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March 4, 2005

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

Re: CASE 05-M-0090 - In the Matter of the System Benefits Charge III

Dear Secretary Brillling,

Please find enclosed an original and 15 copies of the Attorney General's comments in the above referenced proceeding.

Respectfully submitted,

THOMAS CONGDON
Policy Analyst

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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In the Matter of the System Benefits Charge III :

Case No. 05-M-0090

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**COMMENTS OF
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March 4, 2005

I. Introduction

In 1996, the New York State Public Service Commission (“PSC” or “Commission”) created the System Benefits Charge (“SBC”). The charge was intended to fund energy efficiency and renewable energy projects that were not expected to be funded in the private marketplace during the transition to full electric retail competition.¹ The SBC was extended in 2001 for five years and is currently funded at a level of \$150 million per year. The Staff of the Department of Public Service (“DPS”) is reviewing the SBC program to determine whether and how it should be extended beyond its current expiration date of June 30, 2006. In order to facilitate this review, on January 28, 2005 the Commission invited public comment on a series of questions regarding the SBC program. The Office of the Attorney General (“OAG”) submits the following comments pursuant to this invitation.

II. Summary of Comments

The OAG supports a robust SBC and recommends that it be extended through 2016 and increased to \$250 million per year in order to keep up with the level of expenditure on energy efficiency seen in the past. At a time when there are almost monthly new studies demonstrating the tremendous public health harms -- and related health care cost effects -- of air pollution from power plants, the need to improve energy efficiency and increase the supply of clean power is even more clear and urgent. Dirty air causes thousands of premature deaths and tens of thousands of asthma attacks and other health problems each year. The magnitude of this public health problem, and its related effect on health care costs, businesses, competitiveness, and jobs

¹ *Opinion and Order Regarding Competitive Opportunities for Electric Service*, Case No. 94-E-0952, *et. al.*, May 20, 1996 at 61.

demands aggressive State action. New York State should lead the nation in energy efficiency and renewable energy investments.

As discussed in more detail below:

- The SBC program has met the goals and objectives established by the PSC.
- While the SBC program has been very successful, there remains a significant gap in the achievable potential for meeting our energy needs through efficiency and renewable energy and the actual energy savings that current efficiency and renewable programs are expected to achieve. The SBC should be expanded to \$250 million per year until 2016 to reduce this gap.
- The OAG recommends the following programmatic changes in the SBC program: (i) increase funding for low-income programs, (ii) increase funding for distributed generation and combined heat and power installations, and (iii) eliminate direct funding for the installation of generation technologies that are eligible to participate in the New York Renewable Portfolio Standard.
- In addition to the electric SBC, the Commission should create a natural gas efficiency SBC and consider a funding level of \$70 - \$140 million per year for five to seven years, a similar level to other successful programs in the United States. A natural gas SBC can reduce price volatility in the natural gas market and achieve further energy savings, emission reductions, and public health benefits in New York State.

III. Interest of the Attorney General

The OAG enforces federal and state environmental, consumer and antitrust laws throughout New York State and is a party in numerous PSC regulatory proceedings advocating

on behalf of residential and small business consumers and the State of New York. The OAG works to protect and improve New York State's environment, protect public health, prevent ecological degradation, enhance sound economic development, and ensure adequate and reliable energy infrastructure.

The OAG has taken a number of actions to reduce air pollution from the electric generation sector, and to protect and improve the nation's clean air laws. Since 1999, the OAG, working with the U.S. Environmental Protection Agency ("EPA"), the New York Department of Environmental Conservation, and other states, has brought enforcement actions against dozens of coal-fired power plants in New York, Indiana, Kentucky, Ohio, Virginia and West Virginia that violated the New Source Review provisions of the Clean Air Act.² The OAG has sued the federal government over its attempts to weaken the Clean Air Act,³ is involved in a legal action against the EPA over its failure to regulate emissions of carbon dioxide ("CO₂") from the nation's vehicles and power plants,⁴ and has sued the five largest contributors to global warming in the United States seeking reductions in CO₂ emissions.⁵

