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April 10, 2008

Ms. Jaclyn A. Brillling, Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

RE: Case 07 – M – 0548

Dear Secretary Brillling:

1. Introduction

TRC Engineers, Inc. welcomes this opportunity to contribute in a meaningful way to the Public Service Commission's decision making regarding the 15 by 15 Goal and the future structure of energy efficiency programs in New York State.

TRC is a publicly-traded engineering and environmental services firm with 90 offices and over 2,800 staff throughout the United States. In New York, we are a registered engineering firm with 7 offices and a staff of 236. TRC is a technical consultant and implementation contractor to NYSERDA for three SBC-funded programs: Multifamily Performance Program, Commercial/Industrial Performance (Tier 1, 2, and 3), and Energy Smart Schools and Municipal Buildings. Two of these programs, the Multifamily Performance Program and Energy Smart Schools & Municipal Buildings, were recently awarded the American Council for an Energy Efficient Economy's (ACEEE) Exemplary Program award. This prestigious award recognizes best practices and identifies programs to be emulated across the US. Additionally, TRC's innovative work in energy program design and implementation was recently recognized by the EPA as TRC received the 2008 Energy Star Partner of Year award in the Service Provider category. TRC's depth of experience also includes design and implementation of New Jersey's suite of commercial and industrial Clean Energy Programs, measurement and verification contractor in Long Island Power Authority's Clean Energy Commercial Construction Program, as well as programs in Massachusetts, Wisconsin and Texas.

The scope of our work and experience provides us two perspectives as a framework for our comments. As a NYSERDA contractor, we observe first hand the benefits that residential customers, businesses, schools and municipalities receive from SBC-funded programs. As consultants working nationally on energy efficiency and environmental issues, we recognize the broad societal benefits that result from reduced need for costly new power plants and their associated environmental impacts.

2. The Staff Revised Fast Track Proposal Should Be Adopted in Part and Rejected In Part

Several other parties have submitted independent Fast Track Proposals (the NYC Consensus Proposal and the Central Hudson White Paper) that are not nearly as well reasoned nor as comprehensive and effective as the Staff Fast Track Proposal. The Staff Fast Track Proposal is the result of a laudatory strategy of ramping up the most successful NYSERDA SBC-funded programs, ensuring that available program resources better match the demand for program services and

assigning two programs for the investor owned utilities to implement.

However, the Staff is in error when it states, “NYSERDA has operated several programs targeting multifamily buildings, but these mostly served townhouses and low-rise buildings. Barriers, such as split incentive issues, have also frustrated attempts to implement widespread programs for high rise buildings.” (March 25 Fast Track Proposal, Attachment 5, p. 15) Below we present program statistics that refute these statements. Further, the Staff alleges that cooperatives and condominiums are not being served by NYSEDA’s program (March 25 Fast Track Proposal, p.16). Again, we have statistics (See below) to refute this claim. Staff then suggests a collaborative be convened that will report to the Commission within 90 days of the issuance of a Commission Order in this case. If the situation were as bleak as portrayed by the Staff, convening a collaborative would be a reasonable step. Based on the facts, it is quite unnecessary.

However, if the Commission should decide to convene a collaborative as recommended by Staff, TRC would welcome the opportunity to be part of the collaborative design team to develop recommendations to better address this market. Given the early and continued success of MPP in the NYC area, we suggest that the current program design be considered the starting point from which to improve upon and that NYSEDA act as facilitator in this process.

3. The Multifamily Performance Program (MPP) Is Effectively Reaching High Rise Apartment Buildings in NY City

We assume that the “Multifamily Building Home Performance” program referenced in the Staff proposal and the NYSEDA Multifamily Performance Program (MPP) are one and the same. NYSEDA’s Multifamily Performance Program is effectively reaching high rise apartments in New York City. Since program launch in May 2007, the program has achieved impressive results. During the first 10 months, the program approved 383 applications with a total of almost 78,000 dwelling units. Once complete, these projects will receive over \$60M in NYSEDA incentives.

The Multifamily Performance Program leverages market forces to promote market transformation. The program promotes and facilitates relationships between market-based building performance specialists or “Partners” and New York multifamily property owners and managers. Partners who meet NYSEDA’s requirements champion best practices and technologies for increased energy efficiency and lower energy costs for the multifamily sector as part of their business model. Program incentives help to cover the cost of Partner services and the installation cost of energy efficiency measures.

The Multifamily Building Performance Program, through both the New Construction and Existing Buildings components, addresses all combinations of market-rate and low-to moderate-income projects. A summary of performance metrics to date:

Existing Building Projects

265 Projects with 1952 total buildings and 70,845 units

- 115 Affordable Housing Projects containing 27,692 units
- 150 Market Rate Projects containing 43,153 units
- 82% of the units are in New York City

New Construction Projects

108 projects with 125 buildings and 6358 units

- 80 Affordable Housing projects containing 5040 units
- 28 Market rate projects containing 1318 units
- 72% of the units are located in New York City

Program Incentives

As of February 29, 2008, multifamily projects located within NYC are scheduled to receive approximately 83% of total program incentives. This amounts to \$50.4M out of the total program incentives of \$60.8M.

83% of total program incentives are to NYC Projects

Developer Participation

One of the strongest indicators of success is the participation rate of major developers. The market based Multifamily Performance Program has been well received by major developers and management companies with projects in NYC. Some of the major firms participating include:

- Trump Organization (15 projects -3385 units)
- Dunn Development Corporation
- Jonathon Rose Companies
- Tishman Speyer
- The Bluestone Organization
- Habitat for Humanity
- New York City Housing Authority
- Phipps Housing
- Marathon Development
- Common Ground
- Actus Lend Lease
- Harlem Congregation for Communities Improvement
- HOPE Community
- Metro Management Development
- Two Trees Management
- Nelson Management Group
- OmniNY
- Stellar Management
- Parker Management (3 buildings ~1200 units) AIMCO
- Grenadier Management

NYC developers are very pleased with the program.

