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March 4, 2005

Via Overnight Mail and
Electronic Mail
Secretary Jaclyn A. Brillling
Secretary
State of New York Public
Service Commission
Three Empire State Plaza
Albany, NY 12223

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

Dear Secretary Brillling:

Enclosed for filing are the original and fifteen copies of the *Joint Comments of New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation* in the above-referenced proceeding. Please acknowledge receipt of this filing by date stamping the enclosed extra copy and returning the same to the undersigned in the postage prepaid envelope provided. Copies of this filing have been served on all active parties in this proceeding.

Very truly yours,

Amy A. Davis / jrm
Amy A. Davis

cc: All Active Parties (Electronic Mail and U.S. Mail)

STATE OF NEW YORK PUBLIC SERVICE COMMISSION

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In the Matter of the Systems Benefits Charge III : Case 05-M-0090
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JOINT COMMENTS OF NEW YORK STATE ELECTRIC & GAS CORPORATION
AND ROCHESTER GAS AND ELECTRIC CORPORATION

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Dated: March 4, 2005

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JOINT COMMENTS OF NEW YORK STATE ELECTRIC & GAS CORPORATION
AND ROCHESTER GAS AND ELECTRIC CORPORATION

I. INTRODUCTION

New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation (hereinafter collectively, the "Companies") hereby submit their comments in response to the *Notice Soliciting Comments*, issued January 28, 2005 in the above-captioned proceeding (the "Notice"). Should the State of New York Public Service Commission (the "Commission") decide to continue the system benefits charge (the "SBC"), the Companies recommend that a portion of the funds should be retained by the Companies to support resource planning or transmission and distribution projects that are commercially-viable, or near commercially-viable, technologies. Those SBC funds allocated to the New York State Energy Research and Development Authority ("NYSERDA") as the fund administrator should be used in a similar manner. In the event the Commission retains the SBC, the Companies propose that the SBC should only be authorized for a specified timeframe and that the Commission should provide for periodic review of the SBC in the future to assess whether the SBC should again be extended.

II. RESPONSE TO QUESTIONS CONTAINED IN THE NOTICE

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

The Companies have not undertaken a rigorous examination to determine which goals and objectives the various programs supported by the SBC have achieved, to what degree such targets have been met or the overall effectiveness of any individual program.

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 level?

If the Commission retains the SBC, the Companies recommend that the SBC should only be extended to 2009. At the end of that period, the propriety of the SBC should be re-evaluated, perhaps in conjunction with the review already planned for the renewable portfolio standard (the "RPS") recently adopted by the Commission.¹ Such an approach allows the Commission to best assess whether two distinct, yet related, programs are needed for the future. If the Commission nevertheless decides to extend the SBC now for a longer period, the Companies urge the Commission to establish an SBC program whose term is no longer than the duration of the RPS (*e.g.*, 2013). If the SBC is so extended, the Commission should direct that periodic reporting requirements continue and that other recommendations contained in these comments are included in the program.

The SBC program should be implemented in a manner that makes it compatible with the RPS. Additionally, the combined funding for the SBC and the RPS should not exceed the current SBC and RPS funding levels mandated by the

¹ Case 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, *Order Regarding Retail Renewable Portfolio Standard* (September 23, 2004).

Commission. RPS and SBC programs should not compete against each other. Rather, the programs should be compatible so that the State's overall environmental goals are more likely to be achieved.

3. Have conditions changed since the establishment of the SBC that would necessitate a change in overall goals and objectives of the SBC? If so, what changes are recommended?

The regulatory and competitive landscape in New York has evolved since the establishment of the SBC. It may, therefore, be appropriate to review the current SBC goals and objectives and to identify any appropriate changes. The Companies, however, object to the adoption of any goals or objectives that would create inter-region, inter-class or other subsidies. Additionally, with the establishment of the RPS, the SBC should be re-targeted and limited to only those programs that support the efficient delivery and use of energy as described in these comments.²

The Companies recommend that the eligibility for SBC funding should be expanded as a result of market developments. Under the current SBC program, SBC funds may not be used for transmission- and/or distribution-related research and development. The SBC administrator, NYSERDA, primarily has focused on creating new sources of generation via distributed generation. For example, as much as 74% of SBC amounts collected are allocated to distributed generation and renewable generation.³ However, estimates by the North American Electric Reliability Council show 30% to 40% excess reserve margin in the northeast. As a result, the Companies

² As noted in the response to Question 13, the Companies support the continuation of the LNG-related gas programs.

