

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard.)))	Case 07-M-0548
Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, NYSERDA Petition Regarding NY- Sun PV Funding and NYSERDA’s RPS 2013 Main Tier Program Review and RPS 2013 Customer-Sited Tier Program Review.)))))))	Case 03-E-0188
Petition of New York State Energy Research and Development Authority to Provide Initial Capitalization for the New York Green Bank.))))	Case 13-M-0412
In the Matter of the System Benefits Charge III))	Case 05-M-0090

COMMENTS OF THE JOINT UTILITIES

I. INTRODUCTION AND SUMMARY

Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas and Electric Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, The Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation (collectively the “Joint Utilities”) submit this response to the *Notice Soliciting Comments and Notice of Technical Conference* (the “Notice”) issued in the above-referenced cases by the Public Service Commission (“Commission”) on September 13, 2013.¹

¹ Case 13-M-0412, *et al.*, Petition of New York State Energy Research and Development Authority to Provide Initial Capitalization for the New York Green Bank, *et al.*, *Notice Soliciting Comments and Notice of Technical*

The Notice invites comments on the Department of Public Service Staff's ("Staff") Energy Efficiency Portfolio Standard ("EEPS") Restructuring Proposal (the "Restructuring Proposal"),² the New York State Energy and Research Authority's ("NYSERDA") petition regarding the NY-Sun Initiative for solar photovoltaic ("PV") systems ("NY-Sun Petition") and NYSERDA's 2013 mid-course reviews for Renewable Portfolio Standard ("RPS") program efforts, and NYSERDA's petition for initial capitalization of the New York Green Bank ("NYGB" or "Green Bank"). The Joint Utilities appreciate this opportunity to comment on the inter-related proposals that will significantly affect New York State's delivery of clean energy programs.³

For the reasons stated herein, the Joint Utilities generally support the Restructuring Proposal's modifications to EEPS for the remainder of EEPS II (2014-2015) that will permit Program Administrators to provide more efficient and cost-effective energy efficiency programs during the next two years and provide a solid foundation for the development of the post-2015 Energy Efficiency Statewide Program ("E² Program") Plan. To maximize the effectiveness of the EEPS II programs during the next two years, the Joint Utilities urge the Commission to eliminate the measure level total resource cost ("TRC") test requirement and instead allow TRC screening to be performed at the project or at the Program Administrator program level.

Conferences (issued September 13, 2013) (the "Notice"). Notices of Proposed Rulemaking concerning the Commission's consideration of all matters and issues set out in the Notice were published in the NYS Register on September 25, 2013 (SAPA 13-M-0421SP1, SAPA 07-M-0548SP77, SAPA 07-M-0548SP78, and SAPA 03-E-0188SP43). The time period for the receipt of public comments pursuant to SAPA regarding the published notices expires on November 12, 2013.

² On September 5, 2013, NYSERDA filed its *Final Report concerning RPS Main Tier 2013 Program Review* and its *Petition for NY-Sun 2014-2015 Funding Considerations and Other Program Modifications* ("NY-Sun Petition") in Case 03-E-0188. On September 9, 2013, NYSERDA filed *2013-2015 Market Evaluation, Program Expectations and Funding Considerations* for the RPS Customer-Sited Tier Program in the same proceeding. On September 9, 2013, NYSERDA filed a petition requesting that the Commission approve an initial capitalization of \$165.6 million for the NYGB (the "NYGB Petition") in Case 13-M-0412. On September 13, 2013, Staff filed its EEPS Restructuring Proposal, which describes both near and long-term potential modifications to the EEPS program in Case 07-M-0548.

³ The Joint Utilities note that the forthcoming draft State Energy Plan and the Commission's imminent Indian Point Contingency Plan Order have the potential to significantly affect these proposals.

The Joint Utilities also generally support the Restructuring Proposal's concept of E² for the years 2016 and beyond, subject to the concerns described below regarding potential conflicts of interest that would be created by the wide-ranging roles envisioned for NYSERDA, the precise relationship between utilities and NYSERDA as they implement E², the use of utility customer funds for a fuel neutral energy efficiency fund, the development of metrics and incentives, data sharing and customer privacy, and the development of a centralized information technology platform.

The Joint Utilities also generally support the NY-Sun Petition and agree that NYSERDA's RPS program reviews are an accurate portrayal of renewable energy in the State. The Joint Utilities generally support the funding proposed in the NY-Sun Petition, as well as many of the program design changes. In addition, the Joint Utilities suggest further program development and additional leverage of customer funds, such as continued competitive procurement mechanisms by NYSERDA to set the incentive levels for larger solar PV installations, utility ownership of solar PV facilities installed on utility property, a program for grid-connected, larger solar PV resources, and several methods of decreasing grid integration costs. While NYSERDA forecasts that the State may not meet its renewable energy goals in 2015, the Joint Utilities believe that NYSERDA should focus on continuing to procure cost-effective renewable energy within the Commission's established renewable energy budget.

Finally, subject to the concerns discussed below, the Joint Utilities generally support NYSERDA's petition for initial capitalization of the NYGB. The Joint Utilities recognize the interrelated nature of the Restructuring Proposal, the NY-Sun Petition, and the Green Bank's financing of energy efficiency, RPS, and other clean energy projects. The Joint Utilities describe herein why successful implementation of the Green Bank depends on equitable access to Green

Bank financing for all participants in the State’s RPS and energy efficiency programs, funding of the Green Bank without interfering with the ongoing implementation of the RPS and energy efficiency programs, and meaningful utility participation on the Green Bank’s Advisory Committee.

II. EEPS RESTRUCTURING – PHASE I

A. Proposed Changes

With the modifications proposed herein, the Joint Utilities agree that the Restructuring Proposal will allow Program Administrators to provide more efficient and cost-effective energy efficiency programs during the next two years while providing a foundation to develop the E2 Program and the “customer-centric” programs in the Restructuring Proposal.

The Joint Utilities support the following EEPS 2014-2015 program year changes in the Restructuring Proposal:⁴

- Program Budgets/Targets – Elimination of required approval by the Director of the Office of Energy Efficiency and the Environment (“OEEE”) to reallocate program budgets and targets within a customer sector.
- Customer Incentive Levels – Elimination of required approval by the Director of OEEE to revise incentive levels.
- Reporting – Reduction of reporting frequency from monthly to quarterly with streamlined content.
- Payback Testing – Elimination of the requirement that a measure pass payback criteria.

⁴ Restructuring Proposal, p. 25.

- Banking and Borrowing – Elimination of required approval by or notification to the Director of OEEE to borrow from future EEPS II program year funding.
- Pre-screening of prescriptive measures – Elimination of the requirement to pre-screen prescriptive (*i.e.*, fixed dollar rebate level) measures.

The Joint Utilities support Staff’s proposed changes, particularly the increased flexibility to reallocate program budgets and targets within a customer sector that will allow Program Administrators to better address both customer needs and market changes. For example, commercial and industrial customers have capital planning cycles with limited windows of opportunity to utilize prescriptive rebates or custom incentives such that energy efficiency projects must be timely pursued. Providing Program Administrators with the flexibility to reallocate program budgets to reflect the ebb and flow of customer capital funding and the availability of operation and maintenance (“O&M”) dollars maximizes the Program Administrators’ ability to effectively meet customer needs. In other cases, for a variety of reasons, one program might be more successful than another and the flexibility to reallocate program budgets and targets will enable Program Administrators to maximize both achieved savings and cost-effective use of EEPS funds.

Similarly, eliminating the notification and approval requirements for banking and borrowing further enhances the ability of Program Administrators to be responsive. If energy efficiency programs are performing well, Program Administrators should not be required to discourage customers from applying due to a lack of funding for a particular program in that year if funding from future years is available. Ramping programs up and down in response to inflexible annual budgets discourages customers and contractors from planning and participating in programs.

Providing Program Administrators with the flexibility to modify customer incentive levels to respond to market needs should increase achieved savings and further Staff's customer-centric approach. The current long, and often restrictive, review process for incentive modification often delays or prevents timely modification of incentive levels. This results in utilities being unable to offer the incentives necessary to encourage customers to achieve cost-effective savings.

Eliminating the payback analysis requirement will provide Program Administrators with the opportunity to use their market expertise to determine whether and the extent to which incentives are necessary in those situations in which customers are not investing in energy efficiency measures despite relatively short payback periods.

Eliminating the requirement that Program Administrators must pre-screen prescriptive measures will be beneficial because it will improve project cycle time, reduce the cost of program administration, allow Program Administrators to serve more customers, and reduce customer confusion about measure eligibility.

Decreasing reporting frequency and increasing the time to report will also help reduce the cost of program administration and should improve the quality of published reports. The Joint Utilities will be better able to focus on providing service to customers, rather than preparing unnecessary reports.

B. TRC Testing

The Restructuring Proposal recommends consideration of eliminating the TRC test at the measure level in favor of applying the test at the sector level for the E2 Program.⁵ The Joint Utilities agree that creative solutions to cost-effective screening in E² programs will be important

⁵ *Id.*, p. 18.

for 2016 and beyond. However, the Joint Utilities urge the Commission also to consider a streamlined TRC test for the remaining EEPS II program cycle by removing the measure level screening requirement in the current TRC process.

The current measure level TRC testing adds administrative steps and thus cost and complexity to the implementation process. This testing also has the perverse effect of driving through the portfolios a high proportion of projects and programs that are dominated by measures with high TRC test ratios (*e.g.*, high-efficiency fluorescent lighting). Such projects can easily pass measure-level review and absorb the additional administrative costs incurred at the project and program-level reviews while maintaining cost-effectiveness, but often reduce energy consumption by only a relatively modest amount.

