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**October 14, 2005**

**Jaclyn A. Brilling, Secretary  
New York State  
Public Service Commission  
3 Empire State Plaza  
Albany, New York 12223-1350**

*Re: Case # 05-M-0090 – In the Matter of the SBC III*

Dear Secretary Brilling:

In March 2005 the Association for Energy Affordability (AEA) was a member of the broad coalition of environmental, low income and renewable energy advocates that joined together as the “Clean Energy Advocates” in submitting detailed comments to the Public Service Commission on the need to extend and expand New York’s System Benefits Charge (SBC) programs. Once again AEA has joined the Clean Energy Advocates (CEA) in responding to the “Staff Proposal for the Extension of the System Benefits Charge (SBC) and the SBC-Funded Public Benefits Programs” (Staff Proposal) released on August 30, 2005. But in this instance, in addition to responding as part of that coalition, AEA is herewith submitting direct comments that will serve as an AEA supplement to that CEA submission.

We appreciate the opportunity to provide comments on the SBC program and on the Staff proposal for SBC III. We also wish to acknowledge the important public service that the Public Service Commission provided to New Yorkers first by establishing the SBC “to fund public policy initiatives that were not expected to be adequately addressed by New York’s competitive electricity markets” and then by adopting and continuing the SBC program through SBC I and II. It is the continued leadership of the Commission and its Chair that provides the foundation for the current Staff Proposal to continue the SBC funding and extend it for another five years.

AEA strongly supports the Staff Proposal’s recommendation for continuation of public benefit program funding through an SBC III, as well as its rationale (summarized in paragraph three on page 13). However, we believe the facts underpinning the Staff rationale support an increase to \$225 million per year and an extension by at least 7 years. We also recommend that the low income component be established as a permanent commitment by the State of New York.

AEA, through its Executive Director, David Hepinstall, and its member network of community based organizations directly engaged in the delivery of energy efficiency services in low income communities, as well as its diverse and highly qualified professional staff of energy engineers,

program managers, trainers, and field staff, has been actively engaged in designing and implementing low income energy efficiency programs with either utility or SBC support continuously since 1993.

Since 1999, we have won competitive solicitations to lead implementation of several NYSERDA programs and have participated directly in teams carrying out a variety of other NYSERDA programs. Under the coordinated project model developed first under NYSERDA's Direct Install program that AEA led, SBC funds helped community based organizations to provide a more comprehensive scope of services and to do so in more low-income housing units in their communities. This coordination of federal dollars with State funds, combined with attracting matching building owner investment, has resulted in leveraging more resources to address the growing needs of low-income households in a time of rapidly increasing household energy prices.

### **SBC Program Results to Date**

As noted in the Staff Proposal, in its May 19, 2005 transmittal of NYSERDA's Program Evaluation and Status Report to the Commission, the SBC Advisory Group concluded that the most recent evaluation report demonstrated the "substantial progress" in achieving the goals initially set forth by the Commission; and Staff concurred in general with this assessment, based upon its review of the evaluation reports. (pp.6-11).

Through participation in a variety of NYSERDA programs, we know first hand the public benefits that have come from SBC programs, including evidence of market transformation in appliances and lighting, the positive impact that staff certification and contractor accreditation requirements have on interest in training and skill enhancement, as well as low income homeowners' and tenants' recognition of these programs' contribution to housing affordability and the environment.

High customer satisfaction levels with the results in terms of education and awareness, energy efficiency, health, safety and comfort are the norm among our NYSERDA program customers; but the perceived needs and demand for our services continues to grow as market awareness combines with fears of rising energy prices and concern about dependence on foreign oil again increases in the public consciousness.

AEA is also aware of and fully supports the Commission's policy intent, and NYSERDA's continuing practice, of funding public policy initiatives, that would not otherwise be supported in a competitive marketplace, in an open and competitive manner through a series of strategies intended to stimulate innovation and competitive market activities while addressing barriers to market adoption. Public benefit funds are needed to support such efforts; but selection of winners must be fair and competitive, and transparently so.

To date, the Public Service Commission's decision to embark on an SBC program, and to select NYSERDA as the third-party administrator under Staff oversight, has been a great success. But the opportunities for much deeper and longer term commitment and investment are still there, and low income households, especially seniors and others on fixed incomes but also the working poor, are facing perhaps the greatest energy affordability crisis of the past 30 years.

