STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

Petition of Orange and Rockland Utilities, Inc. for Approval of an Energy Efficiency Portfolio Standard (EEPS) "Fast Track" Utility-Administered Gas Energy Efficiency Program	**Case No. 08-G-1004**

Reply of Orange and Rockland Utilities, Inc.
to Comments on its
"Fast Track" Gas Energy Efficiency Program

Introduction

In its Order Establishing Energy Efficiency Portfolio Standard and Approving Programs, issued and effective June 23, 2008 in Case 07-M-0548 ("EEPS Order"), the New York State Public Service Commission ("Commission") explained that one of the highest priorities of New York State and the Commission is to develop and encourage long-term, cost-effective energy efficiency measures while also immediately implementing and augmenting near-term efficiency measures (EEPS Order, p. 1). Orange and Rockland Utilities, Inc. ("O&R" or "Company") fully supports the Commission's goals and has been an active participant in this proceeding since its inception on May 16, 2007.[1]

In the EEPS Order, the Commission established specific, interim targets for MWh reductions, approved specific energy efficiency programs for immediate implementation and, most important, called for New York's utilities to file gas and electric energy

[1] Case 07-M-0548, *Petition on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard*, issued and effective May 16, 2007.

efficiency programs for approval. The call for a substantial utility presence was based in part on the utilities' knowledge and ability to reach their customer base, the ability to offer a diversity of approaches that would create competitive energy efficiency programs and the need to contribute to achievement of the substantial energy efficiency goals established by the Commission.

The comments by Department of Public Service Staff ("Staff"), regarding the Company's proposed program depart from the Commission's framework for obtaining immediate and long-term, cost-effective energy efficiency measures. First, Staff recommends a generic, statewide gas Residential HVAC Program, which is contrary to the Commission's express goal of seeking innovative, utility-specific programs and will stifle unique innovations in gas efficiency programs.

Second, Staff unilaterally imposes higher energy savings targets (in effect changing the related program budgets) on all gas utilities, changes the underlying criteria for determining the avoided costs for each program, and adds new program components and parameters to the Company's proposed expedited residential gas heating, ventilation and air conditioning program. This type of change in the underlying criteria for review is inconsistent with the Commission's goal for "expedited" programs, as program administrators must continually re-evaluate their programs each time Staff decides to implement new targets and avoided costs. This new methodology for reviewing and evaluating potential energy savings lacks any detail or foundation, and would likely cause confusion for program administrators.

Next, Staff recommends that all utilities use a uniform technical manual and that a standard approach be used to calculate performance metrics, which is not appropriate due to the diverse nature of individual utility service territories and related program differences.

Finally, Staff proposes a series of operating procedures and reporting requirements that would deny the Company the flexibility to manage its programs to achieve the Commission's goals. The program operations team must maintain the ability to react quickly to the need to make program adjustments.

Staff's comments will further delay the implementation of the Company's gas energy efficiency program that the Commission categorized as an expedited program. Therefore, the Commission should approve the Company's gas program proposal, as filed and amended herein. However, the Company would note that the approval date for any gas programs is unlikely to be before February, 2009 and the targets proposed in the Company's August 21, 2008, filing assumed a program start date in 2008. Based on an assumption that the programs are approved in February with implementation plans due 60 days afterwards, the Company is in the process of revising its energy savings targets, consistent with the requirements of the EEPS Order, and with an assumed start date of May 1, 2009. Such revised energy savings targets will be included in the Company's Implementation Plan.

Background

On June 23, 2008, the Commission issued the EEPS Order that authorized New York's electric utilities and certain gas utilities to submit program plans for Commission approval, for two "fast track" expedited electric utility programs (EEPS Order, Ordering Clause 9, pp. 71-72) and one "fast track" expedited residential gas heating, ventilation and air conditioning ("HVAC") energy efficiency program (EEPS Order, Ordering Clause 11, pp. 72-73).

The EEPS Order was issued following more than a year of intensive collaborative processes, filings and comments (EEPS Order, pp. 3-8). These extensive interactions enabled the Commission to develop and provide explicit criteria under which the utility gas energy efficiency programs would be evaluated including the applicability of the Total Resource Cost ("TRC") Test, a demonstration that collaborative discussions had taken place among utilities, NYSERDA and other interested parties, the development of detailed protocols for measurement and verification, and compliance with the requirements of Appendix 3 (EEPS Order, p. 58). It should be noted that the EEPS Order provided the proposals would "be deemed to satisfy the numerical and narrative requirements identified in Appendix 3" (*Id.*), upon a submission that demonstrated the foregoing.

