

March 4, 2005

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

Re: Case 05-M-0090 – In the Matter of the Systems Benefit Charge III

Sear Secretary Brillling:

The Hugh L. Carey Battery Park City Authority (the “Authority” or “BPCA”) is pleased to submit these comments to your request concerning Case 05-M-0090. The Authority strongly supports the continuation of the Systems Benefit Charge (“SBC”) and NYSERDA’s role as Program Administrator. Our comments will address our experience with the SBC and NYSERDA’s oversight of the program, rather than addressing specific questions.

The Hugh L. Carey Battery Park City Authority is a New York State public benefit corporation whose mission is to plan, create, coordinate and maintain a balanced community of commercial, residential, retail and parks space within its designated 92 acre site on the lower west side of Manhattan,

The Authority achieves its mission to develop its 92 acre project area (the “project area” or “Battery Park City”) by granting long-term leases for individual sites to developers. Buildings constructed as a result of this process are designed based on various documents created by the Authority as part of the urban experiment that began with the Authority’s creation in 1968 by the New York State Legislature, as well as New York City zoning regulations.

These documents include the 1979 Master Plan (which governs all development in the project area), neighborhood and site Design Guidelines covering exterior aesthetics and massing issues, and the Authority’s Environmental Guidelines, released in 2000. The purpose of these guidelines is to establish a process for the creation of environmentally responsible residential and commercial buildings that are appreciably ahead of current standards and practices for development. All development in Battery Park City begun after 2000 is subject to these guidelines. Our Environmental Guidelines have been updated three times since 2000, in response to evolving technology, philosophy and feasibility in green development.

The Authority hoped that by mandating “green” building practices for development on its highly desirable Manhattan riverfront property, the development, construction and real estate industries would see that sustainable design and construction is not only technically feasible, but economically viable as well. We believed that there would be measurable market demand for the resulting spaces, and that the buildings created by this effort would

become the model for healthier, ecologically responsible environments where occupants collectively enjoy the benefits of a "green" community.

SBC funds, administered by NYSERDA, helped enable the research and introduction of the first Environmental Guidelines in 2000.

We believe our goal is being accomplished. The design and environmental communities have embraced the Authority's direction since the release of the first Environmental Guidelines in 2000. BPCA has been recognized no fewer than seven times by organizations such as Global Green, the American Planning Association, the Environmental Action Coalition and Professional Women in Construction for leadership in energy management and sustainable design leadership.

The overarching goal in creating the Systems Benefit Charge, as cited in the Commission's Order Number 96-12 is to "provide a funding source during the transition, and possibly over the long term, for public policy initiatives that are not expected to be adequately addressed by competitive markets."¹ Put another way, the goal of the SBC can be viewed as a mechanism to move the competitive marketplace in the direction envisioned by public policy, or to create market incentives to meet the goals of public policy. Our experience indicates that this is a realistic and achievable expectation.

SBC funds administered by NYSERDA have provided a total of \$ 1,273,236 to this effort in Battery Park City, through direct funding and by enabling access United States Department of Energy funding that would otherwise not be available. This funding has helped develop the Environmental Guidelines, been used in existing buildings for energy efficiency improvement projects, and in the design and fit out of new buildings. A total of \$ 1,443,236 has been proposed for projects currently under development.

The first building to be built in compliance with the Environmental Guidelines is the award winning Solaire, build in Battery Park City's North Neighborhood. NYSERDA administered SBC funds were used to help minimize higher first costs, making it possible to implement available technologies that would otherwise have been too expensive to warrant their inclusion. Use of the SBC funds for photovoltaics for example, also required the installation of a weather station to analyze conditions and their effect on the efficiency of the system. This ability to measure of the success of the use of renewables in the project has also provided data to evaluate the feasibility of wind turbines in neighboring projects, enabling the Authority to push for more aggressive adoption of new technologies.

Other sustainable residential buildings under construction in Battery Park City include Tribeca Green, a project of the Related Companies; Site 18B being developed by the Albanese Development Corporation; and a new condominium building by Millenium Partners on Site 2A in our South Neighborhood. In addition, Site 16/17, to be developed by the Sheldrake Organization is under development, and the Authority will soon designate a residential developer for Site 3 and release an RFP for our final undeveloped site (23/24) later this year. Goldman Sachs has been designated to develop the last remaining commercial property in the project site as its 1.8 million square foot world headquarters. All of these buildings will comply with the Environmental Guidelines. Once these remaining sites are built, Battery Park City will be home to over four million square feet of sustainable construction.

¹ Case 94-E-0952 et al., In the Matter of Competitive Opportunities Regarding Electric Service, Opinion and Order Regarding Competitive Opportunities for Electric Service (issued May 20, 1996) (Op. 96-12).

Since the introduction of the Battery Park City Authority Environmental Guidelines and the opening of the Solaire (which received a gold LEED®² rating), five residential projects in New York, Oregon and California have registered with the United States Green Building Council for LEED® certification. In February 2005, the Related Companies will be breaking ground on the first residential highrise in Chicago.

Our experience supports the following observations:

SBC funding allows pilot projects to occur that would otherwise not be considered. While the Renewable Portfolio Standard allows certain funding for BIVPs (Building Integrated Photovoltaics) it cannot encourage the smaller pilot projects that NYSERDA funding can easily work with. And which often tend to be more cutting edge.

NYSERDA has a deep pool of reliable expertise and on-call technical assistance. Their consultants have helped our developers jump in early in the design when there is the best opportunity to integrate sustainable measures.

Developers are willing to go further than they have additional funding. One of our developers is willing to consider adding monitoring of energy efficiency measures because it is something that NYSERDA will fund. This same developer is looking into doing LEED in two other off-site projects because they expect to get shared funding from NYSERDA.

NYSERDA has a much broader perspective than individual utilities.

The Authority strongly supports the continuation of the Systems Benefit Charge. We believe our experience demonstrates the power of these incentives in moving the market, however, there is more to be done. We also strongly recommend that NYSERDA continue its role as Program Administrator. NYSERDA's approach to project management and evaluation ensures a level of excellence and a record of success that would be very difficult to replicate elsewhere.

We appreciate the opportunity to provide these comments.

Sincerely,

Timothy S. Carey
President and CEO

Ann Kutter
Executive Vice President Operations

² The LEED (Leadership in Energy and Environmental Design) Green Building Rating System is a voluntary consensus based national standard for developing high performance sustainable buildings. LEED is a registered trademark of the United States Green Building Council.