

October 17, 2005

Via Federal Express

Hon. Jaclyn A. Brillig
Secretary
New York Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

Re: Case 05-M-0090, In the Matter of the Systems Benefit Charge III

Dear Secretary Brillig:

The City of New York hereby submits Comments in this matter in response to the Commission's Notice of August 31, 2005. An original and fifteen (15) copies of the City Comments are enclosed. Electronic service was also made to secretary@dps.state.ny.us and sbc@dps.state.ny.us

Very truly yours,

/s/ Michael J. Delaney

Michael J. Delaney, Esq.

Enclosures

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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

**Comments of the City of New York
On the Staff Proposal for the Extension of the System Benefits
Charge and the SBC-Funded Public Benefit Programs**

October 17, 2005

The City of New York (City) hereby submits its comments on the August 30, 2005 proposal of the Department of Public Service Staff (Staff) to extend and modify the System Benefits Charge program (SBC).

Background

The Staff Report (Report) evaluates the SBC program and makes recommendations concerning the future funding and implementation of the program. The Report notes that out of the approximately \$962 million allocated to NYSERDA in SBC I and II, the Authority had as of June of 2005 committed \$882 million, or approximately 92% of the authorized total.¹ This fact illustrates the need to provide a follow-on program for 2006 and beyond. The Staff Report advocates a five-year program extension, through June 30, 2011. In addition, the Report proposes holding funding at approximately the current level, or just over \$150 million annually.

The City has been very supportive of the goals of the SBC programs, and has publicly lauded many of the efforts of NYSERDA to foster the objectives established by the Commission since the original SBC initiative in 1998 and the recommendation in the City's Energy Policy Task Force report of January 2004. However, the prospect of a successor program next year offers an opportune moment for the Commission to make various adjustments so that the SBC process can better serve the needs of all New Yorkers. The Staff Report incorporates a number of suggestions for improvements, with which the City is generally in accord; however, the City hereby offers additional proposals that are needed to advance the goals of the SBC program as further described herein.

In addition, the City urges that SBC not be subject to a fixed or hard funding cap, but retain the flexibility to seek cost-effective measures, particularly in an economic climate in which

¹ Staff SBC III Proposal, at p. 5 (August 30, 2005)

there may be few alternatives to distributed resources to meet load growth, moderate price effects, and benefit the environment.

Discussion of Issues Raised by Staff Report

I. Reauthorization of the Systems Benefit Charge Program Should Incorporate Specific and Quantifiable Goals That Will Be Subject to Review During the Term of the New Program

While the Staff Report recognizes the need to make adjustments, and urges sound measures such as fully integrating NYSERDA residential programs, the City view is that more is required to realize the full benefits that the SBC program is intended to confer.

A persistent criticism of the SBC program since its inception has been the somewhat amorphous quality of the goals sought, both in terms of greater energy efficiency and environmental enhancement. Precise targets that would permit accurate measurement of the progress achieved in various NYSERDA priority areas have not been a hallmark of the process, in part due to NYSERDA's lack of experience with the yield that could reasonably be expected from various programs, some of which were experimental or highly innovative. However, after seven years there has now been enough experience acquired by NYSERDA and by other parties that any future SBC program should set out discrete goals both by program, and by service territory.

Specifically, NYSERDA should develop in coordination with the SBC Advisory Group and the Commission *specific* and *quantifiable* goals for its programs, primarily in terms of actual kW and kWh demand reductions that are sought and expected. Although such goals will have to be reviewed and updated on a periodic basis in order to best meet the needs of customers and shifting market conditions, they will provide basic criteria by which the success of programs may

be tracked. This review process should be preceded by regular market potential studies that will be used to ensure that programs are designed to harvest all cost-effective demand reduction.

NYSERDA should also create a standardized data collection and tracking system that will record all SBC expenditures including purpose, specific geographic area, and linkage to specific program goals. While the current tracking system has provided substantial information, both quantitative and qualitative, additional information is clearly required to realize NYSERDA's goals for the best use of SBC expenditures.

