NYSEG RG&E

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April 18, 2008

VIA OVERNIGHT MAIL

Honorable Jaclyn A. Brilling
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 Brilling:

On March 20, 2008, a *Ruling on Staff Motion for Reconsideration and Revising Schedule* was issued by the Administrative Law Judges in Case 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard. New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation jointly submitted their Initial Brief on April 10, 2008 and hereby jointly submit an original and five copies of their Reply Brief in this proceeding.

Respectfully submitted,

James A. Lahtinen

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cc: Active Party List in Case 07-M-0548 (via listserv)

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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
NEW YORK STATE ELECTRIC & GAS CORPORATION
AND
ROCHESTER GAS AND ELECTRIC CORPORATION

Dated: April 18, 2008

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I. INTRODUCTION

New York State Electric & Gas Corporation ("NYSEG") and Rochester Gas and Electric Corporation ("RG&E") (collectively "the Companies") hereby submit their Reply Brief in the above-captioned proceeding addressing the four matters specified in the March 20, 2008 *Ruling on Staff Motion for Reconsideration and Revising Schedule* ("Ruling on Motion") issued by the Administrative Law Judges in Case 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard ("EEPS").

In this Reply Brief, the Companies have focused on issues relating to costs and savings targets, including the allocation of funding and targets. The Companies reaffirm their conclusion that overall EEPS costs cannot be accurately or reliably estimated at this time, and that funding be based on the plans and budgets of each individual program administrator ("PA"). Included in costs to be recovered would be direct program costs, administrative and marketing costs, support costs, and lost revenues.

Although the Dormitory Authority of New York State ("DASNY") provided additional information concerning on-bill financing in their initial brief, the Companies have not been swayed from their position that further evaluation of a number of issues including policy, legal, regulatory and billing system requirements, and the development of uniform business protocols are necessary prior to a commitment to this program.

The Companies see considerable merit in demand targets; however, more work is required to determine how those targets should be set. Nonetheless, it continues to be important for the demand profiles of energy efficiency programs to be taken into careful consideration, for these resources to be considered as functionally equivalent to transmission and generation in reliability planning.

Finally, to ensure appropriate planning, funding, and target-setting, it is important for all PAs to be treated equally, and for further consideration to be given to the unwieldy, untimely, and impractical collaborative structure proposed in the briefs. These collaboratives will make it difficult for the EEPS objectives to be achieved in a timely and cost-effective manner.

As the Companies pointed out in their initial brief, until a decision is reached by the Commission on the pending merger between Energy East Corporation ("Energy East") and IBERDROLA S.A. ("Iberdrola") in Case 07-M-0906, the Companies are unable to take a position on: (1) the fast-track proposals offered by various parties in this proceeding; or (2) the specific roles of NYSEG and RG&E in the administration of energy efficiency programs in their service territories. Due to their unique situation, if NYSEG and RG&E are directed by the Commission to begin planning and implementation of energy efficiency programs, the Companies respectfully request that ninety (90) days be allowed for the Companies to develop the necessary plans and budgets.

II. FAST TRACK/BRIDGING PROGRAMS

The updated Staff Fast Track suite of programs to be filed on 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.[1]

The Companies continue to take no position on the specific fast-track proposals made to date in this proceeding.

[1] Ruling on Motion at 10

III. UTILITY PROGRAM ADMINISTRATION

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 efficiency with overall energy resource planning."[2] Parties may also brief the advisability of the Commission establishing periodic energy efficiency targets for each utility.[3]

Due to the pending merger between Energy East and Iberdrola, the Companies continue to take no position on the roles of NYSEG and RG&E as potential PAs at this time.

In order to allow for the development of an effective energy efficiency proposal, the Companies respectfully request that they be allowed to submit any required proposal for energy efficiency program plans and budgets no earlier than ninety (90) days after an Order in this proceeding or a final Commission Order in the pending Iberdrola - Energy East merger proceeding, whichever is later. It may be necessary to adjust this timeframe, should the Commission determine that a collaborative process is needed to assist in the development of energy efficiency programs.

