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January 7, 2009

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Via Hand Delivery

Honorable Jaclyn A. Brilling
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Case 08-G-1012 Petition of New York State Electric & Gas Corporation For Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility-Administered Gas Energy Efficiency Program

Case 08-G-1013 Petition of Rochester Gas and Electric Corporation For Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility-Administered Gas Energy Efficiency Program

Dear Secretary Brilling:

Enclosed for filing in the above-referenced matters, please find the Reply Comments of New York State Electric & Gas Corporation ("NYSEG") and Rochester Gas and Electric Corporation ("RG&E") (together, "the Companies") in response to the December 17, 2008 comments of New York State Department of Public Service Staff ("Staff") and the December 12, 2008 comments of Multiple Intervenors regarding the Companies' 60-day fast track gas energy efficiency programs ("Fast Track").

As set forth more fully in the enclosed Reply Comments, Staff's comments place undue emphasis on standardization and statewide uniformity among utility gas fast track programs, which unnecessarily adds complexity, associated costs and delay. Moreover, Staff seeks to add significant new program parameters and components to the Companies' Fast Track, while at the same time mandating a reduction in the overall program budget. Staff's two competing goals cannot be reconciled and its new program parameters cannot be implemented without significant new costs, resulting in sharp increases to the Companies' original proposed Fast Track budget.

However, in an effort to expedite the launch of the Companies' proposed program and to accelerate customer savings, the Companies propose to reduce the cost of the Fast Track to the level specified by Staff, and to conduct a study of space heating installation quality within the Companies' service territories during the first year of program operations. Accordingly, the Companies respectfully request that the New York State Public Service Commission adopt the Companies' proposed Fast Track as modified by the enclosed Reply Comments.

BEFORE THE
NEW YORK STATE
PUBLIC SERVICE COMMISSION

Petition of New York State Electric & Gas Corporation For Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility-Administered Gas Energy Efficiency Program.	08-G-1012
Petition of Rochester Gas and Electric Corporation For Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility-Administered Gas Energy Efficiency Program.	08-G-1013

REPLY COMMENTS OF
NEW YORK STATE ELECTRIC & GAS CORPORATION AND
ROCHESTER GAS AND ELECTRIC CORPORATION

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**REPLY COMMENTS OF
NEW YORK STATE ELECTRIC & GAS CORPORATION AND
ROCHESTER GAS AND ELECTRIC CORPORATION**

I. INTRODUCTION

New York State Electric & Gas Corporation ("NYSEG") and Rochester Gas and Electric Corporation ("RG&E") (collectively, the "Companies") hereby submit Reply Comments in response to the December 17, 2008 comments of New York State Department of Public Service Staff ("Staff") and the December 12, 2008 comments of Multiple Intervenors ("MI") regarding the Companies' 60-day fast track gas energy efficiency programs ("Fast Track").

In its comments, Staff places standardization and statewide uniformity among utility gas fast track programs as its highest priority. In contrast, the Companies' Fast Track was custom designed to encourage customer and trade ally involvement through a simplified program design, and produce strong Total Resource Cost ("TRC") test results, thus allowing for timely implementation. Staff's undue emphasis on large scale statewide uniformity between all utility "fast-track" plans and its insistence that any utility modifications to approved plans be subject to a ninety day review process necessarily adds undue complexity, associated costs and delay.

Staff seeks to add significant new program parameters and components to the Companies' Fast Track, while at the same time mandating a reduction in the overall program budget. Staff's two competing goals cannot be reconciled. Not surprisingly, Staff's comments fail to address the negative cost impact of its various recommendations. Staff's new program parameters, such as installation quality inspection verification, cannot be implemented without significant new costs, resulting in sharp increases to the Companies' original proposed Fast Track budget.[1] Without additional information Staff has not provided in their comments, the Companies are unable to determine whether those budgetary increases would be offset by sufficient savings to maintain the program TRC test results, although preliminary evaluation suggests at least some of the changes recommended by Staff would drive TRC results to unacceptably low levels. Staff would place the Companies in the role of inspector for HVAC and other energy efficiency contractor work performed on the customer side of the meter, even though the work would be undertaken by independent third-party installers with no contractual obligation to the Companies. Such a non-traditional utility role would impose significant new costs and potential new liabilities on the Companies.

Staff also takes issue with the Companies' forecasted energy efficiency savings. Staff asserts that far greater savings will occur. However, as Staff acknowledges, the Companies'

1 Yet, Staff notes that it cannot recommend the Fast Track because it "does not comport with the authorized budget by the EEPS Order." Case 08-G-1012 - Petition of New York State Electric & Gas Corporation For Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility-Administered Gas Energy Efficiency Program and Case 08-G-1013 - Petition of Rochester Gas and Electric Corporation For Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility-Administered Gas Energy Efficiency Program, Staff Comments at 4 (Filed December 17, 2008) ("Staff Comments"). Having rejected the Companies' original budget as exceeding the budget set forth in the Commission's June 23, 2008 Order in Case 07-M-0548, Staff proceeds to add numerous other cost components.

"vastly lower" program savings estimate was common to all of the utilities' gas fast track programs.[2] This deviation between Staff and all utilities suggests that Staff's uniform generic calculation assumptions are flawed and should be rejected until additional supporting evidence is available for review.

In an effort to expedite the launch of the Companies' proposed program and to accelerate customer savings, the Companies have, where appropriate, set forth herein responses to ameliorate Staff's concerns. In particular, the Companies propose to reduce the cost of the Fast Track to the level specified by Staff, and to conduct a study of space heating installation quality within the Companies' service territories during the first year of program operations. Accordingly, the Companies respectfully request that the New York State Public Service Commission ("Commission") adopt the Companies' proposed Fast Track as modified herein.

II. STAFF'S COMMENTS ARE CONTRARY TO THE INDIVIDUAL NATURE OF THE EXPEDITED UTILITY FAST TRACK PROGRAMS CONTEMPLATED BY THE COMMISSION

In its June 23, 2008 Order in Case 07-M-0543, the Commission listed five foundational issues, one of which was "the approval of specific energy efficiency programs for immediate implementation (the 'fast track' programs)."[3] The Commission went on to state that "[it] agrees with Staff and other parties who urge that approval of programs is needed at this time to begin

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2 Staff Comments at 6.

3 Case 07-M-0548 - Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, Order Establishing Energy Efficiency Portfolio Standard and Approving Program at 3 (June 23, 2008) (the "EEPS Order"). With regard to the importance of rapid action, only the gas fast-track program was *required* to be filed on an expedited basis. The EEPS Order provided that electric utilities "*may* within 60 days of the issuance of this Order submit program plans for our approval to implement the two fast track utility 'Expedited' programs." Id. at 71 (emphasis added). It further stated that gas utilities "*shall* within 60 days of the issuance of this Order submit program plans for our approval to implement a residential gas heating, ventilation and air conditioning ("HVAC") energy efficiency program." Id. at 72 (emphasis added).

making immediate progress toward the 2015 goal. Implementing programs on a fast track basis will accelerate customer savings and avoid lost opportunities."[4]

The Commission further clarified that "[it] will not require that utilities conform to a single program model in these categories; utilities may submit program designs pursuant to the terms described below."[5] The Commission subsequently outlined three approval criteria: TRC ratios, compliance with collaborative expectations, and detailed measurement and verification protocols.

