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Jaclyn A. Brilling
Secretary to the Commission
Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

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

Dear Secretary Brilling:

Pursuant to Notice Soliciting Comments, Issued May 30, 2008, in the above referenced PSC case number, enclosed are an original and five copies of the New York Energy Consumers Council, Inc.'s ("NYECC") comments regarding 1) the Guidelines prepared by Department's Advisory Staff ("Guidelines"), 2) the incentive model implementing the Guidelines prepared by Advisory Staff ("Incentive Model"), 3) the Trial Staff proposal, and 4) the Shareholder Risk/Reward Incentive Mechanism adopted by the Public Utilities Commission of California, in Decision 07-09-043 on September 20, 2007:

<u>a) whether incentives are necessary</u>

First and foremost, NYECC believes that incentives to utilities are not necessary except and only to the extent that utilities can achieve "true" (measured and verifiable) and superior results and performance in energy efficiency, which are above and beyond an objectively achievable (but not artificially low) 100% target attained in a cost-effective manner. Accordingly, NYECC defines a superior level higher than in the Advisory Staff Model Illustration. Any incentive to any utility below the 100% target, especially in light of the existence of Revenue Decoupling Mechanisms ("RDMs") ordered by the Commission for the utilities, is nothing more than a windfall profit to the utilities at their customers' expense. NYECC does not believe in giving any utility an incentive for something that they are already being paid to do through customer paid rates and RDMs, namely, to be efficient in all of their operations, including energy efficiency. Further, the NYECC is convinced that all incentives should be bi-directional (that there be both positive and negative revenue adjustments) and symmetrical (that the maximum amount of any negative revenue adjustment be limited to the maximum amount of any positive revenue adjustment) outside of the 85%-100% range of the utility's target within which there would be no revenue adjustment. Performance below 85% of the target would yield a negative revenue adjustment. Performance above 100% of the target would yield a positive revenue adjustment. The maximum negative revenue adjustment would occur at the same percentage below 85% as the maximum positive revenue adjustment would occur above 100% of the utility's target. For example, if the maximum positive revenue adjustment would occur at 111% of the target, the maximum negative revenue adjustment would occur at 74% of the target or any lower percentage. In this example, there would be a linear relationship governing both the positive revenue adjustment and the negative revenue adjustment in the 101-111% range and in the 74-84% range, respectively.

<u>b) the reasonableness of the Guidelines, and any recommended modifications</u>

Generally, NYECC agrees with the Guidelines proposed by Advisory Staff but only to the extent that NYECC's stated condition precedent set forth in a) above is observed. If any such so limited incentive is contemplated, then the additional limitation should be that it not be so high as to be an excessive burden on ratepayers, who are exceedingly being asked to shoulder the burden for consistent increases in both rates and surcharges. For example, electricity consumers in New York City already pay higher electric rates than consumers anywhere else in the continental United States. In addition, large commercial customers already pay the significant cost of the Systems Benefit Charge. For example, the contribution from Con Edison's customers is $87.5 million annually, or 50% of the annual SBC III funding through the New York State Energy Research and Development Authority ("NYSERDA"). Not only must there be a cap on the amount of money that a utility may earn from any energy efficiency incentive for true and superior performance in excess of a 100% target, but also the cost of any incentives must be included in the cost estimates of utility program proposals and demonstrating that they may be achieved on a cost-effective basis, including the incentives. Further, contemporaneous value to customers in the form of actual cost-effective installation of energy efficiency programs effectively measured and verified should be the rule before receipt of any incentives. Having utilities merely contract for energy efficiency programs, receiving incentives and postponing the installation sometimes years into the future is an unacceptable bad bargain from the customers' perspective.

<u>c) any other specific issues not encompassed within the Guidelines</u>

See a) and b) above.

<u>d) the strengths and weaknesses of the three incentive models and any recommended modifications</u>

NYECC proposes the modifications set forth in a) and b) above, especially the condition precedent that any incentive offered be for cost-effective, superior performance exceeding a 100% target and that all incentives be bi-directional and symmetrical.

<u>e) the range of incentive levels that will accomplish the objectives identified in the Guidelines</u>

Given the existence of RDMs for the various state utilities, an additional 10% of any proposed program budget (assuming a maximum program budget of $10 million in the aggregate) or $1 million seems objectively reasonable as an incentive to utilities but only for superior performance, and only when tied to bi-directional and symmetrical incentives, as defined herein.

Sincerely,

George Diamantopoulos
Counsel for
the New York Energy Consumers Council

cc: Active Party List (By EEPS listserve on June 19, 2008)