³ *Planning New York's Energy Future*, New York State Energy Research and Development Authority, August 2004 at p. 3.65.

suggest that the focus of SBC funding should now be targeted to resource planning and transmission and distribution programs that are commercially-viable, or near commercially-viable, technologies. Since many of these programs will, by necessity, need to be utility-specific, the Companies propose that a portion of the SBC funds collected in a particular company's service area should be retained by that utility and allocated to a company-specific program.

The Companies also recommend that the Federal Program outlined in H.R. 610 – Energy Research, Development, and Commercial Application Act of 2005⁴ should be used to inform the SBC process in New York.

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

As noted above, SBC program priorities should be modified to focus on resource planning or transmission and distribution projects that are commercially-viable, or near commercially-viable, technologies. Any additional priorities ultimately established must be guided by the following general principles.⁵ The SBC surcharge must not create detrimental cost impacts on customers. Total SBC and RPS surcharge amounts should not exceed currently-mandated levels. It is important that the Commission not compel customers in one service area to assume a greater proportional share of the costs of SBC programs or to fund programs that only benefit another area. In fact, customers should realize direct benefits as a result of the programs they are asked to support through the SBC surcharge. Moreover, SBC programs should be consistent with the State's energy plan.

⁴ A copy of this proposed legislation is attached as Exhibit A to these comments.

⁵ These same principles should be applied in the event the Commission determines that the current SBC goals and objectives should remain in place.

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 Commission must implement a system that clearly identifies the differences between the SBC and RPS programs to eliminate any program overlap and ensure that consumers are not asked to support identical programs. SBC programs should include projects that support resource planning or transmission and distribution projects that are commercially-viable, or near commercially-viable, technologies. Commercially-viable renewable technologies that otherwise are eligible under the RPS should be supported through the RPS charge.

As noted above, the Companies propose an overall limit on the combined level of SBC and RPS funding. To ensure that the cap is not exceeded and consumers are not adversely impacted, the SBC surcharge should be lowered as the RPS charge increases and vice versa.

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

The collection and allocation procedures currently in place generally work well. However, the fund disbursement periods for the SBC (January) and RPS (October) differ and should be synchronized. Additionally, as proposed above, individual utilities should be authorized to retain some level of funding to be administered by the companies.

The Companies continue to believe that funding should be allocated equitably consistent with the following principles. First, funds should not be allocated in a manner that creates inter-utility (*e.g.*, upstate versus downstate) subsidies. Second, cross-region distribution of funds should be limited to those

instances where a program clearly benefits more than one area. However, such cross-region funding must be undertaken in a way that allocates the SBC funds in proportion to the amounts actually collected in the affected regions (*e.g.*, a pro-rata allocation.).

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

The Companies recommend that Staff of the Department of Public Service, in conjunction with NYSERDA, should review current SBC programs and eliminate or modify projects that have sufficiently matured and, thus, no longer need SBC funding. In the event the Commission continues the SBC program, the projects supported by the SBC should be designed consistent with the comments provided herein.

8. How can future SBC funding programs be more responsive to the needs of New York's consumers?⁶

The overall effectiveness of the process would be improved if the time for project approval, contract authorization and settlement (*e.g.*, allocation of funds) were streamlined and shortened. This approach would help ensure that project momentum is not lost and that funds collected actually are disbursed.

The Commission and NYSERDA should implement a process that results in the funds collected from a particular set of consumers actually being used for the direct benefit of those customers and not to fund programs in other utility service areas. That process should include a component authorizing a utility to retain

⁶ At ES-24 of the May 2004 NYSERDA Executive Summary of New York Energy Smart Program Evaluation and Status Report, NYSERDA suggests that “a method of financing energy efficiency improvements should be explored in which improvements to buildings are repaid by the building’s tenants through a line item on their utility bill.” The Companies do not support this recommendation since it would increase consumer bills and create administrative burdens for the utilities and NYSERDA.

a portion of the amounts collected from its customers to fund utility-specific projects. Additionally, consideration should be given to implementing a new process that would enable a single project to receive subsequent funding without first having to apply under an associated NYSERDA Program Opportunity Notice ("PON").

