Via Electronic Mail: secretary@dps.state.ny.gov
October 28, 2013

Hon. Kathleen Burgess
Executive Secretary
New York State Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

Re: Cases 07-M-0548 & 13-M-0413, Comments on DPS Energy Efficiency Portfolio Standard (EEPS) Restructuring Proposal & Petition of NYSERDA to Provide Initial Capitalization for the New York Green Bank

Dear Secretary Burgess:

On behalf of Northeast Energy Efficiency Partnerships (NEEP),[1] thank you for the opportunity to provide comments on the Department of Public Service (DPS)'s Energy Efficiency Portfolio Standard (EEPS) Restructuring Proposal (Case No. 07-M-0548) and NYSERDA Petition to Provide Initial Capitalization for the New York Green Bank (Case No. 13-M-0413).[2] While New York has achieved significant energy and financial savings through its energy efficiency programs to date, performance is below the aggressive goals set out in the original EEPS order.[3] As the end of the first program phase approaches in 2015, this is an ideal time for the Public Service Commission, DPS and PSC staff, and stakeholders to examine the implementation challenges programs have experienced over the last four years and make revisions to ensure that the 2016-2020 energy efficiency programs benefit from these lessons.

NEEP applauds DPS for its thoughtful and timely proposal regarding the future of New York's energy efficiency programs. We are supportive of the direction that the DPS proposes for the EEPS programs, which seek to address concerns identified by the Moreland Commission report, the July 2011 EEPS White Paper, and NEEP and other stakeholders.[4] On the whole, the

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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] New York Department of Public Service (DPS), Energy Efficiency Portfolio Standard (EEPS) Restructuring Proposal, Case 07-M-0548, September 13, 2013; New York State Energy Research & Development Authority (NYSERDA, Petition of NYSERDA to Provide Initial Capitalization for the New York Green Bank, Case 13-M-0413, September 10, 2013.
[3] The original EEPS order dated June 23, 2008 called for cumulative annual electric savings of 7,687 GWh by 2015 for NYSERDA and the distribution utilities under the control of the PSC. Data gathered by the PACE Energy and Climate Center show that the entities have achieved cumulative savings of 3,305.7 GWh through 2012. See http://energy.pace.edu/sites/default/files/publications/PAC_15x15_Update_FinalWeb_0.pdf.
[4] Moreland Commission Report on Utility Storm Preparation and Response, June 22, 2013. http://utilitystormmanagement.moreland.ny.gov/sites/default/files/MACfinalreportjune22.pdf; DPS, EEPS

proposal offers a promising path forward to overcoming the barriers to realizing the full potential of these vital programs.

Our comments focus on the following element of the proposal:

1) E2 Advisory Council & Stakeholder Input
2) Resolution of Utility and NYSERDA Program Delivery Roles
3) E2 Program Goals
4) Cost-Effectiveness Screening
5) Fuel Neutral Program Funding
6) Shareholder Performance Incentives
7) Technical Resource & Evaluation Plan (TREP) and Evaluation Protocols
8) New York Green Bank

The E2 Advisory Council & Stakeholder Input

NEEP supports the creation of an E2 Advisory Council and merging the current Implementation and Evaluation Advisory Groups. The council, led by DPS staff, should borrow from the elements of the stakeholder advisory boards that have been critical to the success of energy efficiency programs in other Northeast and Mid-Atlantic states.[5] These stakeholder advisory groups have focused on determining the priority needs for state energy efficiency programs, namely providing high-level direction of oversight of program performance, rather than the detailed work of implementation and evaluation. Based upon our experience working on energy efficiency programs across the Northeast region for the last 17 years, NEEP believes that it is critical that such an advisory council be an opportunity for DPS to work with interested stakeholders— both implementers, end-users, and energy and environmental advocates—in a non-adjudicated setting to provide their perspective on New York's energy efficiency programs. NYSERDA will have an important role of working with the Council to develop analytically rigorous performance goals and offer timely and useful information on how well the programs are meeting the state's energy, environmental and economic development objectives.

