STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

| | |
|---|---|
| Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard | Case 07-M-0548 |

# INITIAL COMMENTS OF THE NEW YORK STATE CONSUMER PROTECTION BOARD REGARDING THE REPORT OF WORKING GROUP V – NATURAL GAS EFFICIENCY GOALS


Mindy A. Bockstein
Chairperson and Executive Director

Tariq N. Niazi
Acting Director of Utility Intervention

John M. Walters
Intervenor Attorney

Saul A. Rigberg
Intervenor Attorney

Gregg C. Collar
Utility Program Analyst


Dated: January 30, 2009
Albany, New York


NYS CONSUMER PROTECTION BOARD
5 EMPIRE STATE PLAZA
SUITE 2101
ALBANY, NEW YORK 12223-1556
http://www.nysconsumer.state.ny.us

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

| | |
|---|---|
| Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard | Case 07-M-0548 |

# INITIAL COMMENTS OF THE NEW YORK STATE CONSUMER PROTECTION BOARD REGARDING THE REPORT OF WORKING GROUP V – NATURAL GAS EFFICIENCY GOALS

## INTRODUCTION

In the order instituting this proceeding,[1] the New York State Public Service Commission ("Commission" or "PSC") discussed several issues the proceeding should address, including: reducing greenhouse gas emissions, making energy more affordable, developing independent sources of energy and creating jobs. Specifically, the Commission stated:

> Given volatile fossil fuel prices, concerns about greenhouse gas emissions, the vulnerability of the electrical system to supply disruption, and the need for new investment in infrastructure and supply, New York's existing efforts to promote energy efficiency need review, and the most effective methods to increasing energy efficiency need to be determined. To accomplish these objectives an Energy Efficiency Portfolio Standard (EPS) proceeding is hereby instituted.[2]

On June 23, 2008, the PSC issued an order that, *inter alia*, established an energy efficiency portfolio standard.[3] The Order stated:

---

1 Case 07-M-0548, Proceeding on the Motion of the Commission Regarding an Energy Portfolio Standard, Order Instituting Proceeding (issued May 17, 2007) ("Instituting Order").

2 Instituting Order at 2.

3 Case 07-M-0548, supra, Order Establishing Energy Efficiency Portfolio Standard and Approving Programs (issued June 23, 2008) ("Programs Order").

> One of New York State's highest energy priorities is to develop and encourage cost-effective energy efficiency over the long term, and immediately to commence or augment near-term efficiency measures. The determinations in this Order establish the framework for ensuring that energy efficiency becomes an integral part of the New York energy industry. This initiative is in the context of the broader State policies for the development of the clean energy industry and economy in the State: policies including Executive Order No. 2 of Governor David Paterson, the Renewable Portfolio Standard, the Regional Greenhouse Gas Initiative (RGGI), and improvements in State energy building codes and appliance efficiency standards.[4]

On July 3, 2008, the Administrative Law Judges (ALJs) issued a ruling, establishing procedures and schedules for the eventual determination of the principal design issues.[5] This ruling called for the creation of five working groups, and set October 1, 2008, as the date the working groups would complete their tasks. In a later ruling,[6] Working Group V (Natural Gas Efficiency Group) was directed to complete its final report by October 15, 2008, and make a presentation regarding the final report on November 3, 2008.[7]

Pursuant to a ruling issued on December 30, 2008, active parties were invited to submit comments concerning the Working Group V Final Report by January 30, 2009. The New York State Consumer Protection Board ("CPB"), an active party throughout Working Group V's deliberations, submits these comments pursuant to that notice. Please note that we have not responded to the first part of question 7 and all of question 11 because those questions address issues beyond the CPB's expertise. We have also chosen to group questions 3, 4, and 9 together because of their interrelatedness.

---

4 Programs Order at 1.

5 Case 07-M-0548, supra, Ruling Concerning EEPS Design Issues (issued July 3, 2008).

6 Case 07-M-0548, supra, Procedural Ruling Concerning Working Groups and Schedule (issued September 10, 2008).

7 Subsequently, the due date for the Working Group V Report was changed to October 17, 2008.

## RESPONSES TO QUESTIONS

Question 1:

**Does the Optimal Report of NYS energy efficiency potential for natural gas, as developed in the report of Working Group V, represent a reasonable basis for initiating a gas efficiency program?**

With one exception noted below, the CPB agrees with the conclusion of Working Group V that the Optimal Report is a reasonable basis for initiating a portfolio of gas efficiency programs, subject to customer impact and other considerations.[8] We respectfully note that this proceeding was initiated almost two years ago and no new gas programs have yet been launched. The CPB urges the ALJs to recommend to the Commission that it must move forward expeditiously to reduce gas customers' bills as well as to increase the efficiency of New York's use of fossil fuels.

