STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
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Report
07-M-0548
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PUBLIC SERVICE COMMISSION

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December 6, 2007

Hon. Jaclyn A. Brilling
Secretary
NYS Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

2007 DEC -6 PM 4:20

EXEC

Re: Case 07-M-0548 – Energy Efficiency Portfolio Standard – WORKING GROUP 1 REPORT

Dear Secretary Brilling:

Enclosed please find an original and five copies of the Report of Working Group 1 in the above-captioned proceeding.

The filing will be served on the parties electronically.

Respectfully submitted,

Saul A. Rigberg
Assistant Counsel

Enclosure

cc: ALJ Eleanor Stein
ALJ Rudy Stegemoeller
Paul Agresta, Esq.
Active Parties

Case 07-M-0548

Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard

Working Group I: Overall EPS Structure

December 5, 2007 Report

Table of Contents

Executive Summary

Administrative Law Judge (ALJ) Eleanor Stein charged Working Group I with the responsibility to address the overall governance structure and potential funding options for an Energy Efficiency Portfolio Standard (EPS) Program. Specific questions Judge Stein posed to the Working Group are contained in Appendix A.

Working Group I was unable to reach consensus on an overall governance structure for the EPS. As requested by the ALJ, the Group did consider the California and Vermont program models as well as some other approaches such as the Massachusetts and the Northwest Energy Efficiency Alliance models. While no formal vote was taken, Working Group I members generally felt that New York would have to develop its own governance structure to reflect its specific programmatic needs, financial resources and existing expertise. Working Group I members were encouraged to submit for consideration their own governance structure proposals. The Working Group received six (6) proposals which are contained in this Report, with further details included in Appendix C.

Working Group I had extensive discussions regarding these governance models. Proponents were encouraged to clarify or modify their proposals based on these discussions, and all Working Group members were afforded the opportunity to comment on each proposal.

To assist in the evaluation of governance models, Working Group I did reach a consensus on the specific criteria that it recommends the Commission consider in evaluating specific governance structure proposals. These criteria are listed in this report. Working Group I members used these criteria to assess the various governance models proposed by individual parties. These "assessments" are also contained in Appendix C.

While the Working Group was unable to reach consensus on a specific governance structure, the discussion did serve to highlight important structural and programmatic issues that will have to be addressed by the Commission. Given more time, the Working Group would have likely succeeded in flushing out in greater detail some of the policy differences reflected in the different models. However, considering the passion and interest some of these issues provoked, it is unlikely that more time would have produced consensus around a single

governance model. Discussions continue among many Working Group I members in an effort to understand better governance model proposals and to seek areas of potential consensus.

The Working Group also discussed cost allocation and recovery principles pertaining to regional, interclass, and intra-class categories. While the conversation was robust a broad consensus could not be achieved. Elements of the conversation are contained in this report.

Additionally, Working Group I considered funding proposals to finance the EPS Program, which are listed in this Report. Unfortunately, a lack of time precluded the Group from having a fulsome discussion of these options. Working Group I believes that it could productively use more time to complete its examination and evaluation of potential funding sources for the EPS Program. Accordingly, Working Group I respectfully requests the opportunity to file by January 14, 2008 (one month after the December 14, 2007 plenary EPS session) a supplemental report that will focus exclusively on potential funding sources.

Background

Procedural History

In May 2007, the New York State Public Service Commission (the Commission) instituted a proceeding regarding an Energy Efficiency Portfolio Standard (EPS), citing a renewed emphasis on sustainable economic growth and a more efficient use of electricity and natural gas. [1] In this Order, the Commission stated that, given New York's increasing end-user consumption, volatile fossil fuel prices, concerns about greenhouse gas emissions, the vulnerability of the electrical system to supply disruption, and the need for new investment in infrastructure and supply, New York's existing efforts to promote energy efficiency need review, and the most effective methods to increasing energy efficiency need to be determined.[2]

Earlier, in April 2007, Governor Eliot Spitzer announced a comprehensive plan for reducing energy costs and curbing pollution in New York, focusing on energy efficiency, conservation, and investment in renewable energy sources as keys to achieving the State's economic and environmental goals. This plan included a goal of reducing electric energy megawatt-hour consumption by 15 percent below the forecasted level in 2015 through improved efficiency.[3]

Given the announcement of Governor Spitzer and through the collaborative work of the interested parties in the EPS proceeding, it is generally agreed that the achievement of a 15 percent reduction in energy use by 2015 will require a concerted and dedicated effort by all key energy efficiency stakeholders in the State.

In September 2007, Administrative Law Judge Eleanor Stein established four working groups in preparation for collaborative efforts. It was ultimately determined that the scope of the four working groups would focus on the longer-term issues surrounding the EPS. This report encompasses the efforts of Working Group I that was tasked with addressing the overall EPS structure, including the respective

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[1] Case 07-M-0548, *Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard* (issued May 16, 2007).
[2] *Id* at p.2.
[3] Governor's Press Release, April 22, 2007.

roles of NYSERDA, investor-owned utilities, other energy services and efficiency providers and others. In addition, in a Ruling issued on September 13, 2007, Administrative Law Judge Stein provided additional issues and questions to be addressed by each of the four working groups. The questions provided for Working Group I are attached as Appendix A.

Working Group I Efforts

Working Group I is comprised of representatives from various interested stakeholders, including State and local government agencies and authorities, investor-owned and municipal utilities, environmental and consumer groups, municipalities, energy providers, energy efficiency service providers, and others. The Working Group is facilitated by a representative from the New York State Consumer Protection Board (CPB), and co-convened by representatives from the New York State Department of Public Service (DPS) and the Natural Resources Defense Council (NRDC). The Working Group met at two-week intervals since its establishment in September, compiled minutes and deliverables resulting from each meeting, and parties communicated regularly between meetings.

Working Group I provided an update on its progress and activities at the November 5, 2007 Plenary Meeting held in Albany. At that meeting, progress was reported on the development of Governance Model Criteria, the proposal of various governance model structures, the use of an analytical assessment tool for refining the pool of model structures, and initial work on the development of an outline for this report.

Recommended Model Structure(s)

Criteria for Administrative Structure

One early work product of Working Group I was the establishment of Criteria for Administrative Structure. These criteria are intended to guide the group in its analysis and assessment of the different proposed governing models sponsored by Working Group I representatives. After much discussion, the Working Group agreed on the criteria listed in Table 1. The criteria are numbered for easy reference only and are not intended to be prioritized.

Table 1. Criteria for Administrative Structure

Criteria for Administrative Structure
1. Does the model facilitate the least-cost administration and achievement of the EPS goal?
2. Does the model provide an opportunity for the interests of the broad range of stakeholders to be served?
3. Do the entities responsible for meeting the EPS goals have the authority and the opportunity to meet these responsibilities?
4. Does the model take advantage of the inherent strengths of the various participants and present a coherent structure for coordination and cooperation?
5. Does the model minimize unnecessary functional overlap and duplication of effort?
6. How well does the model take advantage of the salient features of the existing and emerging program development and delivery infrastructure?
7. Is the model flexible enough to accommodate differing conditions (*e.g.*, geographic, climatic, load, institutional) across the State? Is the model robust enough to adapt to changing circumstances?
8. Where appropriate, does the model enable the seamless, integrated delivery of electric and gas efficiency programs?
9. Is the model structured to allow meaningful and timely input, oversight, feedback and reallocation of effort and resources?
10. Does the model contain structures for independent monitoring, verification, auditing, and reporting of results? Does the model ensure that the entity(ies) responsible for program administration are effectively moving towards achieving energy efficiency goals and are held accountable for achieving program goals?
11. Are the entity(ies) responsible for program administration appropriately incentivized or otherwise committed to secure cost effective energy efficiency and ultimate success of the program? Is there demonstrable interest by the named entity in serving in this capacity?
12. Does the model promote the elimination of disincentives and align interests relative to participants' roles?

Model Evaluation and Recommended Approach for New York Model

In its endeavor to consider the best approach for New York in implementing the goals of the EPS proceeding, Working Group I began gathering information on energy efficiency efforts in other jurisdictions that are considered to be successful by general industry standards. A general consensus was reached that none of the governance structures reviewed and debated represented an appropriate model for New York due to the structure for energy efficiency programs that was already in place, as well as other unique characteristics of the State. Some specific attributes of the structures in other states that promote collaboration of interested parties, however, could be applied in New York. The Working Group agreed upon the use of an analytical tool to assess recommended governance model structures as sponsored by various members of the Working Group.

PSC-Jurisdictional Administration and Governance

Working Group I reviewed five existing energy efficiency procurement models from particular State jurisdictions considered to be leading national efforts in this area. The purpose of this effort was an attempt to identify governance structures or program elements that might be replicated in New York. Ultimately, the review of these non-New York governance models was used by Working Group I as an input to the development of its Governance Model Assessment Template, discussed below in this Report.

The five jurisdictions reviewed by the Working Group included California, Vermont, Massachusetts, Connecticut and the Northwest Energy Efficiency Alliance comprised of Oregon, Washington, Idaho and Montana. A brief synopsis of the approaches taken in these respective jurisdictions is depicted in Table 2. The full presentations discussed by the Working Group are attached as Appendix B.

Table 2. Other Jurisdictional Models for Delivery of Energy Efficiency

California

California has been operating large-scale energy efficiency programs since 1998.

Authority: legislative mandate on Public Utilities Commission (CPUC plus legislative authorization of System Benefit Charge (SBC). Also a State Energy Plan that mandates energy efficiency as the first resource in the "loading Order" for the procurement of pong-term resources by utilities.

Scope: Four investor-owned utilities (SDG&E, SCE, SCG and PG&E). Does not cover major municipal utilities (Los Angeles and Sacramento)

Administration: by utilities pursuant to a competitive procurement held by the CPUC. Utilities must subcontract a minimum of 20% of total funds to third-party administrators, who run their own programs. Third parties include private companies as well as government entities such as municipalities, state government agencies and state university systems. Continued utility administration dependent on their ability to achieve goals set by the CPUC.

Stakeholder Participation: Program Review Groups (PRG), composed of parties with no financial interest in programs, review and approve utility procedure for bidding and letting third-party administration contracts. Program Advisory Groups (PAG), composed of a broad range of stakeholders, advise the utility administrators on the composition of the program portfolios. At the end of 2007, PAGs are being replaced with a public strategic planning process. PRGs will continue to operate.

Goals: Program administrators (utilities and third parties) must short and long-term achieve program goals, which are variously defined as acquiring all cost-effective energy efficiency resources and/or offsetting all future load growth with energy efficiency.

Program Cycle: three years

Program Funding: about $600 million per year, approximately half from an SBC surcharge and half from utility supply procurement budgets

Evaluation, Monitoring and Verification (EM&V): Budget is approximately 8% of total program funding. All EM&V provided by CPUC-approved third-party contractors. Utilities contract for process evaluations; CPUC contracts for impact (savings) evaluations.

Incentives and Disincentives: Utilities can earn an incentive that ranges from 8 to 12% of net program value to customers. Utility revenue decoupling that removes the throughput disincentive.

Vermont

Vermont has been operating Efficiency Vermont, an "energy efficiency utility", since 1999.

Authority: Authorization is legislative and regulatory.

Scope: Serves customers of all investor-owned, municipal and cooperative utilities.

Vermont, Cont'd.

Administration: Third-party not-for-profit company, selected by competitive procurement, which operates on a performance contract. Administrator reports to the Public Service Board (PSB).

Stakeholder Participation: Not clear from write-up.

Goals: Set by negotiation between the PSB, the Efficiency Vermont administrator, the Department of Public Service and the Efficiency Vermont Contract Administrator. Current results have cut load growth by about 50%.

Program Cycle: Administrator has a five-year contract, and adjusts program portfolio to achieve negotiated goals.

Program Funding: Provided by surcharge on electric utility rates. Vermont currently has the highest per capita spending on energy efficiency programs of any state in the country.

Evaluation, Monitoring and Verification (EM&V): Responsibility of the Department of Public Service.

Incentives and Disincentives: Efficiency Vermont administrator has a performance incentive, which is paid at the end of each contract term. Utility throughput disincentives are not a factor since they do not administer programs.

Massachusetts

Massachusetts utilities have been operating energy efficiency programs for more than two decades.

Authorization: The programs are currently operated under legislative authorization that was part of the electricity de-regulation of the late 1990s and mandates electric utility programs and the level of the SBC charges. Gas utilities operate voluntary programs, as negotiated with the Massachusetts Department of Public Utilities (DPU).

Scope: Includes all investor-owned electric utilities. Municipal electric utilities operate voluntary programs.

Administration: Utilities are responsible for program planning, implementation and evaluation. Regulation is bifurcated between the Massachusetts Division of Energy Resources (DOER), which oversees ratepayer-funded programs and reports on the consistency of the programs with state energy policy, and the DPU, which determines program cost-effectiveness and reviews program evaluations to document the performance-based shareholder incentives that utilities can earn.

Stakeholder Participation: The utilities work with a Collaborative, composed of representatives of the full range of Non Utility Party (NUP) stakeholder interests, to reach a consensus about energy efficiency program plans, goals, cost-effectiveness analyses and shareholder incentive proposals. The utilities, using System Benefit Charge collections, fund consultants to staff the NUPs' participation in the Collaborative.

Program Cycle: Electric utilities have a one-year program cycle. Several gas utilities have negotiated five-year program cycles at agreed-upon funding levels.

Massachusetts, Cont'd.

Program Funding: Electric utilities are funded through a System Benefit Charge set by the legislature. Gas utilities are funded through rate surcharges established in negotiation with the DPU.

Evaluation, Monitoring and Verification (EM&V): Performed by the utilities, with reviews by the DOER and the DPU.

Incentives and Disincentives: Utilities can earn a shareholder incentive by achieving goals established by the Collaborative and reviewed by the DOER and DPU. Utilities are potentially subject to a throughput disincentive.

Connecticut

Connecticut utilities have been operating energy efficiency programs for more than two decades.

Authorization: Electric programs are currently operated under legislative authorization that was part of the electricity de-regulation of the late 1990s and mandates electric utility programs and the level of the conservation charges. Gas utilities operate program under DPUC direction.

Scope: Includes both investor-owned electric utilities. Municipal electric utilities operate voluntary programs.

Administration: Utilities are responsible for program implementation. Program planning, design and evaluation are developed under the Energy Conservation Management Board (ECMB), a legislatively-mandated board including state agencies, consumer groups, the utilities, and environmental groups. The ECMB is moving to increase integration of electric, gas, and municipal programs. The plans are approved by the Department of Public Utility Control (DPUC).

Stakeholder Participation: Major stakeholders are represented on the ECMB, which generally reaches consensus about energy efficiency program plans, goals, cost-effectiveness analyses and shareholder incentive proposals. The utilities, using conservation collections, fund ECMB consultants.

Program Cycle: Electric utilities have a one-year program cycle.

Program Funding: Electric utilities are funded through a conservation charge set by the legislature. Gas utilities are funded through rate surcharges established by the DPUC.

Evaluation, Monitoring and Verification (EM&V): Performed by the ECMB.

Incentives and Disincentives: Utilities can earn a shareholder incentive by achieving goals established by the ECMB and reviewed by the DPUC.

Northwest Energy Efficiency Alliance (NEEA)

The NEEA creates and manages market transformation programs in four northwestern states: Oregon, Washington, Idaho and Montana.

Authority: Established by the Bonneville Power Authority (BPA) in conjunction with its customer utilities and other regional energy efficiency entities.

Scope: Serves the territories of public and investor-owned utilities in the four states.

NEAA Cont'd.

Administration: NEEA staff manage programs that are delivered by third-party contractors.

Stakeholder Participation: Not clear from the write-up.

Program Cycle: Five years.

Program Funding: Voluntary commitments from utilities and from the Energy Trust of Oregon.

Evaluation, Monitoring and Verification (EM&V): Third-party contractors conduct program evaluations, under contract to NEEA.

Incentives and Disincentives: NEEA does not earn performance incentives. Some utilities in the region operate under revenue de-coupling regulation.

The discussions also included references to certain historical and existing energy efficiency programs from New York's experience and their relative merit going forward in meeting the goals of the EPS. Based on. As no general consensus emerged that any one of the particular models reviewed by the Working Group represented an ideal or comprehensive approach for New York, the Working Group discussed and agreed to use an analytical tool for the governance models proposed by certain participants ("Model Proponents") in the Working Group. The analytical tool (the "Workbook") stemmed from the Working Group's consensus on the Criteria for Administrative Structure and provided a means to evaluate each proposed model against a common set of criteria for purposes of promoting further refinement of the models, as well as for more uniform comparisons among the various models. The results of this effort are attached in their entirety as Appendix C.

Initial models were offered by the DPS, the Independent Energy Efficiency Program (IEEP), the Joint Utilities (JU), the Natural Resources Defense Council and Pace Energy Project (NRDC/Pace), the City of New York, and NYSERDA.

Department of Public Service Governance Model

- Multi-Year Planning Process - Staff proposes an ongoing multi-year collaborative EPS energy efficiency planning process whose objective would be to provide recommendations to the Commission regarding: the EPS portfolio's content, program design elements and objectives, program administration, program budgets and goals, program administration reports and related policies on a two- or three-year cycle (with the flexibility for modest mid-cycle adjustments). This collaborative process would be administrated through an EPS Advisory Council facilitated by DPS Staff. The EPS Advisory Council would process and develop recommendations by creating and guiding as necessary the work effort of standing and ad-hoc committees focused on specific tasks and issues. It would also discuss and incorporate monitoring and evaluation analyses into the EPS planning process. This multi-year planning process for energy efficiency would be an element of any overall statewide energy planning effort and be informed by the planned actions and initiatives by entities beyond those under the Commission's direct jurisdiction.

- Principal Representation on the Advisory Council and its committees would be subject to the Commission's approval and would likely include: the lead EPS program administrators (NYSERDA, DHCR, the utilities subject to the Commission's jurisdiction, and any other authorized third-party EPS program administrators), as well as representatives of other major EPS stakeholders and constituencies such as: the NYISO, consumer groups, environmental groups, industry trade associations (including those representing competitive energy commodity providers), and regional representation including New York City and the North Country, etc). It would be highly desirable to also have participation and representation from other state entities (DOS, LIPA, NYPA, and DASNY) on the Advisory Council. Participation by these other agencies would provide an important mechanism to gather the information needed to accurately incorporate their plans and initiatives into the achievement of the 15x15 goal for electric usage and for a similar gas statewide efficiency goal. That information would be a necessary and valuable input in determining the extent of the effort required by utilities and other resources under the Commission's jurisdiction to achieve the State's EPS goals. The voluntary participation by the NYISO would be critical in ensuring that the technical aspects of the Advisory Council's planning activities are sufficiently coordinated with the reliability and other planning processes of the NYISO.

- EPS service providers which are under contract to deliver energy efficiency services to ultimate customers or which seek such contracts would not be sitting members of the Advisory Council or its committees;

however, those interests could submit recommendations, offer proposals and make presentations directly to the Council or its committees.

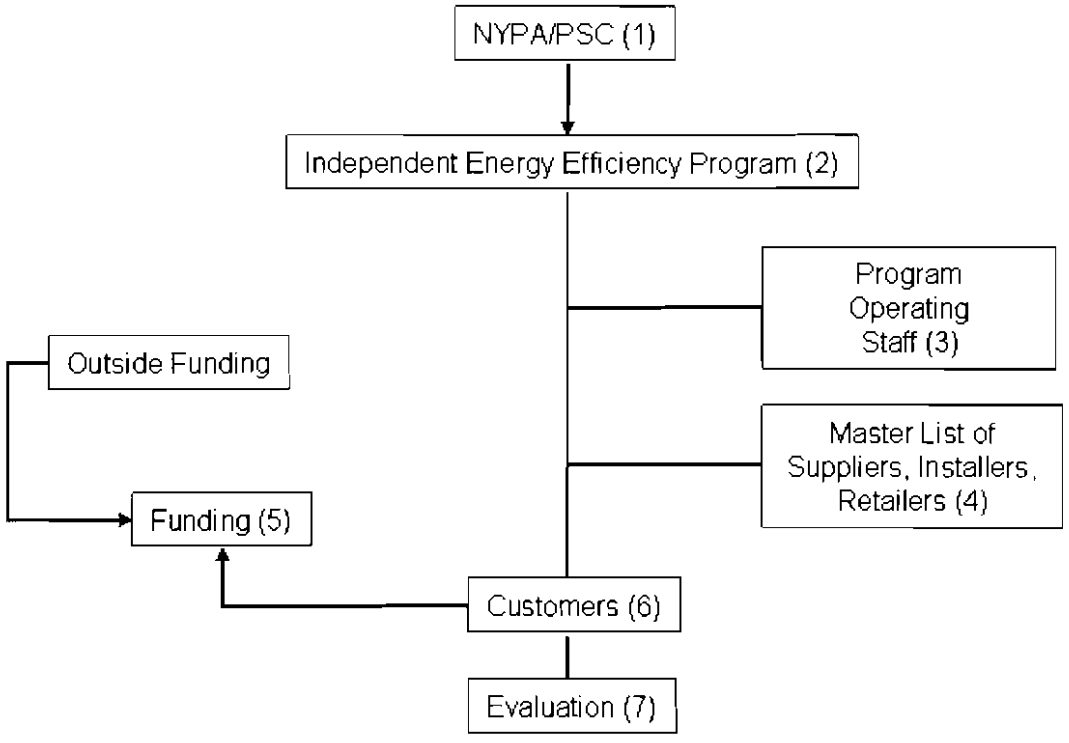
- Standing Committees could include: Planning and Analysis; Monitoring and Evaluation, EPS Programs; Research & Development, etc. There could be multiple EPS program committees focused on specific programs, regional issues or market sectors, e.g., New Construction; Metropolitan NYC Issues, North Country Issues, Gas Programs, etc.

- Recommendations emanating from the Advisory Council and its committees, whether representing a consensus decision or majority or minority views, would be filed with the Commission, which would follow its normal procedures in processing the filing. These include public notice pursuant to SAPA and preparation of a session item by Staff or assignment of an ALJ, who may issue a Recommended Decision (RD), and, ultimately, the Commission may issue a decision. No party would be bound by the positions taken in the Advisory Council's filings and any party would be able to prepare an independent position. Participants in the Advisory Council's process would also be free to negotiate settlements with other parties related to the Advisory Council's recommendations to the Commission.

- Program administrators would implement EPS programs under the direct oversight of DPS Staff and be held accountable by the Commission regarding the utilization of program budgets and maintaining vigilance as to the cost effectiveness of programs as well as meeting their allocated share of the EPS goals.

- EPS Program monitoring and evaluation activities focused on programs funded by rates and tariffs under the Commission's jurisdiction would be informed by a Monitoring & Evaluation Collaborative Task Force subject to the Commission's jurisdiction. The required studies, analyses and reports would be conducted by entities that are independent of the EPS program administrators and provider contractors they are evaluating.

Independent Energy Efficiency Program Governance Model



(1) NYPA is the primary reporting and supervisory agency for the IEEP. The NYPSC has overall regulatory responsibility for IEEP members that come within NYPSC jurisdiction. NYPA and NYPSC have approved funding of the IEEP

(2) The IEEP members executed a 2003 "Global Settlement" pursuant to which, *inter alia*, the systems committed to pursue enhanced energy efficiency programs The systems do so through the IEEP.

(3) IEEP serves the energy efficiency, renewable resource and system benefit technology needs of municipal utility members. Primary responsibility is achieving energy efficiency goals. Programs funded outside SBC with customer funds and non-customer generated funds.

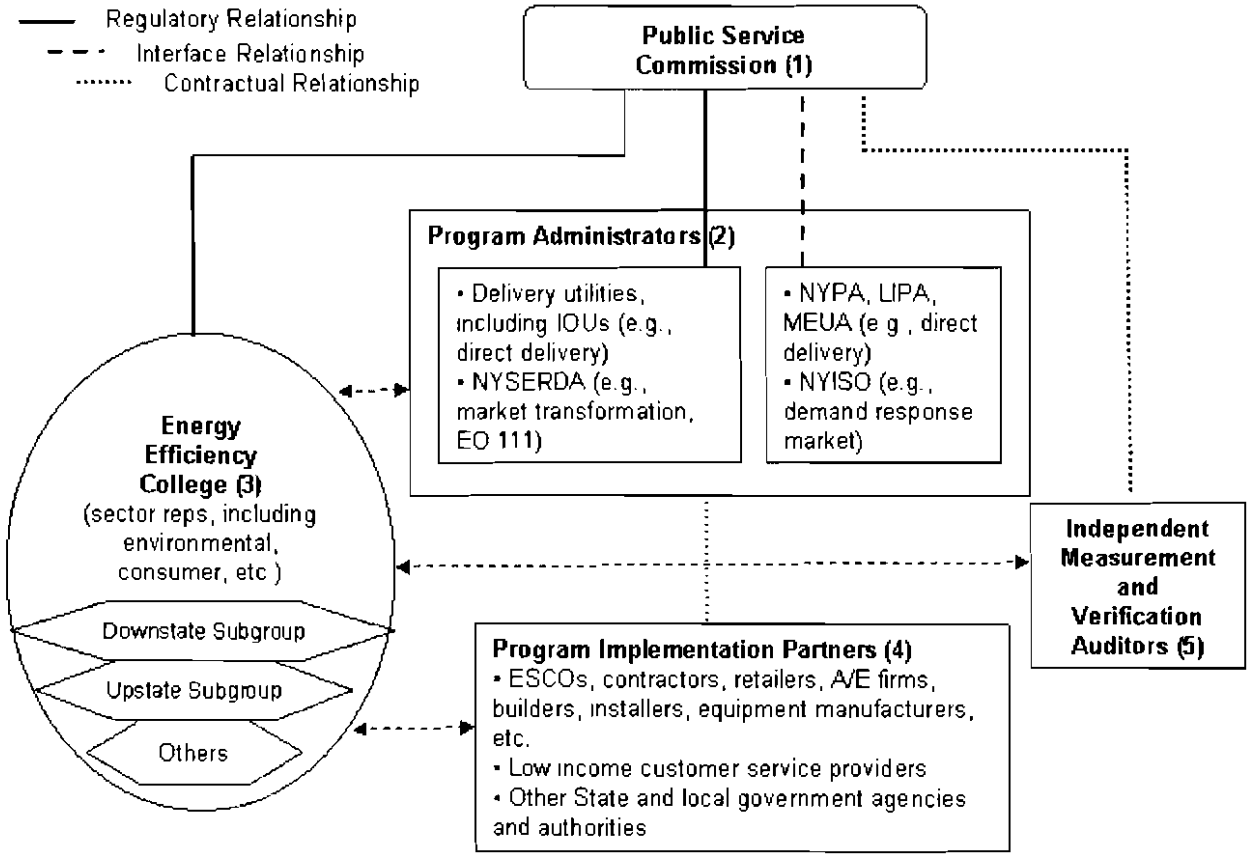
(4) IEEP operating team and "Master List" of contractors, suppliers, retailers Close relationship with NYSERDA

(5) Programs funded through 1 mill/kWh assessment on customers, and funds from outside grants No redistribution of rate among member systems.

(6) Customers of IEEP members represent approximately 80,500 meters in 25 municipal electric and gas utilities

(7) Ongoing evaluation of installed technologies in direct energy benefit, non-energy benefit and environmental impact

Joint Utilities Governance Model



- Focuses on retail marketplace success via (a) customer receptivity; (b) knowledge of retail customer preferences; (c) quickness and flexibility in the marketplace
- Emphasizes (a) bottom-up nature of retail marketplace (assumes on-going market transformation); (b) simplicity; (c) Accountability.

(1) PSC: Ultimate approval authority. Oversees M&V Auditors.

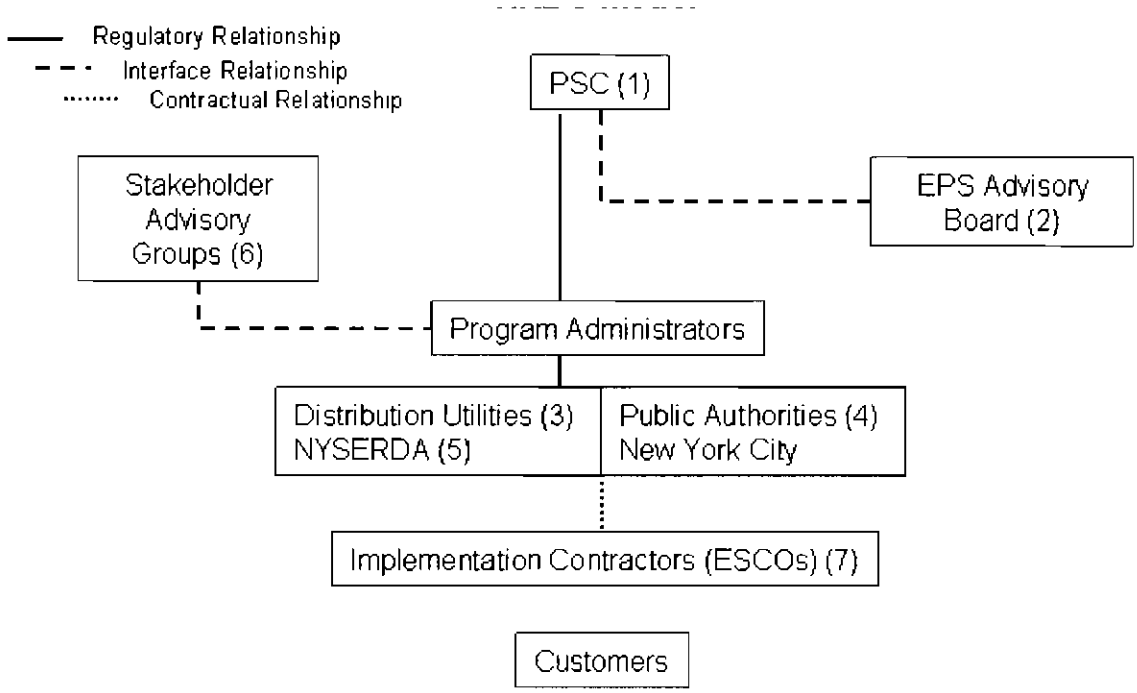
(2) PAs: Primary responsibility for achieving EPS objectives. Specific performance targets & metrics. Standardized M&V protocols Annual plans & reports. Expand reach of NYSERDA programs & expand beyond NYSERDA programs. Close working relationships among PAs, particularly where service territories/target markets overlap & programs present opportunities for synergy

(3) EEC. Voluntary participation by market participants Note intended to mimic NYISO committee structure or operation. Informational (not governing) body providing insight & analysis to all market participants to encourage "best practices". Opportunity for input into plans, methodologies, protocols. Agenda & scope collaboratively developed for PSC approval Conducts annual seminar and publishes annual "proceedings". Intended to separate information exchange from advocacy and regulatory action

(4) PIPs Contract with PAs to provide services (e g , portfolio & program design, load & market research, marketing & customer recruitment, implementation & delivery, evaluation, M&V) or kW/kWh/Dt/peak day Dt savings

(5) M&V Auditors Independent review of PA M&V to ensure integrity & validity of results Annual reports to public/Governor.