TRC test results do not indicate the magnitude of the savings potential; in fact, a measure with a high TRC test ratio could represent a small potential savings. Conversely, application of the TRC test at the measure level has resulted in limited deployment of measures such as higher efficiency boilers and chillers, and in many cases energy management systems, that result in deep reductions in energy consumption, but which are only marginally cost-effective at the measure level. Elimination of measure level application of the TRC test will permit Program Administrators to take advantage of measures that increase the depth of energy reduction potential at customer locations and help the State to approach more closely the EEPS II (2012-2015) energy savings goal within the term remaining.

In sum, eliminating the measure-level TRC test requirement in the 2014-2015 cycle should achieve the following benefits:

- Program Administrators should move more quickly with cost-effective projects using known energy-saving measures that meet the needs of customers.

- Program Administrator and contractor delays should be significantly reduced by being able to quickly propose cost-effective projects without the need to conduct measure-by-measure analysis.
- Program achievements (kWh and Dth savings) should be greater by increasing the number of measures utilized in EEPS programs. This directly addresses a Moreland Commission finding that application of the TRC test at the measure level has resulted in potential energy savings being “left on the table.”⁶

For the reasons stated above, customer satisfaction should also improve.

C. Measure Classifications

The Joint Utilities agree with Staff regarding the necessity of improving the process by which measures are added to the measure classification lists.⁷ These lists include measures that are pre-qualified for use in EEPS programs and are provided in a format that allows Program Administrators to educate customers about energy efficiency and assist them with making informed decisions about the use of specific measures. Prior to the development of the measure classification lists, the Program Administrators did not have a workable process for adding new measures to their programs. This list now affords Program Administrators such a process, which has been helpful. The Joint Utilities recommend that, before the measure classification lists are eliminated, an alternate approach be cooperatively developed with the Program Administrators to achieve the same (or better) results.⁸

⁶ Moreland Commission on Utility Storm Preparation and Response Final Report, June 22, 2013, p. 35 (the “Moreland Commission’s Final Report”).

⁷ See Case 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, *Order Approving Modifications to the Energy Efficiency Portfolio Standard (EEPS) Program to Streamline and Increase Flexibility in Administration* (issued June 20, 2011).

⁸ The Joint Utilities note that if the measure-level TRC test is eliminated, there may be no need for measure classification lists because measures would no longer need individual approvals.

D. Going Forward

The Joint Utilities support the Restructuring Proposal regarding changes to years 2014-2015 of the EEPS II cycle with the modifications described above, and recommend swift implementation of the proposed changes for the current EEPS II cycle. Doing so will allow the Joint Utilities to provide customers with a better mix of energy efficiency opportunities, while eliminating much of the current administrative burden.

The EEPS I (2009-2011) cycle may have required a higher level of administrative oversight by Staff due to initial program uncertainty and unanticipated program results that impacted all stakeholders (including unforeseen Technical Reference Manual changes and updates as well as measured impact evaluation results). Program Administrators now have a better capacity to manage programs and Staff is more familiar with the administrative aspects regulating these programs. The Joint Utilities believe this collective experience warrants affording the Program Administrators greater flexibility to meet the needs of customers, and these proposed changes reflect that perspective.

Similar to the conclusion of EEPS I in 2011, EEPS II programs will also need evaluation. The Joint Utilities request that EEPS II programs be evaluated based on the Commission's anticipated framework, presumably reflective of the value and efficacy of the proposals suggested herein. Evaluating EEPS II programs based upon two (or more) different sets of rules or methodologies would not result in accurate, meaningful, and implementable results.

III. EEPS RESTRUCTURING – PHASE II

The Restructuring Proposal offers a significant opportunity for all stakeholders to play a role in increasing the value of energy efficiency and demand side management (“DSM”) programs in the E2 Program through a more holistic approach to customers’ energy management. This opportunity would come through changes to the relationship among state

agencies and the utilities, a redesign of the technical aspects of program implementation, and a clear set of State priorities for clean energy. These comments on the E2 Program seek to build upon the Program Administrators' implementation experience with EEPS I and EEPS II programs⁹ and meet the evolving priorities in the State on how to deliver programs of optimal value to customers.

With regard to changing roles and the implementation of energy efficiency programs, the Joint Utilities and NYSERDA have worked well together and the Joint Utilities anticipate an even more productive working relationship in the future. The Joint Utilities look forward to continuing to benefit from NYSERDA's experience and expertise in the areas of research, development and demonstration, and technology and market development which can supplement the utilities' demonstrated strengths in customer education, interfacing with customers, program implementation and delivery (including delivering incentives to customers quickly), new construction, and system planning.

In addition, the Joint Utilities maintain that as system operators with responsibility for system reliability and with a longstanding relationship with their customers and understanding of our customers' needs, utilities must have the opportunity to provide meaningful input to the E² Advisory Council. The Joint Utilities stress the need for a transparent decision-making process, especially with regard to the Technical Resources Manual.

The Joint Utilities' specific comments and concerns regarding the Restructuring Proposal follow.

⁹ These comments also take into account the experiences of Consolidated Edison Company of New York, Inc. ("Con Edison") with its Targeted DSM and demand response programs over the last decade.

A. Role and Role-related Issues

1. NYSERDA Roles

The Restructuring Proposal envisions a wide-ranging role for NYSERDA as Program Administrator of its own energy efficiency programs, evaluator of both its own programs and utility-administered programs, and support to Staff. These overlapping roles appear to create a potential for conflicts of interest.

For example, NYSERDA's role to support Staff as well to act as Program Administrator would appear to create the potential for a conflict of interest (or, just as importantly, the appearance of a conflict of interest) when policy decisions are made that may benefit NYSERDA or that otherwise create a playing field that is not level (or fail to maintain a level playing field).

In addition, it would be inappropriate for NYSERDA to evaluate utility-administered energy efficiency programs if NYSERDA also administers and implements its own energy efficiency or other DSM programs. This potential conflict could be exacerbated by the metrics structure developed to measure utility and program success and by the structure of utility shareholder incentives, if any, as discussed later in this filing. Currently, utilities are required to vet all evaluation documents through Staff and its consulting team headed by TecMarket Works. Staff, with its contractor, is a regulator and can gain no advantage by providing guidance and implementing policy on evaluation issues. However, the same would not be true if NYSERDA were to act as an evaluator for utility-administered programs in the same arena in which NYSERDA participates. If NYSERDA were afforded any portion of the evaluation responsibility while maintaining the ability to implement its own programs, the potential would exist for a conflict between its interests and those of the utility Program Administrators. While the Joint Utilities do not suggest that NYSERDA would deliberately manipulate the evaluation

process for its own benefit, NYSERDA may naturally see evaluation issues through its own perspectives.

The Joint Utilities agree with the Restructuring Proposal that utilities and NYSERDA have different strengths that will serve as the foundation for programs designed to achieve a successful approach to DSM, reach energy efficiency goals, and successfully address the needs of their customers. The Joint Utilities recognize the benefits of having a stronger cooperative relationship between NYSERDA and the utilities and look forward to working with NYSERDA to develop programs that take advantage of their respective strengths.

In order to provide optimal results during the E2 Program, utilities should be at the forefront of implementing resource acquisition programs that support their customers' (and their own) system needs, with NYSERDA implementing resource acquisition programs in those areas in which they have developed special expertise. NYSERDA, for example, could expand its upstream and market transformation programs to lower the cost of systems and equipment that receive incentives in utility-administered resource programs. In addition, NYSERDA could provide technical support to Staff, undertake research, development, and demonstration activities to support resource programs, provide clean energy implementation support via the NYGB financing, and conduct statewide evaluation studies.

Focusing on the respective strengths of the Program Administrators should result in E² programs that address the needs of utility customers and utility systems through both peak demand reductions and energy savings. For example, utilities are particularly well suited to target geographic areas (with DSM or renewable energy measures) that may benefit from peak reductions now to defray future capital investment in transmission and distribution systems. The

utilities would work closely with NYSERDA to take advantage of NYSERDA's expertise in areas such as combined heat and power ("CHP") installations.

2. Customer Relationship

A key element of the utility-customer relationship is the obvious fact that utilities have distribution systems through which they are responsible for safely and reliably delivering energy to their customers. Moreover, utilities have contact with their customers monthly or even more often and answer millions of phone and in-person customer inquiries every year, in dozens of different languages and on topics ranging from bill affordability to energy procurement. Furthermore, customers' decisions on how to consume energy have immediate impacts not only on their utility bills, but also on utility operations, utility infrastructure investments, and energy procurement. The Joint Utilities look forward to working collaboratively with NYSERDA to deliver the best possible service to utility customers.

The Restructuring Proposal states that a "centralized and coordinated model is needed to reduce confusion and administrator inefficiency, and facilitate the transfer of knowledge and information from one customer service experience to another."¹⁰ The Joint Utilities note that this statement assumes, incorrectly, that utility customers across New York State are somehow fungible. Moreover, given their different experiences, customers who seek, or are approached, regarding clean energy options are more likely to trust the utility based on the relationship established through years of interaction rather than a centralized entity.

The Restructuring Proposal's suggestion that utilities can play a key role in marketing, outreach and developing leads¹¹ is therefore sound. Utilities are positioned to integrate an overall customer solution package, which may include energy efficiency, renewable generation,

¹⁰ Restructuring Proposal, p. 10.

¹¹ *Id.*

DSM, CHP, or any combination thereof. This overall package is an opportunity to provide the customer with solutions beyond energy efficiency to best manage their energy consumption and costs, and impact future system requirements.