IV. PROGRAM COSTS

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.[4]

A. Overall EEPS Costs Cannot be Reliably or Accurately Determined at this Time

As stated in NYSEG's and RG&E's initial brief, it is clear from the range of cost estimates offered in the proceeding, and the number of unresolved issues driving the

[2] Straw Proposal at 2.
[3] Ruling on Motion at 10-11.
[4] Ruling on Motion at 11.

EEPS cost, that the overall cost and bill impacts of the EEPS cannot be reliably or accurately determined at this time.[5] The comments of a number of parties confirm this conclusion.[6]

Two additional factors make calculating the overall EEPS costs even more challenging than the Companies originally outlined.

First, both MI[7] and CPB[8] raise the unresolved policy basis for program approval. Specifically, whether the EEPS should focus on programs with the highest TRC test results, in order to achieve the EEPS objectives at the lowest cost, or whether the EEPS should pursue deep benefits and support more public policy objectives, even if this approach results in the approval of programs with significantly lower TRC test results.

Second, Con Ed and O&R[9], CPB,[10] and MI[11] all remind us of the larger context. The EEPS is not the only program that New York State is using to make its energy infrastructure more environmentally friendly and achieve other public policy goals; the existing System Benefits Fund, Renewable Portfolio Standard ("RPS"), Regional Greenhouse Gas Initiative ("RGGI"), and net metering are intended to serve similar purposes as the EEPS. As Con Ed and O&R,[12] CPB,[13] and MI point out, recent experience with the RPS demonstrates the difficulty of accurately forecasting the cost of such initiatives. The Commission, by initiating Case 07-E-1057 (Long-Range Electric Resource Plan and Infrastructure Planning Process), and the Governor, by issuing Executive Order No. 2 (Establishing a State Energy Planning Board and Authorizing the Creation and Implementation of a State Energy Plan), have both clearly communicated their intent to pursue more integrated energy decision-making. It would not be unreasonable to expect a

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[5] *Id.* at 7
[6] For example, Niagara Mohawk Power Corporation, d/b/a National Grid Initial Brief (hereinafter "National Grid IB") at 16, City of New York Initial Brief (hereinafter "City of NY IB") at 7 and 12-13, Central Hudson Gas & Electric Corporation Initial Brief (hereinafter "Central Hudson IB") at 33, The Department of Public Service Initial Brief (hereinafter "DPS IB") at 4, and Consolidated Edison Company of New York and Orange and Rockland Utilities Initial Brief (hereinafter "Con Ed /O&R IB") at 25.
[7] Multiple Intervenors Initial Brief (hereinafter "MI IB") at 14.
[8] Consumer Protection Board Initial Brief (hereinafter "CPB IB") at 11.
[9] Con Ed/O&R IB at 44.
[10] CPB IB at 11.
[11] MI IB at 11.
[12] Con Ed/O&R IB at 44.
[13] CPB IB at 11.

possible rebalancing of this suite of initiatives, to ensure that the State's goals are met most effectively and at an acceptable cost.

There appears to be consensus among the Parties that the cost of EEPS programs and the associated bill impacts cannot be accurately or reliably determined at this time. As conveyed in the Companies' initial brief, EEPS costs billed to customers should reflect actual budgets and expenditures corrected for actual prior period spending levels.[14] The costs cannot be predetermined until experience is gained.

B. <u>All EEPS Costs, Including Lost Revenues, Should Be Recovered</u>

As stated in their initial brief, the Companies support the recovery of all EEPS costs through an expanded System Benefits Fund charge ("SBC").[15] This includes not only the costs of program planning, administration, marketing, implementation, and measurement and verification ("M&V"), but also the costs of support activities, such as audits, computer system enhancements, consultant services, market research, research and development, emerging technologies, local and statewide administrative activities, green workforce development, and the development and maintenance of central databases.

