STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard	)))	CASE 07-M-0548

Comments of the Natural Resources Defense Council, Pace Law School Energy Project, the Association for Energy Affordability on the New York Department of Public Service Staff Preliminary Proposal For Energy Efficiency Program Design and Delivery Fast Track Programs

October 15, 2007

Introduction

The *New York Department of Public Service Staff Preliminary Proposal For Energy Efficiency Program Design and Delivery*, dated August 28, 2007 ("Preliminary Proposal") contains numerous worthwhile proposals for ramping up existing programs and expanding the program portfolio with some new initiatives. The Natural Resources Defense Council (NRDC) and the Pace Law School Energy Project (Pace) support all these efforts in principle. However, we believe that the focus for any *Fast Track* efforts to ramp up delivery of efficiency programs early in 2008 should be on expansion of existing successful programs, rather than on developing new initiatives. Further, we believe additional ramp up funds can be spent effectively with minimal additional contributions to administrative costs under the existing model.

It is imperative that the NY PSC address the important policy and administrative issues surrounding the 15 by '15 initiative before undertaking major new efforts to expand infrastructure and delivery capability for new programs. Not doing this could lead to false starts, redundant implementation capacity and infrastructure, competing efforts between different administrators, and market confusion that could undermine the overall success of New York's efforts over the longer term. Fast Track program identification and implementation should facilitate, or at least not impede, a smooth transition to these longer-term structures. The PSC is currently grappling with many key issues related to an appropriate long-term structure and these must be resolved before New York commits to a major departure from its current program platform. These key issues include:

- Definition of baseline forecasts and establishment of specific savings goals for 2015.
- Resource and goals allocation among electric and gas ratepayer funded efficiency programs, codes and standards, market-based efficiency efforts, and other potential sources of efficiency.
- Administrative, planning and program delivery models — who does what and for whom?
- Funding mechanisms — how are programs paid for, costs recovered, and establishment of any performance incentives and appropriate mechanisms.

Our recommendations below focus on those programs that we believe can be ramped up — effectively and immediately — under the current design, implementation and administrative model, provided

additional funding. This is consistent with ALJs Stein's and Stegemoeller's October 1, 2007 letter to the Active Parties in this proceeding, which specifically asked for a focus on existing efforts. Below we address the issues raised by the ALJs for each program recommended for ramp up. From informal discussions with NYSERDA staff, we believe all its current programs are, at least to some extent, curtailed right now based on available funding. Opportunities to ramp up these programs should be ample. We understand NYSERDA will be submitting to the ALJs detailed quantitative data on current program oversubscription and ability to ramp up. We do not currently have access to that detailed information and base our recommendations on a qualitative sense of what can be ramped up. As a result, we do not address each of the ALJs' specific quantitative questions for each recommendation.

Fast Track Program Recommendations

The top five priority programs we recommend for fast track ramp up are:

- Residential New Construction
- Low Income Residential Efficiency
- C&I New Construction
- C&I Performance
- Flex Tech

In addition to the above, we also discuss some fast track issues for the following:

- Home Performance with Energy Star
- Compact Fluorescent Lamps
- NYC Multifamily Buildings
- Commercial Target Sectors
- Building Codes
- State Public Sector Efforts
- Training and Infrastructure Capability Building

Below we provide more detail on each of these.

Top Priority Fast Track Programs

Residential New construction

The DPS estimates this program is capturing about 10% market share versus about 60% for the best programs around the country. Clearly, opportunities exist to ramp up this program, with greater funds and resources focused on marketing, builder training, and perhaps increases in financial incentives. Given the current housing market decline, the interest in training and general availability of contractors should not pose major barriers to ramping up, and should increase desire for builders to pursue Energy Star™ Homes as a marketing advantage. Ramping up this program is also a high priority because of the lost opportunity nature of these resources.

Because much of the benefits available from Energy Star™ Homes accrue to gas (for those customers using gas for space and/or water heating), obtaining some funding from gas ratepayers and addressing both electric and gas opportunities should be pursued simultaneously through the fast track effort. We suggest that funding be allocated based on the share of benefits from each energy source, respectively.

Low Income Residential Efficiency

The DPS states the "current programs only serve a small fraction of those that are eligible." (Preliminary Proposal at 48). It estimates that there are 2.2 million low income households, while the Weatherization Assistance Program (WAP) program treats 12,000 and the EmPower program treats 6,300 annually. Further, the DPS notes that there is currently a long waiting list for WAP services; one indicator of the extent of need and opportunity throughout the state. Low Income customers are a high priority for non-energy reasons, as well.