Given the proposed Council's central role in New York's energy efficiency programs, we suggest that it should begin meeting prior to the submission of the 2016-2020 E2 program plan. This will ensure that DPS, key stakeholders, NYSERDA, and the utilities have a role in

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Program Review White Paper, July 8, 2011, https://www3.dps.ny.gov/W/PSCWeb.nsf/All/06F2FEE55575BD8A852576E4006F9AF7?OpenDocument.

[5] For more detail our on suggestions on a stakeholder advisory council, see joint NEEP-PACE-NRDC-Sierra Club Comments, Case 07-M-0548, Regarding the Petition for Modification of EEPS Program Budgets and Targets, July 13, 2012, p. 5.

shaping budgets and metrics specific to each utility territory and customer sector well before submitting the E2 program plan to the Public Service Commission in 2015.

Resolution of the Utility and NYSERDA Program Delivery Roles

NEEP supports the steps cited in the proposal to alleviate what the Moreland Commission characterized as "customer confusion" as a result of a myriad of EEPS program offerings and "unnecessary competition" between NYSERDA and the electric and gas utilities.[6] Duplication and overlap between programs administered by different entities has undermined New York's ability to deploy resources efficiently and reach its energy savings potential. New York has the resource to drive change towards more energy efficient practices in the marketplace, but only if its program can successfully reach all customers and building types.

The DPS's attempt to clearly delineate roles of NYSERDA and the utilities in delivering customer efficiency programs is a helpful first step in resolving this confusion. Given the utilities' relationships with their customers and NYSERDA's long-held experience with program design, evaluation, and market transformation, the division between the "Introductory" and "Comprehensive" programs is consistent with each program administrator's strengths. NYSERDA can and should continue to serve as the integrator between the state's clean energy programs, tracking and analyzing program performance and assisting each utility use industry best practices in program design. We look forward to NYSERDA and the utilities offering a joint organizational proposal that is truly customer-centric and promotes collaboration among the program administrators during the 2016-2020 program phase.

NEEP also sees value in greater coordination for programs offered by NYSERDA and the utilities under EEPS and energy savings programs for customers in Long Island and those run by the New York Power Authority (NYPA). We understand that there is need from the Public Service Commission to focus on the challenges of the EEPS programs, but there should be opportunities to share best practices and leverage energy efficiency programs offered in the Long Island and NYPA service territories moving forward.

E2 Program Goals

The proposal states that "a singular energy reduction MWh goal no longer sets an appropriate direction" for the next phase of the energy efficiency programs and lays out a broader set of "directional metrics," including transforming energy and technology markets, reducing peak demand, and reducing carbon dioxide emissions. Given the broad range of benefits energy efficiency measures provide, this broadening of the goals is the natural evolution of New

[6] Moreland Commission Report, p. 13.

York's energy efficiency programs.[7] NEEP believes that DPS, NYSERDA, and the program administrators are best positioned to lay out the specific performance goals for the next phase of the programs, a first-order task for the E2 Advisory Council.

However, we offer a number of principles that we hope will help further the discussion:

- **Link Savings Targets with the Current Program Cycle**: New York's challenge in assessing its progress during EEPS 1 & 2 stems in part from the original EEPS order, which set out fixed energy savings goals over a period of eight years based upon 2007 energy load forecasts.[8] These types of long-term annual energy savings goals may be unworkable, especially when based on energy consumption forecasts that can quickly go out of date and important changes to federal appliance standards and state energy codes which can modify achievable savings significantly. Instead, savings and performance goals should reflect for the next program period based upon technical analysis done for the state and each service territory as part of the E2 Advisory Council.
- **Maintain an Energy Savings Component**: NEEP supports goals that are linked to energy and capacity savings achieved by the program administrators in their service territories. In this region, all states judge program performance based upon the energy and demand savings achieved by the programs. We add that there must be clear guidance on whether performance on energy and peak savings will be measured in either net or gross terms.
- **Target Program Participation:** Increasingly, programs are seeking to drive greater levels of program participation which can improve overall cost-effectiveness and drive greater adoption in the marketplace. Program participation goals for different customer sectors will help to gauge how well programs are serving the diverse markets across the state and help in ensure the development of a balanced program portfolio.
- **Align Program Goals with Cost-Effectiveness Screening:** Cost-effectiveness screening protocols must be aligned with the set of goals chosen. If New York continues to use the Total Resource Cost (TRC) test for program approval, it should ensure that the definition of utility and participant benefits are broad enough to approve programs that can help meet non-energy goals. Narrow cost-effectiveness screening that excludes other resource and non-energy benefits will stymie the programs' ability to meet non-energy goals.