Another aspect of timely collection of program costs that must be taken into account is the existence of active revenue decoupling mechanisms. LIPA believes that lost revenues need to be addressed in the same venue and at the same time as EEPS program costs are considered.[16] National Grid also states that utilities should be allowed to recover lost base revenues until revenue decoupling mechanisms are approved and implemented as part of utility rate proceedings.[17] Until an RDM is approved by the Commission for each utility, the utilities should be allowed to collect for lost revenues as is the case for other costs, through the EEPS cost recovery mechanism.

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[14] NYSEG/RG&E IB at 9.
[15] *Id.* at 8
[16] Long Island Power Authority Initial Brief (hereinafter "LIPA IB") at 7.
[17] National Grid IB at 10.

C. Proceed Cautiously with On-Bill Financing.

The Companies concur with the concerns raised by National Grid and by Con Ed and O&R with respect to the implementation of on-bill financing.[18] The Companies recommend proceeding cautiously with on-bill financing initiatives until the legal and policy issues identified in Appendix IV-1 of their initial brief are fully explored and resolved. Neither the sixty (60) days proposed by Staff[19] for program design, nor the six (6) months proposed by the Joint Supporters[20] for program design and implementation would provide sufficient time to work through the varied assessments of policies, practices as well as regulatory and legal rights surrounding this issue. The Companies agree with National Grid that clear policy decisions must first be made in conjunction with uniform business practices prior to evaluating the scope and cost of this Energy Efficiency Marketing option.[21]

The Companies also support Con Ed's and O&R's position that alternative programs, such as loan buy-down programs, need to be assessed prior to implementation.[22] An alternative-options initiative can run parallel to the on-bill financing collaborative work to minimize time and foster a more comprehensive assessment that will ensure that New York is offering its ratepayers financing options that meet the goal of minimizing or eliminating upfront costs, while being the least costly overall.

DASNY's comments, while addressing some of the issues identified in Attachment IV-1 of the Companies' initial brief, were primarily focused on the experiences with on-bill financing programs in other jurisdictions, such as the New Hampshire Utilities PAYS Pilot, as well as programs in Kansas and Hawaii, and the EEI/PACE Energy Project Study.[23] In its brief, DASNY strongly endorses a Tariffed Installation Program ("TIP"), but does not adequately address all the financial, information systems, legal/regulatory/policy and

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[18] *See e.g.,* National Grid IB at 17 and Con Ed/O&R IB at 43.
[19] DPS IB at 7.
[20] Joint Supporters Initial Brief (hereinafter "JS IB") at 12.
[21] *See* National Grid IB at 17.
[22] *See* Con Ed/ O&R IB at 43.
[23] *See* DASNY IB at 4, Attachments C, D and E.

customer service issues that must be answered prior to a statewide roll-out of an on-bill financing option.[24]

V. ALLOCATION OF TARGETS AND FUNDING

The advisability of allocating in advance energy efficiency targets and funding among NYSERDA and each utility, as per the Straw Proposal.[25]

A. Defer Setting Demand Targets, While Emphasizing the Importance of Demand Profiles.

The EEPS should deliver resources to New York State that are functionally equivalent to generation and transmission at the system level, and can be treated as an alternative solution to these resources in addressing system needs. The ability of energy efficiency resources to maintain or improve system reliability *(i.e.,* their capacity contribution) is critical to their ability to perform this role.

On the one hand, as MI points out, although it might have been desirable to set a mixed energy/capacity goal from the beginning for the EEPS, modifying the objectives of the EEPS requires careful consideration.[26] It would be unwise to set a demand target for the EEPS as a whole, or impose such a target on individual PAs until this evaluation has been conducted.

On the other hand, demand impacts cannot be ignored and, as Con Ed and O&R point out,[27] Staff's proposal to address this issue is inadequate,[28] both because it encourages approval of individual programs or program portfolios without consideration of their demand profile, and because it relegates demand response activities to a reactive rather than proactive role.