NRDC/Pace Energy Project Governance Model



- Non-savings goals for such criteria as equity and comprehensiveness should also be set.
- Assumes effective RDM, annual or multi-year incentives tied to successful performance (e.g. 9% net benefits for 85% target, 12% of net benefits for 100% or more of target), penalties tied to poor performance (e.g. 65% target or less). Award of incentives based on independently verified efficiency achievements and total resource benefit.
- Program administrators use consistent metrics and protocols to identify savings. Program administrators would integrate, wherever possible, delivery of electric and gas efficiency programs.

(1) PSC: Ultimate approval authority for EPS programs administered by DisCos and NYSERDA.

(2) EPS Advisory Board: Provides oversight of all components of evaluation program, similar to SBC Advisory Group

(3) Distribution Utilities (DisCos): Primary responsibility for achieving objectives Responsible for program administration and integrated delivery. Specify service area targets (2010, 2013, 2015). Funding by discos as alternative to supply purchases

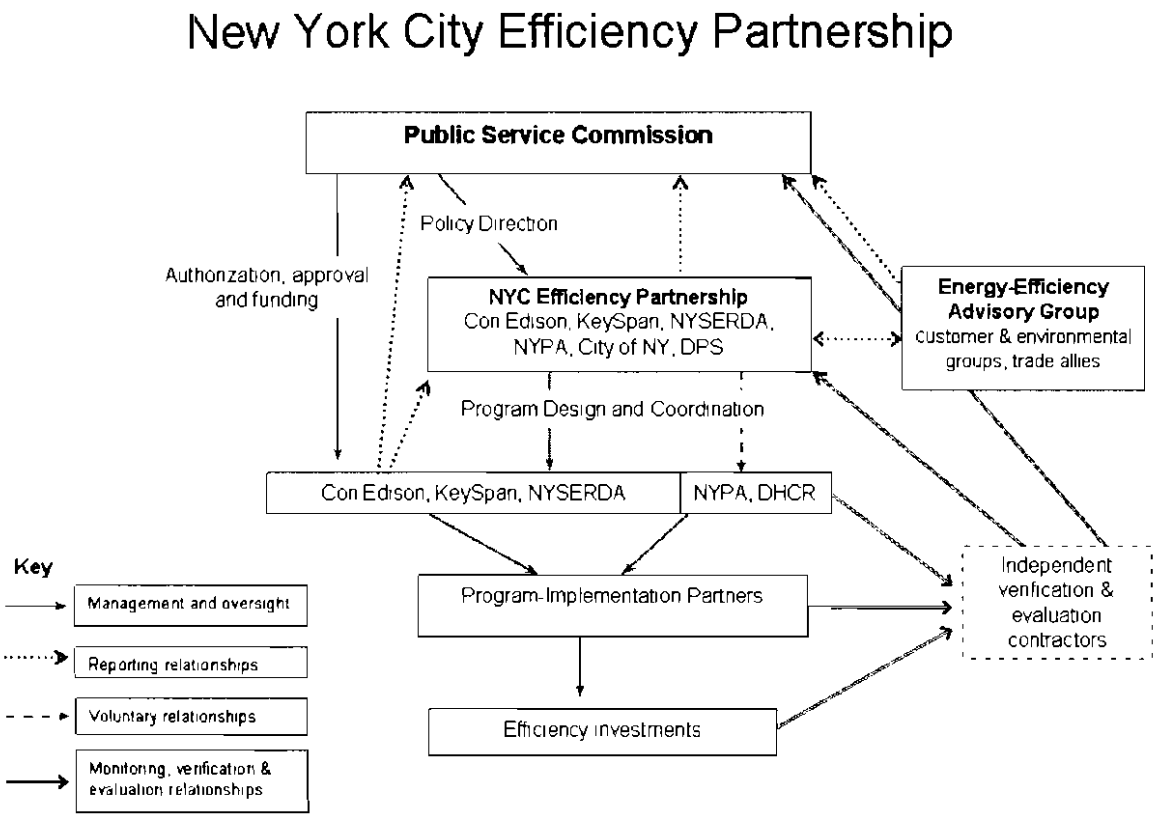
(4) Public authorities: New York Power Authority (NYPA) and Long Island Power Authority (LIPA) responsible for the development and administration of energy efficiency programs for their customers NYPA and LIPA expected to meet EPS target of 15% energy reduction by 2015

(5) NYSERDA: Facilitates coordination among program administrators and assumes lead responsibility for providing regional, upstream and market transformation services.

(6) Stakeholder Advisory Groups: Forums for regularized stakeholder input into the development and implementation of electric and gas efficiency programs by program administrators

(7) Implementation Contractors (ESCOs) Primary mechanism for delivery of efficiency programs pursuant to contracts with program administrators.

City of New York Governance Model



The PSC has authority over essentially everything the regulated entities do in energy efficiency: efficiency goals and objectives, programs, savings targets and overall budgets, rate treatment, decoupling mechanisms and utility incentives; funding mechanisms and cost recovery.

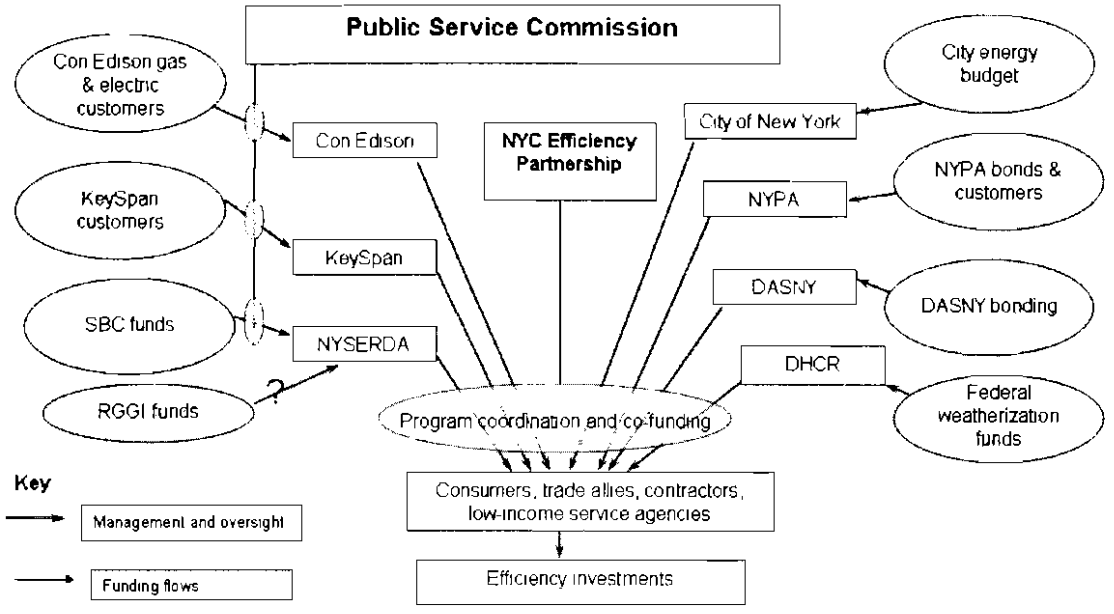
Regulated parties report directly to the PSC on the schedule the PSC sets, providing its program plans, results, and financial and ratemaking data. If possible, utility and NYSERDA filings would be accompanied by a Partnership report on the integrated portfolio, MV&E, and other relevant issues.

The Partnership prepares integrated plans; coordinates roles, cost-sharing, and inclusion of City and NYPA loads in utility and NYSERDA programs; reviews administrators' programs for consistency and coordination; recommends utility incentive structures and supervises MV&E.

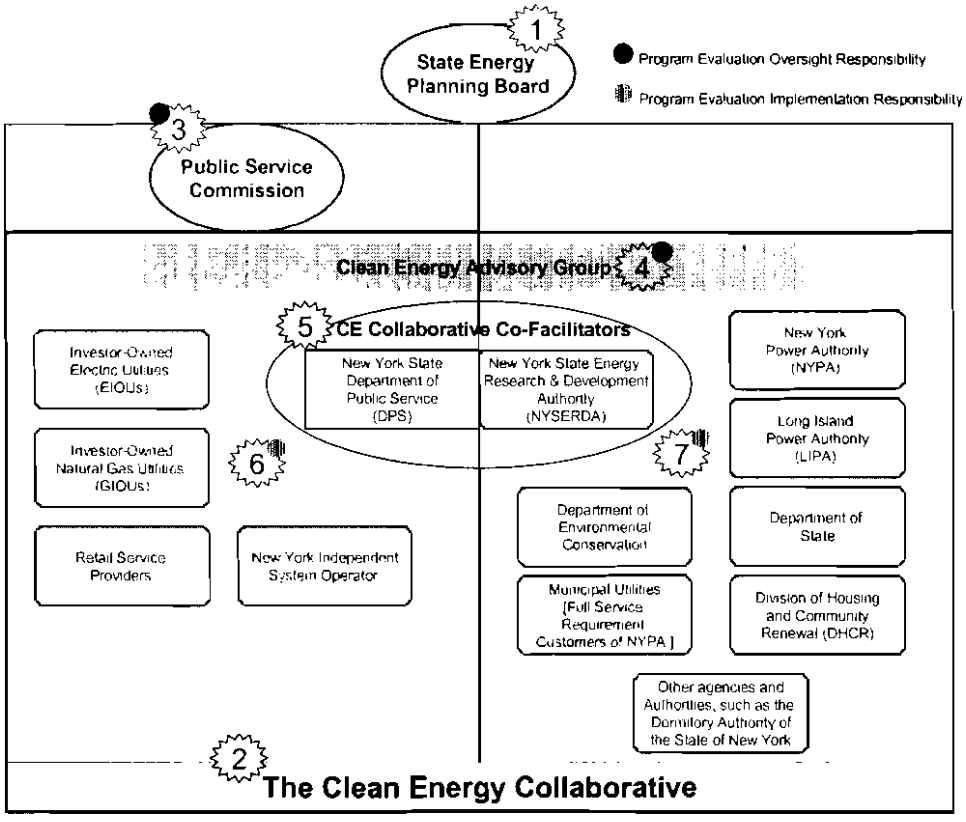
Similar Partnerships could be established for Long Island, the Hudson Valley and Upstate. Coordination among regions and statewide would be the responsibility of NYSERDA and the utilities operating in multiple Partnerships. To the extent that DPS retains an oversight role, it would be an observer in the Partnerships.

As shown in the next figure, the PSC would retain control over ratepayer funds, and each party would be responsible for the prudent use of its funds through the integrated program designs.

Funding for NYC Efficiency Partnership



NYSERDA Governance Model



(1) State Energy Planning (SEP) Board provides primary energy policy guidance for New York State. However, the implementation of NYSERDA's model while benefiting from the SEP Board is not dependent upon the creation of the Board.

(2) Clean Energy Collaborative (CEC): Deliberative body to discuss and guide energy efficiency and renewable energy resource efficiency and alternate fuel programs in the transportation sector, economic development programs designed to expand the infrastructure to support deployment of advanced energy technologies and attract manufacturing and R&D activities to New York, and other activities as they contribute toward the development of a Statewide clean energy strategy. In the context of the EPS, the CEC would address electricity and natural gas efficiency plans, programs and services.

(3) PSC: Approve jurisdictional funding, implementation plans and budgets. Oversees programs and implementation. Has ultimate responsibility to receive reports on evaluation and progress toward goals.

(4) Clean Energy Advisory Group (CEAG): Provides oversight of all components of evaluation program, similar to SBC Advisory Group. Provides reports and guidance to the CEC.

(5) CEC Co-Facilitators: Call and preside over meetings of the CEC, set agendas. Consider and evaluate perspectives brought to the CEC and advise their respective bodies, accordingly.

(6) Private Sector Entities: Program Administrators that plan and implement energy savings initiatives; determine budgetary needs; implements evaluation program in accordance with CEAG guidance; and provide recommendations to meet those needs under the guidance and direction of their respective decision-making bodies.

(7) Public Sector Entities: Program Administrators that plan and implement energy savings initiatives; determine budgetary needs; implements evaluation program in accordance with CEAG guidance; and provide recommendations to meet those needs under the guidance and direction of their respective decision-making bodies.

Workbooks to evaluate the six models using the Working Group I criteria were sent on November 9, 2007 to all members of the Working Group, as well as to all parties who receive e-mail via the proceeding listserv.

Working Group I members were offered the opportunity to provide detailed comments ("assessments") of each governance model that was submitted. The detailed assessments of each model is provided in the results report attached as Appendix C. Overall, no one model emerged as consistently superior or inferior to the others based on this evaluation. Most models received mixed ratings on most criteria. The ratings, comments, and suggestions provided by the parties offer insightful guidance concerning how each model could be improved, or alternatively, how a new model might be developed based on the desirable or enhanced characteristics of each of these initial concepts.

Coordination of Existing Efforts and Non-PSC Jurisdictional Organizations

Working Group I was not charged with the task of determining quantitatively the amount of savings that should be targeted by the Commission and has assumed that a process will be employed by the Commission to develop estimated annual targets for savings that would be directly funded by ratepayers. Some of the proposed governance models, however, acknowledge the importance of this issue.

Although no formal discussion were conducted or conclusions drawn, Working Group I participants acknowledged, several discrete planning efforts currently underway in New York that could either impact or inform efforts in the EPS proceeding. These planning efforts include activities currently undertaken by the New York Independent System Operator (NYISO), transmission owners (TOs), DPS and NYSERDA.

In this vein, Working Group I also discussed, although not at length, the notion of energy efficiency "wedges" that graphically represents the "15 by 15" goal and that was initially introduced at the July 19, 2006 Overview Forum in this proceeding. No consensus was reached with regard to the possible application of the "wedges," however, the Working Group did acknowledge a non-exhaustive list of efforts that would likely count toward the achievement of the EPS goals. The list

includes: customer-funded efficiency programs; enhanced building codes; enhanced appliance and equipment standards; leveraging State-initiated programs with federal programs; self-sustaining financing opportunities; voluntary efforts; and transmission and distribution efficiency gains.

As stated earlier in this Report, moreover, since the announcement of the Governor's "15 by 15" goal, a number of energy efficiency planning efforts have been initiated and are underway, including the EPS proceeding. Parallel with this proceeding, a Clean Energy Collaborative (CE Collaborative)[4] of State agencies and authorities has been formed to provide the coordinated leadership needed to support these public policy goals. The CE Collaborative is compiling information to quantify the State agencies' and authorities' contribution to the 15 by 15 electricity efficiency goal. Additional data on natural gas savings associated with existing energy efficiency programs, as well as proposed programs targeting natural gas savings is being evaluated.

It is expected that the collective energy efficiency contribution of the State agencies and authorities will be combined with private sector contributions as determined through the EPS proceeding and other initiatives led by DPS, acting under the guidance and direction of the Commission.

[4] The New York State agencies and public authorities supporting the efforts of the CE Collaborative: NYSERDA, NYPA, LIPA, DOS, DHCR, DASNY, DEC, NYSTAR, and OGS.

EPS Funding

After spending much of its time on establishing the Criteria for Administrative Structure, developing original governance model proposals, agreeing on and applying an analytical tool to assess the various proposed governance models, little time remained available to assess EPS funding issues and options. As such, Working Group I developed a non-exhaustive, preliminary list of potential EPS funding types.

This list, presented below in Table 3, is provided without the benefit of careful deliberation by the Working Group, and therefore is devoid of any analytical refinement. Furthermore, the order of the list is arbitrary and not intended to assign priority or viability judgments to individual funding sources. The purpose of the list is for further discussion and its inclusion in the report does not reflect group agreement on the appropriateness of the funding sources listed or omissions. There is general consensus among the Working Group I representatives that approximately one additional month would be necessary to provide a more refined EPS funding work product.

EPS Costs

Working Group I discussed a number of cost-related issues pertaining to the implementation of an EPS. These issues are described below. In limited instances, there was general consensus among Working Group I participants as to certain cost-related principles. For the most part, however, widespread consensus was not achieved, although the discussion of certain issues to date has been relatively limited.

The description of cost-related issues set forth below purposefully excludes arguments for and against certain positions. The drafting, revising and discussion of such positions would require considerably more time than that allotted to date. It presently is not clear to Working Group I whether further discussions would result in additional consensus, or if further work on refining the issues and positions both for and against certain cost-related principles is warranted.

Table 3. Potential EPS Funding Mechanisms

Wholesale market funding

NYISO demand programs
NYISO forward capacity market
RGGI auction proceeds
CAIR auction proceeds
Energy efficiency credits ("white tags")

Other private market funding

Customer self-funding
Loans & mortgages (taxable)
Loans & mortgages (tax-exempt)
Tax-exempt capital leases
On-Bill Financing [proposed]
Tax-exempt operating leases [proposed]
NYSERDA Energy Smart Loan Fund
Private Investment Incentive Fund [proposed]
Power Authority of the State of New York ("NYPA")
Vendor/trade association financing
ESCO Financing / Performance Contracting

Utility distribution rates

SBC surcharge
Gas/electric efficiency surcharge
Rate base
Dynamic pricing

Utility/ESCO supply charges

First year of customer efficiency savings
Mandated purchase of demand resources as component of all gas & electric commodity
Time-of-Use Rates, Real-time Pricing, Dynamic pricing

Federal/State/local government funding

Tax-exempt municipal financing
Municipal utility surcharges
State agency budgets
NYS and municipal tax and fee credits
NYS pension funds
Empire State Development Programs
State and municipal high efficiency standards
Federal energy tax deductions & credits
DOE grants
HEAP funds

Cost-Related Issues Should Be Resolved Contemporaneously With the Establishment of the EPS Program

While it may not be possible for the Commission to resolve all details of every cost-related issue in advance of implementation of the EPS, the Commission should, at a minimum, establish general principles on cost-related issues before the implementation phase. Because the EPS is expected to include – but not be fully reliant upon – the implementation of customer-funded energy efficiency programs, Working Group I participants believe it is very important for the Commission to resolve cost-related issues at the same time it address the overall portfolio approach. To the extent customers fund the EPS Program, there should be a high degree of regulatory certainty as how to cost-related issues – such as allocation and recovery – will be handled.

The Rate and Bill Impacts of the EPS Should Be Minimized

There is general consensus among Working Group I participants that the rate and bill impacts of the EPS should be minimized, as much as possible, consistent with achieving the EPS goals. As detailed elsewhere, there are many potential means of achieving EPS goals, including, but not limited to, reliance on more stringent building codes and appliance standards, market-based efficiency projects, voluntary customer-driven efficiency projects, increased financing opportunities, and measures intended to reduce transmission and distribution line losses. While Working Group I participants recognize that customer-funded efficiency programs will be needed to achieve EPS goals, there is general agreement that the rate and bill impacts of the EPS should be minimized. New York State's electricity prices are among the highest in the country, and to the extent EPS goals can be achieved through means other than customer-funded programs, those opportunities should be pursued aggressively in order to minimize the rate and bill impacts associated with the EPS.

Relationship between Sources and Uses of Customer Funding

Working Group I discussed a number of issues related to the relationships between the sources and the uses of customer funding of energy efficiency programs. Those issues related to: (a) "tracking" of EPS funding and expenditures; (b) exemptions; (c) interregional equity; (d) interclass equity; and (e) intra-class equity.

Tracking of EPS Funding and Expenditures

For the past several years, energy efficiency programs have been funded through the SBC, which is a constant per kWh charge that is collected from delivery customers and flowed to NYSERDA on a utility-by-utility basis. The extent to which dollar amounts collected from each utility's service territory were returned back to the specific area (less amounts for general activities) were not evaluated by the Working Group. To the extent that the SBC is expanded to fund EPS projects, or new rate elements are established to fund future energy efficiency activities, there is general agreement that better tracking of the uses of customer-provided funds back to the originating service territory should be required.

Exemptions to EPS Surcharges

Working Group I participants discussed the need to reconcile the costs of pursuing EPS goals and the State's economic development objectives. This is particularly important Upstate, where high energy costs are a critical barrier to job retention and attraction efforts. Participants discussed, but did not reach consensus on, the issue of exemptions to energy-efficiency funding through utility rates. As detailed above, it is anticipated that EPS goals will be achieved through a variety of initiatives, including customer-funded efficiency programs. One issue that warrants consideration is the existence and scope of customer exemptions to EPS surcharges. For instance, Department of Public Service Staff previously proposed that interruptible gas customers be exempted from EPS surcharges for economic development purposes. Some advocated that, in addition to interruptible gas customers, New York Power Authority allocations and flex-rate contracts be exempted from EPS surcharges. Other Working Group I participants are opposed to exemptions, in whole or part.

Some were concerned that, if too extensive, exemptions would limit the funding available and impede the market penetration of programs. Also, some recommended that there should be provision for exempted customers to "opt in" by paying their share of the SBC and EPS charges and thereby establish their eligibility to participate in these programs. The discussion of this issue during the Working Group deliberations was somewhat limited.

Inter-regional Equity

Working Group I participants discussed, but did not reach consensus on, the issue of whether EPS-related costs should be recovered in a manner that promotes interregional equity. As detailed above, it is anticipated that achievement of EPS goals will require the implementation of customer-funded energy efficiency programs. Those programs will result in subsidies or other benefits being allocated to certain customers, and the costs of the programs will need to be recovered from certain customers. Some Working Group I participants contend that, to the extent possible, EPS-related costs should be recovered in a manner that promotes interregional equity. For instance, these parties contend that New York City customers should not be forced to pay for efficiency programs implemented in Buffalo, and Buffalo customers should not be forced to pay for efficiency programs implemented in New York City. In other words, according to these parties, regional cost recovery should follow, or generally be consistent with, regional cost incurrence. Some Working Group I participants disagree, and do not believe EPS-related costs should be recovered in a manner that promotes interregional equity. Other Working Group I participants are concerned that interregional equity will be difficult, if not impossible, to achieve, and that it may be in conflict with Statewide priorities. These parties also have concerns as to how the concept of interregional equity would be defined and pursued.

Inter-class Equity

Working Group I participants discussed, but did not reach consensus on, the issue of whether EPS-related costs should be recovered in a manner that minimizes inter-class cross subsidies.. As detailed above, it is anticipated that achievement of EPS goals will require the implementation of customer-funded energy efficiency programs. Those programs will result in benefits being allocated to certain

customers, and the costs of the programs will need to be recovered from certain customers. Some parties contend that, to the extent possible, EPS-related costs should be recovered in a manner that promotes interclass equity. These parties assert that costs should be recovered on a customer segment, or service classification, basis. The most rigorous application of this principal would require that: (a) EPS program costs related to residential customers be recovered solely from residential customers; (b) EPS program costs related to small commercial and industrial ("C&I") customers be recovered solely from small C&I customers; and (c) EPS program costs related to large C&I customers be recovered solely from large C&I customers. Costs would be tracked, as incurred, and recovered from the responsible customer segments or service classifications, whichever is most practicable. Less stringent applications of the principal would require monitoring of the distribution of charges and benefits, and periodically adjust funding or program design to maintain a rough balance among classes.

Some Working Group I participants oppose the adoption of interclass equity as a principle for cost recovery or are supportive of the concept except regarding low income programs. Other participants have specific concerns with the proposed principle, such as: (a) how the principle would be implemented in practice; (b) how costs related to initiatives targeted at low-income residential customers would be handled; and (c) how costs related to multi-family dwellings would be handled. With respect to the latter concern, there may be severe data limitations, and unique issues insofar as determining whether cost incurrence, or program beneficiaries, relate to residential or commercial classes.

Intra-class Equity

Working Group I participants discussed, but did not reach consensus on, the issue of whether EPS-related costs should be recovered in a manner that promotes intra-class equity. As detailed above, it is anticipated that achievement of EPS goals will require the implementation of customer-funded energy efficiency programs. Those programs will result in benefits flowing to certain customers, and the costs of the programs being recovered from a potentially different mix of customers. Some parties contend that, to the extent possible, EPS-related costs should be recovered in a manner that promotes intra-class equity. These parties contend that the Commission should refrain from recovering all EPS-related costs on a purely volumetric basis. In this view, EPS-related costs should be

recovered in a manner consistent with how the costs are being incurred. For instance, the costs of efficiency programs targeted at reducing coincident demand might be recovered, at least in part, on a coincident-demand basis, while account-specific project costs, such as meters, might be recovered on a per account basis. Even the proponents of this approach agree that costs incurred to reduce consumption would be recovered on a volumetric basis. Other Working Group I participants oppose the adoption of interclass equity as a principle for cost recovery. There was less extensive discussion of this issue than other cost-related issues.

Appendix A.

Attachment from
September 13, 2007 Ruling

Working Group I
Questions from ALJ Stein

Working Group I

Overall EPS Structure (respective roles of NYSERDA, utilities, other energy services and efficiency providers), electricity and natural gas

Facilitator: Tariq Niazi, NYS Consumer Protection Board

Co-conveners: Frank Murray and Fred Zalcman, Pace Energy Project
Saul Rigberg, DPS Staff

1. Consider the California and Vermont models of program provisioning and organization, as well as other possible hybrids, combinations, and approaches.

2. Establish criteria to segregate the provision of energy efficiency programs between Statewide/NYSERDA program, Local/Utility programs, and other providers' programs; identify where consistency across all providers is important.

3. Identify whether there are entities other than NYSERDA and the Utilities that could/should provide energy efficiency programs.

4. Create a model for Utility programs that do not require the customer to invest up-front capital.

5. Create a model for NYSERDA programs that do not require the customer to invest up-front capital.

6. Investigate the feasibility of Utility/NYSERDA partnerships with financial sources (banks/DASNY).

7. Consider the need for local or regional advisory groups to assist in coordination of programs.

8. Consider forms of statewide coordination and planning.

Appendix B.

Energy Efficiency Models from Various Jurisdictions

The California Model

CASE 07-M-0548 – Energy Efficiency Portfolio Standard
Working Group 1: EPS Administration
The "California Model"

I. Brief Description of Model

- Energy efficiency program administered by IOUs (SDG&E, SCE, SCG, PG&E)
- Does not include muni territories (*e.g.*, Los Angeles, Sacramento)
- Complementary programs for solar, CHP and DR
- Funding (~$600 M/year), half from SBC, half from procurement

II. Relevant Regulatory and Institutional Context

- Model evolved over a six years of "interim" utility administration
- Attempt to establish state administration failed in 1999
- Model developed pursuant to State Energy Plan and CPUC Loading Order
  - Acquire all cost-effective EE before other resources
- Utilities, with a history of program administration and staffs in place, chosen in competitive solicitation as part of litigated CPUC proceeding

III. Roles of the Parties

- **Setting goals, budgets and performance objectives**
  - CPUC -- litigated proceedings
  - All cost effective EE and/or all electric growth
  - Continued utility administration and incentives tied to performance
- **Program development and design**
  - Three-year program cycles
  - Utilities propose program portfolios; CPUC approves
  - Significant stakeholder input to program development
- **Program delivery**
  - Utilities, through subcontractors, deliver ~80% of programs
  - Third-party administrators, competitively selected, deliver ~20%
- **Evaluation and Oversight**
  - Elaborate structure, consumes 8% of total program budget
  - PAGs, PRGs, third-party evaluation consultants
  - CPUC, utilities and third party administrators responsible

IV. Experience to Date

- **Major strengths of model**
  - Full public participation in program development and implementation
  - Large scale programs serve all customer segments
  - Third party administrators fill program gaps
  - Hitting short-term savings targets
- **Major weaknesses of model**
  - Stakeholder processes are exhausting – planning for 2009-2011 cycle started in early 2007 and involves multiple litigated proceedings
  - Cream skimming ~30% of total electric savings from CFLs

- Not clear how utilities will meet long-term targets – large projects for large customers lagging behind targets
- CPUC re-organizing the planning process again

V. Feasibility and Means of Adapting Model to New York State

- NY utilities lack recent program experience and program staffs
    - Allow 2 years to get up to speed
- Requires tough administration to terminate politically popular projects
- Requires continuous stakeholder strategic planning to meet long-term targets

Presented at the Conference of the European Council for an Energy Efficient Economy, June 2005

The Efficiency Utility: A Model for Replication

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Four years ago, the state of Vermont created the first "Energy Efficiency Utility" in the United States. It chose to use a non-utility administrator to manage and implement energy efficiency services to all Vermont ratepayers. The administrator operates under a competitively awarded contract. While other jurisdictions have created similar non-utility administrators, none have had as broad a scope of responsibility. Vermont's experiment has had four years of field testing, feedback, refinement and evolution. By the end of this period, the new efficiency utility - called "Efficiency Vermont" - was providing approximately 3% of Vermont's electricity and had reduced Vermont's rate of annual load growth by 50%. A key factor in Efficiency Vermont's success is the structure of the performance contract between the efficiency utility and the state's utility regulatory body. While performance incentives have been used elsewhere for utility-administered efficiency programs, the way these indices and incentives have been used in Vermont has been particularly important in achieving not only specified on-time results, but also balance among a variety of sometimes competing policy objectives. Based on Vermont's experience, a number of other states and provinces are now looking into replicating or adapting this model. Their status is reviewed and discussed.

Introduction

Efficiency Vermont is the first statewide "energy efficiency utility" in the United States. This innovative model is responsible for cost-effectively reducing the long-term cost of electricity in Vermont as part of the utility regulatory system objective of providing least-cost energy service to the state's consumers. Efficiency Vermont invests in energy efficiency on behalf of all ratepayers in the state and is accountable to the state's utility regulatory agency, the Public Service Board (PSB). This model improves upon what formerly was a patchwork of energy efficiency programs delivered by over twenty individual electric utilities operating in the state. Under the former delivery model, each electric utility company was responsible for developing and delivering its own set of energy efficiency programs, with no statewide program coordination. In addition, utility companies had a mixed incentive; on the one hand, to sell electricity to customers, and on the other hand, to serve as the implementer of programs to reduce electricity usage. This model of providing energy efficiency through regulated electric utilities was widely used by states throughout the United States over the past twenty years, as well as in many other countries.

The concept of an energy efficiency utility was developed by agreement among a diverse set of interested parties who came to a negotiated consensus that it was in the public interest to move to a new mode for delivery of efficiency investments and services. Named Efficiency Vermont, it is operated by a private, nonprofit organization that operates under a direct contract to the PSB. The contract for the delivery of the efficiency utility is a fixed-price contract that is based upon the performance of the contractor. Gone are the days of lengthy contested proceedings with Vermont's electric utilities over efficiency program delivery; gone are the days of customer confusion over available services; and gone are the days of conflicting incentives. Electric customers throughout the state now have one resource to look to for energy efficiency savings - Efficiency Vermont.