In its ruling, the Commission also recognized the need for a longer-term framework that included a "more substantial role for utilities" and established that framework (EEPS Order, p. 35). As the Commission explained in the EEPS Order, "[t]here are numerous reasons. . . for establishing investor-owned utilities as program administrators. Utilities have direct access to customers and customer usage information. They offer a diversity of approaches that may lead to a wider offering of programs than would occur under a centralized administrator" (EEPS Order, p. 49). The Commission, accordingly, determined that utility–administered programs would account for slightly more than half of the fast track funding, significantly higher than the 20% figure initially proposed by Staff (EEPS Order, p. 36).

Following this direction, O&R designed and submitted to the Commission its Gas Residential HVAC Program filing on August 22, 2008 ("60-Day Filing"). The 60-Day Filing complied with all of the criteria articulated by the Commission in the EEPS Order.

The Commission subsequently established Case 08-G-1004 - Petition of Orange and Rockland Utilities, Inc. for Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility – Administered Gas Energy Efficiency Program – as the venue for reviewing the gas program of O&R's 60-Day Filing.

On November 17, 2008, Staff filed initial comments on the electric programs included in O&R's 60-Day Filing in Case 08-E-1003[2] ("Staff's Initial Comments"). On December 17, 2008, in Case 08-G-1004, Staff filed initial comments on the gas program included in O&R's 60-Day Filing ("Staff's Comments").

The O&R Program

As noted above, O&R's gas Residential HVAC proposal complied with all of the criteria articulated by the Commission in the EEPS Order. Staff, however, following review of the Company's proposal, determined that they "cannot recommend approval of this program until such time that the Company can demonstrate a greater likelihood that the program is cost effective" (Staff's Comments, p. 4). The Company respectfully submits that it has provided that demonstration.

[2] Case No. 08-E-1003, *Petition of Orange and Rockland Utilities, Inc. for Approval of an Energy Efficiency Portfolio Standard (EEPS) "Fast Track" Utility-Administered Electric Energy Efficiency Program*, Staff's Initial Comments, November 17, 2008.

Staff unilaterally changed the avoided costs used by O&R (and the other utilities) in its TRC calculations for "accuracy and standardization/comparability across companies" (Staff's Initial Comments, pp. 15-16). This unilateral change is contrary to the guidelines previously provided in the EEPS proceeding by Staff in its report, "March 2008 DPS Staff Report on Recommendations for the EEPS Proceeding." More important, this change imposes an unreasonable requirement for establishing TRC in this proceeding.

Staff seeks an explanation of O&R's proposed total budget and cumulative energy savings because they are "materially different" than the figures determined by Staff (Staff's Comments, p. 4). The Company, however, has provided such explanation in its 60-Day Filing and provided additional information in response to numerous Staff interrogatories.

O&R's analysis determined a TRC ratio of 1.2. The Company's budget and energy savings targets were established based on gas measures eligible for replacement in a given year and then estimating the percentage of customers that would participate in a rebate program. O&R's service territory consists of 110,000 residential gas customers and, for the total program, O&R assumed approximately ten percent equipment turnover. Given that heating system measure life is estimated to be 15 to 20 years, this is already an aggressive target. Below is the table provided in response to IR 13, submitted on October 16, 2008, that details the program participation goals that correspond to the energy saving targets.

The Program summary level data is:

	Residential Gas Customers	10% Avg Annual Equipment Turnover	3.25 Year Market For Turnover	Program Market Penetration	Total Program Measures
O&R	110,000	10,960	35,620	5%	1,814

The replacement of those 1,800 units is the basis for the 16,238 MCF savings goal identified by the Company. Using a mix of rebates for different efficiency levels and equipment produced a budget of $1,357,000. Although Staff raised concerns that the Company budget was eleven percent lower than the budget amount listed in the EEPS Order (Staff's Comments, p. 5), the five percent market penetration of measures and associated rebate dollars did not justify increased spending. As such, O&R did not propose to spend the full allocation of the dollars found in Table 18 of the EEPS Order.