Existing electricity generation in the United States produces: one-quarter of the nitrogen oxide emissions that cause urban smog, acid rain and fine particle pollution;⁶ two-thirds of the sulfur dioxide emissions that cause acid rain and fine particle pollution;⁷ one-third of the

² See *United States, et al. v. Cinergy Corp., et al.* No. IP99-C-1693-M/S (S.D. Ind.), *United States, et al. v. American Elec. Power Service Corp., et al.* No. C2-99-1182 (S.D. Ohio), *United States, et al. v. Ohio Edison, et al.* No. 2:99-CV-1181 (S.D. Ohio), *State of New York, et al. v. Niagara Mohawk Power Corp.* No. 1:02-CV-00024.

³ See *State of New York, et al. v. EPA* No. 02-1387 (D.C. Cir.).

⁴ See *Commonwealth of Massachusetts v. EPA* No. 03-1361 (D.C. Cir.); *Our Children's Earth Foundation, et al. v. EPA* No. C03-0770CW (N.D. Cal). See also Letter from Eliot Spitzer, et al. to EPA Administrator Christine Todd Whitman providing notice of intent to sue, February 20, 2003. Available at http://www.oag.state.ny.us/press/2003/feb/whitman_letter.pdf.

⁵ See *Connecticut v. AEP et al.* No. 04-CV-05669 (LAP) (DFE) (S.D.N.Y.).

⁶ U.S. General Accounting Office, *Acid Rain: Emissions Trends and Effects in the Eastern United States*, 2000 at 9.

⁷ *Ibid* at 8.

mercury emissions that poison fish and wildlife and endanger public health;⁸ and 40 percent of energy-related greenhouse gas emissions that are responsible for warming the planet with potentially devastating climatic shifts, increased severe storms, coastal flooding from higher sea levels, and other negative impacts.⁹ These health and environmental consequences of electricity generation are taking a toll on New York and its residents. Pollution from traditional sources of electricity has caused premature deaths, contributed to high asthma rates and other respiratory illness,¹⁰ and has made 20 percent of Adirondack lakes too acidic to support aquatic life.¹¹

Investing in energy efficiency and renewable energy resources in New York State will reduce CO₂ emissions and have a global impact. New York makes up 0.3 percent of the world's population, but emits 0.9 percent of the world's carbon emissions.¹²

New York has a strong interest in reducing the impact of global warming. Some effects that have been or are likely soon to be experienced in New York State include storm surges and coastal flooding, beach erosion, loss of coastal wetland habitat, change in tree species (largely eliminating the classic fall foliage), altered supply of drinking water, increased air pollution as higher temperatures increase the concentration of ground-level ozone, and increased temperature of surface waters.

⁸ 65 Federal Register 79825 (December 20, 2000).

⁹ Energy Information Administration, Office of Integrated Analysis and Forecasting, *Emissions of Greenhouse Gases in the United States 2001*, December 2000 at 24.

¹⁰ Abt Associates, *Death, Disease and Dirty Power: Mortality and Health Damage Due to Air Pollution from Power Plants*, 2000.

¹¹ National Acid Precipitation and Assessment Program, *NAPAP Biennial Report to Congress: An Integrated Assessment*, 1998.

¹² New York Greenhouse Gas Task Force Report, *Recommendations to Governor Pataki for Reducing New York State Greenhouse Gas Emissions*, April 2003 at 9.