Since its creation in late 1999, Efficiency Vermont has had four years of field testing, feedback, refinement and evolution. While a few other jurisdictions have since created non-utility administrators to implement ratepayer-funded efficiency efforts, none have had as broad a scope of responsibility and accountability. None has been as independent, nor have they generally been subject to as rigorous accountability for measurable results (Harrington, 2003; Kushler, York and Witte, 2004). Much has been learned by both the regulators and the implementers that may be of interest in other jurisdictions.

Funding & Structure

The structure for Vermont's efficiency utility is illustrated in Figure 1. The model uses a "Contract Administrator" who handles any day-to-day contract administration responsibilities on behalf of the PSB. Funds to support Efficiency Vermont are collected from as part of utility rates by all electric utilities. These funds are received and held by a "fiscal agent" who disburses funds against bills submitted by the Efficiency Utility upon approval by the Contract Administrator. Both are competitively solicited, independent contractors. In this structure, the funds collected never become "funds of the state," and are therefore less vulnerable to redirection and are less restricted by state procurement limitations.

The responsibility for the design, marketing and implementation of public-benefits energy efficiency in Vermont sits entirely with the PSB's efficiency utility contractor.

A separate state agency - the Department of Public Service (DPS) - has responsibility for reviewing and verifying the claims of energy savings made by the Efficiency Vermont contractor each year. The DPS engages with Efficiency Vermont in an ongoing process of review and update of prescriptive savings algorithms, and conducts an annual verification process of all savings claims. The DPS is also responsible for assessing and reporting on market potential, determining standard-practice baselines, program evaluation, and making recommendations to the PSB on directions and priorities for the future of Efficiency Vermont.

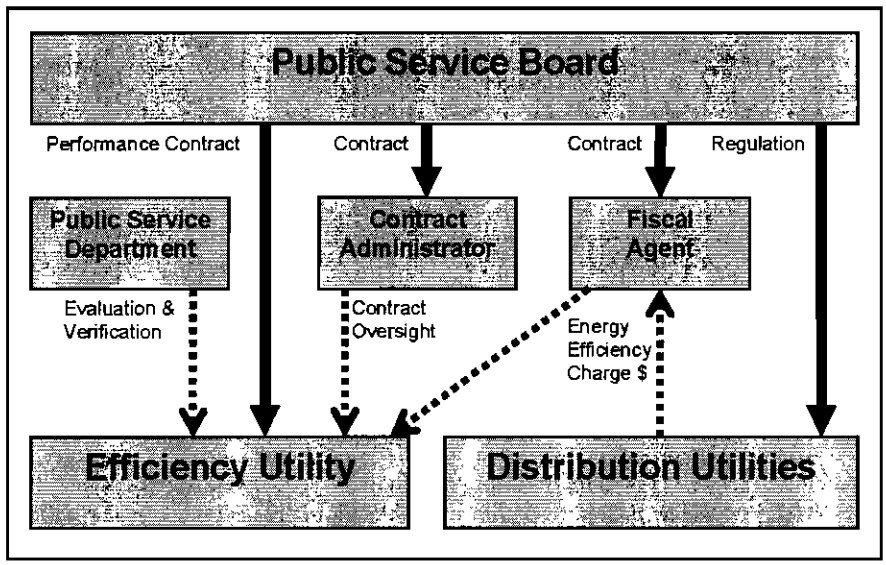

Figure 1. Structure and Relationships Surrounding Vermont's Efficiency Utility

The Performance Contract Mechanism

The contract between the PSB and the nonprofit contractor contains tightly specified indicators of performance designed to reflect and weight the multiple policy, resource acquisition and market transformation objectives of the state, as represented by the PSB. In the contract, the Efficiency Vermont contractor has the opportunity to earn a significant performance award, which is an incentive payment that is held back until the end of the contract. The contractor's performance relative to these indicators determines how much of the "holdback" it receives. The definitions of performance indicators, their targets and their individual award values are all set through negotiations involving the PSB, the Contract Administrator, the DPS and the Efficiency Vermont contractor (Hamilton and Plunkett, 2002).

Results

Resource Acquisition Impacts

The PSB's contract with the efficiency utility focuses heavily, but not exclusively, on short-term resource acquisition as an objective. Table 1 presents the annualized energy savings (first-year MWh) for each of the past four years, together with summer and winter coincident peak kW reductions (Efficiency Vermont, 2004). The average measure life for these annual savings is 14 years.

Table 1. Efficiency Vermont's Annualized Savings

	2000	2001	2002	2003	Four-Year Cumulative
Annualized MWh Savings	23,540	37,489	40,557	51,216	152,802
Summer Peak kW Savings	2,161	4,279	4,996	6,502	17,937
Winter Peak kW Savings	5,447	6,489	7,467	8,059	27,462

Figure 2 presents the impact of Efficiency Vermont's energy savings on Vermont energy consumption for 2000-2003. Overall, without Efficiency Vermont savings, Vermont energy consumption would have grown by 296 GWh over this period, an average rate of 1.5%. Due to Efficiency Vermont savings, actual consumption increased by only 140 GWh, 47% of what otherwise would have occurred and a growth rate of only 0.7%.

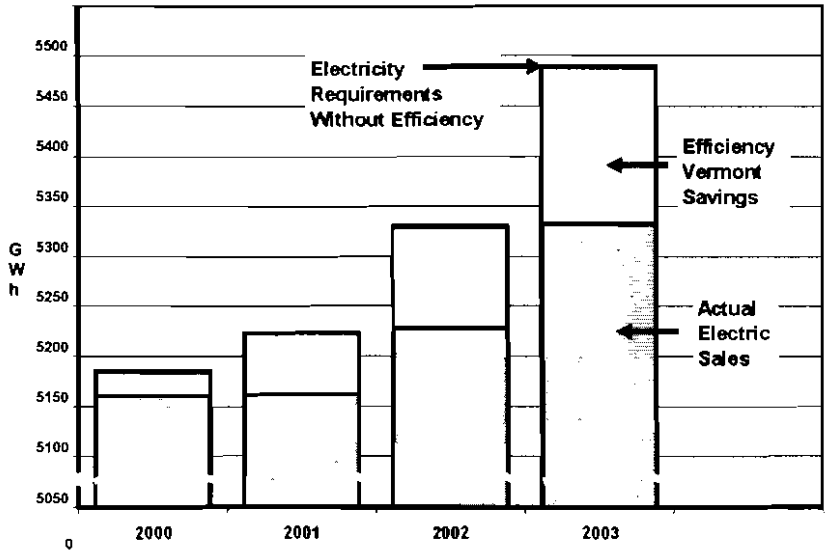

Figure 2. *Efficiency Vermont's Contribution to Vermont Electric Energy Requirements*

Based on Efficiency Vermont's expenditure of ratepayer dollars, the levelized cost of these savings is $.026 per kWh (.020 EURO). Given New England's high regional electric supply costs, particularly for long-term commitments, this compares very favorably against all other marginal supply resource options.

Market Results

In addition to the accomplishments of Efficiency Vermont in resource acquisition, it is notable that nation-leading market impacts have also been achieved. To name just a few:

- In 2002, Vermont had the highest market share of any state for ENERGY STAR room air conditioner sales (61%), and in 2003 the highest state-wide market share for ENERGY STAR clothes washers, with a remarkable third-quarter market share of 62%.
- In 2002, Vermont had the highest statewide market share in the lower 48 states for ENERGY STAR residential new construction (25%).
- All of the 74 retail appliance dealers with showroom floor space in Vermont have partnership agreements with Efficiency Vermont, promoting the sale of ENERGY STAR appliances and offering Efficiency Vermont rebates.
- Efficiency Vermont has approximately 155 retail partners who partner to promote Energy Star lighting products and accept Efficiency Vermont's instant discount coupons. This is estimated to represent well over 90% of hardware stores, lighting specialty stores, home improvement stores, and electrical supply houses who sell to Vermont consumers.
- For the larger (over 25,000 square feet) new construction market, it is estimated that over 90% of all new construction projects now engage with Efficiency Vermont and receive technical assistance and financial incentives to optimize energy efficiency. Overall, compared to a statewide estimated total of 500 annual

permitted commercial new construction projects, Efficiency Vermont worked with 142 commercial new construction projects that were completed in 2003.

Future Impact Projections

As noted above, Efficiency Vermont energy savings are currently calculated to be meeting 3% of Vermont's annual electricity needs. Based on experience to date and a continued annual investment at 2004 levels, it is projected that this share will grow by 1% each year. At this rate, efficiency will be meeting 10% of the state's electric energy needs by the year 2012.

Replicable Elements of the Efficiency Utility Model

The energy efficiency utility model, as it has been developed in Vermont, has been a success by many measures. It was, however, developed in a specific historical, geographie, regulatory and political context. So while the Vermont model has many attributes, it should be considered as a model to be adapted, or from which elements might be considered for replication. Based on the past four years of experience, certain elements of the energy efficiency utility model are suggested for consideration by those concerned with the administrative structure, scope and objectives of publicly-supported efficiency efforts.

1. Statewide Coverage

It is useful to plan and deliver energy efficiency services within geographic areas that match logical market boundaries. In the US and Canada, states and provinces correspond with many market-related boundaries, such as building and product codes, utility regulation, media and product sales and distribution channels. In smaller countries, national boundaries may be the most effective boundaries for planning and implementation of efficiency programs.

2. A Single Entity to Implement Efficiency For All Markets

There is a tendency in many energy service delivery models to segment and deliver services through different administrators or implementation contractors by program, major customer sector (e.g., residential, commercial, industrial) or even service element (technical support vs. marketing). The experience of Efficiency Vermont has been that having the responsibility for planning and delivery of all efficiency efforts vested in a single administrator has been far more powerful than expected. It has allowed recognition of opportunities and implementation of efficiency efforts that cut across traditional sector definitions (residential/commereial/industrial, new vs. existing, etc.) that can both better respond to markets and be more effective in delivering results.

Customers, trade allies, vendors, and design professionals don't neatly fit into discrete seetors. A lighting showroom typically sells products (and sometimes the same produets) for both residential and business applications, to homeowners and contractors, and for both new construction and retrofit applications. Having them deal with multiple programs, each with a different program representative and perhaps different contractor or administrator, is inefficient, tends to result in customer confusion and can even result in competing program offers. Another example from Vermont is ski areas, whose efficiency opportunities range from industrial processes (e.g., snowmaking, lift drives) to base lodge and hotel facilities, to residential condominium development. Efficiency Vermont's experience has been that addressing these customers comprehensively has been eritical to securing partnerships that have yielded high levels of investment and savings.

Vermont has the advantage of a relatively small size in being able to eonsider a single contractor and vehicle to deliver across all sectors. While there are challenges associated with using a single contractor in a larger jurisdiction, the compelling benefits of this approach in Vermont suggest that this option should nonetheless be considered.

3. The Type Of Entity to Act As the Implementer of Efficiency Efforts

The experience of Efficiency Vermont suggests several factors to be considered in choosing the ideal type of entity for delivering services.

- An entity not engaged in retail electric or gas supply will have no conflicts of interest with the provision of services that would reduce energy sales. In Vermont, any entity engaged in retail electric supply was prohibited from bidding to be or be part of the energy efficiency utility.
- In contrast with the private-sector contractor model used for the energy efficiency utility, several US states have chosen to implement statewide energy efficiency efforts within state government. While there may be other administrative efficiency issues affecting this choice, the notable experience of the past several years has been

that state government-administered efficiency programs have been subject of several funding "raids" by state legislatures.

- An entity that is not distracted by many other responsibilities or contracts is better able to focus on success of its goals. An entity whose mission is aligned with achieving the public benefits of energy efficiency contributes greatly to its success. In Vermont, the contractor selected by the PSB to operate Efficiency Vermont – Vermont Energy Investment Corporation - is a private, nonprofit corporation whose stated mission is "to reduce the costs, both monetary and environmental, of energy use."

4. The Use of Carefully Selected and Negotiated Performance Indicators

Sound energy resource portfolios inherently involve trade-offs to achieve both near- and long-term objectives. As a part of these portfolios, energy efficiency efforts also have multiple, potentially conflicting goals (resource acquisition vs. market transformation, maximizing benefit/cost ratios vs. equitable distribution of benefits among various groups, etc.). Vermont's experience suggests that the use of well-constructed performance indicators in a performance-based contract can be a highly effective vehicle for seeing that multiple resource acquisition and policy goals are appropriately balanced.

In the context of a performance-based contract, balancing is not just a theoretical discussion or set of objectives, but instead becomes a practical, applied activity of the contractor with consequences for time-sensitive results. Efficiency Vermont plans and budgets carefully for a mix of efforts to achieve multiple objectives, and then tracks actual experience and modifies efforts as needed.

In order for regulators to achieve the state's resource acquisition and policy goals, the choice of performance indicators and the values set for them has been extremely important. In Vermont these have included short term energy savings (MWh and MW), "total resource benefits" (present value of lifetime savings for all resources), and a range of market effects indicators (increasing market shares for a particular efficiency technology).

5. The Use of a Competitively Bid, Multi-Year Performance-Based Contract

The use of a competitively bid, performance-based contract with consequential impacts for delivering measurable results on a firm schedule has proven to be highly effective. It establishes a high level of accountability and it makes clear to both regulators and the contractor exactly what the goals of the contract are and how they will be measured.

A performance contract establishes that the contractor's term for acting as the energy efficiency utility is finite. If the contractor doesn't do a good job, the job will likely be given to someone else at the end of the contract period. This alone has proven to be highly compelling to the contractor, and a motivator to perform beyond the requirements of the contract.

The use of a performance contract also allows for a great deal of flexibility in design and delivery of efficiency program services. The first efficiency utility contract included a set of highly-defined "core" programs that the contractor was expected to deliver, along with individual budgets and expected savings for each program. This guidance was certainly reasonable at the time and highly typical of implementation elsewhere. However, Vermont has moved further and further away from this approach over the past four years, based on the conscious decision of both the contractor and the PSB.

The contractual/regulatory context that has evolved allows flexibility in how the contractor achieves goals. The regulators have clarified that their primary interest is in results. The contractor has wide latitude in defining and changing strategies, services, incentives and other tactics.

The use of a multi-year contract has also been found to be significant. It allows for a reasonable planning period for the contractor and allows the contractor to address opportunities with long lead-times (e.g., major new construction that may take many years from initial design to final construction).

The benefits of a performance contract have been quite significant as it has allowed: (1) increased flexibility to respond to changing markets in real time; (2) quick response to time-sensitive opportunities (e.g., tie-in to manufacturer rebate promotion, new technology opportunities, unforeseen customer or vendor-initiated opportunities); (3) reduced administrative cost associated with deliberation and formal approval processes over program changes; and (4) more timely response to feedback mechanisms, including both evaluation findings and the contractor's implementation experience. While this feedback process to improve program design is an objective of most energy efficiency efforts, the structure they operate under creates many barriers to adopting (or sometimes even paying attention to) changes, typically defaulting to annual reviews. Perhaps most important, it has encouraged an attitude and culture of ongoing flexibility and innovation at all levels of Efficiency Vermont.

Specific Examples of These Replicable Elements in Other Jurisdictions

There has been considerable interest in the energy efficiency utility model as an innovation that may be usefully replicated elsewhere. Over the past three years, interest has been expressed from various entities in a dozen other states and Canadian provinces, many of whom are actively pursuing similar approaches or variants suited to their particular circumstances.

- New Orleans – In December 2004, the City of New Orleans issued a competitive solicitation for a single, non-utility, private sector contractor to deliver a broad range of energy efficiency services within the city.
- New Brunswick – In September 2004, the Government of New Brunswick, Canada, announced plans to implement a new energy efficiency "system" for the province based on the Vermont energy efficiency utility model. A new "Crown Corporation" will be established to act as contracting agent of the government to a competitively-selected private-sector contractor.
- New Jersey – The state of New Jersey is moving from two decades of utility administration to administration by state utility regulators, with statewide, competitively-selected implementation contractors, covering two efficiency sectors plus renewables. Many aspects of the Vermont model have been incorporated.
- Connecticut, Massachusetts and Rhode Island – In these states, utility administration of statewide efficiency programs uses a system of performance indicators much like Vermont to measure and reward utilities for superior program implementation.
- Indiana – bills have been introduced in the legislature to create statewide, non-utility energy efficiency administration and implementation.
- Norway – In place of individual delivery by many local electric utilities, the quasi-governmental organization ENOVA is now responsible for unified country-wide energy efficiency and renewable energy efforts, with ten-year performance goals and funding.
- Other - Many other jurisdictions are considering elements of this model, including Manitoba, Kansas, Iowa, and New South Wales, Australia. Several provinces in China are also considering the applicability of the efficiency utility model to their circumstances.

Limitations

This efficiency utility model has had considerable demonstrated success in Vermont, because it is well-suited to the particular context in which it was developed and implemented. In other contexts, there may be aspects of this model that will be less appropriate, while other aspects may be more suitable. For example, as a small state, Vermont has relatively few very large industrial or institutional customers compared to many other jurisdictions, and therefore little involvement by energy service companies (ESCOs). In other states or countries with more and larger customers, there may a much greater role for ESCOs in delivering of efficiency services.

In a small state, it has also been practical to have a single contractor responsible for all efficiency services in all sectors. In larger jurisdictions, it might be that multiple organizations would be a practical necessity, with each serving different parts of the overall market. This approach would sacrifice, however, many of the benefits enumerated above from using a single entity.

It should also be noted that the model, as implemented in Vermont, is funded by electric ratepayers only and has a primary objective of achieving electricity savings. While Efficiency Vermont's programmatic efforts seek to address savings of fossil fuels, the lack of financial support to address these other savings opportunities has limited the savings which could be achieved of these other energy resources.

The length of the contract has also imposed limitations. While the short (three-year) term of the contract keeps the contractor highly concerned about its performance, it may discourage the contractor from adequately pursuing longer-term efficiency strategies that would not yield savings within the contract term.

Conclusion

The experience of a dedicated "Energy Efficiency Utility" to secure energy efficiency savings under a performance-based contract has demonstrated many innovative mechanisms and achieved many measures of success. Key features have been the multi-year performance contract, the use of a single, independent contractor for state-wide delivery of all services, and the use of carefully selected performance indicators. Many features of this model are being replicated or adapted in other locations.

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The Massachusetts Model

The Massachusetts Process

Overview

The MA legislature created a funding mechanism and a unique regulatory framework to support energy efficiency efforts in the state. Funding for electric program efforts is supported by a systems benefits charge (SBC) that is the same for all consumers served by the investor owned utilities. Funding for natural gas efficiency programs is voluntarily provided by gas utilities and is negotiated on an individual basis by all gas utilities. The utilities[1] are responsible for program planning, implementation, and evaluation. Regulatory oversight is shared by two state agencies: the Division of Energy Resources (DOER) and the Massachusetts Department of Public Utilities (DPU). The utilities in MA have successfully worked together and with interested stakeholders through a long-standing collaborative process. The regulatory and collaborative processes are discussed below.

The MA Regulatory Process

As noted above, regulatory oversight of energy efficiency efforts undertaken by the MA utilities is bifurcated between the DOER and the DPU. The DOER oversees and coordinates ratepayer-funded energy efficiency programs. This agency is required to file a report with the DPU as to the consistency of IOU energy efficiency plans with the energy efficiency goals of the state. The DPU is charged with reviewing the energy efficiency plans to determine if proposed activities are cost-effective. The DPU also reviews the Energy Efficiency Annual Reports that are filed with the DOER and DPU annually to certify program accomplishments and to document the performance-based shareholder incentive earned by the utility.

The Collaborative Process

In Massachusetts, utilities work collaboratively with groups of interested stakeholders (collectively, the Non-Utility Parties or NUPs[2]) to reach a consensus about annual energy efficiency program plans,

goals, cost-effectiveness analysis, and shareholder incentive proposals. The Utilities fund a team of technical consultants who serve as advisors to the

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[1] The Cape Light Compact delivers energy efficiency program services on Cape Cod.
[2] The NUPs currently include the MA Division of Energy Resources (DOER), the Low-Income Energy Affordability Network (LEAN), the Associated Industries of Massachusetts (AIM), The Energy Consortium (TEC), the Northeast Energy Efficiency Council (NEEC), and the Conservation Law Foundation (CLF).

NUPs. System benefit charge collections are used to fund the work completed by these consultants. The NUPs and the utilities collaborate to continuously monitor and improve the effectiveness of energy efficiency programs serving customers.

The Collaborative considers technical and policy issues, engages in joint problem solving, and negotiates program plans and budgets for regulatory approval. Issues are addressed at both the individual utility and, where appropriate, statewide. Several joint utility/NUP/NUP-consultant working groups meet throughout the year to review program progress and plan for program enhancements. Working groups include Commercial & Industrial, Residential, Low Income, and Evaluation. Other ad hoc working groups are formed from time to time to address cross cutting issues.

To ensure optimal program planning and implementation as well as ensuring that programs do not shut down, the settling parties have agreed to and the DPU has approved several 5-year gas energy efficiency plans at agreed upon funding levels. The electric programs are mandated by legislation that currently sunsets in 2012. To date, the electric utilities have engaged in an annual filing cycle.

The Northwest Energy Efficiency Alliance Model

DRAFT – FOR DISCUSSION PURPOSES ONLY
CASE 07-M-0548 – Energy Efficiency Portfolio Standard
Working Group I: EPS Administration
Model Description
Northwest Energy Efficiency Alliance (NEEA)

V. Brief Description of NEEA Model
- The Northwest Energy Efficiency Alliance (NEEA) creates and manages cost-effective market transformation efforts in the states of Idaho, Montana, Oregon and Washington.
- In partnership with local utilities and public service administrators, NEEA's work encourages marketplace adoption of energy-saving technologies and services, as well as supports regional education and marketing platforms.
- Focus on market transformation initiatives that are best conducted in a regional context.
- Engages in upstream, training, entrepreneurial and consumer (end-use) programs.

VI. Relevant Regulatory and Institutional Context
- Large federal power authority (BPA) able to pool funds from many small utilities which it serves; represents approx. half of funding. Also receives funding from 10 other utilities and Energy Trust of Oregon.
- Energy Trust of Oregon is required by its enabling legislation to invest in market transformation activity.
- There is a "culture" in the region and in the players with an acceptance of efficiency and market transformation

VII. Role of the Parties
- The Board sets over-all strategic direction, secures the funding commitments, and strives to achieve balance in the portfolio of programs
- Expert committees select programs to be funded and conduct more detailed planning work.
- NEEA staff manage programs
- Contractors implement and deliver programs
- Outside contractors conduct evaluation of their programs. Retrospective Assessment completed December 2003 by Summit Blue & Stratus.
- Still investigating who designs programs

VIII. Experience to Date
- Major strengths of model

Appendix C.

New York State Energy Efficiency Portfolio Standard
Case 07-M-0548

Working Group 1

Governance Model Comparison and Assessment Results

November 22, 2007

Table of Contents

Executive Summary

Working Group 1 (WG1) in Case 07-M-0548 has been charged with developing a consensus Efficiency Portfolio Standard (EPS) governance model. WG1 developed 12 criteria to be met by that model (see Table ES1).

Initial models were offered by the Staff of the Department of Public Service (DPS), the Independent Energy Efficiency Program (IEEP), the Joint Utilities (JU), the National Resources Defense Council and Pace Energy Program (NRDC/Pace), the City of New York (NYC), and the New York State Energy Research and Development Authority (NYSERDA).

Table ES1
Governance Model Evaluation Criteria

1	Does the model facilitate the least cost administration and achievement of the EPS goal?
2	Does the model provide an opportunity for the interests of the broad range of stakeholders to be served?
3	Do the entities responsible for meeting the EPS goals have the authority and the opportunity to meet those responsibilities?
4a	Does the model take advantage of the inherent strengths of the various participants?
4b	Does the model present a coherent structure for coordination and cooperation?
5	Does the model minimize unnecessary functional overlap and duplication of effort?
6	How well does the model take advantage of the salient features of the existing and emerging program development and delivery infrastructure(s)?
7a	Is the model flexible enough to accommodate differing conditions (e.g., geographic, climatic, load, institutional) across the state?
7b	Is the model robust enough to adapt to changing circumstances?
8	Where appropriate, does the model enable the seamless, integrated delivery of electric and gas efficiency programs?
9	Is the model structured to allow meaningful and timely input, oversight, feedback and reallocation of effort and resources?
10a	Does the model contain structures for independent monitoring, verification, auditing, and reporting of results?
10b	Does the model ensure that the entity(ies) responsible for program administration are effectively moving towards achieving energy efficiency goals and are held accountable for achieving program goals?

Table ES1
Governance Model Evaluation Criteria

11 Are the entity(ies) responsible for program administration appropriately incentivized or otherwise committed to secure cost effective energy efficiency and ultimate success of the program? Is there demonstrable interest by the named entity in serving in this capacity?

12 Does the model promote the elimination of disincentives and align interests relative to participants' roles?

Workbooks to evaluate the six models using the WG1 criteria were sent on November 9 to all members of WG1, and to all parties who receive e-mail via the proceeding listserv.

Nine parties provided model assessments on November 21. Most parties assessed most of the models, and most parties assessed the models for many, not all, of the criteria. As a result, the number of comments does not necessarily equal the number of assessing parties.

The detailed assessments of each model are provided in this results report. Overall:

- No one model emerged as consistently superior or inferior to the others based on this evaluation. Most models received mixed ratings on most criteria.
- The ratings, comments, and suggestions provided by the parties offer insightful guidance concerning how each model could be improved, or alternatively, how a new model might be developed based on the desirable or enhanced characteristics of each of these initial concepts.

Assessment Contributors

Party	Model Assessments					
	DPS	**IEEP**	**JU**	**NRDC/Pace**	**NYC**	**NYSERDA**
CSG	X		X		X	X
DHCR	X	X	X	X	X	X
EarthKind Energy	X	X	X	X	X	X
JU	X	X	X	X	X	X
NAESCO	X	X	X	X	X	X
NRDC				X		
Nucor	X		X	X	X	X
NYC	X		X	X	X	X
NYSERDA	X	X	X	X	X	

DPS Model

- Multi-Year Planning Process - Staff proposes an ongoing multi-year collaborative EPS energy efficiency planning process whose objective would be to provide recommendations to the Commission regarding: the EPS portfolio's content, program design elements and objectives, program administration, program budgets and goals, program administration reports and related policies on a two- or three-year cycle (with the flexibility for modest mid-cycle adjustments). This collaborative process would be administrated through an EPS Advisory Council facilitated by DPS Staff. The EPS Advisory Council would process and develop recommendations by creating and guiding as necessary the work effort of standing and ad-hoc committees focused on specific tasks and issues. It would also discuss and incorporate monitoring and evaluation analyses into the EPS planning process. This multi-year planning process for energy efficiency would be an element of any overall statewide energy planning effort and be informed by the planned actions and initiatives by entities beyond those under the Commission's direct jurisdiction.
- Principal Representation on the Advisory Council and its committees would be subject to the Commission's approval and would likely include: the lead EPS program administrators (NYSERDA, DHCR, the utilities subject to the Commission's jurisdiction, and any other authorized third-party EPS program administrators), as well as representatives of other major EPS stakeholders and constituencies such as: the NYISO, consumer groups, environmental groups, industry trade associations (including those representing competitive energy commodity providers), and regional representation including New York City and the North Country, etc). It would be highly desirable to also have participation and representation from other state entities (DOS, LIPA, NYPA, and DASNY) on the Advisory Council. Participation by these other agencies would provide an important mechanism to gather the information needed to accurately incorporate their plans and initiatives into the achievement of

the 15x15 goal for electric usage and for a similar gas statewide efficiency goal. That information would be a necessary and valuable input in determining the extent of the effort required by utilities and other resources under the Commission's jurisdiction to achieve the State's EPS goals. The voluntary participation by the NYISO would be critical in ensuring that the technical aspects of the Advisory Council's planning activities are sufficiently coordinated with the reliability and other planning processes of the NYISO.

- EPS service providers which are under contract to deliver energy efficiency services to ultimate customers or which seek such contracts would not be sitting members of the Advisory Council or its committees; however, those interests could submit recommendations, offer proposals and make presentations directly to the Council or its committees.
- Standing Committees could include: Planning and Analysis; Monitoring and Evaluation, EPS Programs; Research & Development, etc. There could be multiple EPS program committees focused on specific programs, regional issues or market sectors, e.g., New Construction; Metropolitan NYC Issues, North Country Issues, Gas Programs, etc.
- Recommendations emanating from the Advisory Council and its committees, whether representing a consensus decision or majority or minority views, would be filed with the Commission, which would follow its normal procedures in processing the filing. These include public notice pursuant to SAPA and preparation of a session item by Staff or assignment of an ALJ, who may issue a Recommended Decision (RD), and, ultimately, the Commission may issue a decision. No party would be bound by the positions taken in the Advisory Council's filings and any party would be able to prepare an independent position. Participants in the Advisory Council's process would also be free to negotiate settlements with other parties related to the Advisory Council's recommendations to the Commission.
- Program administrators would implement EPS programs under the direct oversight of DPS Staff and be held accountable by the Commission

regarding the utilization of program budgets and maintaining vigilance as to the cost effectiveness of programs as well as meeting their allocated share of the EPS goals.

- EPS Program monitoring and evaluation activities focused on programs funded by rates and tariffs under the Commission's jurisdiction would be informed by a Monitoring & Evaluation Collaborative Task Force subject to the Commission's jurisdiction. The required studies, analyses and reports would be conducted by entities that are independent of the EPS program administrators and provider contractors they are evaluating.