The Company's energy efficiency consultant, Optimal Energy, advises that installing an energy efficient 92% AFUE furnace saves 13.5 MCF annually. To reach staff's goal of 112,500 MCF (assuming a 1.02 MMBtu per MCF), O&R would need to replace over 8,300 units as opposed to O&R's proposed 1,800 units. This represents an increase from the originally proposed number of units of 460 percent. This would exceed $1.6 million dollars in rebate payments and would be greater than the $1.5 million budget found on Table 18, thereby allowing no funding for marketing, program administration, program implementation, or evaluation.

Staff, however, believes that a program budget of $1,517,812 will produce savings of 114,784 MMBtu, an increase of nearly 700 percent over the Company's estimate. The Company submits that this increase in savings will require a significantly greater market penetration. Even with a substantial increase in budget, it is not possible to achieve this level of market penetration.

Staff's savings goals outlined in Appendix A are significantly higher than the utilities' identified goals, exceeding those goals by over 400 percent. This may indicate that the savings goals identified by Staff are not achievable given the budget limitations and program achievable participation rates.

The Company also notes, that Staff subsequently conducted its own analysis of O&R's TRC ratio using the Company's inputs on measure costs, energy savings and avoided costs and calculated a TRC ratio of 1.22 (Staff's Comments, p. 16). However, only after Staff applied its own, different long-run avoided costs to the TRC analysis, did it calculate a non-cost-effective TRC ratio of 0.85 (*Id*.). Staff raised two concerns about the Company's long-run avoided cost calculation, both of which lack merit.

First, Staff voices concern that O&R's program was designed using specific avoided costs associated with seasonal use patterns for the rebated equipment. Any such concern is misplaced as this measure of estimating specific avoided costs is more accurate than a regional annual average.

Second, Staff indicates that the Company's estimates for avoided costs are 44% higher than Staff's Downstate estimates which were obtained from forecasts provided to NYSERDA for the State Energy Plan (Staff's Comments, p. 16). Staff also implies that the Company's higher costs may be due to the spike in fuel costs during the summer of 2008 (*Id*.). That is incorrect.

O&R utilized avoided costs from the NYSERDA Gas 2006 Downstate Potential Study and increased these costs three percent annually for inflation from 2005 to 2008.

These costs were in line with the avoided costs used by Staff in March 2008 and, as such, provided an additional source of data that supported the avoided costs the Company used in developing its proposed program.

Program screening should not be performed each time gas prices drop or increase. Rather, a line needs to be drawn as to when we begin to move forward with energy efficiency programs. The large fluctuations in natural gas and other energy commodity prices over the past six months demonstrates the necessity of establishing set parameters for avoided costs in advance in this proceeding. For example, the price of natural gas at the New York City Gate was $13.05 per dekatherm (Dth) in July 2008 and was $7.87 per Dth three months later in October 2008.[3] The implied volatility of gas prices for the period commencing April 2009 through March 2011, looking to the 24 month NYMEX history since January 2, 2007, and calculated for each forward month based on option pricing as of January 6, 2009 for the corresponding month, ranges from 35 percent to over 55 percent.

Prices can and do change monthly and, as the foregoing indicates, it is highly probable that prices will increase, possibly dramatically, again in the next few years, or within any year. It is therefore, essential to establish programs (and subsequently evaluate those programs) based on the design parameters established by the Commission, so that gas energy efficiency programs can be implemented and in the marketplace when gas prices again rise and remain in the marketplace when prices soften. While it may well be appropriate to update avoided costs and other parameters for each three year (or other multiple year cycle) on a going forward basis, regularly revisiting this issue *ex post* will not lead to the development of a sustainable infrastructure for energy efficiency.

[3] Source: Energy Information Administration (EIA), DOE 12/24/2008.

As a result, the initial TRC ratios developed by O&R are the most appropriate and should be used in any evaluation of the Company's proposed gas energy efficiency program by the Commission.

