

January 24, 2008

VIA ELECTRONIC MAIL

Hon. Eleanor Stein
Hon. Rudy Stegemoeller
Administrative Law Judges
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

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

Dear Judges Stein and Stegemoeller:

In response to the “Ruling Establishing Comment Schedule” issued on January 15, 2008, the New York State Energy Research and Development Authority (NYSERDA) submits these comments with regard to the “EPS Administration Consensus Recommendation” (Recommendation) filed by various utilities and other parties in the above-referenced proceeding on January 11, 2008. The Recommendation appears to be intended primarily as an EPS governance model proposal, but also includes a generalized proposal with respect to the future delivery of energy efficiency services in New York State.

With respect to governance, the Recommendation proposes an entirely new regional structure. The Recommendation provides some detail as to how the structure would work in New York City, but is extremely vague about how it would work in the rest of the State. As described in the Recommendation, the proposed regional program design and approval process appears to be bureaucratic and cumbersome, overly reliant on consensus building, and would splinter planning and design processes across multiple, yet to be defined regions. To approach energy efficiency program delivery in the manner suggested would ultimately balkanize the State’s successful energy efficiency program design and delivery efforts into an impractical

compartmentalization of program offerings. Moreover, while there is value in incorporating energy use-related climatic and demographic realities into program design, utility service territories do not, on a State-wide basis, match very well with any energy-use driven regional map.

As a result, each of the proposed Partnerships would likely include multiple utility participants, further segmenting the State's efforts, without any apparent benefit. The failure of those Partnerships to reach consensus would result in further delays in the State's progress towards achieving the goals, disjointed and potentially incompatible programs, and unnecessary costs.

The Recommendation's proposal concerning the future delivery of energy efficiency services is a conceptual proposal made at a very high level of generality. In summary, NYSERDA finds its ability to offer comprehensive comments limited by the Recommendation's failure to address the two most crucial issues in the design of the State's efforts toward meeting the 15 by 15 goal: (1) the nature and content of the energy efficiency programs needed to meet the goal, and (2) the costs of those programs and efforts to the State's ratepayers. However, NYSERDA believes it is necessary to state some specific concerns.

With respect to issue number 1, the nature and the content of the programs, the utilities propose that they would assume the role of program administrator for all programs involving direct customer contact, while NYSERDA would pursue programs characterized as "market transformation," as well as workforce training. The Recommendation would have the utilities appointed as the administrators of those programs without any objective analysis of their relative capabilities or the costs of such a restructuring to the ratepayers. No further indication is provided as to any program or the program design that would be implemented by the utilities. Among the critical elements not included or otherwise addressed are: a substantive program portfolio framework with requisite costs and energy savings attributable to specific delivery programs; clear methods for evaluation, verification and oversight; and mechanisms for future program portfolio enhancement. Also absent is any reference to the reports filed by the Working Groups, which included recommendations about program design, including an expansion of current efforts into the areas of advanced metering and "Smart Grid" technologies.

The Recommendation also fails to provide any assessment of when the new model would begin to yield results, despite the fact that it would require the creation of a series of entirely new relationships between numerous entities, the efficacy of which would be dependent on voluntary consensus, would require the

creation or significant expansion of administrative infrastructures by numerous entities and would ultimately delay the achievement of the 15 by 15 goal.

In addition, the proposed division between market transformation and end-use programs presents a false dichotomy, founded upon pragmatic considerations rather than proven successful program design planning. Most New York Energy Smart programs target the entire market chain, from consumers to service providers and retailers to distribution networks and manufacturers. The balance of infrastructure development, consumer marketing and resource acquisition efforts, together with quality assurance processes involves all market segments and is critical to the success of the programs. Arbitrary segmentation of any such programs into end-user and mid-stream or upstream components will potentially impede the balance and extent of progress in market infrastructure building, competitive choices for consumers, and ultimately the level of sustained energy savings achieved.

In recognition of these realities, the existing SBC design structure, including the SBC Advisory Group and multiple stakeholders, have produced a portfolio of programs that successfully integrate market transformation efforts with energy efficiency program strategies. As is demonstrated by the Attachment, a long list of NYSERDA-administered programs, designed through this process, have received numerous national accolades and awards. NYSERDA has offered that this same successful program structure is readily adaptable to EPS efforts. The State should be hesitant to diverge from this proven model, absent compelling reason to do so. Simply stated, while the Recommendation requests such a course of action, it offers no reason why it should be pursued.

With respect to issue number 2, the Recommendation's attention to the projected costs to ratepayers is limited to a single footnote, stating that the signatories "presume" that the utilities would recover "all costs and incentives for achieving their goals." Absent is any projection as to the level of those costs (program, administrative, or measurement and verification), the incentive levels that will be required to entice their participation, or the manner in which they would be allocated to customers or recovered.

The lack of any quantification of costs makes a meaningful assessment of the Recommendation relative merits impossible. As stated in the EPS Working Group I Report submitted on December 5, 2007, there was general consensus among Working Group I participants that the rate and bill impacts of the EPS on the ratepayer should be minimized, as much as possible, consistent with the achievement the EPS goals. NYSERDA urges

the Administrative Law Judges and the EPS parties to place appropriate emphasis on this consideration, keeping ratepayer interests at the forefront of decision making as the EPS case continues to develop. NYSERDA appreciates the opportunity to provide its comments, and looks forward to working with all parties in the proceeding to develop a cost-efficient and effective energy efficiency program that will achieve the goal of 15 by 15, and thereby benefit New York's utility ratepayers.