DPS Model Assessment

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
1. Does the model facilitate the least cost administration and achievement of the EPS goal?	• Model Appears to be dynamic & allow for growth and adjustment, multiyear planning should reduce cost • Yes, subject to final composition of advisory council. • Yes – within the jurisdiction of the Commission, the Commission has the authority to require least cost administration of the programs. How much additional administration expenditure by the DPS staff and implementing parties this would require is unclear	• Not clear – no discussion of cost or actual program administration • Unclear of how the results from the Multi-year planning process translate into individual plans. For example, how plans for individual administrators would be developed, or how budgets would be developed/costs allowed – except in retrospect. Could be accounted for in the listed process – just unclear specifically. • Unclear. Depends on effectiveness of rather large Advisory Council under leadership of DPS. Vague roles for Council and numerous subcommittees • The role of the Advisory Council needs to be clarified	• No. It proposes a needlessly complex "EPS Advisory Council/Committee" structure that is highly unlikely to result in least-cost administration. First, the AC structure mimics the committee structure of the NYISO. The NYISO structure was developed to support a permanent wholesale market. It was never intended to support the decision-making agility that will be needed to achieve the Governor's aggressive 15x15 goal with programs that can be expected to evolve continuously during the period of the EPS. To be effective for this purpose, the structure promises to require intense and costly involvement in all AC activities by any and all potentially interested parties, thus adding significant externalized costs to EPS that are both unnecessary and wasteful. Second, the DPS Model proposes unacceptable

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
			melding of roles for DPS Staff, including both "facilitating" the AC (1st unnumbered paragraph) and also preparing session items (5th unnumbered paragraph).
2. Does the model provide an opportunity for the interests of the broad range of stakeholders to be served?	• Yes, through advisory council and annual planning process. • Yes	• Seems to provide for input for a broad range of stakeholders, but actual decision-making process is unclear. • Unclear. Depends on operation of Council & sub-committees • Depends upon the structure and operation of the Advisory Council.	• No. The AC "gatekeeper" between the stakeholders and the only decisional authority in the DPS Model, the PSC, favors governmental body stakeholders with the motivation and resources to actively participate in the AC continuously for eight years. For most stakeholders – particularly local community stakeholders -- this is an unrealistic level of commitment.
3. Do the entities responsible for meeting the EPS goals have the authority and the opportunity to meet those responsibilities?	• Yes. • Probably • Probably	• Model is too vague to assess; It is a partial model that must be combined with another structure; It is beneficial to the extent it promotes technical development and provides tools and resources to responsible parties • Issue not addressed • The entities responsible appear	• No. The program administrators will be responsible for meeting the goals (6th unnumbered paragraph), but Commission decisions will be largely based on the recommendations of the collaborative. The processes to bypass or oppose the collaborative recommendations (5th unnumbered paragraph) is impractical for

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		to be the regulated utilities, NYSERDA and anyone else designated. Presumably Commission rulings would give the utilities authority and opportunity to carry out their plans. It is unclear how much flexibility is built in to this structure.	routine use, and its routine use would undermine the value of the collaborative as Staff proposes it. The structure of the NYSERDA and DHCR program delivery does not ensure that all NY state residents who pay into the SBC will be served. The model does not define the roles for each entity administering programs and the responsibility for meeting targets.
4a. Does the model take advantage of the inherent strengths of the various participants?	•	• Not clear • Not addressed • Unclear. Depends on operation of Council & sub-committees • All participants can give advice, although EPS service providers are excluded from membership in the advisory councils, presumably so that their consent is not required for a council recommendation. Given that EPS service provides may have considerable and diverse direct experience, it would be unfortunate if this distinction reduced their input – nearly	• No • Nothing in the model purports to capitalize on (the presumed meaning of "take advantage of") the "strengths" of the participants. It does not take full advantage of utility/customer relationships and, by apparently calling for utilities to "coordinate" through the "collaborative" is likely to stifle innovation and flexibility in delivery of programs to customers.

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		everyone involved has a self interest in the proceedings, and as long as that is explicit, it should not be a problem	
4b. Does the model present a coherent structure for coordination and cooperation?	• Yes, at least compared to other models.	• Issue not addressed • No clear structure of how the recommendations would be coordinated across the committees • Possibly. Requires coordination of NYSERDA, NYPA, LIPA, six utility holding companies, NY City & many other state agencies (DASNY, DHCR, DOS) under DPS leadership • The model presents the collaborative presumably for these purposes, but the costs and benefits of the collaborative indicate that it is not necessarily likely to be an efficient or productive mechanism. • Does not integrate improved price signals with "top-down" program development • This would be up the Commission rulings. The	• This Model does not account for possible contributions to the EPS program goals outside the jurisdiction of the PSC

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		structure is neutral on coordination among lead EPS administrators	
5. Does the model minimize unnecessary functional overlap and duplication of effort?	•	• Not addressed. • The DPS Model does not address this criterion. • Not mentioned. Unclear how the complex Council structure would achieve goals. • This could be accomplished through coordinated rulings by the Commission.	• No • No. the Advisory Council likely would duplicate some functions unless a core responsibility is to identify and overlap among program administrators. • Model appears to be lacking a means of providing guidance to program administrators, committees, etc. This is necessary prior to development of plans and recommendations in order to provide more refinement prior to Commission consideration
6. How well does the model take advantage of the salient features of the existing and emerging program development and delivery infrastructure(s)?	• To the extent that existing program structures will be allowed to continue or incrementally changed it may do well in this area. • Probably	• Not addressed. • Unclear – the structure does not explicitly mention the existing programs.	• Poorly. As a practical matter, the DPS model is more focused on reaching agreement among parties active in the AC than on maximizing efficiency or effectiveness.
7a. Is the model flexible enough to accommodate differing conditions (e.g., geographic, climatic, load,	• Yes • Yes • (7a) Possibly, needs clarification	• Not addressed. • Differing conditions and regional variations could be accommodated	• **The main concern about the model is whether the staff will have the authority and resources to**

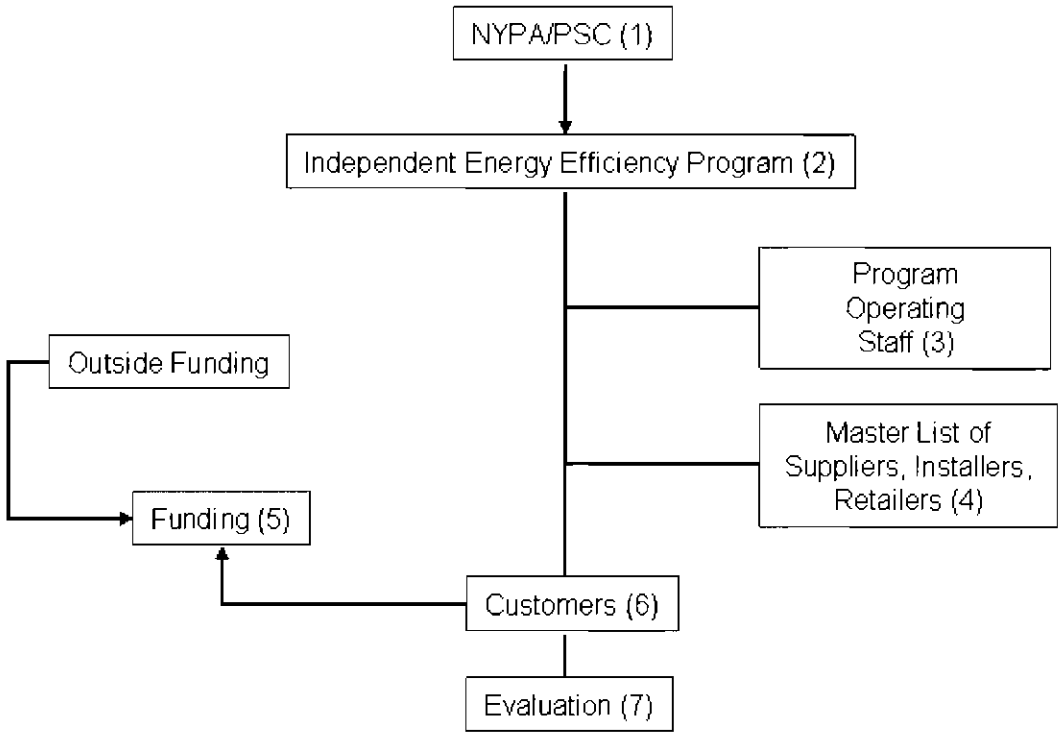
Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
institutional) across the state? 7b. Is the model robust enough to adapt to changing circumstances?	• (7b) Yes • (7b) Probably. May be slow with review by multiple subcommittees, Council and PSC • Presumably, DPS Staff assumes that the AC they proposed will do this	through Commission rulings • (7a) Maybe. Depends on the effectiveness of regional subcommittee.	**authorize program administrators to adjust programs mid stream without lengthy Commission proceedings. This is a critical concern, since mid stream adjustments often spell the difference between success and failure.** *[Bold in original]*
8. Where appropriate, does the model enable the seamless, integrated delivery of electric and gas efficiency programs?	• Yes	• Not addressed. • The DPS Model does not address this criterion. • Not mentioned. Unclear how the complex Council structure would achieve goals. • This could be accomplished through coordinated rulings by the Commission.	•
9. Is the model structured to allow meaningful and timely input, oversight, feedback and reallocation of effort and resources?	• Link between advisory council and PSC could indicate an unwieldy process for feedback and program improvement. • Yes to all except reallocation of effort. It is unclear how effort could be reallocated	• Perhaps. No formal role for entities outside Advisory Council. Role of Advisory Council unclear.	• Appears to work too slow • Advisory Council process, as described, seems very cumbersome, in that all decisions are made by the PSC • Advisory Council could prove to be unwieldy. Need for more "top down" guidance. Would advise keeping committees to a

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	among lead EPS administrators or within their programs without an additional Commission process which might be difficult to do in a timely fashion.		manageable minimum • Large Council and complex committee structure may slow process (like ISO) and all Council recommendations go to PSC, not directly to program changes • No. Although not entirely clear, it appears that the intent of the DPS model is to channel virtually all aspects of EPS through the AC as a "gatekeeper" to the PSC. That process will be costly, slow, and inefficient. 10a. No. Because authority in the DPS model rests with both the AC and the program administrators, M&V should either be conducted or audited independently of both entities.
10a. Does the model contain structures for independent monitoring, verification, auditing, and reporting of results?	• Yes • Yes • Yes • Yes	• Unclear. M&V would be "independent," but not clear who selects or supervises. M&V subcommittee might supervise all M&V statewide, or just produce guidelines	•
10b. Does the model ensure that the entity(ies) responsible for	• Yes • Yes • Yes.	• It is unclear in this and every model how new construction is	• The 6th unnumbered paragraph states that program administrators would

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
program administration are effectively moving towards achieving energy efficiency goals and are held accountable for achieving program goals?	Responsibility for ensuring progress is clearly lodged in the DPS staff. It is not stated how this responsibility will be carried out • Probably. Unclear who does what, or how decided.	handled. Will any entity be responsible for achieving this program element. • Not addressed	implement EPS programs "under the direct oversight of DPS Staff and be held accountable by the Commission." If the "oversight" and "accountability" are actually equivalent among all program administrators, the DPS model would satisfactorily address this criterion, but the model does not contain an explicit mechanism for achieving this result. The DPS model does not take full advantage of the Commission / Utility relationship where utilities can be held accountable for not achieving energy goals.
11. Are the entity(ies) responsible for program administration appropriately incentivized or otherwise committed to secure cost effective energy efficiency and ultimate success of the program? Is there demonstrable interest by the named entity in serving in this capacity?	•	• Not addressed. • Not addressed in submission. • The DPS Model does not address this criterion. • The entities responsible for program administration have incentives to claim energy savings on paper that must be balanced by incentives for end users to participate in cost effective programs.	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		• There is no mention of incentives or other means of encouraging success. Presumably this would be addressed through Commission rulings on a case by case or generic basis	
12. Does the model promote the elimination of disincentives and align interests relative to participants' roles?	•	• Not addressed. • Not addressed. • The DPS Model does not address this criterion. • Perhaps. Unclear where or when PSC will set incentives, or how the interaction and coordination of programs will affect incentives. RDM not governance issue; dealt with in rate cases. • Disincentives and interest alignment to maximize end user participation are not addressed	•

IEEP Model



(1) NYPA is the primary reporting and supervisory agency for the IEEP. The NYPSC has overall regulatory responsibility for IEEP members that come within NYPSC jurisdiction. NYPA and NYPSC have approved funding of the IEEP.

(2) The IEEP members executed a 2003 "Global Settlement" pursuant to which, *inter alia*, the systems committed to pursue enhanced energy efficiency programs. The systems do so through the IEEP.

(3) IEEP serves the energy efficiency, renewable resource and system benefit technology needs of municipal utility members Primary responsibility is achieving energy efficiency goals Programs funded outside SBC with customer funds and non-customer generated funds.

(4) IEEP operating team and "Master List" of contractors, suppliers, retailers. Close relationship with NYSERDA

(5) Programs funded through 1 mill/kWh assessment on customers, and funds from outside grants. No redistribution of rate among member systems

(6) Customers of IEEP members represent approximately 80,500 meters in 25 municipal electric and gas utilities.

(7) Ongoing evaluation of installed technologies in direct energy benefit, non-energy benefit and environmental impact

IEEP Model Assessment

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
1. Does the model facilitate the least cost administration and achievement of the EPS goal?	• Appropriate for this segment • Yes. The assumption made for purposes of the evaluation of the IEEP model is that the IEEP operation and objectives are as described in the Response of the Independent Energy Efficiency program and Municipal Electric Utility Association of New York to Staff's June 13th Questions (Responses document). According to the response provided to Staff Q22 (Appendix A to the Responses), "[t]he IEEP is designed for the specific operating environment of the municipal utilities of New York."	• Not clear – no information on costs is offered. • This model only addresses one segment of the expected EPS portfolio • Not enough information is available to ascertain this. This Model appears to be an existing program model (as opposed to a governance proposal) and has not been discussed in Working Group I.	•
2. Does the model provide an opportunity for the interests of the broad range of stakeholders to be served?	•	• Unknown. The process by which each municipality selects the uses of the funds it provides is not	• Apparently deals only with muni customers – not clear how they are represented. • No mechanism identified to

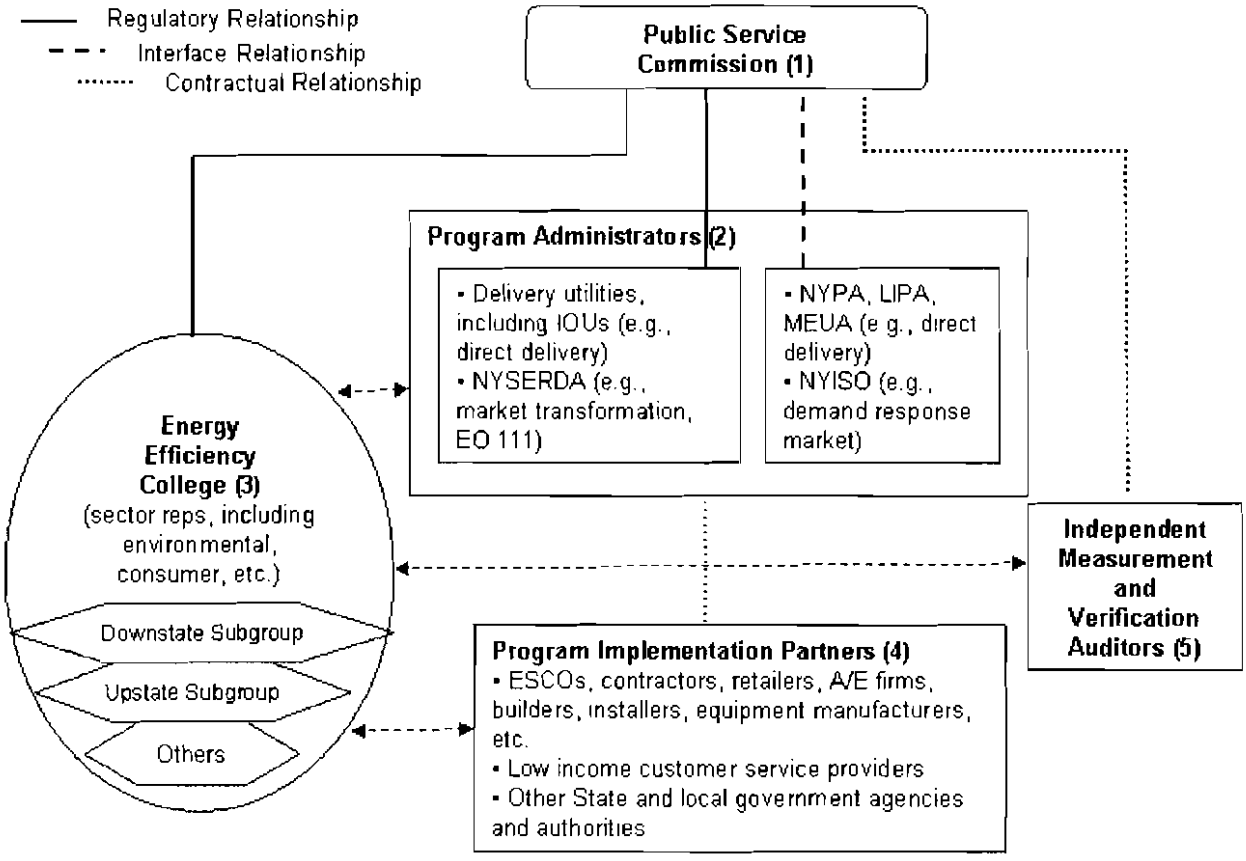
Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		described.	meet this criterion • No. This model only appears to address municipal customers
3. Do the entities responsible for meeting the EPS goals have the authority and the opportunity to meet those responsibilities?	• Yes, assuming that both NYPA and the munis accept the EPS goals. • Yes, assuming that the intention of the IEEP Model is to expand the prior scope of IEEP activities to include incremental activities designed to shoulder a fair aliquot of the 15x15 goals.	•	• No
4a. Does the model take advantage of the inherent strengths of the various participants?	•	• Not addressed • Unknown. The process by which each municipality selects the uses of the funds it provides is not described.	• Does not include all potential participants
4b. Does the model present a coherent structure for coordination and cooperation?	• Yes. The IEEP model is funded through individual municipal "contributions" which are separately tracked	• This model appears to be isolated from the rest of the EPS delivery system. • Information does not address how	• No • This Model does not account for possible contributions to the EPS program goals outside the jurisdiction of

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	individually. This represents a substantial improvement over the operation of the SBC, which has proven very difficult to track the sources and uses of funds on a funding utility-by-utility basis.	the Model would fit into a Statewide program or interface with any currently existing or future programs	the PSC
5. Does the model minimize unnecessary functional overlap and duplication of effort?	• Yes, according to the aforementioned Responses document	• Not addressed	• No
6. How well does the model take advantage of the salient features of the existing and emerging program development and delivery infrastructure(s)?	• Very well, according to the aforementioned Responses document	• IEEP is proposing a continuation of its delivery structure. Not clear how well this works.	• Not very well
7a. Is the model flexible enough to accommodate differing conditions (e.g., geographic, climatic, load, institutional) across the state? 7b. Is the model robust enough to adapt to changing circumstances?	• The model is apparently intended to apply to 25 municipal systems located across the State.	• Not clear from the presentation how flexible NYPA is in meeting the needs of the individual munis.	• (7a) No • (7b) No
8. Where appropriate, does the model enable the seamless, integrated	• Yes, according to the aforementioned Responses	• Not addressed	• No

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
delivery of electric and gas efficiency programs?	document		
9. Is the model structured to allow meaningful and timely input, oversight, feedback and reallocation of effort and resources?	• Yes. It includes a voluntary agreement on operations, and as noted tracks funding and use on a municipality be municipality basis.	• Not addressed • Not addressed •	•
10a. Does the model contain structures for independent monitoring, verification, auditing, and reporting of results?	• Yes, according to the aforementioned Responses document.	• No M&V outside the participants is mentioned • No mention of openness to a standardized format or independent verification	• No
10b. Does the model ensure that the entity(ies) responsible for program administration are effectively moving towards achieving energy efficiency goals and are held accountable for achieving program goals?	• Very well, according to the aforementioned Responses document	• Not addressed	• No • This Model appears to advocate the status quo of an existing program, without any mention of ramping up or reconsideration of program design in order to meet EPS goals. There does not appear to be any mechanism for program design or goal-setting
11. Are the entity(ies)	• Yes, to the extent they are	• Not addressed	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
responsible for program administration appropriately incentivized or otherwise committed to secure cost effective energy efficiency and ultimate success of the program? Is there demonstrable interest by the named entity in serving in this capacity?	identified. • Yes, according to the aforementioned Responses document	• Mixed. Unclear who does what, or how decided. Some utilities may be forced into roles for which they are ill-suited, by assigned goals and potential penalties.	
12. Does the model promote the elimination of disincentives and align interests relative to participants' roles?	• Yes, according to the aforementioned Responses document	• Not addressed. Current muni/NYPA "take or Pay" contracts may be an impediment to EE.	• No

JU Model



• Focuses on retail marketplace success via (a) customer receptivity; (b) knowledge of retail customer preferences; (c) quickness and flexibility in the marketplace
• Emphasizes (a) bottom-up nature of retail marketplace (assumes on-going market transformation); (b) simplicity; (c) Accountability.

(1) PSC. Ultimate approval authority. Oversees M&V Auditors

(2) PAs: Primary responsibility for achieving EPS objectives. Specific performance targets & metrics Standardized M&V protocols. Annual plans & reports. Expand reach of NYSERDA programs & expand beyond NYSERDA programs. Close working relationships among PAs, particularly where service territories/target markets overlap & programs present opportunities for synergy

(3) EEC Voluntary participation by market participants. Note intended to mimic NYISO committee structure or operation. Informational (not governing) body providing insight & analysis to all market participants to encourage "best practices". Opportunity for input into plans, methodologies, protocols. Agenda & scope collaboratively developed for PSC approval. Conducts annual seminar and publishes annual "proceedings" Intended to separate information exchange from advocacy and regulatory action

(4) PIPs Contract with PAs to provide services (e g , portfolio & program design, load & market research, marketing & customer recruitment, implementation & delivery, evaluation, M&V) or kW/kWh/Dt/peak day Dt savings.

(5) M&V Auditors Independent review of PA M&V to ensure integrity & validity of results Annual reports to public/Governor.

JU Model Assessment

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
1. Does the model facilitate the least cost administration and achievement of the EPS goal?	• Yes, due to the simplicity of the structure • This model has the potential for significant cost efficiency in administration • Yes. Administrative costs need to be part of utility and NYSERDA filings with the PSC, and PSC staff costs need to be calculated as well. Responsibility for least cost administration and goal achievement rests with the PSC decisions with regard to the part of the program under PSC jurisdiction. • Yes. Unambiguous accountability and authority for achieving clear goals and priorities facilitates cost minimization, as will the close working relationships among parties delivering EE (see notes 2 and	• Costs not addressed.	• No. Limited external review

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	3 to model description), and the avoidance of a "gatekeeper" collaborative between the program administrators and the ultimate approval authority. This "gatekeeper" is likely to have multiple priorities, unclear accountability, and a tendency to add material delay to the EPS process.		
2. Does the model provide an opportunity for the interests of the broad range of stakeholders to be served?	• Yes • Yes. A broad range of stakeholders can be heard though the Energy Efficiency College. This body is formally only advisory • Yes. The energy efficiency college is an information forum for all. Any party interested in a particular program of a particular PA (see note 2) can address any concerns directly with the PA and if not satisfied, with the decisional authority, the PSC.	• Provides opportunities for input, not necessarily for decision-making. • Provides limited opportunity through Energy Efficiency College. Does not address input from consumer, low-income, or environmental interests, or other impacted parties that would not normally have a voice in program administration. • At utility discretion	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
3. Do the entities responsible for meeting the RPS goals have the authority and the opportunity to meet those responsibilities?	• Yes • Yes • Yes. This model assumes that utilities will have some specified responsibilities for meeting EPS goals and it allows them the latitude to achieve those objectives following proposals they would file directly with the PSC and it allows the parties with the responsibility for specified levels of accomplishment to decide when where and how to "coordinate" with other governmental bodies (other than required filings with the PSC). • Appears to; one item of concern is the quality of the installations and the quality of the contractors; Who is responsible for this, in the past this was NYSERDA and perhaps they should continue in this role • Probably • The JU model provides clearer lines of responsibility and	• Budget authority and flexibility of the PAs is not clear.	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	accountability than other structures (but see incentives).		
4a. Does the model take advantage of the inherent strengths of the various participants?	• Probably, the role of NYSERDA would need to be clarified • Yes. This JU model seeks to assure that all program administrators can leverage their various strengths, allows for the active engagement of program implementation partners, and draws upon the knowledge of a wide variety of parties through the EEC. Utility program administration takes advantage of the utility/customer relationship, and ensures that all ratepayers throughout the state have the opportunity to participate in programs because ratepayer funding through each utility will be directed back to those ratepayers and not "pooled" as under the SBC. Utilities are better suited to reach	• Not addressed. • For some it does (utilities), not sure how well this will take advantage of statewide EE delivery system. • Mixed The model takes advantage of the utilities direct connections with their customers and their knowledge of energy consumption patterns. It appears to put NYSERDA in the same category as the utilities, not requiring the utility programs to take advantage of NYSERDA's consistent services across the SBC territories	• No. Utilities plan and act independently

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	out to customers and deliver programs effectively and efficiently to all customer classes. Utility administration also leads to a more streamlined non-bureaucratic process.		
4b. Does the model present a coherent structure for coordination and cooperation?	• Yes • Yes • Seems to provide forums for information exchange. Actual program coordination is not clear, especially if there is a conflict between PAs. • Not clear how programs will be coordinated on a statewide basis, although that is a listed outcome of this model.	• Program overlap needs to be addressed, particularly in terms of utility, market and NYISO initiatives. • Only if part of the PSC rulings. The structure calls for cross utility cooperation "close working relationship" but relies on individual filings, goals for actual implementation	• The Model does not provide a sufficient plan for coordination of program plans among the individual program administrators prior to Commission consideration. This coordination is critical for mitigating duplication, and as a means of providing more overall refinement prior to Commission consideration • No. No coordination among utilities or with NYSERDA. Utilities would "Expand reach of NYSERDA programs"
5. Does the model minimize unnecessary	• Yes • Yes	• Not addressed. • Not necessarily. The structure	• No • No. Encourages

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
functional overlap and duplication of effort?		does not in itself minimize overlap and duplication. PSC rulings would have to do that on a case by case or generic basis.	redundancy • The Model does not provide a sufficient plan for coordination of program plans among the individual program administrators prior to Commission consideration. This coordination is critical for mitigating duplication, and as a means of providing more overall refinement prior to Commission consideration
6. How well does the model take advantage of the salient features of the existing and emerging program development and delivery infrastructure(s)?	• Very well; clear accountability and goals will encourage PAs to adjust their programs to seek to maximize savings and effectiveness.	• Existing program delivery infrastructure is listed, but without discussion of what the various players actually do well and how their programs would fit together. • Mixed. The model requires the utilities to build internal program delivery teams, which (in most cases) are new or larger staffs. It takes advantage of	• Not well. For some it does (utilities), not sure how well this will take advantage of statewide EE delivery system. • This model does not allow for the continuation of existing programs regardless of current success • No. Utilities plan and act independently, without building on NYSERDA, NYPA, etc. • Requires a

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		the close connection between utilities and their customers. It takes advantage of the existing NYSERDA infrastructure through continuation of NYSERDA programs and recognizes NYSERDA's specialization in market transformation programs, but does not explicitly take advantage of the state-wide or SBC wide nature of the NYSERDA programs to coordinate or assist the utility programs	substantial ramp up of utility programs and transfer of NYSERDA performed activities.
7a. Is the model flexible enough to accommodate differing conditions (e.g., geographic, climatic, load, institutional) across the state? 7b. Is the model robust enough to adapt to changing circumstances?	• Yes • Yes • Yes • (7a) Yes, However, further definition is required	• Opportunities for input on a regional basis. Not clear if the PAs have the authority and flexibility to adapt to changing market conditions. • At utility discretion • Perhaps. The model is based on individual	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		utility plans, and a NYSERDA menu of programs. Utility territories, especially in the two big upstate New York Electric companies, cover very large and diverse geographic territories, often intricately interwoven. It will require creative, coordinated rulings by the PSC to make programmatic adjustments to meet special needs of geographic or climatic areas which cross utility service territories • The structure must be flexible enough to allow/require program administrators to adjust their programs to improve effectiveness without the necessity of a lengthy PSC procedure. PSC staff must have the authority to authorize or	

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		require modest adjustments within the framework of a formal ratemaking ruling	
8. Where appropriate, does the model enable the seamless, integrated delivery of electric and gas efficiency programs?	• Yes, and the JU model recognizes that consumers have the ability to make decisions among energy efficiency programs just as they do among hamburger chains, electronics, automobiles and all of the other goods and services they obtain in retail markets.	• Not addressed. • This is addressed but it's not clear how it will be executed • Appears to dependent upon how overlapping gas/electric service territories are dealt with • Only where the same utility provides both gas & electricity • Again, the structure does not prevent integration of electric and gas efficiency programs. The text calls for such cooperation, but each electric and gas company presents its own plan, and it is up to the PSC to coordinate them. The structure could be modified to require the utilities to plan	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		common programs, perhaps on a regional basis, but that is not in the plan as a requirement	
9. Is the model structured to allow meaningful and timely input, oversight, feedback and reallocation of effort and resources?	• It would appear to have that capability if included in the contractual relationship • Model does not address system for providing feedback from stakeholders to accommodate changes when necessary • Yes. See notes 2 and 3 to model description. PSC has oversight and review of all programs.	• Seems to provide a feedback mechanism. Not clear how much authority the PAs have to re-allocate resources once the PSC approves a plan. Not clear what happens if a PA is failing. • The structure for stakeholder input (the Energy Efficiency College) should be effective. Reallocation of effort and resources among several utilities and state agencies operating on the basis of separate PSC decisions looks like it will be cumbersome, unless the rulings specifically allow for cross-utility adjustments.	• Given the voluntary participation and the "interface" relationship, it is difficult to ascertain how any meaningful input from the Energy Efficiency College will be actually incorporated into the administrators' program plans • No. No collaboration, only a "College" in which utilities would tell other parties what they are doing
10a. Does the	• Yes	• Unclear	•

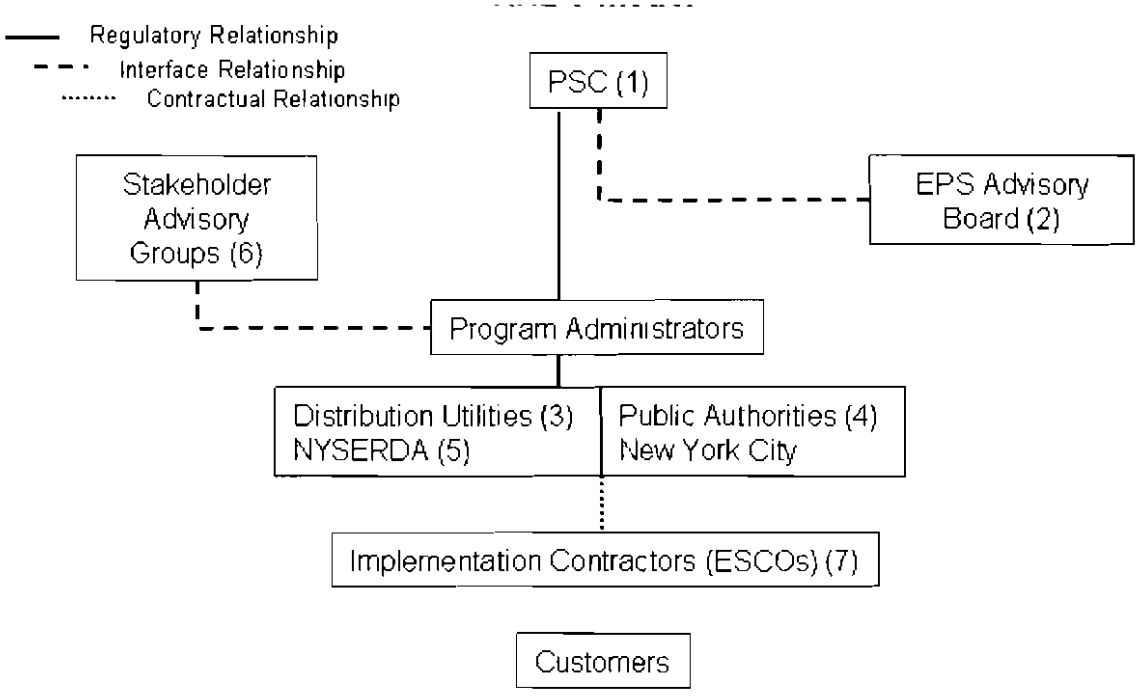
Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
model contain structures for independent monitoring, verification, auditing, and reporting of results?	• Yes • Yes • Yes • Yes, the model calls for strong, universal and consistently applied protocols for all of these functions, independent auditing of all M&V activities, and an annual report to the public/governor.		
10b. Does the model ensure that the entity(ies) responsible for program administration are effectively moving towards achieving energy efficiency goals and are held accountable for achieving program goals?	• Yes in general; not sure how it would work for new construction • Probably • Yes. All entities receiving EE funding under an EPS will be held accountable in the same fashion, using the same criteria. • Yes. This structure seems to be set up to ensure that each responsible entity is moving towards meeting its individual goals and is held accountable for achieving them, at least for those entities regulated by the PSC	• Not addressed • In some areas it does but it overlooks key players	•
11. Are the entity(ies)	• Could fit cleanly	• Not addressed	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
responsible for program administration appropriately incentivized or otherwise committed to secure cost effective energy efficiency and ultimate success of the program? Is there demonstrable interest by the named entity in serving in this capacity?	into this structure • Yes • Probably. Presumably the PSC rulings would give each utility the incentives required. In the absence of an effective decoupling process, utilities will always face a conflict of interests between effective energy efficiency programs and their corporate profit goals. How significantly this conflict affects the ability of the utilities to effectively deliver EE programs, in our experience, varies from utility to utility depending on other incentives and management interest	• Under this Model, the question of whether the IOUs are appropriately incented to pursue the goals of the EPS is a question that remains to be answered • Mixed. Depends on utility's attitude, subsequent PSC decisions on incentives. Some utilities may be forced into roles for which they are ill-suited, by assigned goals and potential penalties. • The model assumes that decisions on progress towards goals, accountability and incentives will be made by the PSC. • The entities responsible for program administration have incentives to claim energy savings on paper that must be balanced by incentives for end users to participate in	

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		cost effective programs.	
12. Does the model promote the elimination of disincentives and align interests relative to participants' roles?	• Yes	• Neither incentives nor utility senior management commitment to EE are addressed. • Not entirely • Disincentives and interest alignment to maximize end user participation are not addressed. • Perhaps. Unclear where or when PSC will set incentives, or how the interaction and coordination of programs will affect incentives. RDM not governance issue; dealt with in rate cases. • The model assumes that decisions on progress towards goals, accountability and incentives will be made by the PSC. • The principle disincentive for utility management is	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		the link between volume sales and corporate profits. NY is on its way to breaking that link. As I understand this, structure, it assumes that the link has been broken	

NRDC/Pace Model



- Non-savings goals for such criteria as equity and comprehensiveness should also be set.
- Assumes effective RDM, annual or multi-year incentives tied to successful performance (e.g. 9% net benefits for 85% target, 12% of net benefits for 100% or more of target), penalties tied to poor performance (e g. 65% target or less). Award of incentives based on independently verified efficiency achievements and total resource benefit.
- Program administrators use consistent metrics and protocols to identify savings. Program administrators would integrate, wherever possible, delivery of electric and gas efficiency programs.

