

*Case 07-M-0548  
EPS Working Group I  
December 5, 2007 Report*

**Case 07-M-0548**

**Proceeding on Motion of the Commission  
Regarding an Energy Efficiency Portfolio  
Standard**

**Working Group I: Overall EPS Structure  
December 5, 2007 Report**

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## **Executive Summary**

Administrative Law Judge (ALJ) Eleanor Stein charged Working Group I with the responsibility to address the overall governance structure and potential funding options for an Energy Efficiency Portfolio Standard (EPS) Program. Specific questions Judge Stein posed to the Working Group are contained in Appendix A.

Working Group I was unable to reach consensus on an overall governance structure for the EPS. As requested by the ALJ, the Group did consider the California and Vermont program models as well as some other approaches such as the Massachusetts and the Northwest Energy Efficiency Alliance models. While no formal vote was taken, Working Group I members generally felt that New York would have to develop its own governance structure to reflect its specific programmatic needs, financial resources and existing expertise. Working Group I members were encouraged to submit for consideration their own governance structure proposals. The Working Group received six (6) proposals which are contained in this Report, with further details included in Appendix C.

Working Group I had extensive discussions regarding these governance models. Proponents were encouraged to clarify or modify their proposals based on these discussions, and all Working Group members were afforded the opportunity to comment on each proposal.

To assist in the evaluation of governance models, Working Group I did reach a consensus on the specific criteria that it recommends the Commission consider in evaluating specific governance structure proposals. These criteria are listed in this report. Working Group I members used these criteria to assess the various governance models proposed by individual parties. These "assessments" are also contained in Appendix C.

While the Working Group was unable to reach consensus on a specific governance structure, the discussion did serve to highlight important structural and programmatic issues that will have to be addressed by the Commission. Given more time, the Working Group would have likely succeeded in flushing out in greater detail some of the policy differences reflected in the different models. However, considering the passion and interest some of these issues provoked, it is unlikely that more time would have produced consensus around a single

governance model. Discussions continue among many Working Group I members in an effort to understand better governance model proposals and to seek areas of potential consensus.

The Working Group also discussed cost allocation and recovery principles pertaining to regional, interclass, and intra-class categories. While the conversation was robust a broad consensus could not be achieved. Elements of the conversation are contained in this report.

Additionally, Working Group I considered funding proposals to finance the EPS Program, which are listed in this Report. Unfortunately, a lack of time precluded the Group from having a fulsome discussion of these options. Working Group I believes that it could productively use more time to complete its examination and evaluation of potential funding sources for the EPS Program. Accordingly, Working Group I respectfully requests the opportunity to file by January 14, 2008 (one month after the December 14, 2007 plenary EPS session) a supplemental report that will focus exclusively on potential funding sources.

## Background

### *Procedural History*

In May 2007, the New York State Public Service Commission (the Commission) instituted a proceeding regarding an Energy Efficiency Portfolio Standard (EPS), citing a renewed emphasis on sustainable economic growth and a more efficient use of electricity and natural gas.<sup>1</sup> In this Order, the Commission stated that, given New York's increasing end-user consumption, volatile fossil fuel prices, concerns about greenhouse gas emissions, the vulnerability of the electrical system to supply disruption, and the need for new investment in infrastructure and supply, New York's existing efforts to promote energy efficiency need review, and the most effective methods to increasing energy efficiency need to be determined.<sup>2</sup>

Earlier, in April 2007, Governor Eliot Spitzer announced a comprehensive plan for reducing energy costs and curbing pollution in New York, focusing on energy efficiency, conservation, and investment in renewable energy sources as keys to achieving the State's economic and environmental goals. This plan included a goal of reducing electric energy megawatt-hour consumption by 15 percent below the forecasted level in 2015 through improved efficiency.<sup>3</sup>

Given the announcement of Governor Spitzer and through the collaborative work of the interested parties in the EPS proceeding, it is generally agreed that the achievement of a 15 percent reduction in energy use by 2015 will require a concerted and dedicated effort by all key energy efficiency stakeholders in the State.

In September 2007, Administrative Law Judge Eleanor Stein established four working groups in preparation for collaborative efforts. It was ultimately determined that the scope of the four working groups would focus on the longer-term issues surrounding the EPS. This report encompasses the efforts of Working Group I that was tasked with addressing the overall EPS structure, including the respective

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<sup>1</sup> Case 07-M-0548, *Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard* (issued May 16, 2007).

<sup>2</sup> *Id* at p.2.

<sup>3</sup> Governor's Press Release, April 22, 2007.

roles of NYSERDA, investor-owned utilities, other energy services and efficiency providers and others. In addition, in a Ruling issued on September 13, 2007, Administrative Law Judge Stein provided additional issues and questions to be addressed by each of the four working groups. The questions provided for Working Group I are attached as Appendix A.

### ***Working Group I Efforts***

Working Group I is comprised of representatives from various interested stakeholders, including State and local government agencies and authorities, investor-owned and municipal utilities, environmental and consumer groups, municipalities, energy providers, energy efficiency service providers, and others. The Working Group is facilitated by a representative from the New York State Consumer Protection Board (CPB), and co-convened by representatives from the New York State Department of Public Service (DPS) and the Natural Resources Defense Council (NRDC). The Working Group met at two-week intervals since its establishment in September, compiled minutes and deliverables resulting from each meeting, and parties communicated regularly between meetings.

Working Group I provided an update on its progress and activities at the November 5, 2007 Plenary Meeting held in Albany. At that meeting, progress was reported on the development of Governance Model Criteria, the proposal of various governance model structures, the use of an analytical assessment tool for refining the pool of model structures, and initial work on the development of an outline for this report.

## Recommended Model Structure(s)

### *Criteria for Administrative Structure*

One early work product of Working Group I was the establishment of Criteria for Administrative Structure. These criteria are intended to guide the group in its analysis and assessment of the different proposed governing models sponsored by Working Group I representatives. After much discussion, the Working Group agreed on the criteria listed in Table 1. The criteria are numbered for easy reference only and are not intended to be prioritized.

**Table 1. Criteria for Administrative Structure**

Criteria for Administrative Structure
1. Does the model facilitate the least-cost administration and achievement of the EPS goal?
2. Does the model provide an opportunity for the interests of the broad range of stakeholders to be served?
3. Do the entities responsible for meeting the EPS goals have the authority and the opportunity to meet these responsibilities?
4. Does the model take advantage of the inherent strengths of the various participants and present a coherent structure for coordination and cooperation?
5. Does the model minimize unnecessary functional overlap and duplication of effort?
6. How well does the model take advantage of the salient features of the existing and emerging program development and delivery infrastructure?
7. Is the model flexible enough to accommodate differing conditions ( <i>e.g.</i> , geographic, climatic, load, institutional) across the State? Is the model robust enough to adapt to changing circumstances?
8. Where appropriate, does the model enable the seamless, integrated delivery of electric and gas efficiency programs?
9. Is the model structured to allow meaningful and timely input, oversight, feedback and reallocation of effort and resources?
10. Does the model contain structures for independent monitoring, verification, auditing, and reporting of results? Does the model ensure that the entity(ies) responsible for program administration are effectively moving towards achieving energy efficiency goals and are held accountable for achieving program goals?
11. Are the entity(ies) responsible for program administration appropriately incentivized or otherwise committed to secure cost effective energy efficiency and ultimate success of the program? Is there demonstrable interest by the named entity in serving in this capacity?
12. Does the model promote the elimination of disincentives and align interests relative to participants' roles?