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[7] For a discussion of the multiple benefits of energy efficiency investments, see Regulatory Assistance Project, "A Layer Cake of Benefits: Recognizing the Full Value of Energy Efficiency," September 2013, http://www.raponline.org/event/recognizing-the-full-value-of-efficiency-theres-more-layers-in-the-layer-cake-than-many-account.

[8] New York Public Service Commission, Order Establishing Energy Efficiency Portfolio Standard and Approving Programs, June 23, 2008.

- **Promote Cooperation between Program Administrators:** New York's unique program structure calls for program goals that incentivize cooperation rather than competition. As the DPS's discussion on utility performance incentives notes, different program administrators appear to be competing for certain customers rather than working together. Program goals that allow for NYSERDA and the utilities to share credit for customer savings should create more room for collaboration in meeting customers' needs statewide and in individual service territories.
- **Market Transformation:** As New York moves to promote more market transformation efforts within its EEPS portfolio, metrics that are tied to specific market transformation goals within different building sectors may also be appropriate. Massachusetts and Vermont, for example, use their utility financial incentive mechanisms to reward programs that meet the needs of particular customer types that may be difficult to reach.[9]

Cost-Effectiveness Screening

NEEP fully endorses the revised approach to cost-effectiveness screening in light of the significant policy changes made since the creation of EEPS in 2008. New York's current practice of using the Total Resource Cost (TRC) test at the **measure level** has been detrimental to key energy efficiency programs. There is substantial merit to adopting the approach of screening programs at the customer sector level, as it will allow for a greater mixture of measures and programs that will serve New York's goal of market transformation towards more energy efficient practices over the long-term.[10]

We recommend that DPS consult the new survey undertaken by Synapse Energy Economics for the Regional Evaluation, Measurement and Verification (EM&V) Forum on cost-effectiveness practices in the Northeast and Mid-Atlantic states as it works on the Cost-Effectiveness Test Reference Guide.[11] The survey reviewed cost-effectiveness guidance and discussions with regulatory staff in eight states in the region, including New York, and shows what test each state has chosen, the application of its screening, how regularly it updates cost-effectiveness

[9] Efficiency Vermont's market transformation-related metrics for its energy efficiency programs can be viewed in its 2012 Annual Savings Claim, October 18, 2013 p. 47, http://www.efficiencyvermont.com/docs/about_efficiency_vermont/annual_reports/Efficiency%20Vermont%20Annual%20Report%202012.pdf. A discussion of Massachusetts' performance metrics for its 2013-2015 energy efficiency programs can be seen on the Energy Efficiency Advisory Council website at http://ma-eeac.org/Docs/3.1_Council%20Meeting%20Minutes/2013%20Minutes/1.15.2013/PresentationonMetrics1-15-12v.3.pdf.

[10] DPS, EEPS Restructuring Proposal, p. 18.

[11] Synapse Energy Economics, "Energy Efficiency Cost-Effectiveness Screening in the Northeast and Mid-Atlantic States," Prepared for the NEEP Regional Evaluation, Measurement, and Verification (EM&V) Form, October 2, 2013, http://neep.org/Assets/uploads/files/emv/emv-products/EMV_Forum_C-E-Testing_Report_Synapse_2013%2010%2002%20Final.pdf.

protocols, and how each values participant resource benefits, participant non-energy benefits, and the cost of environmental regulations. One important finding to note is that New York is the only state in the region using the TRC that requires all programs to screen at the measure level.