IV. Background of the SBC

In 1996, the PSC established the SBC in Opinion No. 96-12 to mitigate the potential adverse environmental impact of restructuring the electric industry.¹³ The Commission determined that the SBC would provide a stable funding source for public policy initiatives that were deemed unlikely to be privately funded in the energy marketplace during the transition to full electric retail competition.¹⁴

In Opinion No. 98-3, the PSC determined that: (1) SBC funding levels would be established for the investor-owned utilities in their respective rate or restructuring cases; (2) the SBC-funded programs would commence July 1, 1998 and expire after three years; and (3) the New York Research and Development Authority (“NYSERDA”) would administer the SBC programs.¹⁵

A March 1998 Memorandum of Understanding finalized SBC operating arrangements among the Commission, the DPS, and NYSERDA. The Memorandum directed NYSERDA to draft an SBC Plan and to establish an outside advisory group to function as an independent program evaluator.

In July 1998, the PSC approved the SBC Plan.¹⁶ The Commission determined that, for the three-year program, a total of \$234.3 million in SBC funds would be collected by New York's six investor-owned electric utilities and that programs would be conducted in three main areas: (1) energy efficiency; (2) research and development (“R&D”); and (3) low-income

¹³ *Opinion and Order Regarding Competitive Opportunities for Electric Service*, Case No. 94-E-0952, et. al., May 20, 1996 at 84-5.

¹⁴ *Ibid* at 61.

¹⁵ *Opinion and Order Concerning System Benefit Charge Issues*, Case No. 94-E-0952, January 30, 1998, at 5-6, 7, 11.

¹⁶ *Order Approving System Benefits Charge Plan With Modifications and Denying Petitions for Rehearing*, Case No. 94-E-0952, July 2, 1998.

affordability.¹⁷ Of the \$234.3 million total, nearly \$63 million was set aside to fund prior efficiency program commitments of electric utilities and environmental disclosure (public education regarding impacts of electricity generators).¹⁸ The remaining \$172 million was allocated to fund statewide programs administered by NYSERDA (\$130.17 million for energy efficiency activities; \$27.60 million for public benefit R&D projects; and \$13.90 million for initiatives targeting low-income utility customers).¹⁹

In January 2001, the PSC extended the SBC for five years through June 30, 2006 and increased the SBC to \$150 million per year.²⁰ In its Order, the PSC noted that a five-year program would provide greater funding certainty.²¹ The PSC increased the funding level of the SBC because it found that it was necessary to continue ongoing SBC programs and to expand the program to include a peak demand reduction program. The PSC also recognized that SBC programs would provide price benefits “not only to customers taking advantage of the programs, but to all customers in the energy marketplace” due to the wholesale price suppression effect of reducing demand.²²

In June 2002, NYSERDA filed its operating plan for the program period 2001-2006, specifying \$436.3 million for energy efficiency, \$16.5 million for consumer education and outreach activities, \$113.7 million for low-income energy affordability, and \$200 million for

¹⁷ *Ibid* at 3.

¹⁸ *Ibid* at 18.

¹⁹ *Ibid* at 9.

²⁰ *Order Continuing and Expanding the System Benefits Charge for Public Benefit Programs*, Case No. 94-E-0952, January 26, 2001.

²¹ *Ibid* at 7.

²² *Ibid* at 12-13.

research and development projects, including distributed generation and Combined Heat and Power (“CHP” or “co-generation”) installations.²³

V. Benefits of the Current SBC Program

The SBC program carried out by NYSERDA is designed to:

- Reduce environmental impacts of energy production and use;
- Improve energy efficiency and access to energy options for under-served customers;
- Improve system-wide reliability through end-user efficiency actions; and
- Facilitate competition to benefit end-users.²⁴

According to the most recent evaluation and status report on the SBC program (the “Evaluation Report”), NYSERDA has met all of these objectives, and the SBC has resulted in the additional benefits of creating jobs, leveraging significant private sector investment in the State, and reducing energy costs.²⁵ Some of the findings of the evaluation report are presented below. The findings are based on an evaluation of SBC expenditures of approximately \$350 million from 1998 through 2003. SBC expenditures through 2006 (full implementation) will total \$984.3 million.