More specifically, the Commission noted that "for fast track purposes [it] concentrated on programs that score well above 1.0 in the Total Resource Cost test, thus ensuring that significant customer savings will result.... Fast track programs were selected first by identifying programs with a TRC ratio of 2.0 or higher."[6] With regard to the Commission's expectations as to the collaboration, it specified that the 60-day filings should contain "[a] demonstration that collaborative discussions have been conducted among utilities, [the New York State Energy Research and Development Authority ("NYSERDA")] and other interested parties, and that good faith efforts have been made to accomplish statewide uniformity, particularly with respect to qualifying equipment and rebate levels, to the extent compatible with the needs of individual utilities to design programs that meet the needs of their territories."[7] Finally, the Commission stated that the detailed protocol for measurement and verification of results should take "into

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4 Id.

5 Id. at 41.

6 Id. at 39-40. In order to achieve a balanced portfolio, the Commission clearly distinguished the higher TRC standard it established for fast-track programs from the lower TRC levels it is accepting in the 90-day plans.

7 Id. at 58.

account the guidelines to be issued by the Director of the Office of Energy Efficiency and Environment."[8]

The Companies drew several key conclusions from the EEPS Order with regard to the Fast Track. First, the Companies concluded that the Fast Track should be designed to be implemented as quickly as possible. Second, Fast Track measures should be designed to achieve a TRC level well above 1.0. Third, the Companies should conduct collaborative discussions among the various parties and they should participate in good faith efforts to accomplish a level of statewide uniformity consistent with meeting their service territory needs. Finally, a detailed evaluation plan should be included in the 60-day plans. The Companies met all four Commission requirements with their Fast Track.[9]

A. Staff's Attempt at Statewide Uniformity Is Misguided

Staff recommends that the Companies change their proposed efficiency measures, eligibility levels and rebate levels to match Staff's statewide uniform proposal. Specifically, the set of measures and customer incentives recommended by Staff include:

1. A reduction in the incentive levels and a further increase in the efficiency of high-efficiency furnaces;
2. An increase in the incentive levels for hot water boilers;
3. An additional incentive for steam boilers;
4. A reduction in both the incentive levels and the efficiency requirements for conventional and tankless water heaters;
5. An additional incentive for condensing water heaters that would also qualify for a federal tax credit;

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[8] Id.

[9] The Evaluation Advisory Group ("EAG") has reviewed the evaluation plans for all utility electric and gas fast track programs and has recommended modifications to each. The Companies are prepared to provide a revised evaluation plan that incorporates the changes requested by the EAG, promptly following approval of the scope of the Fast Track.

6. An additional incentive for programmable thermostats and boiler reset controls; and

7. An additional incentive for duct and air sealing that will be available only if the work is conducted by a BPI-certified contractor.[10]

With these recommendations, Staff has set a higher priority on achieving standardization and statewide uniformity, rather than quick implementation to accelerate customer savings or avoiding degradation of the TRC level. Likewise, Staff's comments place greater emphasis on the Commission's desire for uniformity via collaboration than on each utility's ability to meet individualized needs in its respective service territory.

Staff has failed to make a convincing argument for emphasizing uniformity over other essential aspects of the Fast Track. Staff's primary argument in favor of uniformity is the belief that individualized programs have the potential to cause customer confusion.[11] The Companies agree with Central Hudson's view in its fast track electric comments that the "potential for meaningful confusion by customers is exaggerated by Staff. Customers are subject to advertising on energy and other commercial products every day by a variety of providers offering a variety of prices, terms and conditions and warranties and they make decisions every day among competing offerings."[12] Similarly, National Grid in its fast track electric comments correctly stated that "Staff has based its recommendation on a belief that if individualized utility-administered Residential HVAC Programs are approved as proposed 'there will be great

[10] Staff Comments at 21-23 and Appendix B.

[11] Staff Comments at 18-19.

[12] Case 08-E-1019 - Petition of Central Hudson Gas & Electric Corporation For Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility-Administered Electric Energy Efficiency Program, Central Hudson Reply Comments at 15 (Filed November 24, 2008).

confusion in the market (particularly adjacent service territories).' However, Staff has failed to provide any supporting explanation for such concern."[13]

Staff's claim of customer confusion is overstated, particularly since customers: fully understand that prices vary; are quite sophisticated in their use of coupons and rebates when shopping; expect the value of coupons and rebates to change over time among retailers, and even for different customers; and have adapted to considerable variation in prices and terms among their gas and electric retailers. In fact, the success of the Commission's policies with regard to retail access and deregulation is in part dependent on these customer capabilities.[14] Staff neither provides a basis for its concern nor proposes how "confusion" can be measured or monitored. Staff's confusion rationale for uniformity is therefore exaggerated and does not outweigh the benefits of the Companies' Fast Track simple, clear, cost-effective program, which can be quickly implemented.

Accordingly, Staff's recommendation that the Companies change Fast Track efficiency measures, eligibility levels and rebate levels to Staff's recommended uniform statewide program is in direct opposition to the value the Commission placed on allowing utilities to design programs that meet the specific needs of their service territories while offering a diversity of approaches leading to a wider offering and acceptance of energy efficiency programs.

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[13] Case 08-E-1014 - Petition of Niagara Mohawk Power Corporation d/b/a National Grid For Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility-Administered Electric Energy Efficiency Program, National Grid Reply Comments at 6-7 (Filed November 24, 2008) ("National Grid Reply Comments").

[14] Indeed, with regard to developing New York's competitive electric market, the Commission has stated that "because of the differences in market maturation among service areas and customer classes, a one-size-fits-all approach to fostering migration is ill-advised." Case 00-M-0504 - Proceeding on Motion of the Commission Regarding Provider of Last Resort Responsibilities, the Role of Utilities in Competitive Energy Markets and Fostering Development of Retail Competitive Opportunities, Statement of Policy on Further Steps Toward Competition in Retail Energy Markets (Aug. 25, 2004).

III. THE COMPANIES ARE WILLING TO MODIFY THEIR FAST TRACK DESIGN TO REDUCE COSTS

Staff's comments interpret the EEPS Order as establishing an absolute budget cap which the Companies' original Fast Track exceeds and, therefore, Staff concludes that it cannot recommend the Fast Track.[15] In its EEPS Order, the Commission stated that when determining which programs to approve, it "will assign funding to those programs most likely, in its judgment, *to achieve the greatest savings in the relevant time period* consistent with our policies for selection of a balanced portfolio of programs."[16] Accordingly, the Companies devised the original Fast Track based on a set of program measures, rebate levels, design, costs, and participation/savings estimates that would allow them to achieve favorable TRCs, while at the same time addressing many of the non-quantitative benefits listed in Appendix 3 of the EEPS Order.

The Companies initially developed respective Fast Track budgets by setting the program-specific costs equal to the amount calculated for collection in the Gas System Benefit ("SBC"). The non-program-specific costs were then added, along with an evaluation increase to meet the five percent requirement. As noted above, Staff now contends that the Companies' proposed Fast Track does not comport with the authorized budget from the EEPS Order.

