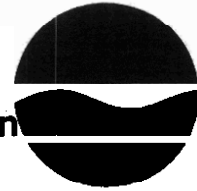


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Alexander B. Gramis
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June 26, 2007

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

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

Dear Secretary Brilling:

On behalf of the New York State Department of Environmental Conservation, ("Department"), I submit comments regarding the June 11, 2007 Notice Inviting Comments on SEQRA Environmental Assessment Form ("EAF") in the captioned proceeding. Initially, please note that the Department commends the Public Service Commission, and the Staff of the Department of Public Service, for undertaking proceedings to develop the Energy Efficiency Portfolio Standard ("EPS"). It is a logical and appropriate follow up to the proceedings convened to develop the Renewable Portfolio Standards. The following comments are provided in the order stated in the EAF:

6. Description of Action.
 - d) It is not clear whether the phrase "end-user efficiency programs, market transformation approaches, research and development" implicates a Green Building program. The Department recommends that, if it is not already incorporated into this concept, Green Building technology be included as a method for reducing energy demand and promoting efficiencies.
 - f) This paragraph mentions environmental justice as a concern to be addressed in energy efficiency program design. The Department fully agrees with the premise; however, it is critical to begin this effort with the appropriate working definition of environmental justice. Consequently the EAF should identify a definition for environmental justice; Department staff are available to assist this effort.

The Description of the Action does not appear to reference resolving transmission bottlenecks as a method for enhancing energy efficiency. To what extent can the reduction or removal of transmission bottlenecks be incorporated into this proceeding? Would alleviating bottlenecks inherent in New York's delivery of electric energy (from the west and north to the south) result in efficiencies of the kind sought by this proceeding? The Department is concerned about the inefficiencies associated with such bottlenecks even though this may not be directly subject to its statutory charter. In the very least, this proceeding should undertake to pose the question publicly; including but not limited to considering whether transmission inefficiencies should be made the subject of a follow up proceeding, much as the EFS is a follow up to the Renewable Portfolio Standard.

Part II - Impact Assessment.

3. Potential for Adverse Effects.

a) Impact to Air. The EAF projects that this action is likely to reduce demand for electricity generated by the combustion of coal, oil and natural gas, which in turn should result in reductions in emissions of sulfur dioxide, nitrogen oxides and carbon dioxide. This may overstate the benefits of the program. Generally speaking, implementation of energy efficiency electricity demand reduction measures could result in reduced emissions if the demand reductions are translated into enforceable limitations that restrict the ability of power plants to operate and/or emit air pollutants. Absent such restrictions, New York State may not realize a reduction in emissions creditable for purposes of the State Implementation Plan in the short term.

Even if demand for electricity in New York State is reduced, overall projections are for increased demand for electricity throughout the Mid Atlantic region. New York power plants could continue to produce electricity up to their permitted capacity and sell it to markets outside New York. The action may not result in a reduction of nitrogen oxides ("NO_x") unless the reductions come from outside the State's NO_x budget. However, given projects of increased demand for electrical power, substantial increases in the efficiency of electric energy production and use will mean that future emissions limits and caps could be reduced below present levels.

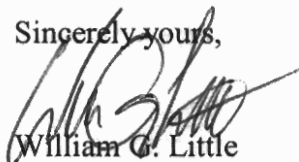
The EAF also claims that there is a potential that some end-users might be induced to choose oil as a fuel-source in lieu of natural gas, potentially resulting in an increase in air pollution. The Department believes that this proceeding should give consideration to whether such impacts could be managed through the use of lower sulfur fuel oils used in combination with biofuels.

This section should focus on clean distributed generation ("DG"). In that context, the consideration of potential impacts must take into account the effects of locating DG facilities in environmental justice communities. To the extent that there is a reduction or an increase in emissions, the Department asks that this be considered so as to avoid impacts on environmental justice communities.

j) Impact on Energy. This paragraph discusses demand reductions/decreases. If not already incorporated, this should be expanded to include redistribution of demand (e.g., demand selectivity over 24 hours or other time frames).

l) Impact on Public Health. This paragraph appears to omit the acknowledgment in paragraph (a) (Impact to Air) that “there is potential that some end-users might be induced to choose oil as a fuel-source in lieu of natural gas, potentially resulting in an increase in air pollution.” This is important given that the paragraph already discusses potential health benefits from emissions reductions. The Department suggests that there be an acknowledgment of potential release of addition fine particulates, if the sulphur levels in heating oils are not addressed.

Thank you for this opportunity to comment.

Sincerely yours,

William G. Little
Associate Counsel

cc.: Active Parties