In the Moreland Commission’s Final Report, several approaches were identified to eliminate program overlap, noting that the “specific roles that NYSERDA and the utilities should play are not very clear.”¹² However, the Restructuring Proposal’s concept of “introductory” and “comprehensive” programs¹³ as a means to delineate Program Administrator roles is also unclear. It is premature to establish boundaries at this time and this is best addressed in the course of developing a joint organizational proposal. The Joint Utilities look forward to working directly with NYSERDA to develop program scopes that are appropriate for both the statewide plan and to help meet local service territory needs, while reducing customer confusion and program overlaps noted by the Moreland Commission.¹⁴ The Joint Utilities ask that the Commission avoid any framing of the Program Administrator roles that would relegate utilities to a role that would not take advantage of their strengths or that would remove the utility from the customer interface.

3. Marketing

The Joint Utilities generally support the proposed marketing role for utilities as described in the Restructuring Proposal: “NYSERDA should work closely with the utilities in the development of a new customer-centric model for delivery of energy efficiency programs in New York.”¹⁵ The Restructuring Proposal further suggests that “[t]he utilities would play a key

¹² Moreland Commission’s Final Report, p. 29.

¹³ Restructuring Proposal, p. 12.

¹⁴ By means of example, the Indian Point Program Proposal submitted by Con Edison and NYSERDA on June 19, 2013 proposes one customer-facing program that would be supported by the two organizations’ strengths.

¹⁵ Restructuring Proposal, p. 9.

role in marketing and outreach and would develop leads for all of the programs available to customers in their service territory, whether they are delivered through utility or NYSERDA programs.”¹⁶ The Restructuring Proposal offers the following “optional, but directional” concept:

A coordinated sector-based messaging, marketing and outreach approach for all programs, with NYSERDA taking the lead in working with all the utilities to develop a basic message platform, but with the utilities taking the lead in delivery and outreach to take advantage of the utilities’ ability to routinely and directly interface with its customers and their more direct knowledge of their customers.¹⁷

It is important to first note that there is a difference between education, which builds awareness of the value of energy efficiency and DSM, and marketing, which tailors messages on energy efficiency and DSM offerings to a specific set of customers. The Joint Utilities fully support a customer-centric model for energy efficiency program delivery, but recommend that a statewide message platform be used only for education and general outreach; utilities should retain their role as the primary marketing entity. Customer Outreach, Education, and Marketing (“OEM”) has historically been undertaken by all utilities in support of energy efficiency programs and to varying degrees in support of NYSERDA or other programs which are of benefit to utility customers, utilizing existing customer relationships and channels to the benefit of all parties. Expansion of this role may be valid, if the following considerations are incorporated in the role expansion and new design.

- a. Utilities effectively market programs (energy efficiency and other DSM programs) in various ways and via various channels. Marketing for the E2 Program should reflect regional needs and existing brands, which have substantial equity. In

¹⁶ *Id.*, p. 10.

¹⁷ *Id.*, p. 11.

addition, because a statewide education platform will have different facets, some of which will be more or less applicable to each region and utility, the flexibility to adopt and include portions, but not all, of the statewide education platform is essential to achieve effective and efficient delivery or marketing of programs.

- b. Development of a comprehensive, statewide education platform can be appropriate, but will likely be a lengthy process. Recognizing the difficulties with implementation of past EEPS statewide marketing programs (*e.g.*, the “BEAM New York” campaign and the “unwasteNYSM” program), the Joint Utilities believe that an education platform is the only appropriate statewide proposal. The Joint Utilities urge the Commission to establish a workable timeline for development of the statewide education approach, and to also incorporate a plan to transition over time to the new approach. Retaining existing utility OEM plans and vehicles until the education portions can be gradually transitioned (if advantageous) to a statewide education platform and utility-specific marketing approach may allow for ongoing program outreach, while making gradual adjustments to incorporate similar educational themes and maintaining utility marketing plans. Such an approach would be relatively seamless to customers and could build on successes experienced by existing regional-based EEPS OEM efforts. The most realistic and potentially successful implementation of a statewide approach must allow appropriate funding for these efforts. Challenges – such as resources that are limited by a proportional percentage of overall program budgets, diverse media coverage (for instance, between compact urban and more expansive and diffuse rural media markets), and current levels of marketing in other programmatic areas – need to be successfully

addressed in the development of statewide education and utility-specific outreach plans (and budgets).

- c. Regional/utility OEM efforts now vary because utilities have unique budgets and infrastructure for these efforts, varying customer demographics, and different types of direct relationships with their customers. Utilities interact with their customers on a daily basis, have compiled unique data about their customers, and tailor marketing messages to their customers and their customers' needs. Through these experiences and efforts, the utilities have not only built relationships with customers but have also built brand equity that can be used to drive results in marketing.
- d. The Joint Utilities desire to retain the customer connection for energy efficiency and other DSM programs, and with an appropriate process, agree with the Restructuring Proposal that their role could include encouraging customer participation by generating leads for NYSERDA programs. Notwithstanding this support, the Joint Utilities are cautious in assessing the potential transformation of the ongoing relationship with end-use customers that may occur as a result of the changes discussed in the Restructuring Proposal. Program success is built on many factors, only one of which, and not the most important, is lead generation. The Joint Utilities note the complex relationship and process dependencies, which are described in the Restructuring Proposal in very general terms, but which carry very specific, challenging, and detailed implications.

As noted above, the Joint Utilities agree that utilities should perform E2 Program customer outreach and marketing, utilizing their existing customer relationships and channels to

the combined benefit of utilities, customers, and NYSERDA. Expansion of this role is a valid and welcome improvement, if undertaken in accordance with the considerations identified above.

B. Core Technical and System Infrastructure Issues

1. Fuel Neutral Energy Efficiency Fund

The Restructuring Proposal advocates that “[t]o support a customer-centric energy efficiency program delivery model, the concept of a merged fuel neutral energy efficiency fund, particularly for the ‘Comprehensive’ programs should be considered.”¹⁸ The Restructuring Proposal acknowledges, however, that such cross-subsidization is contrary to the Commission’s guiding principle for EEPS program funding that monies collected from electric ratepayers should be used to fund only electric energy efficiency measures and monies collected from gas ratepayers should be used to fund only gas efficiency measures.¹⁹ As the Restructuring Proposal notes, “[f]unding was established based in part on the expected proportional share of the cost of EEPS electric and gas programs divided *pro rata* by customer segment.”²⁰ The Restructuring Proposal further recognizes that such a concept has its roots in the principle of directing program benefits, at least in part, to the type of customer who is providing the program funding. The Joint Utilities believe application of the Commission’s established guiding principles provides the best framework to assure inter-regional and inter-rate class equity, and avoid cross-fuel and cross-customer class subsidization.

¹⁸ *Id.*, p. 22.

¹⁹ The Commission has a longstanding opposition to cross-subsidization among customer types and classes in the face of alternative solutions. *See, e.g.*, Case 09-G-1468- *Rochester Gas and Electric Corporation – Proposition to (1) Implement a Seasonal Planning Process to Ensure System Reliability and (2) Establish a Surcharge to Cover Incremental Costs Related to Managing Gas System Deliveries*, Order Approving Recommendation, (issued April 6, 2000). There the Commission found that allowing retail customers to pay for balancing costs that would otherwise be assigned to gas markets is “antithetical to the Commission’s goal of eliminating cross-subsidies among customers.” *Id.* at p. 5.

²⁰ Restructuring Proposal, p. 22.

The Restructuring Proposal states that the E2 Program would include utility territory specific sector level budgets and metrics.²¹ Presumably, program budgets (and targets) would be established by service territory (region) and then by customer type in efforts to provide an equitable distribution of program benefits. The introduction of fuel neutrality and either blending of electric and gas System Benefit Charge (“SBC”) collections, or funding through a single electric SBC collections, ignores, however, the regional and customer type delineation associated with service territory and customer type-specific targets.

The Restructuring Proposal presents the proposition that most gas customers are electric customers.²² However, this proposition fails to recognize that:

- a. Not all electric customers have access to natural gas. The Restructuring Proposal suggests that electric customers without access to natural gas will subsidize natural gas energy efficiency programs.
- b. Electric and gas service territories are not congruent. The electric and gas service territories for dual-fuel service territories do not share the same geographic footprint. Within certain electric service territories, there may be multiple providers of natural gas. The Restructuring Proposal effectively suggests that electric customers of one utility would subsidize natural gas programs for customers of another utility.²³
- c. There are electric customers who utilize fuels other than natural gas for heating and process requirements. Although it is best environmentally for oil, propane, and

²¹ *Id.*, p. 8.

²² The Commission has stated as such. See Case 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, *Order Establishing Targets and Standards for Natural Gas Efficiency Programs* (issued May 19, 2009), p. 18.

²³ For example, there are natural gas customers on Long Island currently paying the SBC who are electric customers of the Long Island Power Authority (“LIPA”). Under the electric-only SBC funding scenario, such natural gas customers would either be excluded from program participation, or be subsidized inter-regionally, which is contrary to regulatory equity in the face of alternative solutions.

other non-natural gas fueled equipment to be of the highest possible efficiency, it is not incumbent upon electric and gas ratepayers to provide funding to improve the efficiency of equipment fueled by other means. Requiring electric and gas customers to pay through the SBC for energy efficiency programs provided to customers of other types of fuel, effectively forcing electric and gas customers to cross-subsidize the use of such fuel, may have the unintended consequence of influencing customers to choose an alternate fuel which currently pays no energy efficiency SBC. Utility bills are already burdened with a high level of embedded and explicit taxes and fees.²⁴ The Commission should give consideration to other mechanisms for raising public funds to help manage non-utility energy consumption.