(1) PSC. Ultimate approval authority for EPS programs administered by DisCos and NYSERDA

(2) EPS Advisory Board: Provides oversight of all components of evaluation program, similar to SBC Advisory Group.

(3) Distribution Utilities (DisCos): Primary responsibility for achieving objectives. Responsible for program administration and integrated delivery Specify service area targets (2010, 2013, 2015) Funding by discos as alternative to supply purchases

(4) Public authorities: New York Power Authority (NYPA) and Long Island Power Authority (LIPA) responsible for the development and administration of energy efficiency programs for their customers. NYPA and LIPA expected to meet EPS target of 15% energy reduction by 2015

(5) NYSERDA: Facilitates coordination among program administrators and assumes lead responsibility for providing regional, upstream and market transformation services

(6) Stakeholder Advisory Groups. Forums for regularized stakeholder input into the development and implementation of electric and gas efficiency programs by program administrators.

(7) Implementation Contractors (ESCOs) Primary mechanism for delivery of efficiency programs pursuant to contracts with program administrators

NRDC/Pace Model Assessment

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
1. Does the model facilitate the least cost administration and achievement of the EPS goal?	• Yes • Though the NRDC model calls for multiple program administrators, which would result in increased administrative infrastructure, by capitalizing on the strengths of the various participants with respect to delivering efficiency programs and otherwise, and by providing for effective coordination and the clear assignment of responsibility for meeting the 15 X '15 goal, the model provides for the streamlined, efficient and effective delivery of efficiency programs, which will help to ensure that the State is successful in meeting its EPS goal.	• Not addressed. • Unclear. To the extent that in practice, the two advisory groups are granted oversight or review authority over activities of program administrators, these advisory groups promise to require intense and costly involvement in all AC activities by interested parties, thus adding significant externalized costs and delay to the EPS. The Stakeholder Advisory Groups will appear to allow stakeholders 2 opportunities to present their positions – one in an advisory capacity and one as interveners in utility proceedings. This will increase inefficiencies by having stakeholders' present positions twice. Also, the model proposes that ESCOs (presumably energy efficiency service providers, not LSEs, although this requires	• No, to the extent that implementation limited to ESCOs. Utility incentives may result in administrative efficiency. Public program governance not addressed • Creates unnecessary layer of bureaucracy and excessive focus on program administrators rather than customer participation

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		clarification) be the "primary" mechanism for delivering programs, which would appear to limit other approaches even if they would be more cost-effective.	
2. Does the model provide an opportunity for the interests of the broad range of stakeholders to be served?	• It appears so • Yes, it appears to provide those opportunities through a stakeholder advisory group. Input will go directly to program administrator, which is preferred, but no provision made for representing low-income consumers or others that don't readily have access to program administrators. • A central tenet of the NRDC model is that stakeholders have forums for regularized meaningful input into the development and implementation of efficiency programs. The model provides for additional stakeholder input and oversight through the creation of an "EPS Advisory Board", which, similar to the SBC Advisory Board, would provide oversight of all components of program evaluation.	• Provides for stakeholder input, but no actual decision-making participation. • The model provides for Stakeholder Advisory Groups, presumably for this purpose. However, the description of the SAGs states they are for "input" and it is unclear in what sense "input" is suggested.	•
3. Do the entities responsible for meeting the EPS	• Yes • The NRDC model assigns	• Not clear what authority the	• No, due to multiple levels of

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
goals have the authority and the opportunity to meet those responsibilities?	primary responsibility for meeting EPS goals to distribution utilities, power authorities and municipal utilities. The PSC has clear authority to direct regulated utilities to implement efficiency programs to meet the "15 by '15" EPS target. • With respect to the State power authorities --- NYPA and LIPA --- both entities have the authority and responsibility to develop, administer and deliver energy efficiency programs for their customers. Indeed, both authorities currently administer energy efficiency programs. Depending upon the success of their current efficiency programs, these authorities may need to expand existing programs and/or establish new programs to meet the EPS goal. The board of directors for each entity has the authority to authorize additional expenditures on energy efficiency.	utilities have. • Unclear. In note 3, program administrators are given "primary" authority; this implies that the advisory groups (note 6) or NYSERDA (notes 1 and 5) may share this authority. If so, it is unclear how the service territory targets (note 3) or savings opportunities will be allocated among these players.	accountability.
4a. Does the model take advantage of the inherent strengths of the various participants?	• Yes • Yes • The model recognizes that based on their long history of direct customer relations, the distribution utilities possess certain	• Not addressed. • The model seems to suggest a broad role for DisCos and a more limited role for NYSERDA. However, although it is not clear what the NYSERDA	• This Model does not provide for the continuation of any existing programs, regardless of level of success

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	inherent advantages with respect to their customer base. The model seeks to capitalize upon these strengths by assigning the regulated utilities a lead role in the integrated administration and delivery of energy efficiency programs to their customers. Individual utilities would be held responsible for reducing energy consumption 15% by 2015, while public authorities (LIPA and NYPA) and municipal utilities would also be expected to meet the EPS target. The alignment of the responsibility for achieving the 15 X '15 goals with the increased authority to meet the goals is one of the major strengths of the NRDC model. • Recognizing that NYSERDA brings its own independent strengths and leadership, the NRDC model envisions NYSERDA serving as a facilitator to ensure coordination among efficiency program administrators, providing services that require a regional approach, and focusing on initiatives that rely primarily on upstream, market transformation strategies and mass	"facilitation" role would be, it would not appear consistent with this model for NYSERDA to assume this role.	

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	marketing. • The PSC's role would take advantage of its traditional strength and regulatory expertise as it would be responsible for review and approval of the utilities' efficiency programs and ultimate evaluation of utility program progress and the award of financial incentives		
4b. Does the model present a coherent structure for coordination and cooperation?	• Yes • The NRDC model envisions a great deal of coordination and cooperation by the program developers and administrators, as it provides that programs will be developed in coordination by the distribution utilities and NYSERDA, along with the power authorities and NYC, as appropriate. The model also envisions NYSERDA as a facilitator to ensure coordination among program administrators. The level of coordination provided for by the model, in addition to the provision for regularized stakeholder input and the creation of the "EPS Advisory Board" provides opportunities for meaningful input, oversight, feedback, etc.	• Has the potential to provide coordination. Not clear how disputes are settled. • Not addressed	• This Model does not account for possible contributions to the EPS program goals outside the jurisdiction of the PSC
5. Does the model minimize unnecessary functional overlap and duplication of	• Yes • By providing for coordination among the participants and by dividing responsibilities	• Not addressed. • Not addressed, not clear how geographic issues (service territories	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
effort?	among program administrators in a way that capitalizes on the strengths of each, the NRDC model provides for the efficient development and delivery of programs. The model also facilitates coordination among the program administrators and the ability to compare the success of various programs by providing for the use of consistent metrics and protocols.	of utilities) will be reconciled with goal of providing efficiency service delivery on a statewide basis, without overlap. • Unclear. It appears that the 2 Advisory Groups provide two separate functions. The overlap is likely to occur between the Stakeholder Advisory Groups and the stakeholder input in utility proceedings and between the role of the EPS Advisory Board in oversight of evaluation vs. the role of Staff vs. the role of the independent evaluators that utilities may employ as part of their M&V.	
6. How well does the model take advantage of the salient features of the existing and emerging program development and delivery infrastructure(s)?	• It appears to include this feature • Potentially well; the model seems to anticipate that delivery utility PAs will adjust their programs to seek to maximize savings and effectiveness. The Model will allow the delivery utilities to utilize their well positioned delivery infrastructure on both emerging programs and on programs that can be	• NYSERDA, NYPA and LIPA programs are all mentioned. Not clear how their programs would be blended into an integrated delivery system. No discussion of how NYISO LICAP and FCM rules and funding might effect utility funding of EE programs from supply	• It does not do this well at all.

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	easily transitioned to them.	procurement budgets. • Unclear as to how the program portfolios of the independent program administrators (utilities, NYSERDA, public authorities, New York City, implementation contractors) would be coordinated prior to PSC consideration. The Model does allow for NYSERDA to take on this coordination role, however, only DPS can make recommendations to the Commission	
7a. Is the model flexible enough to accommodate differing conditions (e.g., geographic, climatic, load, institutional) across the state? 7b Is the model robust enough to adapt to changing circumstances?	• Yes • Yes. The NRDC model proposes that electric and gas efficiency programs be collaboratively developed by NYSERDA and the distribution companies, as well as the public authorities and the City of New York, as appropriate, through a process that provides for regularized, meaningful stakeholder input. Program development should take into account differing conditions. All programs should be reviewed at least annually and amended, as necessary, to respond	• (7a) Unclear • (7a) Possibly, but does not address geographic issues • Utilities responsible for achieving goals in their service territories. Not clear if they will have the authority and flexibility required to meet the goals and/or adapt to market changes.	• (7b) No

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	to changing circumstances and to address programmatic gaps. The NRDC model envisions the Commission exercising its regulatory responsibility to assure such coordination and collaboration. • Yes, because utilities are the primary program administrators, they would have the flexibility to address the specific needs of their service territories and to adapt to changed circumstances within their territories.		
8. Where appropriate, does the model enable the seamless, integrated delivery of electric and gas efficiency programs?	• Yes • It states it does • The NRDC model calls for the establishment of a gas efficiency target that is comparable to that for electricity, as well as the seamless, integrated delivery of gas and electric efficiency programs to end use customers. In those geographic regions served by a combined electric and gas utility, the Commission should exercise its regulatory authority to ensure that the utility integrates the delivery of both gas and electric efficiency programs. In those areas served by separate electric and gas utilities, the Commission should exercise its	• Not addressed. Not clear who makes decisions in disputes. • Only where utilities are already providing both gas and electric service	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	regulatory authority to compel the integration of electric and gas efficiency programs between these utilities.		
9. Is the model structured to allow meaningful and timely input, oversight, feedback and reallocation of effort and resources?	• Yes, but only to a limited extent •	• Seems to provide feedback through the Advisory Board and Stakeholder Groups. Not clear who can take action, particularly in the case of a filing administrator. • No clear indication why the Stakeholder Advisory Groups and the EPS Advisory Board should not be one in the same. In the alternative, the Stakeholder Advisory Groups' input should be available to both the Program Administrators and the EPS Advisory Board • Though the model does not propose a specific structure for independent M & V, auditing or reporting of results, such a structure would fit easily into the model and is assumed with respect to the achievement of interim savings targets and the award of utility	• This does not appear to be an effective feature

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		incentives or penalties proposed. • Unclear. To the extent that the advisory groups have non-advisory roles and NYSERDA uses relatively bureaucratic means to "facilitate coordination", meaningful and timely decision-making may be hindered. Assuming by the Model description that the intent is to have identical PSC oversight of the DisCos and NYSERDA, then yes. Input, oversight and feedback will be provided through the regulatory process.	
10a. Does the model contain structures for independent monitoring, verification, auditing, and reporting of results?	• Yes, assuming that the contracting for EM&V services is removed from NYSERDA (current situation) and assigned to either the PSC or the EPS Advisory Board.	• This is not defined • It requires those activities but it's not clear how they would be implemented (presumably by program administrators). • Possibly, although to effectively and fully achieve this objective, it may be necessary for someone to contract with	•

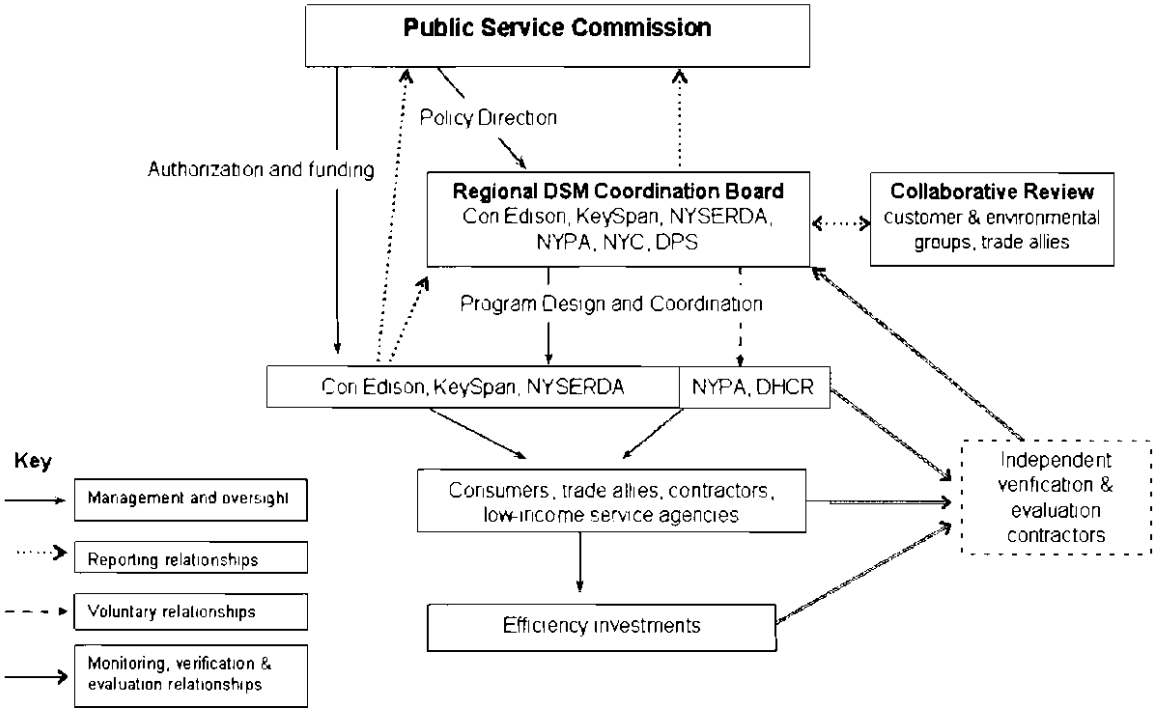
Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		independent professionals to audit the work of the program administrators or advisory group. It is unclear who would pay for or be accountable for such a contract, since the advisory group will not have its own budget or contractual authority.	
10b. Does the model ensure that the entity(ies) responsible for program administration are effectively moving towards achieving energy efficiency goals and are held accountable for achieving program goals?	• Yes • The NRDC model proposes that the PSC establish interim EPS targets for the years 2010 and 2013, to ensure that all cost-effective efficiency measures are being implemented and to measure progress towards achievement of the 15% EPS goal by 2015. With respect to distribution utilities and NYSERDA, which are under the PSC's jurisdiction, NRDC envisions the filing of annual program reports with the PSC which, inter alia, would measure each individual utility's progress towards meeting both the interim and final EPS goals.	• Not addressed. • Perhaps. It will be important for all program administrators, not just the utilities, to be fully motivated to achieve their respective responsibilities under their respective responsibilities.	• No
11a. Are the entity(ies) responsible for program administration	• Yes • (11a) Yes, through the incentive structure • (11b) Yes	• CA-style utility incentive program is proposed. Utility senior management	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
appropriately incentivized or otherwise committed to secure cost effective energy efficiency and ultimate success of the program? 11b. Is there demonstrable interest by the named entity in serving in this capacity?	• The distribution utilities would be appropriately "incentivized" through the financial incentives mechanism based on independently verified performance. The NRDC model proposes that incentive payments be scaled with higher incentives being awarded for higher achievement. Incentives could be annual or multi-year (e.g. 3-year). All incentive earnings would be subject to stringent independent verification of efficiency savings. Utilities would be penalized financially for poor performance in meeting their EPS savings goals, as well. The suggested performance incentive structure facilitates the alignment of energy efficiency efforts with supply-side planning and provides utilities with a profit motive that is likely to result in more aggressive efforts to deliver energy efficiency.	commitment to EE is not addressed. • Mixed. Unclear. Some utilities may be forced into roles for which they are ill-suited, by assigned goals and potential penalties. • The model proposes a penalty/incentive mechanism applicable to DisCos only. There is no proposal relative to NYSERDA or the advisory groups to encourage their strong performance or discourage weak performance on defined goals. • The entities responsible for program administration have incentives to claim energy savings on paper that must be balanced by incentives for end users to participate in cost effective programs.	
12. Does the model promote the elimination of disincentives and align interests relative to participants' roles?	• Yes • The NRDC model also proposes that the EPS program incorporate an effective revenue decoupling mechanism that would eliminate the	• Utility disincentives and potential remedies (de-coupling) not addressed. • Disincentives and interest alignment	•

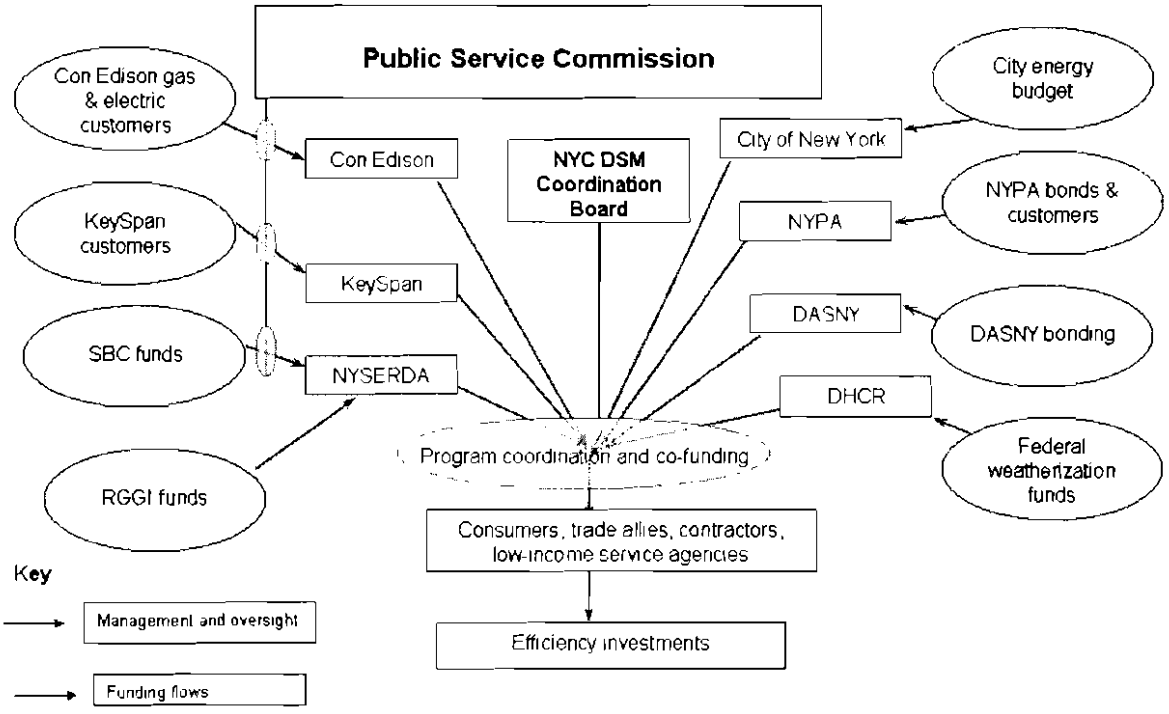
Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	financial disincentive distribution utilities currently have with respect to investment in efficiency programs. • Yes. In any event, this issue is already being resolved in the context of the PSC order on RDM.	to maximize end user participation are not addressed • Not completely – only with respect to distribution utilities. • Perhaps. Unclear where or when PSC will set incentives, or how the interaction and coordination of programs will affect incentives. RDM not governance issue; dealt with in rate cases.	

NYC Model (Original)

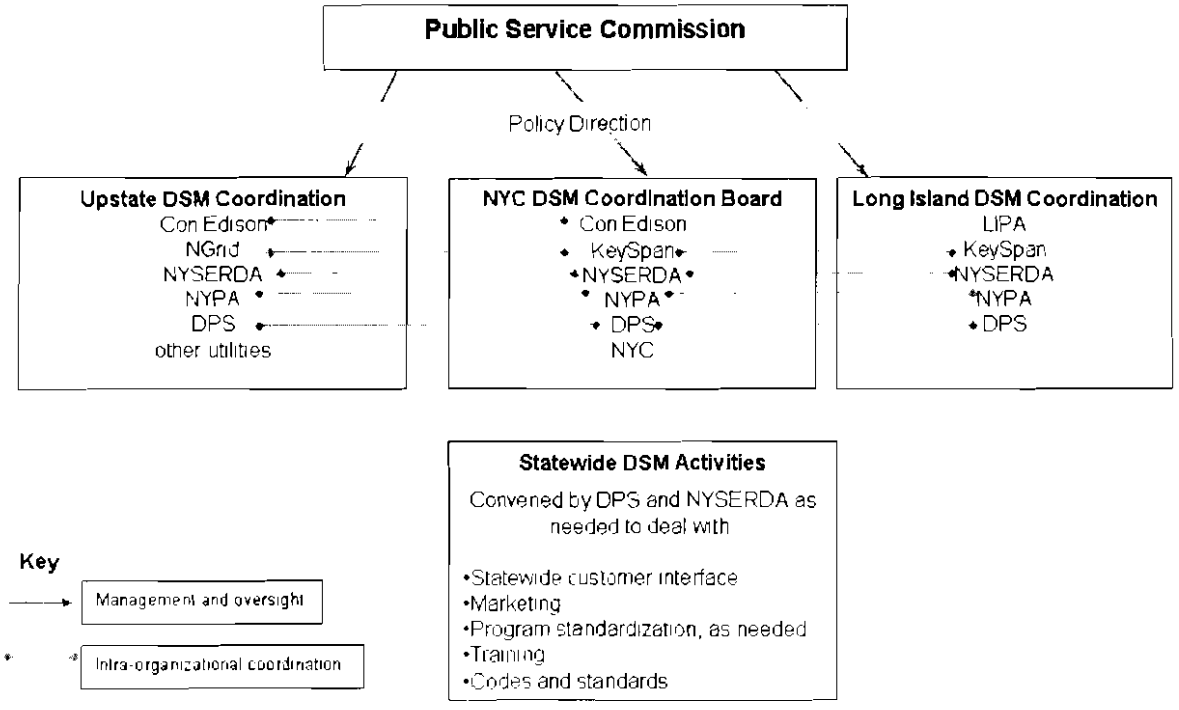
New York City DSM Governance Model



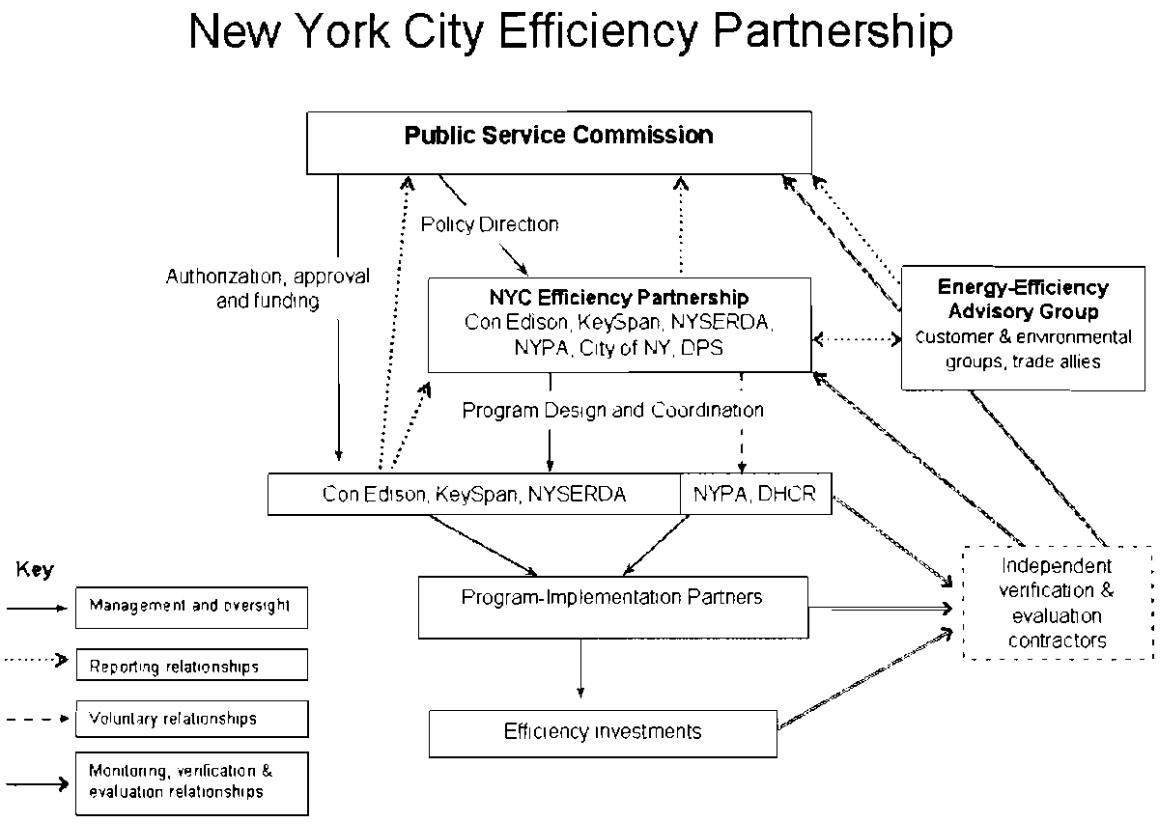
New York City DSM Funding Model



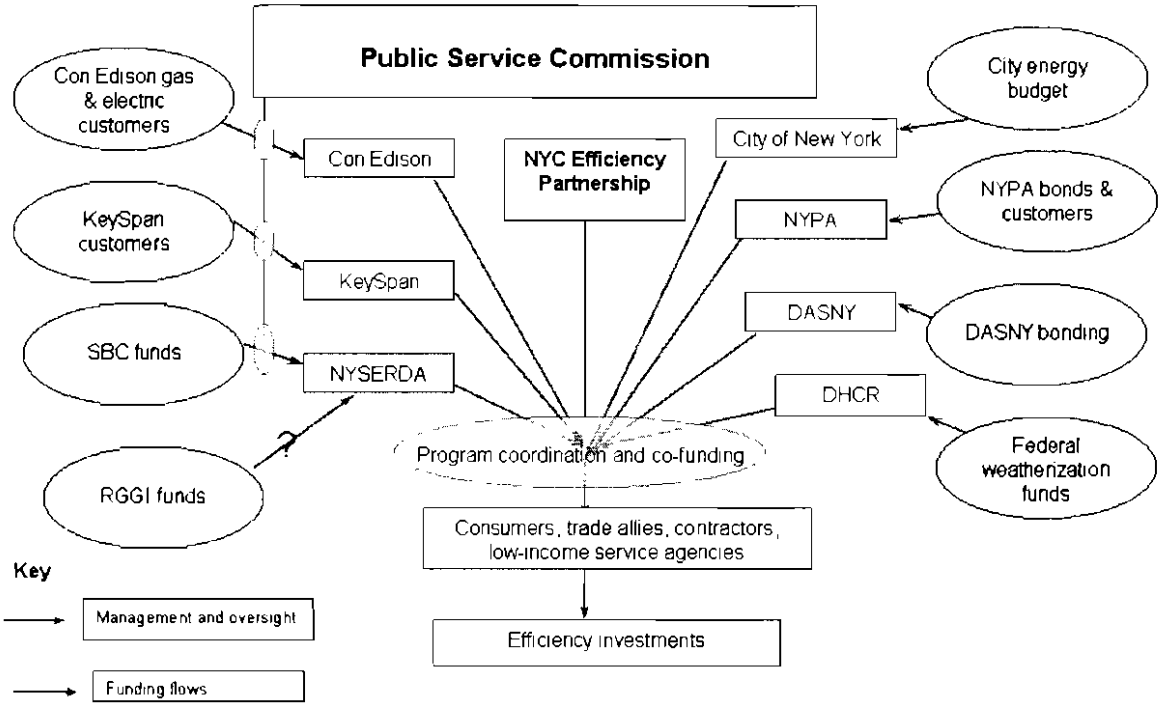
Inter-regional DSM Governance Model



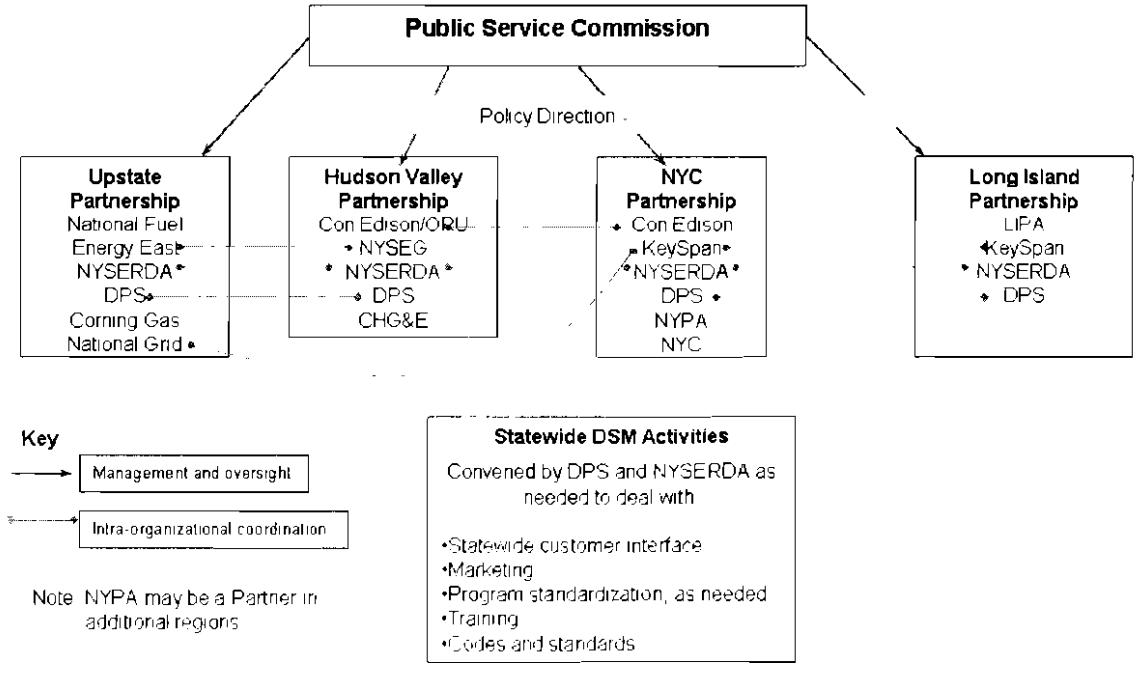
NYC Model (Revised)



Funding for NYC Efficiency Partnership



Inter-regional DSM Coordination



The changes from the [original] version include:

- Clarifying the PSC's authority over essentially everything the regulated entities do in energy efficiency: efficiency goals and objectives, programs, savings targets and overall budgets, rate treatment, decoupling mechanisms and utility incentives; funding mechanisms and cost recovery.
- The Coordination Board has been restyled as a Partnership, to emphasize that the objective of this group is joint decision-making and action, not regulation.
- Clarifying that the M&V protocols and reports would be submitted to the PSC for review and approval.
- Adding a Hudson Valley Partnership on slide 3, and listing the likely members of each partnership. The City believes that four to seven Partners in each Partnership should cover all the entities that bring substantial resources to the effort.