Energy Efficiency Policy Issues

Statewide Efficiency Measures and Eligibility Levels

In contrast to the EEPS Order, that looked to utilities to bring the knowledge of their service territories to the efficiency marketplace, Staff has recommended that all gas utilities establish gas Residential HVAC programs with the same program attributes, including identical efficiency measures and eligibility levels (Staff's Comments, p. 17). As regarding the utilities' proposed electric energy efficiency programs, Staff expressed concerns that variations between service territories, including differing eligible measures, rebate amounts, rebate structures, acceptable qualifying efficiency levels and proposed incentive levels, would cause "customer and trade ally confusion" (Staff's Comments, p. 17). As with the electric energy efficiency programs, however, Staff provided no detailed explanation for this "possible" confusion.[4] Staff even proposes that all utilities adopt the specific dollar amounts for incentives developed by Staff's own consultant, the American Council for an Energy Efficient Economy ("ACEEE"), without regard for individual service territory uniqueness (Staff's Comments, pp. 18-22).

Staff's proposal improperly alters the structure established in the EEPS Order and contradicts Commission recognition of the uniqueness of individual utility service areas and the need to tailor programs to local needs when setting program requirements. The Commission did not require that utilities "conform to a single program model" for its fast

[4] Staff's Initial Comments, pp. 16-17.

track programs (EEPS Order, p. p. 36) but recognized that utilities "offer a diversity of approaches that may lead to a wider offering of programs than would occur under a centralized administrator" (EEPS Order, p. 49). By limiting the ability of the utilities to use customized approaches, Staff's statewide generic proposal appears to be an attempt to continue the model of uniformity that a single statewide operator for gas Residential HVAC programs provides.

In the EEPS Order, the Commission expanded on the idea of diversity of programs and stated:

> In recent years New York's rate-payer funded energy efficiency programs have been realized primarily through a single provider model. Notwithstanding the simplicity, economy and reliability of expanding this model, additional policy considerations have been put forward that support the addition of utilities and other entities as program administrators. These include aligning utility financial interests with energy efficiency in utility resource planning; development of on-bill financing as a means of reducing reliance on ratepayer funded programs; benefiting from utility access to identify potential program participants among customers; **and benefiting from competitive efficiency and diversity of approaches** (*emphasis added*)(EEPS Order, p. 44).

Although Staff recommends the use of common efficiency measures, eligibility levels and incentives throughout the various utility programs (Staff's Comments, p. 18), Staff also recognizes that differences may also be appropriate. Unfortunately, Staff will only be willing to "revisit this issue" if the utilities can provide a "compelling reason for varying any of these parameters between programs" (*Id*.). No definition or explanation of the criteria for a "compelling reason" is provided. As such, Staff's criteria for "revisiting the issue" will cause uncertainty and curtail innovation among utility administrators and programs.

Given the clear direction of the EEPS Order, the Commission should reject Staff's proposed standard for adoption of the gas Residential HVAC program and instead use the most appropriate measure – the one adopted in the EEPS Order – that clearly cost-effective programs should be approved and allowed to proceed.

Standard Energy Savings – Technical Manual

Staff states that they are "very concerned about the great variation in energy savings estimates proposed by the utilities" (Staff's Comments, p. 22). As such, Staff recommends that "a standard approach be used to calculate performance metrics" and would require all utilities to use the TecMarket Works technical manual "to estimate Fast Track program energy savings at the measure level" (Staff's Comments, pp. 22-23).

Since O&R's planning estimates were developed by Optimal Energy, the Company anticipates using the saving metrics associated with the planning design criteria until impact evaluations are conducted.

Specific Criticisms of the O&R Gas Program

Energy Savings Estimates

In addition to suggesting that all utilities use the TecMarket Manual for calculating energy savings, Staff indicates that the Company has not sufficiently justified its energy savings estimates (Staff's Comments, p. 10). This criticism is unwarranted.

Throughout the discovery phase in this proceeding, the Company provided responses to several interrogatories that justified the estimates used in the energy savings calculations. Specifically, IR 34, submitted on October 27, 2008, detailed the savings estimates used for furnaces, boilers, and on demand water heaters. The information is provided below.

	avg ccf	baseline efficiency	measure efficiency	% savings	interactive effect	total MMBtu saved
90% AFUE furnace	912	78%	90%	13%	0.998	12.13
92% plus AFUE furnace w/ECM	912	78%	92%	15%	0.998	13.85
85% AFUE boiler	912	75%	85%	12%	0.998	10.71

	avg ccf	% savings over old baseline	MMBTu savings from old baseline	savings from old baseline to new	total MMBtu saved
on-demand water heater	179	40%	7.160	1.006	6.154

The Company's responses to IR 32 and 36, submitted on October 27, 2008 and November 6, 2008, also contained information about the energy savings estimates used in the program. Finally, O&R communicated with Staff on several occasions to address Staff's questions, and provided access to the Company's consultant during conference calls. Staff indicated to the Company that all data necessary to evaluate the TRC had been provided prior to filing Staff's Comments.

