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March 3, 2005

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

Subject: Case 05-M-0090: In the Matter of the System Benefits Charge III

Dear Ms. Brillling:

Thank you for inviting comments regarding renewal of the Systems Benefits Charge (SBC), Case 05-M-0090. Aspen Systems Corporation (Aspen) operates energy efficiency programs throughout the country and has had direct experience on the “front lines” in New York implementing projects for NYSERDA since 1999. Aspen has fully staffed offices in Manhattan and Cazenovia, and satellite offices with staff located throughout the state. We employ 17 full-time staff in New York who are dedicated to support the NYSERDA SBC programs. We are uniquely qualified to offer perspective on some of the questions posed by the Public Service Commission (PSC) staff.

In the attached document we have offered comments on questions 1, 2, 3, 4, 6, 7, 8, 12, and 13 as posed by the PSC.

Thank you for giving us a forum to share our experience and opinions with the PSC. We look forward to turning your goals into reality.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Hammer".

Lisa Hammer
Director, Consumer Programs
Energy and Environmental Services

Responses to PUC Questions
Case 05-M-0090: In the Matter of the System Benefit Charge III
Aspen Systems Corporation
March 3, 2005

1. To what extent have the goals and objectives established by the Commission been achieved?

The SBC funding mechanism was established to support activities that may not be “adequately addressed by competitive markets,” including “energy efficiency program and services approved by the Commission.”¹ Within the energy efficiency category, market transformation programs were created “to transform markets for energy efficiency products by overcoming market barriers such as access to information, risk aversion, lack of product availability, split incentives, organizational practices, and manufacturing production priorities.”²

Aspen understands that the Commission receives annual reports from NYSERDA on progress made in meeting program goals, most recently in May 2004.³ We have taken the opportunity in this forum to highlight selected measures of progress and to note where opportunity remains.

Overall, NYSERDA’s initiatives to increase the residential market share of appliance, lighting and other products that are ENERGY STAR qualified are succeeding. These initiatives are steadily increasing consumers’ preference for ENERGY STAR and other efficient electricity use products. Exhibit 1 shows that over the 5-year period from 1999 to 2004, the market share for ENERGY STAR appliances has at least doubled for each of the four major appliances promoted by the Energy SmartSM Program. More importantly, perhaps, is that much of this progress has been made without cash incentives to consumers.

We are particularly proud of the clothes washer trend. Each ENERGY STAR washer saves more than 50% in energy and water and about \$100 in resources per year for each customer, compared to a non-ENERGY STAR model. Additionally, due to NYSERDA’s Keep Cool Bounty Program and following the Stay Cool marketing efforts, room air conditioner (RAC) sales increased significantly over the past 5 years, and show market share above national levels. Similar trends can be shown for compact fluorescent lighting (CFL) and other goods sold through home improvement centers and retailers.

Such market share trends are a result of the NYSERDA team’s long-term efforts in cultivating relationships with retailers and their suppliers. And the end has not been reached. NYSERDA’s efforts to transform the market for all residential appliance products covered by its program is

