

THE E CUBED COMPANY, L.L.C.

E3

Providers of
Strategic Energy
Services At
The Exponential
Interface Among

- Energy
- Economics and
- Environment

Ruben S. Brown,
M.A., M.A.L.D.,
President

March 3, 2005

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

Re: Request for Comment on System Benefit Charge (SBC-III) Case 05-M-0090 – Comments of the Joint Supporters and The E Cubed Company, LLC due by March 4, 2005

Dear Secretary Brillling:

This letter outlines our support for the extension and modification of New York's System Benefits Charge (SBC) for public benefit programs. While SBC-III is a fresh start and we favor continued administration by NYSERDA, it should be refreshed at the same time.

It does not need to be "zero-based", but it can be more innovative. For example it should help to facilitate market enabling technologies reaching end-users, including such technologies that can more effectively deploy efficient, distributed energy resources and to allow modification of hourly usage by market participants.

One of the most important uses of funding for market enabling technologies will be to facilitate access to markets and market information to allow modification of hourly usage by market participants. Hence, as discussed below, the Joint Supporters strongly support for market enabling technologies in SBC III.

Our support recognizes the unique challenge and opportunity emerging with respect to linking this state-wide program, if reaffirmed, along with measures negotiated separately in Case 04-E-0572, if they are approved by the Commission for a single utility service network downstate. This should be viewed as an opportunity to build a new set of constructive programs between those which may be applicable statewide and those which

may be applicable in highly congested areas.

E Cubed and Joint Supporters worked on SBC since 1994

E Cubed and the Joint Supporters¹ have been an active participant in the SBC process and restructuring efforts since 1994. Based on our experience we strongly support extending this program for a third five-year period. We comment on selected questions from the RFC numbered below as they are in the RFC.

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

In each of the prior two five-year periods a unique twist to goals and objectives has strengthened the underlying mission of the public benefit programs. In SBC I the twist was starting up an independent operation and melding it with an RD&D institution.

In SBC II the focus on *demand response* and *reliability*, and the added interface with a new institution, the New York Independent System Operator (NYISO), was a laudable and timely extension of the broad gauge focus in SBC I.

In SBC III if renewed, market enabling technologies should achieve a much higher priority and increased visibility, including technologies that enable distributed energy markets to interface, as desired with broader markets. That process started in SBC II, but “there are still miles to go before we sleep.”

In our comments regarding SBC II, we underscored the need to expand the program more fully to all areas of New York State, particularly the downstate region. We still believe that emphasis to be warranted, and indeed our strong negotiating positions in the Case 04-E-0572 settlement which includes a number of measures to strengthen

¹ The E Cubed Company and Joint Supporters participated in all the restructuring negotiations utility-by-utility that led to the centralization of public benefit programs in a central independent body, which ultimately was selected as NYSERDA. In recent cases, such as Case 04-E-0572 the Con Edison Electric Rate Case pending before the Commission, the Joint Supporters have numbered more than twenty entities “in the business” or “allied with the business”, including companies, associations, consumers, suppliers, and intermediaries advancing energy efficiency often with a strong emphasis on distributed generation. In Case 04-E-0572, more than one-third of the signatories to settlement were Joint Supporters, and the Joint Supporters itself represented 23 entities. Several of these companies, including Siemens Building Technologies, have substantial experience with the SBC program and others have substantial experience with NYISO programs. All are concerned about facilitating the interconnection and functioning of distributed resources. Representative firms participating in this comment include: The E Cubed Company, LLC, KeySpan Business Services, Gas Technology Institute, Siemens Building Technologies, District One, Energy Concepts Engineering, PC, Energy Spectrum, Inc., Retx, Allied Utility Network, LLC, Energy Solutions Group, LLC, Equity Office Properties Trust, Redwood Power, American DG, LLC, Tecogen, Inc., Coast Intelligen.

support for distributed generation in all its many forms, underscores this emphasis. This objective should receive even greater emphasis if the SBC program is renewed.

In our review of the Staff Proposal for SBC II in November 2000, we felt that the interface between SBC and LIPA's and NYPA's efficiency and DG funding needed to be addressed more overtly, particularly with respect to Research, Development and Demonstration and the diffusion of innovation. We still believe that, and propose that for this opportunity to be viewed freshly, market participants, such as ourselves, should be invited to the table for relevant meetings.

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?

Renew it! Renew it at incremental levels as described herein!

E Cubed and the Joint Supporters strongly support extending this program for a third five-year period. The interface between RD&D and implementation that was embodied in NYSERDA's management of SBC is still valuable to transitional markets. Technology roll-out still warrants stimulus. Markets are still in transition. Funding levels should be increased.

This stimulus is warranted by market needs and social priorities, including the introduction of greatly expanded renewable activity. Some markets are working better than others, but the diffusion of benefits is spotty.

