

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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Proceeding On Motion of the Commission Regarding  
Energy Efficiency Portfolio Standard

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Case 07-M-0548

**ANSWERS OF THE  
NEW YORK ASSOCIATION OF PUBLIC POWER  
TO STAFF'S QUESTIONS TO THE PARTIES**

The New York Association of Public Power (NYAPP), an unincorporated association of nine municipal electric utilities and four rural electric cooperatives<sup>1</sup> located throughout New York State, is pleased to submit these answers to the Staff's questions in the New York State Public Service Commission's ("Commission") Proceeding Regarding an Energy Efficiency Portfolio Standard ("EPS"). In a May 16, 2007 Order Instituting Proceeding ("Order"), the Commission concluded that New York State possesses "sufficient potential energy efficiency resources to meet its forecast electricity needs and to reduce electric usage by 15% of projected levels by the year 2015." Order at 3. The Commission noted that the target levels could not be met by Commission action alone and that there would need to be action from other initiatives, including actions by the New York Power Authority ("NYPA") and the Long Island Power Authority, to reach these goals. *Id.* These answers are submitted pursuant to Administrative Law Judge Stein's June 15, 2007 Ruling on Scope, and Staff's June 13, 2007 Questions to the Parties, in particular Staff question 14, concerning utility

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<sup>1</sup> The four cooperative members of NYAPP are non-jurisdictional and are not participating in this proceeding.

implementation, and question 15, about the role different stakeholders should play in the energy efficiency initiative.

NYAPP's Members support the Commission's initiative to reduce energy use and improve energy efficiency throughout the State. New York's municipally and cooperatively-owned utilities have a long-standing partnership with NYPA to improve energy efficiency and maximize the efficient use of NYPA hydropower. NYPA has recently completed a study of energy efficiency measures for public-owned power entities and the NYAPP Members are implementing measures pursuant to the study. Because NYAPP's Members have energy portfolios and costs that are significantly different than those of other suppliers in New York State, however, application to them of a statewide uniform EPS in this proceeding is inappropriate. Because their situation is different than other regulated utilities, NYAPP's Members should be treated separately, and should continue to pursue energy efficiency initiatives through joint efforts with NYPA and NYSERDA.

## **Background**

NYAPP was formed in early 2005 to better represent the interests of its members on policy and regulatory issues. NYAPP is an unincorporated association of nine municipal electric utilities and four rural electric cooperatives located throughout New York State. NYAPP's municipal utility Members are: Village of Freeport Electric Department ("Freeport"), Green Island Power Authority ("Green Island"), Village of Greenport Municipal Utilities ("Greenport"), City of Jamestown Board of Public Utilities ("Jamestown"), Town of Massena Electric Department ("Massena"), Village of Rockville

Centre (“Rockville Centre”), City of Salamanca Board of Public Utilities (“Salamanca”), Village of Sherburne (“Sherburne”) and City of Sherrill Power & Light (“Sherrill”).

NYAPP’s Members serve approximately 500 MW of load. NYAPP’s members are “Load Serving Entities” and they have long-term power supply arrangements to meet their service obligations. NYAPP members are non-profit entities. They all have the goal of providing service at the lowest reasonable cost consistent with adequate and reliable service to their customers.

NYAPP Members all have long-term power supply contracts with NYPA that extend through August 31, 2025, for output from NYPA’s Niagara Power Project (“Power Project” or “Niagara Project”). These arrangements are in accordance with the Niagara Redevelopment Act (“NRA”), 16 U.S.C. § 836, *et seq.* The NRA requires that fifty (50) percent of the Niagara Project power be sold with a preference to public power entities, at the lowest rates reasonably possible. *See* Section 836(b)(1). In turn, NYAPP members sell power at cost-based rates to their end-use customers. For a representative municipality in New York, over 85% of the power it provides its consumer-owners is renewable, carbon-free hydropower.

Certain of NYAPP’s Members purchase incremental power above and beyond NYPA hydropower and are subject to New York State Public Service Commission jurisdiction. Other NYAPP members obtain their full requirements from NYPA, including their incremental requirements. These Members are not regulated by this Commission.

## **Answers to Staff Questions (14) and (15) Regarding Utility Implementation and Stakeholder Roles**

### **(a) NYAPP's Members Have A Long-Standing Energy Efficiency Partnership with NYPA and Have Supported Other Measures**

NYAPP's Members have a long-standing partnership with NYPA to implement energy efficiency measures and maximize the use of NYPA hydropower. Over time, a series of energy efficiency efforts have been sponsored by NYAPP's Members in cooperation with NYPA. Most recently, under their current contracts with NYPA, the municipal systems have committed to work with NYPA on additional energy efficiency measures.