As it develops the 20016-2020 programs, DPS should align the state's cost-effectiveness screening practices with its energy efficiency and clean energy program goals. Cost-effectiveness screening choices are policy decisions that enable certain levels of investment in energy efficiency programs. If, as in the proposal, New York continues to use the TRC test to screen programs, DPS should work with stakeholders and contractors to attempt to quantify the significant non-energy benefits that accrue to participants as a result of its energy efficiency programs in order to avoid underinvesting in cost-effective energy efficiency.[12] Should the Public Service Commission opt for program goals in addition to energy and resource savings, the Societal Cost Test may be worth considering as it evaluates program costs and benefits to society as a whole, such as jobs growth and mitigating the risks of climate change. NEEP looks forward to offering more guidance on this topic in the future and sharing this with New York stakeholders.

Fuel Neutral Program Funding

The DPS has raised the issue of taking a broader approach to energy efficiency, and possibly setting aside concerns of cross subsidization in favor of reaching more customers and helping them to tackle their efficiency opportunities in a holistic manner.

NEEP has long advocated a whole-building, all-fuel approach to efficiency. We agree with DPS's assessment that the cost of parsing out which benefit should accrue to which fuel may be outstripping the benefit of trying to avoid cross-subsidization among electric and natural gas ratepayers. We heartily support the effort to move towards fuel neutral programs. Ideally, all customers who somehow pay into efficiency programs would benefit; whether residential or commercial.

The question of customers who rely on unregulated fuels is certainly an issue, and we support efforts to extend efficiency options to them as well. NEEP has been engaged in work to expand fuel blind programs in states across the Northeast that are heavily reliant on fuel oil and we commend DPS for looking at creative approaches that can offer comprehensive energy efficiency programs to the approximately 26 percent of New York residents who heat with oil.[13] Finding solutions to create an adequate funding source from heating oil has proved challenging. Massachusetts and New Hampshire offer thermal efficiency programs to

[12] Synapse, "Survey of Cost-Effectiveness Screening Practices," p. 4
[13] U.S. Census Bureau, American Community Survey, 2012 1-Year Estimates, accessed October 18, 2013. Available at http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml.

residential electric ratepayers who heat with oil, but commercial customers and those served by municipal electric utilities are left in the cold. These programs are also limited in what can be addressed to equipment replacement. In Connecticut, there has been an on-and-off cap on how much electric funding can be used to help customers with delivered fuels.

This proposal provides an opportunity to reach New York's heating oil customers, and NEEP strongly recommends that a fuel neutral funding mechanism should be designed to include benefits from customers who heat with fuel oil and allow for their participation in building envelope improvement and equipment replacement programs to the greatest extent possible. The economic and environmental benefits of oil heat efficiency programs more than justify the investment and would ensure that this important segment can participate in the efficiency programs.

With regard to the Fuel Neutral surcharge options presented in the proposal, NEEP would favor a merged fuel neutral fund instead of the option to eliminate the efficiency surcharge for gas customers. While the latter is an interesting concept and could take some burden off gas customers, we would want to ensure that *all* New Yorkers could take advantage of programs. For example, there are 40 municipal electric utilities in the state, and we expect that not all of them offer efficiency programs. Municipal electrics comprise 5.5 percent of sales in the state, and 3.7 percent of customers.[14] While these numbers sound small, we are concerned that customers who heat with natural gas are not cut out of program eligibility. Once the gas funding stream were eliminated, it could be very difficult to reinstate it. In addition, we expect there would be serious questions of electric ratepayer impacts to be addressed.

