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In every fresh crisis - be it California's epic electricity crisis of 2000, the 9/11/01 terrorist assault on the World Trade Center, or the Great Blackout of 2003 - we are reminded of the critical importance of a safe, affordable, homegrown, diverse and resilient power supply. And in each of these crises, we are reminded anew of the power and potential of energy efficiency and renewable energy to address our most basic energy needs and goals.

In New York, we have an impressive legacy of achievement in tapping our energy efficiency and renewable energy resources. In 7 short years, the New York Energy \$mart<sup>SM</sup> Program – New York's \$150 million annual program to support energy efficiency, renewable energy, energy affordability and environmental research and development - has produced savings equivalent to the energy needs of over 225,000 households<sup>2</sup> at the remarkably low program cost to NYSERDA of a little more than a penny a kilowatt/hour.

Still, we know we can and must do more. The 2003 Energy Efficiency and Renewable Energy Potential Study commissioned by NYSERDA is the latest in a long line of reputable studies documenting the surfeit of cost-effective efficiency resources that continue to go unexploited. Indeed, as good as the Energy \$mart<sup>SM</sup> program has been, six out of every seven kilowatt-hours of cost-effective energy efficiency resource is left behind. We also know that New York's per capita investment in energy efficiency is still both lower than the efficiency investment level in many other states, and lower than New York's efficiency investment levels in the early 1990s (even unadjusted for inflation). We will need to redouble our efforts to deploy clean energy alternatives if we are to meet the significant environmental and economic challenges that lie ahead.

Global climate change threatens our coastal areas, our great Adirondack wilderness, and our agricultural preeminence. In New York, we emit more greenhouse gases than all but 19 industrial nations. Through Governor Pataki's leadership in conceiving and organizing the Regional Greenhouse Gas Initiative (RGGI), the Northeast states are beginning to tackle this unprecedented risk. Although the stakeholders to that process continue to deliberate and fashion a multi-state solution, it is certain that sustainable energy alternatives will figure prominently in any policy response given the availability of the resource and the overwhelming evidence pointing to its ability to reduce the cost of meeting GHG targets. (See Recommendations to Governor Pataki for Reducing New York State Greenhouse Gas Emissions, Center for Clean Air Policy, April 2003). If we are to safeguard the climate for future generations, we must make a significant emissions reduction down payment now through serious investment in energy efficiency and renewable energy.

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<sup>2</sup> Based on annual average household consumption of 5879 kWh per year. (NYSERDA, New York State Energy Fast Facts 2002)

In today's global economy, area business faces increased cost pressure from overseas competition. Investments in the greater efficiency and productivity of area firms are one of our most powerful strategies for growing the region's economy and retaining a skilled and well-paid labor force. Far from a radical idea, energy conservation is the very essence of American businesses' continual search for ways to produce more with less. The Energy \$mart<sup>SM</sup> program experience clearly demonstrates that New York industry will avail itself of the necessary technical and financial resources where offered. The program also encourages the development of jobs in New York State that are related to clean energy and energy efficiency.

It is increasingly evident that the clean energy resources encouraged by the SBC must come to play an ever-increasing role in our energy future. CEA submit that the development of new large-scale nuclear- hydro- or coal-fired generation in New York State appears highly unlikely given persistent environmental and economic concerns associated with these resources; indeed, there is a fair likelihood that the relative contribution of these technologies to the statewide mix will diminish over time. Moreover, prudence counsels against too much reliance on natural gas given the ever-present risk of supply disruptions and increasing price volatility. In any event, continued reliance on fossil-fired generation as the primary source of electricity for New York State appears increasingly problematic given the known costs of airborne pollutants and as the scientific community and policy makers converge around the consensus view that climate change is real and must be addressed. Given, then, the dearth of good supply-side alternatives for meeting future energy needs, it will fall to energy efficiency and renewable energy to shoulder a larger burden in meeting New York's future energy needs.

Clean Energy Advocates supports the Commission's efforts to seek input from interested and affected parties, and to consider these views in fashioning a future path for the SBC program. While the success of the program to date should militate against any radical or sweeping change in direction to the basic electric efficiency program, there are certainly opportunities for refinement, enhancement and expansion of the current program. We look forward to working with Commission Staff, NYSERDA, and the other active parties as this process moves forward to craft an expanded and renewed SBC program that will help New Yorkers meet the energy, environmental and consumer challenges ahead.

## II. SUMMARY OF CEA'S POSITION AND AFFIRMATIVE VISION FOR THE FUTURE OF THE SBC PROGRAM.

In addition to answering the questions posed by Commission Staff, CEA has developed its own affirmative vision for the future of the SBC program. The following principles represent CEA's consensus view on the broad program contours of an SBC III in light of current and expected market conditions. These principles are crafted with the clear understanding that the SBC represents an integral, though not exclusive, means of supporting the market delivery of clean energy alternatives. Indeed, the SBC must be structured and implemented to work synergistically with other regulatory and market pathways, including but not limited to:

- distribution utility procurement of energy efficiency and clean distributed generation as part of its *portfolio management* function;
- the newly-instituted *Renewable Portfolio Standard* to promote enhanced resource diversity and the accelerated commercialization and deployment of renewable energy technologies and to provide environmental and public health benefits;
- *tradable allowances allocated* to clean energy technologies as part of the SO<sub>2</sub>, NO<sub>x</sub> and CO<sub>2</sub> emissions trading programs;
- the offering of a wide array of *competitive energy services and products* at retail by energy services companies (ESCO's), green marketers, curtailment service providers (CSP's) and other market participants;
- procurement of energy efficiency and renewable energy generation by state owned and operated facilities pursuant to *Executive Order 111*;
- *building codes and appliance efficiency standards* to establish a floor for the efficiency of commercial products and building practices entering the marketplace; and
- promotion of a *New York state-based clean energy industry* to develop high-tech energy-related jobs for New York's economy.

### A. General Principles

- The overarching objectives of the SBC should be (1) to encourage the acquisition of all energy efficiency resources that are less costly and environmentally disruptive than the conventional supply-side alternatives (generation, transmission and distribution) they displace, and (2) to encourage the development of renewable technologies and

cleaner, more efficient forms of distributed generation. The SBC should continue to be an important component of the State's clean energy resource acquisition and pollution reduction strategies.

- The SBC should be aimed at closing the wide gulf between the economically achievable potential for energy efficiency and that realized through the market.
- The current disparity in per-capita financial support for public benefits initiatives between New York and neighboring states in the region should be eliminated.
- The SBC should place priority on those programs that contribute the most to achievement of statewide targets for the reduction of greenhouse gases responsible for global climate change.
- The SBC should place priority on those programs that result in long-lasting or permanent reductions in the use of energy, over those programs that result in temporary demand reductions including shifting energy consumption from one period to another.
- The SBC should leverage economic development activities, particularly as related to the growth in the state's manufacture and installation of sustainable technologies, and should enhance the global competitiveness of New York's businesses and industries.
- The SBC should promote the affordability of electricity and natural gas and the ability of all citizens to continue to receive these essential services.
- The SBC should complement the Renewable Portfolio Standard (RPS) in supporting the attainment of state renewable energy generation targets in the most cost-effective and expeditious manner, while developing and testing new deployment methods to meet the standard, including pilot performance-based incentives where appropriate. The SBC should not duplicate production-based support of generation sold into the Renewable Portfolio Standard. However, the SBC should fund those activities essential to realization of the state's goal, including basic research and development, the establishment of a renewable attribute tracking system, public outreach and education, general siting assistance and support of the voluntary market for renewable energy products (which has been tasked with at least 15% of the incremental RPS target).

- The SBC should promote the development of smart grid systems that integrate demand response and distributed generation to enhance the efficiency of transmission and distribution networks.
- The SBC should complement and supplement existing and future utility energy efficiency programs and portfolio management activities.
- NYSERDA should continue to make progress towards geographic equity such that program expenditures closely align with ratepayer contributions by service territory.
- The Commission should closely examine existing loopholes that allow certain rate classes to escape responsibility for contributing to programs for which they derive considerable benefits and should encourage full participation in program offerings from all customer classes. NYSERDA should continue to make progress towards ratepayer equity such that program expenditures closely align with customer class contributions to the SBC fund.

#### **B. Performance Goals**

- Energy efficiency programs pursued through the System Benefits Charge should result in energy savings of 16,000 GWh of cumulative annual savings by 2012, or roughly 30% of the estimated achievable and economic potential. This corresponds to the level deemed necessary to meet the 2002 SEP targets for GHG reductions of 5% below 1990 levels by 2010.

#### **C. Funding Level**

- To achieve the above-stated goals and objectives, the System Benefits Charge should be funded at an annual level of \$225 million to maintain and expand the existing SBC for electricity public benefits programs; and at \$50 million annually for a complementary statewide System Benefits Charge program for the promotion of efficient utilization of natural gas at end-use or to displace the use of natural gas at end use with customer sited renewable energy alternatives<sup>3</sup>.

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<sup>3</sup> The SBC funding levels that we recommend are over and above, and should not be reduced by, the additional funding proposed to be provided by Con Edison in its service territory in the pending Joint Proposal in the Con Edison electric rate proceeding, Case 04-E-0572. The Joint Proposal, includes, over a three year period, \$150 million for targeted energy efficiency and distributed generation programs and \$150 million for additional system-wide demand management programs to be implemented by NYSERDA as a supplement to the SBC program.

#### **D. Fund Duration**

- The fund should be set for a minimum of 8-10 years to foster continuity and market certainty.