Cost Data Sufficiency

Staff has criticized the level of detailed supporting documentation describing budget allocations and breakout categories. (Staff's Comments, p. 11). That criticism is unwarranted.

The Company also responded to several IRs regarding the cost data used to determine cost–effectiveness, as well as detailed information concerning budget allocations. The Company's response to IR 50, submitted on December 5, 2008, contained the cost assumptions used in the budget development. IR 25, submitted on November 3, 2008, described the proposed evaluation budget.

Coordination with Consolidated Edison

Staff suggests that O&R explore the possibility of joint administration with Consolidated Edison Company of New York, Inc. ("Con Edison"). For example, Staff proposes the following:

- The possibility of administering the application and rebates process jointly with Con Edison (Staff's Comments, p. 6);
- The coordination of program marketing with Con Edison (Staff's Comments, p. 13).

As stated in O&R's responses to IR 15 and 18 submitted on October 14, 2008, O&R is considering administering and evaluating programs jointly with Con Edison. The extent of the ability of O&R and Con Edison to act jointly will be determined by the terms of the final Commission order in this proceeding. As the Company noted, with respect to MV&E, which is expected to be implemented according to statewide protocols established in the EEPS proceeding, a single contractor may provide consistency and improve cost effectiveness and thus O&R and Con Edison are exploring this option.

Coordination with Utilities and NYSERDA

As to coordination with NYSERDA to prevent double counting of efficiency savings or incentives paid to customers, the Company will establish a process with NYSERDA to review and assess all rebates and measures prior to program implementation, and to conduct a review of claimed rebates prior to payment. O&R staff also met with NYSERDA staff on September 11, 2008 to discuss potential plan parameters and agreed to work together to serve O&R's ratepayers as efficiently and economically as possible.

Additional Efficiency Measures

Staff indicates that the Company does not plan to offer low-flow shower head, faucet aerators or water heater tanks wraps as part of its portfolio of eligible equipment as required by Appendix 2 of the EEPS Order (Staff's Comments, p. 7). Staff recommends that O&R offer all of the equipment approved for its Gas Fast Track program in Appendix 2 of the EEPS Order (*Id*.).

The Company will continue to review these measures and, subject to available funding, consider their inclusion. Pursuant to Staff's suggestion, O&R will consider offering low flow showerheads, faucet aerators, and water heater wraps to customers similar to those proposed in Con Edison's gas program and will explore the opportunity for joint procurement with Con Edison for these energy saving kits.

Free Ridership/Spillover

Staff incorrectly states that O&R will apply a five percent reduction for free ridership to its net-to-gross analysis (Staff's Comments, p. 9). That statement is incorrect, as the Company utilized a 10% free ridership reduction. On page 34, Section 3.3.3, of O&R's 60 Day Filing, the Company states that 10% free ridership reduction net of spillover will be used. In addition, in response to IR 21, submitted on November 3, 2008, the Company indicated that 10% was used.

Continued Review

On several occasions, Staff seeks additional information on the Company's proposed program that can only be provided in the Implementation Plan, once the gas Residential HVAC program is approved. For example, Staff seeks the following:

- A detailed plan for working with NYSERDA and other utilities to further develop and refine its evaluation (Staff's Comments, p. 8);
- A detailed explanation of the Company's logic model (Staff's Comments, p. 9).
- Additional information on the process for hiring outside evaluation contractors (*Id*.);
- Additional information on evaluation budgets including priorities (*Id*.);
- Additional information on plans for ensuing the objectivity and transparency of the evaluation program (*Id*.);
- A detailed contractor training and orientation plan (Staff's Comments, pp. 11-12);
- A quality assurance plan that conforms to the guidelines issued by the EEPS Evaluation Advisory Group (Staff's Comments, pp. 12-13);
- Details of coordination of program marketing with other parties (Staff's Comments, pp. 13); and
- Detail on coordinated program delivery with other entities and how customers will be made aware of all programs for which they are eligible (e.g., from differing providers) and how the Company will avoid double counting of energy savings and double payments for incentives (Staff's Comments, p. 15).