- The SBC program has reduced peak demand by up to 880 megawatts (MW) through efficiency measures and callable reductions, improving system reliability and reducing the risk of wholesale electricity price spikes.
- The SBC expenditure of approximately \$350 million has spurred an additional

²³ NYSERDA, *System Benefits Charge Revised Operating Plan for New York Energy Smart Programs (2001-2006)*, June 12, 2002.

²⁴ *Ibid* at iii.

²⁵ NYSERDA, *New York Energy Smart Program Evaluation and Status Report, Final Report, Volume 1*, May 2004.

investment of approximately \$850 million in public and private sector investment in the State. When all of the current SBC funds are put to use, the SBC program is expected to have resulted in a total of \$2.8 billion of new investment in critical energy infrastructure in the State.

- The SBC program has created an average of 3,500 jobs annually between 1998 and 2003. It is expected to create an average of 5,500 jobs annually over the period 1998-2006.
- The SBC program has reduced annual electricity use in the State by about 1,000 GWh as of year-end 2003. The savings is expected to reach 2,700 GWh annually when fully implemented (about 1.8 percent of statewide electricity consumption in 2002).
- The annual energy bill savings for participating customers is estimated to be \$140 million. These savings are assumed to continue for an average of ten years, saving these customers a total of \$1.4 billion. Participating customers' bill savings is expected to increase to \$380 million annually when fully implemented. All energy customers benefit from energy demand reduction through lower energy costs. Total annual energy cost savings for participating and non-participating customers is estimated to be \$196 million, increasing to \$420 million to \$435 million when fully implemented.
- The SBC program has contributed to improving energy diversity in the State by reducing electricity use and peak demand, increasing the share of renewable-energy-based electricity generation and reducing the State's reliance on fuel oil and natural gas.
- The SBC program has assisted in the development of more than 40 MW of wind generation.
- By reducing demand for electricity from fossil fuel power plants, the SBC has reduced nitrogen oxides ("NOX") emissions by 950 tons (1.4 percent of the State's NOX budget

for electricity generation sources), sulfur dioxide (“SO₂”) emissions by 1,700 tons (1.3 percent of the State’s SO₂ cap), and CO₂ emissions by 750,000 tons (1.1 percent reduction below 1990 level CO₂ emissions from electricity generation). When fully implemented, the SBC program is expected to reduce NOX emissions by an amount equivalent to 3.7 percent of the statewide NOX budget for electricity generation, reduce SO₂ emissions by an amount equivalent to 3.5 percent of the statewide SO₂ cap for electricity generation, and reduce CO₂ emissions by an amount equivalent to 2.9 percent of 1990 level CO₂ emissions from electricity generation.²⁶

VI. SBC Duration and Funding Level

Despite tremendous potential for further energy savings in New York State, it is unlikely that significant additional energy savings will be realized without the continued and full implementation of the SBC. A recent study of the potential in New York State for efficiency improvements and renewable energy development (the “Potential Study”) shows that enormous energy savings could still be achieved after full implementation of the current SBC program. According to the Potential Study, the potential savings from cost-effective energy efficiency improvements could be as high as 48,584 GWh per year by 2007.²⁷ However when fully implemented, the SBC program will only achieve 2,700 GWh of energy savings annually (5.6 percent of the potential). By 2022, these potential savings could be as high as 60,501 GWh per

²⁶ *Ibid* at ES-7-ES-8.

²⁷ NYSERDA, *Energy Efficiency and Renewable Energy Resource Development Potential in New York State*, Volume 1: Summary Report, August 2003. Table 1.6.

year, but the State's currently planned initiatives are expected to realize 8,812 GWh, less than 15 percent of the achievable potential.²⁸

