From: <anne.vanburen@bcnys.org>

ANNE P. VAN BUREN
Director, Energy and Telecommunications

March 4, 2005

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

Dear Secretary Brilling:

RE: *PSC CASE 05-M-0090 - Notice Soliciting Comments In the Matter of the System Benefits Charge III*

The Business Council of New York State, Inc., the largest statewide employer association, representing more than 3,000 businesses, chambers of commerce and other local and regional business organizations across New York, strongly opposes any increase in the System Benefits Charge (SBC), which is imposed on electric customers to finance various energy-related programs. Indeed, we believe the optimal outcome of the current proceeding would be the complete elimination of the SBC.

In 1998 the SBC was implemented to provide funding for energy efficiency programs - and to spur the development of renewable energy sources.

Since then, however, the Commission has adopted an entirely different approach to the development of renewable energy - the renewable portfolio standard (RPS), a mandatory purchase quota requiring that renewables comprise 25% of electricity sources by 2013.

And on the energy efficiency side, New York is now the second most energy efficient state in the nation, ranking 49th out of 50th in energy consumption per capita, according to the Energy Information Administration. For these reasons, we oppose the construction of broad-based energy surcharges to promote energy efficiency and development of renewable energy supplies - especially since there are other, available sources of financing for energy efficiency programs.

For example, the New York Power Authority (NYPA) currently commits $100 million annually to energy efficiency programs. The Long Island Power Authority (LIPA) is in the middle of a 10-year, $355 million Clean Energy Initiative, which includes numerous energy efficiency, renewable and low-income programs. And, if the Joint Proposal on Con Edison's rate case now before the Commission is approved, Con Edison will be spending at least $120 million annually on energy efficiency programs.
We are very concerned about the impact that power costs are having on Business Council member companies, and the state's economy. Yes, the state, with PSC leadership has addressed some important policy issues, such as GRT repeal. However, for the vast majority of our manufacturing and other energy-intensive members, electric

power costs remain a significant competitiveness issue. Policy initiatives such as the SBC and the RPS add to these anticompetitive cost factors. As reported in the Public Policy Institute's report ***Just the Facts***, (December, 2004, www.ppinys.org) New York currently has the second highest energy prices in the country.

Our high energy prices may be the key reason for our state's energy conservation success, but they are also a significant burden to our state's economic growth. This has been documented by many sources, including our own research, business surveys, and the 2002 State Energy Plan (SEP), which said:

In a national survey of businesses that primarily included manufacturers, 81% of the respondents considered energy cost and availability to be either an important or very important site-selection factor. Given the relative cost of energy in New York, manufacturers in the State regard energy costs as being even more significant than is indicated by the national survey.

As recounted in our Public Policy Institute's recent report, ***Just the Facts*** (citing data from the Energy Information Administration) residential and commercial rates are among the highest in the nation; industrial rates are higher than most states outside the northeast; and for the majority of industrial businesses not benefitting from NYPA programs, they are also paying among the highest industrial rates in the U.S.

New York State, and particularly the upstate region, have lagged far behind the nation's rate of job growth for decades. The existing SBC pushes up energy costs enough to contribute to that problem; making it still higher would only make this situation worse.

ALTERNATIVES

If the State of New York decides that funding energy efficiency and other types of programs is good public policy, then it should encourage these activities by funding them through tax credits instead of imposing them on other customers' electric bills. New York State currently has a limited "green building" tax credit program - we should replace that program with a more broad credit for investment in energy efficient equipment and structures.

And, if the Commission chooses to continue the SBC as a surcharge, we recommend that far from increasing it, the Commission should both lower the overall cost, and reduce the surcharge's scope.
If the Commission insists on retaining the program in some form, we believe it should reduce the cost of the surcharge for <u>all</u> ratepayers. And it should eliminate it entirely for certain sectors of our economy that are particularly vulnerable to high energy prices - specifically, NYPA customers and those receiving flex rates from utilities (unless these companies choose to opt into the program voluntarily).

The SEP also recognized the need for the economic development programs that have been developed in the state to retain and attract businesses. It cites NYPA programs and the Commission's flex rate contracts program. The plan also refers to energy costs as an obstacle to overcome in New York's efforts to retain, attract and expand business. The plan concludes that:

New York's success in working with businesses that could relocate to other states frequently depends on the availability of discounted, low-cost energy and incentives offered through various State and local government and utility-sponsored programs....[E]ffective energy-related economic development programs for businesses will continue to be necessary to help preserve and expand the State's economic base.

The Empire State Development Corporation (ESD) relies on NYPA's low-cost electricity "as one of the state's most valuable assets in promoting business and job growth" (NYPA annual report, 2002). It is obviously inconsistent for one arm of the state government to marshal its resources and arrange for low-cost power to be delivered as an incentive for a needed employer to locate or expand in New York - and then for another branch of the same government to come around from behind and slap the employer with an SBC surcharge.

It is important that the Commission should apply an SBC exemption to all categories of NYPA industrial power, whether the power is sold directly to the industrial customer or as a sale for resale through the local utility, in order to achieve the goals of the various economic development programs.

SUMMARY

In summary, we strongly oppose any increase in the SBC. Indeed we believe the time has come to eliminate the program, and that energy efficiency incentives be offered through tax credits. Alternatively, we recommend a reduction in the charge overall - and we recommend that the SBC ***not*** be imposed on NYPA customers and those receiving flex rates or participating in any of the various economic development power programs created by New York State. Finally, we urge the Commission to outright dismiss any suggestions to broaden the SBC in its applicability.

Respectfully submitted,

Anne Van Buren

Director of Energy and
Telecommunications
The Business Council of New York State

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Anne P. Van Buren
Director of Energy and Telecommunications
The Business Council of New York State, Inc.
152 Washington Avenue
Albany, NY 12210
518/465-7511
www.bcnys.org
anne.vanburen@bcnys.org