January 10, 2012

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

Hon. Secretary Jaclyn A. Brilling

New York State Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

Re: Case No. 07-M-0548
The Proposal for Utility Shareholder Incentives

Dear Secretary Brilling,

On behalf of Northeast Energy Efficiency Partnerships (NEEP),[1] I respectfully submit these comments in response to the November 17, 2011 "Notice Seeking Comment" regarding a proposal to revise the utility shareholder incentive mechanism for its Energy Efficiency Portfolio Standard (EEPS) proceeding.[2]

New York's Energy Efficiency Portfolio Standard (EEPS), calling for savings of 15 percent in electric and natural gas use, is a landmark initiative that will bring economic benefits to ratepayers while promoting environmental quality and clean energy jobs in the state. The proposal modifies the incentive mechanism in order to facilitate greater cooperation between NYSERDA and the utilities, promote greater energy savings, and align utility shareholder interests with the state's aggressive energy savings goals.

We strongly support the Public Service Commission's decision to continue performance-based shareholder incentives for utilities.[3] Because of the integral role that New York's electric and gas utilities play in meeting the EEPS savings targets, a credible incentive mechanism helps place efficiency on par with supply-side investments.[4] We also support eliminating the penalty component of the mechanism,

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[1] These comments are offered by NEEP staff and do not necessarily represent the view of NEEP's Board of Directors, sponsors or underwriters.
[2] PSC Case No. 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule (issued October 25, 2011).
[3] PSC Case No. 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule (issued October 25, 2011).
[4] See Comments of Pace Energy and Climate Center, NRDC, and NEEP, PSC Case No. 07-M-0548, Comments Regarding Energy Efficiency Portfolio Standard Program Review White Paper, August 22, 2011.

which led to considerable confusion and tension between the parties rather than promoting stronger energy savings. We believe that action by the Commission within rate cases, along with evaluation of the utilities' EEPS scorecards, is an appropriate venue to penalize sub-standard performance.

We caution however that the current proposal may not adequately improve program management and cooperation. The proposed incentive structure is more stringent than under the current model, offering rewards only for attaining 100 percent the proposed savings targets. It also reduces the maximum reward level and splits the incentive pool between Step One, based on individual utility performance, and Step Two, linked to progress towards the statewide goals. This approach is understandable given the elimination of automatic financial penalties for poor performance. Reward should be commensurate with regulatory risk. However, we ask the Commission to take into consideration that meeting the individual utility and statewide savings targets poses a significant challenge for the program administrators. In particular, the statewide goal requires NYSERDA to achieve historically high levels of annual savings to attain the total 2015 target.[5]

Given these challenges, we offer three recommendations for the Commission's consideration which we believe could strengthen the current proposal, as follows:

1. Re-instate the "tiered" incentive structure for the individual utility incentive (Step One)
2. Modify the reward levels for Step One and Step Two savings targets
3. Establish clear guidance on evaluation, measurement and verification (EM&V) protocols

Re-Instate the "Tiered" Incentive Structure for Individual Utility Incentives (Step One)

The Commission should re-instate the "tiered" incentive structure for the Step One portion of the incentive, consistent with the original incentive mechanism.[6] An 80 percent threshold is a common level for eligibility for performance-based rewards, with higher levels for those that achieve 100 percent or more of goal. The current proposal represents an "all or nothing" approach that may serve as a disincentive for utilities that may initially fall behind on their goals. A tiered structure would reduce this risk while recognizing the efforts of utilities that achieve excellent overall program performance.

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[5] NYSERDA's electric and natural gas savings targets the revised incentive are roughly double the level they achieved in 2011, according to the October 2011 order, Appendix 3. Because their targets represent about 70 percent of the total statewide targets, achievement of the Step Two incentive is heavily dependent upon strong performance by NYSERDA.

[6] PSC Case No. 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, Order Concerning Utility Financial Incentives (issued August 22, 2008).

Modify the Reward Levels for Step One and Step Two Savings Targets

Based upon on our observations of comparable situations for shareholder incentives across the Northeast region, we ask the Commission to consider increasing to the maximum reward level that utilities can earn by meeting their individual (Step One) and statewide (Step Two) savings targets. The current incentive amounts to about 5 percent of utility program costs, with two-thirds of the reward for achieving individual targets and one-third available for achieving the statewide target.[7] We understand the need for balanced compensation for utilities to protect ratepayer interests. We believe, however, that the difficulty posed by the savings targets justifies a slightly higher level of reward for those electric and gas utilities achieving strong program performance.

We suggest that a maximum incentive in the range of eight to ten percent of program costs would be appropriate for utilities that meet their goals within program budgets. That level would be in line with the rate of return utilities typically earn on investments in supply-side energy options and would be consistent with the reward level for many states in the region and across the nation that have robust energy savings goals.[8] Along with the tiered incentive structure, utility shareholders would have a strong, but fair, financial stake in achieving savings for New York ratepayers.

Additionally, the Step Two incentive has a laudable intent to tie the reward of the utilities to meeting the '15X'15' savings goal. This innovative approach seeks to create an environment where all the parties work more closely towards the jurisdictional savings target. We note again however that the target requires historically high levels of savings by NYSERDA which may be beyond the utilities ability to control. It may be appropriate to reduce the portion of the reward tied to Step Two to a level lower than one-third of the total incentive and place more emphasis on strong individual performance. We urge the Commission to monitor the progress towards the Step Two goal and consider alternative approaches and reward structures in future years in order to ensure an optimal approach to attaining the objective of greater cooperation.

Establish Clear Guidance on EM&V Protocols

Finally, the Commission wisely measures performance on a multi-year basis, allowing for programs that accrue savings over time. This approach avoids promoting short-term saving efforts at the expense of programs that can reach more customers and achieve deeper savings over time. That said, making rewards available at the end of the five year period may increase uncertainty that any rewards will materialize. We encourage the Commission to reach out to key stakeholders about measurement and

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[7] The 5 percent level represent the total electric and gas incentives from the total EEPS electric and gas program costs, excluding NYSERDA's program costs.

[8] See ACEEE, "Carrots for Utilities: Providing Financial Returns for Utility Investments in Energy Efficiency," January 24, 2011, p. 12, available online at http://www.aceee.org/research-report/u111.

verification protocols in advance of the 2016 reward proceeding, in particular about how net savings will be calculated for purposes of the performance incentive. This will reduce the potential for conflict in such proceedings and increases the confidence that rewards, if earned, will be made available in a timely fashion. NEEP welcomes the opportunity to assist with this work as part of the Evaluation Advisory Group (EAG) or in other venues.

Thank you again for the opportunity to provide comments in this important proceeding as establishing an appropriate shareholder mechanism is an important element of the EEPS programs. Please do not hesitate to contact me at jcraft@neep.org or (781) 860-9177 ext. 109 with any questions or comments you may have.

Sincerely,

Josh N. Craft

Josh Craft, Public Policy Associate
Northeast Energy Efficiency Partnerships