STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

INITIAL BRIEF

Of

THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY

April 10, 2008

INTRODUCTION

The New York State Energy Research and Development Authority ("NYSERDA") fully supports the Administrative Law Judges' ("Judges") intention to present a recommendation to the Public Service Commission ("Commission") for the approval and implementation of a suite of bridging, or fast-track EEPS programs, and we urge them to do so as expeditiously as possible. As is discussed below, NYSERDA supports, with limited qualifications, the suite of bridging programs recommended by Department of Public Service Staff ("Staff") in its recent report ("Staff Report").[1]

All of the bridging programs that the Staff Report recommends for administration by NYSERDA can be readily expanded to absorb the recommended additional funding, and to acquire resources and serve customers by providing cost-effective energy savings. As presented by Staff, the suite of programs recommended for administration by NYSERDA meets the Judges' directive that such programs be "already existing, proven cost-effective energy efficiency programs that were oversubscribed" and capable of immediate scale up upon the approval of additional funding.[2]

As was stated by the Commission in establishing this proceeding, the expansion of the State's energy efficiency commitment:

> is likely to be the most cost effective, and most immediate, means to reduce the burden of rising energy and environmental costs for low-income customers, residences, businesses, and others. It should promote job growth in the State and lessen New York's dependence on imported fuels and power. Energy efficiency and conservation should also reduce the likelihood of network failures and improve reliability for both the electric and natural gas delivery infrastructure. And developing efficiency

[1] March 2008 DPS Staff Report on Recommendations for the EEPS Proceeding, dated March 25, 2008.

[2] Case 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, "Ruling on Staff Motion for Reconsideration and Revising Schedule," issued March 20, 2008, at p. 7.

> resources will contribute significantly to the State's priority of reducing New York's greenhouse gas emissions.[3]

NYSERDA agrees that an increased commitment to energy efficiency, in the context of the State's 15 x 15 goal, is the most effective strategy for addressing all of these important concerns, and urges the Judges' and the Commission to confirm that commitment in as expeditious a manner as possible.

NYSERDA's comments on the four issues identified by the Judges' in their March 20, 2008 Ruling are as follows:

ISSUE 1:

> **The updated Staff Fast Track suite of programs to be filed March 25, 2008, as well as the Staff presentation at the March 5, 2008 Technical Conference, the NYSERDA Fast Track proposal, and any other Fast Track proposals that have previously been submitted.**

With limited reservations, NYSERDA fully supports the adoption of the recommendations contained in the Staff Report. The portfolio of energy efficiency programs recommended by the Staff Report can be feasibly implemented, within the timeframe under consideration, and will produce significant and measurable results toward achieving the 15 x 15 energy efficiency goal.

As recommended, the suite of programs and the additional funding presents a reasonably balanced mix of efforts that will serve all classes of customers, and provides for a logical, systematic ramp-up of activity. NYSERDA agrees with Staff's identification of the keys to program success, and finds that the recommended programs incorporate, and are consistent with, an overall strategy that can be adopted with confidence.[4] The NYSERDA-administered programs recommended in the Staff Report were designed to present a common State-wide look and feel, while identifying and serving the needs of specific customer segments and promoting the growth of market

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[3] Case 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, "Order Instituting Proceeding," issued May 20, 2008, at p. 7.

[4] See Staff Report at p. 4-5.

service providers. The fact that they are fully-subscribed confirms that they are easily understandable and attractive to customers and service providers, while continuing to remain cost-effective.

The Staff Report properly recognizes and provides funding for the ramp-up of workforce development and infrastructure expansion for program delivery that will be critical to the success of both the bridging program and the continuing EEPS effort. While perhaps not as pointedly as NYSERDA recommended,[5] the Staff Report endorses the importance of a whole-building approach as the best strategy for obtaining the deep savings that achievement of the 15 x 15 goal will require. NYSERDA also endorses Staff's recommendation that collaborative efforts on the full range of the remaining issues be resumed in a timely fashion. In summary, NYSERDA believes that expeditious adoption of the recommendations contained in the Staff Report would be in the best interests of the State in its efforts to address the challenges identified by the Commission in instituting this proceeding.