We urge your office to authorize launching an immediate effort to begin new programming on or before July 1, 2006. SBC II funds are already committed. Certainly with respect to the interface with the pending Con Edison programs, we encourage an availability of funds as early as January 1, 2006.

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?

Yes and No. A fundamental shift to supporting the roll-out of all cost-effective energy efficiency, distributed generation, and market enabling technologies should occur.

The SBC mechanism can absorb new priorities if they are adequately resourced, for example the renewable agenda addressed below or the proposed Action Plan in the Case 04-E-0572 Joint Proposal pending in front of the Commission. But Wind Farm and Farm Waste funding, for example, can move to the RPS program and thereby provide room for other initiatives involving distributed generation.

With the emergence of tighter emission rules for generation, there is a substantial role that NYSERDA could play in bridging the roll-out of more efficient machines. For example, tackling the upgrades of the existing vintage stock of emergency generators.

Interface with State Education Department Energy Funding Works

The interface of NYSERDA's funding with energy project funding via the State Education Department continues to work. There is nothing that should prevent schools from receiving funding from the SBC program(s) if they continue to contribute to the SBC funding via their distribution utility. For example, schools that receive energy and capacity from NYPA under legislative mandate but which pay the SBC on their delivery bills to via a third entity should be able to receive SBC funding.

Changes

We believe that more emphasis should be placed upon the diffusion of enabling technologies and other technologies as addressed below.

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

Overall priorities for SBC III (if renewed) in our view include:

- **CHP/DG –**
 - Increase incremental support by \$25 million annually to be earmarked primarily for distributed energy and generation programs or \$125 million in total with a significant portion available “as right” if you apply in the right time and place. Cross-reference to #10 below.
 - Experience in California and New Jersey are bringing out significant activity and in NJ utilizing a brief application form dwarfed by any single section of the standard NYSERDA application.
 - However, keep elements of the RD&D programs. They are sorely needed.
- **Enabling Technologies –**
 - Increase emphases upon enabling technologies, which facilitate access to markets and market information for load management and purchasing to allow modification of hourly usage by market participants, including capital and operating costs by \$35 million over five years.
 - Support the spread of enabling technologies/applications for energy efficiency, distributed generation, and load management which address hardware, software, and communications as well as their installation and/or refurbishment and operating costs.

- Support the spread of enabling technologies so that loads can effectively respond to market price signals in day-ahead and real time and so that loads participating in long-term bi-lateral contracts can perform in addition in the near-time markets.

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)?

Everything that is renewable-related belongs in that pot, and funding should be incremental.

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

Accelerate collections and program funding, moving up the start date to Jan. 1, 2006, since SBC II funds are basically already committed. The move-up permits dovetailing in the case of the Consolidated Edison territory with the programs emerging in Case No. 04-E-0572.

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

- Move the renewable programs out of the CHP/DG funding pools.
- Increase incremental support for CHP/DG as in #5, including in the case of CHP, the upgrading or replacement of associated equipment presently at the site involved (e.g. boilers).
- Increase emphases upon enabling technologies which facilitate access to markets and market information for load management as in #5.
- Eliminate a potential apparent clash between demand response initiatives of NYSERDA and distributed generation. Resolve it in favor of expediting DG, not stifling it.
- **Interconnection** -The Joint Supporters and E Cubed applaud the historic efforts of the New York Public Service Commission in leading the nation in the development of interconnection standards for distributed generation. NYSERDA has a unique opportunity to address this issue in connection with the Con Edison initiative to address synchronous interconnection of distributed generation to networks and the RD&D needed to improve this (e.g. for techniques for limiting the fault contribution of DG.)
- As important as energy efficiency technologies are, so too is the adoption of management practices in relieving grid congestion. Therefore, the adoption of energy management practices should be supported by public funds, as well.

- Fuel neutrality also is important in the SBC program, as fuel switching can lower peak period requirements for electricity. For example, the adoption of absorption, engine-driven, and desiccant air conditioning technologies, in addition to distributed generation.
- Establish a program to help offset the high capital costs of retrofitting existing equipment or installing new equipment that provides end-users the ability to qualify as a Special Case Resources (SCR) for installed capacity at the ISO. SCR resources should be able to obtain energy and other incentives for energy and ancillary services.
- As downstate load pocket relief will be an issue well into the foreseeable future, and as the Con Edison case (No 04-E-0572), which will be decided by the Commission this month, deals with this issue in a number of ways, we highly recommend that there be a coordination of effort between NYSERDA and Con Edison based programs.
- A portion of the funding should be earmarked for dealing with environmental mitigation, including planning evaluation and actual incentive payments to assist in the mobilization and utilization of dispersed generators.
- A program for the retro-commissioning of extant systems (DG and energy efficiency systems) to ensure that such systems operate to the fullest capacity.
- In line with the adoption of funding for retro-commissioning, would be funding for any equipment upgrades that may be recommended as a result of the commissioning process.