The CPB supports use of the Optimal Report for several reasons. First, the analysis was conducted on a statewide basis, taking into account the unique characteristics of New York's upstate and downstate regions. Second, the Optimal Report allowed for alternative cost-effective portfolios to be developed at funding levels other than those assumed in the report, while satisfying certain potential policy constraints such as sector distribution, low-income funding needs, and efficiency targets. The economic potential and program scenario analyses provided in the report are also helpful in establishing support for decisions on future natural gas efficiency programs and spending in New York State.

Third, the overall benefit/cost ratio results of the Optimal Report's programs are based on a Total Resource Cost (TRC) test that considers all the benefits and costs of efficiency from a societal perspective. Fourth, the study explicitly developed the recommended programs broadly so they can be easily tailored to suit a variety of customer groups and regions with services designed

---

[8] Case 07-M-0548, supra, Report on Natural Gas Efficiency Goals (issued October 17, 2008), at 1.

around specific market and supply channels, effectively mimicking the marketplace.

Fifth, in reviewing existing electric and gas programs in New York and outstanding gas programs throughout the country, the Optimal Report identified key strategies that contributed to the ongoing success of these programs. The report assessed the economic potential and identified where the most important opportunities exist in terms of end uses, markets, customer types, and technologies to be utilized.

Sixth, the Optimal Report comprehensively addressed each market in the context of its unique characteristics, and indicated that the most successful and cost-effective approach to delivering gas programs in New York State was through the integration of gas and electricity efficiency services. The Optimal Report's fuel-neutral, one-stop-shopping approach makes the most sense for the design of an effective and successful statewide natural gas efficiency program now and with regard to future development.

Lastly, the Optimal Report includes estimates of the downward pressure on commodity prices from reduced demand. This results in overall benefits to all gas consumers beyond those captured by program participants directly through reduced energy use.

Ideally, the CPB would have preferred that the report gave greater attention to the potential of combined heat and power ("CHP"), a form of distributed generation, which could play a larger role in creating a cleaner and more efficient energy market. However, the CPB generally is in agreement with the framework utilized by the authors of the Optimal Report and supports its use in the development of a natural gas energy efficiency program.

Question 2:

**Comparing the respective results and bill impacts of the models presented in the Working Group V Report as supplemented by this ruling, what level of funding is appropriate?**

The CPB advocates for a funding level of $160 million to support a suite of statewide gas efficiency programs allocated as follows: 30% low-income; 30% market rate residential; and, 40% commercial. Customers' delivery rate Customers' delivery rate bill impacts at this level, according to Table 18 (page 63 of the Working Group V Report), would range from 1.86% to 2.10%, with potential efficiency targets ranging from a low of 10.52% to a high of 19.11%. We support a 30% rather than a 20% low-income allocation for the reason mentioned on page 64 of the report, namely, that Census Data indicates that approximately 30% of the State's residents have an income below 200% of the federal poverty level, which is a standard used for eligibility for several benefit programs, including NYSERDA's EmPower low-income weatherization program. Moreover, low-income families tend to spend a higher proportion of their income on heat than higher-income families and tend to live in buildings that can benefit relatively more from weatherization efforts.

The CPB supports the largest of the report's three potential program sizes because of the broad perspective we take of the benefits of energy efficiency. For example, in a proceeding such as this, the CPB considers New Yorkers not just as utility ratepayers but as consumers facing many economic and quality of life issues. People are worried about their jobs, the health of their children, and medical costs. Weatherization is a labor intensive activity; a robust weatherization program can create thousands of jobs around the State. More efficient use of natural gas should result in a cleaner environment. In this regard, the commercial component of an energy efficiency program is especially important because of the dramatic results of these measures in commercial applications. Improved air quality, in turn, results in healthier people. This means reduced medical costs, especially for the hundreds of thousands of New Yorkers without medical insurance. Better health also results in children missing fewer days from school and adults missing fewer days from work.

Moreover, the bill impacts of the largest proposed program are reasonable and should be mitigated by the impact of the efficiency measures. Further, widespread implementation of on-bill financing would potentially reduce bill

impacts because homeowners would not have to directly fund the efficiency measures.

Questions 3, 4, and 9: It is the CPB's opinion that these three questions are closely related and should be answered together.

**What are the relative merits of an appliance-only model compared with a model that includes whole-customer and building envelope programs?**

**Does the funding of building envelope programs create significant customer cost inequities, in terms of the allocation of costs and benefits across different fuels and across regulated and unregulated industries?**

**What are the relative benefits of integrated gas/electric efficiency program delivery versus gas and electric programs delivered separately? How can integrated programs be accomplished in territories not served by combination companies?**

The CPB supports exploring an approach similar to model two, which combines an appliance rebate program with a whole building envelope approach, as discussed in the Administrative Law Judges' Ruling.[9] In our opinion, this approach better addresses all of the purposes of an energy efficiency program as envisioned by former Governor Spitzer in his 2007 State of the State Address and by the PSC in the order instituting this proceeding.[10] These purposes are: 1) using less energy; 2) lowering utility bills, especially for low-income New Yorkers; 3) creating jobs, especially upstate; and, 4) producing smaller amounts of greenhouse gases. The CPB's understanding of a whole building envelope approach, however, goes beyond identifying and addressing gas efficiency issues associated with the thermal shell; significant savings opportunities exist with gas equipment, especially in commercial applications.