To address Staff's concern, the Companies are prepared to reduce the original Fast Track budget to the level supported by the current SBC charge, consistent with the original scope of the Fast Track program. This would be accomplished largely by reducing customer participation levels approximately 18 percent, either by reducing outreach and education spending, or lowering rebates, or both.

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[15] Staff Initial Comments at 4.

[16] EEPS Order at 54 (emphasis added).

Retention of the original Fast Track scope is important to meeting this spending limitation. If the scope of Fast Track is broadened, as Staff recommends elsewhere in their comments, and the spending limitation is retained, the Companies will have little choice other than to establish caps on customer participation or shut down the Fast Track early if it appears that the fixed budget target will be exceeded.

Staff also expresses concern that if evaluation funds are assigned to market research, then the quality of the evaluation of specific programs may suffer. The Companies agree with Staff's concern and support implementation of rigorous standards. The evaluation budget should be solely for impact and process evaluations. Market research, as understood by the Companies, includes projects that can be used to assess market transformation, saturation and market potential. This research may in turn be used for secondary purposes, such as to support pre-program analysis, rather than post-implementation evaluation. Such secondary uses are an inappropriate use of the evaluation budget, which should be solely for impact and process evaluations. Until program evaluation plans and budgets have been approved, evaluation funding should not be used for any other purpose by the Companies, the EAG or any other entity. The Companies propose that interested parties wishing to engage in secondary market research activities prior to approval of evaluation plans be required to seek any funding from non-Fast Track program-specific activity budgets.

IV. STAFF'S PROPOSALS WOULD INAPPROPRIATELY INCREASE THE COST AND COMPLEXITY OF FAST TRACK WHILE CAUSING IMPLEMENTATION DELAY

Staff's comments recommend significant changes to the Companies' cost, savings and participation estimates, eligible measures, rebate levels, and key aspects of program design.[17]

[17] The Companies cannot recommend that Staff's revised measures and incentive levels be approved until their impact on the program budget and TRC has been found to be acceptable. The following information is

Together, Staff's proposed changes would make Fast Track more expensive and complicated, less attractive to customers and trade allies, result in lower TRCs, and cause even further delay in the Fast Track launch date.

A. Staff's Changes to Proposed Energy Efficiency Measures and Related Rebates

As discussed previously in Section IIA, Staff has proposed seven changes to the Fast Track measures and initiatives. Staff recommends that the Companies increase the number of measures in the Fast Track qualifying for rebates and variously increase or decrease the rebate amounts. The Companies initially selected the measures qualifying for rebates and the rebate amounts in a manner intended to maximize customer participation based on the Companies' experience and understanding of their customers' needs, and to achieve reasonable consistency with the rebate levels proposed by Niagara Mohawk. Staff's specific recommended changes to the measures and incentives will increase program costs generally, and may materially reduce the program TRC. The Commission and Staff have rejected programs for fast-track implementation due to their TRC levels, and if the Commission determines that the current SBC gas revenue collections represent a cap on the Fast Track budget, Staff has provided insufficient information to determine whether Staff's additional measures and incentives should be approved.[18]

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necessary to enable the Companies to conduct this analysis: 1) estimated participation rates associated with the revised incentive levels and new measures; 2) inspection and quality assurance requirements associated with each measure; 3) whether Quality Installation Verification ("QIV") is considered a discretionary or required aspect of these measures by Staff, and if required, whether Staff's objective is to generally improve installation contractor performance, or to identify and remediate installation issues for every participating customer; 4) an approved manual to be used for savings calculations; and 5) approved avoided cost estimates to be applied to those savings. The Companies would conduct the required analyses when this information becomes available. Based on that evaluation, NYSEG and RG&E are prepared to discuss with Staff the most appropriate, cost-effective changes consistent with the fast-track nature of this program. The Companies caution, however, that obtaining this information, conducting the resulting analysis, and collaborating with Staff to produce revised program design will further delay the implementation of the Fast Track.

[18] If the recommended changes in their entirety prove unacceptable, it is also possible that a subset of these changes could be implemented with acceptable impacts. This cannot be determined in the absence of additional information.

Direct program costs are largely a function of incentive levels and customer participation. Although participation can be heavily influenced by other factors, higher or lower incentive levels are known to raise or lower participation. In this case, Staff has both increased and decreased incentive levels compared to the current Fast Track. In general, the Companies expect the new incentive measures Staff has added to increase customer participation, while increasing program costs.[19]

The added program complexity will cause the cost of the application process to rise. The added complexity of the application form and process can be expected to increase the time (and money) spent answering customer questions. Customer applications are likely to contain more errors, which in turn, will increase the cost to the Companies of resolving those errors, and increase the risk that the customer will fail to qualify for the rebate(s).

In the particular case of customers who apply for multiple rebates, and provide an application package that is satisfactory for one rebate but not for the others, the Companies do not intend currently to delay the acceptable rebate until the entire application has been approved. This approach is practical under the current program design only because errors are expected to be relatively infrequent, and relatively few customers are expected to apply for multiple rebates. Higher error frequencies and more multiple rebate applications will make it too difficult to separate processing of multiple rebates and the entire customer application will then need to be approved before rebates are issued. More frequent errors can also be expected to engender more frequent complaints and disputes.

Further, by imposing additional measures and/or incentives as proposed by Staff, the Companies (and any program administrator) risk spending the entirety of available Fast Track

[19] Although less likely, it also possible that the increased complexity of the program and the addition of measures that may be of limited appeal, together with the reductions in some rebates, could leave participation levels unchanged or cause participation to suffer.

funds well before the planned Fast Track completion date, forcing premature program shut down.[20]

B. Staff's Additional Contractor Certification Requirements and Quality Inspection Verification Proposals

NYSEG and RG&E designed rigorous quality assurance measures into their Fast Track administration for compliance with program requirements, accurate data capture, and strong Fast Track *implementation* performance.[21]

Fast Track, however, does not have a *contractor installation* component and the Companies have claimed no energy efficiency savings based on installation contractor quality performance. Rather, the Companies have focused on the fact that installation of high-efficiency equipment will reduce energy consumption over less efficient equipment. Therefore, Fast Track does not include either a claimed benefit or any costs related to installation quality assurance.

Nonetheless, Staff recommends that the Companies modify Fast Track to include a comprehensive "quality assurance" plan[22] complete with: 1) provisions to ensure that equipment installed under Fast Track is correctly sized and properly installed duct sealing as needed to

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[20] A premature unplanned program shut down could result in lost opportunities for energy efficiency and trigger customer confusion, dissatisfaction and complaints.

[21] The Companies' implementation contractor <u>does not</u> install equipment for customers. The implementation contractor is retained by the Companies solely to manage operation of the Fast Track. Implementation contractor services for this program were competitively procured by the Companies during late summer 2008, to enable the Companies to meet the original launch date of October 1, 2008 specified in the Companies' August 22, 2008 Fast Track.