The Joint Utilities believe that funding natural gas programs with electric SBC collections could be problematic, and that funding energy savings programs for non-electric/gas services from the electric and natural gas SBC collections could also be problematic. Viewed in isolation, either proposal creates an inequity to the electric and gas customers that pay the SBC. For these reasons, the Joint Utilities believe that in the course of evaluating Staff's proposals the Commission needs to solicit specific customer input on the cross-subsidization issues that a fuel neutral energy efficiency fund presents.

2. Metrics and Incentives

The Restructuring Proposal invites comments on goals and metrics as well as the development of a more effective utility financial incentive structure and states that "DPS Staff

²⁴ For example, the Commission required utilities to collect revenues to pay a temporary state assessment, including carrying charges, from July 1, 2009 through June 30, 2014. *See* Case 09-M-0311, Implementation of Chapter 59 of the Laws of 2009 Establishing a Temporary Annual Assessment Pursuant to PSL 18-a(6), *Order Implementing Temporary State Assessment* (issued June 19, 2009).

encourages comments regarding the appropriate set of directional goals and metrics that should be used to focus and guide the 2016-2020 E2 Program.”²⁵ Later, with regard to the revision of the utility financial incentive mechanism, the Restructuring Proposal suggests that:

[a]more effective incentive structure needs to be developed and properly integrated into utility operations. The incentive structure should align utility compensation with the objective of making energy efficiency part of the utilities’ core business while driving innovation and creating a stable business environment. DPS Staff encourages comments regarding alternatives that should be considered.²⁶

The Joint Utilities appreciate the opportunity to comment on these issues;²⁷ a well-crafted set of goals provides clear direction for each member of a program implementation team and is thus of utmost importance to utility planning and execution.

The current EEPS programs are designed with the metric of first-year energy savings and achievement of associated targets and the current utility incentive mechanism is based on achievement of the first-year energy savings targets. While the Restructuring Proposal suggests that other metrics may more appropriately recognize overall program performance, it is difficult to advise on a specific metric or suite of metrics for the E2 Program because the programs have not yet been designed and responsibilities have not been allocated.

Any such metrics must align both utility and State performance objectives and may influence the direction of the E² Program portfolio. The Joint Utilities propose that electric peak demand reduction and lifecycle carbon dioxide (“CO₂”) emissions may be appropriate metrics for evaluating long-term and system impacts of the implementation and delivery of energy programs in New York State. Over the long term, CO₂ reductions will help the State reach its energy and environmental goals. Peak demand reduction (measured as kW) influences utility

²⁵ Restructuring Proposal, p. 6.

²⁶ *Id.*, p. 25.

²⁷ The Joint Utilities anticipate exploring the issue further once the draft State Energy Plan is released.

planning and can reduce customer costs by avoiding investments in assets needed for only a few hours per year.

The Joint Utilities oppose the establishment of metrics based on customer behavior such as reduced turn-offs or decreased arrears. New York has a history of programs that have provided specially designed payment agreements, arrears forgiveness credits, and program referrals. There has been no demonstration that these programs are not producing the desired results. Moreover, such program designs have recognized the utilities' ability to alert customers to energy program opportunities or encourage positive customer response, but have not measured the utilities based on customer behavior. For example, referrals to the EmPower NY Program may be a reasonable performance metric, but it is not reasonable to measure the utilities' performance by the number of customers who ultimately participate in the EmPower NY Program. That is a decision a customer will make based on program opportunities as marketed and managed by NYSERDA.

The Restructuring Proposal also states that statewide and utility service territory metrics may be established for measuring future program performance. This proposal is problematic because such metrics would necessarily include performance of programs by NYSERDA, LIPA and the New York Power Authority ("NYPA"), within discrete utility territories. Without NYSERDA's, the Green Bank's, and other governmental programs being fully defined, and recognizing the possibility that the success of such programs will be driven by factors such as private sector financing origination (as will be the case with the Green Bank), the concept of shared performance metrics should not apply towards utility incentives.

Utility collaboration with NYSERDA would necessitate tracking several key metrics, including leads and referrals generated, lead conversion rates, and savings achieved per project

or customer. Ultimately, establishing reliable communications and a bi-directional flow of information between the organizations is more productive than metrics based upon achieved savings for encouraging collaboration on any programs for which the utilities themselves are not responsible.

With a well-defined set of programs and goals, it will be possible to select appropriate metrics and targets and a sound incentive structure can be designed to reward performance. An incentive mechanism could be designed to not only encourage the achievement of program targets, but also to reflect the overall effectiveness of delivering the programs (*e.g.*, metrics such as program or portfolio acquisition costs). This type of incentive structure would reward not only achievement of savings (benefits), but also fiscal responsibility. Such an incentive mechanism would need to be based not only on the sound establishment of targets, but also of budgets. The associated budgets would need to have inter-regional parity, meaning that program resources would need to account for cost variations and other differences across utility service territories. Incentives should further consider the following three principles.

First, the design of the metrics, goals, and utility shareholder incentives should be established in a transparent and detailed manner at the outset of the planning cycle. The Restructuring Proposal recognizes the need and value of market potential studies²⁸ and the Joint Utilities agree that such studies should proceed expeditiously. Statewide potential studies should be conducted and completed as soon as possible during the 2014–2015 EEPS II program years to facilitate final program design and implementation by 2016. Such studies could be funded from unspent EEPS I monies after accounting for utility shareholder incentives and before additional monies are distributed to other initiatives (*e.g.*, the Green Bank). Goals must be based upon

²⁸ Restructuring Proposal, p. 12.

realistic and eligible market potential (*e.g.*, only those market participants who pay into the SBC funds). Actual EEPS program performance data from 2009-2013 should also be a guiding factor in the determination of new targets.

Second, the methodologies for calculating achievements (and adjustments to those values) should be simple, straightforward, transparent, and established from the outset. For example, a regular schedule of Technical Resource Manual updates and effective dates for implementing changes would help reduce unforeseen impacts on goal achievement. Likewise, clear guidance about when and how, if at all, measurement, verification, and evaluation (“MV&E”) studies will be used is necessary to reduce regulatory risk that comes from uncertainty. An accompanying mechanism for adjusting program goals based upon changes in factors outside of the utilities’ control would also aid in creating a stable business environment, as would a pre-established dispute resolution method.

Third, goals or metrics should not be established that are wholly or largely out of the utilities’ control. As referenced above, basing performance incentives for utilities on service territory targets that are shared by the utility and NYSERDA would prove to be unworkable unless there is a fair way for the utilities to share program responsibilities for achievement of the shared goals. Otherwise, utility performance should be the only unit of measurement for consideration of utility incentives, and should not be aggregated with the performance of NYSERDA.

The Joint Utilities’ core business is to safely deliver reliable energy services to their customers. A set of well-designed programs and a clear mechanism to provide shareholder incentives to the utilities for increasing customer energy efficiency will facilitate more effective integration of energy efficiency into the core business.

To further develop an effective and equitable shareholder incentive structure, the Joint Utilities propose including a collaborative effort as part of the E² proceedings during 2014 and 2015.

3. Data Sharing and Customer Privacy

The Restructuring Proposal recommends broader access and sharing of customer data between NYSERDA and the utilities in support of the objective to advance a “customer-centric model that provides easy access to information and services”²⁹ and “facilitate[s] the transfer of knowledge and information from one customer service experience to another.”³⁰

The Restructuring Proposal acknowledges that “customer privacy protection concerns inhibit the sharing of data between the utilities and NYSERDA, evaluators and contractors.”³¹ Although the Moreland Commission recommends “removal of current barriers to sharing of customer information between NYSERDA and the utilities,”³² the Restructuring Proposal recognizes that the development of a centralized information technology platform that warehouses all EEPS data “must be carefully scoped and planned, as it will likely take significant resources and several years to develop and future needs must also be considered.”³³

The establishment of an on-demand data warehouse accessible by all New York utilities, Staff, and NYSERDA would be a major undertaking requiring considerable dedication of resources by each of the utilities to comply with the constraint that the “[p]rotection of consumer information is the basic tenet of the Public Service Law and [Commission] policies.”³⁴ The Commission has longstanding privacy principles that include customer choice regarding degrees

²⁹ Restructuring Proposal., p. 6.

³⁰ *Id.*, p. 10.

³¹ *Id.*, p. 16.

³² Moreland Commission Final Report, p. 34.

³³ Restructuring Proposal, p. 17.

³⁴ See Case 07-M-0548, *et al.*, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, *et al.*, *Order on Rehearing Granting Petition for Rehearing* (issued December 3, 2010), p. 17.

of privacy protection and informed customer consent. The proposed establishment of an on-demand data warehouse must be reconciled with these privacy principles and evaluated against public policy and economic and technology considerations. The Joint Utilities suggest that more emphasis be placed on understanding the hurdles to be addressed if utilities are asked to share customer data with NYSERDA, program evaluators, and contractors. Such an emphasis on understanding and complying with privacy protections, both from a regulatory and legal framework, suggests that, at a minimum, a proceeding on the subject is required such as that tentatively suggested in the Restructuring Proposal.³⁵ The Joint Utilities also note that for efficiency and DSM to be fully integrated into the utilities' core business, NYSERDA and other governmental agencies and the Green Bank must share project information with the utilities.

In evaluating the merits of authorizing the implementation of certain behavioral modification programs in its December 3, 2010 Order on Rehearing Granting Petition for Rehearing, in Case 07-M-0548, *et al.* (the "December 3, 2010 Order"), the Commission discussed the treatment of customer data in a number of other contexts and also summarized a U.S. Department of Energy ("DOE") report, *Data Access and Privacy Issues Related to Smart Grid Technologies*.³⁶ This report highlights the importance of privacy protection given that energy usage information can reveal personal details that utility customers rightfully expect will be protected.³⁷ The Commission noted that the DOE report "calls for a balancing of utilities' need to access energy consumption data for operational purposes with the ability for consumers to access their own data and to decide whether to grant access to third parties."³⁸ Consistent with the Commission findings in the December 3, 2010 Order, in evaluating the proposed

³⁵ Restructuring Proposal, p. 17.