In addition, the opportunities to support advances in technology that may alter the way we think about energy (e.g., with the introduction in the mass residential and small commercial market of advanced information technology in metering and controlling energy) are still being inadequately addressed. Increased public investments in these areas, combined with careful assessment of time-sensitive rate design options that can also ensure consumer protections for the most vulnerable New Yorkers, should be an important part of the SBC III agenda.

## **AEA RECOMMENDATIONS FOR COMMISSION CONSIDERATION**

We have the following specific recommendations for your consideration in reviewing the staff proposal regarding SBC III.

### **1. Increase SBC Funding Allocation for Low Income Programs**

AEA recognizes and applauds Staff 's proposed increase in the share allocated to Low Income from 13.4% (the 8 year funding allocation reported on page 4) to 17.5% (the \$26,980,000 average annual allocation for low income as a share of a \$154,221,946 average annual allocation for all SBC programs over the 5 years). However, we recommend that this share be increased to a full 20% of an expanded SBC program (or \$45 million of a \$225 million annual program).

Low income SBC programs should continue to be fuel neutral, and such an increase is needed to keep pace with recent and projected fuel price increases for 2006 released by EIA/DOE, and to address the energy efficiency needs of the state's "lowest income households," targeted in the Staff's revised low-income program goal (see below).

According to the "Home Energy Affordability Gap: Special Supplement," just prepared by Roger Colton of Fisher, Sheehan & Colton, incorporating 2006 fuel price projections released in September 2005 by EIA/DOE, the "Home Energy Affordability Gap" in New York State will have increased from \$1,056 to \$1,522 – a 50 percent increase – since 2004.<sup>1</sup> Other data and studies support similar conclusions.

As we prepare for what is now projected as a sustained period of increased energy prices, the Commission should adopt a policy allocating an increased share of SBC funds for low-income programs, including those targeting low-income residents in multifamily buildings where heat is included in the rent, and rising energy costs result in higher rents as well as higher utility bills.

Targeting SBC funds for energy efficiency, load management and training for property managers and building superintendents in multifamily buildings housing low-income tenants – as NYSERDA has already done through its current portfolio of low income residential programs – continues to be a high priority in an expanded low income SBC program. This is particularly true in New York City where 2.2 million households, or two-thirds of all households and an even larger share of low-income households, live in multifamily housing of 5 or more units..

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<sup>1</sup> "Home Energy Affordability Gap: Special Supplement – 2006 Fuel Price Projections," October 2005. Prepared by Roger Colton, Fisher, Sheehan & Colton, Public Finance and General Economics. Belmont, MA.

**2. Expand Definition of Energy Burden and Home Energy Affordability Gap to Include Impact of Energy Costs on Low Income Tenants’ “Rent plus Utilities” Costs**

The staff proposal recommends as one of the four revised SBC program goals the following goal with respect to low income programs:

“Reduce the energy cost burden of New Yorkers by offering energy users, particularly the State’s lowest income households, services that temper the effect of energy price volatility and provide access to cost-effective energy efficiency options.” (p.14)

In developing and evaluating the impact of low income programs on housing affordability for low income households, we recommend that the definition of “energy burden” be broadened to recognize that, when heat is included in the rent (as it is in most rental properties in NYC), the rising cost of oil and natural gas puts an upward pressure on rent, that results in a much higher “household rent plus utilities” burden. The resulting housing and energy Affordability Gap also increases. Energy efficiency investments to reduce that upward pressure on rents become an effective tenant benefit, as does the access to low-interest financing to support building owner investment in such efficiency measures in their own properties.

**3. Provide a Greater Share of NYSERDA Funding for the Residential Sector based upon Accurate Estimates of the Total Residents in Multifamily Buildings in New York City.**

In developing its SBC portfolio of programs, we recommend that the Commission call upon NYSERDA to address the undercounting of the need and opportunity for energy efficiency and load management in multifamily buildings, where the common area account is often identified as either a small or large commercial service classification, but the electric service provided is only public hallway and other common area lighting and electricity to the building, despite the commercial electric account classification from Con Edison..

Specifically, the Commission should direct NYSERDA to request and Con Edison to provide to NYSERDA the aggregate figures documenting the number of residential electric accounts (ES 1) that are located in buildings that have one or more SC-2 (small commercial) or SC-9 (large commercial) accounts, as well as the total number of these SC-2 and SC-9 meters/accounts that are in multifamily buildings. These data, plus the information Con Edison should also provide on the number of residential buildings that have SC-8 or SC-12 accounts, should enable NYSERDA to develop program allocations that result in greater sector equity (between residential and commercial programs) and regional equity, with a greater share of the funds collected from Con Edison rate payers in New York City and Westchester County likely to return to these geographic areas in the form of direct NYSERDA program expenses or incentive payments, if the sector equity issue were to be addressed in this manner.

