



1790 Broadway, Suite 800, New York, NY 10019  
Tel: 212-977-5597 | Fax: 212-977-6202 | www.hra-inc.com

April 8, 2005

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

Dear Ms. Brillling:

We appreciate the opportunity to respond with additional comments in *Case 05-M-0090 – In the Matter of the System Benefits Charge III* with respect to the impact of pending New York State legislation on the Systems Benefit Charge (SBC) program.

Hamilton, Rabinovitz & Alschuler, Inc., in conjunction with the Community Environmental Center and the Association for Energy Affordability, implements the Assisted Multifamily Program (AMP) on behalf of the New York State Energy and Research Development Authority (NYSERDA). AMP seeks to alleviate energy burdens for low-income residents and help keep affordable housing financially viable by reducing operating costs. When the properties currently in the program are fully renovated, we estimate that \$300 million in renovations will have taken place across 100,000 units, participating households and properties will save \$70-\$80 million on energy bills, and about 2,500 construction jobs will have been created. At a time when affordable housing faces pressure from rising costs and federal budgetary constraints, these savings not only provide an important source of relief, but also encourage owners to adopt long-term energy conservation strategies.

The Public Service Commission is faced with a daunting challenge. The recent budget passed by the New York State Legislature (Senate 3669; Assembly 6843) creates a significant barrier that could impair NYSEDA's ability to effectively serve its mission. A very significant portion of NYSEDA's charge is to effectively advance a *capital program*, i.e. sustained, mission-complementary investment in depreciable assets. Much of this investment requires planning (including securing of financial resources), design, and construction over a multi-year period by a variety of public and private actors working collaboratively. AMP is typical: affordable housing renovation and construction is *always* a multi-year process of needs assessment, financial analysis, feasibility analysis, design, and construction.

The management of a successful public capital program is contingent upon an agency's ability to secure funds across a multiple year time horizon. Most agencies whose mission includes advancement of a capital program secure funds via access to the public debt markets, i.e. through bonding. In contrast, the PSC has, through the use of the SBC, successfully served that function, guaranteeing a dedicated long-term source of funding.

Without this security, the effectiveness of the SBC would be severely undermined, and NYSERDA would experience greater difficulty encumbering funds for multi-year capital projects. Although there certainly are capital programs that do not have access to secure funds over a multi-year time horizon, these tend to be smaller and/or to experience the problems we have outlined above.

The effectiveness of a capital program is greatly jeopardized when it is exposed to the unpredictability of annual budgeting.

Therefore, it is imperative that the Public Service Commission seek to maintain a multi-year capital planning process for SBC funds serving capital needs. As the intentions of this budget amendment are unclear, and the challenge faced is daunting, we recommend that the PSC immediately undertake the following:

Proceed on the current SBC review and renewal schedule. A gap in program funding will severely damage the programs' market standing and the PSC's ability to advance its important mission.

Clarify the Legislature's intentions in passing the budget amendment.

Consult with various stakeholders to consider how SBC programs may seek to maintain multi-year appropriations, and if not feasible, how SBC programs may adapt to an annual budget cycle.

- Assess alternative strategies to address the challenges of annual SBC appropriations. These might include commitment of SBC III funds before State fiscal year 2006-2007, and exploration of the PSC's and/or NYSERDA's legal authority to issue long-term debt. Assess the potential impacts of such actions.

It is our hope that the move towards annual legislative SBC appropriations may be undone. Nonetheless, it is critical that the PSC undertake immediate action to minimize the risks that such an amendment pose to NYSERDA's valuable energy efficiency programs. The SBC is an investment by the people of New York to increase the energy efficiency of our state and mitigate energy use's impacts on our environment; it is critical that this investment be structured to deliver the greatest benefit possible back to the people of New York.

Sincerely,

Candace Damon  
Partner  
Hamilton, Rabinovitz &  
Alschuler, Inc.

Richard Cherry  
President and CEO  
Community Environmental  
Center

David Hepinstall  
Executive Director  
Association for Energy  
Affordability