³⁶ See http://www.gc.energy.gov/documents/Broadband_Report_Data_Privacy_10_5.pdf

³⁷ December 3, 2010 Order, p. 8.

³⁸ *Id.*, p. 12.

establishment of an on-demand data warehouse, the Commission must consider “the risk of souring public perception regarding the management of sensitive customer data – even if a breach of security or improper use of the information does not occur.”³⁹ Moreover, also consistent with the Commission’s findings in the December 10, 2010 Order, it is essential to respect customers’ reasonable expectations of privacy and data security because a failure to meet these expectations could adversely impact customer participation in energy efficiency programs.

Although the Commission approved access to customer information for certain behavioral modification programs subject to a number of limitations and safeguards, it noted that “[c]ustomer privacy has been and continues to be an important consideration in approving any new program or technology.”⁴⁰

The technical challenge of protecting customer data from cyber attacks was the subject of the Commission’s August 19, 2013 Order Directing the Creation of an Implementation Plan,⁴¹ following a report presented to the Commission by Staff regarding a breach of customer privacy security at one New York utility and the ongoing follow-up of customer privacy security reviews at the other large energy utilities. Therein, the Commission stated that recent threat intelligence found energy sector companies, including utilities, to be the target of sophisticated cyber attacks for the purpose of customer identity theft, as well as for the purpose of malicious operating system compromise. The Commission recommended that utilities should “eliminate or isolate customer data to the greatest extent practicable consistent with day-to-day business demands to

³⁹ *Id.*, p. 18.

⁴⁰ *Id.*, p. 17.

⁴¹ Case 13-M-0178, In the Matter of a Comprehensive Review of Security for the Protection of Personally Identifiable Customer Information, *Order Directing the Creation of an Implementation Plan* (issued August 19, 2013).

protect their customers from the possibility of identity theft.”⁴² Additionally, the Commission found a particular need for most companies to devote more resources to researching and identifying the best current and next-generation cyber security defensive technology. Moreover, the Commission found a need for companies to conduct regular third party vulnerability assessments of the protection of sensitive customer information.

The establishment of an on-demand data warehouse must employ the same or stronger standards, including rigorous vulnerability assessments, to guard against a breach of customer data security. The resources to do so will be on top of the efforts by the individual utilities to protect their respective sensitive customer information. Further, should a breach occur, the impact could be far more devastating and widespread than a breach of a single utility’s system.

The Joint Utilities believe that, given the uncertainties of obtaining reliable informed consent and the redundant security measures that will have to be employed when sensitive customer information is pooled and deposited in a data warehouse accessible by many, a careful and thorough weighing of the risks against the expected benefits associated with creating and populating such a data warehouse is essential.

The Joint Utilities propose that the Commission provide the utilities and NYSERDA the opportunity, in the course of developing the joint organizational proposal for the E2 Program, to also address alternatives to an on-demand data warehouse that, while advancing the customer-centric model, will preserve the customer privacy rules and protections in place today between the utilities and their customers. The road to the establishment of a data warehouse, or alternatives to such a proposal, cannot be examined in isolation and need to be considered in the context of coordinated program delivery to customers – particularly those served by different

⁴² *Id.*, p. 4.

electric and gas utilities. The Joint Utilities are committed to working on a way to partner with NYSERDA in the delivery of coordinated programs without compromising customers' expectations.

Should the Commission deem it appropriate to move forward with the establishment of an on-demand data warehouse, the protocols and practices surrounding customer consent and the standards to be employed for data deposited in the warehouse will need to be developed and formally adopted, and detailed questions regarding the process of developing the data warehouse will need to be answered. For example, will the customer consent forms have expiration dates? If so, how will customer data be expunged from the data warehouse once the consent expires? Will utilities have the right to randomly review customer consent forms for validity and completeness? The information to be stored in the data warehouse must be up-to-date and reliable and this requirement must be the same for both customer data being provided by the utility and customer data being provided by NYSERDA.

Importantly, the types of information that NYSERDA will be storing in the data warehouse should meet utilities' requirements (*e.g.*, customer performance data, type of work being conducted, impact on load, impact on load shape). Up-to-date and accurate NYSERDA information will enable the utilities to periodically evaluate complementary programs, make critical infrastructure planning decisions, and more accurately address future customer needs.

4. Statewide IT Solution

The Restructuring Proposal recommends that a "centralized information technology platform that warehouses all EEPS data" be developed to better facilitate program tracking and data sharing,⁴³ but notes that this could be an ambitious endeavor and must be carefully scoped

⁴³ Restructuring Proposal, p. 16.

out and planned. Any large system implementation will take significant resources and many years to develop. The recommendation that a qualified contractor be hired to define the scope and assess the benefits and costs is reasonable but cannot substitute for working with the system experts of the utilities and NYSERDA. A technology solution for consolidation and management of statewide data must be designed and produced by an information technology professional with background and experience in producing platforms that are efficient, functional, and transparent, and again, in conjunction with expert Joint Utilities input. The Joint Utilities recommend that the scope be realistic, taking into consideration the needs of the Program Administrators, market partners, customers and the availability, functionality, and limitations of each utility's internal systems. Large system implementations represent high levels of investment and high risks.

As an alternative to a large system implementation, Staff could limit the first step to building a functional, efficient and scalable data warehouse that is easy to use. It should be user-friendly so that Program Administrators can provide data without requiring IT help. Each Program Administrator must be active in participating and contributing to the data collected and stored in the statewide system, and there should be capability to ensure a two-way flow of information.

IV. THE NY-SUN PETITION

The Joint Utilities continue to support the development of solar PV resources and their capability to integrate solar PV technologies into the utility grid in New York State. Solar PV resources are clean, non-emitting, and can be located in and connected to the utility's distribution network in a manner that reduces stress on the electric T&D system. Solar PV electric output peaks closer to the general utility peak when compared to some other renewable technologies (e.g., wind). That said, the electric grid and its continued robust operation is critical to solar PV.

The electric grid allows solar PV-owning customers to import power at night or when their system is not producing due to adverse weather conditions or maintenance, and provides a way to export excess power when the full output of the solar PV system is not needed by the customer. Costs of solar PV panels have notably come down in the last three years, largely due to reductions in solar PV panel manufacturing costs and new entrants into the solar PV panel market. NYSERDA's solar PV programs have facilitated the adoption of solar PV by reducing installation costs with incentives. Nonetheless, solar PV is still one of the most expensive renewable resources, and the Joint Utilities support NYSERDA's efforts to reduce the cost of solar PV as proposed in the NY-Sun Petition.

A. Funding for 2014-2015 NY-Sun Initiative

The Joint Utilities support reallocating \$108 million in Main Tier RPS program funds to fund the NY-Sun Initiative 2014-2015 budget. NYSERDA states that its modeling of the impact of reallocating \$108 million from the Main Tier to fund NYSERDA's 2014 and 2015 solar PV incentive initiatives had no meaningful negative impact on the State's ability to achieve Main Tier goals. The State has established a generous overall budget for renewable energy of \$3 billion, and the Joint Utilities support NYSERDA's proposal here to manage achieving the overall goals of the RPS program without raising costs to customers.

B. Allocation of Funds within the Customer-Sited Tier Solar PV Programs

The Joint Utilities support granting NYSERDA discretion to allocate funding to either the Standard Offer program or the Competitive Solicitation, including discretion to allocate funding between proposed successor incentive structures.

C. Moving to a Regional “Megawatt Block” Capacity Based Incentive Structure for the Standard Offer Incentive

The Joint Utilities support a transition from the Standard Offer program design to a Megawatt Block (“MW Block”) program design. The Joint Utilities agree that the proposed design will provide greater transparency to customers and developers on the future incentive levels and amount of funding. This greater transparency will encourage faster adoption of solar PV. Reduced uncertainty will help developers invest in attracting new customers within the State.

While the Joint Utilities support the general concept of the MW Block design, getting the details right will be important if the transition to the new program design is to be successful. NYSERDA needs to take care to develop parameters to be met by developers to reserve capacity within a block. The parameters cannot be too strict, otherwise the market will be unnecessarily slowed; nor can the parameters be too lax, otherwise developers will be able to take up space in the block with phantom projects. Such parameters could include site control or a contract to install with the host, a requirement to complete a project within a specified time period, a preliminary interconnection study, possession of needed permits or zoning waivers, and/or a security deposit. The reduction of the incentive levels in an orderly, prescribed fashion as proposed in the MW Block design means that all customers will benefit as collections to fund solar PV incentives are reduced.

The changes between steps in the MW Block design should not be too steep or too shallow. As declines in the cost of solar PV systems, which are the underlying rationale to lower of the incentive amount over time, are difficult to forecast, the Commission should grant NYSERDA flexibility in altering the incentive level schedule. Such flexibility will allow NYSERDA to respond to significant shifts in the market costs of solar PV, which could result

from international trade conditions, new technologies, or balance of system cost reductions, for example. This should be studied and a methodology for adjusting the steps including limits to the adjustments should be proposed by NYSERDA.

The Joint Utilities support NYSERDA's proposal to establish regional variations of the MW Block design concept. The issue of "geographic equity" – differences between how customers in one region or utility service territory contribute to the RPS program and how much direct renewable energy investment occurs in that region or service territory – has been a concern of the Commission for some time.⁴⁴ The Joint Utilities propose that on the issue of geographic equity within NYSERDA's solar PV programs, NYSERDA should examine the reasons that solar PV adoption is advancing more in some areas and less in other areas, and adjust program designs to raise the adoption performance in areas where solar PV incentive uptake has been slow. NYSERDA's proposal to implement its MW Block design proposal on a regional basis will allow such regional adjustments.