The overlaps in the issues of **sector equity and geographic equity** are tied in part to the large share of apartment buildings and other forms of multifamily housing in New York City, and the various barriers, such as split incentives between tenants and building owners when tenants directly pay for their in-unit electric use but owners pay for central heat, domestic hot water and common area electric use.

#### **4. Continued Coordinated Programming with the Weatherization Program**

In low income programs, the Commission should encourage NYSERDA to continue to utilize and build the capacity of the existing statewide network of local community based organizations and community action agencies funded by the Federal Department of Energy's Weatherization Assistance Program and the Low Income Home Energy Assistance Program, taking full advantage of leveraging and program coordination opportunities. Specific NYSERDA SBC programs such as the Direct Install program, the CBO Initiative and the Empower program have each adopted this approach; and this approach should be expanded under SBC III.

#### **5. Training and Certification**

The Commission should encourage NYSERDA to continue and to expand SBC support for the development of a broad based, statewide training and nationally recognized certification infrastructure, including training for building performance contractors, weatherization field staff, building superintendents, property managers, heating system designers and installers and a variety of new job classifications that will increase in importance in a changing energy industry.

Examples of such new training and certification opportunities include meter installers working for competitive meter service providers, as well as PV installers and others, such as energy design consultants needed to support rapid expansion of NYSERDA's multifamily new construction pilot program in SBC III.

#### **6. Advanced Metering and New Information and Controls Technology**

The Commission should encourage NYSERDA to expand its current advanced metering initiatives in Con Edison's electric service territory beyond the more limited sub-metered market (e.g, in SC 8 buildings master metered for electricity by Con Edison and then sub-metered by the building owner to the individual residential customers living in apartments in the building) into the mass residential market of SC 1 customers directly and individually metered by Con Edison.

The Commission should encourage NYSERDA to work with Con Edison, Staff, and competitive meter service providers and/or meter data service providers, to design and implement a program under SBC III that provides targeted support for the development of an advanced metering infrastructure in the mass residential market, including apartments in multifamily buildings as well as in small homes, in order to provide the information, technology and controls enabling effective implementation of time sensitive rates, and promoting energy efficiency and load management, while also providing consumer protections for the most vulnerable households.

#### **7. Continued Support for Energy Efficiency Resource Acquisition Programs**

We support continued emphasis on a market transformation approach that drives much of NYSERDA's SBC program development efforts; but we call upon the Commission to acknowledge the continued need for resource acquisition strategies and incentives to address the market barriers, particularly in the split incentive environment of multifamily buildings where building owners often pay only for common area energy use while tenants are directly and individually metered for their electric use. Incentives sufficient to overcome such barriers are still needed in order to jump start the market transformation process.

We also recommend that NYSERDA's overall portfolio of programs continue to demonstrate a balanced approach that gives greater overall emphasis on the opportunities to achieve energy efficiency gains, particularly in the mass residential and commercial markets, while also incorporating demand reduction strategies applicable to all sectors.

## **8. Other Issues for Commission Consideration**

- Metering, Account classification and Rate Design in Multifamily Buildings  
There are a set of related issues that arise here, some of which have begun to be addressed in a variety of different Commission proceedings on competitive metering, real time pricing, submetering, and consumer protections. In our view, these should be reviewed in the context of SBC III program design to determine ways in which public benefit program funds administered by NYSERDA might appropriately be targeted, and coordinated with other policy initiatives, to address these issues.
- New York State Low Income Energy Policy Task Force  
The Low Income Forum on Energy, developed initially by the Chair of the Public Service Commission and now a project supported by SBC funds, has provided an effective vehicle for developing and continuing the dialogue among various low income energy advocates and service providers.

With the energy affordability crisis that is looming for the most vulnerable low income households throughout New York State beginning this winter, we believe it is time for the Commission to convene a New York State Low Income Energy Policy Task Force, supported by SBC funds and including broad private and public sector representation of interested parties who share a commitment or responsibility to address this issue now.

Again, we appreciate the opportunity to provide comments to the Public Service Commission on the Staff Proposal for the Extension of the System Benefits Charge and the SBC-Funded Public Benefit Programs.

Sincerely yours,



David Hepinstall  
Executive Director  
Association for Energy Affordability, Inc.