#### **E. Major Program Elements**

The current program configuration and budget allocation should be preserved with the following exceptions:

- The PSC should institute a separate program for *natural gas efficiency*, administered by NYSERDA and funded through a non-bypassable charge on all therms delivered in New York State. Funding from this program should be available to advance the efficient utilization of natural gas at end use, or displace the use of natural gas at end use with customer sited renewable energy alternatives such as solar thermal applications. The initial funding for this program should be set at \$50 million annually.
- The budget for electricity-side *energy efficiency* should be increased by \$45.0 million annually, to a total of \$124.2 million. This increase should be allocated evenly across customer classes and territories.
- The budget for *low-income affordability* should be increased by \$12.3 million annually to increase the number of low-income tenants and homeowners who can take advantage of energy efficiency as a means of lowering their disproportionate energy burdens.
- The *renewable energy* program should emphasize market support activities essential to the realization of RPS targets. Funding should be earmarked for such activities not directly funded by the RPS and would include: green market development, facilitating siting and permitting of renewable energy projects, basic research, development and demonstration of emerging, customer-sited renewable generation technologies (including but not limited to small wind, photovoltaics, and anaerobic digesters), implementation of a renewable attribute tracking system, public education and outreach, and professional training and certification. The SBC should not duplicate incentives for generation selling into the RPS, but should continue to develop pilot or demonstration projects for new applications, products or installations unlikely to be covered with incentives from the RPS. The combined budgets for wholesale and end use renewable energy market development should be increased by \$4.2 million annually.

In addition, much work is needed among NYSERDA, PSC staff, and renewable energy marketers and stakeholders to create a framework that allows the voluntary market to dovetail with the RPS procurement in a way that promotes a viable voluntary market and eventual equilibration between the RPS and voluntary markets. The goal should be one common vibrant market for renewable energy which can achieve the RPS targets – with the associated environmental and economic development benefits in New York - at a lowest possible cost to New York ratepayers.

- The *Distributed Generation /Combined Heat and Power* (“DG/CHP”) program should include a standard offer program element that is performance-based. This program would pay a fixed per-kWh incentive for output from eligible DG-CHP technologies. NYSERDA should consider establishing certain eligibility requirements for participation in the standard offer program, including but not limited to reasonably achievable efficiency targets and emissions performance. The overall DG-CHP program budget should be increased by \$5.5 million annually to support this new initiative.
- Within the *DG/CHP* program, NYSERDA should include a separate program for fuel cells. The fuel cell program should provide for research and development of products with a goal of developing products eligible for participation in the RPS.
- The PSC should authorize NYSERDA to allocate funds to support the *more efficient utilization and modernization of the transmission and distribution infrastructure*. Eligible activities would include, but not be limited to basic research, development and deployment of: “smart grid” technologies that are capable of improving the performance and technical efficiency of the grid, or technologies that would facilitate the economical interconnection of distributed generation to network systems. Targeted area incentives for clean distributed generation to promote reliability and/or relieve congestion, demonstration projects for network interconnections, and projects to evaluate the system benefits of distributed generation would also be eligible for funding. Annual funding for this new initiative should be \$7.0 million.

### III. RESPONSE TO SPECIFIC QUESTIONS

In this section, CEA responds to the specific questions posed by the Commission Staff in the Notice Soliciting Comments, issued on January 28, 2005.

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

Great progress has been made in achieving the goals and objectives established by the Commission, as enumerated below. This does not imply, however, that the program has exhausted the potential opportunities in the major program areas; indeed, our central point is that much more can be done to develop New York's inherent potential for clean energy alternatives. Nor does this imply that markets are ready to assume the programs and investments supported by the SBC; rather, the persistence of market barriers has resulted in adoption of clean energy by market participants and consumers at levels far below those justified on an economic and environmental basis.

Since its inception in 1998, the System Benefits Charge (SBC) has been a well-conceived, administered, and executed program, yielding significant benefits to program participants, consumers and providers of electricity and other energy services, and to the public at large. The benefits derived from the SBC have been as massive as they are wide-ranging, contributing to the economic and environmental well-being of New York State.

The overall conclusion of the May 2004 Status Report, an independent evaluation of the New York Energy \$mart<sup>SM</sup> Program through calendar year 2003, was that "the Program has fostered and accelerated market development in the areas of energy efficiency, peak load reduction, and renewable energy that would not have occurred in the absence of the Program. (New York Energy \$mart<sup>SM</sup> Program Evaluation and Status Report, Final Report, Vol. I, ES-iv, May 2004 [hereafter referred to as "Final Evaluation Report"]).

Among the accomplishments documented in the Final Evaluation Report are the following:

- **Lowering New York's energy bill.** The total annual energy bill savings for participating customers is estimated to be \$185 million through September 2004, including electricity, oil, and natural gas savings from energy efficiency and peak load management services provided. Bill savings will increase to \$380 million a year when the program is fully implemented. (See New York Energy \$mart<sup>TM</sup> Cost-Effectiveness Assessment at Tables 17&18, December 2004). The total cost savings for all customers, including non-participating

customers, is estimated to be \$196 million through 2003, increasing to \$420-435 million at full implementation. (Final Evaluation Report at ES-30)

- **Fostering job growth in New York.** As a result of the Program an average of 3,500 jobs a year have been created from 1998 through 2003. The program is expected to create and sustain an average of 5,500 jobs annually over the full eight-year period. Over this period annual labor income will be \$221 million more than it would be if the Energy \$mart<sup>SM</sup> Program did not exist. (Cost-Effectiveness Assessment, Appendix A, p. 42; Macroeconomic Impact Analysis at S-7).
- **Promoting the efficient use of energy.** As of September 2004, the Energy \$mart<sup>SM</sup> Program has resulted in an annual reduction in 1,340 GWh of electricity. Annual savings are expected to rise to 2,700 GWh when the program is fully implemented. (New York Energy \$mart<sup>SM</sup> Program Quarterly Evaluation and Status Report – for Quarter ending September 30, 2004 at 2 [hereafter referred to as “Third Quarter 2004 Report”]).
- **Lowering the wholesale market price of electricity.** Electricity bill savings from reductions in the market clearing price of electricity due to programs implemented through 2003 are estimated to range from \$11.7 million annually in 2003 to \$39.1 million in 2023 annually. (Cost Effectiveness Assessment at 26). This is a benefit enjoyed by program participants and non-participants alike<sup>4</sup>.
- **Enhancing the stability and reliability of the grid.** The Program has enabled electricity customers to reduce their coincident peak demand by up to 1,135 MW from energy efficiency measures and callable reductions.
- **Leveraging private sector investment.** \$350 million invested in the Program has leveraged another \$850 million for a total \$1.2 billion invested in energy and efficiency related activities as of December 31, 2003. When fully implemented the Program is expected to have resulted in a total of \$2.8 billion in new investment in New York. (Evaluation Report at ES-7).
- **Reducing the environmental footprint of New York’s electric power industry.** The Program has gone a long way to improving the State’s air quality by lowering emissions through energy efficiency and renewable energy production:

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<sup>4</sup> Although not part of the scope of the evaluation team’s analysis, CEA notes that public benefits investment in clean energy alternatives has the effect of lowering both wholesale natural gas and electricity prices given the close relationship and interaction between these markets. (See Regulatory Assistance Project, Natural Gas Price Effects of Energy Efficiency and Renewable Energy Practices and Policies, prepared by the American Council for an Energy Efficient Economy, 2004 at 8-9).

- ❖ NO<sub>x</sub> reductions of 1,265 tons/year, or roughly 1.4% of the State's power sector NO<sub>x</sub> budget. When the Program is fully implemented, it is expected that NO<sub>x</sub> emissions will be reduced by a total of 3.7% of the power sectors total budget.
  - ❖ SO<sub>2</sub> reductions of 2,175 tons/year, equivalent to 1.3% of the State's SO<sub>2</sub> cap. This is expected to grow to 3.5% of the cap at full implementation.
  - ❖ CO<sub>2</sub> reductions of 1,004,000 tons/year, representing 1.1% reductions from 1990 electric generation emission levels. Upon full implementation, the Program is expected to produce reductions of 2.9% from 1990-level electric generation emissions, or nearly a quarter of the electricity sector's proportionate share of total GHG reductions needed to meet the statewide goal of 5% reductions below 1990 levels by 2010. (Final Evaluation Report at ES-v) By 2004, the program produced carbon reductions equivalent to the permanent removal of 200,000 cars from the New York's roadways. (Third Quarter 2004 Report at 2).
- ***Stimulating the development and production of clean energy resources in New York State.*** The program has incentivized over 40 MW of new large-scale wind facilities, with another 267 MW in planning; nearly 15 MW of efficient combined heat and power and distributed generation, with 100 MW expected by 2007; and 3 MW of customer-sited renewables such as wind, photovoltaics, and farm-based biomass facilities. (Final Evaluation Report at ES-30).
  - ***Increasing opportunities for green power businesses.*** The program has brought large-scale wind energy developers, customer-sited renewable resource installers and green power marketers to New York providing business opportunities and increased retail electric competition. (Evaluation Report at ES-19). In 2000, no green power products were available in New York, but since the end of 2003, all retail electric customers are able to purchase green power. (Final Evaluation Report at ES-20) The wind energy and photovoltaic systems in New York would not have occurred absent the program. (Final Evaluation Report at ES-21).
  - ***Permanently transforming markets for energy efficiency services and products.*** The Energy \$mart<sup>SM</sup> Program is credited with raising awareness about energy efficiency benefits and products, changing retail stocking patterns, and increasing the market share of such equipment. The Energy \$mart<sup>SM</sup> Program has had a major impact on markets for premium motors, refrigerators, lighting, air conditioners, clothes washers and a host of other consumer appliances. (Evaluation Report at ES-19).

- ***Growing New York’s competitive energy services industry.*** The number of ESCOs operating in New York has increased from 13 in 1998 to about 150 in 2003. (Evaluation Report at ES-30).

