

Multiple Intervenors

540 Broadway, P. O. Box 22222, Albany, New York 12201 [518] 426-4600

April 18, 2008

VIA HAND DELIVERY

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

Re: Case 07-M-0548 – Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard

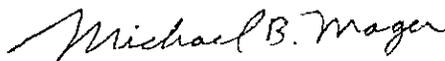
Dear Secretary Brillling:

Multiple Intervenors, an unincorporated association of over 50 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York State, hereby submits for filing in the above-referenced proceeding the original and 25 copies of the Reply Brief of Multiple Intervenors.

Consistent with the procedural practice established herein, copies of the enclosed Initial Brief are being served electronically on all parties via the “List Serve” established for this proceeding.

Respectfully submitted,

MULTIPLE INTERVENORS



Michael B. Mager

MBM/cgw

Enclosures

cc: ALJ Eleanor Stein (via Hand Delivery & E-Mail; w/enc.)
ALJ Rudy Stegemoeller (via Hand Delivery & E-Mail; w/enc.)
Paul Agresta, Esq. (via Hand Delivery & E-Mail; w/enc.)
Active Parties (via E-Mail; w/encs.)

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**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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

Case 07-M-0548

**REPLY BRIEF
OF
MULTIPLE INTERVENORS**

Dated: April 18, 2008

**MULTIPLE INTERVENORS
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PRELIMINARY STATEMENT

Multiple Intervenors, an unincorporated association of over 50 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York State, hereby submits its Reply Brief in Case 07-M-0548, which is examining the design and the implementation of an energy efficiency portfolio standard (“EPS”) in New York State.¹

In accordance with the schedule adopted for this proceeding, the Initial Brief of Multiple Intervenors was filed on April 10, 2008. On that same date, Multiple Intervenors received electronically copies of initial briefs filed the following parties: the Alliance for Clean Energy New York; Central Hudson Gas & Electric Corporation; the City of New York; the Community Environmental Center; Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. (jointly); the Dormitory Authority of the State of New York; Dutchess County; the Independent Energy Efficiency Program; the Independent Power Producers of New York, Inc.; the Joint Supporters; the Long Island Power Authority; the National Association of Energy Service Companies; Natural Resources Defense Council, Pace Energy and Climate Center and the Association for Energy Affordability (jointly); the New York Power Authority; the New York State Consumer Protection Board; the New York State Department of Environmental Conservation; New York State Department of Public Service Staff (“Staff”); New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation (jointly); the New York State Energy Research & Development Authority; the New York State Foundation for Science

¹ Case 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard.

Technology & Innovation; Niagara Mohawk Power Corporation d/b/a National Grid; the Northeast Energy Efficiency Council – New York Chapter; and TRC Energy Services.

In its Initial Brief, Multiple Intervenors addressed the issues identified for resolution at this time in a comprehensive manner and, in so doing, attempted to anticipate positions likely to be advanced by other parties. Accordingly, Multiple Intervenors' Reply Brief is very limited, and will not repeat arguments advanced in its Initial Brief. Importantly, Multiple Intervenors' silence on any position raised herein by another party should not be construed as support, acceptance or acquiescence of that position. Multiple Intervenors stands by all positions advanced in its Initial Brief.

Multiple Intervenors' Reply Brief is limited to a single issue – responding in opposition to Staff's argument that utilities should be entitled to earn rewards of up to 12 percent of program budgets for administering energy efficiency programs in accordance with New York State Public Service Commission ("Commission") policy. (Staff Initial Brief at 23-31.)

ARGUMENT

STAFF'S PROPOSAL THAT UTILITIES BE AUTHORIZED TO EARN REWARDS OF UP TO 12 PERCENT FOR ADMINISTERING ENERGY EFFICIENCY PROGRAMS SHOULD BE REJECTED

On March 20, 2008, Staff circulated its "March 2008 DPS Staff Report on Recommendations for the [EPS] Proceeding" ("Staff Report") in this proceeding. In the Staff Report, Staff recommended that "collaborative efforts be implemented as soon as possible" on a number of issues, including: "Utility incentives framework." (Staff Report at

7.) In its Initial Brief, however, Staff eschews collaboration on that issue and argues that utilities be authorized to earn rewards of up to 12 percent for administering efficiency programs in conjunction with an EPS. (Staff Initial Brief at 23-31.) For several reasons, Staff's arguments should be rejected.

First, the adoption of an EPS would reflect a New York State goal – i.e., reducing electricity consumption by 15 percent by 2015. Customers are being forced to fund efficiency programs to achieve that goal. There is no compelling reason why utilities must be rewarded – at the expense of customers – for complying with State and Commission policy.

Second, the rewards proposed by Staff may become very expensive. For instance, in 2009 Staff is proposing that customers fund over \$300 million in incremental energy efficiency programs (i.e., in addition to those funded by the \$175 million annual System Benefits Charge). (Staff Report at 8.) If, arguendo, utilities were to administer the programs proposed by Staff, the potential additional cost to customers due to Staff's proposed rewards could be as high as \$36 million (i.e., 12 percent of \$300 million).

Third, the record on utility incentives, and Staff's proposal in particular, is inadequate for Commission action. For instance, Staff's proposed budget does not reflect the cost of utility incentives. The customer rate and bill impacts analyzed by Staff do not reflect the cost of utility incentives. Moreover, the benefit/cost analyses performed by Staff do not reflect the cost of utility incentives. Indeed, the additional expense related to utility incentives could cause some programs that only are marginally cost-effective to become uneconomic.

Fourth, certain elements of Staff's proposals lack merit. For instance, Staff proposes that utilities be eligible for customer-funded rewards or incentives even if the efficiency programs they administer fail to achieve the established savings goals. Specifically, Staff advocates that utilities be eligible for financial rewards for missing savings goals by less than 15 percent. (Staff Initial Brief at 30.) Negative incentives (i.e., penalties) would not come into play unless utilities missed savings goals by 40 percent or more. Even at that low level of performance, utilities only would be subject to penalties equal to one-third of the available rewards (with additional penalties possible if savings goals are missed by even more than 40 percent). (Id. at 31.)

For the foregoing reasons, Staff's proposal advocating utility rewards should be rejected. If, arguendo, the Commission is not inclined to reject Staff's proposals at this time, then, at a minimum, those proposals should be reserved for future collaboration and consideration in this proceeding, as Staff apparently envisioned at the time it prepared the Staff Report. (See Staff Report at 7.)

CONCLUSION

For all the foregoing reasons, Staff's proposal that utilities be authorized to earn rewards up to 12 percent of program budgets for complying with an EPS should be rejected. Additionally, Multiple Intervenors urges the Commission to adopt the positions advanced in Multiple Intervenors' Initial Brief for the reasons set forth therein.

Dated: April 18, 2008
 Albany, New York

Respectfully submitted,

Michael B. Mager

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