



July 25, 2011

**Comments of Natalie Hildt
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Regarding the New York State Energy Research and Development Authority's
Petition in the Matter of for SBC IV under SAPA No. 10-M-0457SP1
Operating Plan for Technology and Market Development**

VIA EMAIL: secretary@dps.state.ny.us

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

Dear Secretary Brillling,

On behalf of Northeast Energy Efficiency Partnerships (NEEP),¹ I am pleased to submit comments in support of NYSERDA's proposed Operating Plan for Technology and Market Development (T&MD). These comments are in addition to the joint comments led by the Pace Energy and Climate Center and the Natural Resources Defense Council and endorsed by a coalition of environmental and consumer groups, including NEEP.

In keeping with our support for NYSERDA's "Vision for the Future" paper in comments NEEP submitted dated November 22, 2010, we endorse the spirit and direction of this plan's aim of market transformation and development for New York's energy efficiency and clean energy sectors with use of the Systems Benefit Charge. We see this as a thorough and well-thought out plan and an important tool to keep feeding the pipeline for tomorrow's energy efficiency savings opportunities, while continually moving the state forward on the "energy innovation chain," as described by NYSERDA. As has been stated in previous comments, we strongly urge the Commission to approve the program budget levels requested by NYSERDA that will be required to deliver on the programs included in the Operating Plan. Energy efficiency continues to be the most cost-effective energy resource available to the residents and businesses of New York, and investing in that resource through NYSERDA's Operating Plan for Technology and Market Development will provide the greatest return on investment for the state.

NEEP has observed many states grappling with how to integrate market transformation into ratepayer funded programs. Public policy and program elements such as building energy codes and appliance

¹ These comments are offered by NEEP staff and do not necessarily represent the view of NEEP's Board of Directors, sponsors or underwriters.



efficiency standards; building energy rating; operations and maintenance training; consumer education; development of and testing of cutting-edge products; industrial process innovation; and harnessing broader and deeper savings opportunities through whole-building approaches are all highly valuable elements of a successful efficiency strategy. Yet quite often, they are more difficult to quantify than traditional energy efficiency programs that have historically employed elements such as rebates or other consumer incentives.

We believe that New York is wise to find a way for market transformation activities and resource acquisition programs to co-exist in a symbiotic manner, and for those two program strategies to be differentiated by the Commission. Pursuing both can help New York achieve multiple policy goals — reaching the targets set by the energy efficiency portfolio standard, strengthening the clean energy economy, creating jobs and stretching energy dollars for customers.

General Comments

NYSERDA's stakeholder input process did a good job of incorporating various views and concerns in this proposed plan. Without restating comments made in the Pace/NRDC letter, NEEP would like to highlight the following overarching recommendations:

- **Leverage Regional Efforts** – We encourage the state and NYSERDA to continue leveraging regional efforts in terms of market strategies for things like lighting and consumer electronics, and the Regional Evaluation, Measurement and Verification Forum.
- **Look to increase coordination** – We understand that the issue of better integration and coordination of the T&MD efforts with the resource acquisition programs offered by the electric and gas utilities will be taken up to greater degree in the next EEPs proceeding. Again, we emphasize the importance of coordination to maximize ratepayer dollars and program savings and minimize confusion and frustration on the part of vendors and end-users alike.
- **Consider More All-Fuel Approaches** – Again, we understand that this plan deals with SBC IV funding coming from electric and gas ratepayers and thus does not focus on unregulated fuels. Still, we would urge the PSC to afford NYSERDA flexibility in exploring ways to reach and serve customers who heat with oil or propane in a coordinated fashion.
- **Encourage Building Energy Rating and Disclosure** – We encourage the state and NYSERDA to build on current commercial energy benchmarking programs, such as those underway in New York City, and push forward with building energy rating and disclosure policies. Information on a home or building's energy performance— including utility expenses— can empower all parties involved in real estate transactions, including renters, buyers, sellers, financiers and real estate



agents. Building energy rating is a topic to which NEEP has devoted considerable time, including publication of a “Roadmap for the Northeast on Valuing Building Energy Efficiency through Disclosure and Upgrade Policies.”²