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[24] *See id.* at 3-4.
[25] Ruling on Motion at 11.
[26] MI IB at 36-37.
[27] Con Ed/O&R IB at 34.
[28] "Staff recommends that at a minimum a requirement should be placed on the EEPS portfolio that as a result of the implementation of energy efficiency programs there should be no net reduction in system load factor in any utility's service territory. If there is net system load factor degradation, it could produce inefficiencies in the production and delivery of electricity that could increase operational costs for ratepayers. Therefore, if net system load factor appears to be declining, the affected utility should develop and file a plan to bring the net system load factor back to its original state using demand response resources." DPS IB at 47.

The potential for EEPS resources to offer capacity as well as energy should be taken very seriously when evaluating costs and benefits. Program approval, M&V, and load forecasts should take into account the demand profiles of these resources, and enable an accurate determination of their value to system reliability.

B. All Program Administrators Should be Treated Equally

There is a general consensus among the Parties that savings targets and funding levels should be based on the specific plans of individual PAs, rather than a top-down, long-term allocation. For such plans and budgets to be effectively evaluated and approved for implementation and rate recovery, the structure and governance of PAs must be addressed as a threshold matter.

The Companies support the concept that all PAs should be subject to the same EEPS processes, filing requirements, oversight and evaluation procedures that are approved by the Commission. Such an approach will put all PAs on a level playing field and will ensure a consistent approach across all programs, allowing for more meaningful comparisons and thoughtful choices. For example, the Companies agree with Con Ed and O&R's proposition that if compliance filings are required for the utilities, NYSERDA and other PAs should also be required to submit compliance filings, as well as implementation plan filings.[29] This will provide the Commission with a complete picture of the program plans under consideration, and should facilitate review and uncover unnecessary overlaps.

The Companies also agree with National Grid's recommendation[30] for consistent monitoring and evaluation of the quantitative and qualitative performance of program offerings, as initially set forth by Working Group III: "There should be a single set of statewide protocols that are applicable to all program administrators (including program administrators that may not be subject to the Commission's jurisdiction) and all programs"[31] In the interim, NYSEG and RG&E propose that PAs should be allowed to use standard practice M&V methods, and "[e]ach program administrator would be responsible for the day-

[29] Con Ed/ O&R IB at 27.
[30] National Grid IB at 12.
[31] Working Group III Report at 25.

to-day management and conduct the evaluation activities for their programs using competitively selected third party evaluation contractors."

The Companies agree in concept with much of Con Ed's and O&R's criticisms of the NYSERDA programs, and caution that no examination has been conducted in this proceeding to determine the accuracy and reliability of NYSERDA's costs and benefits as relied upon by Staff. In addition, no consideration has been given to the differences between markets, program designs, objectives and delivery mechanisms of different potential PAs. The Companies support Con Ed and O&R's proposition that "if the Commission were convinced that the current NYSERDA programs were adequate to reach the State's energy efficiency goals, this proceeding would never have commenced."[32] Using any one PA, such as NYSERDA, as a "benchmark" for all PAs is inappropriate, particularly if energy efficiency programs for each entity are not identical in every respect. Further, Con Ed and O&R note that the Commission has stated that the NYSERDA program data is not reliable, and in fact would not utilize it in the most recent Con Edison rate case.[33]

The Companies support the concept proposed by Con Ed and O&R that a better way to move forward is "to allow potential PAs to implement programs, subject them to the same kind of measurement, verification and evaluation, and then determine the best path going forward based upon actual performance."[34]

As the EEPS proceeding moves forward and experience is used to inform future decisions concerning targets, funding, and support activities, it is critical to address the issue of the potential co-mingling of energy efficiency funding sources and objectives. The SBC surcharge is the current mechanism for the funding of energy efficiency, research and development, low-income and renewable initiatives throughout New York State. The Straw Proposal proposes that the SBC "should immediately be increased . . . as being the most expeditious mechanism to fund additional energy efficiency programs."[35] Further, the Straw Proposal notes that the SBC and RPS should be merged into a New York Clean Energy fund