## ***Model Evaluation and Recommended Approach for New York Model***

In its endeavor to consider the best approach for New York in implementing the goals of the EPS proceeding, Working Group I began gathering information on energy efficiency efforts in other jurisdictions that are considered to be successful by general industry standards. A general consensus was reached that none of the governance structures reviewed and debated represented an appropriate model for New York due to the structure for energy efficiency programs that was already in place, as well as other unique characteristics of the State. Some specific attributes of the structures in other states that promote collaboration of interested parties, however, could be applied in New York. The Working Group agreed upon the use of an analytical tool to assess recommended governance model structures as sponsored by various members of the Working Group.

### **PSC-Jurisdictional Administration and Governance**

Working Group I reviewed five existing energy efficiency procurement models from particular State jurisdictions considered to be leading national efforts in this area. The purpose of this effort was an attempt to identify governance structures or program elements that might be replicated in New York. Ultimately, the review of these non-New York governance models was used by Working Group I as an input to the development of its Governance Model Assessment Template, discussed below in this Report.

The five jurisdictions reviewed by the Working Group included California, Vermont, Massachusetts, Connecticut and the Northwest Energy Efficiency Alliance comprised of Oregon, Washington, Idaho and Montana. A brief synopsis of the approaches taken in these respective jurisdictions is depicted in Table 2. The full presentations discussed by the Working Group are attached as Appendix B.

**Table 2. Other Jurisdictional Models for Delivery of Energy Efficiency**

### California

California has been operating large-scale energy efficiency programs since 1998.

**Authority:** legislative mandate on Public Utilities Commission (CPUC plus legislative authorization of System Benefit Charge (SBC). Also a State Energy Plan that mandates energy efficiency as the first resource in the “loading Order” for the procurement of long-term resources by utilities.

**Scope:** Four investor-owned utilities (SDG&E, SCE, SCG and PG&E). Does not cover major municipal utilities (Los Angeles and Sacramento)

**Administration:** by utilities pursuant to a competitive procurement held by the CPUC. Utilities must subcontract a minimum of 20% of total funds to third-party administrators, who run their own programs. Third parties include private companies as well as government entities such as municipalities, state government agencies and state university systems. Continued utility administration dependent on their ability to achieve goals set by the CPUC.

**Stakeholder Participation:** Program Review Groups (PRG), composed of parties with no financial interest in programs, review and approve utility procedure for bidding and letting third-party administration contracts. Program Advisory Groups (PAG), composed of a broad range of stakeholders, advise the utility administrators on the composition of the program portfolios. At the end of 2007, PAGs are being replaced with a public strategic planning process. PRGs will continue to operate.

**Goals:** Program administrators (utilities and third parties) must short and long-term achieve program goals, which are variously defined as acquiring all cost-effective energy efficiency resources and/or offsetting all future load growth with energy efficiency.

**Program Cycle:** three years

**Program Funding:** about \$600 million per year, approximately half from an SBC surcharge and half from utility supply procurement budgets

**Evaluation, Monitoring and Verification (EM&V):** Budget is approximately 8% of total program funding. All EM&V provided by CPUC-approved third-party contractors. Utilities contract for process evaluations; CPUC contracts for impact (savings) evaluations.

**Incentives and Disincentives:** Utilities can earn an incentive that ranges from 8 to 12% of net program value to customers. Utility revenue decoupling that removes the throughput disincentive.

### Vermont

Vermont has been operating Efficiency Vermont, an “energy efficiency utility”, since 1999.

**Authority:** Authorization is legislative and regulatory.

**Scope:** Serves customers of all investor-owned, municipal and cooperative utilities.

### **Vermont, Cont'd.**

**Administration:** Third-party not-for-profit company, selected by competitive procurement, which operates on a performance contract. Administrator reports to the Public Service Board (PSB).

**Stakeholder Participation:** Not clear from write-up.

**Goals:** Set by negotiation between the PSB, the Efficiency Vermont administrator, the Department of Public Service and the Efficiency Vermont Contract Administrator. Current results have cut load growth by about 50%.

**Program Cycle:** Administrator has a five-year contract, and adjusts program portfolio to achieve negotiated goals.

**Program Funding:** Provided by surcharge on electric utility rates. Vermont currently has the highest per capita spending on energy efficiency programs of any state in the country.

**Evaluation, Monitoring and Verification (EM&V):** Responsibility of the Department of Public Service.

**Incentives and Disincentives:** Efficiency Vermont administrator has a performance incentive, which is paid at the end of each contract term. Utility throughput disincentives are not a factor since they do not administer programs.

### **Massachusetts**

Massachusetts utilities have been operating energy efficiency programs for more than two decades.

**Authorization:** The programs are currently operated under legislative authorization that was part of the electricity de-regulation of the late 1990s and mandates electric utility programs and the level of the SBC charges. Gas utilities operate voluntary programs, as negotiated with the Massachusetts Department of Public Utilities (DPU).

**Scope:** Includes all investor-owned electric utilities. Municipal electric utilities operate voluntary programs.

**Administration:** Utilities are responsible for program planning, implementation and evaluation. Regulation is bifurcated between the Massachusetts Division of Energy Resources (DOER), which oversees ratepayer-funded programs and reports on the consistency of the programs with state energy policy, and the DPU, which determines program cost-effectiveness and reviews program evaluations to document the performance-based shareholder incentives that utilities can earn.

**Stakeholder Participation:** The utilities work with a Collaborative, composed of representatives of the full range of Non Utility Party (NUP) stakeholder interests, to reach a consensus about energy efficiency program plans, goals, cost-effectiveness analyses and shareholder incentive proposals. The utilities, using System Benefit Charge collections, fund consultants to staff the NUPs' participation in the Collaborative.

**Program Cycle:** Electric utilities have a one-year program cycle. Several gas utilities have negotiated five-year program cycles at agreed-upon funding levels.

### Massachusetts, Cont'd.

**Program Funding:** Electric utilities are funded through a System Benefit Charge set by the legislature. Gas utilities are funded through rate surcharges established in negotiation with the DPU.

**Evaluation, Monitoring and Verification (EM&V):** Performed by the utilities, with reviews by the DOER and the DPU.

**Incentives and Disincentives:** Utilities can earn a shareholder incentive by achieving goals established by the Collaborative and reviewed by the DOER and DPU. Utilities are potentially subject to a throughput disincentive.

### Connecticut

Connecticut utilities have been operating energy efficiency programs for more than two decades.

**Authorization:** Electric programs are currently operated under legislative authorization that was part of the electricity de-regulation of the late 1990s and mandates electric utility programs and the level of the conservation charges. Gas utilities operate program under DPUC direction.