The DPS notes that NYSERDA's EmPower program typically provides electric measures in coordination with DHCR's Weatherization Assistance Program, resulting in comprehensive treatment of the units in the low-income sector. It also notes that the statewide networks of "Independent Energy Efficiency Service Providers, including community organizations" install the energy efficiency measures for these programs. We agree with the Staff recommendation that NYSERDA and the Division of Housing and Community Renewal "both should continue these programs with expanded funding to serve more households." The Staff recommends increased funding to support a 50% increase in the number of low-income households served by WAP and EmPower by year 3 (with years one and two as ramp up years), we think it should be done in two years. Current WAP funding is 100% federal funds while EmPower is funded by the SBC. Achieving and maintaining at a 50% increase in units served by these low-income programs will require increased state, SBC or utility funding.

As with the Residential New Construction Program, enabling joint funding from gas and electric ratepayers based on the share of benefits accrued should be a high priority for this program.

NYSERDA and DHCR will need to identify and support the ability of current contracting agencies to ramp up, and determine how fast and deeply this can be done.

Commercial and Industrial New Construction

As with residential new construction, this is a high priority lost opportunity market. As such, this program should be ramped up as fast and as far as it can be. We don't have data on the current fraction of new and renovated C&I square feet that participates in this program. However, the best programs have achieved levels in the 60-75% range. NYSERDA should consider increasing incentive levels if necessary to capture greater participation, as well as strategies to encourage comprehensive, whole-building treatment. NYSERDA may also want to consider promoting the New Buildings Institute's *Core Performance* program approach, which Vermont, Maine and Massachusetts program administrators are planning for 2008. It is hoped that this effort will result in consistent regional standards for advanced buildings that achieve comprehensive savings in a streamlined and standardized way.

We do not believe there are any major barriers to significantly ramping up this program quickly. The current downturn in construction activity should offer a good opportunity to engage architects, engineers, builders and developers. Increased efforts in this program will also help efforts to improve the NY Commercial building code in the future, as well.

Commercial and Industrial Performance Program

This program is a comprehensive program for C&I existing construction, focusing particularly on lost opportunity markets (e.g., planned investment either at the end of equipment life, during industrial retooling and process changes, or space remodeling). We believe this program is currently oversubscribed as are many other similar programs currently in the Northeast, but NYSERDA should confirm the extent to which this is true. The DPS did not specifically mention ramping up this program — although it does highlight two areas that could be ramped up as part of this program: lighting rebates and retrocommissioning.

We recommend aggressive ramp up and funding increase for this program across the board, including aggressively addressing industrial process improvements. C&I existing construction is the single largest potential source of savings, and one of the most highly cost-effective ones, as well. We recommend that NYSERDA consider increasing incentives, as well as other resources for marketing and technical assistance. We also recommend that utilities build on their existing customer relationships to provide additional marketing and referral services.

We do not recommend the fast track proposal for retrocommissioning as a priority at this point. While retrocommissioning offers substantial and cost-effective opportunities, currently NYSERDA has only performed some pilot efforts in this area, so development of a new initiative may be premature. It may be that this initiative might best be implemented in a different fashion (e.g., utility implementation). Further, retrocommissioning savings tend to be short lived (1-3 years) unless significant long term efforts at training and transforming maintenance practices are pursued. This means that success in this program that would contribute substantially to savings through 2015 will require a long term strategy.

Flex Tech

The DPS states that "Staff estimates that the program size can be roughly doubled with increased expenditures" (Preliminary Proposal at 60). Further, this program is a critical service to bring participants into the C&I Performance Program, so it should be ramped up in concert with it. A focus should be on using this program to deliver actual savings through the Performance Program or through market-based transactions, so any ramp up should not exceed the ability of other programs or the private ESCO market to serve customers of Flex Tech.

Other Program Ramp Up Issues

Home Performance with Energy Star

The DPS states that New York is currently serving 4,500 homes per year under this program, while gas heated homes alone are 4 million (Preliminary Proposal at 45). Clearly, opportunities exist for ramping this program up over the long term. The DPS proposes a ramp up over 5 years to approximately 12,000 homes per year. However, barriers exist to achieving rapid (*i.e.,* 2008) ramp up because this program is constrained by the number of contractors trained. Also, because very little savings come from electricity, it is difficult to expand participation interest dramatically without spending more funds than are justified based on electric benefits alone, requiring gas ratepayer contributions.

We recommend that NYSERDA pursue additional expenditures in 2008 in this program if they can be spent effectively to begin ramping up and providing more training that will lead to a greater volume of work and gas and electric savings in the long term. However, it is unlikely this ramp up would result in a significant increase in electric savings in 2008. As a result, we do not consider it a top priority.