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[32] Con Ed /O&R IB at 24.
[33] *Id.* at 25, *citing* Case 04-E-0572.
[34] Con Ed/O&R IB at 24-25.
[35] Straw Proposal at 14.

over time, and that this fund would ultimately be populated by an electric and gas surcharge and would fund programs by both the utilities and NYSERDA.[36]

The Companies note the potential efficiencies that could accrue from having a single surcharge on a commodity to fund multiple purposes, but cautions that it is imperative that EEPS-specific funds be segregated at the accounting, budgeting, and reimbursement level for EEPS-use only and tracked accordingly. (This would include funding for activities now conducted using the current SBC, and which will in the future be conducted in support of achieving EEPS goals) The Companies support the strict control of EEPS expenditures to ensure that all aspects of program design, delivery, evaluation and support provide the greatest return for their ratepayers. The segregation of EEPS funds will also facilitate EEPS planning, budgeting, accounting, program approval, performance metrics, M&V, reporting and overall controls.

C. The Commission Does Not Have Authority to Delegate its Oversight Duties to an Independent Board

No Party disputes that the Commission has ultimate approval authority over ratepayer funding of energy efficiency programs.[37] Before the Companies address the collaboratives that have been proposed by various parties, as a threshold matter, the Companies question whether oversight of energy efficiency programs may be delegated to an Oversight Board, as recommended by Mr. Hevesi and DPS Staff.[38] The Commission has broad authority to regulate the State's public utilities, and that authority cannot be delegated:

> The jurisdiction, supervision, powers and duties of the public service commission shall extend under this chapter . . . (b) to the manufacture, conveying, transportation, sale or distribution of . . .electricity for light, heat or power . . . and to electric plants and to the persons or corporations owning, leasing or operating the same.

PSL §5(1). Section 5(2) further authorizes the Commission to "encourage all persons and corporations subject to its jurisdiction to formulate and carry out long-range programs, individually or cooperatively, for the performance of their public service responsibilities with

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[36] *Id.*
[37] *See id.* at 20.
[38] Hevsei Proposal, March 5, 2008 at 1-2; DPS IB at 6.

economy, efficiency and care for the public safety, the preservation of environmental values and the conservation of natural resources." In *The Matter of Consolidated Edison co. v. Public Service Co. v Public Serv. Comm'n,* 47 NY2d 94, 102 (NY 1979), *rev'd on other grounds*, 447 U.S. 530 (1980), the Court stated:

> It is a fundamental postulate of administrative law that the Public Service Commission, like other agencies, is possessed of only those powers expressly delegated by the Legislature, together with those powers required by necessary implication.

The Commission may not delegate its authority to regulate public utilities to another person or entity. *See Rochester Transit Corp. v. Pub. Serv. Comm'n,* 66 N.Y.S. 2d 593, 596 (N.Y. App. Div. 3 1946). There the Court wrote, "The Public Service Commission is the delegate of the legislature in regulation of rates . . . It may not divest itself of jurisdiction except in the manner provided by the legislature . . . ." To the extent Mr. Hevesi's proposal would vest in the Oversight Board duties that have been delegated by the Legislature to the Commission, the Companies caution that such delegation would be improper.

D. Reduce Impracticality and Delay Implicit in Proposed Governance and Collaborative Model

According to the Straw Proposal, "a very high level of coordination is essential for all programs funded through the SBC and will be mandated by the Commission, as a precondition for ratepayer funding for energy efficiency programs."[39] The Companies understand and accept the importance of this coordination.

The Companies also agree with the Alliance for Clean Energy New York ("ACE") that "the governance structure and funding mechanisms must be flexible and easy to implement in order to ensure progress is made in a timely manner such that the State can meet the objectives of the Energy Efficiency Portfolio Standard."[40]

Attachment V-1 summarizes the governance structure and collaboratives proposed in various initial briefs and the Straw Proposal.[41] Unfortunately, this structure is

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[39] Straw Proposal at 19.
[40] ACE IB at 6-7.
[41] The Companies take no position on the New York City Partnership, and have not included it in this attachment. The Straw Proposal dedicated natural gas collaboratives have also been excluded from this attachment, because they may have no relationship to the EEPS Advisory Council. Note that these additional

clearly not "flexible and easy to implement". Indeed, there is a real possibility that it could inhibit PAs from developing and achieving reliable savings and funding goals.