**Scope:** Includes both investor-owned electric utilities. Municipal electric utilities operate voluntary programs.

**Administration:** Utilities are responsible for program implementation. Program planning, design and evaluation are developed under the Energy Conservation Management Board (ECMB), a legislatively-mandated board including state agencies, consumer groups, the utilities, and environmental groups. The ECMB is moving to increase integration of electric, gas, and municipal programs. The plans are approved by the Department of Public Utility Control (DPUC).

**Stakeholder Participation:** Major stakeholders are represented on the ECMB, which generally reaches consensus about energy efficiency program plans, goals, cost-effectiveness analyses and shareholder incentive proposals. The utilities, using conservation collections, fund ECMB consultants.

**Program Cycle:** Electric utilities have a one-year program cycle.

**Program Funding:** Electric utilities are funded through a conservation charge set by the legislature. Gas utilities are funded through rate surcharges established by the DPUC.

**Evaluation, Monitoring and Verification (EM&V):** Performed by the ECMB.

**Incentives and Disincentives:** Utilities can earn a shareholder incentive by achieving goals established by the ECMB and reviewed by the DPUC.

### Northwest Energy Efficiency Alliance (NEEA)

The NEEA creates and manages market transformation programs in four northwestern states: Oregon, Washington, Idaho and Montana.

**Authority:** Established by the Bonneville Power Authority (BPA) in conjunction with its customer utilities and other regional energy efficiency entities.

**Scope:** Serves the territories of public and investor-owned utilities in the four states.

**NEEA Cont'd.**

**Administration:** NEEA staff manage programs that are delivered by third-party contractors.

**Stakeholder Participation:** Not clear from the write-up.

**Program Cycle:** Five years.

**Program Funding:** Voluntary commitments from utilities and from the Energy Trust of Oregon.

**Evaluation, Monitoring and Verification (EM&V):** Third-party contractors conduct program evaluations, under contract to NEEA.

**Incentives and Disincentives:** NEEA does not earn performance incentives. Some utilities in the region operate under revenue de-coupling regulation.

The discussions also included references to certain historical and existing energy efficiency programs from New York's experience and their relative merit going forward in meeting the goals of the EPS. Based on. As no general consensus emerged that any one of the particular models reviewed by the Working Group represented an ideal or comprehensive approach for New York, the Working Group discussed and agreed to use an analytical tool for the governance models proposed by certain participants ("Model Proponents") in the Working Group. The analytical tool (the "Workbook") stemmed from the Working Group's consensus on the Criteria for Administrative Structure and provided a means to evaluate each proposed model against a common set of criteria for purposes of promoting further refinement of the models, as well as for more uniform comparisons among the various models. The results of this effort are attached in their entirety as Appendix C.

Initial models were offered by the DPS, the Independent Energy Efficiency Program (IEEP), the Joint Utilities (JU), the Natural Resources Defense Council and Pace Energy Project (NRDC/Pace), the City of New York, and NYSERDA.

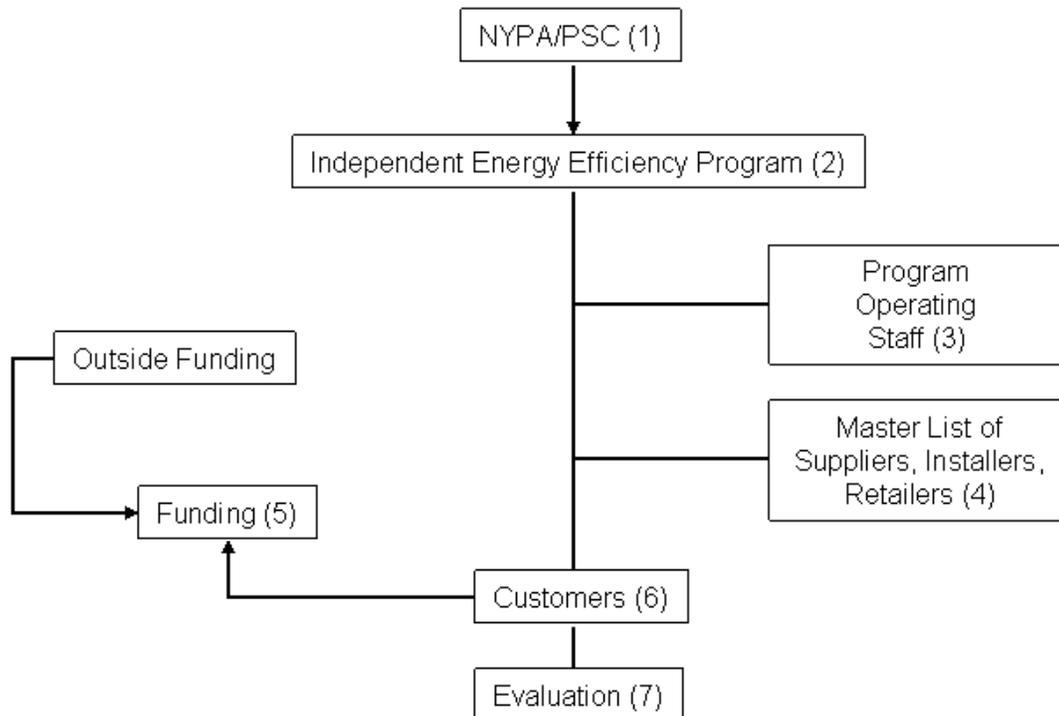
### ***Department of Public Service Governance Model***

- Multi-Year Planning Process - Staff proposes an ongoing multi-year collaborative EPS energy efficiency planning process whose objective would be to provide recommendations to the Commission regarding: the EPS portfolio's content, program design elements and objectives, program administration, program budgets and goals, program administration reports and related policies on a two- or three-year cycle (with the flexibility for modest mid-cycle adjustments). This collaborative process would be administrated through an EPS Advisory Council facilitated by DPS Staff. The EPS Advisory Council would process and develop recommendations by creating and guiding as necessary the work effort of standing and ad-hoc committees focused on specific tasks and issues. It would also discuss and incorporate monitoring and evaluation analyses into the EPS planning process. This multi-year planning process for energy efficiency would be an element of any overall statewide energy planning effort and be informed by the planned actions and initiatives by entities beyond those under the Commission's direct jurisdiction.
- Principal Representation on the Advisory Council and its committees would be subject to the Commission's approval and would likely include: the lead EPS program administrators (NYSERDA, DHCR, the utilities subject to the Commission's jurisdiction, and any other authorized third-party EPS program administrators), as well as representatives of other major EPS stakeholders and constituencies such as: the NYISO, consumer groups, environmental groups, industry trade associations (including those representing competitive energy commodity providers), and regional representation including New York City and the North Country, etc). It would be highly desirable to also have participation and representation from other state entities (DOS, LIPA, NYPA, and DASNY) on the Advisory Council. Participation by these other agencies would provide an important mechanism to gather the information needed to accurately incorporate their plans and initiatives into the achievement of the 15x15 goal for electric usage and for a similar gas statewide efficiency goal. That information would be a necessary and valuable input in determining the extent of the effort required by utilities and other resources under the Commission's jurisdiction to achieve the State's EPS goals. The voluntary participation by the NYISO would be critical in ensuring that the technical aspects of the Advisory Council's planning activities are sufficiently coordinated with the reliability and other planning processes of the NYISO.
- EPS service providers which are under contract to deliver energy efficiency services to ultimate customers or which seek such contracts would not be sitting members of the Advisory Council or its committees;

however, those interests could submit recommendations, offer proposals and make presentations directly to the Council or its committees.

