
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission Regarding
An Energy Efficiency Portfolio Standard

Case No. 07-M-0548

BRIEF ON BEHALF OF THE NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

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April 11, 2008

The New York State Department of Environmental Conservation (DEC) respectfully submits this brief pursuant to the development of an Energy Efficiency Portfolio Standard (EEPS). Our focus is primarily on the “fast track” proposals put forth by the Staff, especially as they affect environmental justice.

We do not in this brief address the questions of policy rationale for including utility administration of energy efficiency programs, whether the program cost and bill impact figures presented in the Straw Proposal represent a reasonable estimate of the overall cost of those elements of the 15x15 initiative to be achieved through utility rate payer-funded and on bill financing, or whether energy efficiency targets and funding should be allocated in advance among NYSERDA and each utility.

I-Background and Setting

The DEC appreciates the positive and inclusive approach that the PSC has taken in this proceeding. It has listened to participants and has attempted to structure an approach that takes into account all of the efforts—both public and private sector—in the development of the EEPS. The PSC has also recognized from the start the importance of looking at the state’s entire energy picture, and then using “stabilization wedges” to help describe and address the gaps that exist. (*See*, Spacala and R. Socolow, *Stabilization Wedges: Solving the Climate Problem for the Next 50 years with Current Technologies*, at www.sciencemag.org). It is clear that the EEPS can not be developed in a vacuum

The DEC believes that an overall energy strategy must be developed in layers and must take into account the myriad levels of other state initiatives—the Regional Greenhouse Gas Initiative (RGGI), (*See* draft regulations 21 NYCRR Part 507 and

6NYCRR Part 242); smart growth planning (*See* Executive Order 20 ,sustainability and green buildings (*See*, DASNY press release, August 28, 2007, “The Dormitory Authority announced that beginning in 2008, all new State construction projects and major renovations managed by the Dormitory Authority will meet LEED (Leadership in Energy and Environmental Design) standards established by the United States Green Building Council”); the development of the PSC's Long Range Energy Resource Plan (*See* Case 07-E-1507); the DEC's creation of the Office of Climate Change; the report of then Lieutenant Governor David Paterson on a “Roadmap to Significantly Increase Renewable Energy Generation in New York State (*See* http://www.nygov/governor/press/lt_print.html), visited April 10, 2008, and others as part of a cohesive energy strategy.

We especially call attention to RGGI and its creation of the Energy Efficiency and Clean Energy Technology Account (*See* Proposed Regulations, 21 NYCRR, Part 507.4(e)) with its potential yearly revenues of \$300,000,000 and the mandate given to NYSERDA to use the proceeds “to promote and implement programs for energy efficiency and renewable or non-carbon emitting technologies with significant carbon reduction potential....”

II-Bridge Projects and Environmental Justice

We want to especially focus on “bridge” projects—projects that could be put into place immediately prior to the implementation of the entire EEPs strategy, especially as they affect environmental justice programs.

DEC, along with other participants, has submitted a list of potential projects that could be implemented immediately. These included the removal of barriers to efficiency initiatives through such programs as decoupling and net metering, utilizing SEQRA to evaluate and minimize energy usage in projects involving state agencies, and the accelerated use and subsequent disposal of compact fluorescent lamps (CFLs). We reiterate our support for these suggestions.

The DEC is in general agreement with the EEPS Staff Team (*See* March 2008 DPS Staff Report on Recommendations for the EEPS Proceeding) on both the criteria and most substantive suggestions for bridge projects.

We do have some suggestions:

1-We endorse the idea that a portion of the Systems Benefit Charge (SBC) go to the New York State Housing Trust Fund Corporation through the DHCR to build upon the existing program of weatherization assistance to low income-families. (See Staff Report, page 14). We would suggest that a committee be named to work with DHCR in helping to set funding priorities and areas from whatever organizational structure emerges from this proceeding.

2- We strongly support the recommendation that programs be tailored to meet the disproportionate burden of energy costs on low-income New Yorkers. The Staff Report, at page 20, says: “The costs for energy account for a much higher percentage of the annual income of impoverished (Note: DEC would use the words ‘low income’) New Yorkers than the percent of incomes of better-off New Yorkers. A 2002 NYSERDA report estimated that the ‘energy burden’ or the percent of a household’s cost for energy ranged between 7% and 29% for low income customers compared to 3% for moderate to

high income households.” A goal of this bridge program should be to reduce that disparity.

3-We strongly disagree with the staff’s recommendation, at page 21, that “this issue be fully investigated in the longer-term EEPS program planning process” rather than as a bridge program. The DEC, through the Commissioner’s Policy on Environmental Justice and Permitting, has identified potential “environmental justice areas” throughout the state –“minority or low income communities that may bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal and commercial operations, or the execution of federal, state, local and tribal programs and policies (See, generally, DEC website, <http://www.dec.ny.gov/regulations/36951.html>, visited April 9, 2008.)”

The Staff Report notes that “New York’s dirtiest power plants, which burn oil and tend to be located in poorer neighborhoods and operate just about 100 hours a year during the summer’s hottest periods, account for a significant portion of the city’s greenhouse gas emissions because they release three to five times more pollution than gas-fueled units.” Staff Report, page 21.

The DEC has identified these “dirtiest facilities” as they relate to potential environmental justice areas. To the extent that PSC needs to identify strategies to work with these areas, the DEC is ready now to work with PSC, NYSERDA and others in developing a bridge program immediately that would reduce the demand for power from those sources.

4-We applaud the staff’s recommendations on Marketing, Outreach and Education for Customers (See Staff Report, page 21) and its suggestion that it begin

immediately. We suggest that all such efforts be aimed at television, radio and the print media, that they include every consumer, including low income consumers, and are distributed to accommodate a growing Asian, Hispanic and other emerging immigrant populations, as well as tribal communities.