***Improving access to energy options for the underserved.*** The SBC has supported energy services in more than 8,400 units, and is now positioned to provide efficiency audits and financing to 93,000 units in 333 buildings. (NYSERDA Residential Energy Affordability Programs (REAP) Program Activity Reports, February Report on activity through Jan. 31. 2005).

In sum, Clean Energy Advocates share the independent evaluation team’s conclusion that the “Program’s portfolio includes diverse programs that are designed to meet the specialized needs of the State’s numerous energy-using markets and sectors. Programs are designed to address different barriers and to work synergistically to achieve the State’s energy policy goals.” (Evaluation Report at ES-vi). Although the program has not yet been funded at a level sufficient to allow New York to capture the full potential for cost-effective efficiency, the program has delivered benefits far in excess of its costs.

Indeed, financial resources appear to be the principal factor limiting the Energy \$mart<sup>SM</sup> Program’s ability to deliver these widespread and important benefits. A recent study of the remaining *achievable* potential<sup>5</sup> reveals that a significant reservoir of cost-effective efficiency resources remains to be tapped. According to estimates from the *Energy Efficiency and Renewable Energy Resource Development Potential in New York State Study*, prepared for NYSERDA, (hereinafter “Potential Study”), the potential savings from cost-effective energy efficiency initiatives could be as high as 48,000 GWh per year by 2007. However the Program, by that same time, will only achieve around 1,500 GWh of energy efficiency savings annually. (Compare Table 1.5 and 1.6 of Potential Study to Table 1 of Quarterly Evaluation Report, September 2004). By 2022, these potential savings could be as high as 61,000 GWh per year, but the Program is on target to realize less than 9,000 GWh – only one-seventh of the cost-effective potential.

The Potential Study underscores what New York State will sacrifice should it fail to close the wide gulf between the potential and realized energy efficiency. The study concludes that “the net economic benefits of the least-cost GHG solution...significantly exceed those estimated by the study from currently planned initiatives.” (Potential Study at 3-13) Pursuing only the energy efficiency resources necessary to meet the State’s greenhouse gas reduction target – or

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<sup>5</sup> **Achievable potential** is the level of efficiency and renewable energy that is economic (i.e., available at technology costs below the current projected costs of conventional electric generation that these resources would avoid) *and* takes into consideration: 1) market barriers to the acceptance of efficiency and renewable energy technologies and 2) additional administrative costs of programs and policies to promote higher market acceptance. Achievable potential thus represents a subset of both the technical and economic potential. (Potential Study at 2-5 through 2-6).

about 1/3 of the achievable potential – would conservatively yield over \$2.9 billion in net benefits to New York by 2012, and over \$6.2 billion by 2022. (Id. at 3-13 – 3-14). Based on a total least-cost portfolio that includes renewable energy supply as well as efficiency, the Potential Study estimates that meeting 2012 GHG targets will net between \$4.5 billion and \$9.4 billion in benefits. By 2022, these benefits escalate to between \$9.1 billion and \$16.6 billion. (Id. at 3-13).

CEA’s recommendation for increased funding, discussed in the following question and answer, is based on the necessity of closing this gap and capturing the associated benefits for all New Yorkers.

**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 extended for a minimum of 8-10 years at an annual funding level of \$275 million annually. This represents an annual increase of \$125 million over the current baseline. CEA’s recommendation for allocation of these increases is presented in Table 1, and described throughout the text as noted. For those program areas that we are not specifically recommending receive an increase, CEA proposes that funding be continued at least at 2005 levels.

**Table 1. CEA Recommendations for Funding Above Current Baseline (\$million annually)**

<b>Program Area</b>	<b>Current budget</b>	<b>Proposed budget</b>	<b>Annual increase</b>	<b>Percentage increase</b>	<b>Where described</b>
<b>Natural gas efficiency</b>	<b>0<sup>Y</sup></b>	<b>\$50.0</b>	<b>\$50.0</b>	<b>100</b>	<b>Response #13</b>
<b>Electricity efficiency</b>	<b>\$79.2</b>	<b>\$124.2</b>	<b>\$45.0</b>	<b>56.8</b>	<b>Response #7</b>
<b>Low income affordability<sup>*</sup></b>	<b>\$32.6</b>	<b>\$45.0</b>	<b>\$12.3</b>	<b>37.7</b>	<b>Response #7</b>
<b>Smart grid</b>	<b>0</b>	<b>\$7.0</b>	<b>\$7.0</b>	<b>100</b>	<b>Response #12</b>
<b>DG-CHP</b>	<b>\$13.2</b>	<b>\$18.7</b>	<b>\$5.5</b>	<b>41.7</b>	<b>Response #7</b>
<b>Renewables</b>	<b>\$13.8<sup>+</sup></b>	<b>\$18.0</b>	<b>\$4.2</b>	<b>30.0</b>	<b>Response #5</b>

<sup>Y</sup>Does not include fuel neutral low-income program spending on natural gas measures

<sup>\*</sup>Funding includes \$5.85 million in utility programs

<sup>+</sup>Combined renewable wholesale and renewable end use budgets

Several factors support the renewal of the SBC program for an 8-10-year period beyond the expiration date of June 30, 2006.

First, it is now patently obvious that the Energy \$mart<sup>SM</sup> program works, delivering massive economic, environmental and benefits to all New Yorkers. Any hesitancy to establish a longer-term program that may have existed when the program was untested should by now be effectively removed.

Second, an 8-10-year program horizon will foster greater market certainty and stability. It will provide the program continuity necessary to attract clean energy technology firms and support industries to New York State. The same 8-10-year horizon, achieved instead through a succession of program extensions, does not send the same market signal and introduces regulatory uncertainty that will inhibit the attraction and retention of new industry to the state.

Third, an 8-10 year program extension will allow for more effective program planning and delivery. With any non-permanent program, staff must plan based on the contingency that the program will be modified or terminated. This “wind down” period may well consume the latter 18 months to two years of a 5-year program, effectively truncating its effective life and creating market disruption. A longer program period will extend the time between the required reauthorization processes and permit more sustained and orderly program implementation. For instance, although the current SBC II program runs until June 2006, the lack of certainty over whether and how the SBC will be renewed has already effectively put several programs on hold with more than a year left in the program, since for many of the SBC funded programs, existing funds have already been fully allocated and new funds cannot be dedicated until and unless the program is renewed. The same was true in the closing months of SBC I.

Fourth, an 8-10-year program will coincide with the scheduled implementation of the New York RPS. For the reasons indicated elsewhere in our comments, the SBC should play an integral role in the achievement of RPS targets. This market support role may evolve as New York’s renewable energy technology industries mature; however, the need for an SBC support role is unlikely to be obviated over this time horizon.

**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 SBC must remain responsive to current and reasonably anticipated future conditions, and retain the flexibility to adapt to unforeseen circumstances as they materialize. Indeed, one of the primary virtues of the distributed energy resources supported through the SBC is that they tend to be small, modular, and

have a relatively short lead-time and can be ramped up (or down) as circumstances dictate.

Several regulatory and market trends have emerged since the establishment of the SBC in 1998 and its most recent renewal in 2001, which warrant a revisiting of the SBC program scope. Similarly, several landmark events have exposed the vulnerabilities of our present energy infrastructure, and suggest new functions for an expanded SBC. These conditions are described here in brief; and addressed more expansively in other sections of these comments as noted.

### **Regulatory changes:**

- **State commitment to reducing GHG emissions.** In the absence of federal legislation, New York and other Northeastern states are moving inexorably towards a program to reduce power sector emissions of greenhouse gases associated with global climate change. The development of energy efficiency, renewable energy, and clean distributed generation/combined heat and power will be critical in meeting these commitments in a reasonable timeframe and at a reasonable cost. The SBC should emphasize permanent efficiency measures and renewable energy resources that contribute towards meeting greenhouse gas reduction targets. (See Response to Question #7)
- **Adoption of a Renewable Portfolio Standard.** The Commission's establishment in 2004 of a framework for securing 25% of New York's electricity from renewable energy sources within a decade necessitates a reorientation of the program to focus on a range of market support activities. (See Response to Question #5).
- **Easing regulatory barriers to distributed generation.** One significant change that has occurred since the establishment of the SBC is the refinement of regulatory rules regarding distributed generation. Interconnection standards have improved considerably, and the Commission has taken action regarding both electric standby rates and gas distribution rates.

This development indicates two areas that are now ripe for SBC funding.

First are demonstration projects involving interconnection to networks. The Commission broke new ground with its decision to expand Standardized Interconnection Requirements to area networks. Practical application of this rule could be enhanced with demonstration projects and studies funded by the SBC.

The progress in refining regulatory rules regarding distributed generation highlights a remaining regulatory gap that is highly important: there is still no means of quantifying the benefits of distributed generation and energy

efficiency to the transmission and distribution system. Evidence of reduced line losses, reduced need for capital investment, and increased reliability all remain anecdotal. Until the regulatory structure is able to quantify these values, distributed generation and energy efficiency will continue to be systematically disadvantaged in the marketplace.