While NYSERDA supports the expedited adoption of the Staff Report recommendations, we have identified a series of issues with specific elements of that proposal, as well as some suggested improvements and a few points as to which we seek technical clarification.

1. <u>The Duration of the Fast-Track Program</u>. The Staff Report recommends that the suite of programs be implemented over an 18 month period, beginning in July of 2008. We agree that immediate implementation is of paramount importance, but also agree with the statement in the Straw Proposal, that "one clear lesson learned from the collaborative process is the importance of long-term commitments to programs, to ensure workforce availability and marketing continuity."[6] We believe that 18 months is too short an implementation period, for a number of reasons.

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5 See Response to Administrative Law Judges' Letter, "Identification of Fast-Track Energy Efficiency Programs and Additional Funding and Savings Opportunities," submitted November 1, 2007.

6 See "Corrected Ruling Presenting Straw Proposal," issued February 13, 2008, at p. 23.

Contractors and energy service providers, who will need to make commitments to invest in infrastructure, marketing, and to ramp up levels of staffing and train new employees, may hesitate to take on those commitments without the assurance of some degree of program continuity. New York is in competition for these market investments with other states that are also significantly increasing energy efficiency activities. In addition, customer decisions and service provider work involving large facilities or complexes often requires significant lead time before commitments can be made to construction or renovations, potentially excluding the energy efficiency potential of a large number of potential projects. Given these practical realities, NYSERDA urges the Judges to lengthen the duration of the Fast-Track proposal by at least an additional year.

2. Utility Financial Incentives. While the Staff Report includes "utility incentives framework" in its list of topics for further collaborative efforts, the Staff Report is silent on whether the utilities should be entitled to financial incentives for their accomplishments with respect to the two programs recommended for utility administration. We note that neither the proposed budgets attached to the Staff Report, nor those provided as a part of the Straw Proposal Technical Appendix, include any amount for financial incentives. NYSERDA recommends that no such incentives be awarded, at least until such time as the collaborative process has allowed for a comprehensive analysis of the public policy and fiscal implications of such a decision, followed by a Commission order. As is discussed in our comments on Issue 2, it is imperative that all costs that will eventually be borne by ratepayers be fully identified at the outset. Further, if the Commission determines that it is in the ratepayers' interest to provide such incentives, those amounts should be included in any calculation of program cost, methodologies for program cost-effectiveness or benefit-cost methodology, and the total resource cost test.

3. Integration of Electric and Gas Efficiency Programs. While endorsing the whole building approach, the Staff Report does not provide for full integration of electric and gas efficiency strategies, because no gas funding is provided for those programs. Integrated electric and gas funding would improve program delivery, increase the

penetration of both electric and gas energy efficiency, and reduce costs and the customer confusion created by splintered programs. In developing delivery strategies, the reality is that customers and service providers operate and serve whole buildings, in an integrated way. The deepest savings are achieved when customers are in a position to act on their comprehensive energy use patterns, inclusive of all their fuels.

HVAC, envelope, and industrial processes all generally involve the use of heating and cooling, often in the same systems. Customer decisions about the costs and impacts of electric and related gas energy efficiency measures often require an integrated analysis, which is complicated when the providers are different. In addition, service providers such as architecture and engineering firms, energy service companies, HVAC contractors, and supply houses generally provide integrated services and address all energy sources. They are involved in the same integrated decisions as customers. Finally, integrated programming will provide more objective information and services to customers than single energy source-slanted programs.

We understand that, in the context of bridging programs and the recommendation that such programs begin implementation as rapidly as possible, Staff may have viewed the addition of a separate gas funding stream as overly ambitious given the circumstances. We reiterate our recommendation that integrated funding be made available, note that the Commission in its Order Instituting Proceeding directed that natural gas efficiency is to be included,[7] and ask that the topic be added to the list of issues identified by Staff for immediate collaborative action.