[22] Staff confuses quality installation, which would be a new program requirement intended to generate additional savings, with quality assurance, which is a set of activities intended to ensure that the program operates as designed. Staff appears to be proposing new program requirements, such as sizing, installation quality, and duct sealing. Staff has not addressed the new quality assurance activities that these requirements would trigger. This would include field inspections and remediation or other activities associated with failed field inspections, whose costs could rise substantially more than the added savings would justify. The savings benefits would also be lessened if this quality assurance process discourages trade ally (and therefore customer) participation in the program.

ensure an expected level of savings; 2) provisions for remediation of any problems found during inspections; and 3) provisions to ascertain customer satisfaction with installations.[23]

1. Staff's Objectives Are Vague and Extend Beyond an Appropriate Utility Role

Staff's comments are vague regarding its rationale for seeking a contractor quality installation plan. The specific purpose behind these recommendations is critical to determining how best to comply with Staff's proposal.

One possible rationale is the improvement of energy efficiency installation contractor performance generally across New York State ("Objective 1"), rather than to improve the quality of specific installations. The Companies respectfully submit that this is beyond the scope and mandate of the EEPS proceeding generally and the Fast Track specifically. Alternatively, Staff's goal could be to ensure that the installation of all new equipment meets certain standards, as a condition of obtaining the Fast Track rebate ("Objective 2"). Staff's statement that the Companies should "remediate cases of unsatisfactory installation" supports this second interpretation.[24] Here, again, this requirement extends well beyond an appropriate utility role.

Staff's comments also fail to note how the Companies are to "remediate" unsatisfactory installation by a third-party contractor who was retained by the customer and not the Companies. The Companies have no effective legal means to force a third-party contractor to remedy incorrect sizing or a defective installation, or to guarantee the customer's satisfaction with the

23 Staff Comments at 13. Staff also recommends that the Companies screen installation contractors on behalf of customers, making use of licensing and certifications to do so. In fact, the Companies have found that contractor licensing requirements vary by municipality within the Companies' service territories, and where they do exist, they are not standardized. Furthermore, the Companies have found that the Better Business Bureau ("BBB") does not list most contractors, and provides no coverage in most rural areas in the Companies' service territory. Additionally, relatively few energy contractors have elected to pursue BPI or equivalent certification. Accordingly, a contractor's lack of a license or BPI or equivalent certification does not automatically translate into poor installation quality. Moreover, in some areas of the Companies' service territories, there are likely to be no licensed or certified contractors and customers in those areas should not be prevented from obtaining Fast Track benefits.

24 Id.

contractor's performance. In any event, Staff's position seems contrary to the final report submitted by Working Group VII (Workforce Development Working Group) on October 12, 2008. This report referenced (and included as Appendix B) the NYSERDA Workforce Development 90-Day Filing which states "[workforce] development and training *will ensure* systems are designed, operated and maintained properly and will contribute to the EEPS program impacts as designed and estimated."[25]

Given these difficulties, the Companies properly focused Fast Track on delivering savings associated with high-efficiency equipment replacing older low-efficiency equipment. While the Companies are sympathetic to Staff's interest in capturing the secondary savings offered by improved installation quality, QIV imposes significant new costs and risks that were not included as part of the Companies' or the Commission's Fast Track budgets. Moreover, it is unclear that the savings due to QIV will be sufficient to offset those costs and risks.[26] In any event, intervening between customers and their contractors is beyond the current role of utilities in New York State.

2. Staff Fails to Consider the Companies' Concerns Associated With QIV and Contractor Certification Requirements

Staff has failed to consider the concerns of the Companies' associated with including QIV in Fast Track, which substantially revolve around the added liability, costs and complexity associated with QIV. To further expand upon the Companies' concerns in this area, the Companies developed Appendix A attached hereto.

[25] Case 07-M-0548 - Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, NYSERDA Workforce Development 90-Day Filing (Filed October 12, 2008) (emphasis added).

[26] Note, for example, the conclusion of the authors in "Do Quality Installation Verification Programs for Residential Air Conditioners Make Sense in New England" presented at the 2007 Energy Program Evaluation Conference, by Robert M. Wirtshafter, Greg Thomas, Gail Azulay, William Blake, and Ralph Prahl, which found that QIV programs cannot be justified for air conditioning unless the systems have excess capacity at system peak, whieh simulations have found occurs only if the systems are oversized by 40 percent (according to Manual J).

The current gas plan is based on the customer centric Model 1 in Appendix A where the installation contractor has an independent contractual relationship with the customer. If the Commission directs the Companies to achieve Objective 1 (installation quality improvement generally) without first conducting a study of baseline conditions as recommended in Section IVB(4), one possible suite of program modifications is outlined in Section IVB(3): an incentive-driven approach. This approach could meet Staff's Objective 1 while remaining within the overall framework of Model 1.

Staff appears to be advocating that Objective 1 or 2 (quality improvement for every customer installation specifically) be achieved by moving from Model 1 (customer-centric) to a three-party arrangement as set forth in Appendix A, Model 2. However, using the three-party Model 2 to achieve Objective 1 presents multiple cost, complexity, responsibility, training, inspection, litigation and remediation challenges. It also is unlikely to be practical to use this model to achieve Objective 2, because, among other reasons, the costs of extending this approach to every rebated installation would be too high. Therefore, the Companies oppose use of a Model 2 approach as it represents a "worst of all worlds" compromise between Model 1 (customer-centric model) and Model 3 (utility-centric model), and have not identified program modifications that would make use of this model.

The Companies continue to believe that it is an inappropriate utility role to assess the work of businesses that perform work under contract with, and for, other parties. Alternatively, Model 3, as described more fully in Appendix A, would have all Fast Track installation contractors under contract to the Companies and as a result fully accountable to the Companies for the quality of installation. This may be the only reasonable means to achieve Objective 2. Although the Companies do not advocate for this approach, if the Commission directs the

Companies to develop a redesigned program that will achieve Objective 2, the Companies are prepared to explore a Model 3 solution. [27]

3. The Companies' Incentive-Driven QIV Solution

In the unlikely event that the Commission finds that implementation of a new QIV is a mandatory element of Fast Track, the Companies would propose adoption of an incentive-driven approach rather than a mandatory QIV approach. Participation would be entirely voluntary on behalf of both customers and trade allies. The ideal program would offer benefits to both certified and uncertified installation contractors and would add very little complexity to the customer application process. Moreover, under such an incentive program, customer rebates would not be contingent upon installation contractor performance. The incentive program would also seek to provide installation contractors with reinforcement to use the sizing software provided by the equipment manufacturer, make it more attractive for installers to encourage customers to purchase duct and air sealing, and encourage the general improvement of installation contractor performance.

Specifically, a voluntary incentive solution would modify the Companies' Fast Track as follows:

- Modify planned trade ally education activities to include reinforcement in proper sizing and the use of sizing software. Contract with a provider to offer this training at least twice prior to launching the Fast Track and once each year thereafter in locations throughout the Companies' service territories convenient to installation contractors.[28]

[27] The radical differences between this model and the programs currently being contemplated for implementation in New York State make it difficult for the Companies to estimate the cost, participation rate, savings, and TRC results of this design prior to the development of a detailed plan.

[28] This service could be procured competitively, which is the Companies' normal practice, or could be sole-sourced to reduce the time required for service procurement. Alternatively, the Companies could provide financial support to dealers and distributors to increase the training opportunities they create, in exchange for using the training venues to educate installation contractors in the Companies' energy efficiency programs requirements.