If the potential for energy savings is realized, the State will enjoy enormous benefits in reduced emissions from fossil fuel generators, reduced energy costs, reduced stress on the transmission system and increased economic development. But there are significant market barriers to investments in energy efficiency and renewable energy. As the Potential Study points out, efficiency improvements (e.g., technology upgrades, changes in practices) may be cost-effective to New York's economy as a whole, but may not be economic from the individual consumer's perspective.²⁹ Efficient appliances and other efficiency measures often require a higher initial capital outlay and most consumers look only to the capital cost rather than to the lifetime cost when making purchasing decisions. There is also a lack of information available to most consumers so that, even when interested in looking at the long-term costs, they do not have adequate information to do such an analysis. The Potential Study found that market barriers lead most consumers to pursue only those efficiency opportunities that pay for themselves in two years or less, even if the efficiency measure could provide benefits of ten years or more.³⁰ It is precisely because the PSC recognized these market barriers during its work to restructure the electric industry that it called for the establishment of the SBC. Many of NYSERDA's SBC programs are geared toward transforming markets and addressing the economic barriers standing in the way of energy efficiency.

To achieve the full achievable potential for energy savings through efficiency and

²⁸ NYSERDA, *Energy Efficiency and Renewable Energy Resource Development Potential in New York State*, Volume 1: Summary Report, August 2003. Table 1.10, p. 3-17.

²⁹ *Ibid* at 2-9.

³⁰ *Ibid* at 2-9.

renewable energy development, the OAG supports expanding the SBC program term through 2016. When it expanded the SBC in 2001, the PSC recognized that a longer program term would provide greater market certainty, but noted that its relatively modest five-year timeframe balanced the need for more market certainty with the need to continually evaluate whether the marketplace could deliver energy savings better than the SBC.³¹ The Potential Study has shown that market barriers continue to prevent large-scale private investments in efficiency and new generation technologies. By lengthening the program term through 2016, the SBC program will provide more funding certainty, and continue its success in achieving the State's energy policy goals. In addition, by expanding the SBC program through 2016, it can facilitate the implementation of the newly adopted Renewable Portfolio Standard ("RPS") (see comments below), which will be in effect through at least 2013. The RPS is expected to result in the procurement of 25 percent of the State's electricity needs from renewable energy by 2013. The cost of procuring this renewable energy will be borne by New York's ratepayers. An expanded SBC program will further reduce demand for electricity, and will therefore reduce the cost of meeting the State's RPS goals.

As discussed in more detail below, the annual SBC funding level should be increased to expand existing, successful programs to reduce demand, encourage the development of distributed generation and combined heat and power technologies, and increase spending on low-income programs. Funding for efficiency has increased in recent years, but has not yet reached the levels mandated by the PSC in the early 1990s prior to deregulation. Between 1990 and 1996, prior to the SBC program, investor-owned utilities invested \$1.229 billion in energy

³¹ *Order Continuing and Expanding the System Benefits Charge for Public Benefit Programs*, Case No. 94-E-0952, January 26, 2001 at 7.

efficiency that resulted in over 1,377 MW in capacity savings.³² In 1992, investor-owned utility investments in demand side management in New York State reached a high of \$286 million.³³ Accounting for current public benefits spending by the Long Island Power Authority (approximately \$34 million per year),³⁴ the SBC should be increased to \$250 million per year to be on par with the funding level in 1992. This funding level would also bring New York State in line with energy efficiency investments being made in other states in the Northeast. A comparison of energy efficiency spending by state shows that New York is behind four out of five of its neighboring states in spending per capita and as a percentage of electricity sales.³⁵

VII. Programmatic changes

Overall, NYSERDA's mixture of programs and funding allocations to date have been successful in meeting the goals of the SBC. The Evaluation Report concluded that NYSERDA is administering a balanced portfolio of programs funded by the SBC that are tailored to meet the needs of the State's numerous energy using markets and sectors.³⁶ That said, given changes in State energy policy (most notably, the adoption of the Renewable Portfolio Standard last year), and lessons learned from the ongoing SBC programs, the OAG recommends the following programmatic changes in the SBC program: (i) increase funding for low-income programs, (ii) increase funding for distributed generation and combined heat and power installations, and (iii)

³² 1998 Draft New York State Energy Plan and Draft Environmental Impact Statement at 176.