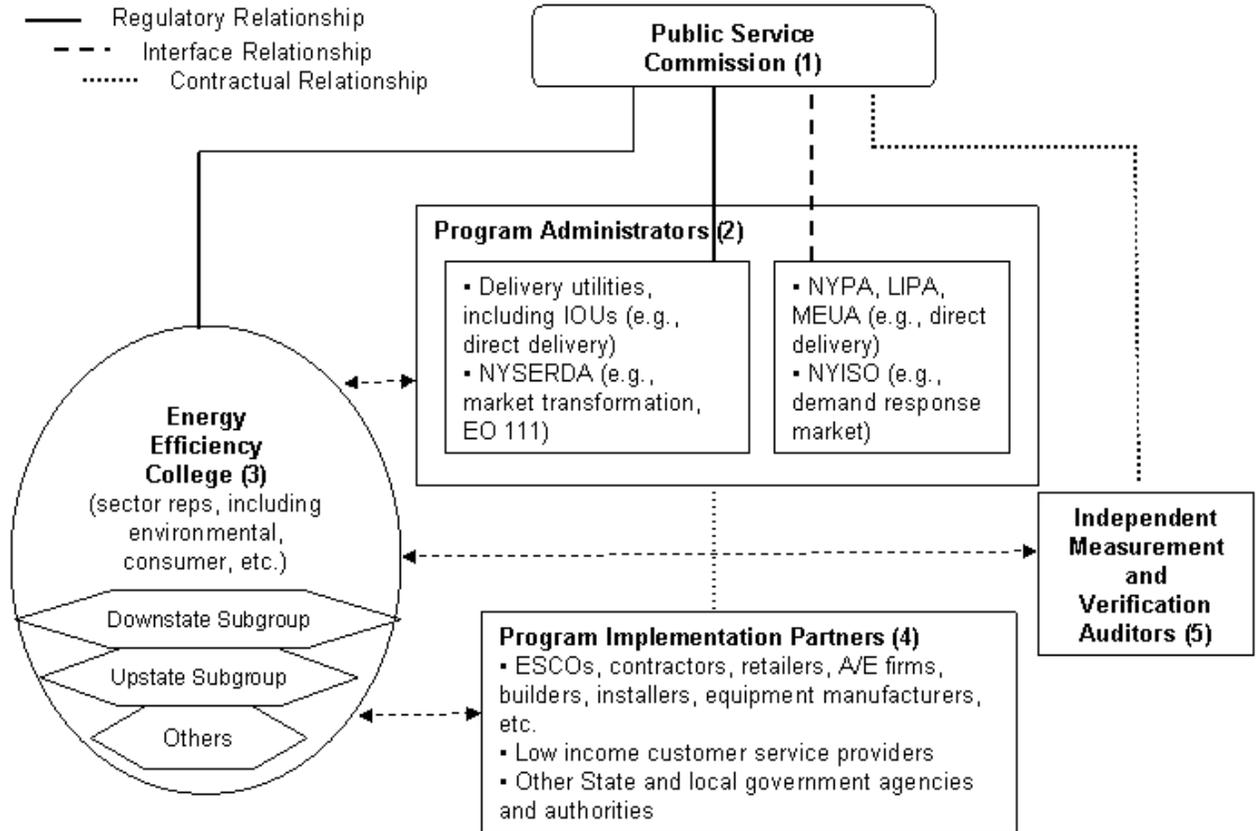
- Standing Committees could include: Planning and Analysis; Monitoring and Evaluation, EPS Programs; Research & Development, etc. There could be multiple EPS program committees focused on specific programs, regional issues or market sectors, e.g., New Construction; Metropolitan NYC Issues, North Country Issues, Gas Programs, etc.
- Recommendations emanating from the Advisory Council and its committees, whether representing a consensus decision or majority or minority views, would be filed with the Commission, which would follow its normal procedures in processing the filing. These include public notice pursuant to SAPA and preparation of a session item by Staff or assignment of an ALJ, who may issue a Recommended Decision (RD), and, ultimately, the Commission may issue a decision. No party would be bound by the positions taken in the Advisory Council's filings and any party would be able to prepare an independent position. Participants in the Advisory Council's process would also be free to negotiate settlements with other parties related to the Advisory Council's recommendations to the Commission.
- Program administrators would implement EPS programs under the direct oversight of DPS Staff and be held accountable by the Commission regarding the utilization of program budgets and maintaining vigilance as to the cost effectiveness of programs as well as meeting their allocated share of the EPS goals.
- EPS Program monitoring and evaluation activities focused on programs funded by rates and tariffs under the Commission's jurisdiction would be informed by a Monitoring & Evaluation Collaborative Task Force subject to the Commission's jurisdiction. The required studies, analyses and reports would be conducted by entities that are independent of the EPS program administrators and provider contractors they are evaluating.

## Independent Energy Efficiency Program Governance Model



- (1) NYPA is the primary reporting and supervisory agency for the IEEP. The NYPSC has overall regulatory responsibility for IEEP members that come within NYPSC jurisdiction. NYPA and NYPSC have approved funding of the IEEP.
- (2) The IEEP members executed a 2003 "Global Settlement" pursuant to which, *inter alia*, the systems committed to pursue enhanced energy efficiency programs. The systems do so through the IEEP.
- (3) IEEP serves the energy efficiency, renewable resource and system benefit technology needs of municipal utility members. Primary responsibility is achieving energy efficiency goals. Programs funded outside SBC with customer funds and non-customer generated funds.
- (4) IEEP operating team and "Master List" of contractors, suppliers, retailers. Close relationship with NYSERDA.
- (5) Programs funded through 1 mill/kWh assessment on customers, and funds from outside grants. No redistribution of rate among member systems.
- (6) Customers of IEEP members represent approximately 80,500 meters in 25 municipal electric and gas utilities.
- (7) Ongoing evaluation of installed technologies in direct energy benefit, non-energy benefit and environmental impact.