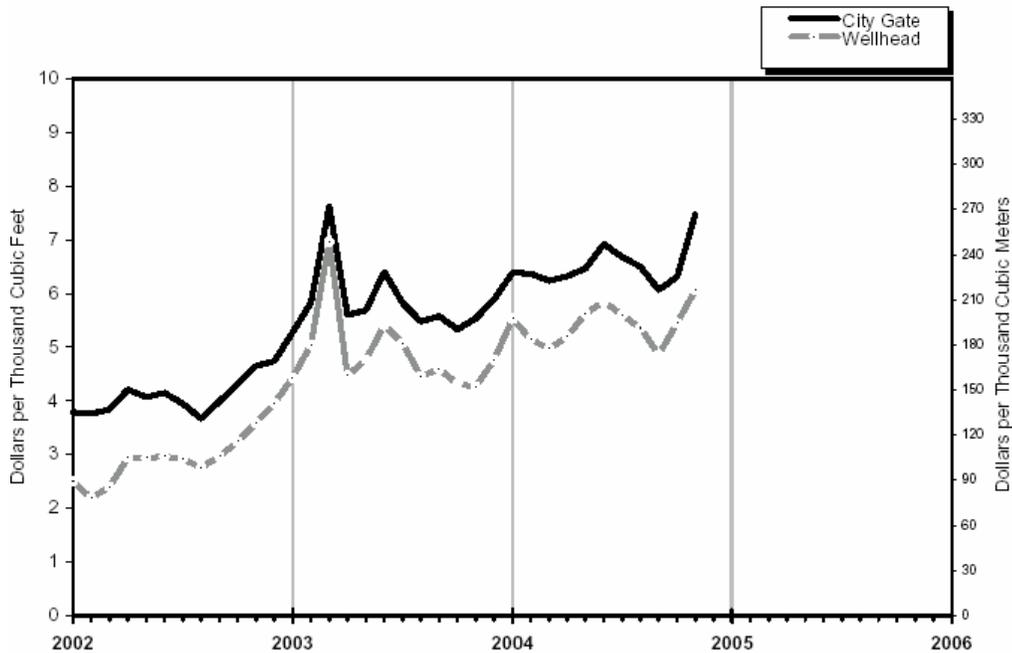
Another set of changes that are significant are the refinement of demand reduction programs, the increased experience with distributed generation, and the enhancement of telecommunication options that enable remote dispatch of small units. These three factors indicate that the SBC should allocate resources to developing “smart grid” projects involving demand reduction and small distributed generation as methods of easing congestion on distribution systems.

**Changed market conditions:**

- **Natural gas price increases.** In recent years, the average price of natural gas has skyrocketed. (See Figure 1)

**Figure 1.**

**Average Price of Natural Gas in the United States, 2002-2004**



Source: Table 4.

This has translated into significant price increases at the consumer level for commodity gas and electricity, the latter a result of New York's growing dependence on natural gas-fired generation. Ultimately, this run-up in the price of natural gas translates into economic loss to New York State as dollars flow to gas producing states and factories shift production overseas. This will also prompt a switch from natural gas to oil- and coal-fired generation, undercutting New York's air quality objectives. To counteract these devastating trends, the PSC should institute a System Benefits Charge focused on the conservation of natural gas at end-use. (See Response to Question #13).

- **Difficulties associated with the siting and financing of new generation.** The flurry of proposals for new and repowered generation that followed in the wake of the decision to open New York's generation market to wholesale competition has slowed to a trickle. One of the greatest obstacles to the siting of new generation is the difficulty developers face in obtaining necessary financing absent a long-term commitment from the distribution utility (acting as the provider of last resort). While this is an issue largely outside the scope of the SBC program to resolve, it does point to the difficulty in satisfying future load growth through new power plant construction and the attendant need for an aggressive energy efficiency program. In New York City, the Mayor's Energy Policy Task Force Report concludes that approximately 3,800 MW of new in-City resources will be needed by 2008 to meet reliability and environmental objectives. Up to one-third of these new resources must come from distributed energy resources.<sup>6</sup> (New York City Energy Policy: An Electricity Resource Roadmap, prepared by the New York City Energy Policy Task Force, January 2004).

In addition, the Order for the recently adopted Renewable Portfolio Standard requires a report in 2009 on the implementation of the RPS to date and on a transition to a more competitive procurement process by energy providers rather than NYSERDA. A review of the need for and barriers to long-term contracts for project finance will necessarily be a part of this inquiry.

### **Boundary issues:**

- **Blackout of 2003.** This event dramatically exposed the vulnerability of the power grid and the havoc created by an extended outage of this magnitude. This problem cannot be solved by New York alone, nor is it amenable to short-term fixes. CEA nonetheless believes there are certain steps that can and should be taken to better protect New York's critical load from supply disruptions consistent with other SBC objectives.

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<sup>6</sup> The Task Force identifies from 569 to 1,338 MW of achievable energy efficiency, load management, and clean on-site generation. (Task Force Report at 32)

- **9/11 and concern over the security of New York State's nuclear generation and other energy assets.** Heightened attention must be given to the susceptibility of the state's nuclear facilities and other critical infrastructure to terrorist attack in a post-9/11 environment. To take perhaps the most prominent example, the Indian Point Energy Center lies within a 50-mile radius of 1/8 of the Nation's entire population. CEA believes the SBC can play an important part in transitioning to an energy infrastructure that is more decentralized, modular, secure, and inherently safer. Also, as energy providers take steps to make their systems more secure, the SBC can promote the use of clean and efficient technologies to accomplish this goal.

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

CEA does not envision a major realignment of the current SBC programs for electricity programs and their associated budgets. The program should continue to be confined to those public purpose initiatives that are not fully or effectively supported by competitive markets. These include: energy efficiency investment, research and development, low-income affordability, and environmental protection measures. Any new program area should be funded with new money; that is, only if additional funds are provided over and above the current annual baseline budget levels. CEA's specific programmatic and budgetary recommendations are set forth in response to Question #7.

**5. How might the SBC programs be adjusted given the Commission's order, issued September 24, 2004, regarding a Renewable Portfolio Standard (Case No. 03-E-0188)?**

The SBC funds used to support renewable energy resources have successfully leveraged the development of the State's indigenous clean energy resources. In fact, the SBC's renewable energy programs created a statewide awareness of the vast potential of renewable energy going largely untapped and laid a foundation for the adoption of a Renewable Portfolio Standard (RPS). However, now that New York has the newly enacted RPS, the SBC programs in support of renewable energy should be adjusted.

During SBC II some funds were used to provide direct incentives to renewable energy generators and customer-sited renewable system owners. The PSC order in Case No. 03-E-0188 correctly restricts RPS eligibility such that generators cannot simultaneously collect both SBC-funded direct incentives and RPS premium awards for the same unit of generation. Therefore, it would be entirely appropriate to redirect funds previously used for direct incentives to other areas of support for renewable energy. Beyond the redirection of funds used for direct incentives for RPS eligible projects, however, no major adjustments should be made to the existing SBC programs for renewable energy. Continued SBC funds

will be essential to timely and complete implementation of the RPS and attainment of the State's renewable energy goals.

RPS premium payments provide generators with a return for the "public benefits/environmental attributes" of their generation. These payments alone, however, cannot create the requisite market support needed nor overcome all barriers to realization of the State's renewable energy goals. SBC III should provide continued funding for renewable energy to be used for activities to ensure the successful implementation of the RPS, and continued exploration of renewable energy opportunities as they arise. These activities include: facilitating siting and permitting; public education and outreach; green market development (which was tasked with approximately 15% of the new RPS target); adoption of a renewable energy attribute tracking system; basic research, development and demonstration of renewable generation technologies (including but not limited to small wind, photovoltaics, anaerobic digesters); and professional training and certification programs. In addition, there may be instances, such as pilot programs designed to showcase new technologies, new applications of existing technologies, or new products that foster a more competitive market, where SBC funds make more sense than requiring generation to compete for an RPS contract.

As the SBC program for end-use renewables shows, building a market requires more than simply making funds available. Outreach to consumers, certification and training for installers, and initiatives to overcome market-entry barriers are all essential components of a successful program. While the RPS will now provide direct cost-share funds for photovoltaics and small, customer-sited wind energy, SBC funding will be essential to realize the goal of customer-sited resources supplying 2% of the new renewable energy needed to meet RPS targets. Reaching out to local government to ease permitting and overcoming insurance barriers faced by installers are two examples of program activity that should be expanded.

Wholesale electric generation by RPS-eligible renewables such as wind energy also require enhanced SBC support. SBC funds would be well utilized for both outreach and education for the State's local governments and citizens on siting as well as for research and implementation of market tools such as a renewable attribute tracking system and any additional studies needed to support RPS implementation. Innovative approaches to siting and permitting of RPS-eligible resources should also be considered for SBC funding.

In order to achieve the goal of at least 15% of the incremental RPS target, the voluntary green power market will need continued support under SBC III, including a smart supply structure that integrates with the RPS procurement.

Finally, the recent NYSERDA sponsored study on integrating wind energy into the grid, recent FERC decisions, and ongoing discussions with the New York

Independent System Operator all support the usefulness of wind forecasting to ensure better predictions for and scheduling of wind energy generation. Wind forecasting research and development, including the possible installation of an independent wind measurement network to improve short-term (next hour) wind forecasting, is another area where SBC funds could appropriately be used in support of the State's renewable energy generation goals.

Therefore, continued SBC funding of renewable energy resources is essential to building a vibrant market in New York and ensuring timely and successful implementation of the Renewable Portfolio Standard. Necessary adjustments to the allocation of resources to comply with the RPS Order's provision prohibiting the simultaneous collection of SBC direct incentives and RPS premiums are warranted.

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

CEA supports the general principles that SBC fund collection and allocation should be equitably linked in terms of both geographic and customer class distribution. NYSERDA should also work to encourage full program participation from all customer classes. We urge NYSERDA and DPS to examine this issue more closely as decisions on the future of the SBC are determined, and to take appropriate actions to close any gaps.

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

CEA supports retention of the current program elements and funding allocation with the following specific modifications. Specific changes are briefly identified below as: 1) new programs; 2) expanded programs; and 3) rededicated programs.

##### **New programs:**

- **Natural gas efficiency.** Establish a new SBC program element for natural gas efficiency measures. Funding should be set at \$50 million annually, as described in more detail in response to Question #13.
- **Smart grid.** The PSC should authorize NYSERDA to allocate limited funding to support the *more efficient utilization and modernization of the transmission and distribution infrastructure*. Annual funding amount should total \$7.0 million as described in more detail in response to Question #12.

