

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 THE NEW YORK POWER AUTHORITY

Introduction

The New York Power Authority (“NYPA”) has provided substantial energy efficiency services in New York since the early 1990s. NYPA remains strongly committed to energy efficiency and is prepared to aggressively assist in achieving New York State’s “15 by 15” goal of reducing Statewide electric usage by 15% from projected levels by the year 2015. While NYPA is not subject to the jurisdiction of the Public Service Commission (“Commission”) in this proceeding, NYPA is pleased to be participating herein.

The Administrative Law Judges’ (“ALJs”) Ruling on Staff Motion for Reconsideration and Revising Schedule, issued March 20, 2008, authorized the parties to address four designated issues. NYPA herein responds to one argument advanced by Consolidated Edison Company of New York and Orange and Rockland Utilities in their Initial Brief under the first issue, Fast Track Proposals.

1. Fast Track Proposals

In its March 2008 Report on Recommendations for the EEPS Proceeding, Staff recommended that the Commission continue “existing customer exemptions from SBC payments” and that “SBC-exempt customers (both gas and electric) that would like to participate in the fast track programs should be allowed (and encouraged) to do so provided that the customer agrees to contribute to energy efficiency funding (SBC plus incremental EEPS charges) through 2015.” Id. at pp. 15, 17. In their Initial Brief, Consolidated Edison Company of New York and Orange and Rockland Utilities suggest that “existing customer exemptions should not be continued in its service territory because the customers of the New York Power Authority comprise a substantial portion of the service territory’s load and they have expressed interest in participating in Con Edison’s programs.” Id. at p. 29.

From the Commission’s inception of SBC surcharges (as well as RPS surcharges), NYPA power allocations have been exempt for strong public policy reasons. Specifically, NYPA’s primary statutory mission is to provide low cost power to business, industry and governmental entities in order to assist economic development and reduce governmental operating costs in New York State. See, e.g., Public Authorities Law, § 1005. NYPA’s customers within the Con Ed service territory include numerous business/industrial customers as well as the City of New York, the MTA, the Port Authority, and Westchester County, among others. Simply stated, imposing SBC (and/or EEPS) surcharges on these customers would hinder achievement of the enumerated statutory objectives. See also Case 03-E-0188-Renewable Portfolio Standard, Order Regarding Retail Renewable Portfolio Standard, issued September 24, 2004, pp. 52-56, where the Commission rejected imposition of an RPS surcharge on NYPA’s customers on the grounds,

among other things, that “requiring such customers to pay [the RPS surcharge]... would be counterproductive to economic development goals.”

We emphasize that NYPA’s SBC-exempt governmental customers have contributed significantly to energy efficiency in the State through their participation in NYPA’s extensive Energy Services Program which has involved expenditures of over \$1 billion for energy efficiency projects at over 2,500 public buildings and facilities across the State. See also Initial Brief of the Independent Energy Efficiency Program (“IEEP”) for a description of the energy efficiency program conducted by municipal electric utility systems which are customers of NYPA. Further, as discussed in NYPA’s Initial Brief, NYPA’s Fast Track program for 2008-2015 (which will target NYPA’s governmental customers and other governmental entities) is expected to achieve approximately 2,000 GWHs of energy savings by 2015 which is in excess of the significant “NYPA Wedge” presented in the ALJ’s Ruling Presenting Straw Proposal, issued February 13, 2008. Thus, the continued exemption of NYPA allocations from SBC/EEPS surcharges will have no adverse impact on achievement of New York’s “15 by 15” goal.

Finally, if any of NYPA’s customers actually wish to participate in SBC/EEPS programs (and thus pay SBC/EEPS surcharges) and the Commission wishes to consider the matter, NYPA recommends that such an arrangement be the subject of a further collaborative process with interested parties once the utilities’ Fast Track programs have been better defined. A collaborative process would be appropriate to consider such issues as how eligibility would be determined, the manner in which the SBC/EEPS surcharge would be imposed, billed, and collected, under what circumstances would a customer be allowed to withdraw from the program, and the like.

Dated: April 18, 2008

Respectfully Submitted,

/s/ Timothy P. Sheehan

Timothy P. Sheehan, Principal Attorney II

Carlos E. Gutierrez, Attorney II

NEW YORK POWER AUTHORITY

30 South Pearl Street

Albany, New York 12207

(518) 433-6764