Pursuant to the Commission's direction, O&R will file an implementation plan. The implementation plan, however, awaits Commission approval of programs before its development can proceed. The same is true for quality assurance programs, contractor training programs and other post program approval activities. It is not cost-effective or reasonable to expect any prospective program administrator to develop such supporting documentation without knowing the programs, budgets and targets to which such documentation would apply. In addition, since the implementation plans will be developed in conjunction with outside vendors, the Company needs the actual program information in order to develop the appropriate requests for proposals ("RFPs") pursuant to which vendors will be engaged.

In conjunction with the solicitation process to acquire contractual administrative and technical support, O&R will develop final implementation plans with vendors chosen pursuant to the RFPs. Therefore, the implementation plans are expected to be in place after contractor selection and award. The solicitation will call for implementation plans in conjunction with program logic models that clearly address market descriptions by program, goals and objectives, existing and potential barriers, integration with other efficiency programs and stakeholders, performance measures and effective steps to meet budgetary and energy savings targets. The solicitation is also expected to request information on a potential trade ally network, contractor training, energy analysis, application review, processing, reporting, quality control and quality assurance protocols and product and service warrantees.

In response to the solicitation, vendors will submit an overall marketing strategy and approach and detailed implementation plans that will include management systems, marketing materials, promotional activities, communication themes and key messages, requisite schedules and independent measurement, verification and evaluation ("MV&E") processes. In addition, vendors will submit comprehensive staffing plans outlining qualifications, allocated resources and program commitment and other information described above.

Operational and Reporting Concerns

Staff has proposed numerous restrictions that will limit the flexibility of program administrators to respond to changing market conditions and operate their programs. These rigid requirements are not consistent with the Commission's goal of supporting competitive and diverse energy efficiency programs. Staff has also proposed additional reporting requirements that are unnecessary.

By adding layers of approval and mandates that restrict the Company's ability to modify programs in response to evaluations and the market, Staff changes the risk equation and imposes additional risk on the Company. It is simply unreasonable to hold the utility program administrators accountable for performance while denying them the ability to make basic business decisions to administer their programs.

Budget Allocations and Expense Tracking

Staff proposes that "any utility proposal for changes to approved program budgets, eligible energy efficiency measures, or customer rebates should be submitted to Staff for review and comment at least 90 days before the proposed implementation date" (Staff's Comments, p. 24). Staff review of all such proposed changes is unnecessary and unduly burdensome. The utilities are responsible for operating the programs and meeting established goals. The proposed process will hinder the Company's flexibility and ability to make changes quickly when needed to improve program performance and achieve goals.

Staff also proposes that budget reallocations of more than 10% from the total approved annual budget be subject to Commission approval (*Id*.). Again, the need to address changing market circumstances (particularly in the current market climate in which conditions have declined dramatically since budgets were proposed in August and September) and provide innovative programs is inconsistent with this type of oversight for small program changes. The potential delay that Staff's proposal will impose is unreasonable and will slow the delivery of energy efficiency programs and thus savings to be achieved by such programs. Unanticipated changes can, and will, occur during any year, which can significantly change short-term energy efficiency program results (*e.g.*, substantial changes in energy prices that can affect customers' willingness to pursue energy efficiency), and the Company should have the ability to quickly respond to those unanticipated changes.

It is also likely that certain programs will work better than others. The evaluations will provide important information on this front and the Commission should encourage utilities to act on such program evaluations expeditiously to expand those programs that do work well, limit those that do not and develop new programs to capitalize on market trends or new technologies. The potential delay for a relatively small program change, representing 10% of the approved budget substantially changes the risks utilities face in implementing successful efficiency programs.

Staff also reiterated its concern that determining whether "internal costs charged to a utility's energy efficiency program are truly incremental to the base rate expense allowances, and thus recoverable through a separate SBC surcharge, is very difficult, if not impossible, to prove" (Staff's Comments, p. 4). The Company believes that all costs related to efficiency programs can be adequately identified through the use of accounts designed to track the various activities that will comprise programs. As it did during its Power Partners Program, the Company will develop accounts to achieve that purpose. The Company provided this information in response to IR 53, submitted on December 5, 2008 in this proceeding.