Red lines on the attachment identify the review and approval process proposed by DPS Staff. In addition to its questionable legality, Con Ed and O&R accurately characterized this protocol as "a recipe for delay."[42] This new vision of the EEPS Advisory Council combines and further expands the Straw Proposal concepts of a Program Administration Group and Policy Advisory Board.[43] It also strips accountability and authority from the PAs, and routinely stands between the PSC and the PAs whose plans and funding they should guide and approve. Under this scenario, it is far from clear who should be held responsible for the performance of the EEPS. Blue lines identify proposed "standing committees." The Companies agree that an Evaluation Task Force (ETF) is clearly needed.

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joint activities would further stress available resources, and create a potential source of confusion and disagreement among the collaboratives.

[42] Con Ed/O&R IB at 26

[43] Straw Proposal at 19-20:

> Any proposal to the Commission for approval of a program will be evaluated by a Program Administration Group. For consideration of any specific proposal, Staff will convene a Group including NYSERDA, any utilities within whose service territories the program would be offered, and any directly affected public authorities or other program administrators. For programs affecting New York City, the NYC Partnership may be deemed a Program Administrator for design and planning purposes. Other utilities, affected State agencies and authorities, the NYISO, nonprofits, and ESCOs will be encouraged to participate as needed in order to coordinate their respective efficiency programs.
>
> The task of the Program Administration Group will be to resolve potential conflicts among program administrators and to ensure that proposed programs are consistent with the criteria for program approval, coordinated with other programs, and seamless to customers. Energy efficiency strategies and resource potential will vary among the State's regions, and the Working Group will take this into account.
>
> Upon conclusion of the Group efforts, the program administrator initiating the proposal may submit the proposal, including any modifications, to the Commission for approval. The submission will include a description of the Group efforts, the degree of cooperation achieved, and unresolved issues identified by members of the Group…
>
> We find that advisory bodies are essential components of an EEPS, and that an ongoing stakeholder process will ensure that affected interests continue to contribute their points of view to help shape the EEPS and attain the goals. The working groups and regional roundtables have been incubators for this stakeholder process and participants are encouraged to step forward to serve.
>
> 1. The Commission will have ultimate approval authority over all ratepayer funding of programs.
>
> 2. The Commission will be advised by an EEPS Policy Advisory Board, which will include stakeholders and may include independent experts in the field.

However, even though more work has gone into planning the work of that task force than for any other collaborative, its responsibilities and deliverables remain imprecise. Equally important, although funding has been proposed for this group, no one has been given specific budgeting, procurement, accounting, and reporting responsibility and authority for these funds, and no mechanism to ensure that the funds are put to good use has been established.

The scope of the Customer Outreach and Education group is less well-defined than the ETF. At the same time, it has been given a very tight deadline for its first deliverable. Given that this work is proposed to take place at the same time bridging program plans are proposed to be finalized, achievement of this deadline seems unlikely. The scopes, roles, and deliverables of the remaining three standing committees have not been specified.

Green lines identify additional collaboratives recommended or supported by various parties. More precisely, they identify 12 additional collaboratives, some of which are expected to deliver results within sixty (60) days or less of the Commission's Order on this bridging program phase.

