

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the
Commission Regarding an Energy
Efficiency Portfolio Standard

Case 07-M-0548

COMMENTS OF THE
NEW YORK STATE CONSUMER PROTECTION BOARD

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Chairperson and Executive Director

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Albany, New York

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On January 11, 2008, several organizations jointly filed a proposal to address the future role of utilities and the New York State Energy Research and Development Authority (“NYSERDA”) in delivering energy efficiency services, as well as other related issues, to help meet the State’s energy efficiency objectives (“January 2008 Proposal”).¹ In general, the Proposal would assign utilities lead responsibility for delivering energy efficiency services to consumers, and would limit NYSERDA’s role to “statewide upstream market transformation initiatives.” The Administrative Law Judges (“ALJs”) in this proceeding invited parties to submit comments on whether the January 2008 Proposal should be accepted at this time as well as on the substantive merits of the Proposal.²

The Consumer Protection Board (“CPB”) submits these comments in response to that ruling. We commend the parties supporting the January 2008 Proposal for their efforts to establish a consensus resolution of the complex

¹ The parties supporting the proposal include: Natural Resources Defense Council, Pace Energy Project, City of New York, Association for Energy Affordability, Inc., Consolidated Edison Company of New York, Inc., KeySpan Energy Delivery New York and KeySpan Energy Delivery Long Island, National Fuel Gas Distribution Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation, and New York Power Authority (NYPA).

² Case 07-M-0548, Ruling Establishing Comment Schedule, January 15, 2008.

issues of governance and administration that are now under consideration by the ALJs and the Commission. However, as we explain below, the January 2008 Proposal should be considered as part of the on-going review of those issues. Neither the Judges nor the Commission should take action now that would prejudice the results of that investigation. Additionally, the CPB also identifies several concerns with the Proposal requiring further review.

The January 2008 Proposal Should Be Accepted for Consideration, But Not Adopted at this Time

The CPB has been an active party in this proceeding, including participating in Working Group 1 in which governance and administrative issues involving those addressed in the January 2008 Proposal were discussed in detail. Six different models to resolve these issues were presented as part of that working group. The January 2008 Proposal serves to reduce the number of models under consideration to four.

We acknowledge the efforts of the parties supporting the January 2008 Proposal to eliminate differences among the sponsoring parties, recognize the need for increased coordination between NYSERDA and the utilities, and assist the Commission in moving toward a resolution of the contested issues. The Proposal should be considered by the Judges and Commission as part of on-going deliberations in this proceeding, and evaluated using the analytical tools and selection criteria that were agreed upon by all parties participating in Working Group 1.

Alternatively, the Judges could ask the sponsors of each of the four models under consideration, to respond to the strengths and weaknesses of each model as determined by the consensus evaluation criteria. Model sponsors could clarify features of their models that may have been misunderstood and respond to criticisms identified by the evaluators. This process may further narrow or eliminate differences among the four remaining models. At a minimum, it would lead to a more complete and accurate record for the Judges and the Commission.

The January 2008 Proposal Does Not Address Several Important Issues

The CPB has several concerns about the Proposal that should be considered by the Commission. First, it is not accompanied by any analytical data or information regarding its cost, despite the fact that cost is the first criteria for evaluating administrative structures developed by Working Group 1. Thus, there is no information to indicate that program delivery by utilities to end-users would achieve the State's energy efficiency goals in the most cost effective manner.

There are several reasons to believe that utility-administered programs may be more expensive than under a centrally-administered model. Individual utility programs would forego the economies of scale associated with a statewide program and are likely to require that utilities be provided financial incentives. Additionally, it is particularly important that a decision to adopt the Proposal be accompanied by supporting data, since the Proposal would reverse current State

policy under which energy efficiency programs are delivered to customers primarily on a statewide basis by a third-party central administrator rather than public utilities in their own individual service territories.³ As a result, approval of the Proposal would limit the value of the enormous expertise and experience that NYSERDA has developed in the last decade, as evidenced by the numerous awards and national recognition many of its programs have earned.

Lastly, it will take time before utilities can provide energy efficiency services on a large scale, whereas it may be relatively easy for NYSERDA to scale up existing programs. The National Association of Energy Service Companies (“NAESCO”) reported in Working Group 1, that experience in other states indicates that it may take two years or more for utilities to build their energy efficiency staff and develop and implement programs.⁴ Sole reliance on utilities to deliver energy efficiency programs to consumers may result in the loss of approximately one-quarter of the time available between now and 2015 to achieve the State’s energy efficiency targets.

These and other concerns applicable to the January 2008 Proposal, as well as the other three proposals, including those identified in Working Group 1, should be assessed together as soon as practical.

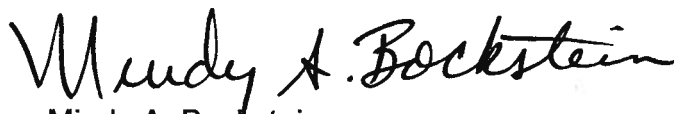
³ Opinion No. 98-3, Case 94-E-0952 – In the Matter of Competitive Opportunities Regarding Electric Service, at 9.

⁴ NAESCO Suggestions for Program Governance to Working Group 1, dated October 10, 2007.

CONCLUSION

For the reasons identified herein, the CPB recommends that that Commission review in a comprehensive fashion, but not approve at this time, the January 2008 Proposal regarding administrative responsibilities and related issues for achieving the State's energy efficiency goals.

Respectfully submitted,



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