In addition to collection, data should be summarized in several categories including expenditures by local distribution company service territory, ISO zone, and program/measure. This information should be submitted regularly to the Commission and the SBC Advisory Group for comprehensive review and assessment.

NYSERDA itself should also build on its current evaluation process to periodically review the status of each of its programs based on such specific and quantifiable goals, as well as the effects on the market. These evaluations should accompany the submissions to the Commission and the SBC Advisory Group of the data collection and tracking output system described above. In so doing, NYSERDA will provide far greater transparency for all of its programs.

II. A Future SBC Program Must Rely on Partnerships With the Utilities in Each Area of the State in Order to Maximize Effectiveness

As has been recognized in other proceedings,² the basic goals associated with developing incentive programs in the Con Edison territory are best advanced by formalized cooperation between NYSERDA and Con Edison, and input from other stakeholders. In the context of an SBC III program, the City believes that a greater role of the utilities in the administration of

² *E.g.*, Action Plan of DSM/DG Collaborative, Case No. 04-E-0572

demand management programs is critical to achieve their goals. Each distribution utility through its routine interaction with ratepayers develops strong relationships with key customer decision-makers. These customer channels are an invaluable resource for marketing DSM/DG programs successfully, and must be fully utilized by NYSERDA both as a means of communicating their programs to ratepayers and as a way to gain a greater understanding of the market. This in turn should lead to improved program designs.

In New York City, for example, NYSERDA and Con Edison should form a partnership to promote demand management programs. Heretofore this has generally not been done. In reality, the utility personnel are an invaluable resource – they know the territory, their account representatives have existing long-term customer relationships, and they can help leverage the effects of existing or future SBC programs. The City believes this is an absolutely necessary component of a future SBC program, and the Commission should continue to utilize all the tools at its disposal to create the proper incentives to ensure active utility participation.

The Commission in its Order establishing the current Con Edison rate plan recognized the need to have a collaborative process that fully engaged the local utility. Thus, the Order specifically cited the value of demand management efforts, calling them “very important” and noting that they conferred “numerous public benefits.”³ Perhaps most importantly for the discussion here, the Commission in that Order also adopted with modifications the Joint Proposal in the case that included specific quantified goals for the wider use of distributed resources over the course of the three-year rate plan. Further, the Joint Proposal created a collaborative structure that would formally integrate Con Edison in the DSM process.⁴ This Order provides at least a partial model for the shape of SBC III. While a number of adaptations are clearly

³ Order Adopting Three Year Rate Plan in Case 04-E-0572, at pp. 85-87 (Order issued and effective March 24, 2005)

necessary, the key elements should be retained – specific and quantifiable program goals, and a full partnership with the local utility – the entity best positioned to help NYSERDA to reach its targets.

III. The City of New York Must Receive an Equitable Share of Statewide SBC Allocations in Order To Obtain the Maximum Benefit from SBC Funding

The Commission should support a renewal of the SBC program in a form that assures the funds that City ratepayers pay into the SBC are returned to the City for energy efficiency and environmental benefit projects. In addition, relative area costs and benefits should be taken into account in establishing SBC support levels for particular localities.

This is not a mere parochial concern for the City of New York. As the City’s Energy Policy Task Force has observed,⁵ the City is a load pocket that is subject to some of the highest energy prices in the State, if not the entire country. As such, it must be the subject of a multifaceted approach to the issues of assuring electrical system reliability, moderating energy prices, and fostering environmental goals. This will mean developing our energy supply through the wider use of distributed resources as well as enhancing the traditional generation and transmission infrastructure. The Commission has itself recently observed that there is a clear need to address City energy issues by fostering demand reduction, particularly in the face of persistently higher energy and fuel prices.

In fact, there are few alternatives to the greater use of distributed resources⁶ left to us in the current economic climate. Recent events have shown that there is little availability of financing for power plants and bulk transmission lines, and Article X, as the Staff Report observed, has lapsed

⁴ *Id.* at p. 117

⁵ New York City Energy Policy Task Force Report, at pp. 13-14 (January 2004)

since the end of 2002 despite efforts by the City and many others to encourage passage of a successor statute.