The whole building approach is especially suited to older homes that are poorly insulated, and can benefit from both efficient appliances and weatherization. Table 2 on page 20 of the Optimal Report shows that the proportion of low-income, owner-occupied housing units is twice that in upstate

---

[9] Case 07-M-0548, supra, Ruling Establishing Comment Process and Schedule Concerning the Report of Working Group V (issued December 30, 2008), at 5-6.

[10] Instituting Order at 7.

metropolitan areas versus downstate metropolitan areas. It may be appropriate, accordingly, for program design for upstate regions to focus more heavily on the building envelope approach, including weatherization, and downstate programs to focus slightly more heavily on rebates.

The CPB disagrees with the premise of question 4, that a building envelope program funded by natural gas customers must serve non-natural gas customers. Under the current System Benefits Charge EmPower program, homes heated by oil or propane are eligible for services because the program is funded by electric consumers and the method by which the home is heated is not an element of program eligibility. A gas program is quite different. The two initial criteria of eligibility are, first, that the customer pays a gas bill, and, second, that the customer is not a cooking-only customer. Homes heated by oil or propane would not qualify. Accordingly, a whole building envelope approach does not result in any customer inequities, whether across different fuels or across regulated and unregulated industries.

There are two advantages of an integrated gas/electric efficiency program versus separate gas and electric programs. First, it is cost effective and makes sense from both the customer's perspective[11] and the societal perspective for an energy efficiency assessment to cover the entire building. It also makes sense to pursue integration and coordination of programs, as the whole building approach provides greater benefits than limiting programs to individual measures.

Second, an integrated gas/electric program reduces the controversy over the cross subsidization of electric customers by gas customers because both electric and gas customers would contribute to energy efficiency programs. Integrated programs may be more easily designed without concern for favoritism of one regulated fuel type over the other, as all retail customers will reap the benefits from their contributions.

---

[11] One can imagine the reaction of a utility customer upon being informed that he or she would have to take off from work twice to accommodate having two appointments, one with an electric energy efficiency auditor and the second with a gas energy efficiency auditor.

Service territories not served by combination utilities would still be able to deliver integrated programs pursuant to a system design that allows one source utilities, such as National Fuel Gas, which serves gas customers only, to partner with the incumbent electric utility in the service territory by sharing responsibility and costs to deliver the same programs as the "combination" utilities. In the alternative, NYSERDA could deliver all the integrated programs in an area either lacking gas service or those served by two or more entities.

Question 5:

**Is establishing as a savings goal in terms of use per customer workable? In what ways can expected measurement difficulties associated with this approach be addressed and overcome?**

The CPB supports the Working Group consensus that establishes a workable savings goal in terms of use per customer for gas efficiency programs. As stated in the Working Group V Report, developing programs that increase overall energy efficiency may actually encourage an increase in the total amount of natural gas utilized, as natural gas is the cleaner alternative in terms of its carbon impact than many of the competing fuel sources. Therefore, overall statewide reduction targets, used in developing statewide electric efficiency programs is not a good way to measure achieved gas efficiencies.

Some difficulties in measuring usage per customer involve utilization of variables that may change over time. For instance, as mentioned in the Working Group V Report, a variety of alternative uses for natural gas may come to the forefront in the future, such as automobiles predominately powered by natural gas. It is important in establishing any measurement paradigm that like-use customers be categorized in such a way to facilitate meaningful comparisons over time and within like categories.

Question 6:

**Is exemption of interruptible and large customers reasonable, assuming that additional usage reductions and funding contribution by those customers may be foregone?**

The CPB agrees with Working Group V's recommendation that interruptible customers not be included in natural gas efficiency programs but that the Commission examine the issue on a rate case-by-rate case basis to fully address the potential ramifications associated with the loss of interruptible revenues. The CPB recognizes the potential for efficiencies to be realized within the interruptible customer class. However, we are unsure of the impact of lost interruptible sales on firm customer bill reductions often associated with these revenues. It is CPB's understanding that many rate plans currently in operation have imputation levels associated with these interruptible revenues, which contribute to the benefit of all customers. These imputation levels are based on the differences in margins between natural gas and other competing fuels. To place a surcharge on interruptible customers for purposes of financing efficiency programs would alter the margin and may reduce the recovery of interruptible revenues for customers. However, because of the potential of efficiency gains from interruptible customers, the CPB, as mentioned above, recommends that the Commission allow for this issue to be considered under the auspices of each utilities' next gas rate case.