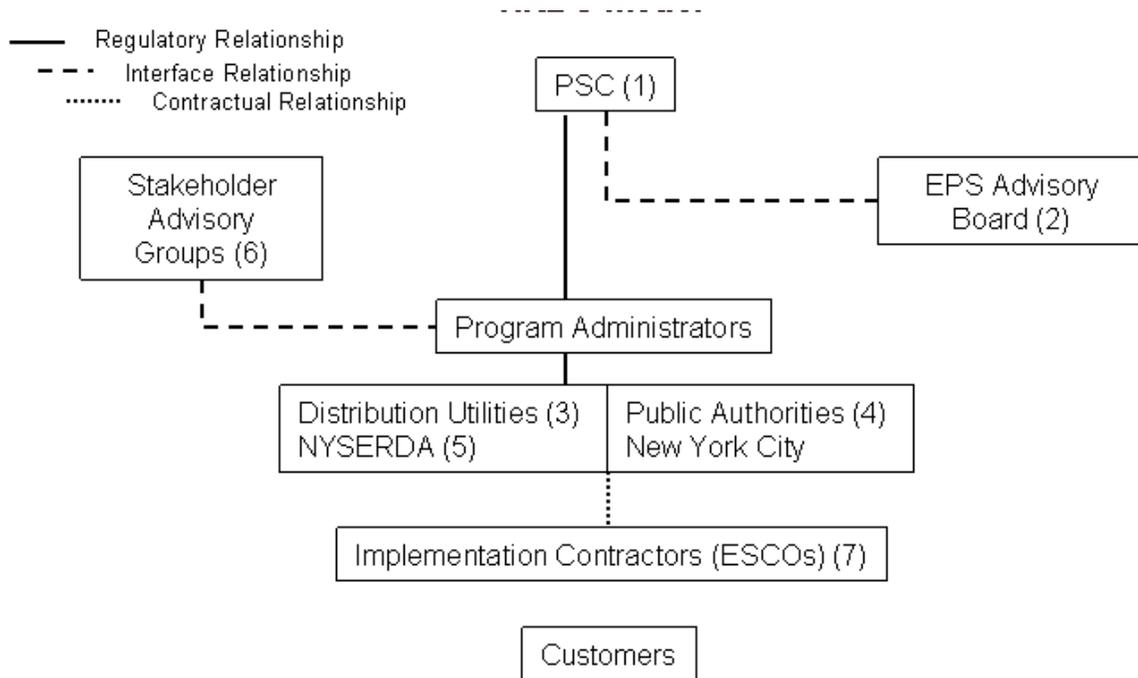
## Joint Utilities Governance Model



- Focuses on retail marketplace success via (a) customer receptivity; (b) knowledge of retail customer preferences; (c) quickness and flexibility in the marketplace
- Emphasizes (a) bottom-up nature of retail marketplace (assumes on-going market transformation); (b) simplicity; (c) Accountability.

- (1) PSC: Ultimate approval authority. Oversees M&V Auditors.
- (2) PAs: Primary responsibility for achieving EPS objectives. Specific performance targets & metrics. Standardized M&V protocols. Annual plans & reports. Expand reach of NYSERDA programs & expand beyond NYSERDA programs. Close working relationships among PAs, particularly where service territories/target markets overlap & programs present opportunities for synergy.
- (3) EEC: Voluntary participation by market participants. Note intended to mimic NYISO committee structure or operation. Informational (not governing) body providing insight & analysis to all market participants to encourage "best practices". Opportunity for input into plans, methodologies, protocols. Agenda & scope collaboratively developed for PSC approval. Conducts annual seminar and publishes annual "proceedings". Intended to separate information exchange from advocacy and regulatory action.
- (4) PIPs: Contract with PAs to provide services (e.g., portfolio & program design, load & market research, marketing & customer recruitment, implementation & delivery, evaluation, M&V) or kW/kWh/Dt/peak day Dt savings.
- (5) M&V Auditors: Independent review of PA M&V to ensure integrity & validity of results. Annual reports to public/Governor.

## NRDC/Pace Energy Project Governance Model

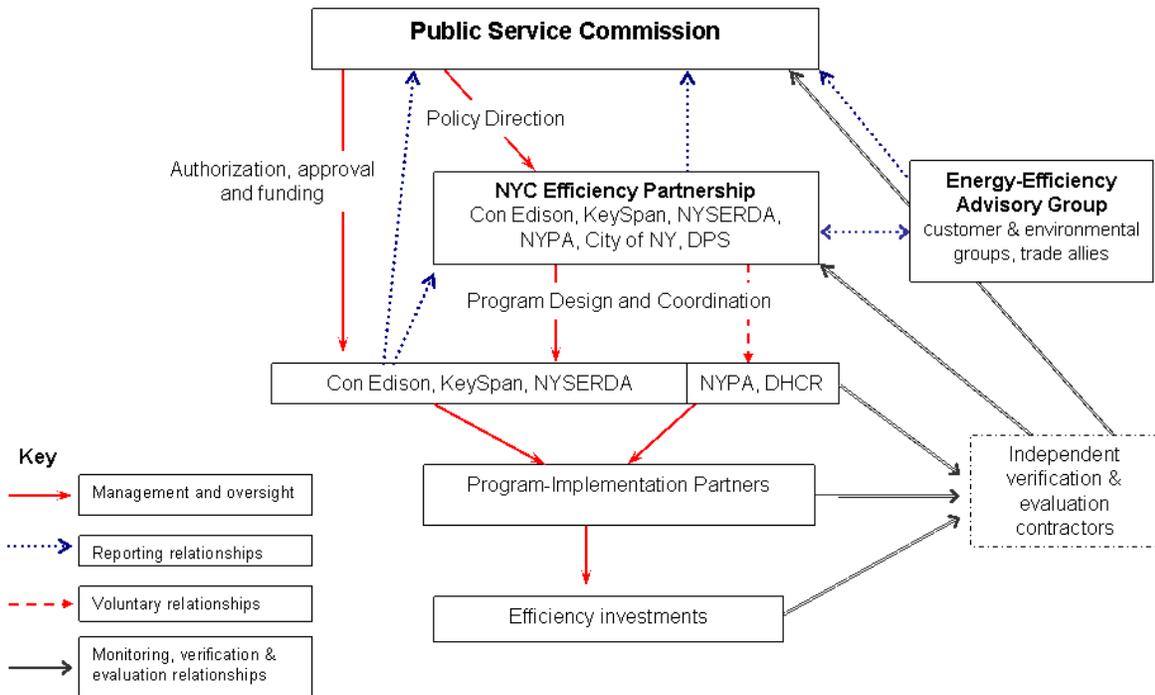


- Non-savings goals for such criteria as equity and comprehensiveness should also be set.
- Assumes effective RDM, annual or multi-year incentives tied to successful performance (e.g. 9% net benefits for 85% target, 12% of net benefits for 100% or more of target), penalties tied to poor performance (e.g. 65% target or less). Award of incentives based on independently verified efficiency achievements and total resource benefit.
- Program administrators use consistent metrics and protocols to identify savings. Program administrators would integrate, wherever possible, delivery of electric and gas efficiency programs.