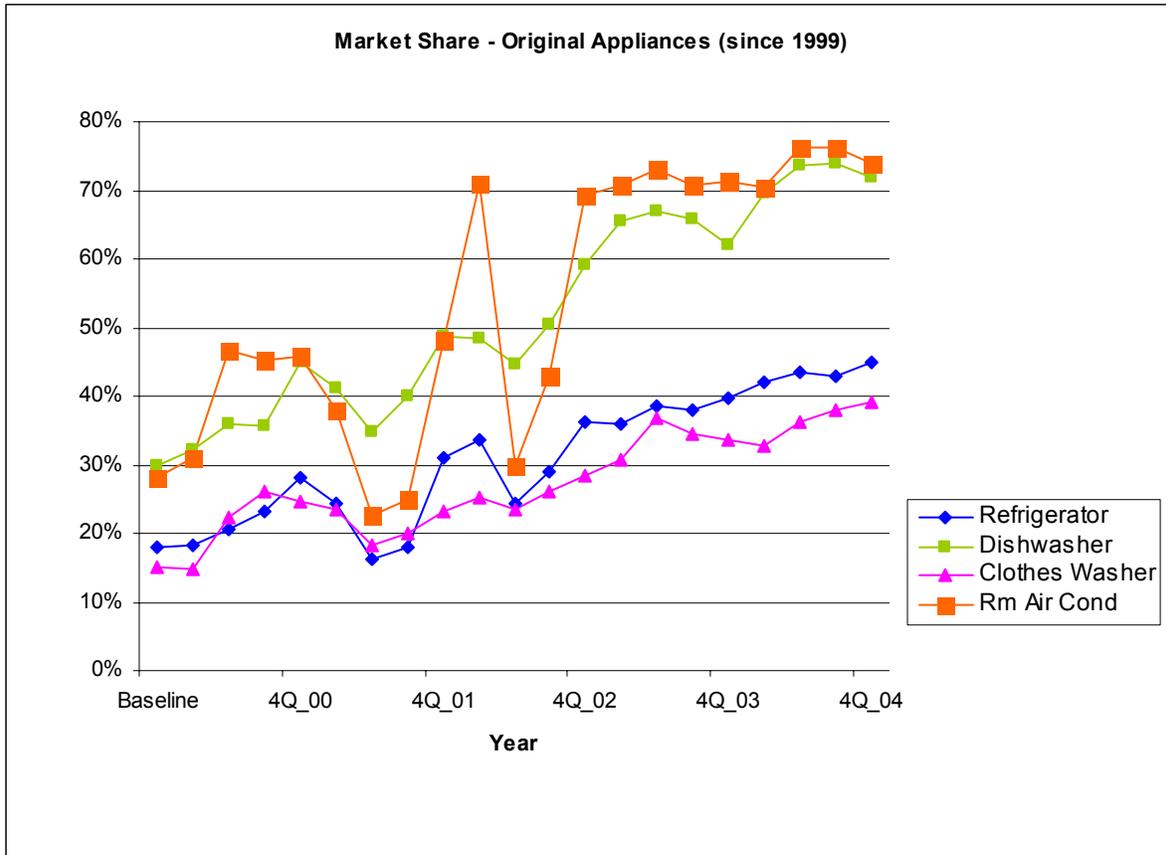
¹ State of New York Public Service Commission Opinion No. 98-3, Case 94-E-0952 In the Matter of Competitive Opportunities Regarding Electric Service., Issued and Effective January 30, 1998.

² State of New York Public Service Commission Case 94-E-0952 Order Approving System Benefits Charge Plan with Modifications and Denying Petitions for Rehearing, Issued and Effective July 2, 1998.

³ New York Energy SmartSM Program Evaluation and Progress Report, Report to the System Benefits Charge Advisory Group, Final Report - May 2004.

paying off, as shown in Exhibit 1. Each of the product categories shows an upward trend in consumer demand for ENERGY STAR models.

Exhibit 1: Market Share for ENERGY STAR Major Appliances in New York



Note: RAC sales are seasonal and traditionally decrease during the winter months.

NYSERDA’s initiatives also cover efficient residential lighting. Progress in this category shows that, in spite of considerable consumer “foot-dragging”, the initiatives are slowly increasing the demand for these products.

In the appliance and lighting markets, NYSERDA is making outstanding progress in increasing consumer demand for these important products. The fact that the market share curves are still showing an upward trend indicates that additional progress is possible; therefore, these initiatives should be continued aggressively.

There is a large portion of the residential market that remains virtually untouched so far by NYSERDA’s Energy \$martSM programs. Replacement products typically sold through contractors – central air conditioners and heat pumps, furnaces, and gas and electric water heaters – all have low energy efficiency market share in New York. We are in the nascent stages of working with suppliers to promote ENERGY STAR and other high efficiency products more aggressively. Even more than with products sold through retailers, we expect this effort to require a long-term investment in building trusting relationships with allies. We believe there is

no reason the PSC should not expect to see similar increases in market share – 200% or 300% or more – in this sector as well, given continued support. We are excited about this new outreach because the amount of savings potential associated with each sales transaction is high.

In summary, in the areas where the NYSERDA Energy \$martSM program has concentrated, the program is making progress toward the goals set by the PSC. Substantial savings potential remains in other product areas where we are just starting to build the relationships necessary to transform the market.

2. Should the SBC program continue beyond its current expiration date of June 30, 2006? If so, for what duration should the SBC be extended and at what funding level?

The SBC should be continued beyond June 30, 2006. The market transformation program is making excellent progress toward the PSC's goals in the retailer market and holds considerable promise of continued high impact in additional markets in the future.