In addition, DPS also suggested a new initiative dubbed "Home Performance Lite." While this program may have merit, the DPS estimates average home energy savings of only 10% as compared to 25-30% for Home Performance. Given this reduced comprehensiveness, and the fact that the DPS identifies utilities as a preferable source for delivery, we believe this should not be a fast track effort. Further study should be done to determine whether changes to Home Performance might be more appropriate, and what the best administrative and delivery models should be.

Compact Fluorescent Lamps

While in general we believe the priority should be on ramping up existing successful programs, we believe aggressive retail promotion of compact fluorescent lamps may represent the best non-existing program opportunity for fast tracking. As the DPS noted, this program would be most appropriate on a statewide basis, so pursuit by NYSERDA would not likely complicate decisions about possible different efficiency program administrative models in the future. Further, the regional programs throughout New England are highly successful, have very high benefit-cost ratios, and are mature enough that these approaches can be adopted relatively easily.

We recommend a focus on upstream (manufacturer and/or distribution chain) buydowns. This may be somewhat of a transition program because with an effective program markets may be fairly well transformed in a relatively short time, and solid state lighting may become a more desirable technology in the medium term *(e.g.,* within 3-6 years). As a result, New York should strive to capture these highly cost-effective resources sooner rather than later.

New York City Multifamily Buildings

Although DHCR's Weatherization Program has targeted hundreds of low-income apartment buildings in NYC and NYSERDA's Assisted Multifamily Program and its new Multifamily Performance Program also have targeted multifamily apartment buildings in NYC, neither has yet reached a large share of the market rate apartment buildings in NYC, particularly condominium and cooperative multifamily buildings. [Note: The staff report was inaccurate in stating that NYSERDA's existing multifamily efforts have been focused on small townhouses rather than large multifamily buildings typical in New York City.]

Any Fast Track program in this area should build on the experience of NYC's weatherization assistance program providers and NYSERDA's new Multifamily Peformance Program, which consolidates several of its previous programs and includes both an Existing Buildings and New Construction component, and targets both market rate and affordable housing. We recognize that it is an important market with large potential savings that is currently underserved. We encourage NYSERDA, NYSDHCR, NYCEDC, NYPA and Con Edison to engage as soon as possible as part of fast track efforts on exploring the most appropriate administrative, delivery and program design model for addressing these customers. NYPA now serves New York City Public Housing, and both Con Edison and NYCEDC may play important roles, so opportunities to collaborate and develop an efficient and effective approach to addressing this market should begin.

Commercial Target Sectors

Increased business development and outreach efforts to specific target markets to support the C&I Performance and New Construction programs is important and should be pursued as appropriate as part of ramping up these programs. However, we do not believe separate programs need to be developed. Rather, marketing and business development efforts within these programs can segment markets and customize strategies as appropriate to increase effectiveness. The DPS contemplates that this "program" might be appropriate for utility implementation. Given this, more consideration of appropriate models and target markets should be pursued once the PSC resolves the key 15 by '15 policy issues articulated above. Of course, any ability for utilities to customize and segment approaches with their marketing and referrals to the core C&I programs would be appropriate so long as the programs can handle the additional business.

Building Energy Codes

It is unfortunate that New York is just now adopting a new energy code based on a 2001 standard for C&I buildings. Vermont, for example, adopted a code based on the *latest* ASHRAE standard (2004) almost 2 years ago. Although this is likely a long term process given the introduction of a new code this year, New York should aim to establish a future upgrade to the latest standards available (IECC 2006 or ASHRAE 90.1 2004) as soon as reasonable.

State Public Sector Efforts

In addition to PSC regulated efficiency efforts, major opportunities for expansion and new efficiency efforts among State agencies and public authorities exist. It is important to begin this process now as well, rather than wait until all other issues are sorted out. The PSC should support and encourage simultaneous fast track efforts at the State level as appropriate.

Training and Infrastructure Capability Building

In its July 13, 2007 submission to the PSC, NYSERDA stated that "the industry, including program sponsors and contractors, is experiencing a lack of available trained individuals to implement and oversee energy efficiency programs". This problem is not unique to New York, but is being experienced throughout North America, as many jurisdictions are beginning or ramping up efficiency efforts. The Commission should make available as part of its fast track efforts additional funds to assist in the training of qualified individuals to implement energy efficiency programs. Such an investment should benefit any fast track programs and is critical to the successful implementation of longer term efforts. These efforts should build upon the training and certification of contractors developed by NYSERDA over the past several years with SBC funds.