4. The MPP Is Effectively Reaching Co-ops and Condominiums in NY City

The Multifamily Performance Program is effectively serving the condominium and cooperative housing communities. In fact, the condominium and co-op community's response to the Multifamily Performance Program has been impressive. Over a quarter of the buildings participating in the Existing Buildings Component of the Multifamily Performance Program are condominiums or co-ops. This includes 314 buildings and 25,244 apartment units. In the New construction component, approximately 25% of the projects are condominiums or co-ops. This includes 35 buildings and 1308

apartment units. Once complete, these newly constructed buildings will represent the 1st Energy Star labeled high rise condos or co-ops in the nation. They will join the 1st Energy Star labeled Multifamily buildings in the nation, 1212 Martin Luther King Blvd in the Bronx and Myrtle Ave Apartments in Brooklyn, both built under the NYSERDA Multifamily Performance Program.

Market transformation programs, such as the Multifamily Performance Program, are an effective way to reach the condo and co-op market. Likely more effective than resource acquisition programs offering rebates on single measures. Condo and co-op boards often have difficulty reaching consensus. If they reach consensus the Board may then have trouble moving forward with the efficiency project. The Multifamily Performance Program addresses these needs as program Partners collaborate with boards to identify energy savings opportunities, project cost, and qualified contractors. The Partner works hand-in-hand with the board to reach consensus and steward the project to completion.

It is also important to note that condo and co-op boards are increasingly interested in energy efficiency projects as a means to reduce a building's carbon footprint. This increased awareness in environmental stewardship is a significant driver that is often equal to and sometimes greater than the interest in energy cost savings. Market transformation programs increase public awareness and identify buildings that are "environmental leaders" by labeling the buildings as Energy Star or Energy Smart.

Historically, NYSERDA has served the condo and co-op community via the Assisted Multifamily Program ("AMP"), Residential Technical Assistance Program, Empower NY Program, and Commercial Industrial Performance Program (CIPP). AMP alone served over 17,000 units, providing approximately \$10 million in grants. NYSERDA's work with the NYC Department of Housing Preservation and Development (HPD) is supporting the creation of even more cooperative housing through the High Performance Housing initiative. NYSERDA is participating in four NYC housing initiatives to keep housing affordable in NYC. Each of the High Performance Housing programs renovates NYC housing stock using energy efficient methods; the Tenant Interim Lease (TIL) program turns the building over to the tenants, who are trained to be cooperators so that they can together manage the building where they live. The program will help to renovate, to high efficiency specifications, 1026 co-op apartment units. This represents more than 35% of the 2,906 apartment units in the HPD/NYSERDA High Performance Housing initiative.

5. Endorse the Staff Proposal to Eliminate the Voting Requirement for Efficiency Improvements, Including Advanced Metering

Staff was correct when it suggested in its revised Fast Track Proposal that the Commission's Rules (16NYCRR, Part 96) which require cooperative and condominium shareholders to vote before advanced metering is implemented is one of the barriers to coops and condos participating in the Multifamily Performance Program. The fact that the governing board does not have the clear authority to execute a project agreement without requiring individual owner consent or voting is an impediment. We urge the Commission to waive this antiquated rule whenever a building participates in an SBC-funded program.

6. Reaching the 15 x 15 Goal Must Include Provisions For Utilities To Make Data Available for Marketing, and Measurement and Verification/Evaluation

Energy modeling and energy benchmarking are mainstays of today's exemplary energy efficiency programs and accurate simulations are the key to their success. Customer end-use data is required under Performance Program rules to calculate energy savings and is the basis for paying incentives. Even if the ALJ's had marketing of programs in mind when they stated, "Utilities can bring access to end-use customers" (March 20 Ruling, p. 10), we suggest the Fast

Track programs would be enhanced if utilities brought access to end-use customers and their data.

Tenants and cooperators are suspicious of owners and Boards of Directors who ask for utility account numbers and associated passwords and reluctant to provide the account numbers even when advised that the purpose is to measure the energy savings achieved after the installation of energy efficiency measures.

Certainly, an underlying assumption in the strategy of having NYSERDA and its implementation contractors as well as investor owned utilities implementing energy efficiency programs is that the organizations will cooperate together to minimize administrative costs, thereby maximizing the benefits to customers and ratepayers of the energy efficiency investments that are being considered. The Commission should structure its Energy Efficiency Portfolio such that customer end-use-gas and electricity data, that to date has been considered confidential, is made available to NYSERDA and its implementation contractors in the same manner that it is available to utility staff.

Conclusion

NYSERDA's programs are nationally recognized for their effectiveness. Their programs have received numerous awards and have been emulated across the US. Most recently, the City of Arlington, VA requested permission from NYSERDA to emulate the Multifamily Family Performance Program in its jurisdiction. In addition, the EPA recently recognized NYSERDA for "sustained excellence". NYSERDA's proven experience in energy program design and implementation should be further leveraged as an asset to the rate payers of New York State. NYSERDA's innovation and experience is required to reach the 15 by 15 goal.

It is also important to recognize the potential negative impacts of multiple programs serving a single market sector. This can cause significant confusion in the marketplace, program shopping, and even "double dipping" where two separate energy efficiency programs fund the same measure.

For all the foregoing reasons, TRC urges that an expanded NYSERDA Multifamily Performance Program be adopted as part of the ultimate decision by the Commission.

Respectfully submitted,



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TRC Engineers, Inc

cc: ALJ Eleanor Stein
ALJ Rudy Stegemoeller
All Parties via ListServe