- (1) PSC: Ultimate approval authority for EPS programs administered by DisCos and NYSERDA.
- (2) EPS Advisory Board: Provides oversight of all components of evaluation program, similar to SBC Advisory Group.
- (3) Distribution Utilities (DisCos): Primary responsibility for achieving objectives. Responsible for program administration and integrated delivery. Specify service area targets (2010, 2013, 2015). Funding by discos as alternative to supply purchases.
- (4) Public authorities: New York Power Authority (NYPA) and Long Island Power Authority (LIPA) responsible for the development and administration of energy efficiency programs for their customers. NYPA and LIPA expected to meet EPS target of 15% energy reduction by 2015.
- (5) NYSERDA: Facilitates coordination among program administrators and assumes lead responsibility for providing regional, upstream and market transformation services.
- (6) Stakeholder Advisory Groups: Forums for regularized stakeholder input into the development and implementation of electric and gas efficiency programs by program administrators.
- (7) Implementation Contractors (ESCOs): Primary mechanism for delivery of efficiency programs pursuant to contracts with program administrators.

## City of New York Governance Model

### New York City Efficiency Partnership



The PSC has authority over essentially everything the regulated entities do in energy efficiency: efficiency goals and objectives, programs, savings targets and overall budgets, rate treatment, decoupling mechanisms and utility incentives; funding mechanisms and cost recovery.

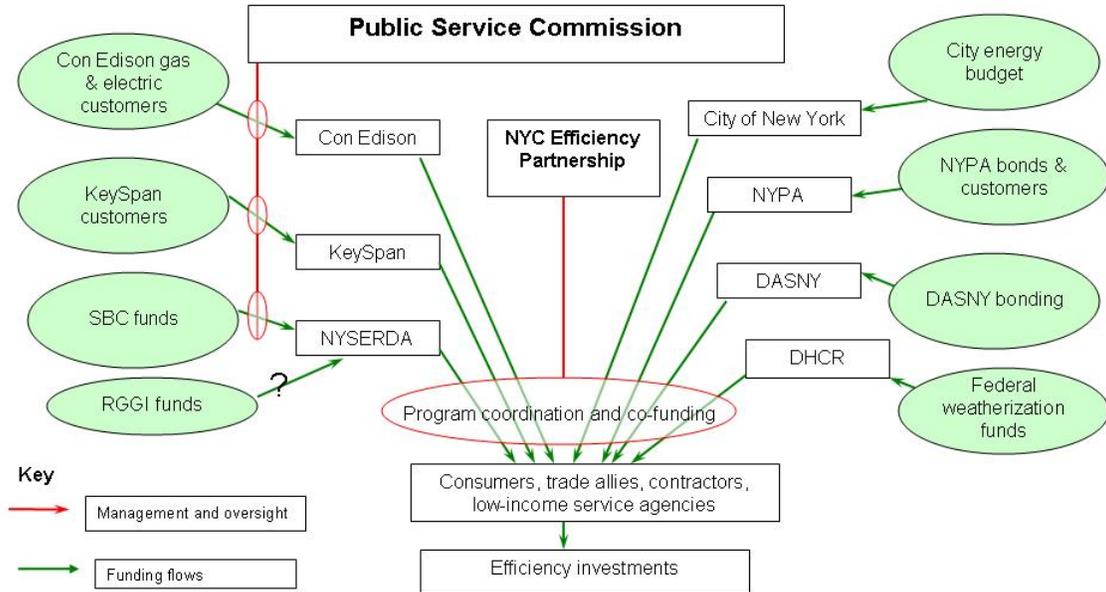
Regulated parties report directly to the PSC on the schedule the PSC sets, providing its program plans, results, and financial and ratemaking data. If possible, utility and NYSERDA filings would be accompanied by a Partnership report on the integrated portfolio, MV&E, and other relevant issues.

The Partnership prepares integrated plans; coordinates roles, cost-sharing, and inclusion of City and NYPA loads in utility and NYSERDA programs; reviews administrators' programs for consistency and coordination; recommends utility incentive structures and supervises MV&E.

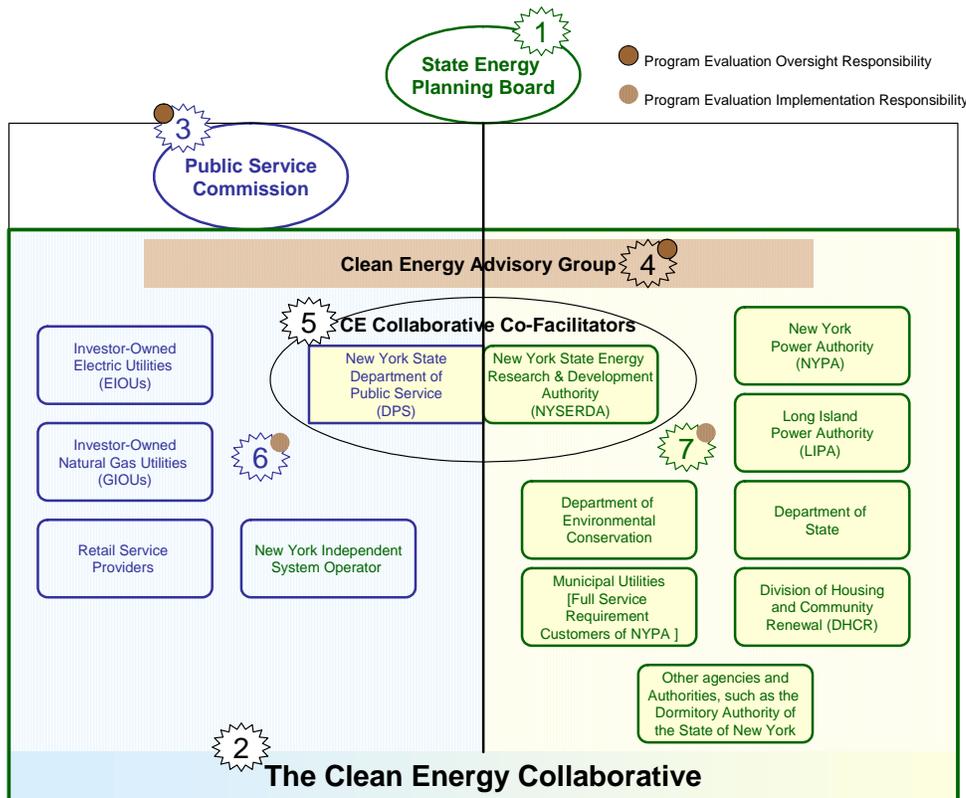
Similar Partnerships could be established for Long Island, the Hudson Valley and Upstate. Coordination among regions and statewide would be the responsibility of NYSERDA and the utilities operating in multiple Partnerships. To the extent that DPS retains an oversight role, it would be an observer in the Partnerships.

As shown in the next figure, the PSC would retain control over ratepayer funds, and each party would be responsible for the prudent use of its funds through the integrated program designs.

## Funding for NYC Efficiency Partnership



## NYSERDA Governance Model



(1) State Energy Planning (SEP) Board provides primary energy policy guidance for New York State. However, the implementation of NYSERDA's model while benefiting from the SEP Board is not dependent upon the creation of the Board.

(2) Clean Energy Collaborative (CEC): Deliberative body to discuss and guide energy efficiency and renewable energy resource efficiency and alternate fuel programs in the transportation sector, economic development programs designed to expand the infrastructure to support deployment of advanced energy technologies and attract manufacturing and R&D activities to New York, and other activities as they contribute toward the development of a Statewide clean energy strategy. In the context of the EPS, the CEC would address electricity and natural gas efficiency plans, programs and services.