## **Expanded programs:**

- **Energy efficiency.** There are several factors favoring an increase of at least \$45 million annually in funding for electricity-side efficiency measures.

First, as documented in the Potential Study, there remains a rich vein of energy efficiency to be mined at costs that are competitive with traditional supply side alternatives. Failure to commit the funds necessary to realize these savings will result in significant lost opportunities and foregone benefits.<sup>7</sup>

Second, the market barriers that inhibit consumers from adopting cost-effective energy efficiency measures persist. These barriers include:

- *Split incentives:* This barrier arises when someone other than the property owner pays for the energy bill, as is the case with landlords and tenants. The landlord often has little interest in paying for efficiency improvements because the benefits of the efficiency improvements accrue primarily to the tenants, who pay for energy costs either directly (through bills) or indirectly through rent increases (e.g. heating in NYC multifamily buildings). Tenants are reluctant to pay for efficiency improvements that will be left behind at the end of their rental occupancy.
- *Competition for capital (first cost barriers).* Some customers lack available funds to pay for measures. More commonly, they have what they consider to be more pressing needs. Builders, particularly when building on speculation, will save capital costs by skimping on efficient building envelope (e.g. insulation) and technology (e.g. HVAC systems) leaving higher operating costs to whoever eventually occupies the building. Consumers, business or residential, may be reluctant to invest in cost-effective measures to save energy, not recognizing that the long-term savings quickly exceed the short-term costs.
- *Information barriers.* For customers to invest in efficiency measures they need to trust that the savings will outweigh their costs. Moreover, consumers often have a difficult time determining what technologies are

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<sup>7</sup> For example the Potential Study finds between 50,374 GWh and 57,367 GWh of economic efficiency resource by 2012, depending upon assumed energy costs. (Potential Study, Vol. I at Tables 1.5 and 1.6). By comparison, under currently planned initiatives, cumulative annual energy savings are expected to total 3,063 GWh by 2012. (Potential Study, Vol. 2, Table 2.37) Taking a simple average of the economic potential found under the high- and low-avoided cost scenarios, there remains a gap of some 50,807 GWh of cumulative annual cost-effective efficiency resource by 2012. At a program cost of 2.0 cents per kWh saved, a commitment of \$100 million in annual incremental spending would be required to secure all economically achievable efficiency potential. It is not unreasonable for half of this financial requirement to be met through an increase to the SBC.

available and appropriate for their application. Information about savings provided by vendors is usually not enough to get customers to install measures.

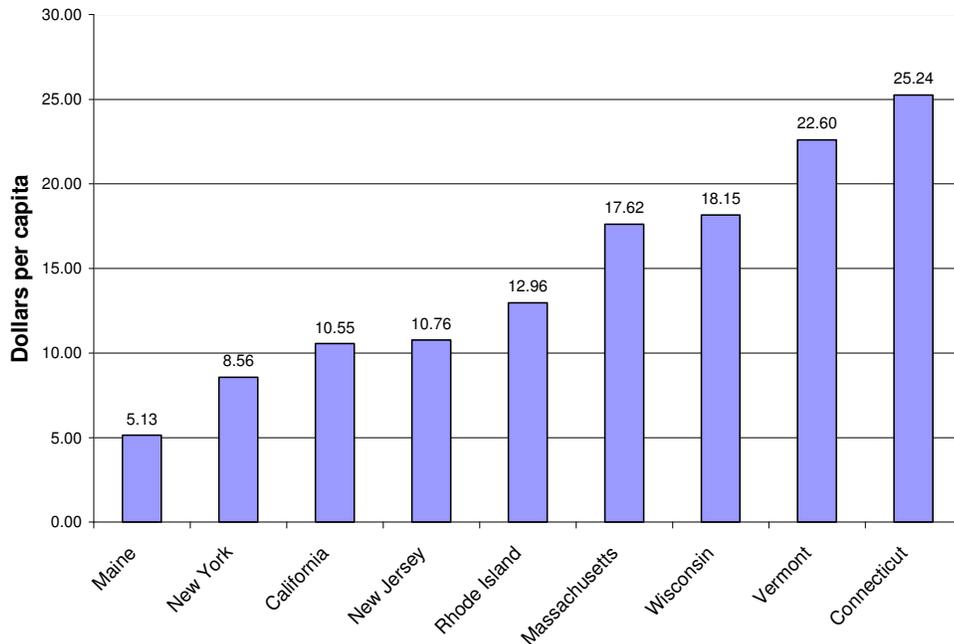
- *Uncertainty about ownership or occupancy.* Resource efficiency measures frequently require several years to pay for themselves with savings. The longer the payback period, for both residential and commercial customers, the more likely that measure installation will be deferred, especially in periods of economic uncertainty or if there is any consideration the occupant might terminate occupancy during the payback period.
- *High but reducible risk perceptions:* Professionals tend to prefer tried-and-true designs and technology, which limit their liability. A novel design or cutting edge technology, even if it is functionally superior, exposes the professional to additional criticism and financial risk if the client is dissatisfied, regardless of whether the improved design is at fault.
- *Supply-chain biases leading to limited technology availability and/or artificially high technology costs:* Wholesalers, distributors, and dealers tend to stock equipment that is most popular (and hence generally standard efficiency), and charge higher prices for special orders. The contractors won't recommend higher-efficiency equipment, because they are not sure they can get it promptly, and the distributors don't stock it, because if the contractors aren't installing it. Since it is special-order, it is more expensive so few professionals use it, so it remains special-order.
- *Debt limits.* Private ESCO's sometimes offer to finance measures. However, some consumers cannot or do not want to add to their debt.

The SBC can help overcome many of these barriers to facilitate individual transactions and to push technologies into the market mainstream.

Third, despite funding increases for SBC II, New York continues to lag behind other states in the region in per-capita spending in support of energy efficiency. (See Figure 2).

Indeed, the combined investments of the SBC program and the Long Island Power Authority Clean Energy Fund, which is its Long Island counterpart, are still well below the New York's peak energy efficiency investment in the early 1990s: in the peak year of 1992, New York's investor-owned utilities funded Commission approved energy efficiency program at the level of \$286 million in 1992 dollars. Given inflation, and the heightened energy problems that New York now faces, returning New York's efficiency investment to close to this level certainly makes sense.

Figure 2. SBC Energy Efficiency Funding Levels Per Capita



Sources: Maine, Efficiency Maine, 2004 Annual Report; Rhode Island, New Jersey, [www.dsireusa.org](http://www.dsireusa.org); Vermont, 2003 Efficiency Vermont Annual Report, 2004, at 4; Connecticut, Energy Efficiency: Investing in Connecticut's Future, Report of the Energy Conservation Management Board's Year 2003 Programs and Operations, January 31, 2004, at 4; Wisconsin, Wisconsin Public Benefits Fund Annual Report, July 1, 2003-June 30, 2004 at 4; Massachusetts, DOER Report, 2002 Energy Efficiency Activities in Massachusetts, Summer 2004, at 3; California, funding for energy efficiency and research and development as mandated by AB 1; New York, LIPA and Subsidiaries Approved Operating Budget 2004 at A-6.4; PSC Case 94-E-0952 at 20 (figure includes NYSERDA and LIPA programs. NYPA revolving loan fund excluded).

The major focus of the SBC should be on long-lived measures rather than demand response. The Efficiency Potential Study analysis demonstrates conclusively the major economic benefits of the long-lived energy and capacity savings from energy-efficiency investments. Demand response programs are a helpful electric system management tool. However, the NYISO programs and SBC II programs will already produce substantial demand response savings. There should be no increase in SBC funding for demand response initiatives without an overall increase in the SBC budget above the level recommended here. They save little if any energy, therefore producing little or no environmental benefits compared to efficiency. The largely behavioral nature of demand-response programs severely limits the longevity of their savings, requiring relative large annual payments to maintain savings. Revenue-neutral pricing strategies are available as an alternative for making such opportunities more appealing for customers.

Overall, incentives for permanent energy efficiency measures should continue to represent 55-60% of the overall SBC budget for electricity. Funding should be increased by \$45 million annually to support the enhanced capacity to deliver efficiency investment in the following areas:

- *Commercial new construction.* This highly successful C/I program targets building owners, lease holders and architecture and design firms designing new buildings or substantial renovations. NYSERDA reports that as of December 31, 2003 there were more than 975 applications seeking over \$62 million in incentives, covering over 100 million square feet of building space. Over \$3 billion in commercial new construction and \$6 billion in energy-related renovation occurs every year. The demand for this program significantly outstrips available resources. As noted in the Final Evaluation Report, “[T]his market is underserved in relation to the building activity that occurs in the State – resulting in lost opportunities for significant gains in energy efficiency, market transformation, and program visibility.” (Final Evaluation Report, Vol. I at ES-15; Vol. II at A-13).
- *Equipment replacement (including premium motors).* Another program exceeding expectations, and providing fertile ground for greater energy savings is the Smart Equipment Choices program. This program is designed to encourage the installation of high efficiency measures at the time of retrofit or replacement to improve the efficiency of electrical loads. The higher than expected number of applications forced the downward adjustment of incentives to bring commitments in line with the program budget.
- *Consumer electronics.* NYSERDA should implement a new program focused on transforming markets for a range of home electronic products, including but not limited to computers, televisions, VCRs, DVDs, cordless phones and the like. A recent study of 14 appliance and consumer products not currently covered by federal standards concluded that “significant savings potential exists for these products at a small increase in first cost, resulting in large energy savings, economic savings, peak load reductions, water savings and emission reductions over the life of the equipment.” (Leading the Way: Continued Opportunities for New State Appliance and Equipment Efficiency Standards, American Council for an Energy Efficient Economy and Appliance Standards Awareness Project, at vi) The NYSERDA program should link to the Energy Star platform for energy efficient home electronics and drive consumer demand for the products through market transformation efforts. Additionally, NYSERDA should facilitate the development and adoption of appliance and equipment

standards for such products. We recommend a funding level of \$20-25 million annually for this program.

