

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on August 15, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman

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

ORDER CONSOLIDATING BUDGETS RELATED TO
EVALUATION OF EEPS PROGRAMS

(Issued and Effective August 21, 2013)

BY THE COMMISSION:

INTRODUCTION

In this order, the Commission consolidates three program budgets related to the evaluation and verification of Energy Efficiency Portfolio Standard programs. The combined budget will provide funding for (1) independent evaluation consulting services; (2) Statewide Evaluation Protocol Development; and (3) Statewide Database Development, performed through technical contracts administered by the New York State Energy Research and Development Authority (NYSERDA) under the direction of Staff of the Department of Public Service (Staff). The funds for these activities have already been approved and do not represent additional collections from ratepayers.

BACKGROUND

By order issued June 23, 2008, the Commission created an Energy Efficiency Portfolio Standard (EEPS) for New York State to develop and encourage cost-effective energy efficiency programs. The Commission provided program administrators with evaluation budgets of 5% of their overall EEPS program budgets to perform evaluation, measurement and verification activities for each program.¹ It is Staff's responsibility, assisted by the Evaluation Advisory Group (EAG)² and the Implementation Advisory Group (IAG),³ to oversee the evaluation, measurement and verification efforts of the program administrators, and to ensure the results of such efforts are properly reflected in program implementation. Since the inception of EEPS, the Commission has separately approved three separate projects or activities aimed at bolstering Staff's ability to evaluate EEPS program performance and design.

Independent Evaluation Consulting Services

The June 23, 2008 order directed NYSERDA to use a portion of its evaluation budget to fund an independent

¹ Case 07-M-0548, Energy Efficiency Portfolio Standard (EEPS), Order Establishing Energy Efficiency Portfolio Standard and Approving Programs (issued June 23, 2008).

² The June 23, 2008 order directed Staff to establish an Evaluation Advisory Group (EAG), consisting of program administrators, stakeholders, and other State entities, to assist Staff in developing evaluation protocols and in other critical evaluation and reporting issues.

³ The December 21, 2010 order in this case directed Staff to establish an Implementation Advisory Group (IAG) hosted by Staff and consisting of representatives of all EEPS program administrators to advise Staff on implementation issues and to assist program administrators in program coordination among program administrators. Case 07-M-0548, supra, Order Combining Incentive Targets, Clarifying Incentive Mechanism Details and Establishing Implementation Advisory Group (issued December 21, 2010).

consultant to advise Staff regarding EEPS program evaluation. Subsequently, the Commission authorized NYSERDA to fund the independent consultant from unallocated System Benefit Charge (SBC) interest earnings.⁴

NYSERDA retained an independent evaluation consultant in October 2008 with funding of approximately \$250,000 annually for a two year period. The Commission increased the annual funding for the consultant by an additional \$250,000, commencing July 1, 2010.⁵ In October 2011, the Commission reauthorized annual funding of \$500,000 for the evaluation consultant for the years 2012 through 2015.⁶ The Commission allowed NYSERDA the flexibility of funding the consultant services from either a portion of its EEPS evaluation budget or from interest earned on SBC funds. As of May 2013, approximately \$1.3 million of the authorized \$3.125 million had been spent.

Statewide Database Development

In the June 23, 2008 order, the Commission also directed NYSERDA to use a portion of its evaluation budget for the development of a uniform energy efficiency database to allow for more comparable evaluation of programs but did not specify a budget for this project. In December 2010, NYSERDA in consultation with Staff, allocated up to \$350,000 from unused SBC interest earnings to be used to develop a statewide EEPS

⁴ Cases 07-M-0548, supra, Order Modifying Source of Funds for Costs of Independent Evaluation Consultant (issued June 24, 2009).

⁵ Case 07-M-0548, supra, Order Approving Three New Energy Efficiency Portfolio Standard (EEPS) Programs and Enhancing Funding and Making Other Modifications for Other EEPS Programs (issued June 24, 2010).

⁶ Case 07-M-0548, supra, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule (issued and effective October 25, 2011).

database. In May 2012, NYSERDA, in collaboration with Staff, entered into a contract for the first phase of the energy efficiency database with HCL of America in the amount of \$270,000. The initial phase of the database will enable program administrators to input their monthly, quarterly and annual performance reports into a centralized database enabling Staff to more effectively analyze program performance. Program administrators began using the database when they reported their monthly performance data on July 30, 2013. The second phase of the database project, developing a public interface, has begun and will be funded by the remainder of the \$350,000. Necessary future enhancements and improvements to the database have been identified throughout the system's development. For example, recent EEPS program consolidations have highlighted the need for a process to link and/or combine existing programs within the database. In addition, the database should allow program administrators to upload more than one report template to make the reporting process less burdensome. Additional capabilities or improvements will become evident as more experience is gained with the reporting system. As EEPS continues to evolve, it is expected that further improvements will be necessary.

Statewide Evaluation Protocol Development

In March, 2009, in a related proceeding,⁷ the Commission approved funding of up to \$750,000 annually for Statewide Evaluation Protocol Development enabling New York to formally join the Evaluation, Measurement and Verification (EM&V) Forum, a project of the Northeast Energy Efficiency Partnership (NEEP). The EM&V Forum facilitates the development

⁷ Case 05-M-0090, In the Matter of the System Benefits Charge III, Order Approving New SBC III Major Funding Category Entitled "Statewide Evaluation Protocol Development" (issued and effective March 13, 2009).

of EM&V protocols common across jurisdictions to estimate, track, and report the impacts of energy efficiency and demand-side resources and programs. The project objectives are increasing the reliability, uniformity, and quality of energy efficiency and demand side data while reducing research costs by pooling forum participant resources. The October 2011 EEPS order directed continued funding for the Statewide Evaluation Protocol Development at an annual rate of \$750,000 for the period 2012-2015 from NYSERDA's evaluation budget or from interest earned on SBC funds.