4. <u>Market Development</u>. NYSERDA's Fast Track budget proposed a comprehensive commercial/industrial market development effort to ramp up the efforts needed to drive efficiency investments in order to meet 15x15 goals. This included activities to penetrate critical sectors, seize new opportunities such as datacenter efficiency, and to provide the appropriate level of training and support for contractors, distributors, and other energy service providers that comprise the infrastructure for delivery of quality services and

[7] Order Instituting Proceeding, at p 12.

products that promote efficiency. The Staff Report recommends $8.8 million, which will be insufficient to obtain the reduction goals laid out in the Staff Report. The lower funding will constrain investments in developing the market infrastructure and impede NYSERDA's ability to reach customers. Staff has acknowledged that this type of sector approach is needed to deliver the energy efficiency reductions through 2015. NYSERDA recommends that the Staff Report permit flexibility to allow NYSERDA to reprogram funds from other program areas into the Market Development Program when needed.

5. Funding of the Evaluation and Reporting Task Force. The Staff Report indicates that "probably less than one percent" of program budgets may need to be contributed to hiring consultants to support the Evaluation and Reporting Task Force.[8] Clarification is requested as to whether this fee will be part of the recommended 5% evaluation budget, part of the 2% general fund adder on Staff's NYSERDA budget, or a deduction from program budgets. If there is to be a deduction from program budgets, targeted savings must be adjusted to reflect the reduced budget.

6. Cost Recovery and Allocation. NYSERDA agrees with the principal of equitable treatment of ratepayers. However, we note that the recommended approach, would, at a minimum, require a much more complicated system of collections than is currently in place, and we are not convinced that practical considerations will not intervene, causing confusion and delay. If the recommended approach is to be adopted, we ask that the implementation issues it raises be addressed immediately, and that sufficient flexibility be retained to allow for reasonable application.

ISSUE 2:

> **The policy rationale for authorizing utility administration of energy efficiency programs in the broader context of the EEPS proceeding, including the reasons identified in the February 11, 2008 Straw Proposal: "Utilities can bring access to end-use customers, especially mass market customers, an ability to leverage outside funding through on-bill financing, and the potential to integrate energy**

[8] Staff Report at p. 19.

efficiency with overall energy resource planning"[9] Parties may also brief the advisability of the Commission establishing periodic energy efficiency targets for each utility.

NYSERDA does not believe that the consideration of utility administration of energy efficiency programs is sufficiently ripe, at this time, to support any conclusion as to a proper policy rationale. The utilities' access to end-use customers and the potential benefits of that access is simply one factor in a complicated appraisal of what program decisions will be in the best interests of the ratepayer. Based on submissions by the utilities to date in this and other proceedings, the utilities' commitment to bring their marketplace advantages to bear on behalf of the ratepayers is conditional on the provision of financial rewards to the utilities in an amount they independently deem sufficient. That amount has not been determined, and the public discourse on the matter is not sufficiently mature to support sound decision making.

The issues implicated by providing financial incentives to the utilities as a reward for energy-efficiency achievements requires further analysis. Incentives may play a deleterious role in program design and implementation, by creating a structural incentive to pursue programs that will allow quick MWh reduction claims at the expense of sustainable, enduring achievements. Many current efficiency programs are designed to foster development of a competitive industry for energy efficiency services. If utilities are provided profits to maintain these types of programs, those profits may actually provide a disincentive to "market transformation," as it may become more financially attractive for the utilities to continue to operate their efficiency programs, as opposed to fostering gradual market replacement of their efforts. In these respects, offering the utility incentives and/or profits may frustrate the achievement of public policy goals.

In addition, at risk of stating the obvious, the award of financial incentives in any amount will increase the cost of the EEPS program. In view of the magnitude of the challenge of reaching the 15 X 15 goal and furthering the State's efforts to address the effects of climate change, controlling costs must be a paramount concern.

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[9] Straw Proposal, p. 2.