³³ *Ibid.*

³⁴ Long Island Power Authority. *Clean Energy Initiative: Annual Report 2003*.

³⁵ American Council for an Energy Efficient Economy, *State Scorecard on Utility and Public Benefits Energy Efficiency Programs*, December 2002. Connecticut (\$19.48 per capita, 2.3% of revenues), Massachusetts (\$15.60 per capita, 2% of revenues), New Jersey (\$13.20 per capita, 1.7% of revenues), and Vermont (\$10.30 per capita, 1.1% of revenues) were spending more than New York (\$8.57 per capita, 1% of revenues) at the time of the study.

³⁶ NYSERDA, *New York Energy Smart Program Evaluation and Status Report, Final Report, Volume 1*, May 2004. at ES-v - ES-vi.

eliminate direct funding for the installation of generation technologies that are eligible to participate in the New York Renewable Portfolio Standard.

A. Low Income Programs

More than seven million New Yorkers have incomes below 80 percent of the state median income and qualify for some form of assistance.³⁷ Many low-income New Yorkers live in rental housing where they are responsible for the energy bills, but not responsible for the quality of housing or the types of appliances in their homes. Low-income housing in New York State is often poorly ventilated, poorly insulated, and equipped with older, inefficient appliances. The result is that people who can least afford to pay high energy bills are often burdened with unnecessarily high energy costs. Indeed, some New York households spend up to 29 percent of their total income on energy, compared to 3 percent for higher-income households.³⁸

The existing low-income affordability program has been successful in reducing the energy cost burden on low-income families, while also providing the system-wide benefits of significant demand reductions. But the current funding level cannot reach enough households. As of June 2002, NYSERDA had allocated \$21.7 million for low-income affordability programs.³⁹ These expenditures served over 20,000 low-income households, saved the average household \$299 in energy costs per year, and reduced overall demand statewide by over 7 MW.⁴⁰ Current SBC funding levels for low-income affordability programs represent less than one-half

³⁷ NYSERDA, *New York Energy Smart Low Income Affordability Program, Report to the Department of Public Services*, September 2002 at S-2.

³⁸ *Ibid* at S-2.

³⁹ *Ibid* at S-5.

⁴⁰ *Ibid* at S-4.

of one percent of total energy expenditures by low-income households.⁴¹ By increasing overall funding for the SBC, the low-income affordability programs can be expanded without hurting other existing SBC programs.

The OAG urges the PSC and NYSERDA to work closely with the Public Utility Law Project to design programs that will most efficiently reach the greatest number of low-income utility consumers.

B. Distributed Generation and Combined Heat and Power

Distributed Generation and Combined Heat and Power technologies can dramatically improve system reliability and help meet the State's electricity needs while minimizing adverse environmental impacts typically associated with energy generation. CHP systems can, and usually do, achieve their overall efficiencies of close to double the current statewide average. Thus, the public health, acid rain, and global warming benefits of increased CHP are enormous.

The SBC has been successful in encouraging the deployment of these technologies throughout the State, but there remains significant potential to bring more DG and CHP online. In a CHP potential study commissioned by NYSERDA, 8,500 MW of CHP potential was identified in New York State, primarily at office buildings, schools, lodging, hospitals, and apartment buildings.⁴² The SBC is expected to result in the installation of approximately 100 MW of new on-site CHP capacity by 2007. Many of these projects are located in load pocket areas of the State, and are proving to be an effective tool to address reliability problems in these

⁴¹ *Ibid* at S-3.

⁴² NYSERDA, *Combined Heat and Power Market Potential for New York State*, 2002 at ES-3.

areas. NYSERDA's DG/CHP programs have been oversubscribed, demonstrating significant interest in deploying these technologies.