- Offer a rebate (e.g., $50) to be sent directly to the installation contractor specified on the customer application form, if a completed sizing worksheet is attached to the customer application. Importantly, sizing analysis would be voluntary for customers and contractors, not mandatory.
- Redesign the inspection process to confirm that the unit installed conforms to size recommended on the sizing worksheet.
- Use trade ally events conducted prior to EEPS program launch to both identify contractors with BPI or equivalent certification, and to recruit more contractors to pursue certification.
- Work with NYSERDA to arrange for contractors to obtain BPI or equivalent certification during Year 1, and provide a subsidy for travel costs. Delay Year 2 duct and air sealing rebates, if necessary, until 2-3 contractors are certified in every location in the Companies' service territory.
- Develop pass/fail standards for duct and air sealing, and redesign the inspection process to confirm standards are met. Develop dispute resolution/appeals processes.
- Offer the duct and air sealing rebate recommended by Staff during Year 2 of the program. Provide a list of certified contractors to customers who express interest in this rebate. Importantly, duct and air sealing would be voluntary for customers and contractors, not mandatory.
- Conduct field inspections as planned, based on a percentage of installations. Where relevant, include confirmation of sizing worksheet results and previously-set duct and air sealing standards.
- Customer rebates will not be impacted by the results of sizing or duct and air sealing inspections. Contractors will be notified in writing of failed inspections. The Companies would consult with Staff to determine appropriate measures to take if the number of failed inspections exceeds a pre-specified level.

Despite the potential advantages described above, even a voluntary incentive program raises significant implementation and cost concerns that must be addressed prior to implementation. First, such a plan would be expensive, and could not be implemented if the costs of the Fast Track are capped (as recommended by Staff). Second, although the Fast Track would not become significantly more complex for customers, it would become more complex for the Companies and installation contractors. Third, Fast Track TRC levels will be negatively impacted as a result of greatly increased administrative, inspection, and training costs. Fourth, additional necessary pre-launch activities involving installation contractors would delay the overall program launch. Fifth, objective, testable standards would need to be developed for duct and air sealing inspections. Sixth, disputes and appeals would be likely and the costs of such events would need to be included in program costs. Seventh, the issue of repeated inspection failures and the ultimate responsibility for those failures would have to be resolved. Finally, although a voluntary incentive program would increase the likelihood of a satisfactory installation, it would not guarantee such an outcome for individual customers.

While the Companies are prepared to work with Staff, NYSERDA and interested installation contractors to develop a voluntary incentive installation program, such a QIV program would require full cost support and recovery by the Companies. Depending on its design, such a program may not produce an acceptable TRC test result. Due to the pre-launch training requirements and the added complexity of the program design, implementation of a QIV program will materially delay program launch, as compared to the current Fast Track design.

4. <u>The Companies' Recommended Quality Installation Study</u>

Due to the liability, complexity, cost and delay issues implicit in any attempt by utilities to police the quality of equipment installations and infrastructure, the Companies believe that the Commission should first gather baseline data to determine the magnitude and nature of current quality installation issues that are specific to the Companies' service territories. Based on this information, it may be possible to develop a targeted, less costly, and more cost-effective proposal to improve installation quality in the Companies service territory.

Field inspections could be conducted during the first year of the Fast Track to collect data. The Companies are prepared to design and carry out a study that would produce statistically valid results to determine: i) if poor service installation quality is a significant problem generally in the Companies' region; ii) the nature, frequency, and likely causes of the specific problems; and iii) potentially cost-effective means to ameliorate those problems. However, because such a study is not in the current Fast Track budget, the Commission would need to approve additional funding for the study or agree to an associated reduction in the scope or target participation levels of the current program, as discussed in Section III above.[29]

V. STAFF'S ESTIMATES OF SAVINGS ARE OVERSTATED AND INCONSISTENT WITH THE FINDINGS OF ALL OF THE UTILITIES

Staff asserts that "vastly lower program savings estimates [are] common to all of the Gas Fast Track programs (see Appendix A)."[30] The Companies continue to believe that the actual savings will be closer to the Companies' estimates than to Staff's estimate.[31] NYSEG and RG&E have been unable to reproduce Staff's calculations, which were used to produce the high savings levels they provide in Appendix A. It is possible that the difference is not in the approach to calculating unit savings, as outlined in the TechMarket Manual (and discussed below in Section VI), but rather in their market penetration estimates.

For example, the Companies assumed a furnace target market of 162,000 existing homes, of which one fifteenth would replace their furnaces each year (based on a 15-year assumed furnace life). Using the same 15.2 percent savings for 92 percent AFUE furnaces used by Staff, and a nine percent penetration rate, produces a savings estimate of 118,000 therms. If the potential market is increased to 200,000 furnaces, the life of the furnace is reduced from 15 to 13

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29 The cost of such as study should not be significant enough to impact TRC results. As discussed in Section III of these comments, this study should not be funded using the 5 percent evaluation set-aside dollars, which should remain untouched until a plan and budget for program process and impact evaluation has been approved.

30 Staff Comments at 6.

31 Savings are a function of both participation levels and per-unit efficiency improvements. The sources of the highly disparate savings results between the utilities and Staff must be identified and the TechMarket manual carefully reviewed before the Companies are able to convert participation rates to savings. Moreover, in the case of savings estimates that depend on customer behaviors (e.g., programmable thermostats and boiler resets) or installation quality, inspection and remediation requirements will influence savings levels. Before the impact of these costs and savings on the TRC results can be determined, it is necessary to monetize the savings. To do this, the issue of the appropriate avoided costs must also be resolved.

years, and a 20 percent penetration rate is used, it is possible to achieve a savings estimate that is roughly 3.5 times greater than expected by the Companies. However, such a remarkably high participation rate would increase the number of rebates and program costs substantially, which appears to be inconsistent with Staff's budgetary expectations, and certainly cannot be achieved by lowering the rebate levels, as Staff also recommends.

It will not be possible to determine the actual TRC level associated with any configuration of the Fast Track until the root causes of the difference in savings estimates is resolved. The Companies propose that Staff initiate an expedited collaborative process among the program administrators and Staff, perhaps through the EAG, to identify all the material reasons for the differences in estimates, and jointly recommend an appropriate basis for estimating overall program savings to be used in TRC calculations.

VI. STAFF'S ENERGY SAVING ASSUMPTIONS ARE INACCURATE

Staff has proposed the use of a common set of energy savings assumptions for program design and reporting, and retained TechMarket Works (the independent consultant providing EEPS-related evaluation advisory services to Staff) ("TechMarket") to develop a technical manual (the "Manual") illustrating standardized approaches. Staff recommends that these standardized approaches and assumptions be used by program administrators until more accurate savings numbers can be obtained through detailed program evaluations. Staff acknowledges in their comments that the Manual, "...is not a substitute for the comprehensive program evaluation advocated by the Commission."[32]

However, the common assumptions utilized must produce reasonably accurate estimates and serve as a reputable proxy for savings until more detailed evaluations can be conducted.

[32] Staff's Comments at 24.