The program should be extended for at least five years. Market transformation is about building relationships and changing the culture of business. This cannot be done in one- or even three-year increments. The contracting community in particular is notoriously cautious regarding change and this is NYSERDA's core new target market starting in 2005. When we first met with some contractors last year, they declined to participate because they had a bad experience with certain high-efficiency products *back in the 1970s*.

It is easy to make a short-term change in the market by throwing cash at customers and suppliers. The PSC has stated a desire for market transformation. NYSERDA has made a commitment to sustainable market transformation. This is transformation based on modifying consumer's tastes and preferences, thereby driving demand for efficient products, and simultaneously working with retailers, distributors and manufacturers to ensure product availability, display, and sales force training to meet the created demand. These changes have staying power in the market and do not rely on continuation of incentives. However, these changes take more time. With contractors, this means training individuals all over the state over the course of several years, staying in contact with them, reassuring them that they are not "out on an island", and training new employees. Only through sustained development of relationships – and demonstrating success – can NYSERDA anticipate lasting change.

On a practical level, the product development and delivery cycle is long. Retailers order their products from manufacturers as much as ten months in advance, for example. NYSERDA needs the stability of a multi-year extension to convince sellers that NYSERDA's marketing infrastructure will be ready a year later when new high efficiency products roll in to stores.

3. Have conditions changed since the establishment of the SBC that would necessitate a change in the overall goals and objectives of the SBC? If so, what changes are recommended?

The market is of course always changing, but three far-reaching changes since 1998 make the objectives of the SBC even more pressing than they were then.

Since 1998, the consensus on global warming has strengthened. There is more certainty that fossil fuel combustion is causing global warming and that global warming left unchecked will have a catastrophic effect on the planet. Sea levels are rising. Long Beach, New York sits at an elevation of 10 feet above sea level. Such facts will not change. The Kyoto protocol has gone into effect (in most countries other than the United States). All countries are taking action to reduce global warming, and forward-thinking states such as California and New York are taking the lead in this country. New York needs to stay in the vanguard.

Second, the war in Iraq has resulted in wide swings in the price of oil and brought the attention of consumers throughout the nation to the security of our nation's energy supply. Consumer awareness of energy efficiency as one action they can take to help cushion themselves against these uncertainties is increasing nationally.⁴ Moreover, in states actively promoting ENERGY STAR products, awareness of this national energy-efficiency brand stands at an all-time high of 74%, a full 10% above the national average. This suggests that consumers are recognizing the efforts by those states to promote energy efficiency through ENERGY STAR products. Other research indicates that states' efforts to promote ENERGY STAR consumer products pay off in increased ENERGY STAR market share.

Inevitably, these new conditions will increase the appeal of energy efficient products for consumers and result in greater recognition of the governments that are promoting energy efficiency.

Third, since 1998, more and more states are promoting efficiency programs, including appliance efficiency standards in excess of federal minimums. This is having the interesting affect that now some manufacturers are asking the federal government to unify standards – even if this means using the higher efficiency levels. The U.S. Department of Energy (DOE) has recently come under fire for “foot-dragging” regarding the establishment of cost-effective product efficiency standards.⁵ This state-level support is pushing the federal government in directions that are beneficial for U.S. consumers, but which the market, left alone, is not strong enough to achieve.

New Yorkers command as much purchasing power as people in any state and it is important that New York lead by example. In response to this recent change in market conditions, the New York PSC may consider increasing appliance efficiency standards and building code efficiency standards to the scope of the SBC efforts. This will ensure that New Yorkers are making cost-effective purchases.

⁴ Consortium for Energy Efficiency, “National Awareness of ENERGY STAR for 2004”, p. 4, prepared for NYSERDA.

⁵ “Energy Department Slow to Mandate Efficiency” by Justin Blum, The Washington Post, January 23, 2005.

Additional recommendations resulting from the changes discussed above are described in our response to questions 7 and 13.

4. If assuming continuation of the SBC, how should programs be prioritized to meet those goals and objectives?

Existing programs that are showing progress toward the SBC's goals and have the potential for continued growth in achievement demonstrate the value of SBC's investment to date. This effort should be continued as a matter of high priority to avoid wasting or in any way compromising the momentum built. In fact, more needs to be accomplished right away to ensure that the work done to date continues and creates the positive impact experienced to date.