- **Continue Emphasis on Codes and Standards** – As NYSERDA appropriately points out, codes and standards are among the most cost-effective means of achieving energy savings. Regular upgrades to building energy codes and appliance efficiency standards work to advance a “virtuous cycle” of energy efficiency improvements, complementing ratepayer funded programs that continually raise the bar, while codes and standards lock in those program savings for all customer classes.

As technology and best practices advance, the least efficient products are culled out while maintaining customer choice and flexibility in how codes and standards are met. We are glad to see the attention that the Plan pays to such complementary policies. We also urge, in the strongest possible terms, that the Commission approval NYSERDA’s proposed Operating Plan budget for codes and standards, and implement appropriate regulations that will allow the agency to claim the savings from these activities.

More on Codes and Standards

We offer the following more detailed recommendations based on the T&MD plan:

- **NYSERDA’s Role in Code Development** – As one of the energy efficiency industry leaders, NYSERDA has and should continue to play a significant role in helping to research and analyze future iterations of building energy codes, both at the federal and state levels. NYSERDA is uniquely positioned to provide analysis of energy savings in relation to code development proposals, particularly as these relate to their building energy efficiency program offerings. NYSERDA should also be empowered and funded to analyze code proposals for adoption in New York State, including those for so-called “stretch” energy codes, which help to market test beyond baseline code adoptions and continually improve future codes.
- **Baseline Energy Code Compliance Assessments** – As NYSERDA points out, the state was able to conduct an initial baseline energy code compliance assessment due to funding that was provided through the American Recovery and Reinvestment Act (ARRA). With that funding source now depleted, it is vital that the state continue to periodically assess compliance with the energy code as a means of enhancing enforcement, targeting education and generally improving upon code adherence. The Commission should allow NYSERDA to continue to fund these

² <http://neep.org/public-policy/building-energy-codes/building-energy-rating>



assessments as a complement to other code initiatives aimed at educating stakeholders and increasing compliance.

- **New Code Compliance Models** – Among its program goals (9-46), NYSERDA identifies “Explore and test alternative approaches to energy-related building enforcement and implementation” and “Promote adoption of alternative compliance and enforcement systems” as keys to enhancing compliance with the building energy code. Compliance remains the most significant obstacle to realizing deeper savings from building energy codes, as states across the country struggle with how to provide both resources and incentives to local building officials to enforce existing energy codes.

Among its “Pilots and Expanded Implementation Assistance,” (9-49) NEEP would strongly urge NYSERDA to include a pilot program to test a system of third-party energy code inspectors in locations where local code officials are either incapable or unwilling to enforce the building energy code. Other states, including Maine and Washington, have or are testing third-party inspection methods that could inform NYSERDA’s efforts in this regard. A number of organizations, including NEEP on the regional level and the Institute for Market Transformation on the national level, have resources available to aid in the effort to establish and certify qualified building energy code inspectors.

- **One Stretch Code** – On page 9-47, regarding development of a stretch code, we suggest this be noted as a *single* prototypical stretch code for the entire state, in order that training, interpretation, exceptions/waivers and other administrative tasks can be centralized and to avoid confusion resulting from different energy codes in different jurisdictions.
- **Consider Retrofit Appendix to IECC** – Regarding code provisions for existing buildings (pg. 9-47) this is perhaps the largest challenge, as current codes only require limited energy improvements for renovations. We suggest that New York lead the way with development of a retrofit section or appendix to the International Energy Conservation Code (IECC) that would detail methods and practices for deep retrofits that substantially increase performance of thermal and air leakage issues while controlling both water intrusion and vapor diffusion.
- **Make Self-directed Learning Available** – Regarding training (pg. 9-48), these sessions should be recorded for a self-directed training library available to not only the construction sector but to all interested parties. Sharing of information without regard to copyrights or borders is critical to upgrading compliance, as the construction sector crosses all state boundaries and markets, from conception to completion.