The combination of these and other circumstances means that we must look to other means, notably distributed resources, to meet the load growth that the City has experienced in recent years. And that growth in load has been striking: Con Edison experienced eight of its ten highest peak load days in 2005, and established many new records for electricity and natural gas consumption during the past few months.⁷ This trend can only be expected to continue, and importantly, is being driven largely by residential demand growth in the City. To cite but one example, Con Edison estimates that over the next five years, some 900,000 air conditioning units will be installed in its service territory.⁸ In a similar vein, the City recently announced that it issued more building permits in the last year than at any time in the last three decades.⁹

In the face of such dramatic statistics, and in light of the extreme volatility in fuel prices that recent events have caused in the markets, an extension and potential increase in SBC programs is reasonable only if it can be demonstrated that the City will receive at least its fair share of the benefits provided by these programs. As noted, it is not clear that City ratepayers have received commensurate benefits from the funds that they pay each year to support the SBC program.

Under that program, utilities act essentially as conduits for the funds of ratepayers who are entitled to receive appropriate benefits in return. While the Commission has observed that the precise balance need not necessarily be exact, it clearly should be made more equitable, and the

⁶ New York City Energy Policy Task Force Report (January 2004) defined “distributed resources” as energy efficiency, fuel switching, clean onsite generation, peak load management, thermal energy storage, and renewable energy.

⁷ These included all time records for single day peak consumption, weekend single day consumption, monthly electricity send-out, cumulative megawatt hours, and hourly gas usage, among others. Source: Con Edison public advisory of September 4, 2005

⁸ *Id.*

Commission should take affirmative steps to ensure that this is done in any successor SBC program created for 2006 and beyond. The only section of the Staff Report that discusses the fair geographical allocation of benefits merely notes that "... parties noted generally that the allocation and collection process should be equitably linked."¹⁰ This statement fails to do full justice to the equity issue, especially in view of the extensive relative funding allocation analysis provided by the City and by others in the initial round of comments in this case.

The Commission should direct that a minimum amount of SBC funds be spent in New York City each year, and mandate internal and external monitoring to realize the goals established in a cost-effective manner. In addition, the NYSERDA funding and program design elements should take into account the economic realities that prevail in each area of the State. This consideration was not explicitly addressed in the Staff Report. Thus, cost data should be used in determining general funding levels and such issues as individual program caps or thresholds that should be implemented in New York City. In the past, NYSERDA has recognized and addressed this issue to some degree, but it should be done in a more systematic fashion under SBC III. Relative cost of living data, energy and capacity prices, and construction industry realities are examples of the data that should be incorporated in funding and program decisions.

While costs are higher in New York City than in other parts of the State, there must be a parallel recognition that the relative value of such measures as demand reduction is also indisputably much higher in Zone J than is true elsewhere. This fact points to the need for a symmetrical analysis process. Given a fixed sum of money, there will likely be a natural tendency to spend the funds where their relative purchasing power is greater, thereby demonstrating what appears to be higher cost effectiveness. Such an appearance is illusory, however, if the realized value for those

⁹ Source: New York City Department of Buildings – nearly 25,000 individual permits were issued in 2004.

expenditures is very small. The reality is that funds spent in the highest cost areas will yield greater economic and social value, particularly to the extent such NYSERDA spending avoids other higher locality-based costs, such as the need for grid reinforcement, or the purchase of highly expensive energy and capacity.

An example that is referenced in the Staff Report is the realm of residential demand. With literally millions of residential units located in its jurisdiction and a rapidly growing population, as well as a very significant number of housing units actually owned and operated by government entities, we must fully involve residential energy customers in energy savings plans. The City is in agreement with the Staff Report on the need for more effective and more comprehensive residential programs in any SBC successor program. Real time pricing (RTP) programs, particularly if coupled with residential load control mechanisms, hold the promise of dramatically affecting system demand and pricing.