The annual cost for New York to participate in the research agenda of the EM&V Forum depends largely upon the number and cost of specific projects in which New York elects to participate. Since New York began participating in the EM&V Forum, actual expenditures have consistently been less than the allowed annual budget of \$750,000 (approximately \$1.4 million of the total authorized \$5.25 million to the EM&V Forum through May 2013.).

SUMMARY OF PROPOSAL

Staff proposes that the Commission delegate authority to the Director of OEEE to reallocate previously authorized funds among three EEPS evaluation activities: 1) independent consulting evaluation services; (2) Statewide Evaluation Protocol Development; and (3) Statewide Database Development. NYSERDA, under direction from Staff, funds each of these three activities from either unallocated SBC interest earnings or its own EEPS evaluation budget. Staff proposes that the aggregate level of funding for these three EEPS activities be maintained at the currently authorized level, but the Director of OEEE be granted the authority to allocate the funds across each of the

three activities in a manner that corresponds to the current evaluation, research and program tracking needs of EEPS.

NOTICE OF PROPOSED RULE MAKING

A Notice of Proposed Rulemaking concerning Staff's proposal was published in the State Register on May 1, 2013 [SAPA 07-M-0548SP75]. The minimum time period for the receipt of public comments pursuant to the State Administrative Procedure Act (SAPA) regarding these notices expired on June 17, 2013.

JOINT UTILITY COMMENTS

On June 17, 2013, Joint Utilities⁸ filed comments in response to Staff's proposal. The Joint Utilities generally support Staff's proposal and agree that there is a need to be able to adjust and modify EEPS evaluation efforts as the programs themselves are modified. However, the Joint Utilities recommend that more information be provided regarding the amounts and focus of the reallocations prior to the execution of such reallocations by the Director of OEEE, and state that providing this information would add transparency to the EEPS proceeding and provide insight to the program administrators into the re-aligned priorities of Staff.

⁸ The Joint Utilities are Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., National Fuel Gas Distribution Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, The Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a National Grid ("National Grid"), Orange and Rockland Utilities, Inc. and Rochester Gas and Electric Corporation.

DISCUSSION

As we have noted previously, it is very difficult to precisely estimate future expenses for projects conducted under the umbrella of evaluation. The level of expenditures for both the Independent Evaluation Consulting Services and the Statewide Evaluation Protocol Development has consistently been lower than previously authorized. Funding for the development and maintenance of a uniform database will soon be exhausted, and future funding is necessary for enhancements, including future changes to reflect ongoing modifications of the EEPs portfolio.

Currently, each time enhancements or modifications to the database are identified, requiring Commission approval of even minor budget reallocations will cause unnecessary delay and potentially increased costs and we agree with Staff and the Joint Utilities that increased flexibility to reallocate funds among the three interrelated projects described above is sensible. However, we believe that Staff's proposal, by keeping the project budgets separate, fails to properly recognize the interconnected and interdependent nature of the three projects. Therefore, we will direct NYSERDA to consolidate the three budgets allocating the total amount approved to the three projects as necessary to maximize the utility of each. In order to address the Joint Utilities concern regarding clarity and transparency, NYSERDA shall incorporate the consolidated budget, allocated among the three activities discussed herein, into its annual forecast of estimated end-of-year cash balances, expenditures, and commitments, due not later than June 30 of each year, as required by the October 25, 2011 order in this case.⁹ NYSERDA may implement the allocation upon Staff's

⁹ Case 07-M-0548, supra, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule (issued and effective October 25, 2011).

concurrence that the reallocation comports with our previous directives regarding the general importance that EEPS evaluation be meaningful, robust, and reliable.

SEQRA FINDINGS

Pursuant to our responsibilities under the State Environmental Quality Review Act (SEQRA), in conjunction with this order we find that programs modified here are within the overall action previously examined by us in Case 07-M-0548 and will not result in any different environmental impact than that previously examined. In addition, the SEQRA findings of the June 23, 2008 order in Case 07-M-0548 are incorporated herein by reference and we certify that: (i) the requirements of SEQRA, as implemented by 6 NYCRR part 617, have been met; and (ii) consistent with social, economic, and other essential considerations from among the reasonable alternatives available, the action being undertaken is one that avoids or minimizes adverse environmental impacts to the maximum extent possible.

The Commission orders:

1. Within 60 days of the issuance of this order, and after consulting with Staff of the New York Department of Public Service, the New York State Energy and Research and Development Authority (NYSERDA) shall submit to the Secretary an addendum to its forecast of 2012 end-of-year cash balances, expenditures, and commitments to include the consolidated budget, allocated among the three evaluation activities, described in the body of this order.

2. NYSERDA shall, in consultation with Staff and incorporate the consolidated budget into its future annual forecast of end-of-year cash balances, expenditures, and commitments, due not later than June 30 of each year, allocated

among the three evaluation activities discussed in the body of this order.

3. The Secretary, at her sole discretion, may extend the deadlines set forth herein.

4. These proceedings are continued.

By the Commission,

KATHLEEN H. BURGESS
Secretary