- **Engage Utilities in Codes/Standards Work** – The Plan spends a good deal of time on the importance of building energy issues, including the role of code training and enforcement. We encourage the Plan to explore the importance of partnering with utility companies who can draw upon their relationships with customers and building professionals as well as their energy expertise to help implement and advance building energy codes across the state.

Similarly, we encourage NYSERDA and DOS to find ways to partner and share credit with the utility companies that can help to advance appliance efficiency standards. For this to occur, the Commission will not only need to allow NYSERDA to engage in work encouraging the development, adoption and implementation of new building energy codes – as well as appliance efficiency standards – but also reach consensus on how NYSERDA can claim savings from such activities. To that end, we would encourage the Commission and NYSERDA to continue engaging in efforts begun undertaken regionally and nationally to address these issues and reach consensus solutions.

- **Continue Advancing Appliance Standards** – Standards are one of the most cost effective ways to deliver on the state's energy saving goals. NYSERDA, in collaboration with the Department of State (DOS), play an important role in moving the ball on appliance efficiency standards. In particular, NYSERDA's strong technical expertise is a valuable commodity during federal standards rulemakings. New York's ability to provide input to the federal process can pay dividends to New York and the nation. As with energy codes (see above), the Commission will need to allow NYSERDA to engage in research and analysis, participate in federal and state rulemakings, and otherwise support new appliance efficiency standards with the ability to claim energy savings from such activity.
- **Focus on Uncovered Products** – The Plan talks about NYSERDA analyzing the potential impact of appliance and equipment standards on the New York market (pg. 9-48). To that point, we recommend focusing on the products not covered by federal rules that might make candidates for state level appliance standards.
- **Standards Compliance Best Left to Others** – As to the issue of assessing standard conformance (pg. 9-48), NEEP would question whether this is an appropriate role for NYSERDA. Appliance standards are largely self-policed by the industry actors. Enforcement of federal standards is the responsibility of the U.S. Department of Energy. There is not a lot of evidence that standards enforcement should be a priority. NEEP would be interested to see examples of potential products that might be worthy of additional scrutiny.



- **Improve Coordination between Agencies** – Lastly on codes and standards, our perspective is that all parties and the work itself will benefit from more clearly defined roles and responsibilities between NYSERDA and the DOS.

More on Building Energy Rating and Disclosure

Building energy rating and disclosure policies can be effective tools in getting markets to value energy efficiency, and act as a powerful complement to more conventional building efficiency incentive programs. Such policies also spread benefits across a broad spectrum of market actors— from property buyers and renters, who are provided better information to make more informed real estate decisions and avoid costly surprises once a transaction has been completed— to financial lenders, who are afforded better information regarding a buyer or tenant’s potential financial liabilities in the form of higher energy bills in underperforming buildings, thus limiting their exposure and risk.

Such policies are particularly effective in addressing the so-called “split incentive,” where a building owner has little incentive to install equipment or upgrade a property to be more energy efficient if it is the tenant who pays the utility bills on the property.

NYSERDA’s proposed “Market Development Initiative” (9-55) appropriately points out that “Many...factors – a focus on short-term investment strategies, tenant/landlord agreements where the energy costs and return on investment for energy efficiency investments are misaligned, lack of meaningful data and full market intelligence, energy price volatility, lack of awareness of financing options, unfamiliarity with new technologies and strategies – challenge energy efficiency adoption rates.”

We strongly support NYERSDA’s proposal to provide tools such as “energy aligned leases” (9-64)to encourage changes in how energy performance is valued in the property transfer chain. As is pointed out, this initiative can build on the efforts being advanced in New York City to benchmark commercial buildings for energy performance, and can be used to education and inform those in the real estate community – lenders, assessors, appraisers, Realtors, and others – to the tremendous benefits of an energy efficient building. Helping the lending community, in particular, better value energy performance in real estate transactions can also provide a significant boost to the amounts and types of new financing products that can be made available to consumers to encourage building energy retrofits.

