
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 SUBMITTED ON BEHALF OF
THE DIVISION OF HOUSING AND COMMUNITY RENEWAL

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Introduction

The Division of Housing and Community Renewal (DHCR) respectfully submits this brief in reply to filings made by Community Environmental Center; Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.; the Natural Resources Defense Council, Inc. (together with Pace Energy and Climate Center and the Association for Energy Affordability); the New York State Department of Environmental Conservation; the New York State Energy Research and Development Authority; staff of the New York State Department of Public Service; the Northeast Energy Efficiency Council – New York Chapter, and others. Those briefs were filed in response to the “March 2008 Ruling on Staff Motion for Reconsideration and Revising Schedule,” issued on March 20, 2008, in the Commission’s Energy Efficiency Portfolio Standard proceeding (EEPS).

The initial order instituting EEPS¹ recognized the need to provide efficiency services to low-income households, who are both especially vulnerable to the effects of climate change and increased utility rates, and at risk of disproportionately paying for mitigation measures such as carbon taxes, white tags, and other proposed schemes². The order directed the Administrative Law Judge and parties to the proceeding to “[d]evelop energy efficiency programs to ensure all New Yorkers, especially those with low incomes, have the opportunity to benefit from lower bills resulting from lowered usage and consider environmental justice concerns in program design.” The staff proposal for dedicated funding, made available on a separate “Fast Track”, would ensure that this directive is met by utilizing a program that has a long history and proven benefits.

DHCR, together with the affiliated Housing Trust Fund Corporation (HTFC), is responsible for the supervision, maintenance and development of affordable low- and moderate-income housing in New York State. As part of this effort, DHCR administers the Weatherization Assistance Program (WAP), which provides residential conservation

¹ CASE 07-M-0548 - Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard. ORDER INSTITUTING PROCEEDING (Issued and Effective May 16, 2007), from PSC web site (http://www.dps.state.ny.us/Case_07-M-0548.htm).

² Eisenberg, Joel F., Short and Long-Term Perspectives: The Impact on Low-Income Consumers of Forecasted Energy Price Increases in 2008 and a Cap-and-Trade Carbon Policy in 2030 ORNL/CON-503, Oak Ridge National Laboratory, Oak Ridge, Tennessee, December - 2007.

energy services to lower-income households to improve the energy efficiency of their dwellings and to reduce their housing expenditures for fuel. In addition the WAP, DHCR and HTFC administer State and federally-funded programs which together provide more than \$100 million annually towards the new construction and rehabilitation of affordable housing in New York.

Funding for the WAP is provided by US Department of Energy (DOE), and by a suballocation of federal Low-Income Home Energy Assistance Program funding. There are currently no state funds allocated to the program. DHCR allocates funding to service providers that cover each of the State's 62 counties, based on the formula that DOE uses to allocate funds to the states, which includes factors related to the income-eligible population in each county, and climate. The program is administered in all utility services areas following uniform policies and procedures. DHCR requires that subgrantees follow prescribed management policies and provide skilled workmanship, high quality materials, and timely production of units. The performance of these subgrantees is evaluated on a continuing basis throughout the program year through on-going, on-site program monitoring by DHCR staff, who also provide an extensive program of training and technical assistance to ensure that subgrantee program operations are maintained at a high level of service. In 2007, the program provided services to more than 13,900 low-income residential units.

Through the WAP and other programmatic efforts DHCR is committed to providing opportunities for low-income households to access safe and affordable housing, to address environmental justice issues, to strengthen communities and to provide these services in an environmentally responsible manner. Energy costs have a far greater impact on low-income households than they do on average utility customers; reducing energy costs incurred by low-income households is an important part of DHCR's mission to increase housing affordability. Even without rising costs and new burdens on low-income consumers, the demand for energy conservation assistance is substantial: a recent survey of our subgrantee network found more than 35,000 eligible households on local agency wait lists. DHCR expends all available funds each year; yet the average wait for assistance continues to grow, exceeding two years in most parts of the State.

Issues Raised in Initial Briefs

Parties that filed initial briefs addressed the Department of Public Service (DPS) staff proposal for bridging, or “fast-track” programs, including those intended to meet the needs of low-income ratepayers; the desirability of including a weatherization assistance program targeted to gas-heated residential units; the ability of agencies to ensure that any funds provided for this purpose will be secure and available; and the impact of providing funds on the availability of federal weatherization assistance funding. This reply brief will address DHCR’s approach to each of those questions.

