

**STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE**

Case 05-M-0090 -- In the Matter of the System Benefits Charge III.
Case 03-E-0188 -- Proceeding on Motion of the Commission Regarding
A Retail Renewable Portfolio Standard.

**ADDITIONAL COMMENTS OF
ORANGE AND ROCKLAND UTILITIES, INC.**

In two separate Notices Seeking Additional Comments, issued April 1, 2005, in the above-referenced proceedings (“April 1 Notices”), the New York State Public Service Commission (“PSC”) noted that the New York State Legislature had recently passed a budget amendment (“Budget Amendment”)¹, which may affect the System Benefits Charge (“SBC”) program, as well as the Retail Renewable Portfolio Standard (“RPS”) program. Accordingly, the April 1 Notices requested that parties comment on the impact of the proposed budget amendment language on (1) the continuation and scope of the SBC program and (2) the implementation and administration of the RPS program. Orange and Rockland Utilities, Inc. (“O&R” or the “Company”) has previously submitted comments in both of the above-referenced proceedings. The Company is concerned about the Budget Amendment’s potential impact on the future of both the SBC and RPS programs. As a result, O&R offers the following comments.

The Budget Amendment appears to refer the determination of future funding respecting either the SBC or RPS programs or both programs to administration through

¹ The budget language states:

“2. Commencing with the 2006-2007 state fiscal year, and each fiscal year thereafter, the governor shall, in his or her executive budget, as submitted pursuant to article VII of the state constitution, provide appropriations for currently non-appropriated monies received by the New York state energy research and development authority, under the direct oversight of the department of public service, related to assessments, collected for the purpose of public policy energy programs.” (emphasis supplied in April 1 Notices).

the State budget process. The existing method of funding is through agreement between the utilities and the New York State Energy Research and Development Authority (“NYSERDA”). The Company is uncertain of the relation between the presently existing funding framework under the existing contracts and the framework envisioned by the new legislation.

The Company currently has contracts with NYSERDA for the SBC and RPS remittance of both the RPS and SBC funding. Under these contracts,² the funding is to be used as prescribed by the contracts, and the Company is uncertain if the intent of the legislation is in line with the contractual intent. The Company would review implementation of the legislation with reference to the contracts it has entered into and with reference to the principle that the contracts are intended to benefit the Company’s customers.

Dated: April 8, 2005
New York, New York

Respectfully submitted,

/s/ Mary L. Krayeske

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² The RPS contract provides: "NYSERDA shall use the RPS funds remitted by Utility only in NYSERDA’s role as procurement administrator of the RPS program and for the purposes approved by the PSC." The SBC II contract (which expires on June 30, 2006) provides: “NYSERDA shall use the SBC funds remitted by [the utility] only for the purposes of the public benefit programs funded by the SBC and in accordance with the Program Plan for such programs, as approved by the PSC in the SBC Plan Order, the provisions of the MOU and PSC directions.”