While the idea of a single fuel fund seems more simple and attractive, NEEP would urge the DPS to find solutions that would make it easy for municipal electric companies to opt in to the fund, and ensure coordination with programs on Long Island. We realize these are complex issues, and we are ready to assist DPS and the utilities as it seeks solutions to bring more comprehensive efficiency offerings to more New Yorkers.

Shareholder Performance Incentives

At this time, NEEP has no additional comments on the design of a performance incentive mechanism for the E2 programs. More clearly delineating the roles of the utilities and NYSERDA and revising performance goals to be aligned with the program term will create conditions for a utility shareholder performance incentive to effectively motivate strong program performance. We add that the utility incentive models used by Massachusetts and Vermont may be worth considering for New York, as they incorporate a broader range of

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[14] U.S. Energy Information Agency, File 861, 2012 Preliminary Data, Retail Sales Data file, accessed October 18, 2013. Available at http://www.eia.gov/electricity/data/eia861/.

performance metrics that include energy and capacity savings, participation goals, portfolio cost-effectiveness, administrative efficiency, and service quality.

Technical Resource & Evaluation Plan (TREP) and Evaluation Protocols

NEEP concurs with DPS's emphasis on improving evaluation planning and measuring program performance. The proposed Technical Resource and Evaluation Plan (TREP) continues the evolution towards more coordinated and consolidated evaluation of New York's energy efficiency programs, consistent with the direction of the Public Service Commission in its recent order on EEPS evaluation budgets.[15] A plan that prioritizes technical resources and guidance for program evaluation will be important to the success of the revised E2 programs.

Based on our experience, there is room for improvement in existing program tracking and consistency between utilities and NYSERDA program information, and program tracking and reporting, as part of the EEPS Statewide Database, should help to provide more timely information on performance and build consistency across state reporting over time. This will strengthen monitoring of program performance, and will also be valuable to regional efforts through the Regional Evaluation, Measurement and Verification Forum (EM&V Forum) which is working to improve consistency in energy efficiency reporting across the Northeast and Mid-Atlantic states through its recently launched Regional Energy Efficiency Database (REED).[16]

We recommend that TREP continue the Evaluation Advisory Group (EAG)'s efforts to conduct joint statewide evaluations to ensure consistency in methodologies to evaluate similar programs and to leverage evaluation funds across program administrators. As part of its evaluation planning efforts, we refer DPS to multi-year evaluation planning frameworks being undertaken in other states from which New York could borrow ideas and templates, in particular in Massachusetts through its recent issuance of a 2013-14 Evaluation Plan.[17]

We encourage EAG/E2 Advisory Council members to continue their participation in the Regional EM&V Forum, and encourage the Public Service Commission to provide leadership for the Forum in supporting its overarching goal to build transparency and consistency in energy efficiency evaluation and reporting practices alongside other Forum jurisdictions across the region. New York's engagement with the EM&V Forum is invaluable to developing its research and protocol projects.[18] Forum projects provide an important opportunity for New York to

[15] NY Public Service Commission, Order Consolidating Budgets Related to Evaluation of EEPS Programs, August 21, 2013.

[16] The NEEP Regional Energy Efficiency Database (REED) is online at http://neep-reed.org/Disclaimer.aspx?Source=http://neep-reed.org/default.aspx.

[17] Massachusetts' 2013-2014 Joint Evaluation Plan is available at http://www.ma-eeac.org/Docs/8.1_EMV%20Page/2013/General%20Studies%20&%20Presentations/Statewide%202013-14%20Electric%20&%20Gas%20Energy%20Efficiency%20Evaluation%20Plan%2010-15-13.pdf.

[18] For a list of the Forum's 2013 projects, see http://neep.org/emv-forum/forum-products-and-guidelines/index.

develop best practices around important issues such as guidance on cost-effectiveness and net savings, benchmark its performance via REED, and reduce the costs of undertaking important research tasks, such as incremental cost and load shape studies.