Taken altogether, this governance and collaborative structure will be effectively unmanageable without substantial clarification and refinement of roles and responsibilities. As the parties to this proceeding have been challenged to sustain participation in four working groups, the resources to support 15 to 20 collaboratives operating simultaneously are unlikely to be available. This will become an even greater problem as the focus of the EEPS moves from planning to actual field implementation. Although funding has only been proposed for one collaborative group to date, it is easy to envision requests for funds emerging from many of these collaboratives for much the same reason as for the ETF: because they "have responsibilities that require a significant investment of time and technical resources" and need "to hire consultants…and fund… work that may be more effectively conducted on statewide basis."[44]

The structure laid out in Attachment V-1 will put both EEPS targets and funding at risk. This further supports the Companies' position in its Initial Brief that targets and budgets developed by individual PAs should be the basis for setting performance

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[44] DPS brief at 44.

expectations and ratepayer charges. Targets and funding cannot be meaningfully allocated on a long-term, top-down basis in this environment.

Possible solutions to the problems implicit in Attachment V-1 include:

- Return to a separate Program Administration Group and Policy Advisory Board without PA oversight authority, as envisioned in the Straw Proposal. These groups would provide forums for discussing issues during program planning and evaluation, but would not formally review PA plans and budgets.
- Carefully define and prioritize the work to be done and deliverables required from each collaborative, and set deadlines accordingly. [45]
- Clearly separate the performance expectations of PAs from performance expectations of the collaboratives, to avoid duplication of effort and confusion, and to focus collaboratives on matters where multi-party engagement is most critical.
- If necessary, set aside a realistic level of funding to provide staff and consulting support to the collaboratives. Assign budgetary, accounting, and reporting responsibility for those funds; as with all other EEPS expenditures, PSC approval for this spending would be required.
- Identify a clear and timely mechanism to resolve disputes among collaboratives.

Finally, and perhaps most importantly, approve the use of a simple safety net. In the absence of clear and timely guidance from a collaborative, each PA should be directed to rely upon standard practices to plan, budget, market, implement, and evaluate its programs. By unlinking PA activities from the work of the collaboratives when necessary, PAs will be able to continue delivering results, and pressure on the collaborative will be relieved until a longer-term solution is identified.

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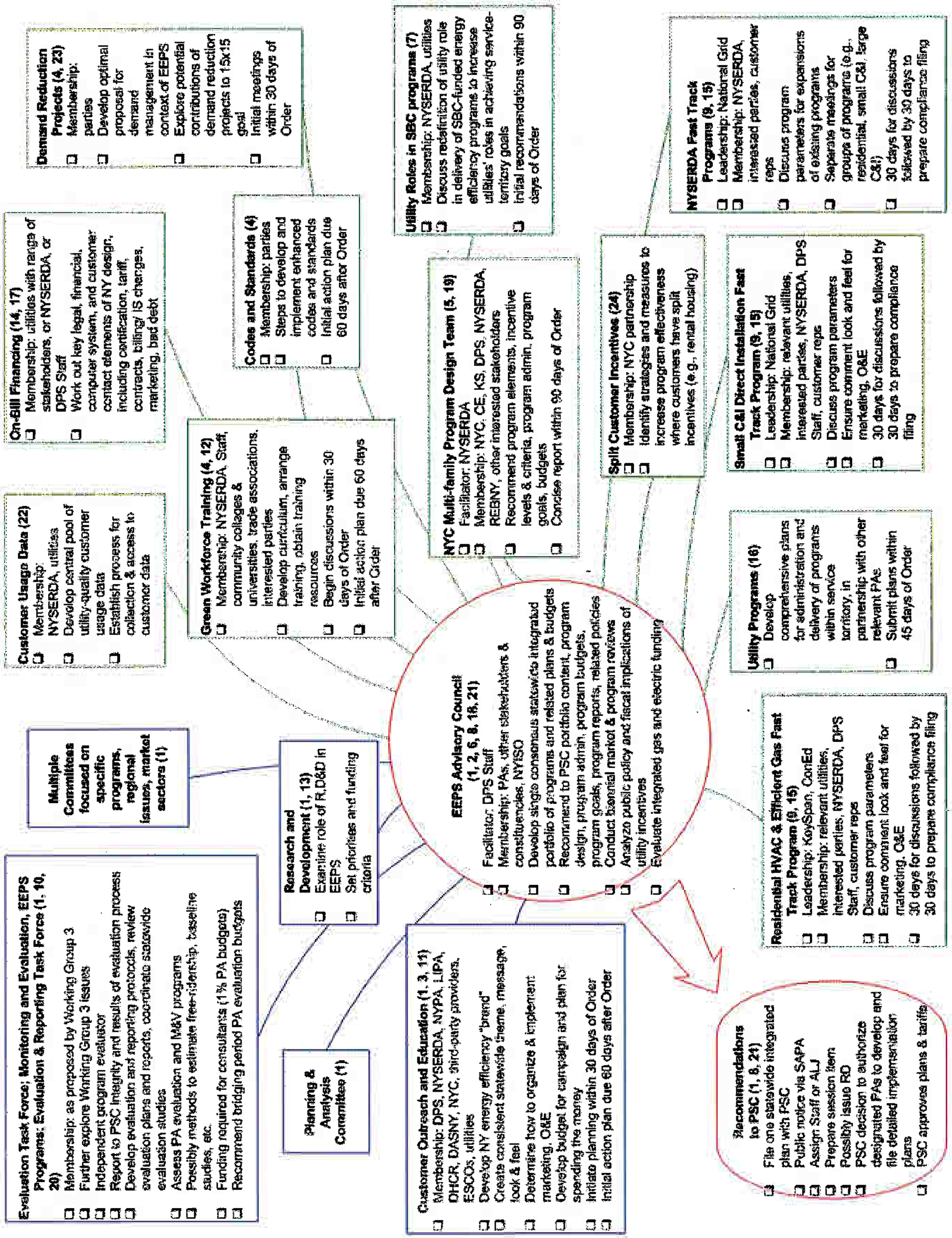
[45] The Companies note that combining responsibilities into fewer collaboratives will not reduce the total workload or the leadership challenge. To achieve this goal, the total work and number and frequency of collaborative deliverables will have to be controlled and focused.