The definition of the regional area will be important to developing a program that is responsive to local conditions. For example, as seen in the fall 2012 aftermath of Superstorm Sandy when the demand for solar PV incentives in New York City and Westchester County dropped precipitously while staying strong in other areas of the State, the need for solar PV incentives may vary substantially from region to region within the State. The Joint Utilities suggest that the regional areas be defined on the basis of observed material differences in market response, and not on the basis of simplistic geographic differences (*e.g.*, "upstate" and "downstate"). Regional incentive adders for directing solar PV to the most beneficial locations

⁴⁴ Case No. 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, *Order Authorizing Customer-Sited Tier Program Through 2015 and Resolving Geographic Balance and Other Issues Pertaining to the RPS Program*, (issued April 2, 2010).

on electric grids should be refined and continued, as well. Such locational adders are already part of NYSERDA's incentive program for larger solar PV resources, developed by NYSERDA and the Joint Utilities to determine which portions of each utility's service territory could benefit from additional solar PV resources.

D. Elimination of the "40 Percent of Installed Cost" Limit for Incentives

NYSERDA proposes to eliminate the requirement that incentives be no more than 40 percent of the total installed costs of a system, after tax credits have been applied, and instead to track the metric. The Joint Utilities do not oppose eliminating the requirement, but suggest the metric be tracked in a public and transparent manner, for example through disclosure in the annual NYSERDA report on the RPS program results. The public interest requires transparency regarding the overall incentives being provided for solar PV installations in the State through subsidies provided by electric customers.

E. Moving to a Regional MW Block Performance Based Structure for the Competitive PV Program

The Joint Utilities generally support the additional information that would be provided to the market by a transition to a MW Block program design for the Competitive PV program, but respectfully offer some modifications to the program design put forward by NYSERDA for the Commission's consideration.

The Joint Utilities suggest that NYSERDA modify its MW Block proposal for the Competitive PV program to incorporate additional competitive mechanisms. Adopting these modifications will maintain some of the best features of the MW Block design, including transparency regarding under what conditions and to what levels incentives will be reduced, and will also harness competitive mechanisms to encourage solar PV installers to reduce costs as

quickly as possible, thereby resulting in a lower cost program overall for customers and leading to installation of more solar PV capacity.

The Joint Utilities suggest that NYSERDA establish fixed MW Blocks, open for solicitation periodically throughout the year, and a schedule of MWs to be solicited in the future, subject to funding and approvals of the Commission. Projects should be solicited on a competitive basis, and the incentives should be based on and paid out on performance (per MWh produced) incentives. The output for systems of this size range would be easily tracked in New York's Generation Attribute Tracking System ("NYGATS"), currently under development by NYSERDA and the NYISO.

NYSERDA should consider at least two sizes of groups for competitive solicitations to reflect the economies of scale available to different size solar PV installations. For each group, a ceiling price can be used to cap the potential cost should project applications have a wide range of proposed pricing.

Introducing competition to NYSERDA's solar PV procurements has resulted in reductions in incentive levels, falling from an average of \$1.30/watt in 2011 to \$0.84/watt in 2013.⁴⁵ This reduction in incentive levels results in more solar PV being deployed at competitive prices. LIPA is also transitioning its incentive program for larger solar PV resources from administratively set pricing to competitive pricing.

As with NYSERDA's proposal of a Regional MW Block program for the Standard Offer incentive, NYSERDA should consider geographic equity for the MW Block program for competitive solar PV resources when establishing regions. NYSERDA should also modify

⁴⁵ NYSERDA Press Release, July 9, 2013, "Governor Cuomo Awards \$54 Million to Fund Large Solar Power Projects Across the State."

program details based on local market conditions as needed to make solar PV programs for larger resources attractive throughout the State.

The Joint Utilities urge the use of performance based incentives for the MW Block Competitive PV program, and suggest that the contract term be lengthened from the current three years in the Competitive PV program to 10 to 15 years, using RPS funds already collected or authorized for collection. Longer duration revenue streams linked to actual system output encourage customers to purchase higher quality equipment and to keep such equipment in good working order. Such longer term performance based incentives may also make it more attractive to use external financing, including from the Green Bank, which can use such funds as a cash flow against which to secure a loan.

NYSERDA also proposes developing a fixed-price performance based incentive for commercial customers seeking deep energy savings. This fixed-price could be set at the ceiling price for each size class of solar PV systems, for administrative simplicity. The Joint Utilities suggest that NYSERDA partner with the State's utilities in integrating this offering into utility energy efficiency programs, as noted in the EEPS portion of these comments.

F. Statewide Solar PV Program

NYSERDA suggests better coordination with LIPA on its standard offer programs. The Joint Utilities do not oppose such coordination, but note that they are comfortable with the current structure of the State's renewable energy programs (such as central procurement by NYSERDA with an emphasis on cost-effectiveness in procuring renewable energy resources), and would not support any movement towards a utility-centered model for procuring renewable energy.

G. Subsidies, Net Metering, and Solar PV Resources

The Joint Utilities support NYSERDA's overall goal to transition away from solar PV incentives by 2020. But regardless of direct incentives, the Joint Utilities emphasize that solar PV resources receive, and will continue to receive, valuable indirect subsidies in the form of net metering – an operating subsidy that will increase in value over time with any future increase in the cost of energy and taxes and fees associated with utility-delivered energy. As solar PV costs fall and NYSERDA reduces its incentives, the Commission should also reduce the net metering subsidy, which allows customers to use the electric distribution system without paying for such use.

Some electric system costs may be avoided by on-site generation with solar PV and other distributed generation (“DG”) technologies, such as energy purchases and line losses on the T&D system. However, net metering has the effect of shifting net metered customers' share of supporting the electric distribution system to other customers. Net metered customers need, and use, their local electric distribution system as much as other customers, because they use the electric grid both to import electricity when their resources are not producing, and to export to the grid when their resources are producing more than the customer can use. Accordingly, the need for and extent of net metering should be monitored and revisited.

As Staff has presented in the past,⁴⁶ the recently established three percent cap on net metering in New York will have a variety of subsidy costs for the remainder of customers not participating in net metering. For example, net metering customers do not pay as much of the RPS/SBC charge even though they are significant direct beneficiaries of these charges. With the

⁴⁶ Case 12-E-0485, In the Matter of Net Metering Limitations in Consolidated Edison Company of New York, Inc.'s Service Territory Pursuant to Public Service Law §66-j and §66-l, [*Approximate System Wide Delivery Impacts Associated with Raising the Net Metering Limit from 1percent to 3percent of the Utilities' 2005 Peak Electric Demand Under PSL Section 66-J*](#), filed by Staff on June 28, 2013.

changes that result from this proceeding, some utilities may quickly reach their three percent cap on net metering resulting in a higher overall level of subsidy.

Regarding NYSERDA's discussion of community solar, the Joint Utilities believe the Commission should discourage expansion of net metering that does not effectively address the electric distribution system cross-subsidy issue and other technical considerations related to solar PV described later in this document. Ways to address the cost-shifting of net metering may include establishing a rate design that creates appropriate charges for the services provided to all customers, including owners of solar PV systems, so that these customers support their share of the cost of the electric distribution system, or exclusion of all electric distribution rate components from the value of net metering credits. This is an issue of putting an end to cost avoidance, cross subsidization, and a growing, long-term source of customer inequity. Many customers will be unable to install solar PV or other net metered DG resources at their homes or businesses, yet those same customers will bear the costs for other customers able to install solar PV or other DG net metered resources. In addition, customers who are unable to install such net metered resources will support higher levels of various public benefit charges that are scheduled to be collected.

V. 2013 RPS MAIN TIER PROGRAM REVIEW

As required by the Commission's January 2010 order on the RPS that followed the 2009 Main Tier program review, NYSERDA filed the Main Tier 2013 Program Review Report (the "Report") in three volumes on September 5, 2013. The Report sets forth the current status of the portfolio that has been procured through the RPS program, assesses the economic and energy system impacts from the portfolio, including benefit/cost analysis, and finally, estimates the projected impact from using remaining Main Tier authorized collections under several scenarios to meet the overall goal of the RPS. The following comments do not attempt to review each

section of the Report, but instead highlight key issues identified by the Joint Utilities as the most significant conclusions.

First, the Joint Utilities commend the Commission, Staff, and NYSERDA for designing and executing an RPS program that has secured 47 percent of the Main Tier goal of new renewable energy using 38 percent of the total budget, reflecting an average resource cost that is below initial projections and less costly than programs of different design in neighboring states. This result was achieved through competitive, centralized procurements managed by NYSERDA. Because of the RPS program, 1,700 MW of new renewable energy facilities are already built and operating, with an additional 138 MW in planning or construction. The Joint Utilities agree that, as a portfolio, these facilities have created and will continue to produce many benefits for electric customers in New York State.

These benefits, as described in the Report, encompass increased economic activity, decreased imports of electricity, reductions in pollutant emissions, short-term reductions in energy prices, and the net creation of permanent jobs in New York. In addition, the RPS Main Tier program has integrated well with the existing electric energy market in New York, reducing the risk that customers would overpay for energy from the facilities over the long-term, or that the market would be distorted by fixed price contracts.