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

Simplify so that the money gets to participants to do what they need to do and make and/or save some money while doing it. (See #10 below for further details)

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

An industry (equipment makers and installers) and NYSERDA populated working group should be established to help integrate program information directly into marketing/sales literature used by industry in promoting their products and services.

The introduction of ever shrinking caps on individual firms who may be marketing more successfully than others is counterproductive. One should not be penalized for one's success. Several of the programs now have that direct result, especially when multiple units of an organization operating in different parts of the state, while having the same tax ID may be very different marketing organizations.

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

NYSERDA is getting “Crusty”. There is too much bureaucratic layering. Applications and receipt of awards take too long. We recommend streamlined procedures and shortening the approval period for funding to no more than sixty days. Current program assumptions and restrictions should be evaluated to determine their continuing applicability in today’s environment, for example, whether we should be restricting programs to addressing summer peaks rather than year round peaks. The NYISO hit new winter peak loads in December 2004.

We especially encourage reducing follow-up time and rigmarole before payment. M&V obsessions of some contractors and administrators have introduced unwarranted after-the-fact hunts for justification and information that should have been delineated by administrators going in rather than after the fact as a condition of getting paid. Therefore, reduce the period for getting paid to no more than sixty days in the extreme and thirty days within a normal cycle.

We further recommend that there be two basic program types. Program 1 would be for the use of established technologies and Program 2 would be for new/experimental technologies. In the case of Program 1, applicants would be able to receive funding “as of right” for the used of pre-approved technologies, systems and equipment. The application would be at most a one-page form providing basic information about the system or equipment being used and where it is being installed. The applicant would then receive “X” dollars per kW reduction achieved, for example, compared to an inefficient system. In order to receive payment all that would be required would be some proof of installation and there would be no need for the reporting of results.

Program 2 (“New Technology”) would be a similar but streamlined version of current programs where more detailed information about the equipment/system being used would be required (compared to Program 1). There would also be a modified/simplified version of present reporting requirements to prove the installed equipment/system was producing the desired results.

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

A more rapid implementation of changes recommended during the evaluation process is appropriate. The undersigned having served on the SBC Advisory Committee overseeing the PSC mandated independent evaluation function has found that gradually the program evaluations have become more effective as experience in evaluation has been gained.

However, the basic “bread and butter” overview that says “we are getting the family fed and they are flourishing” sometimes get lost in the details. There has been perhaps an excessive concern for accountability for yesterday’s priorities and not enough looking toward where an effort is taking us.

A fundamental concern that I and the Joint Supporters have is that the focus on program evaluation has led to an obsession with project evaluation, measurement and verification, that in many aspects burdens projects to the point that various market participants have been driven away by the transaction costs of evaluation (on their side).

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?

One of the most important uses of funding for market enabling technologies will be to facilitate access to markets and market information to allow modification of hourly usage by market participants. Hence, the Joint Supporters strong support for market enabling technologies in SBC III and grants to use this technology.

Support for the programs overall is critical to the effectiveness of the particular measures under consideration, specifically with respect to meeting the challenges of potential summer or winter price spikes and reliability problems.

In particular, we believe that growth in electric demand, strains on transmission and distribution systems demonstrated by the 2003 Black-out and load pocket problems of recent years are indicators of the value of developing new, clean energy sources, including distributed generation, and better techniques for modifying hourly usage. The SBC program should serve as a vehicle to effect transitional as well as permanent changes in the direction of greater efficiency of energy usage.

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

a. What kinds of programs would benefit New York's gas consumers?

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

[Due to the constituency of the Joint Supporters we do not take a position on this at the present time.]

Conclusion

It is anticipated that the programs envisioned by us for SBCIII will likely result in a further leveraging of the program funds by substantial matching funds from the customers and the enterprises assisting them with the program so that projected payback periods can be reduced. Thereby increasing the likelihood that the project will be implemented.

We look forward to the draft action plan to be prepared by the Department of Public Service Staff for another round of comments beginning in June 2005. We commit to reviewing their proposals very carefully and submitting timely remarks. We have registered for the email list and are prepared to interact with others regarding our positions and the opportunities for consultation and negotiation in the prescribed process.

Thank you for this opportunity to comment on this important program.

Very Truly Yours,

A handwritten signature in cursive script that reads "Ruben S. Brown". The signature is written in black ink and is positioned above the typed name.

Ruben S. Brown, M.A.L.D.
President, The E Cubed Company, L.L.C. on
behalf E Cubed and the
Joint Supporters