If the Judges and the Commission determine that the payment of financial incentives can be reconciled with these structural public policy concerns, the Judges and the Commission must then determine an allowable and/or acceptable level of incentives for utility-administered programs, and confirm with the utilities' that such amount will be sufficient to entice their interest. It is important that the decision making follow a logical sequence. That is, if financial incentives are to be awarded, the amount of such incentives should be determined before any commitment to utility administration is made.

We continue to believe that utility efforts should be steered towards finding efficiencies in the transmission and distribution system, through the promotion and development of advanced metering and SmartGrid technologies, so that electricity can be delivered more efficiently, while improving system reliability and improving response time to system disruptions. Because the transmission and distribution system is owned by the utilities, many of the opportunities in this area can only be addressed by the utilities. NYSERDA agrees with a policy rationale that seeks to align individual opportunities with specific capabilities, and sees transmission and distribution efficiency as a logical area of prime focus for utility efforts.

ISSUE 3:

> **Whether the program cost and bill impact figures presented in the Technical Appendix to the Straw Proposal represent a reasonable estimate of the overall cost of those elements of the 15 x 15 initiative to be achieved through utility ratepayer-funded programs and on-bill financing.**

The assessment of whether the cost and bill impact figures presented in the Technical Appendix to the Straw Proposal are reasonable estimates is complicated by the fact that the Straw Proposal is based upon an assumed portfolio of programs and administrative infrastructure that may be dramatically altered based upon decisions made in this proceeding, as well as external State and national economic forces that can significantly effect the cost of any particular program or portfolio of programs. In a context that allows program design and the portfolio mix to be adjusted to be in alignment with market indicators and reasonable public policy objectives, NYSERDA believes the cost estimates in the Technical proposal are reasonable.[10] Issues or decisions that are being considered in this proceeding that could significantly alter this conclusion and drive the costs up, include the following:

- Adjustments that increase the proportion of higher cost, but critically important public policy programs such as the low-income programs, in the overall portfolio.
- Temporary discontinuation or loss of funding for energy efficiency programs could disrupt and cause the loss of private business investment and disrupt critical market forces.
- Over-reliance on rebate or "shallow savings" could significantly increase costs in the out-years, due to lost opportunities associated with near-term customer action.
- Introduction of competing or confusing messaging into the market place that could actually prevent customer decision-making and action.

In general, NYSERDA believes that these estimates are valid in this specific and limited context, and encourages recognition of the need to maintain the necessary flexibility to balance sometimes competing public policy objectives in a changing market place.

ISSUE 4:

The advisability of allocating in advance energy efficiency targets and funding among NYSERDA and each utility, as per the Straw Proposal.

NYSERDA agrees with the Staff Report approach, which calls for building from and complementing New York's current energy efficiency programs, while avoiding duplication of effort.[11] Efficiency targets and funding should be allocated based upon approved programs going forward. Only when full descriptions of programs are available can costs and expectations of achievements be reasonably quantified.

[10] As is noted in NYSERDA's responses to Issues 1 and 2, the proposed budgets provided as a part of the Straw Proposal Technical Appendix do not include any amount for financial incentives to the utilities. Should such incentives be approved by the Commission in some amount, the program costs and bill impacts will be understated by that amount.

[11] Staff Report at p. 2.

Given the timeframe and magnitude of the 15 x 15 goal, administrative efficiencies will be the key to success, and to the minimization of ratepayer costs. It is clear to NYSERDA, as well as other parties to this proceeding, that the 50/50 division of funding and targets in the Straw Proposal does not take full advantage of administrative efficiencies and has the potential to result in duplication of effort and the attendant waste of time, funding and staff resources, and . Perhaps the greater damage would result from the almost certain confusion in the energy efficiency marketplace. The reality of any one of these circumstances could jeopardize the achievement of the 15 x 15 goal.

CONCLUSION

For all the reasons stated, NYSERDA fully supports the Judges' intention to present a recommendation to the Public Service Commission ("Commission") for the approval and implementation of a suite of bridging, or fast-track programs, and we urge them to do so as expeditiously as possible. As explained herein, with the limited exceptions stated, NYSERDA supports the suite of bridging programs recommended by the Staff Report.

April 10, 2008

Respectfully submitted,

/s/

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