- **DG/CHP.** The DG-CHP component of the R&D Program should continue its successful strategy of supporting emerging distributed generation technologies (e.g., fuel cells, microturbines) and conventional distributed generation technologies (e.g., engines, gas turbines) in innovative, replicable applications. NYSERDA's rigorous standards for efficiency and environmental performance have continued to raise the bar for on-site power systems, at the same time that the program is delivering important energy, environmental and economic benefits to New York State.

Through its annual solicitation process, NYSERDA has contributed to the installation of nearly 30 CHP demonstration projects, with several more under development. These projects will net the State approximately 100 MW of new on-site capacity, much of it in grid-constrained locations, by 2007. Thus far, NYSERDA has received over 500 applications for funding, with each new solicitation producing a more robust response. This suggests that the program is having the intended market effect of spurring innovative applications, and has struck a reasonable balance between DG-CHP technology development and commercialization on the one hand, and mass deployment on the other.

The 2004 Final Evaluation Report raises the possibility of the DG-CHP program making a transition to "a subscription type program on a first-come, first-served basis..." (Evaluation Report at ES-15) CEA believes that a modest standard offer type program, in conjunction with the current competitive bid process, would offer certain advantages, including:

- reduced cost to developers in submitting bids for consideration;
- reduced workload on NYSERDA program staff and evaluation teams;
- focus more attention on getting "iron in the ground" to help meet immediate reliability and energy security concerns;
- enhanced ability to respond quickly to market opportunities rather than solicitation cycles; and
- together with other subscription-type programs, such as the one recently introduced in New Jersey, aid manufacturers in achieving the economies of scale necessary to begin reducing the price of DG-CHP systems.

Having said that, CEA would oppose any more abrupt or significant departure from the current, highly successful program strategy. We believe the program should continue to place emphasis on the research, development and demonstration of DG-CHP technologies and facilitate their end-use integration in various promising market sectors in New York State. (See NYSERDA, Combined Heat and Power Market Potential for

New York State, 2002 at 4-10 [finding from 764-2200 MW of CHP potential primarily in office buildings, schools, hospitals and multi-family residential buildings]).

To support these dual objectives, CEA recommends the following:

- Maintain the current competitive solicitation process and the premium placed on accelerating the commercialization of new and improved technologies; and on demonstrating the feasibility of these applications in the market. This program element should continue to be funded at its current level of approximately \$13 million annually.
- Add a standard offer program element that is performance-based. This program would pay a fixed per-kWh incentive for output from eligible DG-CHP technologies. NYSERDA should consider establishing certain eligibility requirements for participation in the standard offer program, including but not limited to reasonably achievable efficiency targets and emissions performance. The overall DG-CHP program budget should be increased by \$5.5 million annually to support this new endeavor.<sup>8</sup>
- **Low-income affordability.** The current SBC program severely underfunds programs targeting low-income households in New York. This share should be increased to at least 20% of the total SBC funds. The 2002 Evaluation Report of the Low Income Affordability Program provides valuable context:
  - More than 7 million New Yorkers have incomes below 80 of the state median income and qualify for some form of assistance (although not necessarily energy assistance or energy efficiency or weatherization services);
  - Low-income households typically live in small homes and multifamily properties that disproportionately are in poor condition,

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<sup>8</sup> CEA continues our opposition to the use of SBC funds to enable the participation of high-emitting on-site back-up power systems in the NYISO price responsive load programs. CEA strenuously opposes the expenditure of SBC funds to promote the use of existing highly polluting emergency or back up generators. Encouraging the use of emergency generators will result in significant environmental damage and increase public health risks and is therefore at cross purposes with the fundamental environmental and efficiency objectives of the SBC. While the emissions profile of emergency generators will vary widely, the likelihood is that, in the aggregate such generation will produce several orders of magnitude more emissions than that of a comparable new combined cycle facility. This discrepancy will continue even after NYSDEC finalizes its proposed emissions standards for distributed generation.

with inadequate insulation and inefficient heating systems. This includes both privately owned and publicly-assisted housing stock.

- New York has some of the highest energy costs in the nation. This coupled with New York's severe climate and poor housing stock places an extreme energy burden on low-income households;
- Energy costs consume as much as 29% of some New York household's total income;
- Energy expenses for low-income New Yorkers topped \$4 billion in 2002. Of this amount, less than eight percent is addressed through a suite of low-income energy assistance programs offered at the state and federal levels. The NYSEERDA Low-Income Assistance Program accounts for less than one-half of one percent of low-income energy expenditures.

(New York Energy Smart Low Income Affordability Program, Report to the Department of Public Services, September 2002 at S-2)

NYSEERDA's low-income energy efficiency programs represent a promising strategy for stretching limited public benefits dollars. However, at current funding levels the program will never be able to reach more than a fraction of those in need. Funding for low-income efficiency programs should be increased by at least \$12.3 million annually to bring low-income affordability up to a target budget of 20% of overall electric SBC funding. Additionally, while we acknowledge and support the fact that NYSEERDA's current SBC low-income programs have been fuel neutral, thus permitting whole house measures, given the extent of the low-income need, at least 20% of the overall budget for a natural gas SBC should also target low-income housing. Priority should be placed on the following:

- *Multifamily new construction.* NYSEERDA's existing portfolio of low-income programs effectively target both the single family and multifamily housing throughout all service territories eligible for SBC programs. The highest priority for program expansion is in support for energy efficiency in the construction of multifamily housing targeting low-income households (those under 80% of the state median.)

This program initiative should roll-out a current NYSEERDA pilot project that is being designed in conjunction with the US EPA and targets high-rise multifamily buildings (more than 3 stories). Under this pilot, affordable housing design teams will receive the technical support of Energy Consultants who will guide a project from initial design through completion of construction, identifying opportunities and ensuring optimal achievement of higher efficiency standards for all building components.

- *Gas efficiency.* NYSERDA has recently released its “Consolidated Edison Gas Efficiency Plan.” (Revised Feb. 24, 2005) The low-income components of SBC III should be similar to those included in this gas efficiency plan. These programs “are designed to reduce the energy burden of low-income consumers by improving energy efficiency and providing energy management and aggregated energy procurement strategies that will improve the market position and self-sufficiency to low-income consumers. These programs will build on the existing infrastructure of other publicly-sponsored programs by coordinating the delivery of programs and services that reduce gas energy use and costs to low-income households in the State.” (Proposed Consolidated Edison Gas Efficiency Plan at 6).

Adding the gas efficiency component to the low-income programs include in SBC III will allow increased targeting of higher efficiency heating systems as well as installation of cost effective efficiency measures addressing heating loads, not just electric energy usage in all residential housing. For low-income households the heating and hot water load continues to be the primary form of household energy use; and rising prices of natural gas has affected low-income households most severely.

### **Rededicated programs:**

- **Renewable energy support.** The renewable energy program should emphasize market support activities essential to the realization of RPS targets. Funding should be earmarked for such activities not directly funded by the RPS and would include: green market development, facilitating siting and permitting of renewable energy projects, basic research, development and demonstration of emerging, customer-sited renewable generation technologies (including but not limited to small wind, photovoltaics, and anaerobic digesters), establishment of a renewable energy tracking system, public education and outreach, and professional training and certification. The combined budgets for wholesale and end use renewable energy market development should be increased by \$4.2 million annually.
- **Fuel cells.** CEA propose that a separate funding category for fuel cells should be established within the DG/CHP program. The needs and requirements of fuel cells are quite different from those of combustion technologies in the DG/CHP program. The current practice of combining fuel cells with combustion technologies in DG/CHP funding opportunities will become less viable because fuel cells are eligible under the RPS while most combustion technologies are not.

Fuel cells do not fit neatly into any of the existing categories under the SBC program. They exhibit characteristics of both renewables and conventional CHP. Fuel cells resemble renewable generation in that they are cleaner than any combustion resource and, in the long run, they represent a potential end-use technology for renewably derived hydrogen. For these reasons fuel cells are treated as “renewable” under the Governor’s Executive Order No. 111 and under the Renewable Portfolio Standard. Fuel cells also exhibit characteristics of conventional CHP generation. The capture of heat byproduct makes fuel cells a distributed generation resource.

For purposes of determining how to treat fuel cells within the SBC, the most important characteristic of fuel cells is that they will be participating in the Renewable Portfolio Standard. Regardless of whether fuel cells are included in the DG/CHP program, or a separate category, the SBC should be designed to fund fuel cell projects in a manner that is consistent with the RPS and consistent with other RPS-eligible technologies<sup>9</sup>. A separate category of fuel cell PONs will be needed to remain consistent with the treatment of other RPS-eligible technologies.

The fuel cell program should take a multi-phasing approach that allows for research, product development and demonstration of products up to the point where they are able to participate in RPS programs.

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

CEA believes that the SBC funded programs are already responsive to the needs of New York’s energy consumers and offers no further opinion on this matter at this time.

#### **9. How can SBC funded programs be marketed more effectively?**

One important strategy to ensure more effective marketing of SBC programs is for the Commission to ensure that NYSERDA receives full cooperation from New York’s utilities in terms of access to customer information and assistance with marketing. Modifying utility regulation to break the link between revenues and electric distribution sales will be necessary to make this happen, together with specific directions for utilities to work with NYSERDA.

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<sup>9</sup> An important consideration is the experience with fuel cells that has been developed by NYSERDA staff in the DG/CHP program. The establishment of a separate category for fuel cells should be accomplished in a manner that continues to utilize the expertise of NYSERDA staff.