The proposal also recognizes the important of a well-designed, flexible Technical Reference Manual (TRM). In order to assist with the coming TRM update, NEEP recommends that DPS review the TRM Updating Process Guidelines the Forum developed as part of the recent Mid-Atlantic TRM. The recommendations include:

1. Review and summarize TRM update processes in place in other jurisdictions for comparison and guidance.
2. Recommend an overarching strategy to update the TRM in a timely and appropriate manner, to best meet the needs of the organizations using it.
3. Interview regional stakeholders to identify needs and schedules relevant to the update process, commonalities that are mutually supportive of a single process and schedule, as well as any unique needs or situations that necessitate extra attention.
4. Identify cyclical activities that may benefit or detract from the TRM update process, and propose a schedule for measure review and update.
5. Identify measures to be added or updated in the next round of TRM measure development.[19]

NEEP recognizes that implementing the changes outlined while maintaining its existing evaluation activities will be challenging.[20] We urge DPS, NYSERDA, and the utilities to work together to roll out these changes in a way that permits priority evaluation and reporting work to continue, while implementing the important changes contemplated here.

Capitalization of the New York Green Bank

NEEP offers brief comment on the New York Green Bank, for which NYSERDA is currently requesting initial capitalization from uncommitted EEPS, SBC, and RPS funds.[21] NEEP supports the Green Bank, recognizing that it could enable New York to take a leading role in the region and the nation in addressing financing constraints that impede the development of markets for energy efficiency and clean energy. NEEP recommends, however, that New York continue to offer robust funding for its EEPS programs and that funding for the Green Bank should not

[19] Regional EM&V Forum, "Mid-Atlantic Technical Reference Manual (TRM) Updating Guidelines," Prepared for the by Bret Hamilton (Shelter Analytics), Sam Dent (Dent Energy), and Matt Socks (Optimal Energy), September 5, 2012, p. 3, http://neep.org/Assets/uploads/files/emv/emv-products/Recommendations%20and%20draft%20update%20process%20for%20the%20Mid%20Atlantic%20TRM-FINAL.pdf.
[20] DPS, EEPS Restructuring Proposal, p. 16-17.
[21] NYSERDA, Petition for Initial Capitalization of the Green Bank. The capitalization figures used at the Clean Energy Technical Conference appear to be higher than in the written petition at around $210 million.

supplant or displace sufficient funds for market transformation programs in the near term. Other states that have considering ways to leverage private capital have emphasized the need to continue its ratepayer energy efficiency programs alongside new financing tools for energy efficiency measures and renewable energy technologies.[22]

NEEP commends NYSERDA for considering this innovative approach to overcoming upfront cost barriers and achieving long-term market transformation towards clean energy technologies. Over time, the Green Bank may prove to be an effective mechanism to leverage private capital and to maximize the benefits of ratepayer funding for energy efficiency. For now, however, we urge the DPS, NYSERDA, and other stakeholders to monitor the Green Bank rigorously to make sure it is offering a viable, near term pathways to New York meeting its energy efficiency potential.

NEEP thanks the DPS for the opportunity to comment on its valuable restructuring proposal for New York's energy efficiency and clean energy programs. We look forward to working with the Public Service Commission, DPS staff, NYSERDA, and the utilities as they put the important ideas in the proposal into action over the coming year. Should you have any questions, please do not hesitate to contact me at (781) 860-9177 ext. 109 or jcraft@neep.org.

Sincerely,

Josh N. Craft

Josh Craft, Manager of Policy Analysis
Northeast Energy Efficiency Partnerships (NEEP)

[22] For example, see "Recommendations of the Clean Energy Funding Working Group," 2011 New Jersey Energy Master Plan, p. v, http://nj.gov/emp/docs/pdf/20111011_Clean_Energy_Funding.pdf. See also, Harcourt Brown & Carey, "Financing Energy Efficiency in Massachusetts," report for the Massachusetts Department of Energy Resources (DOER), December 31, 2012, p. 4, http://www.mass.gov/eea/docs/doer/pub-info/doer-pace-study.pdf