Prioritization of spending should be made based on multiple factors. Cost-effectiveness is certainly a prominent factor to consider, but should not be the only one. The PSC already has recognized two other important factors that we believe should continue to be considered as goals. They include:

(1) The PSC desires that those who contribute SBC funds should have the opportunity to enjoy the benefits in proportion to their contributions. "Ratepayer funds should benefit the ratepayers who provide them."⁶

(2) The PSC SBC objectives include funding "public policy initiatives that are not expected to be adequately addressed by competitive markets."⁷

We support these two positions and recommend that the PSC continue to consider them when setting goals.

6. In what ways might the current SBC fund collection and allocation process be improved?

As stated in our comments to question 4, when allocating funds we believe consideration should be given to the sources of SBC funds and whether or not the competitive markets already adequately provide service. Based on these priorities, the PSC may conclude that a higher proportion of funds should be invested in residential programs. Furthermore, the competitive market attends to the commercial/industrial market more than the residential market because residential opportunities are smaller on a per transaction basis and are perceived to be less cost effective for private industry to address. As a result the residential market has a greater need for public service programs.

⁶ NY PSC Case 94-E 0952, p.7.

⁷ State of New York Public Service Commission Opinion No. 96-12 Cases 94-E 0952 et. al., In the Matter of Competitive Opportunities Regarding Electric Service, Issued May 20, 1996, p. 61.

7. What specific program(s) should be eliminated, expanded or created?

To date, the New York SBC market transformation program has focused on a subset of the energy efficiency market: new homes and electricity-using appliances typically bought from retailers in existing homes. The market transformation program should be expanded to more fully encompass gas and electric heating, ventilation and air conditioning (HVAC) systems. In particular, we are enthusiastic about the prospect of expanding the market for contractor-replaced or installed high efficiency products and services.

Aspen also believes the PSC should consider developing an appliance minimum efficiency standards program. NYSERDA could develop a program designed specifically to educate consumers in the use of home electronics and personal electronic power supplies.

In addition, including the Long Island Power Authority (LIPA) and the municipalities of the New York Power Authority (NYPA) in NYSERDA's SBC program would provide statewide coverage for all programs currently underway. In the retail sector, NYSERDA already has the infrastructure in place to continue and grow, and including the LIPA and NYPA territories would enhance the programs and allow for true statewide efforts. This would simplify program marketing and expand the target audience at little extra cost.

8. How can future SBC funded programs be more responsive to the needs of New York's energy consumers?

NYSERDA has made great strides towards the addressing needs of consumers through the retail market. Aspen has worked with over 600 retailers across the state who regularly stock and promote ENERGY STAR appliances. These retail "partners" have committed to promote and educate consumers regarding ENERGY STAR products and their benefits.

The following are some statements from retail partners regarding the impact of the program and how it has benefited not only their businesses, but their customers:

- Noel's Air Conditioning Corp., Middle Village, NY: *"... this program has helped tremendously by educating consumers about energy efficient products, and why they should look for the ENERGY STAR logo. By doing this they have helped in the sales of these products and most important the environment. We all have to do our part as sales people and consumers."*
- Little Falls Appliance Center, Little Falls, NY: *"Speaking as a small business owner in the State of New York for 20 years I have seen first hand the positive impact that the ENERGY STAR program has had in my store. More and more of my customers are asking about ENERGY STAR appliances that I sell. Everyone wants to be involved in saving energy. The money spent in advertising has well educated the public. It has empowered the consumer to make knowledgeable cost saving decisions when buying ENERGY STAR household appliances..."*