Should the standardized approach and common savings assumptions be flawed or inaccurate, program designs based on the standardized approach will be similarly inaccurate. A complete and thorough review of the Manual, with sufficient time for presentation and discussion of assumptions made by TechMarket, was not possible. Such a review should be undertaken by the EAG at their next regularly scheduled meeting. Before the savings estimates in the manual are used for program design and reporting, the methodology should be analyzed and approved by the EAG.

While reserving the right to provide further comments through the ongoing activities and deliberations of the EAG, the Companies comment here on some aspects of the assumptions in the Manual that appear to be in error.

For example, for high efficiency gas furnaces the Manual provides an equation for estimating the annual savings in therms resulting from the replacement of a standard efficiency natural gas furnace with one of a higher rated efficiency. The equation requires inputs of furnace nameplate rating, average heating season efficiency of the old and new units, average seasonal duct system efficiency, heating mode rated load factor and annual heating load hours.

While all inputs are important for obtaining an accurate estimate, the effect of annual heating load hours ("HLH") on the result is particularly critical. Based on computer modeling, the Manual provides a table of HLH values that should be used for various New York locales. These values appear to be too large. Use of the Manual's suggested HLH values produces estimated annual heating therm consumptions that are significantly higher than other sources suggest, and higher than the Companies' own experience with customer heating bills.

Draft results of a residential billing study in a neighboring state, New Jersey, found an average statewide value of HLH to be just 727 hours. Adjusting this value for the difference in

Heating Degree Days between New Jersey and Binghamton produces an estimate of 967 HLH for Binghamton, only 69% of the 1410 HLH value for Binghamton provided in the Manual.

The Manual uses the same calculation to develop savings for duct insulation and leakage sealing that is used in the section "High Efficiency Gas Furnaces." Therefore, savings estimates for duct insulation and leakage sealing will be subject to the same errors as those discussed above for high efficiency gas furnaces.

The Companies' cursory review of Staff's proposed standard approach for calculating energy savings indicates that the assumptions are unusual and as a result significantly overstates the resulting energy savings.

VII. AVOIDED COST CALCULATIONS NEED TO BE UPDATED

Avoided costs are a major factor in calculating TRC, and the methodology used to determine the amount of avoided costs can greatly impact the calculated TRC. Both MI and Staff addressed the Companies' avoided cost calculations in their comments.

MI contends that the Companies' avoided cost calculation is overstated. Based on a comparison of wellhead prices from June and July 2008 (which were used by the Companies for the Fast Track) to current futures prices for natural gas, MI contends that under current conditions, avoided costs would be exaggerated, since natural gas prices have dropped 55% since peak prices this summer.[33] MI concludes that "[t]he precipitous decline in gas prices renders gas efficiency programs less cost-effective" and urges the Commission to "reevaluate the cost/benefit analyses for all proposed gas efficiency programs."[34]

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[33] Case 08-G-1012 - Petition of New York State Electric & Gas Corporation For Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility-Administered Gas Energy Efficiency Program and Case 08-G-1013 - Petition of Rochester Gas and Electric Corporation For Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility-Administered Gas Energy Efficiency Program, MI Comments at 8 (Filed December 17, 2008).

[34] Id.

Likewise, Staff claims that the Companies' avoided cost calculation is at least 25 percent too high.[35] Staff attributes the difference between its TRC calculation and the Companies' calculation of TRC "to the differences in avoided costs estimates."[36] Staff claims that the Companies' avoided cost calculation contained in their gas fast track plan filed with the Commission on August 22, 2008 ("August 22 Filing") uses outdated information (March 2008 data). In contrast, Staff is now applying estimates based on October 2008 forecasts provided to NYSERDA by the econometric consulting firm ICF for the State Energy Plan process. The difference between the March and October gas prices leads to substantially different TRC calculations.[37]

The Companies acknowledge both the significance of gas prices in determining avoided costs and its impact on the TRC calculation, which ultimately determines the effectiveness of Fast Track. Accordingly, the Companies are willing to consider alternative methods for determining the gas price to use in the avoided cost calculation, provided that the same methodology is applied consistently across all utilities and NYSERDA, and the method would not adversely affect other aspects of these proceedings, such as: company incentives; penalties and cost recovery; and retrospective decision making regarding use, savings and TRCs.

The Companies, however, caution against an approach that tries to utilize real-time or seasonal market prices. Rather, the Companies believe it is more appropriate to use either a price that reflects the average price over a given period, or Staff's "start year" methodology, as these methods allow for a bright line test with regard to the cost effectiveness of each program. The Companies further believe that once a program is approved based on TRC driven by approved

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[35] Staff Comments at 16.

[36] Id.

[37] Staff's calculated TRC for the NYSEG and RG&E was 1.31, while the Companies' calculated NYSEG's TRC at 1.77 and RG&E's at 1.63.

avoided cost estimates, any subsequent program changes, evaluation findings, or conclusions drawn from those changes or findings based on an updated TRC, should apply only on a forward-looking basis.

VIII. THE COMPANIES ARE ENTITLED TO RECOVER THEIR PROGRAM COSTS

A. Cost of Residential Efficient Gas Equipment Program

1. Separation of Incremental from Embedded Costs

Staff states that "determining whether any 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 to prove."[38] The Companies strongly disagree with this assertion. All of the energy efficiency efforts undertaken by the Companies since the inception of Case 07-M-0548 are incremental. Consistent with the direction of the Commission, the Companies suspended all demand-side management activities in the 1990s and, therefore, have no energy efficiency program costs recovered through current base rates.[39]

Staff also suggests that "ensuring that energy efficiency costs are not being 'double counted' as part of base rates is better accomplished in utility rate cases."[40] However, as National Grid pointed out in its Reply Comments in Case 08-E-1014, "the Commission appears to have adopted a contrary position in its September 18, 2008 Order Adopting an Interim Energy Efficiency Program and Modifying the Joint Proposal in Case 08-G-0609 where it said 'it would be best if all energy efficiency program matters were considered and addressed more collectively and not in utility company rate proceedings. Addressing energy efficiency matters in the

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[38] Staff Comments at 4.

[39] However, the salaries of existing personnel that are temporarily assigned to the EEPS project are in base rates, so the cost of their salaries is not being charged to the EEPS project and will not be recovered through the SBC.

[40] Staff Comments at 4.

respective energy efficiency dockets rather than in rate case proceedings would further the Commission's policy objective set forth in Case 08-G-0609.'"[41]

The Companies have provided their planned EEPS accounting structure to Staff, and will use that structure entirely and separately for EEPS cost tracking. The Companies recommend that any review of those costs take place in these proceedings. Those costs should not be reviewed again in rate cases, other than to ensure that expenditures associated with the EEPS program and reported in the Companies' annual EEPS filings are not proposed for recovery by the Companies in base rates.

B. Lost Revenue Recovery

In their 60-day filings, the Companies propose to recover lost revenues in January 2010 via a gas SBC. Lost revenues would be directly linked to customer savings and, accordingly, will vary with specific program designs and future energy savings. The Companies propose to begin tracking lost revenues immediately and to collect the lost revenues with interest. In the event that a timely and assured mechanism to fully recover lost revenues (and costs), such as a lost revenue recovery mechanism, is not approved and in place, the Companies have modified the program costs in Section III to incorporate lost revenue recovery.[42]

Staff does not substantively comment on the Companies' proposed methodology for recovering lost revenues. Staff simply concludes that "the EEPS Order does not contain a specific provision for recovery of lost revenues."[43] Staff's conclusion is not supported by the text of the EEPS Order. In fact, the Commission specifically noted that recovery of lost revenues

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41 National Grid Reply Comments at 26-27.