This work should also dovetail nicely with NYSERDA’s proposed work in the areas of innovative finance development and workforce development, as rating and disclosing building energy performance will ultimately lead to better financing opportunities, as well as opportunities for new workers trained in rating building energy performance.



More on Market Strategies and Regional Collaboration

Following are comments on key program areas as well as on the Plan's treatment of evaluation and measurement, and verification issues.

- **Commercial Lighting** – NYSERDA's involvement in the Design Lights Consortium (DLC), hosted by NEEP, has been crucial in joint efforts such as developing and reviewing technical specifications for solid state lighting products. This multi-state consortium serves the U.S. and Canada, and is instrumental in helping efficiency program administrators and manufacturers create uniform quality products in this fast-changing field of super-efficient commercial lighting products. NYSERDA's ongoing participation in such regional efforts will continue to benefit New York as well as the overall effort towards market transformation.
- **Residential Lighting** – Together with efficiency program administrators from across the region including NYSERDA, NEEP is finalizing a Residential Lighting Strategy that provides a comprehensive approach through 2020. Beyond incentivizing various lighting products, the strategy addresses other critical elements such as the need for consistent consumer messaging and education, overcoming regulatory obstacles, fulfilling market data needs and taking advantage of opportunities to engage regional and national stakeholders in achieving program goals.
- **Plug Load** – NEEP's Advanced Power Strips project works to produce robust testing protocols, deemed savings figures with assistance of the EM&V Forum, marketing approaches and program design. Collaborative working groups will help guide proper program implementation of "smart power strips" by ensuring that regional savings assumptions are accurate and only quality and effective products get into the hands of consumers.
- **Evaluation Methodology** – NEEP sees Section 8 of the Plan on Evaluation Methodology as a reasonable, logical set of proposed evaluation steps and activities that in line with the goals of the portfolio and with the specific T&MD efforts. We suggest that the evaluation plan might acknowledge that other stakeholders (in addition to the Public Service Commission, which is referenced), which may be useful in helping with development of evaluation strategies. New York State has been actively involved in the Regional Evaluation, Measurement and Verification (EM&V) Forum hosted by NEEP. Participation by both PSC and NYSERDA in Forum related activities has been a great help to regional projects, and we believe to New York's own efficiency efforts.



Regarding the four above examples, New York's involvement (including NYSERDA, DOS, PSC) in such regional working groups is extremely valuable. The benefit to New York in these kinds of projects is in gaining access to best practices, sharing strategic information and impacting market transformation by helping to drive the region as a whole. These collaboratives also provide access to market analysis and other helpful information. Partnering with neighboring states and program administrators help make better use of ratepayer program dollars by leveraging common efforts, experiences, expertise and information when it comes to energy efficiency.

Conclusion

In summary, NEEP enthusiastically endorses this Plan and urges the PSC to provide NYSERDA the funding and the flexibility to deliver on its ambitious potential. New York has done an excellent job with the resource acquisition programs, but if there is not sufficient emphasis on all the precursor activities that keep the pipeline filled, the state will put at risk the achievements of the Energy Efficiency Portfolio Standard (EEPS) programs. Making sure NYSERDA has a full portfolio of activities that can accelerate energy efficiency and realize the goals of EEPS puts the state in right policy space. Once again, other states will be looking to New York's progress as they work to create a sustainable market transformation model while delivering tried and true energy savings.

NEEP is a regional nonprofit that promotes the efficient use of energy in homes, buildings and industry in the Northeast. We advance cutting-edge products and practices through coordinated, whole-building efficiency programs and policies. Saving energy creates a stronger economy, a cleaner environment and a more reliable and affordable energy system.