September 10, 2007

Via e-mail

Hon. Eleanor Stein
Administrative Law Judge
State of New York Public
Service Commission
Three Empire State Plaza
Albany, NY 12223

RE: Case 07-M-0548 – Energy Efficiency Portfolio Standard

Dear Judge Stein:

In the August 24, 2007 letter to the parties, Your Honor established four working groups and stated (at 1) that parties choosing to submit proposals before the Working Groups meet should do so by September 10, 2007. The Joint Utilities[1] hereby submit their initial proposal and comments for consideration for Working Group I, which will consider the overall EPS Structure (respective roles of NYSERDA, utilities, other energy services and efficiency providers). These initial comments are addressed principally to clarify the role of utilities in the delivery of energy efficiency programs. The Joint Utilities anticipate that they will have additional comments to provide during the working group meetings concerning the overall EPS structure and other aspects of the EPS.

The Staff Report acknowledges (at 1), that the 15 by 15 goal "is the most ambitious energy reduction goal, in terms of total energy savings, of any program in the nation." This goal cannot be achieved without capturing the savings that only the utilities are in a position to achieve for non-market transformation programs. In addition, there are activities that the utilities could undertake to enhance the success of planned market transformation activities. Underscoring the importance of these types of programs in achieving the Commission's goal, the Staff Report (at 122) projects that more than half of the savings necessary to achieve the 15 x 15 goal will come from these kind of programs. Thus, it is vital that the entity in the best position to offer these programs be instrumental in their design, implementation and delivery.

[1]The Joint Utilities are Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., KeySpan Energy Delivery New York and KeySpan Energy Delivery Long Island, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc. and Rochester Gas & Electric Corporation.

The Joint Utilities can be the successful and primary delivery entities for the non-market transformation related programs for the following reasons because they have the ability to leverage existing customer relationships to identify and encourage investment in energy efficiency. In addition, the utilities can use energy efficiency for both resource acquisition and as a tool to defer capital expenditures associated with load relief projects. *See* Joint Utilities July 11, 2007 Responses to Staff Questions at 17-19.

Utilities have proven track records as the primary delivery entities for energy efficiency programs. S*ee* Staff Report at 21.[2] Under these programs, the utilities were provided with sustained opportunities to achieve earnings that reflected the value of energy savings to society in avoiding commitments of generating (and other) facilities and the avoidance of environmental impacts and earn comparable returns for demand side and supply side efforts.[3] The National Action Plan for Energy Efficiency recognizes that utilities have *critical* roles in creating and delivering energy efficiency programs to their communities.[4] Moreover, an EPS will seek to accomplish its goals through selling relatively large numbers of small buyers of varying financial strength and sophistication on the advantages of a diverse portfolio of complicated, alternative efficiency measures. The keys to success in these markets are related to market knowledge, flexibility, quickness and innovation. Finally, although not considered in the Staff Report, the Joint Utilities believe that their customers generally prefer to deal with utilities.

Matters discussed in the Staff Report demonstrate that there are a number of other reasons why the utilities should be the primary program delivery entities. For example, measurement and verification ("M&V") should be performed by *independent* entities, using identical protocols across the State, that are applied consistently to every instance in which an entity receives public funding. As the Staff Report states (at 15), "[i]t is critical to ensure the measurability and persistence of energy efficiency measures that New York State will count on as substitutes for new generation and delivery facilities." There is an alignment of interests here between the utilities and the EPS. The Joint Utilities, because of the functional necessity that reliable forecasts of energy efficiency be included in their system planning efforts, are strongly committed to a rigorous M&V effort.

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[2] While the Staff Report states (at 21) that the utilities' efficiency expertise "has been seriously attenuated," which occurred as a result of the State's decision to transfer responsibility to NYSERDA in 1998, utilities continue to employ individuals with direct experience in energy efficiency programs the utilities developed (many of which included significant innovations, and all of which produced lasting benefits to the State). Moreover, there should be no question of the utilities' ability to ramp-up to this new effort quickly, as they did in the late 1980s and early 90s when called upon to do so by the Commission.

[3] Utilities have been authorized to recover costs associated with the design, start-up, implementation and administration of their programs. The Joint Utilities assume that a similar mechanism for recovery would be authorized here, in a rate plan or in a manner otherwise permitted by the Commission.

[4] National Action Plan for Energy Efficiency, July 2006, pp. 1-10, available at http://www.epa.gov/solar/pdf/napee/napee_report.pdf.

In addition, the Staff Report states that "[g]etting energy price signals better aligned with the costs of providing services is a critical part of effectively developing energy efficiency as a resource." The Joint Utilities agree that economically efficient rate designs reflecting the underlying costs to serve are generally desirable. The utilities have already played a crucial role here with the introduction of mandatory hourly pricing ("MHP") for their full service customers and their outreach and education efforts in support of MHP.

The Joint Utilities look forward to actively participating in this Working Group.

Respectfully submitted,

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cc: List Serve