42 See Case 07-M-1139 - Petition of Central Hudson Gas & Electric Corporation for Expedited Approval of Interim Energy Efficiency Programs, Deferral Accounting, Interim Revenue Decoupling Mechanisms and an Interim Economic Incentive, Order Affirming Ruling Regarding Revenue Decoupling Mechanism (July 17, 2008).

43 Staff Comments at 5.

by the utilities was contemplated and lost revenues as one component of the overall cost calculation for energy efficiency programs was recognized by the Commission. The EEPS Order states that "requests for lost revenue recovery will be entertained on a utility-specific basis, taking into account the quality of the data available to support lost revenue calculations. We note that such an exercise could, in situations in which utilities are currently operating under long-term rate plans have an impact on the balancing of issues which produced the rate plan."[44]

Accordingly, the Companies' proposals regarding the recovery of lost revenues associated with new program expenditures under the EEPS, including gas Fast Track, should be adopted.

IX. THE COMPANIES' FAST TRACK DOES NOT FAVOR PARTICULAR PROGRAMS IN A WAY THAT MAXIMIZES THEIR POTENTIAL FOR INCENTIVES PAYMENTS AT THE EXPENSE OF RATEPAYERS

Staff expresses a concern that the utilities may favor particular programs in a way that maximizes their potential for incentives payments but is not in the best interest of all ratepayers.[45] Accordingly, Staff recommends 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.[46] Proposals that would result in budget reallocations that would represent a cumulative change of 10 percent or more from the total approved annual budget should be submitted for Commission approval before implementation.[47] Staff has also requested that the Companies add a monthly

[44] EEPS Order at 37.

[45] Staff Comments at 26.

[46] Id. This review will necessarily delay important program changes, particularly if Staff intends to strive to standardize proposed changes among the utilities.

[47] The Companies support Consolidated Edison's arguments that this threshold percentage should be substantially higher. See Case 08-E-1007 - Petition of Consolidated Edison Company of New York, Inc. For Approval of an Energy Efficiency Portfolio Standard "Fast Track" Utility-Administered Electric Energy Efficiency Program, Consolidated Edison Reply Comments at 21-22 (Filed November 24, 2008).

scorecard to the Companies' proposed annual and quarterly reports.[48] These recommendations suggest that Staff expects to continue to engage at a detailed, operational level in the decisions necessary to manage and shape these programs.

Staff's concern is unfounded. Moreover, many of Staff's recommendations and observations are either flawed, or need further development and evaluation. In fact, in several cases they are contradictory since they seek to expand the scope of the Fast Track while at the same time restrict expenditures. Taken as a whole, Staff's comments would either substantially change or largely redefine the Companies' planned program. However, Staff's recommendations are unnecessary, because the Companies' Fast Track complied with the EEPS Order in its most important aspects by providing cost-effective rebates to residential gas customers for high-efficiency space and water heating equipment on a fast track basis.

X. THE COMPANIES REQUIRE CLARIFICATION OF STAFF'S RECOMMENDED PROCESS AND SCHEDULE

The Companies respectfully request clarification of the regulatory schedule recommended by Staff, because it will have a critical impact on the timing and budget of Fast Track. The Companies are concerned that the schedule implicit in Staff's comments may be inconsistent with the Commission's goal of pursuing these programs on an expedited basis, and will further delay the opportunity for customers to benefit from the SBC payments they are making.

Although the procedures and schedule that Staff is recommending for implementation of Fast Track are vague, the Companies have gleaned from Staff's Comments that Staff

[48] Staff Comments at 29. The Companies agree with the arguments made by other utilities in their 60-day electric plan reply comments that monthly scorecards are unnecessary and unduly burdensome. In addition, scorecards provided within 14 days after the end of each calendar month would inevitably contain preliminary rather than final data, creating continual administrative issues with data accuracy, corrections, and inconsistencies with the quarterly and annual reports.

recommends that the Companies submit a revised budget as the next step in the regulatory approval process for the gas plan. However, while it may be possible for the Companies to reduce their program budget to the level supported by the current SBC charge *based on their original program scope*, Staff has recommended a variety of scope changes. Therefore, various issues discussed above must be resolved by the Commission before a new budget can be developed. After those issues are resolved, in order to develop an updated budget, it may be necessary for the Companies to redesign Fast Track, test the redesigned program using the criteria specified in the EEPS Order, and negotiate changes to the existing implementation contract.[49] At that time, the Companies would be in a position to submit a revised version of the August 22 Filing for Commission approval.[50]

After receiving Commission approval, the Companies would develop the detailed implementation plan recommended by Staff. Staff also recommends that the Companies coordinate with other New York program administrators prior to submitting the implementation plan. Specifically, the program administrators would be expected to: develop joint plans to avoid duplication and confusion among overlapping and neighboring programs and to avoid double-counting of savings; develop detailed plans to coordinate marketing with NYSERDA and surrounding utilities; and describe how program delivery will be coordinated among entities.

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[49] Because the 90-day portfolio programs were never intended to launch in Fall 2008, the Companies do not yet have implementation contractors for those programs. If these same steps are to be followed for the 90-day plan portfolio, Requests for Proposals ("RFP") would be issued at this point for implementation contractors; the block bid RFP would also be issued at this time. This simultaneous procurement process for multiple programs is expected to require at least 5-6 months for completion, as outlined in the September 22, 2008 90-day plan.

[50] Alternatively, the Companies could produce the revised version of the August 22 Filing using preliminary data, and complete the program design, procurement, and final budgeting after Commission approval is received. This would shorten the time to obtain Commission approval, but would require an increase in the 60 days proposed for the implementation plan.

Realistically, it will not be possible to complete these collaborative activities in 60 days, due both to the amount of work involved and the number of other commitments of the participants.[51]

In addition, the information specifically requested in Staff's implementation plan outline must be based on a specific program launch date. The program budget, participation goals, and energy savings, for example, will vary depending on whether Fast Track is planned to launch in June 2009, as opposed to April or December 2010. Furthermore, Staff has not specified whether the implementation plan is to be provided for information only, or if the plan will be followed by a review, comment, and/or approval period. The time required for such a review and approval process must be known in order to set that launch date.

Assuming timely Commission approvals and a 90-day Staff review of the implementation plan, the process as described could possibly take from one to two years. The additional time required after completion of Staff review in order to launch the program will necessarily depend on the magnitude and nature of program changes from the original August 22 Filing. For example, under Staff's current proposal, Year 1 of a fast track that includes both QIV and pre-launch installation contractor training may not begin until late 2010 or early 2011, producing the first customer savings during the 2011-2012 heating season. Accordingly, the Companies request clarification of the process and schedule sought by Staff.