Respectfully Submitted,

/s/

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cc: Active Party List, by electronic mail

Attachment A

NYSERDA Award-Winning Energy Efficiency Programs

Organization Awards

- 2006 and 2007 EPA and DOE "ENERGY STAR® Award for Sustained Excellence
- 2005 USGBC (US Green Building Council) Leadership Award in the LEED (Leadership in Energy and Environmental Design) category.
- 2005 EPA and DOE "ENERGY STAR® Award for Corporate Commitment
- 2004 EPA and DOE "ENERGY STAR® Award for Excellence in Education Efforts within New York ENERGY STAR® New and Existing Home Program
- 2002 Peak Load Management Alliance, "Performance Recognition Award"

Commercial/Industrial Performance Program (CIPP)

- 2006 National Association of Energy Service Professionals "First Place in Achievement in Energy Services" Award.
- 2003 ACEEE "Exemplary Energy Efficiency Program"

Peak Load Reduction Program

- 2006 National Peak Load Management Alliance in Washington DC "Outstanding Program Outreach" Award.

National Lighting Product Information Program

- 2006 EPA "Environmental Quality Award"

Keep Cool Program

- 2004 California Public Utilities Commission, California Energy Commission and public utilities in the State of California "Best Practices Benchmarking for Energy Efficiency Programs"
- 2003 ACEEE "Exemplary Energy Efficiency Program"

Flex Tech Program

- 2003 and 2007 ACEEE "Exemplary Energy Efficiency Program"
- 2003 ACEEE "Certificate of Recognition for Exemplary Natural Gas Efficiency Program"

Energy Smart Schools Program

- 2007 ACEEE "Exemplary Energy Efficiency Program"
- 2006 National Energy Education Development Project "State of the Year Award"

School Power...Naturally Program

- 2006 Interstate Renewable Energy Council's "Innovation Award"

Small Commercial Lighting Program

- 2007 ACEEE "Exemplary Energy Efficiency Program"

EmPower New York

- 2007 ACEEE "Exemplary Energy Efficiency Program"
- 2005 ACEEE "Exemplary Energy Efficiency Program Honorable Mention"

ENERGY STAR Products Program

- 2007 ACEEE Exemplary Energy Efficiency Program

New York Energy Smart Multifamily Performance Program

- 2007 ACEEE "Exemplary Energy Efficiency Program"
- 2003 ACEEE "Exemplary Energy Efficiency Program Honorable Mention"

Home Performance with ENERGY STAR® Program

- 2002 and 2003 DOE and EPA "ENERGY STAR® Award for Excellence in Home Improvement"
- 2003 ACEEE "Exemplary Energy Efficiency Program Honorable Mention"
- 2003 AESP "Achievement in Energy Services Award Honorable Mention"

New York ENERGY STAR® Homes Program

- 2004, 2005, 2006 and 2007 EPA "ENERGY STAR for Homes Outstanding Achievement Award"

Residential Marketing Program

- 2007 Blingy Award - Recognized our partner, PBS, for a television production "Home Symptoms and Building Science"
- 2007 - MarCom Award for video entitled *High Performance Buildings- Changing the Way We Build* - Platinum award in the Direct Mail category and a Gold award in the Video/Film category
- 2006 Publicity Club of New England Bell Ringer Award - Honor excellence and achievement in the communications and public relations professions, Regional News Release category for Heating Tips Release
- 2006 Telly Award - Recognized "The Quiet Revolution" residential documentary
- 2005 TV Access Top Ten Award - Recognized "**Super Powers**" PSA for being in the top 10% of television PSA's based on Nielson Ratings
- 2005 Communicator Awards - Video Competition, "**Super Powers**" PSA
- 2005 CINE Golden Eagle Award - Recognized for "**Super Powers**" PSA
- 2005 Public Relations Society of America (PRSA) - Bronze Anvil Awards in public relations efforts. "**Super Powers**" PSA
- 2004 Michael C. Thompson Award - Residential Energy Efficiency Programs Visionary Leaders
- 2004 Public Relations Society of America (PRSA) - Totem Award ENERGY STAR® awareness TV ads "**New Pet**" and "**Science Fair**", both, were chosen from over 10,000 entries from around the world
- 2003 Emmy Award - Recognized "**New Pet**" as a local PSA
- 2003 Adcritic.com's Spot of the Day - First Place honors for "**New Pet**" ENERGY STAR® awareness TV ad
- 2003 Communication Arts - First Place honors for "**New Pet**" ENERGY STAR® awareness TV ad
- 2002 CBS-TV "World's Greatest TV Commercials"- Second Place, "**Static Electric House**" in partnership with the Alliance to Save Energy
- 2002 One Show Merit Award - "**Static Electric House**" in partnership with the Alliance to Save Energy
- 2002 Public Relations Society of America (PRSA) - Bronze Anvil Awards "**Static Electric House**" in partnership with the Alliance to Save Energy