Question 7 (in part):

**Should an exclusion of large customers distinguish between high-load factor industrial customers and lower-load factor commercial heating customers?**

Yes, an exclusion of large customers should distinguish between high-load factor industrial customers and lower-load factor commercial heating customers. Lower-load factor, non-interruptible commercial heating customers should be given priority for inclusion in any gas efficiency program because their inclusion would allow for the greatest reduction to peak load periods. Lower-load factor customers tend to have the majority of their usage occur during high peak periods, when capacity can be scarce. Reducing their usage would contribute greatly to reducing peak capacity needs throughout the State. Inclusion of high-

load factor customers in efficiency programs may have adverse affects during non-peak periods such as summer, when high load usage helps maintain system balance. As with interruptible customers, we suggest that the inclusion of higher load customers should be done on a case-by-case basis to avoid any potential adverse consequences.

Question 8:

**Working Group V identified as a starting point for program development the diversity of the natural gas market in different regions in New York State, including geographical and customer mix differences. How, if at all, should this diversity be reflected in the development of a statewide gas efficiency program?**

The Working Group Report points out the significant difference between upstate and downstate in terms of natural gas usage. The report shows that the percentage of housing units that use natural gas as their primary heating source is significantly greater upstate than downstate, there are greater numbers of rental units downstate than upstate, and a greater proportion of individuals reside in multi-family buildings in downstate metro areas as compared to upstate metro areas. Other disparities between the downstate and upstate regions, such as median household income, total bills paid for gas, percentage of households with heat included in the rent are also identified in the report. As suggested above, the CPB strongly supports reflecting this diversity between upstate and downstate regions, which can also exist within the same utility service territory, when developing a statewide natural gas efficiency program for New York State.

These diversities can be addressed in a statewide gas efficiency program through the careful targeting of individual programs most suited to achieve the maximum savings potential from region to region while also maintaining an equitable spread and balance within the same service territory. For example, in the upstate region, where the proportion of low-income owner occupied housing units is twice that in downstate service territories, the building envelope program design might focus on homes owned by low-income families. Rebates may be a

more significant program component in a downstate service territory with a higher proportion of renters.

Question 10

**Is the split incentive problem of landlords and tenants an issue that needs to be addressed in creating gas efficiency programs? If so, how?**

The CPB agrees that to maximize the effectiveness of gas efficiency programs, the split incentive problem of landlords and tenants should be addressed. Nonetheless, some programs can begin immediately while final design parameters are explored. The "split incentive" problem occurs when the tenants pay the gas bill, while the landlords finance the building's heating/cooling infrastructure (i.e., furnace or boiler) that delivers the energy. This creates a disincentive for landlords to invest in measures that would improve the efficiency of the heating/cooling infrastructure. In light of the large proportion of commercial, industrial and residential rental units in the New York City and downstate region, resolving the split incentive barrier to greater investment in energy efficiency is critical to the design of an effective program.

One solution to successfully address this problem is the use of "On-Bill Financing" to allow for the direct financing of efficiency equipment for residential tenants. Working Group VI has submitted a report to the Commission on this financing mechanism. The CPB will shortly provide comments on this subject.

Another approach may be using so-called "green leases." The idea of a green lease is that landlords/owner/developers are encouraged to invest in more energy efficient equipment, thus reducing costs that tenants may incur, allowing the owner to reduce rents, or advertise their property as a green building, thus creating a more attractive alternative in the marketplace. Thus, energy reduction/usage could serve as a byproduct of good business practice on behalf of developers and landlords whose units would be much more affordable and attractive to the ever increasing number of individuals who are looking for green alternatives to reduce their carbon footprint.

The split incentive phenomenon can also occur within the context of the developer/tenant relationship. Considerations such as whether building design meets certain recognized efficiencies or standards such as Leader in Energy and Environmental Design ("LEED") could be incorporated into building agreements. The initial costs of constructing a green building may be higher than today's typical building but the operation of such a building would be lower. Therefore, a lease agreement could take into account this reality in order to share some of the efficiencies and again be more attractive to the general marketplace. In addition, localities may offer property tax and other incentives for construction of green buildings.

## CONCLUSION

For the reasons explained herein, the Commission should direct expeditious implementation of natural gas energy efficiency programs that integrate whole building, electric and gas, approaches.

Respectfully submitted,

Mindy A. Bockstein
Chairperson and Executive Director

Tariq N. Niazi
Acting Director of Utility Intervention

John M. Walters
Utility Intervenor Attorney

Saul A. Rigberg
Intervenor Attorney

Gregg C. Collar
Utilities Analyst

Dated: January 30, 2009
Albany, New York