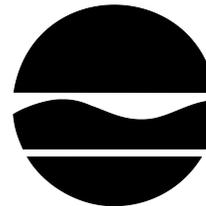


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Denise M. Sheehan
Acting Commissioner

March 4, 2005

Ms. Jaclyn A. Brillling, Secretary
NYS Public Service Commission
3 Empire State Plaza
Albany, New York 12223-1350

Comments on the Public Service Commission's
CASE 05-M-0090 - "In the Matter of System Benefits Charge III"

Dear Secretary Brillling:

The New York State Department of Environmental Conservation (Department) would like to thank the Public Service Commission for the opportunity to provide comments on the Matter of System Benefits Charge III (CASE 05-M-0090 - Notice Soliciting Comments, Issued January 28, 2005).

The Department lauds the efforts of the Commission in establishing the System Benefits Charge (SBC) and its continuation has provided for a better understanding of the impacts and role of emissions arising from electricity generation on the health and welfare of New York State resources. The Department strongly supports the extension of the SBC beyond June 2006 because of its past success and the continued need to address changes that are arising in the power industry and their effect on the environment.

Under SBC I and II, the Environmental Monitoring, Evaluation and Protection (EMEP) program has provided significant results in several policy areas by establishing research and quantification of impacts affecting health and welfare of the natural resources of the Adirondack and Catskill Parks. Information gathered through the monitoring programs undertaken by EMEP has been utilized extensively to guide the Department's policy in the protection of the most sensitive landscapes of the State.

In particular, the SBC has been a major source of support for the Adirondack Long-Term Monitoring (ALTM) project carried out by the Adirondack Lakes Survey Corporation (ALSC). The ALTM is the longest project, with an uninterrupted record of 21 years of lake chemistry information on the Adirondacks, that is made available to the public as well as to academic research resulting in peer-reviewed, internationally recognized publications.

Furthermore, SBC has been instrumental through its EMEP program in providing critical seed funding as a means to leverage external resources for research projects that are aimed at advancing the understanding of complex pollutant transport and transformation and their effect on human health and welfare. With increasing attention to particulate matter interaction with ozone, EMEP is spearheading research on improving measurements, modeling interactions, and relating these to clinical studies and other environmental indicators. The Department strongly supports such efforts, which provide direct benefit to the State. One such example of some of the things that have been gained from SBC support is advances in the sources, transport and transformation of toxic methyl mercury. We have learned where and how mercury is transformed and bioaccumulated and its pathways and appearances in the upper levels of the food web, including loons, fish, and ultimately people who consume fish as well.

It should be noted that EMEP has been very productive in providing scientifically credible results in the development and direction of State policies on the environment. Absence of such a program would have resulted in lack of information on the potential impact of continued acidic deposition on the health and welfare of the sensitive ecosystems within the State and the northeast.

Significant findings have been achieved under the EMEP program, some of which are highlighted in the enclosure. Since environmental response to changes in atmospheric pollutant burden is not immediate, it is critical that monitoring programs be planned to continue over longer time periods, and to the extent possible, with minimal disruption. Monitoring data to date have shown that physical and chemical changes in water and soil take on the order of seasons and years to respond to atmospheric changes. Biological responses are expected to lag behind those improvements. As such, the Department strongly recommends that the period of SBC funding for these types of projects be extended and expanded. An increase in the funding and time period would provide for a better planning horizon as well as to accommodate new and emerging measurement technologies that provide for better sensitivity and accuracy.

The SBC was put in place to fund public policy initiatives that were not expected to be adequately addressed by competitive markets. Even with a competitive market and government regulations, the generation of energy still creates significant amounts of pollution in the environment (e.g., harmful air emissions and discharges to water bodies). Thus, it continues to be in the public interest that the SBC focus on mitigating detrimental impacts from energy market externalities. Continued support for projects initiated under the Renewables Portfolio Standard proceedings should be maintained or expanded, funding support for environmental studies, monitoring, and protection requirements associated with renewable power sources such as wind power. With further regard to enhancing renewable capacity and mitigating generation impacts, we recommend that the Commission also consider SBC funding eligibility for more efficient, environmentally friendly turbine designs at existing hydropower facilities as well as technologies to enhance fish passage and other aquatic resource benefits.

