

October 14, 2005

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

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

Dear Secretary Brillling:

The New York Power Authority (“NYPA”) is a corporate municipal instrumentality and political subdivision of the State of New York. It is not subject to the jurisdiction of the Public Service Commission (“Commission”) in this matter. See, e.g., Public Authorities Law, § 1014.

Pursuant to the Commission’s Notice, issued August 31, 2005, NYPA hereby submits its comments regarding “Staff Proposal for the Extension of the System Benefits Charge (SBC) and the SBC-funded Public Benefit Programs.” (Staff Proposal)

NYPA appreciates the careful analysis of the SBC program by the DPS Staff. NYPA notes that while its comments were noted in Appendix B, p.5, the proposal itself makes no mention of the continuation of the exemption of NYPA’s customers from SBC charges. Such exemption is reasonable and necessary and should be continued for two principal reasons.

First, NYPA’s customers have been exempt from SBC charges since the SBC program began in 1998. This was done with due consideration. A primary statutory mission of NYPA is to provide low cost power to business and industry, municipal and rural cooperatives, and governmental entities in order to assist economic development in New York State and reduce the cost of government. See Public Authorities Law, § 1005. Imposition of SBC charges on NYPA’s customers would be counterproductive to achievement of these objectives and would interfere with accomplishment of NYPA’s statutory mission. The Commission has recognized these circumstances, most recently in Case 03-E-0188:

We are adopting an RPS program that will exempt from contribution those customers currently exempt from SBC contribution. Such customers are generally provided electricity at reduced prices to achieve economic development objectives such as sustaining or creating jobs. We recognize that requiring such customers to pay for the objectives of the RPS would be counterproductive to economic development goals...We

note that the exemption...will also apply to numerous municipal entities including several New York City agencies and customers of municipal-owned utilities...

Order Regarding Retail Renewable Portfolio Standard, September 24, 2004, p.55.

Second, it should be recognized that NYPA has conducted and will continue to conduct very extensive public benefit programs that are similar to programs conducted under the SBC. See New York Energy Smart Program Evaluation and Status Report, Final Report, Volume I (May 2004), p. ES-4 (stating that NYPA conducts “complementary public benefits programs” of its own and that NYSERDA, NYPA, and LIPA “coordinate program design and service delivery wherever practicable to maximize the use of public funds...and to ensure a coordinated statewide effort to meet public policy goals”). For example, NYPA has provided nearly \$800 million in funding for energy efficiency projects, completing more than 1,400 projects involving 2,200 public buildings across the State. These projects include HVAC modernization, energy efficient lighting and windows, and energy management systems. To date, these projects have resulted in an aggregate peak demand reduction of 188 MW, conservation of over 845,000 megawatt-hours of electricity annually and avoidance of 660,000 tons of greenhouse gas emissions each year. NYPA also is heavily involved in the funding and deployment of new renewable and clean energy facilities. Projects include fuel cells powered by anaerobic digester gas, solar photovoltaic installations, microturbines powered by wastewater treatment gases, and execution of a power purchase contract for wind power. In 2004, the NYPA Trustees increased the funding level for NYPA’s energy services program to \$1.3 billion.

The reasons for the continuation of the SBC Program are ably articulated in the Staff Proposal. In its order extending the SBC charges, if such is issued, the Commission should be equally clear that NYPA’s customers are exempt from such charges.

Respectfully Submitted,

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Edgar K. Byham  
Principal Attorney

cc: Service List (by email)