The Joint Utilities, however, do question the specific valuations given to these benefits, and have a number of concerns about the inclusion of certain costs and benefits as presented in Volume 2 of the Report, and some of the methodologies used to develop them, as described in Volume 1. These concerns are as follows:

- The methodology used by NYSERDA in calculating the RPS premium is not transparent. In addition, the value of the premium should be calculated from the time customers pay such a premium through their electric bill.
- While NYSERDA’s consultant’s calculations claim that the price suppression value of the RPS program is larger than the present value of RPS costs, economists regard electric price suppression as a short-term phenomenon which should not be assumed to persist and it is difficult to determine from the minimal discussion of the calculation of the price suppression effect whether the value of price reduction impacts are reasonable.
- It is not clear how NYSERDA’s consultant accounted for increased ancillary services that are needed to support intermittent renewable resources. This requirement increases with increased penetration of intermittent resources. In addition, increased ramping leads to increased operating costs to those generators on the margin.⁴⁷

Additionally, while the carbon values cited for the avoided cost of potential harm from the marginal unit of emitted CO₂, from \$15 per ton of carbon, up to \$85 per ton, seem to offer a substantial benefit to New Yorkers, included as they are in the “statewide benefit-cost analysis,” the benefits are significantly overstated. As indicated in footnote 42 of Volume 1 of the Report, these benefits would, in fact, be spread across the globe, with only a small fraction of the estimated amount directly benefiting New Yorkers. Certainly New York sees benefits when the world economy is doing well in general, but the Joint Utilities find it misleading to suggest that

⁴⁷ Studies such as the Western Wind and Solar Integration Study: Phase 2, from the National Renewable Energy Laboratory, indicate increased operations costs among fossil generators of 2-5percent with growing levels of wind integration, and a variety of other past studies show an increase in wholesale market costs of 1-14 percent at varied levels of penetration, size of balancing area, and transmission integration with neighboring regions.

“the economic benefits and costs of the current portfolio of RPS commitments in New York State”⁴⁸ associated with the reduction in emissions of carbon have a social benefit value of \$312 million to \$2.196 billion, when the Report itself points out that the vast majority of those carbon-related benefits would accrue to residents of other states and countries, as well as the general health and stability of the natural world. While the Joint Utilities generally agree there is some valid estimate of these global avoided costs, the study should present an accurate allocation of benefits with a reduction of the amount of in-State benefits.

Finally, the Joint Utilities question the appropriateness of including the net present value of all direct investments as a benefit. While capital investment and associated O&M costs do create spending in New York, much of that investment could have occurred in other areas, existing assets would have been more fully utilized, and labor would be employed in other industries or at a lower overall cost. In traditional benefit-cost analysis, direct investment is more typically analyzed as a component of total cost, whereas the profits, additional spending, and added value created by those costs in a particular jurisdiction are typically counted as benefits. In this analysis, it would be more appropriate to isolate the economic growth benefits and other spending related benefits compared with a base case that includes those investments flowing to other investment options, in determining the benefit/cost balance of the RPS program.

With these issues noted, there do appear to be net economic benefits from import substitution, in-State investment, increased overall economic activity, and indirect jobs supported by that activity, as shown in the Macroeconomic Economy Wide Analysis, Section 6 of Volume 2 of the Report. While only a modest benefit, never creating more than one-one-hundredth of

⁴⁸ NYSERDA *Final Report concerning RPS Main Tier 2013 Program Review*, Volume 2, filed September 5, 2013, p.23.

⁴⁹ RPS Petition, Volume 3 – Projected Impacts from Using Available Uncommitted Funds, p. 13.

percent of Gross State Product in added value, and with a net present value of less than \$1 billion over a 35-year period, these benefits and others in total may well be greater than the total cost of the program. The Joint Utilities would encourage the Commission to seek, and for NYSERDA and its consultants to provide, greater detail on the calculation of those benefits, as well as the total cost, to provide a clearer picture of the balance of benefits to costs from the RPS Main Tier program.

According to Volume 3 of the Report, New York State is not likely to meet the 2015 goal of 30 percent renewable energy consumption, nor the RPS Main Tier goal of 9.5 million MWh per year. As shown in the Report, based on current forecasts of energy values, wind technology improvements, and tax policy assistance, the State is likely to achieve between 79 percent and 86 percent of the goal.

The size of the gap between the goal and what is ultimately achieved is partly dependent on whether, and if so under what conditions, the federal production tax credit (“PTC”) is renewed. However, the more substantial cause for the gap is the significant reduction seen thus far in electricity prices due to the declines in natural gas prices over the past eight years, and whether those reductions continue. These cost reductions in electricity and gas prices, driven largely by the vast natural gas resources now available to customers from domestic resources, are projected to have an upward influence on the future costs of renewable energy projects in RPS Main Tier solicitations, and may account for some of the reduced expected development activity NYSERDA predicts.

In addition, siting/permitting concerns have slowed the progress of many potential facilities, but it is difficult to determine to what extent. As the study points out, “[m]any new/anticipated projects are only in early stages of completing interconnection studies with the

NYISO or permitting activities, and are likely not in a position to respond to a short-term RPS solicitation . . .”⁴⁹ Simply put, given the pace of the industry in the recent past and status of projects in development, NYSERDA is highly unlikely to meet the RPS Main Tier goal under any set of circumstances.

The Commission should not be overly concerned. NYSERDA has tried to balance the cost of the program with the environmental and economic benefits, and the Joint Utilities believe NYSERDA has done a credible job in striking such a balance. The Joint Utilities believe that the Commission should encourage NYSERDA to look for opportunities to get more “bang for its buck,” for example, by extending its solicitations beyond 2015, so that New York may achieve the Main Tier goal by 2017 or 2018. NYSERDA itself, in fact, suggests that “[w]hile it is possible that program commitments fully encumbering the remaining RPS Main Tier budget could be made before the end of 2015, a continuation of procurements and contracting of appropriate technologies and resources for some period beyond 2015 would likely produce a preferable outcome.”⁵⁰

As such, the Joint Utilities concur with NYSERDA that containing the volume and/or maximum per renewable attribute price in any solicitation, as opposed to offering more demand than the market has capacity to deliver, would also help NYSERDA avoid procurement of projects that are unlikely to proceed, or are extremely costly on a per MWh basis.

In addition, the Joint Utilities would discourage any increase in authorized collections from customers in an attempt to achieve the goal. Customers already bear a heavy burden in funding RPS, EEPS, and other public benefits charges. And due to the diminished development

⁴⁹ RPS Petition, Volume 3 – Projected Impacts from Using Available Uncommitted Funds, p. 13.

⁵⁰ *Id.*, p. 14.

pipeline, additional funds may not help reach the goal in the time allotted. A better use of uncommitted Main Tier funds would be to address siting and permitting barriers to renewable projects in New York State, which the report cites as driving up the costs and slowing the pace of projects.

Along with addressing barriers to in-State development, the Joint Utilities note that there is a petition for rehearing on the Commission's decision to bar out-of-state resources from participating in the RPS program.⁵¹ The Commission should reassess its determination that new out-of-state renewable projects are ineligible to participate in the RPS program, even if the energy output of those projects is delivered to New York. As put forward by multiple parties in response to this issue early in 2013, barring out-of-state projects increases the costs of the RPS program by reducing the availability of viable projects.

VI. 2013 RPS CUSTOMER-SITED TIER PROGRAM REVIEW

The Joint Utilities support the idea of a subsidy-free solar PV market, and see such a trajectory as possible by 2020 as put forth in the "Customer-Sited Tier Market Evaluation, Program Expectations and Funding Considerations" Report (the "CST Evaluation Report"). However, as noted above, the market will not be subsidy-free with the current net metering design.

A. Additional NYSERDA Concepts

The Joint Utilities also offer comments on the following specific issues within the CST Evaluation Report.

⁵¹ See Case 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, *Petition for Rehearing of H.Q. Energy Services (U.S.) Inc.* (filed June 21, 2013).

1. Integrated Solar PV Generation and Energy Efficiency

NYSERDA indicates it will explore whether to include low-cost conservation and energy efficiency measures in the solar PV and solar thermal programs. The Joint Utilities support this proposal due to the clear synergies between the two programs. Further, the Joint Utilities would like to work with NYSERDA to integrate the marketing of Customer-Sited Tier (“CST”) and NY-Sun Initiative opportunities with utility-managed energy efficiency programs. Installing energy efficiency and conservation measures before installation of a solar PV or solar thermal system will both help achieve the State’s energy efficiency goals and help RPS dollars go further because customers will require smaller solar PV or solar thermal systems after energy efficiency and conservation measures are in place. Additionally, performing energy efficiency upgrades prior to installing solar PV or other distributed generation resources will make it more likely that the generation equipment will be properly sized to serve the customer’s on-site annual load and reduce the occurrence of large energy exports that can cause local electric distribution system impacts.

2. Storage

NYSERDA notes it is studying whether to include energy storage incentives in the CST program, highlighting the additional sustainability and resiliency energy storage provides. The Joint Utilities do not oppose providing RPS incentives to energy storage paired with intermittent renewable resources, as long as the energy storage device cannot be discharged to the electric grid while qualifying for net metering treatment. Pairing storage with intermittent resources will allow customers to take greater advantage of renewable resources and allow intermittent resources to provide a resiliency benefit. While cost-effective storage can result in improved overall efficacy of the electric grid by delivering additional volumes without additional utility investment, grid-charged storage does not increase the consumption of renewable energy in the

State and even increases overall kWh usage, and therefore is not eligible for net metering treatment.

B. Additional Utility Concepts

The Joint Utilities also propose the following enhancements to the Main Tier and CST programs:

1. Utility Ownership

The Commission should allow utilities to directly access RPS funds for renewable resources installed on utility property, and include the recovery of and a return on such investments in rates. Utilities are able to target renewable resources, particularly solar PV, to utility property that is located in areas of the electric grid in need of additional reinforcement, and thereby may avoid capital infrastructure costs, if reliability of the resource can be established, such as through the addition of energy storage. This could occur through a separate allotment of CST incentive funds, to avoid direct competition between regulated and unregulated businesses in the existing Competitive PV program, or its successor, and thereby avoid any perception of an uneven playing field between such entities.