Each utility and NYSERDA would report to the PSC on the schedule the PSC sets. Each such entity would be responsible for its own financial and ratemaking filings. In support of those filings, each Partnership would develop a consensus report, describing:

- the integrated program offerings;
- the role of each Partner and other DSM providers in each program, including funding, customer interface, marketing, and administration;
- the means by which the program will be adapted or modified for non-jurisdictional customers (e.g., self-financed NY City government projects, NYPA-financed projects);
- cost-sharing arrangements among the Partners; and
- proposed allocation of program benefits and savings targets among the Partners reporting to the PSC (i.e., the utilities and NYSERDA).

Each Partnership would also:

- recommend to the PSC possible enhanced utility incentives, once roles and responsibilities are proposed for those utilities;
- select and supervise the consultants who will design the integrated gas and electric DSM programs; and
- select and supervise the evaluation consultants for the programs.

NYC Model Assessment

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
1. Does the model facilitate the least cost administration and achievement of the EPS goal?	• Yes	• Not addressed. • Unclear. The addition of regional coordination bodies adds an administrative level, which has some inherent cost. There may be offsetting savings and increased program impact from avoiding overlap and competition of programs within each geographic territory	• No; NYC first calls this a DSM governance model; which is a secondary goal of this proceeding. If not clearly focused on the Energy Efficiency as recent E Mails in the proceeding to establish a DSM goal has indicated. Regional Coordination Board would not be necessarily focused on Energy Efficiency. Model appears to have unnecessary layers of administration and dual reporting functions • No complicated structure does not appear to be designed to minimize cost • No. The complex approval, oversight, review, and decision-making relationships created under the NYC model will inevitably result in a cumbersome, costly, bureaucratic, and rule-based structure. The

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
			structure promises to require intense and costly involvement in all AC activities by the engaged parties, thus adding significant externalized costs to EPS that are both unnecessary and wasteful. Moreover, the "partnerships" must reach consensus on numerous sensitive issues that must be resolved before program administrators can do their work, and it is unclear who has authority to compel the partnerships to do their work in a cost-effective, prompt manner, or to resolve disagreements among the members of the partnerships. The partnerships and their roles in submitting positions on filings with the PSC result in a redundant process whereby interested parties get two separate opportunities to comment on energy efficiency programs by

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
			utilities and/or NYSERDA – one through the partnership and a second through the utility proceedings and NYSERDA SBC proceedings.
2. Does the model provide an opportunity for the interests of the broad range of stakeholders to be served?	• Yes • Yes • Yes. Several Partners, plus advisory group	• Relationship between the Coordinating Council and the Collaborative Review not clear. Are the non-administrators part of the decision-making or in a strictly advisory role? • Provides for input from collaborative review group to a regional coordination board that oversees program administrators. Not clear that all stakeholder interests will have equal access or that their interests can be fairly addressed through this structure • Unclear. The model provides a function for an Energy Efficiency Advisory Group, reporting to the New York City partnerships (but not the other partnerships). However, the	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		rights of those parties, and the responsibilities of the NYCEP to any information provided to it, have not been expressly stated. Nor is it clear what role, if any, stakeholders could play in PSC proceedings. In addition, it should be noted that SBC and RGGI funds will ultimately be paid by utility customers, in the first case directly, and in the second case via the cost of wholesale power; the implication of the NYC funding model is that these dollars are owned by NYSERDA, without any specific accountability to energy consumers.	
3. Do the entities responsible for meeting the EPS goals have the authority and the opportunity to meet those responsibilities?	• Yes • Yes	• Not clear which parties have EPS goals. • This Model raises many questions. It is unclear as to the overall authority attributable to the NYC, or any of the Efficiency Partnerships. For example, does the NYC Partnership	• It does not appear that they do not as responsible party does not have final say over program design • No. In general, it is unclear who will have the actual responsibility to meet the EPS goals, since program

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		have the responsibility for determining the entire regional/NYC program portfolio? If so, how will consensus be achieved, and what happens if it is not? • The City proposal necessitates a PSC ruling that the utilities follow this structure, rather than the traditional structure of ruling on services provides within a regulated utility service territory. It also requires that the PSC cede some authority to the regional DSM coordinating structure to make adjustments as needed to meet program goals.	administrators are not accountable for program design (partnerships are) and the partnerships are not under the overall authority of the PSC; it is unclear whether each member of each partnership will have its own targets or the necessary authority to achieve them; and it is unclear how opportunities will be allocated among members of the partnership. It appears that the partnerships would have the authority to determine the potential for success in meeting EPS goals, but no obligations or responsibility, and the program administrators may have the responsibilities to meet the goals without the authority to make the necessary decisions to do so. Finally, the difference is unclear in the relationship between the PSC and the

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
			partnerships, between the PSC and utilities, and between the PSC and NYSERDA.
4a. Does the model take advantage of the inherent strengths of the various participants?	• Yes, to some extent • Yes • Yes, but it requires some utilities to operate their programs differently in different regions, which presents some logistical and internal equity issues	• Not clear • Not addressed.	• No. By diluting the effectiveness of all entities, the NYC model weakens the ability of each one to be effective. This model appears to be based on an assumed lack of coordination and consultation on the part of the program administrators, and to be intended to ensure that opportunities exist to override the judgment of those organizations. Such a going-in presumption does not lend itself to encouraging strengths.
4b. Does the model present a coherent structure for coordination and cooperation?	• Yes • Yes • One of the Model's structural strengths is its formalization of a wide range of cooperation among program administrators. This also lessens the likelihood of duplication of	•	• No, unnecessarily complex • Complex structure involving regulated and non-regulated entities. Not clear if non-regulated entities (NYC, NYPA, etc.) are willing to cede authority to Coordinating Council.

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	effort • Yes, within each territory under the state-wide umbrella programs		• No. Highly dispersed authority, responsibility, and control make coordination and cooperation difficult; the boundaries among the partnerships are unclear; and the relationship between the partnerships and the "statewide DSM activities" group is even less clear.
5. Does the model minimize unnecessary functional overlap and duplication of effort?	• Yes, coordination through the Partnership • Yes. This model appears to require region by region coordination among all parties	• Coordinating Council has this potential, but not clear who has the authority to resolve disputes.	• No • No, different entities will perform the same functions in different areas • No. In fact, the model creates more organizations (various partnerships, advisory group, "statewide DSM activities" group) whose functions are likely to overlap and who are likely to duplicate effort.
6. How well does the model take advantage of the salient features of the existing and emerging program development and delivery infrastructure(s)?	• It does, by incorporating existing programs and allowing for the development of new initiatives – at least in New York City	• Not addressed. • Mixed. Most existing programs are designed to be statewide (NYSERDA) or by utility territory. This model calls	• No

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	• Yes	for the creation of regional programs which will call for some new program designs. It also implies cross utility program delivery which demands coordination and cooperation. On balance probably a good thing, but it will require rearrangement of many existing program delivery systems	
7a. Is the model flexible enough to accommodate differing conditions (e.g., geographic, climatic, load, institutional) across the state? 7b. Is the model robust enough to adapt to changing circumstances?	• Yes • (7a) Yes. Separate Partnerships for NYC, Long Island, Hudson Valley and Upstate. • (7b) Yes. Partnership can reassign roles, support program changes; Partnership support speeds PSC review and approval and reduces utility risk of cost disallowance	• (7a) There is some attempt to make this regional model a state wide collection of models, but it does not address the institutions that exist upstate such as the various county energy boards that exists across the state or entities such as MEGA which aggregate load for many of the upstate regions. It is not clear it will be able to accommodate the differences that exists • (7b) Not clear if it can adapt • Maybe. The regional DSM bodies appear to have some	• Model is primarily concerned with NYC, which is unlike the rest of the state. Not clear how the complex structure might adjust to changing market conditions. • No • No. Although the model has theoretically been structured to be responsive to regional needs, its complexity and lack of role clarity are likely to defeat this objective. • **If each adjustment requires a new PSC ruling, or decision by the various independent**

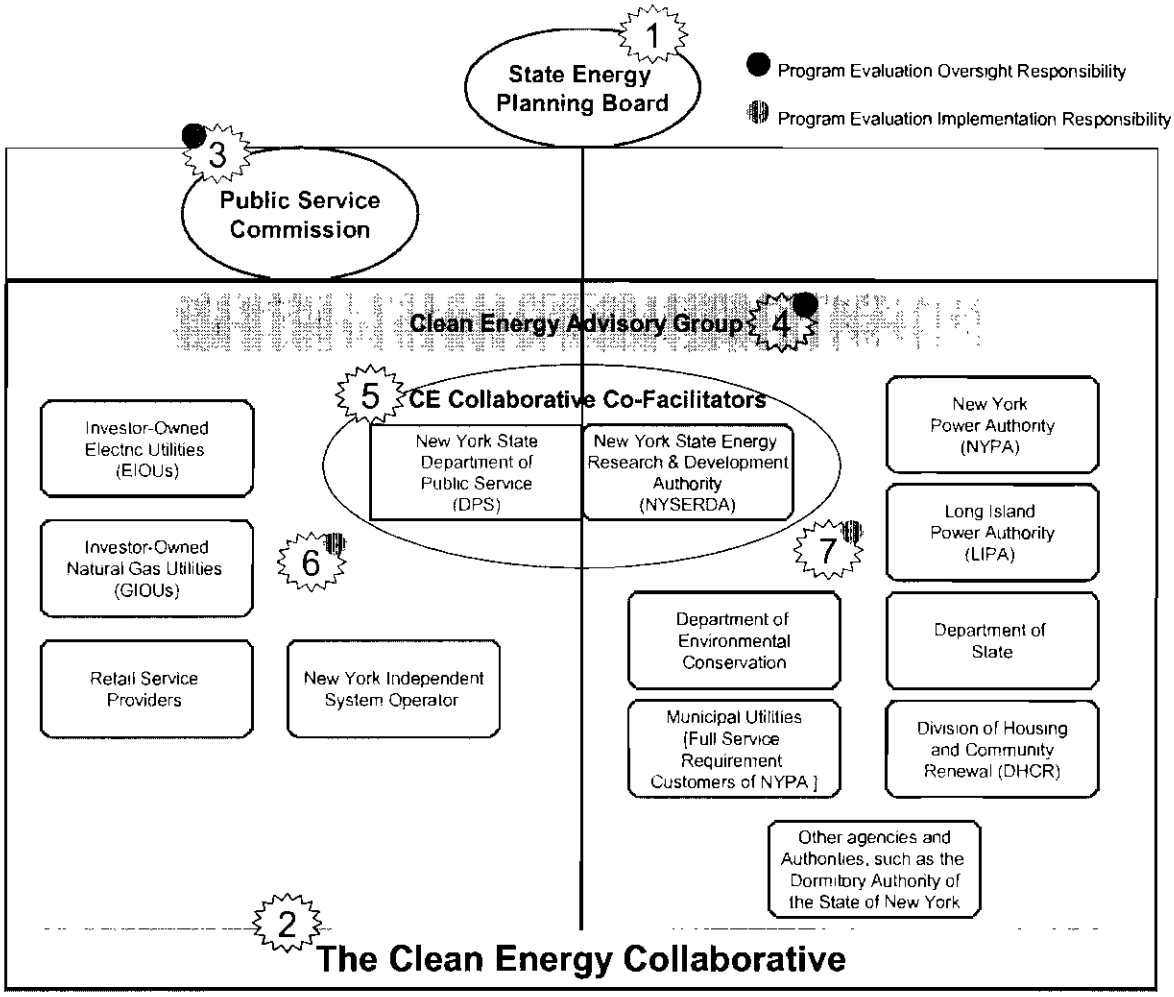
Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		authority to adjust program design and delivery mix to achieve goals. If the regional DSM coordinators can make adjustments that the utilities and other deliverers of EE programs must adhere to, than the system will work	**authorities, then adjustments may become impossible to make in a timely fashion.** *[Bold in original]*
8. Where appropriate, does the model enable the seamless, integrated delivery of electric and gas efficiency programs?	• Yes • Yes • Yes, coordination through the Partnership	• Coordinating Council might enable integrated delivery	• No.
9. Is the model structured to allow meaningful and timely input, oversight, feedback and reallocation of effort and resources?	• Appears to • Yes. To and from Partnership, advisory group, PSC	• Model contains all stakeholder parties. Timeliness of decision-making is an obvious issue. • Not entirely – somewhat cumbersome, not clear how effectively feedback can be incorporated by program administrators • The Model has several positive qualities. However, without text references it is difficult to completely assess the individual roles and relationships. For example, it is unclear what is included in "policy	• No. Even if the roles of the various entities on the graphic were further clarified, the complexity of the structure proposed by NYC would prevent timely action. It is also unclear how the several partnerships will necessarily provide "meaningful" feedback that can be functionally utilized

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		direction" which is subject to broad interpretation. Also, the individual partnerships could be collapsed to have more of a Statewide focus, with some meaningful regional focus inherent in the process. • If the regional bodies function regularly, these functions should work well within each region. Statewide coordination will be weaker than in other models	
10a. Does the model contain structures for independent monitoring, verification, auditing, and reporting of results?	• Yes • Yes • Yes. All M, V & E consultants report to Partnership	• Not clear who contracts for EM&V. Independence requires that an evaluated party not also be a contracting party.	• No. Given the mixed authority and responsibility of the program administrators and partnerships, the verification and evaluation contractors cannot be truly independent if they report to either of these entities, as is proposed here.
10b. Does the model ensure that the entity(ies) responsible for program administration are effectively moving towards achieving energy efficiency goals	• Yes • Yes. Partnership proposes allocation of goals to match responsibilities • Yes, but it may	• Authority over non-regulated parties is not clear. Do they have EPS goals and to whom are they accountable?	• No

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
and are held accountable for achieving program goals?	complicate the job of some of the entities. The city model recognizes that a variety of institutions not regulated by the PSC will be delivering EE services to meet the 15 x 15 goal and provides a regional mechanism for coordinating these activities. Since the regional teams cut across some utility and state agency territories, there is some inherent complication of the task for these entities of meeting their statewide goals (they will be less able to shift resources from one region to another within their service territory). The multiple territory arrangement means that one territory may be served better (or worse) than another		
11. Are the entity(ies) responsible for program administration appropriately incentivized or otherwise committed to secure cost effective energy	• Yes. Partnership recommends incentive structure to match responsibilities, and can assign tasks to most committed parties. The Partnership	• Not addressed • This was not directly addressed by this model. • Unclear in the structure. As in other models, utility interests	• In theory, the partnerships are to advise the Commission concerning utility incentives "once roles and responsibilities are proposed for

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
efficiency and ultimate success of the program? Is there demonstrable interest by the named entity in serving in this capacity?	would assign roles to committed parties, and reassign if needed.	need to be aligned with EE through decoupling. This approach seems to allow for regional variation in delivery agents, depending on the interest of the various entities in delivering services –i.e. if a utility in a particular region was very interested and very good at delivering services, it might get more of the project in that region, while in another region NYSERDA or some other entity might be given the lead status	those utilities". In practice, the NYC model will make it very difficult to clarify the authority and responsibilities of any specific entity, which will make it difficult to hold any of these entities accountable for their performance.
12. Does the model promote the elimination of disincentives and align interests relative to participants' roles?	• Yes • Yes. Partnership recommends incentive structure. RDM Not governance issue; dealt with in rate cases	• Not addressed. • Not addressed explicitly	•

NYSERDA Model



(1) State Energy Planning (SEP) Board provides primary energy policy guidance for New York State. However, the implementation of NYSERDA's model while benefiting from the SEP Board is not dependent upon the creation of the Board.

(2) Clean Energy Collaborative (CEC): Deliberative body to discuss and guide energy efficiency and renewable energy resource efficiency and alternate fuel programs in the transportation sector, economic development programs designed to expand the infrastructure to support deployment of advanced energy technologies and attract manufacturing and R&D activities to New York, and other activities as they contribute toward the development of a Statewide clean energy strategy. In the context of the EPS, the CEC would address electricity and natural gas efficiency plans, programs and services.

(3) PSC: Approve jurisdictional funding, implementation plans and budgets. Oversees programs and implementation. Has ultimate responsibility to receive reports on evaluation and progress toward goals.

(4) Clean Energy Advisory Group (CEAG): Provides oversight of all components of evaluation program, similar to SBC Advisory Group. Provides reports and guidance to the CEC.

(5) CEC Co-Facilitators: Call and preside over meetings of the CEC, set agendas. Consider and evaluate perspectives brought to the CEC and advise their respective bodies, accordingly.

(6) Private Sector Entities: Program Administrators that plan and implement energy savings initiatives; determine budgetary needs; implements evaluation program in accordance with CEAG guidance; and

provide recommendations to meet those needs under the guidance and direction of their respective decision-making bodies.

(7) Public Sector Entities: Program Administrators that plan and implement energy savings initiatives; determine budgetary needs; implements evaluation program in accordance with CEAG guidance; and provide recommendations to meet those needs under the guidance and direction of their respective decision-making bodies.

NYSERDA Model Assessment

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
1. Does the model facilitate the least cost administration and achievement of the EPS goal?	• Yes. This proposal provides the widest coordination among the various entities that are or will be providing EE services	• Some of the relationships are not clearly defined; it appears that it can promote straight forward administration • Not addressed.	• No, it adds bureaucracy but this is partly offset by increased coordination efficiency • No. No coordination • No. The lack of a clear distinction in authority and responsibility between the PSC and the new "Energy Planning Board" will lend itself to confusion and delay, which will add costs overall to the EPS by hindering timely, effective decision-making. The new "Clean Energy Collaborative" adds a "gatekeeper" organization between the program administrators and their "respective decision-making bodies", creating a source of additional cost and delay, and diluting the accountability of the program

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
			administrators. Since collaborative participants will still have their own interests and opportunity to participate and regulatory proceedings outside of the collaborative process, with the PSC ultimately having the authority to approve CE programs, the collaborative process provides a redundant forum, in addition to the regulatory process, for stakeholders to express their positions. When accountability is unclear, it becomes more difficult to ensure low costs because a mix of priorities become more important. The proposed structure of the CEC is also inefficient, being managed on a 50/50 basis by both DPS and NYSERDA, inviting confusion and gridlock. It would also frustrate the responsibilities of the PSC, to the extent that the

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
			PSC in the future may provide any SBC funding to NYSERDA. The PSC must retain the full extent of its jurisdiction relative to those funds no matter by who received.
2. Does the model provide an opportunity for the interests of the broad range of stakeholders to be served?	• CEAG and public sector agencies will ensure this. Somewhat indirect lines of responsibility but good opportunities for involvement by a variety of constituencies • Yes • Yes	• The input of a large range of stakeholders is at a very high level. The model could be improved by providing stakeholder input at lower levels in the structure, closer to the actual programs • Advisory Group can offer input, if it represents the full range of stakeholders.	• No. The model does not identify any explicit role for end users, or various interest groups.
3. Do the entities responsible for meeting the EPS goals have the authority and the opportunity to meet those responsibilities?	• Yes • Yes. The utilities are provided with their authority and opportunity through DPS rulings, and the various public entities that NYSERDA coordinates get their authorization and opportunity through executive order or their own board decisions, as appropriate. • It appears to	• Not clear who has responsibility for EPS goals.	• No. Model does not specify which entities will have specific "responsibilities" for meeting EPS goals. Accountability appears to be dispersed among the CEC, the CEC facilitators, the Clean Energy Advisory Group, and the program administrators.

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
	• Probably		
4a. Does the model take advantage of the inherent strengths of the various participants?	• Yes • Yes	• Strengths not addressed • Perhaps. No defined structure for allocating tasks. • It is unclear whether, or how, the model would capitalize on the inherent strengths of the various participants.	•
4b. Does the model present a coherent structure for coordination and cooperation?	• It appears to • Yes	• Clean Energy Cooperative provides a discussion forum, but decision authority is not clear. • This model shows a complex but comprehensive structure for coordination and cooperation. There will need to be clear direction from the executive and the DPS to make it coherent	• No. "each entity ...has its own interests and ...makes its own decisions." • No. The use of "co-facilitators" and an apparent 50/50 split between DPS and NYSERDA is an invitation to problems. Furthermore, the membership and operations of the CEC have not been specified and its role is vague. Moreover, with collaborative participants also having the ability to short circuit the collaborative process by participating in regulatory proceedings, it is uncertain that the structure could present a coherent structure for

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
			coordination and cooperation.
5. Does the model minimize unnecessary functional overlap and duplication of effort?	• Yes. This model provides for a high level of state-wide coordination and a chance to minimize overlap and duplication across the board	• Not specifically addressed • Collaborative can identify duplication and overlap, but its decision-making authority is not clear.	• No • No mechanism for doing so.
6. How well does the model take advantage of the salient features of the existing and emerging program development and delivery infrastructure(s)?	• Probably	• Not addressed. • Unclear and unspecified • Provides the ability to do this but how well it will work depends on individual utilities and public entities • This is unclear. In the structure, as we understand it, NYSERDA's clearly defined role is coordinating other state agencies and authorities in the delivery of their EE programs. The role of NYSERDA's existing market transformation programs is not explicitly part of the structure. It seems logical that all EE delivery entities, public or private, be encouraged or required to utilize these market transformation programs (quality standards and training for the energy efficiency trades, labeling for homes,	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		buildings and products, marketing programs to the general public, etc.) This is not explicit in this model, while the continuation of NYSERDA's market transformation programs is explicit in other models, most notably the JU and NYC mode	
7a. Is the model flexible enough to accommodate differing conditions (e.g., geographic, climatic, load, institutional) across the state? 7b. Is the model robust enough to adapt to changing circumstances?	• Yes • Yes • Yes. Each party would do whatever it chose	• (7a) Possibly, but since it is very top down, with stakeholder input at the top of the structure, it is likely to be inefficient in accommodating different conditions. • (7b) Perhaps, if program administrators decide to do so. Not in any coordinated manner • This depends. This is a complex structure with a comprehensive plan for coordination, but with somewhat diffuse power relationships and a large number of stakeholders at the table. It should be able to adopt a variety of plans, but decision making may be slowed down by the very complexity and comprehensiveness of the structure itself	• Model involves a complex Collaborative. Not clear how flexible it will be. • No. The model is oriented to achieve statewide standardization, not to accommodate local needs, changing circumstances, or responsiveness to lessons learned
8. Where appropriate, does the model enable the seamless, integrated delivery of electric and gas	• Yes, potentially • Yes, depending on DPS/PSC rulings	• Not specifically addressed • Model can enable integrated programs, but can't enforce them.	• No mechanism for doing so.

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
efficiency programs?			
9. Is the model structured to allow meaningful and timely input, oversight, feedback and reallocation of effort and resources?	• Yes, but that structure could prove cumbersome	• Not clear • Model would apparently provide feedback. Not clear who decides about reallocation of effort and resources. • Perhaps. Collaborative and Advisory Group structures are undefined. Only if a party reallocates on its own. No obvious coordination. • The Clean Energy Advisory Group and the Clean Energy Collaborative provide considerable feedback. It is less clear who has the power to reallocate effort among the various providers should adjustment be necessary	• No. The roles in this regard of the Planning Board, PSC, CEC, and program administrators are unclear in this regard; structure of the CEC is not appropriate for this purpose, and the model is not likely to produce timely decisions.
10a. Does the model contain structures for independent monitoring, verification, auditing, and reporting of results?	• Yes, in theory. Each EE delivering entity provides its own M&V plan under CEAG guidelines This may prove to be less well coordinated than the models where the DPS provides independent M&V to all EE delivering entities	• It is not clear; to the extent NYSERDA is a participant providing services, it does not • Not addressed. • Responsibility for M & V vested with program administrators. Not sure this provides enough independence • Unclear • Unclear. The independence of the CEAG from the parties who will be accountable for performance is not clear, since accountability for performance is unclear	•

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		in this model.	
10b. Does the model ensure that the entity(ies) responsible for program administration are effectively moving towards achieving energy efficiency goals and are held accountable for achieving program goals?	• Yes • Probably. Unclear who does what, or how decided. • Yes for the regulated entities, through the DPS/PSC. The state agencies and authorities are responsible to the governor or their boards, not to NYSERDA unless current rules are changed	• Not clear how non-regulated entities are held accountable for achieving goals.	• To the extent NYSERDA is a responsible participant, it does not • No. Accountability and responsibility for performance are unclear in the NYSERDA model and may not be aligned, and accountability and responsibility for oversight and enforcement of any goals are equally unclear.
11. Are the entity(ies) responsible for program administration appropriately incentivized or otherwise committed to secure cost effective energy efficiency and ultimate success of the program? Is there demonstrable interest by the named entity in serving in this capacity?	•	• Not clear • Not addressed. • Not directly addressed, but they have the ability to determine program budgets and, presumably, incentives • Mixed. Unclear who does what, or how decided. Some utilities may be forced into roles for which they are ill-suited, by assigned goals and potential penalties. • NYSERDA program implementation mutes most program administration disincentive concerns, but fosters authority and accountability concerns • Again, the DPS/PSC	• No

Criteria	Strengths	Neutral/ Mixed/ Lack Info	Weaknesses
		can set incentives for the utilities it regulates. The public entities do so through their own various budget processes	
12. Does the model promote the elimination of disincentives and align interests relative to participants' roles?	• Yes • Yes, within the limits of PSC authority and public entity budget processes. • This model allows greater implementation options to align program offers to consumer interests with less concern for administration disincentives	• Not addressed. • Perhaps. Unclear where or when PSC will set incentives, or how the interaction and coordination of programs will affect incentives. RDM not governance issue; dealt with in rate cases.	• No. This splitting of PSC authority from EPS funding creates a disincentive and misaligns interests.

Appendix D.

ADDITIONAL RESPONSES

TO PROPOSED GOVERNANCE MODELS

On November 28, 2007, the sponsors of the proposed Governance Models assessed in Appendix C were offered an opportunity to address the assessments. This appendix contains the responses.

DPS

Background

EPS Working Group #1 met on November 28, 2007 to review and discuss questions and issues surrounding the EPS governance proposals submitted by various parties. At the meeting several questions were raised about various aspects of the proposed DPS governance model. Clarifications to Staff's model in the discussion below address many of those questions.

Process Output and Approval Mechanism

A principal objective of the EPS Advisory Council, as proposed by DPS Staff, would be to produce a fully-integrated set of detailed proposed program plans, budgets and goals for each Commission-approved EPS program administrator. In the first instance, program administrators would be encouraged to submit plan proposals to the EPS Advisory Council for a coordinated review. The EPS Advisory Council would submit a comprehensive set of recommendations to the Commission for approval on a two- or three-year cycle. (Program administrators as well as any other party would have an independent ability to file with the Commission.) Any needed mid-cycle updates would be processed through the Advisory Council as well. The EPS Advisory Council could also respond to specific questions or issues as directed by the Commission.

