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March 4, 2005

Hon. Jaclyn A. Brillling,  
Secretary  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223

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

Dear Secretary Brillling:

The New York Power Authority (“NYPA”) is a corporate municipal instrumentality and political subdivision of the State of New York. It is not subject to the jurisdiction of the Public Service Commission (“Commission”) in this matter. See, e.g., Public Authorities Law, § 1014. Pursuant to the Commission’s Notice Soliciting Comments, issued January 28, 2005 (“Notice”), NYPA hereby submits its comments regarding several of the questions posed in the Notice. The stated purpose of the Notice is to give interested parties an opportunity to provide input to Department of Public Service Staff (“Staff”) before Staff prepares a proposal concerning whether the System Benefits Charge (“SBC”) program should continue after its current expiration date of June 30, 2006.

Questions No. 5, 6, and 14

NYPA’s sole comment is that if the Commission ultimately determines to continue the SBC program, the exemption of NYPA’s customers from SBC charges should continue. Such exemption is reasonable and necessary for several reasons. First, NYPA’s customers have been exempt from SBC charges since the SBC program began in 1998. Second, a primary statutory mission of NYPA is to provide low cost power to business and industry, municipal and rural cooperatives, and governmental entities in order to assist economic development in New York State and reduce the cost of government. See Public Authorities Law, § 1005. Imposition of SBC charges on NYPA’s customers would be counterproductive to achievement of these objectives and would interfere with accomplishment of NYPA’s statutory mission. The Commission recognized these circumstances in its Order Regarding Retail Renewable Portfolio Standard, issued September 24, 2004, in Case 03-E-0188, p. 55 (“We are adopting an RPS program that will exempt from contribution those customers currently exempt from SBC contribution. Such customers are generally provided electricity at reduced prices to achieve economic development objectives such as sustaining or creating jobs. We recognize that

requiring such customers to pay for the objectives of the RPS would be counterproductive to economic development goals...We note that the exemption...will also apply to numerous municipal entities including several New York City agencies and customers of municipal-owned utilities...”).

Third, it should be recognized that NYPA has conducted and will continue to conduct very extensive public benefit programs that are similar to programs conducted under the SBC. See New York Energy Smart Program Evaluation and Status Report, Final Report, Volume I (May 2004), p. ES-4 (stating that NYPA conducts “complementary public benefits programs” of its own and that NYSERDA, NYPA, and LIPA “coordinate program design and service delivery wherever practicable to maximize the use of public funds...and to ensure a coordinated statewide effort to meet public policy goals”). For example, NYPA has provided nearly \$800 million in funding for energy efficiency projects, completing more than 1,400 projects involving 2,200 public buildings across the State. These projects include HVAC modernization, energy efficient lighting and windows, and energy management systems. To date, these projects have resulted in an aggregate peak demand reduction of 188 MW, conservation of over 845,000 megawatt-hours of electricity annually and avoidance of 660,000 tons of greenhouse gas emissions each year. NYPA also is heavily involved in the funding and deployment of new renewable and clean energy facilities. Projects include fuel cells powered by anaerobic digester gas, solar photovoltaic installations, microturbines powered by wastewater treatment gases, and execution of a power purchase contract for wind power. In 2004, the NYPA Trustees increased the funding level for NYPA’s energy services program to \$1.3 billion.

Respectfully Submitted,

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Timothy P. Sheehan  
Managing Counsel

cc: Service List (by email)