C. Changes in Renewable Energy Allocations

On September 24, 2004, the PSC adopted the RPS, requiring that 25 percent of the State's electricity demand come from renewable resources.⁴³ The RPS is expected to create a significant new demand for the installation of renewable generation sources. Therefore, it would be unwise to continue direct SBC funding support for the installation of RPS-eligible technologies. However, there may be other SBC-appropriate projects that support the development of the renewable energy market, facilitate the implementation of the RPS, and minimize the cost of the RPS. For example, NYSERDA could continue projects that facilitate the siting and permitting of renewable energy projects (such as performing reliability and environmental impact studies), evaluate new technologies (R&D) and train and certify renewable energy contractors. Furthermore, it may also be appropriate to use SBC funds to expand transmission capacity to areas of the State that have good renewable resource potential, but lack adequate ties to the grid.

VIII. Natural Gas Efficiency SBC

Just as the SBC has reduced wholesale electricity prices by reducing demand for electricity, a natural gas SBC could be an effective tool to reduce natural gas prices, and reduce natural gas price volatility. Demand for natural gas is expected to rise over the next several

⁴³ *Order Regarding Retail Renewable Portfolio Standard*, Case 03-E-0188, September 24, 2004.

years as more natural gas power plants come online.⁴⁴ Since there are natural gas supply limitations in New York State, this could result in greater price volatility in the future. An SBC program targeting end-users (not electricity generators) of natural gas, could reduce demand and help to dampen this volatility. Furthermore, given that most natural gas is imported into New York State, natural gas efficiency improvements will reduce the flow of New York dollars out of State.

NYSERDA already has experience deploying natural gas efficiency programs. Indeed, NYSERDA was recognized by the American Council for an Energy-Efficient Economy for having one of the best natural gas efficiency programs in the country.⁴⁵ The current natural gas programs administered by NYSERDA are limited, however, because the SBC is collected by electric ratepayers and the PSC has justifiably limited the amount NYSERDA can spend on gas programs.

A natural gas SBC could be linked to other programs to be even more effective. Methane from landfills, for example, is a significant gas resource that is now largely vented into the atmosphere, a practice that harms the economy and the environment. The Department of Environmental Conservation should consider amending its landfill closure regulations to require methane capture. The captured methane could then be used to generate electricity. While such projects should not need SBC assistance, it may be appropriate for the SBC to assist the development of such a program.

Several states, including New Jersey, Massachusetts, Vermont, Connecticut and New

⁴⁴ *New York State Energy Plan*, June 2002.

⁴⁵ American Council for an Energy-Efficient Economy, *Responding to the Natural Gas Crisis: America's Best Natural Gas Energy efficiency Programs*, December 2003 at 15-16.

Hampshire, have public benefit programs for natural gas efficiency.⁴⁶ The spending level among these states ranges between 1 and 2 percent of their natural gas revenues. The PSC should consider creating a natural gas SBC in New York on a similar scale. In New York State, 1 to 2 percent of natural gas revenues would create a fund of \$70 - \$140 million per year.⁴⁷

The SBC on natural gas consumption should be collected from non-generator natural gas customers, so that electric customers without direct natural gas consumption do not pay the gas SBC indirectly through charges collected from electric generators fueled by gas.

IX. Conclusion

The SBC program has been extraordinarily successful in meeting the State's energy policy goals. The OAG recommends that the SBC program continue through 2016 at an increased funding level of \$250 million per year. With increased funding and a longer program term that will provide greater market certainty, the OAG believes the SBC will continue to provide tremendous benefit to the State's economy and environment. An expanded SBC program should provide greater funding to all existing programs, with a greater emphasis on low income affordability and distributed generation installations. Additionally, an SBC program for natural gas is needed to stem the increase in demand and prices for natural gas. The PSC should consider a funding level that is similar to natural gas efficiency programs in other states in the Northeast.

⁴⁶ *Ibid* at 6-7.

⁴⁷ According to NYSERDA's *Patterns and Trends: New York State Energy Profiles: 1988-2002*, December 2003, 2002 natural gas expenditures totaled \$6.8 billion.

Dated: New York, New York

March 4, 2005

Respectfully submitted,

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