Another important aspect of the Advisory Council's work would be to foster the development of new programs and consider enhancements, as appropriate, for existing programs based on monitoring and evaluation results, market research and new technology developments. The Advisory Council's program subcommittees would assist in developing and coordinating program implementation activities to avoid duplication of effort and leverage joint marketing and outreach activities. It would be counter-productive and a waste of ratepayer resources to have programs receiving ratepayer funding competing for the same market share within utility service territory boundaries.

The existence of the EPS Advisory Council should reduce the level of litigation needed to achieve Commission action on EPS-related issues. This outcome has been achieved in other jurisdictions where energy efficiency program plans developed through similar governance mechanisms have resulted in

dramatically reduced litigation activity and completely removed these issues from rate cases.

Representation on the Advisory Council

There were several questions regarding representation on the Advisory Council and its subcommittees. Obtaining meaningful representation on the Advisory Council would be essential to its success.

It would be important that all the major stakeholders who are active in proceedings relating to energy efficiency policies and programs be represented. Participation by State agencies and authorities such as: LIPA, NYPA, DASNY, DHCR, DEC and the NYISO would be important so that program activities could be coordinated and leveraged. The exchanging of technical information to enable effective monitoring and reporting, as well as for statewide energy efficiency forecasting and resource planning, is also essential.

Participation in the Advisory Council and its subcommittees will require a time commitment from stakeholder participants. This commitment will affect the level of participation in the Advisory Council's work. Some stakeholders may chose to combine their representation with other stakeholders to manage the potential time commitment.

Authority of the Council

The EPS Advisory Council as proposed by Staff would not be a decision-making body as it pertains to EPS policy and program issues. However, recommendations and endorsements of the Council would presumably have considerable weight with the Commission. Additionally, the Commission could vest with DPS Staff some authority to approve budget reallocations as it currently does with SBC resources. If the Commission decides to delegate some responsibilities to Staff, then Staff would use the Advisory Council Structure to inform its actions on such matters.

Accountability

The proposed DPS governance model assumes that the accountability for managing specific programs (or initiatives) is vested with the lead administrator role as assigned by the Commission. The accountability would extend to the management of specific programs to achieve specific energy savings goals, maintaining program cost effectiveness and management to approved budgets.

IEEP

Criteria	IEEP Additions & Clarifications
1. Does the model facilitate the least cost administration and achievement of the EPS goal?	The model describes the operating/existing IEEP structure. It is very cost efficient. It is specific to the municipal electric utilities across New York State.
2. Does the model provide an opportunity for the interests of the broad range of stakeholders to be served?	The stakeholders include municipal electric utility system customers, the systems and NYPA. The systems communicate directly with customers, and the managers of the systems meet quarterly to share best practices. The IEEP's consultants and operators are very active in energy efficiency activities across the region. The IEEP reports to NYPA formally, quarterly, and in practice much more often to coordinate activities. The IEEP meets with NYSERDA regularly to share best practices and coordinate.
3. Do the entities responsible for meeting the RPS goals have the authority and the opportunity to meet those responsibilities?	Yes. The structure was approved by NYPA and the PSC. The IEEP constitutes a distinct element of NYPA's energy efficiency portfolio.
4a. Does the model take advantage of the inherent strengths of the various participants?	Yes. The major distinguishing strength of municipal electric systems is their direct relationship with their customers. The individual system managers know their customers needs and facilities very well.
4b. Does the model present a coherent structure for coordination and cooperation?	Yes. Coordination among member utilities is very strong. Coordination with NYPA is very strong.
5. Does the model minimize unnecessary functional overlap and duplication of effort?	Yes. The IEEP model is very efficient, addressing load, geographic, economic and general issues through a single delivery vehicle, while recognizing the small and unique nature of the IEEP utilities.
6. How well does the model take advantage	The IEEP works very well, and is constantly broadening the menu of options for member utilities to offer to their

Criteria	IEEP Additions & Clarifications
of the salient features of the existing and emerging program development and delivery infrastructure(s)?	customers. They can do so instantly because they share information constantly.
7. Is the model flexible enough to accommodate differing conditions (e.g., geographic, climatic, load, institutional) across the state? Is the model robust enough to adapt to changing circumstances?	Yes. The IEEP operates in a number of systems across the state.
7a. Is the model flexible enough to accommodate differing conditions (e.g., geographic, climatic, load, institutional) across the state?	The IEEP has demonstrated that it is flexible. It is not a theoretical matter, but a proven point. The IEEP operates across New York, from very, very small communities up to relatively larger communities, with different customer mixes. It focuses on the needs of each individual system.
7b. Is the model robust enough to adapt to changing circumstances?	The model has proven to be robust.
8. Where appropriate, does the model enable the seamless, integrated delivery of electric and gas efficiency programs?	
9. Is the model structured to allow meaningful and timely input, oversight, feedback and reallocation of effort and resources?	Yes. The structure has proven to be nimble and responsive, to residential, commercial, industrial and institutional utilities customer groups. Coordination among member utilities is very strong. Feedback and programmatic adjustments are ongoing.
	Yes. IEEP is audited, and has M&V program, as well as quarterly reporting to NYPA.

Criteria	IEEP Additions & Clarifications
10a. Does the model contain structures for independent monitoring, verification, auditing, and reporting of results?	Yes. The participating systems voluntarily created the IEEP. Each system chooses measures from the menu that are most appropriate for customer and utility system operation.
10b. Does the model ensure that the entity(ies) responsible for program administration are effectively moving towards achieving energy efficiency goals and are held accountable for achieving program goals?	Yes. The participating systems drive the program. The mechanism for goal setting and accountability is the IEEP coordination with NYPA.
11. Are the entity(ies) responsible for program administration appropriately incentivized or otherwise committed to secure cost effective energy efficiency and ultimate success of the program? Is there demonstrable interest by the named entity in serving in this capacity?	The IEEP members have overcome any disincentives that exist. They are an existing and thriving program. There is no impediment. The municipal electric systems do not have "take or pay" contracts with NYPA.
12. Does the model promote the elimination of disincentives and align interests relative to participants' roles?	

NYC

The City's responses to the comments of Working Group 1 participants on its model are provided below in blue and italicized lettering.

Criteria	NYC Additions & Clarifications	
1. Does the model facilitate the least cost administration and achievement of the EPS goal?	• Not addressed. *The City proposal addresses this issue more specifically than the other proposals. The Partnership would select the partner best situated to perform each administrative function.* • Unclear. The addition of regional coordination bodies adds an administrative level, which has some inherent cost. There may be offsetting savings and increased program impact from avoiding overlap and competition of programs within each geographic territory *The Partnerships would not "add an administrative level." The comment appears to assume that program administrators would develop programs, and run them by the Partnership for integration and approval. In the City model, the Partnership (or consultants to the Partnership) would do the integrated program planning, resulting in a single set of programs*	• NYC first calls this a DSM governance model; which is a secondary goal of this proceeding. *This is a confusing statement. All the models being reviewed here are governance models. Developing a governance model is the primary purpose of this WG.* • If not clearly focused on the Energy Efficiency as recent E Mails in the proceeding to establish a DSM goal has indicated. Regional Coordination Board would not be necessarily focused on Energy Efficiency. *The comment appears to be garbled, so we cannot determine the intent of the first sentence. In any case, the sole purpose of the Partnerships would be promoting energy efficiency.* • Model appears to have unnecessary layers of administration and dual reporting functions

Criteria	NYC Additions & Clarifications
	The Partnership will enhance the deployment and effectiveness of energy efficiency programs, not create an unnecessary layer. Specifically, the Partnership would prepare a plan and report to the PSC on the integrated functions, which each jurisdictional entity could rely on as close external review of the entity's performance. That arrangement would reduce the reporting burdens, not increase them.
	• No complicated structure does not appear to be designed to minimize cost
	The City sees its proposed structure as the simplest, since design and coordination of the integrated programs would occur in a single step, rather than through multiple bilateral negotiations.
	• No. The complex approval, oversight, review, and decision-making relationships created under the NYC model will inevitably result in a cumbersome, costly, bureaucratic, and rule-based structure.
	The objective of the City model is to simplify integrated program design, oversight, review and PSC approval. The City sees nothing cumbersome, costly, or bureaucratic in its

Criteria	NYC Additions & Clarifications
	proposal, and especially no need for inflexible or arbitrary rules, since decisions would be collaborative and merit-based. • The structure promises to require intense and costly involvement in all AC activities by the engaged parties, thus adding significant externalized costs to EPS that are both unnecessary and wasteful. *It's not clear what "AC activities" and "externalized costs" are intended here. The program administration tasks would be divided among the program administrators, so most routine activities would be carried out by a single partner, or a contractor, and would not require involvement by all partners.* • Moreover, the "partnerships" must reach consensus on numerous sensitive issues that must be resolved before program administrators can do their work,... *If those "sensitive issues" are the issues related to integration of the various utility and NYSERDA programs, the alternative to consensus is for various parties to go their own way, confusing customers and*

Criteria	NYC Additions & Clarifications
	trade allies and wasting resources. The City believes that consensus and integration are better than chaos; the City believes that consensus is best achieved by getting the parties' experts into a room and developing the program designs directly and efficiently.
	• and it is unclear who has authority to compel the partnerships to do their work in a cost-effective, prompt manner, or to resolve disagreements among the members of the partnerships.
	This is a puzzling observation. Perhaps the commenter believes that some partners would not have an incentive to "work in a cost-effective, prompt manner" or resolve disagreements. Most of the partners are accountable to the PSC, and the remainder (the City, NYPA, LIPA) have long-standing commitments to DSM.
	• The partnerships and their roles in submitting positions on filings with the PSC result in a redundant process whereby interested parties get two separate opportunities to comment on energy efficiency programs by utilities and/or

Criteria	NYC Additions & Clarifications	
		NYSERDA – one through the partnership and a second through the utility proceedings and NYSERDA SBC proceedings. *It is the City's intent that the Partnership would file consensus documents with the PSC. The Partners normally would not be litigating before the PSC.*
3. Do the entities responsible for meeting the EPS goals have the authority and the opportunity to meet those responsibilities?	• Relationship between the Coordinating Council and the Collaborative Review not clear. Are the non-administrators part of the decision-making or in a strictly advisory role? *The Partners (including the City and DPS, neither of which are program administrators) are the decision-making group; the collaborative or advisory group is advisory.* • Provides for input from collaborative review group to a regional coordination board that oversees program administrators. Not clear that all stakeholder interests will have equal access or that their interests can be fairly addressed through this structure *The stakeholders are more likely to find at least one receptive partner in a group of 4 to 6 partners, than from an independent program administrator. Recall that the program administrators will be Partners. If the commenter has a*	•

specific concern about a group whose useful input will not be recognized by a particular Partnership, we would be interested in hearing about that.

- Unclear. The model provides a function for an Energy Efficiency Advisory Group, reporting to the New York City partnerships (but not the other partnerships).

Other partnerships are not directly the concern of the City, but we anticipate that the advisory group would advise each of the partnerships.

- However, the rights of those parties, and the responsibilities of the NYCEP to any information provided to it, have not been expressly stated.

Interesting. The City believes that all the proposals with advisory groups (all but JU) give the advisory group the rights to regular reports on plans and accomplishments, to publicly comment, to be heard, and to comment to the PSC. Perhaps the commenter would like to expand the description of the advisory group's rights.

- Nor is it clear what role, if any, stakeholders could play in PSC proceedings.

The City did not intend to impair any party's rights in PSC proceedings.

- In addition, it should be noted that SBC and RGGI funds will ultimately be paid by utility customers, in the first case directly, and in the second case via

Criteria	NYC Additions & Clarifications	
	the cost of wholesale power; the implication of the NYC funding model is that these dollars are owned by NYSERDA, without any specific accountability to energy consumers. *For SBC, the City's funding proposal shows the PSC controlling funding. For RGGI, the control of the funds raised by DEP from emitters will be resolved through a separate rulemaking. The revised NYC model includes a large question mark on the flow of RGGI funds to NYSERDA, since that is not settled.*	
4b. Does the model present a coherent structure for coordination and cooperation?	• Not clear which parties have EPS goals. *Assigning goals to parties would be inappropriate prior to determination of what each party will be doing in various market segments and programs. Each Partnership would divide up the regional goals among the administrative partners.* • This Model raises many questions. It is unclear as to the overall authority attributable to the NYC, or any of the Efficiency Partnerships. For example, does the NYC Partnership have the responsibility for determining the entire regional/NYC program portfolio? *Yes.* • If so, how will consensus be achieved, and what happens if it is not?	• It does not appear that they do not as responsible party does not have final say over program design. *Each utility and NYSERDA is responsible for the goals it is allocated through the Partnership. If it believes that the Partnership will not support design elements necessary to meet its goals, it can renegotiate its responsibilities within the Partnership, or choose to go to the PSC without consensus.* • In general, it is unclear who will have the actual responsibility to meet the EPS goals, since program administrators are

Criteria	NYC Additions & Clarifications
	Experience in collaboratives in Massachusetts and other states indicates that when a small number of motivated parties directly engage in program design, consensus is achieved. If necessary, the parties can take issues to the PSC for resolution. • The City proposal necessitates a PSC ruling that the utilities follow this structure, rather than the traditional structure of ruling on services provides within a regulated utility service territory. *The City anticipates that the PSC would encourage the utilities and NYSERDA to proceed in this manner, which would lead to a utility filing with the PSC, supported by a consensus report from the Partnership demonstrating the prudence of the utility's plan and the commitment by other partners to fulfill their parts of integrated programs.* • It also requires that the PSC cede some authority to the regional DSM coordinating structure to make adjustments as needed to meet program goals. *If the PSC wants program designs to adapt to changing circumstances (new technology, changing incremental prices, changing standard practice), it must accept someone making changes without prior approval. The Partnership would increase the PSC's assurance that program administrators will not act unreasonably and increase the assurance to the utilities and NYSERDA that their decisions*	not accountable for program design (partnerships are) and the partnerships are not under the overall authority of the PSC; it is unclear whether each member of each partnership will have its own targets or the necessary authority to achieve them; and it is unclear how opportunities will be allocated among members of the partnership. It appears that the partnerships would have the authority to determine the potential for success in meeting EPS goals, but no obligations or responsibility, and the program administrators may have the responsibilities to meet the goals without the authority to make the necessary decisions to do so. *See previous response.* • The difference is unclear in the relationship between the PSC and the partnerships, between the PSC and utilities, and between the PSC and

Criteria	NYC Additions & Clarifications	
	will not be found imprudent by the PSC.	NYSERDA. *The question is confusing. The Partnership would file reports with the PSC in support of the utility filings and the NYSERDA filings. The PSC would set the requirements for those filings, and evaluate them. The PSC's tasks should be simplified (and utility risks reduced) by the continuing involvement of the Partnership in design, review and evaluation of the programs.*
9. Is the model structured to allow meaningful and timely input, oversight, feedback and reallocation of effort and resources?	• Not clear • Not addressed. *The Partnership would select the partner best situated to perform each administrative function.* • Yes, but it requires some utilities to operate their programs differently in different regions, which presents some logistical and internal equity issues *This issue could arise for KeySpan (LI v. NYC), Con Edison (NYC v. Westchester) and NYSEG (Hudson Valley v Upstate) in the City's model. Even if the utility performs different roles in different places, programs would look identical to customers across regions, unless avoided costs or other factors justify different designs. Since a single gas utility will be coordinating with different electric utilities (and vice versa), some differences across regions may be unavoidable.*	• By diluting the effectiveness of all entities, the NYC model weakens the ability of each one to be effective. *Not clear how the model dilute the effectiveness of any entity by pooling the abilities of all entities.* • This model appears to be based on an assumed lack of coordination and consultation on the part of the program administrators, ... *The model assumes that real multi-party coordination requires joint planning, not just "consultation."* • and to be intended to ensure that opportunities exist to override the judgment of those organizations. Such a

Criteria	NYC Additions & Clarifications
	going-in presumption does not lend itself to encouraging strengths. *The objective is to improve the quality of the programs. If a partner is pursuing an approach to one of its responsibilities that is not best-practice, and other partners point that out, the responsible partner should want to improve. Combined problem-solving, leading to consensus, is very different from overriding one judgment with another.*
10a. Does the model contain structures for independent monitoring, verification, auditing, and reporting of results?	• No, unnecessarily complex *We would be interested in hearing how the partnership coordination structure is more complex than any other coordination structure. The JU and NRDC do not appear to have any coordination mechanism, and the NYSERDA and DPS models seem to rely on ad hoc coordination after the program administrators design and/or deploy their programs.* • Complex structure involving regulated and non-regulated entities. Not clear if non-regulated entities (NYC, NYPA, etc.) are willing to cede authority to Coordinating Council. *The comment appears to*

Criteria	NYC Additions & Clarifications
	assume that a commitment to design and operate integrated programs is equivalent to ceding some authority for something, but does not specify what is ceded. We see no ceding of authority. NYC (and we believe NYPA) are interested in efficient, effective electric programs for Con Edison loads that can easily extend to City and other NYPA loads, with City or NYPA financing. For gas loads, the City and other NYPA customer would participate like any other customer, since those customers are Con Edison or KeySpan distribution customers. • Highly dispersed authority, responsibility, and control make coordination and cooperation difficult; *As explained above, if a Partner believes that the Partnership is impeding its ability to meet its responsibilities, it can renegotiate its responsibilities within the Partnership, or choose to go to the PSC without consensus. It is hard to see how close coordination and cooperation can "make coordination and cooperation difficult;" perhaps the commenter could elaborate.* • the boundaries among the partnerships are

Criteria		NYC Additions & Clarifications
		unclear; *The geographic boundaries can be discussed among the affected parties. The boundaries of the NYC and Long Island Partnerships seem very clear.* • and the relationship between the partnerships and the "statewide DSM activities" group is even less clear. *That lack of clarity probably results from the fact that the Partnerships are not yet operating and the statewide issues have not been listed. The City has suggested that the statewide parties—DPS and NYSERDA—determine the issues that are statewide.*
2. Does the model provide an opportunity for the interests of the broad range of stakeholders to be served?	• Coordinating Council has this potential, but not clear who has the authority to resolve disputes. *The objective is for the Partnership to work out issues internally, and come up with the best solutions. Hopefully, all the Partners will want the energy - efficiency portfolio to be comprehensive and effective, and differences will be limited to technical matters, which should be subject to technical resolution. If necessary, disputes can be taken to the PSC. In models with less coordination, more disputes would go to the PSC, with less pre-filing clarification of the issues, and perhaps at less convenient times for program implementation.*	• No, different entities will perform the same functions in different areas *The only way to eliminate that phenomenon would be to have a single entity perform the function statewide, as in Vermont.* • In fact, the model creates more organizations (various partnerships, advisory group, "statewide DSM activities" group) whose functions are likely to overlap and who are likely to

Criteria	NYC Additions & Clarifications
	duplicate effort. *This comment appears restricted to the planning function, rather than overlap and duplication of operations in the field. The overlap in the membership of the various Partnerships should limit the amount of redundancy, since good designs from one Partnership will be imported into the others. Since Rochester is not NYC is not Long Island, some design will need to be undertaken more than once. Certainly, the planning overlap is reduced by the Partnerships.*
4a. Does the model take advantage of the inherent strengths of the various participants?	• Not addressed. • Mixed. Most existing programs are designed to be statewide (NYSERDA) or by utility territory. This model calls for the creation of regional programs which will call for some new program designs. It also implies cross utility program delivery which demands coordination and cooperation. On balance probably a good thing, but it will require rearrangement of many existing program delivery systems *Since the Partnership includes the parties currently operating programs, no useful experience will be excluded from the design of the next generation of programs* *The City agrees that meeting the 15 x 15 goal and minimizing costs*

Criteria	NYC Additions & Clarifications		
	to consumers will require changes in the existing NYSERDA and utility designs, and coordination and cooperation.		
6. How well does the model take advantage of the salient features of the existing and emerging program development and delivery infrastructure(s)?	• (7a) There is some attempt to make this regional model a state wide collection of models, but it does not address the institutions that exist upstate such as the various county energy boards that exists across the state or entities such as MEGA which aggregate load for many of the upstate regions. It is not clear it will be able to accommodate the differences that exists *The City is not familiar with the activities of the upstate county energy boards, and has not noticed any proposals that specifically reflect their roles. MEGA appears to be an aggregator, a middleman between customers and ESCOs, which would have no affect on the governance model. We would be happy to work with the commenter on this issue.* • Maybe. The regional DSM bodies appear to have some authority to adjust program design and delivery mix to achieve goals. If the regional DSM coordinators can make adjustments that the utilities and other deliverers of EE programs must adhere to, than the system will work *We see the coordination as a cooperative process, in which the*	• Model is primarily concerned with NYC, which is unlike the rest of the state. Not clear how the complex structure might adjust to changing market conditions. *Changes in the energy markets that change avoided costs may result in changes in covered measures; changes in rates may change the amount that participants are expected to contribute to their projects (e.g., one year's savings may rise or fall); changes in available technology, incremental costs, and standard practice change eligible measures, incentive levels and other program features. The Partnerships should be able to implement these changes quickly.* • Although the model has theoretically been structured to be responsive to regional needs, its complexity and lack of role clarity are likely to defeat this objective. *See other responses on alleged complexity and lack of role clarity.*	

Criteria	NYC Additions & Clarifications	
	utilities, NYSERDA and others (NYPA, LIPA) adjust their approach in response to the collective process. We expect the parties to make adjustments together, rather than a coordinator forcing utilities to adhere to adjustments.	• If each adjustment requires a new PSC ruling, or decision by the various independent authorities, then adjustments may become impossible to make in a timely fashion. *We anticipate that the utilities will be more willing to make adjustments without prior PSC approval, since support of the Partnership will be a substantial protection against imprudence charges. NYPA and LIPA should be able to adjust quickly, if they are committed to the Partnership process.*
10b. Does the model ensure that the entity(ies) responsible for program administration are effectively moving towards achieving energy efficiency goals and are held accountable for achieving program goals?	• Coordinating Council might enable integrated delivery *That's one of the major functions of the Partnership/Coordination Board*	• No. *We would like to hear directly from the author of this comment about the underlying concerns. The City proposal is the most integrated model presented in this process.*
11. Are the entity(ies) responsible for program administration appropriately incentivized or otherwise committed to secure cost effective energy efficiency and ultimate success of the program? Is there demonstrable interest by the named	• Model contains all stakeholder parties. Timeliness of decision-making is an obvious issue. *Only 4 - 7 parties are involved in any Partnership. The Advisory Group or Collaborative would not be involved in decision-making.* • Not entirely – somewhat cumbersome, not clear how	• Even if the roles of the various entities on the graphic were further clarified, the complexity of the structure proposed by NYC would prevent timely action. It is also unclear how the

Criteria	NYC Additions & Clarifications	
entity in serving in this capacity?	effectively feedback can be incorporated by program administrators *We don't understand this comment.* • Without text references it is difficult to completely assess the individual roles and relationships. For example, it is unclear what is included in "policy direction" which is subject to broad interpretation. Also, the individual partnerships could be collapsed to have more of a Statewide focus, with some meaningful regional focus inherent in the process. *The PSC can give whatever directions it chooses. Collapsing the Partnerships would result in every utility (6 holding companies), NYPA, LIPA, NYC, NYSERDA and DPS in a single process, rather than the 4-6 parties in the regional partnerships. The multi-regional approach means that rough patches in one region need not affect other regions. If Energy East and National Grid have difficulty dividing tasks and coordinating, the NYC and Long Island Partnerships would not be affected, but a statewide process might be slowed to a crawl. Similarly, the Upstate process would not be affected by problems in the KeySpan-LIPA coordination, or Con Edison and any of the in city partners.* • If the regional bodies function regularly, these functions should work well within each region. *The Partnerships should be close*	several partnerships will necessarily provide "meaningful" feedback that can be functionally utilized *The structure is not particularly complex. Some of the other models may look simpler because the proponents have not explained how program design and integration will occur.*

Criteria	NYC Additions & Clarifications	
	and continuing. • Statewide coordination will be weaker than in other models *Not clear why that should be true. NYSERDA, DPS, various utilities and perhaps NYPA would provide inter-regional consistency as appropriate, and NYSERDA and/or DPS could convene working groups on explicitly statewide issues.*	
12. Does the model promote the elimination of disincentives and align interests relative to participants' roles?	• Not clear who contracts for EM&V. Independence requires that an evaluated party not also be a contracting party. *The critical issue is not who contracts with the EM&V contractor, but who selects and supervises the contractor.*	• Given the mixed authority and responsibility of the program administrators and partnerships, the verification and evaluation contractors cannot be truly independent if they report to either of these entities, as is proposed here. *The City proposal would have the EM&V contractor reporting to a partnership including the evaluated party (as well as the PSC and the advisory group). That is a much more independent review than if the evaluated party were the sole supervisor. None of the proposals has a more independent supervision arrangement. The City would be amenable to the evaluators reporting to some group excluded the evaluated party.*

Criteria	NYC Additions & Clarifications
5. Does the model minimize unnecessary functional overlap and duplication of effort?	• Authority over non-regulated parties is not clear. Do they have EPS goals and to whom are they accountable? *The Partnership would allocate goals among the administrative parties, based on their roles in the programs. Each non-regulated administrative partner (NYPA, LIPA) is accountable to the state government in various ways.* • may complicate the job of some of the entities. The city model recognizes that a variety of institutions not regulated by the PSC will be delivering EE services to meet the 15 x 15 goal and provides a regional mechanism for coordinating these activities. Since the regional teams cut across some utility and state agency territories, there is some inherent complication of the task for these entities of meeting their statewide goals (they will be less able to shift resources from one region to another within their service territory). The multiple territory arrangement means that one territory may be served better (or worse) than another *Rather than shifting resources from one region to another, the*

Criteria	NYC Additions & Clarifications		
	utilities should be concerned with bringing the best practices to all parts of their service territory. There is no reason for a utility to tolerate worse energy-efficiency offerings in one part of its territory than in others.		
8. Where appropriate, does the model enable the seamless, integrated delivery of electric and gas efficiency programs?	• This was not directly addressed by this model. *The Partnership would assign roles to parties, based on their ability and commitment.* • Unclear in the structure. As in other models, utility interests need to be aligned with EE through decoupling. *The City believes that decoupling is being dealt with in rate cases, and will be in place, regardless of the DSM governance model.* • This approach seems to allow for regional variation in delivery agents, depending on the interest of the various entities in delivering services –i.e. if a utility in a particular region was very interested and very good at delivering services, it might get more of the project in that region, while in another region NYSERDA or some other entity might be given the lead status *This seems to be a supportive comment.*	• In theory, the partnerships are to advise the Commission concerning utility incentives "once roles and responsibilities are proposed for those utilities". In practice, the NYC model will make it very difficult to clarify the authority and responsibilities of any specific entity, which will make it difficult to hold any of these entities accountable for their performance. *The City does not see why assigning responsibility would be difficult. The Partnership would determine the roles required for each program, which party would fill each role, and how credit for savings would be allocated. For a utility to earn an incentive for achieving a goal, it would need to take responsibility for specific roles.*	

Criteria	NYC Additions & Clarifications	
7a. Is the model flexible enough to accommodate differing conditions (e.g., geographic, climatic, load, institutional) across the state? 7b. Is the model robust enough to adapt to changing circumstances?	• Not addressed explicitly *The City believes that decoupling is being dealt with in rate cases, and will be in place, regardless of the DSM governance model.*	•

Appendix E.

New York State Energy Efficiency Portfolio Standard
Case 07-M-0548

Working Group 1

ADDITIONAL COMMENTS ON FUNDING SOURCES

Independent Power Producers of New York, Inc. (IPPNY)
Comments on Funding Sources

Within this proceeding, Working Group 1 (WG1) has been tasked with developing the overall EPS structures, which includes developing possible governance model structures and identifying sources of funding for the EPS. A large portion of WG1's time and effort has been devoted to the governance aspect of this endeavor, as reflected by the Governance Model Comparison chart attached to the Working Group's report. However, as stated in the report, due to time constraints, WG1 has been unable to devote similar time and resources to the funding issue and has only provided a list of several funding sources unexamined by the Working Group. IPPNY, therefore, respectfully submits the following comments on EPS funding, which should read as preliminary opinions, subject to clarification, expansion, and/or other changes as the EPS process moves forward.

IPPNY recommends that the funding sources be divided into the following categories:

1) Market sources - i.e. ESCOs, energy performance contracts, Wall Street funded energy efficiency project portfolios

2) NYS government sources – i.e. NYPA, DASNY financing ability

3) PSC jurisdiction sources - i.e. utility-controlled efficiency measures, SBC

4) Non-PSC jurisdiction sources - i.e. RGGI, CAIR auction monies

IPPNY also recommends the use of funding in the hierarchical order noted above. EPS activities should be funded using market sources that do not increase energy costs, instead of revenue sources that increase costs or are unproven and unpredictable sources (revenues from RGGI and CAIR auctions still in development) that may negatively affect costs as well.

The scope and use of energy performance contracts should be expanded to pay for as many EPS activities as possible. The chief advantage of energy performance contracts is that there are no increased or upfront costs to energy consumers. Private companies arrange for the financing to implement the energy efficiency measures and that financing is repaid by avoided energy payments that the consumer no longer pays to a utility. The EPS should take advantage

of increasing economic development activities from more use of market source functions.

Also, the financing ability of NYPA and DASNY could be used to buy down the interest rate of the financing in energy performance contracts, and these authorities also would be repaid from the avoided utility payments. NYPA already uses its financing ability directly to provide energy efficiency measures to its customers. The authority's efforts (and those of similar entities) should be expanded statewide with the financing repaid through avoided electricity payments that result from decreased use. The expanded efforts of these entities could include the issuance of long-term requests for proposals open to all suppliers to procure energy efficiency services.

The goal of the EPS is to reduce energy costs. Therefore, logically, this initiative should not increase energy costs in its energy efficiency efforts. If the EPS depletes market and government sources of funding, and if the program needs to tap into sources of funds that will increase energy costs (RGGI and CAIR monies), then the following considerations should be taken into account.

The Regional Greenhouse Gas Initiative (RGGI) 100% allowance auction and the Clean Air Interstate Rule (CAIR) 10% allowance auction are not yet finalized in terms of their structure, frequency, participant inclusion, and other elements. Therefore, they present an unstable funding source for energy efficiency projects. In fact, in regards to the CAIR auction, the auction design process has yet to begin.

Furthermore, in addition to elements of the auctions not being finalized, the New York State Energy Research and Development Authority (NYSERDA) must also conduct another stakeholder process to determine the allocation of funds raised through the auctions. It is inherently risky at this stage to rely on the success of the auctions (the 100% auction of CO_2 allowance under RGGI has never been attempted) prior to their final development and implementation and before the NYSERDA process determines the revenue disbursement. Not until the processes are completed and the auctions are functioning should RGGI and CAIR even be considered reliable sources of funding.