1. Fast Track Program Issues

Some parties that submitted briefs supported the inclusion of WAP as a Fast Track program, while others questioned the need for WAP in the portfolio of bridging programs,³ or for including any bridging programs at all. Staff has demonstrated that any alternative to the bridging proposals will delay the onset of energy use reductions so much that the goals of this proceeding probably wouldn’t be met. Also, since virtually no other delivery mechanism exists that can provide residential conservation services aimed at reducing fuel usage for this vulnerable population, low-income households would be disproportionately impacted if a Fast Track program targeted specifically to the low-income is not provided.

Low-income utility customers have few resources and can’t afford even modest investments in conservation. They typically don’t have the credit history or sufficient income to afford even highly subsidized loans. A separate Fast Track program targeted to gas-heated residential units is needed to ensure that these households are not adversely affected by rising heating costs or by the implementation lag that can be expected from “ramping-up” new residential utility programs, and that those households aren’t prevented from accessing services due to lack of capital for investment. Only the WAP is currently positioned to provide heating conservation services that will benefit low-income households on a statewide basis in a timely, consistent, and effective manner.

The WAP was begun as a heating fuel conservation program. Unlike other programs under consideration, the network of non-profit organizations that administers

³ See for example the briefs submitted by NRDC et al and Consolidated Edison.

the program has considerable experience in conserving gas, oil and other heating fuels. The program takes a whole-house approach to providing conservation services, which leads to much greater efficiencies than single-purpose programs, such as an appliance replacement program, can realize. Providing funding to the WAP will facilitate conservation of natural gas while providing real world experience to advance technologies and promote best practices.

The effectiveness of the WAP has been repeatedly demonstrated by independent evaluations conducted on behalf of the US Department of Energy and others. For 30 years the program has been developing and refining techniques to save energy. The WAP is well adapted to local housing conditions, working in all types of housing, including single-family, mobile homes, and multi-family housing. New York led the nation in developing criteria and techniques to use WAP funds to make apartment buildings more efficient. The WAP currently invests nearly \$30 million annually in multi-family residential conservation, primarily in New York City.

DHCR agrees with the Department of Environmental Conservation⁴ that investment in the WAP will help meet the economic justice goals of the proceeding, and will have other positive economic impacts. DHCR WAP rules require subgrantees address certain health and safety issues when installing conservation measures, such as ensuring that indoor air quality is not worsened, and following “lead-safe work practices” to ensure that conservation work does not worsen the lead hazards that exist in many housing units occupied by low-income households. DHCR agrees with NRDC and others that the economic impact of the EEPS could be significant. Another indication of the potential economic impact of investment in weatherization assistance is a US Department of Energy estimate that 52 new jobs are created for each \$1,000,000 invested in WAP⁵. These are jobs that will strengthen the State’s economy, particularly in Upstate areas, consistent with efforts to develop a “green workforce.”

⁴ See Brief Submitted on Behalf of the New York State Department of Environmental Conservation, David S. Sampson and Lisa Garcia, April 11, 2008.

⁵ Weatherization Assistance Program Technical Assistance Center (http://www.waptac.com/sp.asp?mc=what_overview_program).

DHCR agrees with NYSERDA and NEEC-NY that a longer-duration bridging program would be more effective than the current 18 month proposal. The Commission should consider extending the Fast Track programs by at least another year.

2. DHCR Protection of EEPS or System Benefit Charge Funds

A question was raised about the security of EEPS or system benefit charge funding provided to DHCR, and whether the State Division of the Budget (DOB) could “sweep” unused funds into the general operating fund. DHCR has provided assurances to DPS staff that it has the authority to administer programs funded through a system benefit charge and that any funds provided for the purposes of the EEPS would be protected from “sweeping” into the general fund or from otherwise being used for any purpose other than EEPS activities. There are two scenarios under which DHCR, or its proxy, could administer EEPS funds in conjunction with the WAP.

One option would entail DHCR submitting a request to the DOB for a new appropriation line within the Executive Budget, and establishing a corresponding special reserve account. The appropriation language drafted by DHCR would specifically limit the use of PSC funds for weatherization activities only. The restrictive language of the appropriation, buttressed by the terms of the memoranda of understanding entered into with the individual utilities, would prevent DOB from sweeping such monies into the state’s general fund.

Alternatively, DHCR could channel EEPS funds through the closely allied New York State Housing Trust Fund Corporation (“HTFC”). HTFC is a public benefit corporation established under Section 45-a of the Private Housing Finance Law (PHFL), and is chaired by DHCR’s Commissioner. As a public benefit corporation, it is not subject to the same constraints imposed on state agencies by DOB or the Office of the State Comptroller.