2. Peak Solar Incentives

Current RPS program rules encourage customers to maximize energy production. In the case of solar PV resources, this means orienting the resource in a southerly direction, which maximizes year-round output. But utility system peaks are generally later in the day (between 3PM and 6PM). By paying customers some additional incentive to reorient their panels in a more westerly direction, a large increase in output at 4PM could result with a relatively small reduction in energy production. By peaking later in the day, solar PV can reduce the need for peaking plants around peak hours, although increased penetrations of solar PV will likely increase the need for dispatchable peaking plants or storage resources because of the

intermittency of solar PV. For example, a system that is reoriented from 180 degrees (due south) to 240 degrees (west south-west) will increase its electric power output at 4PM in August by 53percent percent, while only reducing its annual production by 13percent percent. Offering to provide higher incentives to customers who re-orient their solar PV panels may be shown to be a cost-effective way to increase the value of solar PV as an alternative to traditional infrastructure investment.

3. Main Tier Solar PV Product Offering

NYSERDA should again consider a specific competitive solicitation using Main Tier funds for solar PV resources only, most likely large-scale solar PV farms connected to electric transmission lines. Such a solicitation could pay a ten-year production-based incentive like other Main Tier contracts. Such resources would be grid connected and receive wholesale hourly rates for their energy, rather than be net-metered, avoiding the subsidy by other customers through electric distribution rates. This will encourage a class of solar PV facilities (larger than 2 MW) that have not to this point been built in New York State, and should lower the installed cost of solar PV. While this would reduce the cost-effectiveness of the Main Tier somewhat, this additional resource will provide diversity to the overall mix of RPS resources and generate power more reliably during peak load periods than wind resources. By locating resources in preferred areas, such a program may provide a reasonable way to provide congestion relief and defer more costly upgrades.

C. Distribution System Challenges with Solar PV

The Joint Utilities offer the following suggestions related to the NY-Sun and CST programs generally that may help reduce power quality issues and associated future costs related to increased penetration of solar PV resources. Electric distribution systems were traditionally designed to accommodate one-way power flow and are comprised of costly infrastructure.

While the Joint Utilities continue to upgrade their aging infrastructure and employ the latest technologies where the benefit/cost ratio is favorable, integration of solar PV with the electric distribution system presents an industry-wide challenge.

For example, some system upgrades and troubleshooting of power quality issues that would not exist but for the solar PV installations result in costs that are borne by all customers. Field employees must set and remove recording voltmeters, change voltage regulator settings, and open capacitor banks, among other solutions. Engineers must troubleshoot and analyze data. These activities all come at a significant incremental cost to customers.

As areas of the electric distribution system become saturated with solar PV energy, costs may expand significantly to include upgrades of all equipment, such as conductors and protective equipment, and installation of additional equipment such as capacitors for power quality control or additional storage to provide grid support. In addition, islanding becomes a greater concern and must be controlled during periods of light load. In some circumstances the costs of those solutions will be the responsibility of a single customer; in others they will be borne by all customers. In either case, such work diverts capital and/or labor resources from other needed distribution system investments.

Technical standards for DG interconnection such as IEEE 1547, which have been recently amended (IEEE 1547a) and will be issued for use in an upcoming revision, need to keep pace with the penetration of solar PV and other technologies to allow for advanced functionality, such as ride-through for abnormal grid voltage or frequency, and reactive current support. Many of the Joint Utilities participate in industry research via the Electric Power Research Institute's ("EPRI") Smart Inverter Demonstration, the Solar Electric Power Association ("SEPA"), and other industry groups. The Joint Utilities will continue to participate

in the revisions of the IEEE 1547 and UL 1741 standards.⁵²

The Joint Utilities request Commission support for piloting certain applications for smart inverters with remote monitoring and control capabilities for solar PV, and perhaps other DG installations.⁵³ These pilots would provide the opportunity to gain experience with this type of equipment. Such systems are already required and in common use elsewhere, *e.g.*, Germany, Hawaii, and California, where high penetration of solar PV on the electric distribution system is causing both significant operational issues, and added costs. These smart inverter systems are capable of reacting to system conditions by increasing and decreasing DG production and by injecting VARs onto the electric distribution system. The use of smart inverter systems may be a more cost-effective approach for customers than the alternative of paying for upgrades such as static VAR compensators or switched capacitor banks as part of the interconnection requirements.

Further, by providing the utility with remote control of the inverters, certain improvements in power quality benefits may also result in net reductions in capital improvement costs incurred by customers. These smart inverter devices could also have the potential to address certain safety concerns.

VII. NEW YORK GREEN BANK

NYSERDA seeks Commission approval to reallocate and repurpose \$165.5 million in uncommitted NYSERDA EEPS I and SBC III funds, uncommitted utility EEPS I funds, and NYSERDA RPS funds to provide the initial capitalization for the Green Bank (the “NYGB Petition”). The Joint Utilities support the Green Bank initiative to advance clean energy growth

⁵² As such changes to industry standards are adopted, the Commission’s , *Standardized Interconnection Requirements and Application Process for New Distributed Generators 2 MW or Less Connected in Parallel with Utility Distribution Systems* will require updates to reflect same.

⁵³ There may also be potential support from NYSERDA’s SBC IV Technology and Market Development program.

in New York, but ask that the following considerations be taken into account with respect to the NYGB Petition.

A. Customer Accessibility

Successful implementation of the Green Bank depends on equitable access by participants from all Program Administrators in EEPS II, RPS, and future E² programs. As NYSERDA acknowledged in its petition:

The Booz work scope did not include a thorough assessment of end user demand for financing in the various market segments. As part of the initial development of the Green Bank, NYSERDA will perform this kind of targeted market research to support the development of NYGB products.⁵⁴

The Joint Utilities believe that utility input and participation on the Advisory Committee would be beneficial to NYSERDA in the development of NYGB products because the utilities are knowledgeable on customers' energy efficiency and grid-connected renewable and CHP projects and the capabilities of supporting electric and gas infrastructure by geographic area. In addition, moving forward with the E² programs based on the Program Administrators' strengths as described above could result in utilities driving incentives to customers for projects that could provide a large pool of projects for financing through the Green Bank. If the Green Bank elects to loan directly to customers, the Joint Utilities also suggest that the inclusion of a reservation system for customers applying for Green Bank loans would help control capital availability based on prior experience with utility incentives.

B. Source Funding

The Green Bank seeks to reallocate uncommitted funds including NYSERDA EEPS I (\$3.5M), utility EEPS I (\$90M), and NYSERDA RPS (\$50M), in combination with \$44.7M of

⁵⁴ NYGB Petition, p. 4.

Regional Greenhouse Gas Initiative (“RGGI”) funds, toward the initial \$210.3 million capitalization.⁵⁵ However, the RPS program and the E2 Program will also require identification of funds and potentially additional funding sources. For example, the RPS Petition seeks identification of funding sources for the 2014-2015 program years,⁵⁶ while the Restructuring Proposal discusses a need for market potential studies to determine E2 Program targets.⁵⁷ Moreover, due to the need to reconcile earned utility shareholder incentive mechanisms for EEPS I programs, certain outstanding EEPS petitions seeking SBC cost recovery for incremental expenditures, and reconciliation of actual EEPS I program spending to SBC collections, the availability of the requested \$90M in uncommitted utility EEPS I funds may be illusory.

The Joint Utilities note that the RPS and EEPS programs require ongoing funding because this is a critical input to NYSERDA’s and the Program Administrators’ ability to execute on the goals of RPS and EEPS, respectively. The NYGB identifies a goal of raising \$1 billion overall. While the Joint Utilities understand the expediency of using uncommitted funding from SBC, RPS, and EEPS to expedite the NYGB program development, the Joint Utilities do not support continuing to remove funding from these established programs. Nor do the Joint Utilities support increasing the overall level of public benefit fund collections on utility bills; such collections are already at high levels.

The Joint Utilities suggest dedicating RGGI funding to achieving the \$1 billion capitalization. RGGI rules and market design were updated earlier this year, with the result that the RGGI program will produce significantly larger amount of funds to New York State over the next few years than have been achieved in past years. The Joint Utilities note that the goals of

⁵⁵ *Id.*, p. 15.

⁵⁶ NY-Sun Petition, p. 1.

⁵⁷ Restructuring Proposal, p. 8.

the RPS, EEPS, and SBC programs are all aligned with the goals of the RGGI program such that funding the Green Bank with RGGI monies and using the Green Bank to fund energy efficiency, demand side management, and renewable energy are consistent with the goals of RGGI.

C. Advisory Committee

NYSERDA proposed to establish an Advisory Committee to “include experts in the field, to review the plans for and operations of the Green Bank and provide advice and counsel on best practices for the activities of the Green Bank.”⁵⁸ The meaningful participation of utility representatives on this Advisory Committee would help to ensure the best quality of service to customers across New York State due to the utilities’ direct relationships with customers, knowledge of the underlying energy infrastructure, and the role of energy efficiency Program Administrators in certain Green Bank-financed projects. Such utility participation may also be a mechanism to maximize the likelihood that Green Bank-financed projects are aligned with utility system investments, potentially allowing utilities to defer infrastructure investments. If this can be achieved, it will leverage the Green Bank funding to the benefit of all customers and not just those customers directly accessing the Green Bank monies.

⁵⁸ NYGB Petition, p. 12.

VIII. CONCLUSION

The Joint Utilities respectfully request that the Commission act on the Restructuring Proposal, proposed modifications to RPS programs, and Green Bank capitalization, taking into consideration the comments and concerns set forth above.

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