Considerations of cost become paramount in dealing with residential users. It is here that NYSERDA should play a greater role in making advanced meters available without imposing significant costs on residents. This is especially true for those initial participants who are willing to experiment with a technology that is largely unknown to them, but who cannot be expected to bear significant costs to install upgraded meters, software and the like without a full appreciation of the benefits thereof. This is one area where a successor SBC program can be of material benefit with, as Staff suggests, a fully integrated approach that can be of the greatest use to residential building owners and managers.

¹⁰ Staff Report Appendix B, discussion of Question 4, at p. 4 (August 30, 2005)

IV. The Commission Should Order Periodic Reviews of the SBC Program to Determine Whether Its Benefits Are Being Effectively Realized and Whether Adjustments in the Overall SBC Funding Levels Are Needed

The Staff Report at page 15 recommends that the SBC program be extended for five years beginning in July 2006. The Report also states that there has been a generally effective alignment of Commission priorities and NYSERDA programs, and that Staff expects to work with NYSERDA to develop a future operating plan that will better define specific program goals and details. The Report at pages 16-18 recommends that certain program priorities be modified, such as combining a number of disparate multifamily building programs into one comprehensive approach to better serve building owners and managers with a fully unified multifamily program, and an increased emphasis on encouraging demand response programs. In the latter, Staff includes retail time sensitive electricity pricing for all customers, load shedding, and distributed generation, noting that such initiatives would be consistent with the Commission's articulated policies supporting dynamic electricity pricing.

The City agrees with these NYSERDA program expansions suggested by Staff. Moreover, such periodic program adjustments should not be limited by the next SBC program period, whether it is a five-year term as suggested by Staff, or some other period that the Commission may establish. The Commission should make it clear that the SBC program will be thoroughly reviewed during its term, and that there will be ample opportunities for SBC III participants to review programs, and make proposals to the Commission and its Staff for needed revisions or modifications. This is especially important in a highly dynamic energy market that may raise unexpected issues or challenges to which NYSERDA and the Commission have to respond well before the end of the next SBC program period.

It is necessary to determine whether the NYSERDA programs are performing as expected, and whether they are delivering genuine value to our citizens. SBC contributors clearly have the right to know whether their money is being well spent, and should be given the opportunity to protest if they believe they are not receiving expected benefits from the program. While NYSERDA currently is subject to a number of external and internal reviews and evaluations, and obtains input from its Advisory Group, the Commission's important oversight role means that there should be multiple avenues for program review, particularly if a new SBC program will be in effect for five years or for any comparable period of time.

Beyond the issues of equity and effectiveness that should be paramount, there remains the overarching question of an appropriate overall funding level for an SBC III program. As the City stated in its initial comments in March,¹¹ the Commission should adjust the SBC funding level as needed to achieve the current overall goals of the program: reducing customer energy bills (or at least the growth in same), facilitating a competitive market, relieving capacity constrained areas such as New York City, and benefiting the environment.

The City also suggested improved or expanded goals for SBC III in response to Commission Question 8 in this matter. These include greater encouragement of clean on-site generation, expanded programs to foster greater use of residential real time pricing and demand response, more use of peak load reduction efforts especially as part applied to steam chillers, particularly in areas where the funds spent will have the greatest impact.

In the current economic and financial climate, and for all of the concerns above, distributed resources offer the best (and in some instances virtually the only) prospect for meeting system reliability, cost moderation, and environmental improvement. The Commission may find that these

¹¹ Reply to Notice Soliciting Comments by the City of New York, Case 05-M-0090, at p. 3 (March 4, 2005)

needs require sharply increased SBC efforts. The Commission should therefore retain the flexibility to reexamine on a regular basis not only the purposes to which SBC funds are put, but also the overall funding level to be mandated under SBC III.

CONCLUSION

For the foregoing reasons, the City respectfully requests that the Commission make the changes requested by the City to the SBC program to be implemented in 2006 and beyond.

October 17, 2005

Respectfully submitted,

/s/ Michael Delaney

Michael Delaney
Vice President
New York City Economic
Development Corporation
110 William Street, 4th Floor
New York, New York 10038
(212) 312-3787
mdelaney@nycedc.com