Monthly Scorecard

In addition to reports on a quarterly and annual basis as required by the Order (June 23rd Order, p. 73), Staff is recommending an additional monthly "scorecard report" from all program administrators (Staff's Comments, p. 27). O&R supports uniform reporting of results and uniform, full public reporting by all entities receiving ratepayer funding. Staff has recommended, and O&R agrees, that quarterly reports be submitted within 45 days of the end of the quarter and its annual report within 60 days of the end of the year.

O&R does not support the additional requirement of monthly reporting. Monthly reporting will not materially add to public understanding of program spending or achievements but will impose additional burdens, increase the complexity of the reporting function and thus increase program costs. The Company does not expect large changes in program information on a month to month basis, particularly during start-up.

Sole-Source Procurement

Staff recommends that "competitive bidding – rather than sole source procurement – be required as the preferred procurement method for equipment and contracts" (Staff's Comments, p. 26). Staff further recommends that any sole source contracts be submitted to the Director of the Office of Energy Efficiency and the

Environment for review and approval (Staff's Comments, p. 23). O&R plans to use the competitive bidding process.

Additional Comments

In addition, the Multiple Intervenors, an unincorporated association of large industrial, commercial and institutional gas and electric consumers in New York State ("MI") submitted comments dated December 12, 2008 ("MI Comments") and EarthKind Energy ("EarthKind") submitted comments directly to O&R on November 14, 2008 ("EarthKind Comments").

MI's comments support minimizing costs to its members and other customers (MI Comments, pp. 3-4), limiting gas utilities to the Residential HVAC Program authorized by the Commission (MI Comments, pp. 6-7), ensuring appropriate cost allocation for gas efficiency programs (MI Comments, p. 7), and requiring a new TRC analysis for all gas efficiency programs based on the recent changes in natural gas prices (MI Comments, p. 8).

MI cites to the current economic conditions facing the State and the Nation as a reason to limit the cost of gas efficiency programs on consumers (MI Comments, pp. 3-4). What MI does not provide is any suggestion that the Commission's overarching goals (i.e., efficiency, cost savings, environmental considerations) are any less important in the current economic climate. As noted by MI, the Commission has authorized incremental funding of $330 million in the EEPS proceeding (MI Comments, p. 3). O&R submits that the time to challenge this funding proposal has long since passed.

MI also wants the Commission to ensure that all utilities only implement the Commission authorized gas residential HVAC program (MI Comments, pp. 6-7). O&R

has complied with the EEPS Order in that respect. As such, this comment does not apply to O&R. Likewise, MI's concern that cost allocation methodologies be applied appropriately (MI Comments, p. 7), does not apply to O&R as O&R is allocating the costs of its residential HVAC program solely to residential customers.

Finally, MI asks the Commission to "reevaluate the cost/benefit analysis for all proposed gas efficiency programs" (MI Comments, p. 8) due to recent changes in natural gas prices. O&R has discussed, above and in detail, its opposition to changing the TRC analysis in response to Staff's proposal to revise the TRC calculations and analysis. As such, MI's recommendation should be rejected as well.

EarthKind criticized O&R for not including solar thermal water heating as a measure in the proposed residential gas program (Earthkind Comments, p. 1). The Company conducted an evaluation of solar hot water heating measures for inclusion in the gas program. However, the measure did not pass screening for cost effectiveness and, therefore, was not included.

Conclusion

The Commission established, in the EEPS Order, aggressive but achievable goals for energy-efficiency programs to be implemented in New York. O&R is committed to assisting the State in meeting these goals. In the EEPS Order, the Commission also established a detailed process and procedure for the filing, review, implementation and approval of these plans. In proposing its gas energy efficiency program, O&R complied with those requirements and its program meets the goals established by the Commission.

Because O&R has complied with the Commission's established rules and processes in this proceeding, its gas program should be approved, pending revised targets and budgets to be filed, as noted above, so that the Company can expeditiously begin to implement this necessary energy-efficiency program.

Pearl River, New York
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Respectfully submitted,

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