

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Case 05-M-0090 – Proceeding on Motion of the Commission Regarding the Systems Benefits Charge III

**COMMENTS OF THE
UNITED STATES COMBINED HEAT AND POWER ASSOCIATION**

Pursuant to the Commission’s Notice Soliciting Comments, issued April 1, 2005, the United States Combined Heat and Power Association (“USCHPA”) is pleased to submit its comments on the potential impact of the proposed budget language amendment passed on March 30, 2005, by the New York State legislature. Specifically, the amendment provides that the Governor would be required to propose appropriations for currently non-appropriated funds collected under the System Benefits Charge on utility rates in New York.

The USCHPA is a private, non-profit industry association based in Washington, D.C., organized in 1999 to promote the benefits of combined heat and power (“CHP”) and policies recognizing those benefits and encouraging the implementation of high-efficiency, low-emission CHP in applications in industrial, commercial, and even residential settings.

The USCHPA believes that the proposed amendment represents bad policy and should be dropped or repealed as necessary. The current process for directing the distribution of SBC monies should be continued. USCHPA recently commented on the extension of the SBC, offering its opinion that the program is currently highly effective, well administered, and achieving significant benefits for the people of New York.

USCHPA is therefore very concerned at an effort that appears likely to politicize a currently apolitical program.

Among its many favorable attributes, energy efficiency has managed to remain a genuinely non-partisan issue, even here in Washington, D.C., where almost all issues exhibit a partisan divide over appropriate policy. To the contrary, energy efficiency in general, and CHP in particular, has continued to draw support from across the political spectrum. Noted as a positive technology worthy of support fourteen separate times in President Bush's Energy Policy Project Report, CHP has also been cited affirmatively by such environmental groups as the Natural Resources Defense Council, and by pro-consumer such groups as the Consumer Energy Council of America.

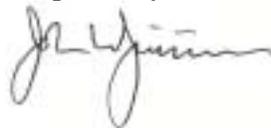
USCHPA is concerned that adopting the proposed amendment would inevitably lead to political manipulation of the SBC funds for partisan purposes, with legislators vying to win local projects not on the basis of technical merit but on the basis of political impact, and with changes in political status of districts reflected in relative participation in participation in cutting-edge energy efficiency and renewable energy opportunities. USCHPA has not heard, despite many of its members being involved as successful and unsuccessful applicants for support under the program, a single allegation that an award was steered to or away from an applicant or a locality on political grounds. If USCHPA ever does hear such an allegation, it will already be too late to maintain the currently high credibility of the program for technical objectivity and exclusive focus on tangible returns to the people of New York. USCHPA is concerned that such allegations are inevitable if the moneys are appropriated and targeted through a political process rather than a neutral

and objective process driven by the technical and economic merits of the proposed projects.

A second major concern is the need for such a program to be administered with a long-term perspective, while legislative decision-making is inherently and inevitably driven by short-term factors. A project investment that requires years to come to fruition – as many do – could not be undertaken if the subsequent years’ funding required separate annual appropriations.

USCHPA is aware that this proposed amendment also presents many other difficult issues, such as the legality of converting the system benefits charge into an effective tax to be collected by utility companies, or the problems of appropriating uncertain amounts of money prior to their collection in utility rates and not part of the general fund. USCHPA has not, however, attempted to grapple with legal or constitutional issues, but instead simply wishes to assert that from an energy efficiency and technological innovation perspective – the perspective the SBC exists to serve – SBC funds allocation was not broken and did not require such a proposal to fix it. Instead, such a fix appears likely to create serious problems hindering perhaps the most successful state program of its type in the United States.

Respectfully submitted,



John W. Jimison
Executive Director and General Counsel
U.S. Combined Heat and Power Association
218 D Street, S.E.
Washington, D.C. 20003
Phone 202-544-4565 Fax 202-544-0043
uschpa-hq@admgt.com

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