Considering the acceptable categories of the SBC described in Appendix A of Commission Opinion 98-3, we believe that the SBC program should serve as a catalyst for manufacturers to adopt pollution prevention programs that “go beyond compliance with law or

permit requirements.” These approaches can inherently reduce overall energy requirements. Pollution prevention programs can reduce the demand for energy intensive pollution treatment, control, transfer, or remedial processes. Eligibility for SBC funding should therefore also go toward demonstrating new or enhanced manufacturing processes or raw material changes that directly decrease the energy demand of a manufacturing facility. The goal would be to focus on projects that can demonstrate greater energy efficiency while reducing the generation of pollution in New York State.

The Commission should maximize the eligibility for SBC funding for pollution prevention and other environmental improvement projects and NYSERDA, in turn, should make every effort to establish and expand programs funded by the SBC in order to increase environmental protection as well as energy conservation and efficiency. For instance, pollution from electric utilities and their customers are producing impacts or costs which are being transferred to customers and society in general. Any public benefit fund tied into energy production, such as the SBC, should have significant emphasis on mitigating the direct impact of any related pollution. Funding programs that reduce such impacts is clearly within the original intent of the SBC program and consistent with the Commission’s own goals and policies for this program. Expanding the number of SBC funded environmental protection programs will result in additional environmental protection initiatives that provide significant benefits to the environment as well as energy efficiency and conservation improvements to society.

The Department continues to support the development and demonstration of alternate energy technologies. Some of these technologies can serve to both enhance environmental protection and help stabilize the overall energy market. The Commission should give consideration to funding these initiatives as a means to enhance development, testing and evaluation.

Finally, we recommend the Commission consider the potential benefits of developing public information as a means to further efforts to promote energy efficiency and alternate energy use by the public.

In closing, the Department looks forward to these proceedings, and strongly supports the continuation of the SBC program.

Sincerely,

/s/ - David J. Shaw

David J. Shaw
Director, Division of Air Resources

Enclosure

SOME OF THE SCIENTIFIC FINDINGS THAT WOULD NOT HAVE BEEN POSSIBLE WITHOUT THE SUPPORT OF EMEP UNDER SBC:

- ▶ Continued an *uninterrupted* record of lake chemistry that is the most detailed in terms of the number of lakes and the frequency of sampling than any other acid-sensitive region in the United States. This is critical because it is not possible to re-create or replace long-term data once the data record is interrupted. The long-term record allows for the differentiation of competing controls on lake water chemistry and the identification for slow and subtle trends.
- ▶ Tripled the number of lakes that are sampled as part of the Adirondack lake trend analysis. Prior to 2003, information was available only for the original 16 lakes in the western Adirondacks. The EMEP provided for assessment of trends for 48 lakes, the scientific findings were peer reviewed and published in a leading scientific journal. This has provided for a better representation of all acid sensitive lake types based upon the dissolved oxygen content (DOC), seepage and drainage, across the entire Adirondacks.
- ▶ One of the new findings is that some of the Adirondack lakes are at a turning point with improvements in the water chemistry (ANC and pH). Current projections based upon chemistry recovery (ANC of 50) suggest that in some cases it may be decades or more.
- ▶ First time the lake chemistry data were made available for public and academic community to download and undertake analysis.
- ▶ This Adirondack Long-Term Monitoring (ALTM) chemical database provides for a baseline that is utilized by other short-term assessment programs, EPA-EMAP/TIME, and AEAP. The USEPA utilized the ALTM chemistry in its report to the nation on the efficacy of the 1990 Clean Air Act Amendments. Also, some of the mercury assessment work that is based on loons and statewide fish population relies on ALTM long-term data.
- ▶ The chemical analysis of aluminum is one of the unique products of the EMEP effort. Aluminum speciation (toxic inorganic monomeric aluminum vs. total aluminum only) is conducted as part of the ALTM, while other researchers often report only total aluminum, which limits conclusions about changing aluminum levels relative to impacts on biota. Inorganic monomeric aluminum is the most biologically-relevant chemical indicator of acidification recovery.
- ▶ Stream chemistry. Since the early EPA Episodic Response Project (1988-90) on streams, the EMEP provided for an assessment of trends in the stream data record covering 1991 to 2001 for three Adirondack streams. Flow analysis indicated that chemistry trends could not be attributable to deposition patterns, and that there is a need for additional data since these limited stream data do not constitute a statistically adequate representation of Adirondack stream chemistry.