the reasons discussed above, the Commission approves the petition of NYSEG/RGE to apply a portion of additional gas residential HVAC program funding to previous budget overages.

The Commission orders:

1. New York State Electric & Gas and Rochester Electric and Gas are authorized to allocate additional funding approved in our June 24, 2010 Order in the amounts of \$610,922 and \$2,643,903, respectively, to previous overspending in their HVAC programs, as described in this Order.
2. These proceedings are continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary