

VIA HAND DELIVERY

October 17, 2005

Jaclyn A. Brillling  
Secretary  
New York State Public Service Commission  
Three 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 the Notices issued in the above-captioned proceeding dated August 31, 2005 and October 13, 2005, please accept this letter as comments to be filed on the submitted Staff Proposal for the Extension of the System Benefits Charge (SBC) and the SBC-Funded Public Benefits Programs (Staff Proposal).

It is interesting to note that the Staff Proposal is dated one day after Hurricane Katrina made landfall. Further, and to reiterate known history, these events occurred approximately two weeks prior to the date when Hurricane Rita made landfall. Since the time of these hurricanes, the world of energy and transportation fuels has changed radically.

Certainly it was not anticipated that during the drafting of the Staff Proposal that two hurricanes would devastate the U.S. energy sector. However, in the nearly 7 weeks since the issuance of the Staff Proposal, the national and international impact of the damage to the U.S. Gulf Coast energy production facilities has become widely known. Even as late as October 14, the U.S. Energy Information Administration reported that 55% of U.S. natural gas production remains “shut-in.” While repairs to energy facilities are progressing steadily, what remains unknown about the affect of the hurricanes is the duration of the shut-in capacity, the ability to purchase gas for storage and the affect on prices for fuels for ultimate consumption. In any event, the impact to consumers is estimated to be a dramatic increase in their winter energy bills. This is already coming on top of dramatic price increases for consumers over the past several years.

The Public Service Commission, aware of the impending crisis on heating and energy costs this upcoming winter, has taken some action. Pursuant to a ruling on its own motion on September 21, the Commission voted to “reallocate \$500,000 in funds within the (SBC)” to support

augmented education and outreach. (See Public Service Commission Press Release dated 9/21/05.) This flexibility and reallocation is entirely appropriate and indeed necessary.

This current energy crisis has demonstrated the need for both short-term and long-term responses. Expanded customer outreach and education may well become permanent components of the longer-term SBC programs. However, in looking at possible program options, the Staff Proposal virtually maintains the status quo on program design and program funding allocations. This should raise the question: Is the decision-making process for SBC programs adequate and appropriate?

As an example, low-income customers, likely more so than any other class of customers, face a critical need of support this upcoming heating season. Certainly any support or expansion of bill-payment programs should come from the legislature. But is there any will to expand low-income weatherization programs with SBC monies? On October 14, the Binghamton Sun-Bulletin reported that there exists a 2 to 3 year wait list for local participation in the Weatherization Assistance Program. This is unacceptable to those consumers looking to control their energy costs, only to find limited resources and no other opportunities.

In addition, it is unclear whether the included proposal takes account of all possible revenue resources. For instance, the New York Independent System Operator runs emergency demand response programs. And yet the SBC runs similar programs, the vast majority of the monies for this going to support large customer classes without any long-term changes in their energy use. While demand response is a valuable program, perhaps they should be funded through other revenue sources, and SBC funds should be directed for implementation of long-term energy savings.

In short, there exists a lack of coordination of the SBC program, looking forward, with other existing programs and emergent needs. The Staff Proposal does not conduct an evaluation of the other resources available, how the SBC should be linked with such programs, consideration of recent and potential new electric generation regulations (such as the Renewable Portfolio Standard or the Regional Greenhouse Gas Initiative) and their impact on technology development. Rather the proposal to continue the SBC for another 5 years appears to rest on the laurels of its stated program successes.

Further, the delay of the natural gas SBC proceeding to January 2006, when consumers may be in the midst of a natural gas price crisis, should be revisited. This is also in line with calls for a more coordinated approach to low-income programs, especially in light of recent price spikes, as demonstrated by Comments of the Consumer Protection Board in Case 05-G-1209, Energy East Petition for Emergency Financial Aid to Low Income Natural Gas Customers. That case commenced with a Petition by the utility to redirect current SBC money to support low-income bill payment needs.

Current information on energy prices indicates that the escalation of energy fuels prices is likely to persist for several years. This upwards adjustment of energy prices must become a factor in looking at program design issues going forward. This is most important to ensure that programs to assist in the direct installation of energy saving measures, resulting in system-wide and

customer-specific benefits, become a focus of the programs. Thus the state, via the SBC, can provide a degree of financial support for those measures which the state has been recommending to customers as energy-saving measures.

Further, I find it essential to reiterate my position filed in earlier comments, which were unaddressed in the Staff Proposal, that these programs should be decided by the state legislature. Therefore, I again call on the Commission to require the parties to the proceeding to develop proposed legislation for presentation to the state legislature, for statutory authorization for a system benefits program, with suggestions for appropriate funding levels, for inclusion in the next state budget deliberations.

I look forward to continued participation in these administrative proceedings.

Respectfully submitted,

A handwritten signature in black ink that reads "Paul D. Tonko". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Paul D. Tonko  
Chairman  
Assembly Standing Committee on Energy

cc: SBC listserv via e-mail