Clearly, there is a long way to go before it is known whether or not allowance auctions will function appropriately and provide consistent revenue. If and when that time comes, this source of revenue should not be seen as a blank check. In fact, monies should be used to

supplement, not supplant, existing energy efficiency programs, and should serve as a loan to be repaid into the RGGI and CAIR accounts based on the energy savings obtained through successful energy efficiency programs (as currently exists with energy performance contracts).

Those entities seeking auction revenues to implement energy efficiency programs should be subject to certain stipulations. Specifically, those entities seeking funding must meet similar criteria as laid out in Subpart 242-10 of the CO_2 Budget Trading Program regarding the eligibility of CO_2 emissions offsets projects, which require that the projects are real, additional, verifiable, enforceable, and permanent within the framework of a standards-based approach.

RGGI and CAIR monies not used within the EPS, as well as reimbursed monies, should be redistributed to RGGI projects pertaining to renewable or noncarbon-emitting technologies, and / or innovative carbon emissions abatement technologies with significant carbon reduction potential (including the development of carbon dioxide capture and sequestration technologies).

Appendix to Report of Working Group I:
Overall EPS Structure
Submitted by
Dormitory Authority of the State of New York

The Dormitory Authority of the State of New York ("DASNY") intervened in this proceeding because it believes that it could assist the other parties and the State of New York in meeting the energy reduction goals established by Governor Spitzer and the Energy Efficiency Portfolio Standard ("EPS"). DASNY chose to participate in Working Group I because one of Judge Stein's charges to this Working Group was to "investigate the feasibility of Utility/NYSERDA partnerships with financial sources (banks/DASNY)."

The efforts of the Working Group to date have largely been devoted to the development of criteria for assessing the governance model structures proposed by the various parties. Although the Group also began the process of assessing possible funding sources for achieving the energy efficiency goals of the EPS, it concluded that there was insufficient time to complete this task if it was to meet the Judge's deadline for submission of its report by December 5, 2007.

DASNY's role in this proceeding, however, largely relates to identifying and developing funding sources that could be made available by DASNY. Therefore, DASNY is submitting this Appendix which summarizes various options for DASNY funding that could be considered.

The essential element of all of DASNY's funding proposals is that the cost of energy efficiency improvements should be paid for by the customers that will directly benefit from the improvements. To achieve this objective, DASNY proposes issuing tax-exempt debt to raise funds that will be loaned to eligible customers to finance the cost of improvements that will further the goals of the EPS. Thus, unlike some other funding sources, funding provided by DASNY will be obtained from the private capital markets, rather than from taxpayers or ratepayers.

Attached to this Appendix as Attachment "A" is a brief statement that DASNY submitted to Judge Stein on September 10, 2007. This statement provides basic information about DASNY and describes the types of financing services that DASNY currently provides to its eligible borrowers. These eligible borrowers include hospitals, nursing homes,

colleges, universities and a variety of other not-for-profit and public entities.

This statement also introduced DASNY's proposal to develop an on-bill financing structure under which clients would repay the debt incurred to finance energy efficiency projects directly through their utility bills. Bonds issued by DASNY to fund these projects would be secured by the portion of the utility charges payable to DASNY. The client's utility bills, which would cover the cost of utility service and the cost of financing green construction projects, should be less than they were before because all financed projects will have to be designed to achieve savings that exceed debt service in each year of the loan.

Subsequent to the submission of DASNY's initial statement, DASNY made a presentation to Working Group I to explain its proposal. A copy of this presentation is attached hereto as Attachment "B." Thereafter, in response to certain questions that were raised by participants of the Working Group and others, DASNY submitted a written explanation to the Working Group, dated October 9, 2007, and a "fact-sheet" which briefly summarizes the key features of DASNY's on-bill financing program. The explanation and fact sheet are attached hereto as Attachments "C" and "D", respectively.

As appears from Attachment "C", DASNY believes that the inclusion of a strong true-up mechanism in its on-bill financing proposal will result in stronger credit for the bonds and result in more DASNY's clients undertaking the energy efficiency improvements that will be necessary to meet the energy efficiency goals established by the EPS proceeding. At the same, DASNY's proposal would not implicate the credit of the collecting utilities and would not adversely impact ratepayers except in the very unlikely event that a DASNY customer fails to pay its utility bill.

To the extent that utilities will incur incremental costs to implement DASNY's on-bill financing program, DASNY has proposed that the utilities be able to recover these costs through the SBC, a similar charge or as part of the general utility rates. DASNY has also proposed that, if utilities or other parties are tasked with achieving targeted EPS goals, these parties should be allowed to count energy savings associated with DASNY-financed projects toward those targets.

DASNY also wishes to comment on some of the other possible DASNY funding choice options identified in the list submitted by

Working Group I as part of its Report. Specifically, DASNY makes the following observations:

- NYSERDA Energy Smart Loan Fund- DASNY proposes that this subsidy program be expanded to include DASNY as a participating lender. DASNY's participation in this program would enable DASNY to offer even lower interest rates to those not-for-profit clients that undertake eligible energy efficiency projects.

- Power Authority of the State of New York- DASNY is working with the Power Authority of the State of New York ("NYPA") to determine how DASNY can provide financing to not-for-profit entities that choose to use the design and construction services currently offered by NYPA. Under its existing program, NYPA is only able to provide financing to public entities.

- Private Investment Incentive Fund- Under this proposal, the PSC would direct DASNY to receive, through NYSERDA or directly, a portion of the System Benefit Charge or other analogous charge. Amounts paid into this fund would be used as a reserve to cover losses on DASNY loans up to the committed amount. The establishment of this fund to share some of the investment risk otherwise assumed by private-sector investors or credit enhancers should result in a creditworthy structure that would encourage the investment of more private capital in the energy efficiency projects necessary to achieve the goals of the EPS. It would also promote the goal of reducing energy consumption through the extension of lower-cost credit to customers for on-site energy efficiency projects.

- ESCO Financing/Performance Contracting- Participation by DASNY in these financings would enhance the savings for participating not-for-profit clients because the transaction could be premised on a tax-exempt rate of interest rather that the taxable rate applicable to the ESCO.

In short, DASNY believes that it can work with utilities, NYSERDA, NYPA and other parties to this proceeding to provide access to low-cost capital for eligible customers that undertake projects consistent with the energy efficiency goals of Governor Spitzer and this proceeding. Unlike other funding sources, the rate impact of DASNY

funding should be minimal because each customer would be obligated to pay for its own improvements.

Attachments

Attachment A

September 10, 2007

VIA EMAIL

The Honorable Eleanor Stein
New York State Department
Of Public Service
Three Empire State Plaza
Albany, New York 12223

Re: Case 07-M-0548 - Energy Efficiency Portfolio Standard

Dear Ms. Stein:

On September 7, 2007, the Dormitory Authority of the State of New York ("DASNY") intervened in the above captioned proceeding to consider the adoption of an Energy Efficiency Portfolio Standard (EPS) in New York.

Attached hereto is a brief statement which provides some background information on DASNY. This statement also outlines a proposal that would enable the public and private institutions traditionally served by DASNY to finance energy efficiency projects on a tax-exempt basis.

DASNY looks forward to working with the other participants in this Proceeding.

Very truly yours,

Jeffrey M. Pohl
General Counsel

Attachment
cc: Service list via EPS list server

Attachment A Continued

Case 07-M-0548

Interest of the Dormitory Authority of the State of New York in this Proceeding

The Public Service Commission, by an Order dated May 16, 2007, established a proceeding to design an Energy Efficiency Performance Standard or "EPS". The goal of the EPS is to reduce the State's projected electricity usage by 15% by 2015 and to reduce the State's reliance on fossil fuels. One element of the EPS is the implementation of programs that encourage the consumers of energy in this State to undertake capital improvements that result in increased energy efficiency and achieve other important public policy goals ("Green Projects").

The Dormitory Authority of the State of New York, often referred to as DASNY, is well positioned to assist several large groups of energy consumers to develop, finance and undertake energy efficiency projects. DASNY would like to help these groups undertake Green Projects for which the estimated annualized energy savings are expected to exceed the annual debt service necessary to finance the Projects over their useful lives. In this fashion, customers should see their overall utility bills go down even though some portion of the savings is being applied to finance the cost of the energy efficient improvements. The savings would be enhanced where DASNY could provide financing for eligible Green Projects on a tax-exempt basis.

DASNY would work with its clients to undertake Green Projects that cover the full array of energy efficiency initiatives regardless of the energy resource from which the savings are to be derived. Savings opportunities for DASNY clients are not limited to just electricity savings. Some projects will also realize significant reductions

in gas, fuel oil, water consumption and other operations and maintenance costs. By including these savings in an energy audit to evaluate which measures to undertake, more projects will qualify as Green Projects, including those projects which primarily save resources other than electricity and which require bundling efficiency improvements with other improvements to be cost effective.

Background on DASNY

DASNY is a public benefit corporation established by the State of New York in 1944 originally for the purpose of financing and constructing facilities for the colleges and universities that are part of the State University of New York. Today, DASNY serves a much broader group of public and private not-for-profit entities and its financing activities on behalf of these institutions have, for many years, made DASNY one of the largest issuers of tax-exempt municipal bonds in the United States. As such, DASNY is uniquely situated to help its state-wide constituency undertake Green Projects that will further the goals of the EPS.

At the present time, DASNY's public clients include the State University of New York, the City University of New York, the Office of Mental Health, the Office of Mental Retardation and Developmental Disabilities, the City of New York and various local governments and school districts. Its private clients include universities, colleges, hospitals, nursing homes and various other not-for-profit organizations that are specifically enumerated in DASNY's enabling legislation.

DASNY currently has outstanding approximately $16 billion of bonds for its private clients and $18 billion for its public clients. DASNY has financed many different types of capital projects for its clients and recently issued $20,275,000 of its Personal Income Tax Revenue Bonds, Series 2007B (SUNY Green Initiatives) for the purpose

of financing green retrofit projects at various SUNY campuses. DASNY also has the technical expertise to assist both its public and private clients in the design and construction of energy retrofit projects and is actively developing programs to make this expertise more readily available to them. DASNY has also advised all of its public clients that any project on which DASNY starts construction after 2007 shall be LEED Silver certifiable.

The service that DASNY most frequently provides to its private not-for-profit clients is the issuance of tax-exempt bonds to fund low interest rate loans for their capital projects. Bonds issued by DASNY are "special obligations" of the Authority. This means that the bonds are payable only from loan payments made by a borrower under a loan agreement with DASNY, any other property pledged by the borrower to secure its loan repayment obligation to the Authority, funds held by a bond trustee as security and in certain instances, credit enhancement.

DASNY's current financing guidelines permit DASNY to issue bonds for a private client if the client has an underlying rating of A- or better or if the bonds are to be secured by credit enhancement, such as a policy of municipal bond insurance, a letter of credit or federal (FHA) or State (SONYMA) mortgage insurance. Although these guidelines do provide for exceptions, there are a significant number of potential DASNY clients that are unable to finance through DASNY's bond financing programs because of their inability to meet DASNY's credit requirements.

DASNY also has a tax-exempt equipment leasing program under which its clients finance equipment and related property under a three-party financing lease to which DASNY, its client and a lender are parties. DASNY's TELP financings are done as private placements to

sophisticated institutional lenders and it is those lenders who determine whether a borrower has the necessary credit standing. DASNY's clients get the benefit of lower tax-exempt rates irrespective of whether the projects are financed with the proceeds of bonds or through TELP.

Many clients and potential clients of DASNY are often unable to finance relatively small projects with DASNY because the cost of financing would be prohibitive. Additionally, some clients cannot or are unwilling to take on new debt. Some of the financing initiatives that DASNY hopes to pursue through this Proceeding will help DASNY serve institutions with less financial strength. For example, DASNY is exploring opportunities to "pool" a number of Green Projects for different clients regardless of the projects' size so that all may benefit from the lower cost of tax-exempt financing.

Clients and potential clients of DASNY may also be discouraged from investing in Green Projects because of their fear of the risks involved, including that the installation might not be appropriate for their facility or that it will fail and not produce the needed savings to cover the payments without costly repairs. DASNY believes that its up-front involvement in Green Projects, such as by providing customers with technical expertise evaluating proposals and overseeing installations, will help reduce some of the perceived risks associated with Green Projects and thereby make them more attractive to the institutions served by DASNY. To help ensure that DASNY clients will have confidence in savings estimates, DASNY expects to have independent energy analyses performed by experts with no financial stake in the measures. DASNY is also exploring possible mechanisms to assist its clients in covering the costs of the

energy audit to the extent that these costs are not able to be rolled into the overall project cost and paid for out of the project's savings.

DASNY's Green Improvement Tariff Proposal

DASNY believes that an EPS provides an excellent opportunity for DASNY to enhance its ability to promote and finance energy efficient "Green Projects". DASNY desires to work with the PSC and the various stakeholders to develop a program that will give DASNY the ability to provide access to capital and reduce the real and perceived barriers and risks of investment for all of its clients who wish to undertake qualifying Green Projects. These Green Projects will lower DASNY's clients' energy consumption and associated energy costs and, at the same time, reduce the burden on the State's electric facilities, decrease the production of greenhouse gasses and reduce the State's reliance on fossil fuels. The energy cost savings will leave DASNY's clients with greater resources to perform their own important public missions.

One proposal being considered by DASNY is to partner with the PSC and utilities for the imposition of a tariffed utility charge on customers who (1) are eligible to borrow from DASNY and (2) seek to undertake a Green Project that will achieve the energy conservation goals of the EPS (the "Green Improvement Tariff"). The Green Improvement Tariff charge could be a component of any EPS surcharge adopted by the PSC, or it could be embedded in other utility charges, or it could be a separate surcharge, as the PSC may determine.

The amount of the Green Improvement Tariff charge for any customer during a payment period would equal the scheduled payment due to DASNY for that period on account of the indebtedness incurred to finance the cost of the customer's Green Project, as agreed

to between DASNY and the customer. DASNY would use these Green Improvement Tariff charges to pay debt service on the tax-exempt obligations issued by DASNY to finance the cost of the customer's Green Project.

Assuming the PSC grants authorization for the imposition of a Green Improvement Tariff charge, DASNY would expect to issue bonds that would be secured primarily by a pledge of the Green Improvement Tariff charges payable to DASNY by the utility, rather than the payments required to be made by the client under a loan agreement. Bonds secured by a properly constructed Green Improvement Tariff charge should provide a creditworthy structure that has the benefit of credit support from the utilities and their rate payers. Consequently, more hospitals, nursing homes, colleges and other clients of DASNY will more readily undertake energy efficiency projects because this structure means less risk and easier access to capital for the client. Also, because DASNY's client constituency is unlikely to default on their utility bills, the potential financial exposure for other rate payers should be minimal.

Implementation of a Green Improvement Tariff would allow participation by most, if not all, DASNY clients and not just the lowest risk customers to whom capital providers are interested in making funds available. Also, more favorable financing terms would mean more energy efficiency measures would qualify for financing under this Green Improvement Tariff program.

Remittance Protocol for Green Improvement Tariff

Given the proposed financing structure, it would be preferable for the utility to remit the amount of the Green Improvement Tariff charge to DASNY pursuant to an agreed-to schedule regardless of the utility's collection of the charge. As stated, the agreed-to schedule

would correspond to the debt service payments required to be made on the indebtedness incurred to finance the cost of the client's Green Project. On the strength of such a remittance protocol, DASNY would be able to make loans to its clients on more favorable terms. This is the same rationale as that behind the SBC and RPS surcharges -- sharing costs for benefits that accrue to all ratepayers in order to make efficiency measures more likely to be installed.

To minimize the potential burden on other ratepayers, consideration should be given to inclusion of an "exit fee" in the Green Improvement Tariff payable by any DASNY loan recipient who (i) ceases to be a delivery customer of the utility either by "islanding" or connecting to the distribution system of an entity whose rates and charges are not subject to PSC regulation; and (ii) for which DASNY indebtedness is still outstanding. The exit fee should be due upon exit from the utility system in an amount sufficient to allow DASNY to retire the debt incurred to provide financing for the customer's Green Project and should be passed through to DASNY upon receipt. Such an exit fee would reflect the continuing benefits that the Green Project will provide to the customer. On the other hand, if the client transfers ownership of the benefited property to a new owner, the seller could either pay the exit fee as outlined above or, if the transferee is also eligible for tax-exempt financing from DASNY, transfer the obligation to pay the Green Improvement Tariff to the new owner.

A less advantageous remittance protocol from a financing standpoint would require the utility to remit Green Improvement Tariff charges to DASNY only on an as-collected basis. Such a protocol would require the development of payment allocation procedures for situations where customers fail to pay the full amount of the utility charges and should provide that unpaid Green Improvement Tariff

charges are the subject of the full range of utility collection remedies, including disconnection for non-payment. An exit fee similar to that previously discussed would also be essential. However, because DASNY's bondholders (rather than the utility) would assume the risk of late or uncollectible tariff payments, it is not clear whether DASNY could successfully market bonds secured solely by a Green Improvement Tariff payable to DASNY on an as-collected basis. As a result, if the Green Improvement Tariff is to be payable to DASNY on this basis, consideration may also need to be given to the imposition of an additional tariffed utility charge on a broader base of customers to help DASNY build a pool of funds to reduce the impact of defaults by customers, including any failures to pay any exit fees, on bonds issued by DASNY under its Green Improvement Tariff financing program.

Regardless of whether the Green Improvement Tariff is structured so that the utility must remit the amount of the Green Improvement Tariff charge to DASNY pursuant to an agreed-to schedule regardless of the utility's collection of the charge or on an as-collected basis, no customer would be provided with a free ride under the Green Improvement Tariff. Under DASNY's proposal, the DASNY client benefiting from the improvements would be responsible, in the first instance, for the Green Improvement Tariff charges. Thus, the client would be motivated to actively participate in the design, installation and operation of energy efficiency improvements so that it will be assured of energy and cost savings sufficient to cover its repayment obligation. We believe that, to the extent that the efficiencies achieved by a Green Project can conservatively be projected to reduce the client's energy-related costs, including its utility bill, to less than they were before completing the project, the

operational savings alone should provide an incentive for responsible participation in this new financing program.

Billing Agency Model

Recognizing that it may take some time to implement a financing program that relies on a Green Improvement Tariff, DASNY is also considering developing a utility billing agency model (similar to that currently used to bill ESCO commodity charges) as an interim step. Under this approach, DASNY would continue to fund loans to an institution with the proceeds of tax-exempt bonds or through a lease/lease-back structure. The institution, however, would pay the loan or lease payments as part of its regular utility bill instead of making them directly to DASNY or its designee. In the event of non-payment by the client, DASNY remedies would remain the same as they are if the payments were made directly to DASNY. Utilities would simply be billing agents and remitters of as-collected sums. Invoiced charges would be those of DASNY, and not the utility.

The simplicity of such a payment approach should make DASNY's financing programs more attractive to some customers. It should also help our clients appreciate the economic benefits of Green Projects because their utility bills will likely be less than they were before. There also may be credit advantages, which could lower the cost of financing, to using a utility as DASNY's billing agent depending upon the payment and allocation protocols that are negotiated with the utility by DASNY.

DASNY understands that the successful implementation of this utility billing model depends on the support of one or more utilities and the receipt of any necessary waivers from the PSC. We also recognize that appropriate payment allocation procedures would need to be developed to address the situation where a customer fails to make full

payment of the entire bill. Therefore, we have started discussions with utilities and other interested parties regarding how implementation of this model could help DASNY clients complete green initiatives.

Conclusion

In short, DASNY is committed to working with the Governor, PSC and other stakeholders to develop energy efficiency proposals that will promote the goals of the ESP. We believe that implementation of the proposed Green Improvement Tariff would help fulfill these goals by providing a new opportunity for eligible public and private entities, working with DASNY, to invest in Green Projects in their facilities with less risk and with easier access to capital. DASNY is also committed to pursuing the enactment of State legislation that would enable public and private not-for-profit entities not currently authorized to use DASNY's financing services to participate in this new financing program.

Attachment B

DASNY Financing as Alternative to Ratepayer Charges

- 15x15 is a very aggressive goal and the Commission's Order directs the Administrative Law Judge and the parties to take a holistic approach to the development of an Energy Efficiency Portfolio Standard.
- Two principal ways in which DASNY believes that it can assist:
  - Providing a source of tax-exempt capital to fund energy-efficiency projects undertaken by hospitals, universities, schools and municipalities.
  - Focusing the attention of management of these organizations on the importance of incorporating best practice energy management techniques into their regular capital programs.
  - DASNY has $16 billion of bonds outstanding for its many health care and higher education clients.
- Every dollar raised by DASNY will reduce the cost required to be borne by ratepayers.

DASNY Proposes to Partner with Utilities, ESCOs and Tax-Exempt Institutions

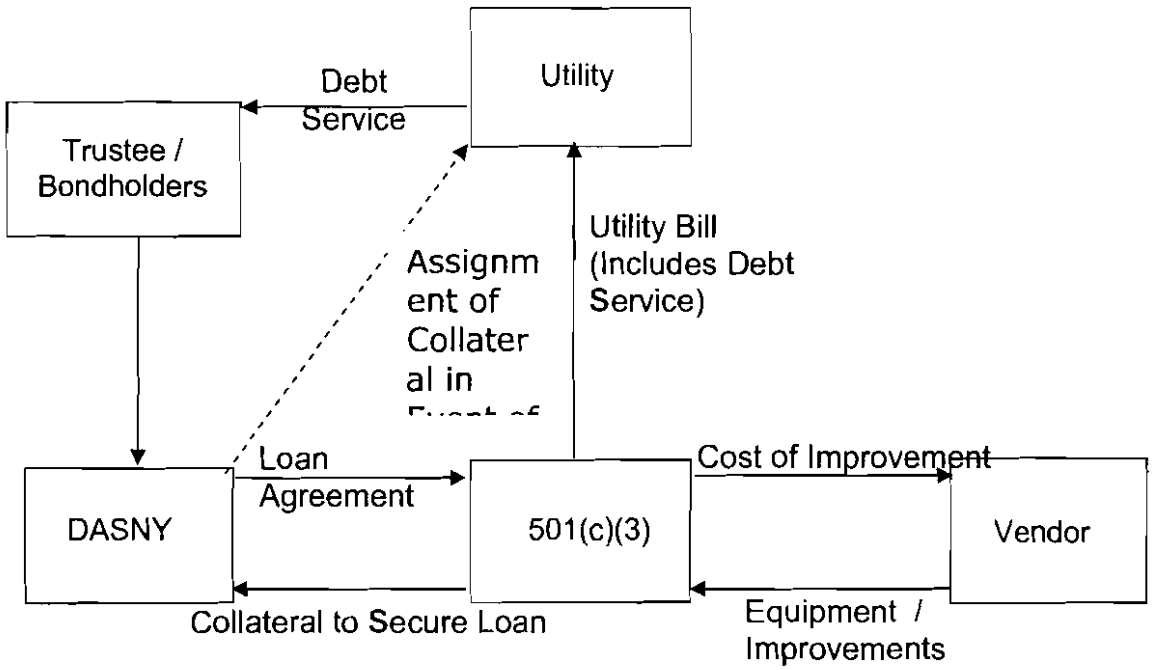
- DASNY proposes a partnership with utilities, ESCOs and tax-exempt institutions to finance projects that will help achieve the goals of the EPS.
- Under this partnership:
  - Projects are funded from private sources of capital in the tax-exempt capital markets.

- The amounts borrowed are repaid by the end-user institution that benefits from the energy efficiency improvements.
- The projects being financed should meet the objectives of the utility or ESCO for achieving demand side reduction.

DASNY Financing Proposal

- DASNY's clients will repay the cost of financing these projects through their utility bills.
- DASNY would work with all interested parties to establish financial criteria for participation in the program.
- Eligible hospitals, nursing homes, colleges, universities and school districts are unlikely to default on an obligation that would result in the loss of essential utility services.

DASNY Financing Proposal



Dormitory Authority

- DASNY is flexible and wants to work with utilities and ESCOs to design a program that meets the needs of each of the participants.
- The tax-exempt institutions will be responsible for payment in the first instance. In the event of bad debt, there are a number of program options:
  - Spread the cost among the entire rate base;
  - Spread the cost to a smaller class of rate payers;
  - Establish a special fund to absorb these limited costs.
- DASNY supports programs that provide financial incentives to utilities to achieve load reduction for DASNY-financed projects.

Benefits of DASNY Financing Proposal

- Many tax-exempt institutions are already eligible for tax-exempt financing from DASNY.
- "What's in it for them?"
  - Lower utility bills;
  - Lower financing costs;
  - Financial incentives for energy efficiency projects;
  - Possible development of financing structures that may not be treated as debt on their balance sheet.
- Utilities and ESCOs would benefit from a new financing source that would help achieve the goals of the EPS and minimize the impact on the general ratepayer.

DORMITORY AUTHORITY OF THE STATE OF NEW YORK
MEMORANDUM

Date: October 9, 2007

To: Working Group 1

From: Jeffrey Pohl
Portia Lee

Re: DASNY's Green Tariff Proposal

At last week's presentation regarding the above, it was asked whether DASNY's proposal would require utilities to assume responsibility on their balance sheet for debt obligations associated with energy efficiency improvements financed under this proposal. In response to this question, Portia and I indicated that there was a range of options, some of which might implicate the credit of the utilities and others which would not. The purpose of this memorandum is to further elaborate on this point and seek further input from the Working Group.

As we understand it, in the case of the SBC/RPS surcharge, the PSC has ordered that a defined class of utility customers (all delivery customers) pay the SBC charge as it appears on the utility bill for the funding of NYSERDA-administered PSC programs. The utility prepays NYSERDA on a quarterly basis. To the extent that the utility does not collect sufficient surcharge to cover the amounts required to be paid to NYSERDA in any year, shortfalls are recovered through annual true-ups in which the next year's surcharge rates are increased for the affected customer class in amount sufficient to recover the shortfall. We are advised that, even though the utility prepays the SBC/RPS surcharge, the

utility's balance sheets are not affected because the surcharge is, from the utility's perspective, deemed to be a pass-through. Assuming the above assumptions regarding the SBC/RPS surcharge are correct, DASNY would propose adopting this model for its Green Tariff Program. Thus, as discussed, DASNY would make a loan to the eligible 501(c)(3) organization that would be funded from the proceeds of tax-exempt bonds issued by DASNY. The organization, however, would agree to pay any amounts due under the loan agreement through the Green Tariff surcharge as part of its utility bill. As with the SBC/RPS model, the utilities would simply be the collector of a tariff charge imposed by the PSC upon an end-user customer in the first instance and upon a broader class of customers with respect to bad debts. The ultimate beneficiary of the payments would be DASNY and its bond trustee, just as PSC/NYSERDA is currently deemed the beneficiary of the SBC/RPS surcharge.

In short, so long as the utility's role under DASNY's proposed Green Tariff Program is similar to that performed under the SBC/RPS programs, it would seem that it would not impact the balance sheet of the utilities and that the impact would not change irrespective of whether the utility prepays the proposed Green Tariff surcharge or pays it as it is collected. DASNY fully appreciates the need to minimize potential cost impacts and to closely examine which class of customers should be subject to the annual true-up mechanism. However, as stated at last week's Working Group meeting, a strong true-up mechanism should result in stronger credit for the bonds and result in more of DASNY's clients undertaking energy efficiency improvements thereby reducing the amount that must be derived from other sources to achieve the energy efficiency goals established by the EPS proceeding.

We look forward to having further discussion with you on our proposal.

DASNY's On-Bill Financing Proposal

This proposal would provide access to private capital to finance energy efficiency improvements that will promote the objectives of this EPS proceeding and the Governor's 15 x 15 initiative.

- **Eligible Customers:** This program would provide tax-exempt financing to colleges, hospitals, nursing homes and other not-for-profit and public entities eligible for tax-exempt financing. Entities will be permitted to borrow from DASNY only if certain credit worthiness criteria have been met.

- **Eligible Projects:** This tax-exempt financing would be available to finance energy efficiency projects without regard to who is providing energy efficiency services and/or commodity services to the DASNY customer. Energy efficiency projects would need to achieve savings that exceed debt service by at least XX% in each year of the loan. No project would be financed until an energy audit establishing the estimated savings has been prepared.

- **Customer Repayment Obligation:** The amounts borrowed by DASNY for its customers would be repaid solely by the customer/borrower who benefits from the improvements except in very rare circumstances.

- **Participation Agreement:** DASNY will execute a loan or other agreement with each participating customer/borrower. The utility would not be a party to this agreement between DASNY and its participating customers and the utility would not be a guarantor of the DASNY bonds.

- **On-Bill Financing Mechanism:** Each participating DASNY customer/borrower, pursuant to a tariff, would be obligated to pay a PSC authorized charge that would appear on the customer's utility bill. The amount of the tariff charge to be collected from each participating customer would be established in advance in a schedule that would be furnished to the utility by DASNY at the time DASNY disburses bond proceeds to its participating customer.

- **Utility Role:** The utility's role would be limited to collecting the PSC authorized charge as directed by the PSC and then remitting it to DASNY or its designee. The balance sheets of the utilities

should not be impacted because the utilities would simply be collecting and remitting a regulatory charge imposed by the PSC

- **True-Up:** If the participating DASNY customer did not remit the scheduled amount to the utility and the utility exhausts any collection efforts directed by the PSC (which might include the disconnection of utility services), the utility would collect the amount from a true-up tariff imposed upon a class of ratepayer to be determined and authorized by the PSC. The availability of the true-up is essential because it will assist DASNY in providing access to private capital to potential customers who otherwise might not have the financial capacity to undertake energy efficiency improvements.

- **Customer Track Record:** It is extremely unlikely that DASNY's clients will fail to pay the additional charges because:
    - DASNY[,in consultation with the utilities,] will establish minimum financial criteria for participating customers;
    - DASNY's customers will not want to confront the disruption that would result from the actual or threatened loss of utility service; and
    - Defaults by DASNY's customers are extremely rare.

- **Measurement and Verification:** For measurement and verification purposes, the energy savings achieved by each project would be established through the commissioning process that occurs after completion of the project.

- **Program Benefits:** Issuing bonds at lower tax-exempt interest rates will result in increased savings and even lower utility bills for participating DASNY customers.

    - DASNY believes that the bonds secured by the proposed PSC tariff charge will be well received by the market place and that the benefits achieved in terms of enhanced customer access to private capital and reduced subsidies outweigh any incremental costs that may have to be incurred to implement the program or to cover amounts not paid by defaulting customers.

    - DASNY further believes that: (a) utilities should be able to recover any incremental costs incurred to implement this on-bill financing program through the SBC, a similar charge or as part of the general utility rates; and (b) if

tasked with achieving targeted EPS goals, that utilities should be allowed to count energy savings associated with DASNY-financed projects toward those targets.