HTFC has been utilized in the past by DHCR to administer various state and federal low-income housing programs, such as the Access to Home, New York Main Street, and Community Development Block Grant programs. HTFC is authorized under PHFL § 45-a (9) to “...facilitate the coordination of local housing partnerships and existing state, federal and local programs which promote the development of low income housing.” In this regard, HTFC has been specifically granted the authority under Articles

XVI-A and XVII of the PHFL to fund the rehabilitation (which would include weatherization) of low-income housing units, among other activities, throughout the state.

Having carefully analyzed both options described above, DHCR is proposing to run PSC funds through HTFC in order to take advantage of certain efficiencies inherent in the operation of public benefit corporations. By utilizing the HTFC structure, program activities can begin even more quickly than otherwise possible.

3. Effect of Participation in EEPS on Federal Funding

A question was raised about the allowability of using EEPS funding with respect to federal WAP rules. DOE encourages states to leverage funds in support of the WAP, both by coordinating with utility programs and through dedicated sources of revenue such as a system benefit charge. Procedures for coordinating the use of tools and equipment provided by DOE will be developed to ensure proper accounting of funds. Otherwise, there are no prohibitions on the use of EEPS funding with respect to federal WAP rules.

4. Using EEPS Funding to Target Gas-Heated Residences

The initial brief filed by PSC staff called for the Commission to file an order directing, among other actions, DHCR file an implementation plan that explains how it “will align funds coming from a specific utility service territory and specific customer classes (residential, commercial, industrial) with program implementation in the individual utility service territories⁶.” DHCR supports this recommendation and will be prepared to file an implementation plan, given sufficient notice, upon the Commission’s direction. That plan will describe a process for allocating funds within each gas utility territory based on customer volume, number of low-income customers, or some similar metric that ensure equitable distribution consistent with the order.

DHCR follows industry standard measurement and verification protocols to ensure that savings from funds allocated for gas efficiency programs can be accurately assessed and documented. We have reviewed the current SBC requirements and the Working Group III report on evaluation, measurement and verification, and have found no obstacles to complying with anticipated reporting, verification or quality assurance

⁶ Initial Brief Of The Staff Of The Department Of Public Service On Bridging Programs And Issues, NYS Dept. of Public Service, April 10, 2008.

requirements, assuming that adequate resources are provided for this purpose. In fact, DHCR welcomes the opportunity to demonstrate the real cost effectiveness of the Weatherization Assistance Program.

Issues Considered in the Context of the Judges' March 20 Ruling

The March 20 ruling requested that parties address four issues: the feasibility of the Fast Track proposals; the policy rationale for authorizing utility-administered efficiency programs within EEPS; accuracy of cost and bill impacts provided in the Technical Appendix to the Ruling; and, the advisability of setting efficiency targets and funding levels. The briefs submitted by parties did generally attempt to address support for or objections to inclusion of the WAP in the context of these issues.

The feasibility of including additional funding for a DHCR gas efficiency program in a set of Fast Track proposals was established earlier in this reply⁷. None of the objections for inclusion of WAP as a Fast Track program were based on fact-based arguments or other data that refutes the benefits that will accrue to low-income households, or the wisdom of using the WAP to contribute to the goals of the EEPS proceeding.

This reply brief will not address the rationale for approving utility-administered efficiency programs, as none of the initial briefs addressed the WAP in this context. DHCR welcomes the opportunity to work with gas utility companies in providing energy efficiency services.

Cost and bill impacts have been documented by DPS staff and while the discussions that ensued among the various parties that commented on these issues became very complicated, DHCR feels that the actual benefit/cost ratio for a gas program administered through the WAP was probably understated by staff. As several commenters point out, those calculations do not consider the environmental, health, or other non-energy benefits of weatherization. Our own calculations show that the proposed investment will save in excess of 2.5 mm therms in the first year, and that cumulative savings will exceed 81.7 mm therms over the next 15 years. We also

⁷ Section 1., "Fast Track Program Issues," beginning on Page 4.

acknowledge the corrections provided by Mr. Paul Chernick of Resource Insight, Inc., which indicates that the gas costs that staff calculated may have been overestimated.

DHCR agrees with the comments from staff, NYSERDA and others that the Commission should not set efficiency targets and funding levels for gas programs in advance. There are just too many uncertainties in this effort. Periodic review, following the measurement and verification protocols described above, should ensure that programs stay on course or that adjustments are made when needed.

Conclusion

DHCR appreciates the open and inclusive process that has been followed in this proceeding, and the insights and efforts of all of the participants, and in particular the staff of the Department of Public Service. The many hours of work and pages of documents produced to support this effort will certainly lead to a more thoughtful and effective program for meeting the challenge of reducing energy usage in New York.

No barriers exist that would impede the ability of the WAP to quickly ramp up efforts as a bridge program while other, more considered activities take shape. We look forward to continued collaboration in meeting the goals of the EEPS and the “15 by 15” initiative.