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March 3, 2005

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

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

Dear Secretary Brilling:

Enclosed for filing are an original and 15 copies of the Comments of Orange and Rockland Utilities, Inc.

If you have any questions, please contact me.

Very truly yours,

Jack L. Carley
Assistant General Counsel

JLC/md
Enclosures

C: Active Parties

**STATE OF NEW YORK**
**PUBLIC SERVICE COMMISSION**

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

**COMMENTS OF**
**ORANGE AND ROCKLAND UTILITIES, INC.**

In its Notice Soliciting Comments ("Notice"), issued January 28, 2005, the New York State Public Service Commission ("Commission") requested responses to fourteen questions addressing issues related to the System Benefits Charge ("SBC"). Since its inception, Orange and Rockland Utilities, Inc. ("O&R" or the "Company") has been involved with the SBC process, and, in fact, collects from customers the SBC funding required under the various Commission orders.[1] The Notice provides the Company with another opportunity to contribute its experience and views on this matter.

As the Notice points out, the SBC has been in effect for an extended period throughout the state. Based on this experience, there is general agreement that there are numerous positives to the approach taken to implement efficiency programs through the SBC under the auspices of the New York State Energy Research and Development Authority ("NYSERDA"). Nevertheless, the SBC is achieving hallmarks of a permanent program that is not directly tied to the service territories of the state's electric companies, but instead, only connected in an indirect manner. We believe most would agree a

[1] Case 94-E-0952, et al, In the Matter of Competitive Opportunities Regarding Electric Service, Opinion 98-3, Opinion and Order Concerning System Benefit Charge Issues, issued January 20, 1998; Order Approving System Benefits Charge Plan With Modifications and Denying Petitions for Rehearing, issued July 2, 1998; Order Continuing and Expanding the System Benefits Charge for Public Benefit Programs, issued January 26, 2001; and Order Addressing Petitions for Clarification and/or Rehearing and Adjusting SBC Budgets, issued July 3, 2001.

program tied as closely as possible to the consumers funding the efforts would be preferable.

Toward that end, we respectfully recommend that the Commission consider a "pilot" approach to decentralizing the SBC program using O&R as the subject of this "pilot" approach. The pilot would explore the feasibility, over the long term, of decentralizing the state's approach to efficiency programs. A pilot program along the lines we suggest would by no means impair the state's current efforts toward achieving state-wide efficiency since O&R is such a small part of the state's load and, thus, such a small part of the current NYSERDA-administered efficiency efforts.

O&R proposes that, effective July 2006, the Company begin to administer and implement an efficiency program for its service area, subject to the review and oversight of the Commission staff. Funding for these programs should continue to be raised through an SBC charge, and all amounts so collected from its customers should be applied in furtherance of energy efficiency, with amounts not identified for expenditure applied to customer benefit in a manner determined appropriate by the Commission.

The Company has substantial experience in administering efficiency programs. The Company is currently involved in implementing a substantial program aimed at energy efficiency under the auspices of the New York State Department of Environmental Conservation. In addition, the Company's record of success in implementation of retail access programs attests to the Company's success at program implementation in the interests of its consumers. The Company would work closely with the Commission staff leading up to July 2006, so as to be ready to move forward with what we view as an important "pilot" effort to achieve increased energy efficiency in a way that is more tangible, proximate and responsive to the consumers actually funding the programs.

In light of these general observations, the Company offers comments on certain of the questions raised by the Commission. For the sake of convenience, O&R addresses the questions in the order that they appear in the Notice.

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

Comment:

As described above, O&R believes that other alternatives to NYSERDA as the administrator of the SBC should at least be explored, with a greater focus on the service area of the consumers funding the SBC.

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?

Comment:

O&R believes that efforts to increase consumer awareness of efficiency opportunities are generally appropriate. Towards that goal, O&R supports the pilot program approach it proposes in these comments. O&R does not believe increases in SBC remittances are appropriate.

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?

Comment:

Conditions have changed to a great extent. Lessons from both New York's experience with SBC administration and other industries, like the automobile industry, indicate that price signals are a better means of encouraging consumer efficiency than centralized mandates and centralized efficiency programs. Industry restructuring is continuing, and energy service companies and other market participants ought to have a continuing role in encouraging efficiency. As a general matter, bringing efficiency closer to the consumer ought to be the objective of efficiency programs.

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

Comment:

Customers should benefit in reasonable proportion to the contribution they make to the SBC. Despite the fact that the largest percentage of SBC funding is collected from customers in the downstate region, it is not clear that these customers receive an adequate share of program funding.[2] According to NYSERDA's New York Energy $mart Program Evaluation and Status Report, May 2004, ("Report") (vol. 2, fig. 3-7, "New York Energy Smart Ratepayer Contributions and Program Funds Committed by Utility Service Area"), O&R contributed 3.57% of statewide funding through 12/31/03 and 2.78% of the program funds were committed to the service area. Under O&R's proposal, the relationship between contribution and benefit would be in stronger balance and funds applied with a stronger sense of the service area. The greatest benefit to customers would be for the program to focus on system peak load reduction programs, targeted load reduction to mitigate growth on specific transmission and distribution circuits and programs designed to encourage growth of ESCO participation in the energy efficiency market.

[2] Even if this is only a perception problem, rather than an actual case of uneven distribution, this ought to be addressed.