(3) PSC: Approve jurisdictional funding, implementation plans and budgets. Oversees programs and implementation. Has ultimate responsibility to receive reports on evaluation and progress toward goals.

(4) Clean Energy Advisory Group (CEAG): Provides oversight of all components of evaluation program, similar to SBC Advisory Group. Provides reports and guidance to the CEC.

(5) CEC Co-Facilitators: Call and preside over meetings of the CEC, set agendas. Consider and evaluate perspectives brought to the CEC and advise their respective bodies, accordingly.

(6) Private Sector Entities: Program Administrators that plan and implement energy savings initiatives; determine budgetary needs; implements evaluation program in accordance with CEAG guidance; and provide recommendations to meet those needs under the guidance and direction of their respective decision-making bodies.

(7) Public Sector Entities: Program Administrators that plan and implement energy savings initiatives; determine budgetary needs; implements evaluation program in accordance with CEAG guidance; and provide recommendations to meet those needs under the guidance and direction of their respective decision-making bodies.

Workbooks to evaluate the six models using the Working Group I criteria were sent on November 9, 2007 to all members of the Working Group, as well as to all parties who receive e-mail via the proceeding listserv.

Working Group I members were offered the opportunity to provide detailed comments (“assessments”) of each governance model that was submitted. The detailed assessments of each model is provided in the results report attached as Appendix C. Overall, no one model emerged as consistently superior or inferior to the others based on this evaluation. Most models received mixed ratings on most criteria. The ratings, comments, and suggestions provided by the parties offer insightful guidance concerning how each model could be improved, or alternatively, how a new model might be developed based on the desirable or enhanced characteristics of each of these initial concepts.

### ***Coordination of Existing Efforts and Non-PSC Jurisdictional Organizations***

Working Group I was not charged with the task of determining quantitatively the amount of savings that should be targeted by the Commission and has assumed that a process will be employed by the Commission to develop estimated annual targets for savings that would be directly funded by ratepayers. Some of the proposed governance models, however, acknowledge the importance of this issue.

Although no formal discussion were conducted or conclusions drawn, Working Group I participants acknowledged, several discrete planning efforts currently underway in New York that could either impact or inform efforts in the EPS proceeding. These planning efforts include activities currently undertaken by the New York Independent System Operator (NYISO), transmission owners (TOs), DPS and NYSERDA.

In this vein, Working Group I also discussed, although not at length, the notion of energy efficiency “wedges” that graphically represents the “15 by 15” goal and that was initially introduced at the July 19, 2006 Overview Forum in this proceeding. No consensus was reached with regard to the possible application of the “wedges,” however, the Working Group did acknowledge a non-exhaustive list of efforts that would likely count toward the achievement of the EPS goals. The list

includes: customer-funded efficiency programs; enhanced building codes; enhanced appliance and equipment standards; leveraging State-initiated programs with federal programs; self-sustaining financing opportunities; voluntary efforts; and transmission and distribution efficiency gains.

As stated earlier in this Report, moreover, since the announcement of the Governor's "15 by 15" goal, a number of energy efficiency planning efforts have been initiated and are underway, including the EPS proceeding. Parallel with this proceeding, a Clean Energy Collaborative (CE Collaborative)<sup>4</sup> of State agencies and authorities has been formed to provide the coordinated leadership needed to support these public policy goals. The CE Collaborative is compiling information to quantify the State agencies' and authorities' contribution to the 15 by 15 electricity efficiency goal. Additional data on natural gas savings associated with existing energy efficiency programs, as well as proposed programs targeting natural gas savings is being evaluated.

It is expected that the collective energy efficiency contribution of the State agencies and authorities will be combined with private sector contributions as determined through the EPS proceeding and other initiatives led by DPS, acting under the guidance and direction of the Commission.

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<sup>4</sup> The New York State agencies and public authorities supporting the efforts of the CE Collaborative: NYSERDA, NYPA, LIPA, DOS, DHCR, DASNY, DEC, NYSTAR, and OGS.

## **EPS Funding**

After spending much of its time on establishing the Criteria for Administrative Structure, developing original governance model proposals, agreeing on and applying an analytical tool to assess the various proposed governance models, little time remained available to assess EPS funding issues and options. As such, Working Group I developed a non-exhaustive, preliminary list of potential EPS funding types.

This list, presented below in Table 3, is provided without the benefit of careful deliberation by the Working Group, and therefore is devoid of any analytical refinement. Furthermore, the order of the list is arbitrary and not intended to assign priority or viability judgments to individual funding sources. The purpose of the list is for further discussion and its inclusion in the report does not reflect group agreement on the appropriateness of the funding sources listed or omissions. There is general consensus among the Working Group I representatives that approximately one additional month would be necessary to provide a more refined EPS funding work product.

## **EPS Costs**

Working Group I discussed a number of cost-related issues pertaining to the implementation of an EPS. These issues are described below. In limited instances, there was general consensus among Working Group I participants as to certain cost-related principles. For the most part, however, widespread consensus was not achieved, although the discussion of certain issues to date has been relatively limited.

The description of cost-related issues set forth below purposefully excludes arguments for and against certain positions. The drafting, revising and discussion of such positions would require considerably more time than that allotted to date. It presently is not clear to Working Group I whether further discussions would result in additional consensus, or if further work on refining the issues and positions both for and against certain cost-related principles is warranted.

### Table 3. Potential EPS Funding Mechanisms

*Wholesale market funding*

NYISO demand programs  
NYISO forward capacity market  
RGGI auction proceeds  
CAIR auction proceeds  
Energy efficiency credits ("white tags")

*Other private market funding*

Customer self-funding  
Loans & mortgages (taxable)  
Loans & mortgages (tax-exempt)  
Tax-exempt capital leases  
On-Bill Financing [proposed]  
Tax-exempt operating leases [proposed]  
NYSERDA Energy Smart Loan Fund  
Private Investment Incentive Fund [proposed]  
Power Authority of the State of New York ("NYPA")  
Vendor/trade association financing  
ESCO Financing / Performance Contracting

*Utility distribution rates*

SBC surcharge  
Gas/electric efficiency surcharge  
Rate base  
Dynamic pricing

*Utility/ESCO supply charges*

First year of customer efficiency savings  
Mandated purchase of demand resources as component of all gas & electric commodity  
Time-of-Use Rates, Real-time Pricing, Dynamic pricing

*Federal/State/local government funding*

Tax-exempt municipal financing  
Municipal utility surcharges  
State agency budgets  
NYS and municipal tax and fee credits  
NYS pension funds  
Empire State Development Programs  
State and municipal high efficiency standards  
Federal energy tax deductions & credits  
DOE grants  
HEAP funds

### ***Cost-Related Issues Should Be Resolved Contemporaneously With the Establishment of the EPS Program***

While it may not be possible for the Commission to resolve all details of every cost-related issue in advance of implementation of the EPS, the Commission should, at a minimum, establish general principles on cost-related issues before the implementation phase. Because the EPS is expected to include – but not be fully reliant upon – the implementation of customer-funded energy efficiency programs, Working Group I participants believe it is very important for the Commission to resolve cost-related issues at the same time it address the overall portfolio approach. To the extent customers fund the EPS Program, there should be a high degree of regulatory certainty as how to cost-related issues – such as allocation and recovery – will be handled.

