

March 3, 2005

**BY FEDERAL EXPRESS**

Jaelyn A. Brillling  
Secretary to the Commission  
Public Service Commission  
3 Empire State Plaza  
Albany, NY 12223-1350

Re: Case 05-M-0090 – In the Matter of the System Benefits Charge III.

Dear Secretary Brillling:

Pursuant to Notice Soliciting Comments, Issued January 28, 2005, in the above referenced PSC case number, enclosed please find an original and fifteen (15) copies of the New York Energy Consumers Council, Inc.'s ("NYECC") comments to Staff.

Sincerely,

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George Diamantopoulos  
Counsel for the  
New York Energy Consumers Council

cc: Active Party List (By E-mail on March 4, 2005)

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Jaclyn A. Brillling  
Secretary to the Commission  
Public Service Commission  
3 Empire State Plaza  
Albany, NY 12223-1350

Re: Case 05-M-0090 – In the Matter of the System Benefits Charge III.

Dear Secretary Brillling:

Pursuant to Notice Soliciting Comments, Issued January 28, 2005<sup>1</sup>, in the above referenced PSC case number, the following are the New York Energy Consumers Council, Inc.'s ("NYECC") comments to Staff on the following matters:

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

The Commission has previously stated that it "will require detailed program evaluations to be completed by December 2002 and by December 2004. The latter of these evaluations will be used by the Commission to help determine if the SBC should be further continued. These evaluations will address continued cost effectiveness and causality."<sup>2</sup>

The Notice Soliciting Comments in this case referenced the most recent New York Energy Smart Program Evaluation and Status Report.<sup>3</sup> The Executive Summary of this referenced report is dated May 2004 and states in relevant part at Provision 3.5 entitled

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<sup>1</sup> Case 05-M-0090 – In the Matter of the System Benefits Charge III (Notice Soliciting Comments, Issued January 28, 2005).

<sup>2</sup> Case 94-E-0952 – In the Matter of Competitive Opportunities Regarding Electric Service (Order Continuing and Expanding the System Benefits Charge for Public Benefit Programs, Issued and Effective January 26, 2001).

<sup>3</sup> Case 05-M-0090 – In the Matter of the System Benefits Charge III (Notice Soliciting Comments, Issued January 28, 2005) at p. 2, fn. 9.

“Cost Effectiveness of Programs” that “[t]he B/C<sup>4</sup> and V/C<sup>5</sup> analyses were not completed in time for inclusion in this report. The evaluation team and NYSERDA will provide the results of the cost-effectiveness analyses in a separate report in fall 2004.” (emphasis supplied).

Accordingly, it appears that the Commission’s requirement for a December 2004 evaluation addressing continued cost effectiveness and causality has not been timely complied with by the December 2004 deadline set by the Commission. NYECC believes that question 1 to these comments cannot be answered adequately in the absence of the results of the referenced B/C and V/C analyses.

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?

NYECC supports the continuity of the SBC program beyond its current expiration on June 30, 2006 because should the SBC program be extended at the current funding level, it is expected that the SBC III programs will achieve 300 MW of load reduction.<sup>6</sup> This load reduction when combined with the expected 250 MW of load reduction for SBC II would result in 550 MW of combined load reduction, which would exceed the NYISO’s projection of 535 MW of peak load growth through the summer of 2008 if not contemplated in the NYISO’s projection.<sup>7</sup>

NYECC supports long-range planning that will ensure that all parties can know the expectations of both the Systems Benefit Charges and the anticipated benefits and detriments from program continuity. Accordingly, NYECC is not averse to extending the SBC program beyond the summer of 2008 if the benefits outweigh the detriments and evaluations demonstrate that the programs continue to be cost effective.

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?

No comment.

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

No comment.

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<sup>4</sup> An economic benefit/cost analysis.

<sup>5</sup> A value/cost analysis.

<sup>6</sup> Case 04-E-0572, Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. For Electric Service, Joint Proposal, dated December 2, 2004, p. 62.

<sup>7</sup> Id. at 61-62.

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)?

Demand reduction should be a part of the Renewable portfolio as it is now in PJM territory.

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

NYECC believes that peak capacity constraints throughout New York State apply in market systems served by the New York Power Authority and the Long Island Power Authority, as well as by several local utility companies. Accordingly, NYECC would favor the expansion of the SBC programs to insure not only that all electric customers contribute comparable levels of support, but that all customers also gain comparable access to the benefits of the SBC programs.

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

The PDRE program should have a larger window than the Nov 1 – March 31 time frame. NYECC suggests approving applications in July and allowing until April 30 of the following year for full implementation.

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

All future SBC funded programs should be subject to the broadest possible oversight and evaluation to ensure maximum effectiveness.

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

No comment.

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

NYECC supports the expansion of simplified guidelines and the development of more specifically targeted demand reduction strategies. We often hear complaints that NYSERDA's current programs are too complex and diverse, often requiring customers to retain third-party consultants to secure the benefit of NYSERDA's funding. Such complaints normally accompany remarks about the ease of the old utility company-administered Demand Side Management rebate programs. Although NYECC continues to support NYSERDA's willingness to entertain a broad range of potential strategic approaches to reduce demand, NYECC is concerned that there are now too few programs that allow participants to recover SBC funding without engaging external professional resources. NYECC is also concerned with the imposition of caps on various incentive programs. We believe that all energy consumers should have equal and proportional accessibility to funding designed to reduce load.

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

See response to question 1 above. Also, changes that would reduce obstacles for customers trying to recover financial support for investments that fulfill the goals and objectives of the SBC funds should be implemented to the fullest and fairest extent possible.

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?

No. The bulk of any excess funds recovered under SBC guidelines should be returned directly to those ratepayers who are paying the Systems Benefits Charges.

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

Yes.

If so:

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

Night setback, outside air temperature reset for perimeter radiation, morning warm-up with dampers closed, boiler and gas chiller efficiency programs.

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

Large commercial and industrial clients.

- c. How should a natural gas SBC program be funded and what annual level of funding might be considered reasonable?

\$0.01/Therm SBC charge would be reasonable.

How might a natural gas SBC affect current electric SBC funding levels?

It should be at the expense of reduced electric SBC charges.

- 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?

No comment.

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

No comment.

14. Do you have any other suggestions for improving the overall SBC program that are not addressed by the above questions?

Follow the example of the California Energy Commission and SCE, PG&E and SGD&E programs, all of which have natural gas rebates, and sometimes concentrate on pockets of territory that are severely affected by load pockets or pricing spikes. NYECC remains strongly convinced that the SBC program must be subject to the same level of scrutiny and evaluation that should be applied to any rate request filed by one of the State's investor-owned utility companies. The value of bringing multiple perspectives to the evaluation of SBC funding and the guidelines that govern the use of those funds demands such attention.

In addition, NYECC would caution against making the SBC process a permanent feature of the regulatory process in New York State unless it continues to be cost effective.

Sincerely,

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George Diamantopoulos  
Counsel for the  
New York Energy Consumers Council

cc: Active Party List (By E-mail on March 4, 2005)