- Barcomb’s Furniture Center, Inc, Chatueaugay, NY.: *“We are very grateful to have the support of the ENERGY STAR program. We find much interest by our customers....”*
- Dave Hayes Appliance Center, Inc., Yorkville, NY: *“...it has helped show customers how they can save money with major appliances that are ENERGY STAR. With this program we have helped many people to save energy.”*
- Lunmas’s Furniture and Appliance Center, Inc., Adams, NY: *“...We have found the educational awareness feature to be most valuable to us as appliance retailers and our customers. Through the program you have raised consumer awareness specifically the importance of the need to conserve energy resources by the purchase of the ENERGY STAR appliances...”*
- Rauber’s, Inc., Wayland, NY: *“...The benefits of this combined effort have in turn helped us to better educate our customers therefore reflecting the amount of ENERGY STAR appliances we are selling...I am advertising ENERGY STAR models at least twenty six weeks out of the year and radio advertising eight to ten months a year...It has been a great asset to our business.”*
- Livingston County Appliance, Geneseo, NY: *“..The ENERGY STAR program and your store representatives have helped both our salespeople and consumers become more aware of the ENERGY STAR appliances that are available. We are able to advise our customers as to the differences in buying ENERGY STAR versus non-ENERGY STAR appliances...The ENERGY STAR program has helped us educate both our salespeople and our customers.”*
- Ruffalo Appliance, Newark, NY: *“...I certainly hope that this program will continue and that we will be able to enjoy these benefits... for saving on our natural resources when consumers purchase ENERGY STAR products...”*
- Besko’s Appliance, Poughkeepsie, NY: *“We have changed the manufacturers we deal with based on the ENERGY STAR label....The incentive programs were very helpful but even more than that has been the knowledge about the products being an environmentally favorable option as well as the other benefits and the potential money savings that I have learned and been able to pass on to my customers.”*

12. Should SBC funds be extended to programs that encompass research and development into retail and/or wholesale electric market competitiveness issues, or transmission and/or distribution of the State’s energy resources?

Research and development (R&D) is a critical part of the portfolio of solutions. We believe the SBC funding should include additional funding for transmission and distribution (T&D) research. This was previously viewed as the responsibility of the utilities; however, the utilities are not actively engaging in these efforts. NYSERDA should be afforded some funding for R&D T&D efforts.

13. Should the scope of the SBC program be expanded to include programs for natural gas customers? If so: (a) What kinds of programs would benefit New York's gas consumers? (b) Which classes of customers would be served most effectively by a natural gas SBC program? (c) How should a natural gas SBC program be funded and what annual level of funding might be considered reasonable? How might a natural gas SBC affect current electric SBC funding levels? (d) What should be the initial duration of a natural gas SBC, and should that term coincide with the extension of an electric SBC, if the electric SBC is extended? (e) How might a natural gas SBC be administered and evaluated and how should it differ from the administration of the electric SBC?

Competitive markets are not delivering a high proportion of high-efficiency natural gas boilers, furnaces, and water heaters to New York residents.⁸ There should be an SBC charge for natural gas for the exact same reason there is such a charge for electricity. Philosophically they are identical. The charge should apply to and services should be provided to residential and commercial accounts. Large industrial accounts may be excluded, as such customers are more aware of and more likely to invest in gas efficiency independently and able to tailor their investments optimally to each customer.

We recommend that the charge be set to be the same as it is for electricity, on an equal percentage of average consumer price. For example if the electric SBC charge averages \$0.0012 /kWh⁹ and the average kWh is sold for \$0.15¹⁰, then the SBC charge is nominally 0.8% of the price. If the average therm sold for \$0.80, the gas SBC then should be \$0.0064 per therm, nominally 0.8% of the price. Nine billion therms of gas were sold to New York end users in 2001.¹¹ Excluding 10 percent of the sales as being for large industrial users, a \$.0064/therm charge would raise \$57 million per year for SBC investment.

The SBC charge would be separate and in addition to the existing electric SBC charge. Gas funds would be invested in promoting high efficiency gas products and services.

We stress that while the funding sources differ, the PSC should mandate that NY market transformation programs funded by the SBC promote gas and electric efficiency together. For example, NYSERDA is starting a program with HVAC contractors to encourage North American Technical Excellence (NATE) training. It would be beneficial to bring these same partners a marketing plan to help them sell ENERGY STAR central air conditioners, gas furnaces, and boilers all at the same time.

For the all the same reasons enumerated in the related electric SBC duration discussion, Aspen recommends that the gas SBC charge be approved for no less than five years.

⁸ U.S. DOE LBL, Technical support document: Residential furnace and boiler energy efficiency standard, p. 10-4.

⁹ Orange & Rockland Utilities tariff statement SBC-4 to P.S.C. No. 2 Electricity, December 15, 2003.

¹⁰ NY DPS "Monthly Residential Bills Including State GRT Major Electric Companies", July 2002, for customers using 500 kWh per month.

¹¹ National Association of Regulatory Utility Commissioners' Energy Regulatory Partnership Program New York State Public Service Commission and the Croatian Energy Regulatory Council, Thomas G. Dvorsky, Director, Office of Gas and Water, New York Public Service Commission.