XI. CONCLUSION

The Companies' Fast Track represents a comprehensive and effective plan to implement the Commission's EEPS Order. It balances Fast Track program scope and costs, and it delivers the energy efficiency improvements intended in the Commission's Order, while building and

[51] Scheduling these collaborative meetings will become even more difficult if the Commission approvals occur at different times for different plans. For example, if the Commission approves only one or two plans at each Commission session, then either the collaborations will be forced to take place before all the parties have received direction from the Commission, or the collaborations will be delayed until the last approval is received.

strengthening the customer and trade ally relationships that will be critical to the long term success of the overall EEPS initiative.

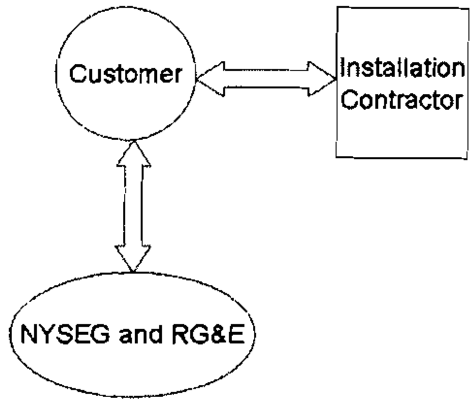
Staff's recommendation that the Company change its Fast Track proposed efficiency measures and rebate levels to its recommended uniform statewide program, exaggerates the importance the Commission has placed on standardization of the fast track programs among the utilities. These and other changes recommended by Staff would together make the program more expensive, more complicated, less attractive to customers and trade allies, lower TRCs, and delay the program launch.

The Companies are anxious to make the benefits of their Fast Track available to their customers and to start achieving their proposed energy efficiency improvements.

Appendix A: Installation Responsibility Models

Model 1: Customer-centric

Model 1 illustrates the relationship among the parties assumed by the Companies when developing their fast-track plan.



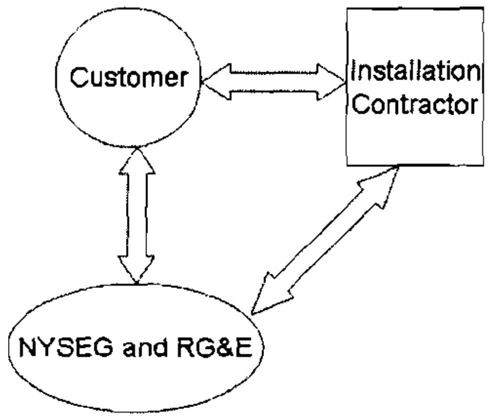
In this model, the terms and conditions on the application form create a performance agreement between the customer and NYSEG or RG&E. A similar and entirely independent arrangement exists between the customer and installation contractor. There is no contractual relationship between NYSEG or RG&E and the installation contractor. The Companies are not a party to the arrangements between the customer and the installation contractor, and have no right or ability to intervene between the customer and contractor. In particular, the Companies have no authority over the performance of the installation contractor, who is accountable solely to the customer.

There is no need under the Companies' plan for a formal arrangement between NYSEG and RG&E and installation contractors. These contractors are accountable solely for providing certain information to their customers for use in the customer application process. The program designed by the Companies has rules and requirements that are simple, easy to follow, and clear. It will be easy for a customer to ensure that those rules and requirements are met, and therefore to determine with confidence whether their purchase will qualify for one or more rebates. The Companies have also proposed a systematic process to inform installation contractors throughout their service territories of these rules and requirements, to ensure that they understand the difference between eligible and ineligible equipment, are able to make use of this rebate opportunity to encourage customers to purchase eligible equipment, and understand the information they must provide to customers, in order for customers to successfully apply for rebates.

This program is designed to maximize customer control, maximize trade ally opportunities, minimize the administrative burden on all parties, facilitate compliance, and thereby encourage participation and savings. Importantly, it avoids creating a relationship between the Companies and installation contractors that could conflict with customer preferences or otherwise change the relationship between the installation contractor and customer. It also transfers no performance liability from the installation contractor to the Companies.

Model 2: Three-Party Control

As the second model shows, to the extent that the Companies place mandatory sizing, duct and air sealing, or other installation quality and remediation requirements on the activities of these installation contractors, installation contractors would become accountable to both the customer and the Companies for their performance.



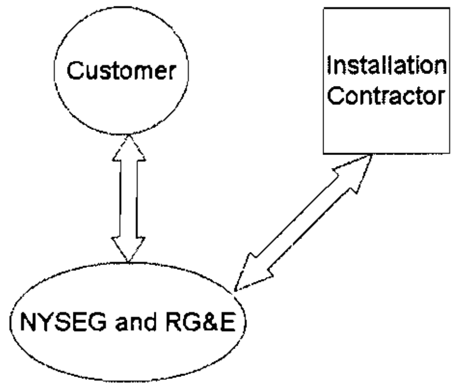
This new model is substantially more complicated than Model 1. It dilutes customer responsibility, authority, and control. It also requires the installation contractor to be responsive to two parties whose desires and requirements may conflict (for example, the most energy-efficient sizing might not be consistent with the customer's performance preferences, or the customer might prefer a rapidly-completed installation that does not modify existing ducting, venting, and similar infrastructure). Disputes among the parties become substantially more likely, particularly if remediation requirements are involved and ruled by the Companies' rather than the customer's needs, and the resolution of those disputes becomes substantially more difficult, time-consuming, and costly to all three parties.

The program would become more expensive, due to the increased administrative burden, the cost of encouraging installation contractor participation, and the cost to police installation contractor compliance. The challenges of program participation would be substantially greater for both customers and installation contractors, discouraging participation. Not the least of these challenges would be the increased risk that the customer, in good faith, would make arrangements with the installation contractor and NYSEG or RG&E, rely on a rebate from the Companies to fund their purchase, and be either denied that rebate or drawn into a technical or performance dispute that must be resolved before they receive the rebate.

It is unclear how such a program could be structured in a way that prevents performance liability from transferring from the installation contractor to NYSEG and RG&E. At the same time, it would be difficult for the Companies to clarify and control the liability transfer, due to the three separate yet interacting relationships. This ambiguous liability situation will also increase risk and cost to the parties.

Model 3: Utility-centric

The third model conceptually resolves the three-party problems, while enabling the Companies to ensure full installation discipline and enforcement. (Note that the Company is not currently advocating this model, which raises questions of consistency with Commission policy concerning utility sale or maintenance of appliances.)



Under this model, the customer would purchase their furnace or boiler or water heater from NYSEG or RG&E at a price that reflects a rebate-level subsidy, and NYSEG or RG&E would be accountable for arranging its installation. The installation would be conducted by an installation contractor whose contractual agreement would be with the Companies rather than the customer. The contract would set clear performance requirements, remediation requirements, and incentives/penalties. The Companies would be able to terminate this contract with any installer who fails to meet contractual conditions. In other words, the installation contractor would be accountable solely to NYSEG and RG&E, and the Companies would be accountable to the customer for the installer's performance.

This structure eliminates the tension of conflicting relationships and requirements. It reduces the need for customers to understand the details of a more complex Model 2 program, eliminates the rebate uncertainty for customers – in fact, it could simplify their purchasing process generally – and creates a clear business opportunity for installation contractors. Although it would transfer liability to NYSEG and RG&E, it would also significantly increase the Companies' control over installation contractor performance. (The program revenue stream would be designed to cover all costs of the remaining risk to the Companies).