## **10. In what ways can NYSERDA improve its administration of the SBC?**

CEA believes that NYSERDA has administered the program effectively and responsibly. We offer no further opinion on this matter at this time.

## **11. Is the current NYSERDA program evaluation process adequate? How might it be improved?**

CEA believes the NYSERDA program evaluation process has made steady progress and improvement since SBC inception in 1998. This is in part a function of the additional resources committed by the PSC to program evaluation (from .4 percent to 2 percent); and in part a result of the expanded evaluation activities enabled by those resources. As a consequence of these efforts, CEA believes the Commission and the parties are in a much better position today to evaluate the program's strengths, weaknesses, and opportunities in delivering promised energy, economic and environmental benefits than at the termination of SBC I.

CEA offers the following specific comments with respect to future evaluation activities:

- The macroeconomic study of SBC investments provides valuable insights on the economy-wide effects (employment, income, value-added) of the program. The Commission should direct that these impacts be evaluated at the conclusion of the next program cycle.
- The market effects analysis captures another potential benefit of the SBC program; namely, the impact of the various energy-saving, renewable and load shifting measures on the wholesale market clearing price of electricity and natural gas. It is essential that NYSERDA's evaluation continue to take into account this significant program benefit enjoyed by both participants and non-participants alike. The Commission should direct that this value be fully quantified and integrated in the cost-effectiveness assessments.
- NYSERDA should complete an updated energy efficiency potential study at the conclusion of the next program cycle.
- At the outset of the next program cycle, NYSERDA should establish objectives and targets for each of the four overarching SBC program goals. Additionally, NYSERDA should specify the metrics (qualitative and quantitative) that it will use in determining whether progress towards these objectives and targets are being met. The Annual Evaluation report should document progress towards these specific targets.

- In its Order instituting an RPS, the Commission indicated that it will undertake a mid-course review in 2009. As part of this process, NYSERDA should evaluate the market-support and other renewable energy support activities funded through the SBC and determine whether modifications need to be made to such activities and/or funding levels to ensure attainment of RPS goals.
- CEA supports the recommendation of the evaluation contractors for standardization of data collection and tracking systems across programs. (Final Evaluation Report at ES-25)

**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?**

CEA recommends the authorization of NYSERDA to allocate funding to support more efficient utilization and modernization of the transmission and distribution infrastructure, creating a “smart grid” for the 21<sup>st</sup> century. A “smart grid” enhances the traditional elements of the grid with cutting-edge power engineering including distributed generation, sophisticated sensing and monitoring technology, information technology, and communications in order to provide better grid performance, enhanced security and the seamless integration of additional services to consumers.

The National Academy of Engineering has hailed the U.S. electrical system as the supreme engineering achievement of the 20<sup>th</sup> century because of its ubiquitous impact in improving the quality of life down to the household level. The very nature of the digital economy, and its importance in the 21<sup>st</sup> century, makes grid enhancement and security even more critical. However, investment in this infrastructure has steadily declined.

The potential benefits of the smart grid are enormous. The Electric Power Research Institute estimates that power outages and power quality disturbances cost U.S. businesses more than \$120 billion each year. A smart grid will deliver increased system efficiency, security, customer satisfaction and long-term cost savings.

The Energy Future Coalition has identified several principle attributes and advantages of the smart grid. The smart grid will:

- Be self-healing – A self-healing grid integrates real time information from embedded sensors with distributed intelligence and automated control, enabling the system to respond automatically to disruptive events and attacks to the system.

- Be more secure from physical and cyber threats – The use of real time monitors, power flow technology, and sophisticated communications and information technology, will allow grid controllers to rapidly identify and respond to grid problems caused by intentional damage to facilities or other forces.
- Support widespread use of distributed generation – Fuel cells, microturbines and renewable generation in homes, offices and factories throughout the state are important components to the smart grid.
- Enable consumers to control the appliances and equipment in their homes and businesses – The smart grid will enable smart buildings, motors, appliances and other smart loads to communicate through a network to reduce peak load.
- Achieve greater throughput, thus lowering costs – Providing more effective power flow control will increase throughput on existing lines. This makes the system more cost-effective.

(Challenge and Opportunity: Charting a New Energy Future. Appendix A.4: Working Group Reports: Smart Grid.)

New York, as the birthplace of electricity transmission and distribution and a critical hub for much of the nation's economic activity, should take a significant step towards the transformation of the grid. The potential benefits from a SBC smart grid investment will only be realized if the grid is recognized as **one system** and a Stakeholder Process, which includes the owners, regulators and users, drives the examination of the system and investment in R&D. SBC-eligible smart grid activities would include, but not be limited to, basic research, development and deployment of:

- “Smart grid” technologies that are capable of improving the performance and technical efficiency of the grid and that would facilitate the economical interconnection of distributed generation to network systems.
- Targeted area incentives for clean distributed generation to promote reliability and/or relieve congestion.
- Targeted area incentives for advanced metering technology for residential, commercial and industrial consumers to enable real-time monitoring of electricity consumption.
- Research and development of superconductor and other high efficiency transmission lines in conjunction with the national laboratories.
- High visibility public-private demonstration projects.

**13. Should the scope of the SBC program be expanded to include programs for natural gas customers?**

Yes, the scope of the SBC program should be expanded to include programs for natural gas customers. New York State confronts increasingly serious concerns about both the price and supply of natural gas, and, at the same time, increasing reliance on natural gas for residential, commercial, industrial and electricity generation uses. SBC funded programs must be an essential element of a comprehensive strategy to reduce the demand for and price and volatility of natural gas. SBC-funded efforts to increase the efficiency with which New York uses gas will reduce our usage and, thereby reduce our vulnerability.

**A gas SBC is needed to respond to high and volatile natural gas prices.** In 2001, recognizing the importance of responding to high gas and oil prices accompanying high electricity supply prices, the Commission stated “that it is reasonable to loosen modestly the rules to allow some funding of additional non-electric measures where cost-effective, considering all fuels.” (Case 94-E-0952, *In the Matter of Competitive Opportunities Regarding Electric Service*, Order Continuing and Expanding the System Benefits Charge for Public Benefits Programs, issued January 26, 2001 at 8) The Commission, noting that electric ratepayers are the source of SBC funds, authorized NYSERDA “to include non-electric measures in order to provide more comprehensive and attractive financing packages to customers and to promote fuel switching where doing so can reduce electricity use and lower peak demand.” (*Id.*) As set forth more fully below, we believe that the Commission should now go further in authorizing programs specifically aimed at reducing the inefficient consumption of natural gas at end use.

Natural gas prices have remained high and volatile since 2001. In July 2003, then United States Department of Energy Secretary Spencer Abraham sent a letter to state public utility commissions noting “difficult price and supply issues with natural gas” and recommending various actions to increase the supply of natural gas over the next 12 to 18 months. Most important, Secretary Abraham recommended:

*(1) Increased emphasis on existing gas and electric utility programs to improve consumers’ energy efficiency and demand response -- In recent years funding and policy support for these programs have lagged in some States. I urge you to work with gas and electric utilities, the Governor, and State legislature if appropriate, to revisit the level of these programs and ensure that they are implemented aggressively.*

(DOE Press Release, including Secretary Abraham’s letter, attached as Appendix 1 and available at [http://www.doe.gov/engine/content.do?PUBLIC\\_ID=13845&BT\\_CODE=PR\\_PRESSRELEASES&TT\\_CODE=PRESSRELEASE](http://www.doe.gov/engine/content.do?PUBLIC_ID=13845&BT_CODE=PR_PRESSRELEASES&TT_CODE=PRESSRELEASE)) Secretary Abraham reiterated his recommendation in January of 2004, stating that the United States

“must strive to limit its gas consumption through increased energy efficiency and conservation, as well as the use of alternate energy resources for industrial consumption and power generation.”

[www.arabicnews.com/ansub/Daily/Day/031219/2003121934.html](http://www.arabicnews.com/ansub/Daily/Day/031219/2003121934.html).

Just how “difficult” price and supply issues have become is illustrated by two Department of Energy reports. On September 25, 2003 Secretary Abraham received a preliminary report from the National Petroleum Council which, *inter alia*, assuming the status quo, projected base case natural gas prices between five and seven dollars per million BTU through 2025, with an upward slope. (National Petroleum Council, *Balancing Natural Gas Policy – Fueling the Demands of a Growing Economy*, September 25, 2003 at 15) Prices had generally remained in a fairly narrow range around two dollars through most of the 1980s and 1990s. (*Id.* at 24)

Recent reports demonstrate that natural gas prices remain high and are likely to continue to remain high. According to the American Council for an Energy-Efficient Economy’s (“ACEEE”) *Fall 2004 Update on Natural Gas Prices*, Energy and Environmental Analysis, Inc., and most other market watchers are forecasting a tight natural gas production market for the next several years. These market conditions will result in even higher average prices for the next 3 to 6 years than were forecast a year ago ...” (R. Neal Elliot, *ACEEE Fall 2004 Update on Natural Gas Markets*, ACEEE, November 2004, <http://www.aceee.org/energy/fall04ngmkt.pdf>) The American Gas Foundation study *Natural Gas Outlook to 2020* reaches similar conclusions. (P. Wilkinson and C. McGill, American Gas Association, K. Petak and Bruce Henning, Energy and Environmental Analysis, Inc., *Natural Gas Outlook to 2020, The U.S. Natural Gas Market – Outlook and Options for the Future*, American Gas Foundation, February 2005, at 2)

The national studies are consistent with the analysis in the most recent State Energy Plan (“SEP”), issued in June 2002, which recognized that demand for natural gas in New York is expected to increase significantly. (*New York State Energy Plan*, June 2002 at 3-153-154) In June 2002 the SEP noted “gas prices increased to unprecedented levels during the 2000-2001 winter due to a combination of factors and have since returned to more historic levels. However, gas prices will likely remain volatile.” (*Id.*)

The economic impact has already been severe. Paul Cicio, Executive Director of the Industrial Energy Consumers of America provided a succinct summary in an Energy Pulse article last year:

The U.S. natural gas crisis began 41 months ago in June, 2000 and has had a staggering direct and indirect economic impact on all consumers, the U.S. economy and especially on manufacturing. Residential, commercial and industrial consumers have paid \$111

billion dollars more for natural gas during the 41 month natural gas crisis when compared to the price paid for the previous 41 month period, an 83 percent increase. The price of crude oil increased only 46 percent during the same time period, which included the period of high oil prices caused by the war in Iraq. Unfortunately, there is no end in sight to these high and sustained natural gas prices that are the highest in the world.