### ***The Rate and Bill Impacts of the EPS Should Be Minimized***

There is general consensus among Working Group I participants that the rate and bill impacts of the EPS should be minimized, as much as possible, consistent with achieving the EPS goals. As detailed elsewhere, there are many potential means of achieving EPS goals, including, but not limited to, reliance on more stringent building codes and appliance standards, market-based efficiency projects, voluntary customer-driven efficiency projects, increased financing opportunities, and measures intended to reduce transmission and distribution line losses. While Working Group I participants recognize that customer-funded efficiency programs will be needed to achieve EPS goals, there is general agreement that the rate and bill impacts of the EPS should be minimized. New York State's electricity prices are among the highest in the country, and to the extent EPS goals can be achieved through means other than customer-funded programs, those opportunities should be pursued aggressively in order to minimize the rate and bill impacts associated with the EPS.

## ***Relationship between Sources and Uses of Customer Funding***

Working Group I discussed a number of issues related to the relationships between the sources and the uses of customer funding of energy efficiency programs. Those issues related to: (a) "tracking" of EPS funding and expenditures; (b) exemptions; (c) interregional equity; (d) interclass equity; and (e) intra-class equity.

### ***Tracking of EPS Funding and Expenditures***

For the past several years, energy efficiency programs have been funded through the SBC, which is a constant per kWh charge that is collected from delivery customers and flowed to NYSERDA on a utility-by-utility basis. The extent to which dollar amounts collected from each utility's service territory were returned back to the specific area (less amounts for general activities) were not evaluated by the Working Group. To the extent that the SBC is expanded to fund EPS projects, or new rate elements are established to fund future energy efficiency activities, there is general agreement that better tracking of the uses of customer-provided funds back to the originating service territory should be required.

### ***Exemptions to EPS Surcharges***

Working Group I participants discussed the need to reconcile the costs of pursuing EPS goals and the State's economic development objectives. This is particularly important Upstate, where high energy costs are a critical barrier to job retention and attraction efforts. Participants discussed, but did not reach consensus on, the issue of exemptions to energy-efficiency funding through utility rates. As detailed above, it is anticipated that EPS goals will be achieved through a variety of initiatives, including customer-funded efficiency programs. One issue that warrants consideration is the existence and scope of customer exemptions to EPS surcharges. For instance, Department of Public Service Staff previously proposed that interruptible gas customers be exempted from EPS surcharges for economic development purposes. Some advocated that, in addition to interruptible gas customers, New York Power Authority allocations and flex-rate contracts be exempted from EPS surcharges. Other Working Group I participants are opposed to exemptions, in whole or part.

Some were concerned that, if too extensive, exemptions would limit the funding available and impede the market penetration of programs. Also, some recommended that there should be provision for exempted customers to “opt in” by paying their share of the SBC and EPS charges and thereby establish their eligibility to participate in these programs. The discussion of this issue during the Working Group deliberations was somewhat limited.

### ***Inter-regional Equity***

Working Group I participants discussed, but did not reach consensus on, the issue of whether EPS-related costs should be recovered in a manner that promotes interregional equity. As detailed above, it is anticipated that achievement of EPS goals will require the implementation of customer-funded energy efficiency programs. Those programs will result in subsidies or other benefits being allocated to certain customers, and the costs of the programs will need to be recovered from certain customers. Some Working Group I participants contend that, to the extent possible, EPS-related costs should be recovered in a manner that promotes interregional equity. For instance, these parties contend that New York City customers should not be forced to pay for efficiency programs implemented in Buffalo, and Buffalo customers should not be forced to pay for efficiency programs implemented in New York City. In other words, according to these parties, regional cost recovery should follow, or generally be consistent with, regional cost incurrence. Some Working Group I participants disagree, and do not believe EPS-related costs should be recovered in a manner that promotes interregional equity. Other Working Group I participants are concerned that interregional equity will be difficult, if not impossible, to achieve, and that it may be in conflict with Statewide priorities. These parties also have concerns as to how the concept of interregional equity would be defined and pursued.

### ***Inter-class Equity***

Working Group I participants discussed, but did not reach consensus on, the issue of whether EPS-related costs should be recovered in a manner that minimizes inter-class cross subsidies.. As detailed above, it is anticipated that achievement of EPS goals will require the implementation of customer-funded energy efficiency programs. Those programs will result in benefits being allocated to certain

customers, and the costs of the programs will need to be recovered from certain customers. Some parties contend that, to the extent possible, EPS-related costs should be recovered in a manner that promotes interclass equity. These parties assert that costs should be recovered on a customer segment, or service classification, basis. The most rigorous application of this principal would require that: (a) EPS program costs related to residential customers be recovered solely from residential customers; (b) EPS program costs related to small commercial and industrial ("C&I") customers be recovered solely from small C&I customers; and (c) EPS program costs related to large C&I customers be recovered solely from large C&I customers. Costs would be tracked, as incurred, and recovered from the responsible customer segments or service classifications, whichever is most practicable. Less stringent applications of the principal would require monitoring of the distribution of charges and benefits, and periodically adjust funding or program design to maintain a rough balance among classes.

Some Working Group I participants oppose the adoption of interclass equity as a principle for cost recovery or are supportive of the concept except regarding low income programs. Other participants have specific concerns with the proposed principle, such as: (a) how the principle would be implemented in practice; (b) how costs related to initiatives targeted at low-income residential customers would be handled; and (c) how costs related to multi-family dwellings would be handled. With respect to the latter concern, there may be severe data limitations, and unique issues insofar as determining whether cost incurrence, or program beneficiaries, relate to residential or commercial classes.

### ***Intra-class Equity***

Working Group I participants discussed, but did not reach consensus on, the issue of whether EPS-related costs should be recovered in a manner that promotes intra-class equity. As detailed above, it is anticipated that achievement of EPS goals will require the implementation of customer-funded energy efficiency programs. Those programs will result in benefits flowing to certain customers, and the costs of the programs being recovered from a potentially different mix of customers. Some parties contend that, to the extent possible, EPS-related costs should be recovered in a manner that promotes intra-class equity. These parties contend that the Commission should refrain from recovering all EPS-related costs on a purely volumetric basis. In this view, EPS-related costs should be

recovered in a manner consistent with how the costs are being incurred. For instance, the costs of efficiency programs targeted at reducing coincident demand might be recovered, at least in part, on a coincident-demand basis, while account-specific project costs, such as meters, might be recovered on a per account basis. Even the proponents of this approach agree that costs incurred to reduce consumption would be recovered on a volumetric basis. Other Working Group I participants oppose the adoption of interclass equity as a principle for cost recovery. There was less extensive discussion of this issue than other cost-related issues.