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

Comment:

The Company believes that the current fund collection process is adequate. The allocation process has been addressed above.

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

Comment:

O&R recommends that, as a smaller-sized utility, it would be a good candidate to pilot a self-funding program as described above; i.e., because of the program scale and service territory size, the Company would be in a position to market the program benefits to its customers effectively and efficiently. The pilot program could also explore the issue of addressing alleged utility disincentives toward efficiency (O&R believes adequate mechanisms to address this issue already exist). An individual utility has name recognition and an on-going relationship with its customers, which is likely to result in more cost-effective marketing and higher market penetration rates than those achieved by NYSERDA.

O&R is available to work with the Commission Staff and others to develop a meaningful program. O&R would at this point propose to focus the pilot program primarily on demand-reduction and related programs. See Appendix A, attached. By O&R administering and implementing its own demand reduction program, drawbacks identified in the Report regarding program design, implementation, marketing and evaluation can be mitigated. For instance, the Report notes “A common theme running through the evaluation contractors’ findings addresses opportunities for the Program to deliver additional services to customers and reduce the appearance of confusion among diverse programs and projects." (Volume 1 at ES-9). This confusion is inherent considering the diverse nature of New York State and its customers and the large number of programs being implemented by NYSERDA. Targeted programs, implemented and marketed by the local utility to meet specific goals, would alleviate this confusion. In addition, the Report notes, "The lack of utility customer data hinders the evaluation team's ability to track specific customer information." (Volume 1 at ES-9). No such hindrance will be associated with O&R evaluating its own demand reduction programs, and the Company would expect an improvement in marketing the program to area consumers.

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?

Comment:

In its prior SBC orders, the Commission has noted that the R&D funding portion should not be directed at transmission and distribution ("T&D") research. (Case 94-E-0952, In the Matter of Competitive Opportunities Regarding Electric Service, Opinion and Order Concerning System Benefits Charge Issues, Opinion No. 98-3, issued January 30, 1998, pp. 3-4; and Order Continuing and Expanding the System Benefits Charge for Public Benefit Programs, January 26, 2001, p. 19). In fact, the Commission specifically stated that these were utility functions, not an area in which the SBC should be involved. In the event the Commission concludes that SBC should also be used for R&D activities related to electric delivery services, such funds should be used to the extent possible in ongoing projects, rather than on new projects, in order to achieve maximum benefit for ratepayers.

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

Comment:

No. To a greater extent than electric service, natural gas service is optional; i.e., customers have the choice of alternative fuels. Therefore, any additional cost for public policy initiatives would harm the competitiveness of gas as a fuel choice.

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

Comment:

Gas efficiency programs may benefit New York's gas consumers but to date these programs have been cost-prohibitive. In the event that the Commission decides to pursue gas SBC type programs, these should be included in any gas company's rate agreements, supplemented and managed by either the local utility or NYSERDA, as appropriate. Further, some SBC funding is already being used for gas programs. Adding a gas SBC on top of an electric SBC would result in significantly greater costs to customers.

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

Comment:

Large residential and commercial gas customers would be best served by gas-efficiency programs.

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?

Comment:

The Company does not support any level of gas SBC funding. As discussed in response to 13a, a gas SBC would burden the already burdened gas customers and would introduce a non-competitive element into a competitive market.

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?

Comment:

See responses to 13a and 13c.

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

Comments:

The Company does not support a gas SBC.

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

Comment:

We respectfully suggest that the current concept of an SBC program as a permanent state-run program be tested and, in line with this, we have in these comments suggested that a pilot alternative approach be conducted by O&R.

Dated: March 4, 2005
New York, New York

Respectfully submitted,

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# Orange and Rockland Utilities, Inc.

## Appendix A – Program Guidelines

Summary

Orange and Rockland Utilities, Inc. ("O&R") proposes to design and implement on a "pilot" basis energy-efficiency programs whose objective is to supplement programs administered by the New York State Energy Research and Development Authority ("NYSERDA"), specifically programs in areas related to peak load reduction and encourage the growth of Energy Service Companies ("ESCO") participation in the energy efficiency market. O&R's programs will be designed to enhance, rather than compete against, NYSERDA's offerings.

O&R will endeavor to develop, implement and evaluate programs that will achieve the following goals:

1. Overall system load reduction
2. Targeted transmission and distribution circuit load reductions; and
3. Encourage the growth of ESCO participation in the energy market.

O&R proposes that, working with Commission Staff, it would initially conduct a market analysis study to determine the technical, economic and achievable potential for demand reduction and identify related objectives within its service territory. This study will assist in informing the Company on the best programs to implement. These programs will be modified, enhanced and changed based on the results of the market analysis and discussions with Commission Staff. The issues of utility incentives for efficient end use will also be addressed as part of this pilot-program effort.

The Company would also obtain an independent evaluation to provide an objective review of each program and provide recommendations for future program improvements. It should be noted that NYSERDA's "New York Energy $mart Program Evaluation and Status Report" observed that "the lack of utility customer data hinders the evaluation team's ability to track specific customer information." (Volume 2 at ES-9) (May 2004). O&R's program evaluations will not be hindered by this lack of utility customer data. This evaluation would be expected to include impact analysis, market analysis and process analysis to inform the Company and Commission Staff as to how best to improve each program and how such program could be replicated throughout the State.