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

NYSERDA and interested parties should implement more formalized partnering activities. For example, additional outreach and education as well as general advertising should be undertaken jointly by NYSERDA and utilities so that consumers can better understand the roles NYSERDA and the utilities play in supporting SBC programs and the benefits that may arise from SBC programs. Additional effort must be given to educating consumers concerning how their investment (through paying the SBC charge) actually will benefit the particular consumer. Part of this effort should include regularly scheduled meetings with regional business groups, targeted customer segments and community and governmental officials. These meetings should be designed to provide program briefings, educate consumers and potential program sponsors on the program grant process and obtain input for future programs.

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

As explained above, NYSERDA's administration of the SBC generally is acceptable. NYSERDA's performance would be even better if the waiting periods between submitting a PON and award of a grant as well as the time between award and contract execution could be streamlined and shortened.

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

The evaluation process generally functions adequately. The Companies currently participate in various review teams and have anecdotal feedback that the project evaluation process does not need modification. The process could be enhanced, however, with the implementation of the more formalized partnering activities recommended above.

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?

Yes, as noted above, SBC funds should support resource planning and transmission and distribution projects.⁷ No SBC funds should be used to unfairly benefit or subsidize the market entry of energy services companies, marketers, competitive meter suppliers, competitive meter data service providers or any other suppliers of competitive services.

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?

The scope of the SBC should include the liquefied natural gas ("LNG") gas-related programs currently included in the SBC Program and also should be extended to encompass gas-related projects targeted to resource planning and transmission and distribution as discussed in these comments. The current SBC LNG program focuses on the evaluation of technologies that would allow the use of

⁷ In considering which programs should be implemented, the Commission should review *The Millennium Program* for utility gas research and development. See, Case 99-G-1369 – Petition of New York Gas Group for Permission to Establish a Voluntary State Funding Mechanism to Support Medium and Long Term Gas Research and Development (R&D) Programs, *Untitled Order* (issued February 14, 2000). The program provides a useful template for the design of research and development programs.

local production gas within New York as well as the potential to produce LNG at city gate stations.

In the event the Commission determines that additional gas-related projects should be considered, the Companies would support implementation of a program to fund early replacements of inefficient gas heating units.

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

Several customer groups could benefit from more widespread availability of LNG. Customers that are beyond the reach of the current natural gas distribution system, those communities or industries in remote areas or interruptible natural gas customers that currently interrupt to another fuel could be effectively served if they could use LNG as their alternative fuel. LNG also could be used as a vehicle fuel in areas with clean air concerns or in fleets that have or are considering converting to alternative fuels. LNG is a portable energy source available via virtual pipelines that could bring clean natural gas to each of these customers. Because it has the potential to benefit a broad cross section of consumers, SBC funding to further develop LNG would be appropriate.

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?

Any natural gas SBC program should be subsumed within the cap previously discussed. More particularly, a gas-related SBC should not increase the total amounts consumers already pay to support current SBC funds or the RPS surcharge.

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?

Gas efficiency programs should be funded by the current SBC collection. If the Commission nevertheless adopts a separate gas SBC, its term should coincide with the electric SBC as discussed previously in these comments. However, even if the Commission implements a separate gas SBC, its funding level should be included in the total SBC and RPS cap identified above.

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

Assuming *arguendo* that the Commission endorses a separate gas SBC, the process and to administer and evaluate it should be substantially similar to the procedures applicable to the electric SBC.

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

The Companies have no additional suggestions at this time.

III. CONCLUSION

Should the Commission decide to continue the SBC, the Companies recommend that a portion of the funds should be retained by the Companies to support resource planning or transmission and distribution projects that are commercially-viable, or near commercially-viable, technologies. Those SBC funds allocated to NYSERDA as the fund administrator should be used in a similar manner. In the event the Commission retains the SBC, the Companies propose that the SBC should only be authorized for a specified timeframe and that the Commission should

provide for periodic review of the SBC in the future to assess whether the SBC should again be extended.

Respectfully submitted,

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Dated: March 4, 2005