VI. CONCLUSION AND SUMMARY OF RECOMMENDATIONS

In summary, the Companies recommend that:

- Any current estimate of overall EEPS costs be treated as highly approximate at best, and unreliable and inaccurate at worst.
- All EEPS targets and funding be based on individual PA plans and budgets, which should include all costs incurred to carry out and support the EEPS, including lost revenues.
- The demand profiles and capacity contributions of each energy efficiency resources be determined during planning and measurement and verification.
- A level playing field be provided for all PAs.
- EEPS-related expenditures be separately tracked by all PAs and not co-mingled with other activities.
- Improvements be made to the current governance and collaborative proposal, including allowing PAs to use standard practices if guidance from a collaborative is not available in a timely fashion.

ATTACHMENT V-1: Collaboratives Recommended in Initial Briefs and Straw Proposal



Notes:

(1) DPS IB, Attachment 1

(2) DPS IB at 6

(3) *Id.* at 7-8

(4) *Id.* at 8

(5) *Id.* at 8, 33

(6) *Id.* at 15

(7) *Id.* at. 9

(8) *Id.* at 36-37

(9) *Id.* at 37-39

(10) *Id.* at 44

(11) *Id.* at 45-46

(12) *Id.* at 46-47

(13) *Id.* at 49

(14) DASNY IB at 11, 18

(15) MI IB at 14-15

(16) NRDC IB at 5, 15. Individual utilities have also proposed to conduct collaboratives specific to their programs and service territories prior to submitting their EEPS plans. These collaborative activities do not appear on Attachment V-1.

(17) NYSEG/RG&E IB at 7, 9, Attachment IV-1

(18) NYSERDA IB at 4, 5

(19) TRC IB at 2. TRC opposes this collaborative, but offers suggestions should the collaborative be approved.

(20) Straw Proposal at 8, 14, 18

(21) *Id.* at 19-20

(22) *Id.* at 9, 24

(23) *Id.* at 24

(24) *Id.* at 14, 24