([http://www.energypulse.net/centers/article/article\\_display.cfm?a\\_id=578](http://www.energypulse.net/centers/article/article_display.cfm?a_id=578).)

Dollars wasted on inefficient use of natural gas disappear from New York's economy and end up in the pockets of out of state gas producers. High natural gas prices reduce profits for New York businesses, reduce the standard of living for New York residents and hurt New York's economy as the flow of cash out of state results in fewer jobs, less in-state spending and lower tax receipts for the State and local governments. New York State needs a gas SBC to protect New York's residents, businesses and governments.

**Cost-effective gas efficiency investments provide significant benefits.**

Important benefits of cost-effective gas efficiency investments include the following:

- Reduce total costs to gas consumers;
- Stimulate the local economy by (1) leaving more income available for local consumption by reducing total energy bills, and (2) employing local resources in diagnosing, installing and managing gas-saving efficiency investments, rather than importing gas;
- Reduce volatility of gas prices;
- Reduce upward pressure on market prices for transportation of gas to local utility citygate, and hence the cost of future contracts to the utility and its customers for gas delivery;
- Reduce the need for local utilities to upgrade their internal transmission and distribution system, thus avoiding attendant disruptions in service territories; and
- Reduce pollution (especially NO<sub>x</sub>, CO<sub>2</sub>) from end-use gas combustion, and reduced pollution from oil combustion at electric generation and other dual-fuel users who can use the saved gas.

Modeling done by ACEEE in its 2003 report *National Gas Price Effects of Energy Efficiency and Renewable Energy Practices and Policies* demonstrates that the price impacts of reduced demand are significant with modest reductions in

natural gas consumption resulting in significant reductions in the price of natural gas. (R. Neal Elliot et al., *Natural Gas Price Effects of Energy Efficiency and Renewable Energy Practices*, Report Number E032, ACEEE, December 2003, <http://www.aceee.org/pubs/e032full.pdf>.)

Significant reductions in natural gas, of course, will have a concomitant impact on electric prices, since gas-fired electric generators will have reduced fuel costs. The result will be additional economic benefits as New York State businesses and residential customers spend less on energy and more on other goods and services.

**A gas SBC is necessary to achieve cost-effective gas efficiency.** The market barriers that inhibit consumers from adopting cost-effective energy efficiency measures, discussed *supra* in response to Question #7, are equally applicable to gas efficiency measures.

**Gas efficiency programs are already in place in other regulatory jurisdictions.** More than twenty different states and a couple of Canadian provinces currently have rate-payer funded natural gas efficiency programs, described in ACEEE's *Responding to the Natural Gas Crisis: America's Best Natural Gas Energy Efficiency Programs*. Martin Kushler, et al, *Responding to the Natural Gas Crisis: America's Best Natural Gas Energy Efficiency Programs*, Report Number U035, ACEEE, December 2003. (Report available for download at <http://www.aceee.org/utility/ngbestprac/u035.pdf>.) Several other states are currently considering adding such programs. Like electric efficiency, gas efficiency efforts are currently concentrated in states in the Northeast, upper Midwest, Pacific Northwest and California, as well as a couple of Canadian provinces.

In the Northeast, gas efficiency is very common. Put another way, the absence of gas efficiency in New York (other than the few efficiency NYSERDA SBC programs that have incidental gas savings) is the exception, rather than the rule. Gas utilities in New Jersey, Massachusetts, Vermont, Connecticut and New Hampshire all fund and run substantial efficiency programs. Gas efficiency spending averaged more than 1% of revenues in 2002, with several states closer to 2%.

**Table 2: Gas Efficiency Spending as a Percent of Revenues in 2002**

State	Utility	Revenue (Millions \$)	Efficiency Budget (Millions \$)	Efficiency Spending as % of Revenue
CT	Southern Connecticut Gas	\$ 69	\$ 0.5	0.7%
CT	Connecticut Natural Gas	\$ 245	\$ 0.5	0.2%
MA	Keyspan	\$ 720	\$12.0	1.7%
NH				1.5% to 2.0%
NJ	Public Service Electric & Gas	\$2138	\$13.2	0.6% <sup>10</sup>
VT	Vermont Gas	\$ 67	\$ 1.4	2.1%

Gas efficiency spending in California, Washington, Iowa and Wisconsin is also close to 1% of annual gas revenues.

**13.a. What kinds of programs would benefit New York’s gas customers?**

There are a variety of different types of tried and true rate-payer funded gas efficiency programs employed across the continent, all of which could be adapted for use in New York State. The following is a partial list of markets commonly addressed by programs and efficiency measures commonly promoted in those markets:

- Residential New Construction – promoting more efficient thermal envelopes, heating equipment, heating distribution systems and water heating equipment;
- Residential Equipment Replacement – promoting sales and purchases of high efficiency furnaces, boilers, windows, clothes washers, thermostats and water heaters;
- Residential Retrofit – direct installation of low cost conservation measures (e.g. low flow showerheads, faucet aerators, and water tank temperature turn-downs), thermal envelope efficiency improvements (e.g. blower-door guided air sealing and addition of insulation) and duct sealing;
- Commercial New Construction – promoting more efficient thermal envelopes, heating equipment, heating distribution systems and water heating equipment;

<sup>10</sup> The budget was substantially higher than actual spending, i.e., equal to 0.9% of revenues. PSE&G is likely to be spending at that higher level in the future.

- Commercial Equipment Replacement – promoting sales and purchases of efficient furnaces, boilers, water heating equipment, infrared heaters, controls and cooking equipment (e.g. direct fired convection ovens, infrared fryers and griddles, power burners, exhaust hoods); and
- Commercial/Industrial Retrofit – improving process efficiency, boiler efficiency tune-ups, heating distribution system optimization, duct sealing, installation of heat recovery ventilation equipment, controls, thermal envelope efficiency improvements, etc.
- Small-scale combined heat and power – fuel cells and microturbines can provide high combined end-use efficiencies and eliminate line losses associated with centralized generation, making them a far more efficient alternative to centralized gas-fired generation of electricity. Although these projects have been funded through the DG/CHP program, the benefits that they provide to the gas system have not generally been accounted for.

The features of programs targeted to these markets vary from place to place and from market to market. They often include financial incentives, marketing (particularly for equipment replacement programs), technical assistance (particularly for new construction and retrofit markets) and quality assurance (again, particularly for new construction and retrofit markets).

New York will certainly not have to “reinvent the wheel.” ACEEE’s *Responding to the Natural Gas Crisis: America’s Best Natural Gas Energy Efficiency Programs*, includes the results of a nationwide search and review of utility natural gas energy efficiency programs and related regulatory and policy mechanisms. The ACEEE report highlights “exemplary” natural gas energy efficiency programs. Two New York programs that appear on the list (the residential Home Performance with Energy Star<sup>®</sup> and commercial New York Energy \$mart<sup>SM</sup> FlexTech Program). (Kushler, *Responding to the Natural Gas Crisis*, Executive Summary at 1) More recently, in January of 2005, ACEEE followed-up with an examination of efficiency potential in the Midwest. (Martin Kushler et al, *Examining the Potential for Energy Efficiency to Help Address the Natural Gas Crisis in the Midwest*, Report Number U051, ACEEE, January 2005)

**13.b. Which classes of customers would be served most effectively by a natural gas SBC program?**

All classes of customers could and would be served effectively by a natural gas SBC program. As described in the answer to the previous question, there are existing programs targeted to the various customer classes. For equity reasons, programs should be targeted to all classes of customers.

**13.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?**

The PSC should be funded through a non-bypassable charge on all therms delivered in NYS. The initial funding for this program should be set at \$50 million annually. Fifty million dollars should be sufficient to develop and begin to target the vast amount of achievable gas efficiency without imposing an undue burden on ratepayers. This amount represents approximately .7 percent of total 2003 total operating revenues for gas utilities in the state.<sup>11</sup> Compared to data from other states, .7% is well within the range of the other state programs and is less than budgeted amounts in the northeastern states of Massachusetts, New Hampshire and Vermont. It is also less than spending in California, Washington, Iowa and Wisconsin.

The natural gas SBC should supplement the existing electric SBC funding levels, which contain very little funding for gas efficiency, so the natural gas SBC should have no effect on electric SBC funding levels.

**13.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?**

**13.e. How might a natural gas SBC be administered and evaluated and how should it differ from the administration of the electric SBC?**

The initial term of the natural gas SBC should coincide with the term of the newly extended electric SBC. To the maximum extent possible, implementation of the two programs should be coordinated in order to save on administration, marketing and other implementation costs.

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<sup>11</sup> 2003 total gas operating revenues of \$7,145,721,933 calculated from most recent data in the New York State Department of Public Service's Five Year Book Index of Files, <http://www.dps.state.ny.us/5yrbook/index5yr.htm>.

#### **IV. CONCLUSION**

For all the reasons stated above, CEA urge the Commission to extend and expand the SBC program according to our recommendations.

Respectfully submitted,

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On Behalf of Clean Energy Advocates

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