NYPA and New York consumer-owned utilities have participated in the Watt Busters home energy audit and weatherization program, which was targeted at residential customers from 1987 to 1994. NYPA conducted home energy audits and financed the installation of nearly \$5.5 million in energy savings measures in more than 35 municipal and cooperative electric systems. The program cut overall peak demand for electricity by more than 15 MW, reduced annual electricity costs by more than \$1 million and lowered yearly greenhouse gas emissions by approximately 19,000 tons. Program measures included insulation, water heater wraps, infiltration reduction and water control measures.

NYPA's "Energy Efficiency Program" ("EEP") provided energy efficient technologies for both commercial and industrial customers and municipalities themselves. The program focused on lighting for commercial and industrial customers, specific industrial user applications and system technologies. By the year 2000, under the EEP, over 1,300 audits were completed, nearly a thousand installations were

accomplished, and over \$7 million in technology upgrades were installed. Pursuant to the EEP, approximately 18 million kWh are saved each year.

Currently, a number of New York Municipals participate in the “Independent Energy Efficiency Program” (“IEEP”). This program is a continuation of the EEP. Since 2001, municipal utility systems participating in IEEP have made a collective investment of more than \$9 million in energy efficiency programs. IEEP programs range from the Village Insulation Program, to automatic meter reading, to energy efficient lighting for customers and communities, to energy efficient equipment at wastewater treatment stations, and new energy efficient LED traffic lights that are 90% more energy efficient than traditional traffic signals.

NYPA and the consumer-owned utilities launched a cooperative effort to promote the use of electric vehicles in New York State – the “MAP Program.”<sup>2</sup> Electric vehicles can help address concerns about air and noise pollution, as well as work to reduce our nation’s dependence on imported fuel sources.

Myriad examples of successful consumer-owned utility programs are present in New York. For example, Freeport has developed an innovative partnership to revitalize low income housing utilizing energy efficiency with the Ford Foundation and the local community action agency. Consumer-owned utilities have worked with NYSERDA’s “Flex-Tech” Program for large customer energy efficiency and process efficiency improvements.

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<sup>2</sup> “New York Public Power Systems Ally to Promote Electric Vehicles,” NYPA Press Release, August 28, 2002.

**(b) NYPA and the New York Consumer-Owned Utilities' Most Recent Energy Efficiency Initiative**

In 2003, NYAPP Members extended their long-term contracts with NYPA and specifically agreed to enhance their energy efficiency efforts. The consumer-owned systems agreed to work closely with NYPA to implement expanded energy efficiency and energy conservation programs. In 2005, NYPA completed a study to determine the economic potential for energy efficiency in the municipal and cooperative customer market. The study, undertaken by Nexant, identified the following measures as having potential for consumer-owned systems:

- **Residential Program.** The program works with all homeowners, including those who heat with non-electric fuels, to identify energy efficiency opportunities in their home by conducting an energy audit and later, after an audit report is prepared, to install measures that are approved by the homeowner. Measures included are insulation upgrades and infiltration reduction, hot water heater wraps, compact fluorescent lamps, and programmable thermostats.
- **Commercial Lighting.** The commercial lighting program targets offices, hotels, retail shops, schools, and government and institutional customers to retrofit linear fluorescent and incandescent light fixtures in existing buildings.
- **Commercial Equipment Rebate Program.**
- **ENERGY STAR Equipment Program.** The ENERGY STAR® equipment program pays customers a rebate for purchasing ENERGY STAR® qualifying equipment.
- **The Custom Audit Program.** The Program targets industrial and large commercial customers who might not otherwise participate in an energy efficiency program.

NYPA and the New York consumer-owned utilities have undertaken a variety of actions to implement expanded energy efficiency efforts. NYPA and this Commission have authorized a large group of New York Municipals to fund the program with a one

mill per kWh adder.<sup>3</sup> Recently, NYPA has also authorized eligibility for the State's municipal and rural electric cooperative systems to participate in NYPA's Statewide Energy Services Program ("Statewide ESP"). This allows the municipals and cooperatives to obtain up-front, low-interest financing from NYPA, providing them with added flexibility in their financing options, to implement expanded energy efficiency and energy conservation programs at their own facilities, and also for their business and residential customers. Participation in the NYPA Statewide ESP expands the options available to customers for financing energy efficiency projects. To date, NYPA's Statewide ESP has reduced energy consumption and peak demand. The Statewide ESP includes, but is not limited to, measures such as lighting, motors, heating, ventilating and air-conditioning and controls, boilers, building shell measures, and clean energy technologies, such as solar power and fuel cells.

In light of NYAPP's energy efficiency efforts with NYPA it would be inappropriate for the Commission to impose an additional mandatory energy efficiency requirement on NYAPP's Members. Further, a mandatory EPS will interfere with the public power partnership between NYPA and the New York Municipals and Cooperatives. Not only do NYPA and the NYAPP Municipals and Cooperatives have the long and effective partnership discussed above, but they are pledged to, and are working on, further energy efficiency programs.

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<sup>3</sup> May 23, 2006 NYPA Memorandum to the Trustees; Commission Docket No. 06-E-0744.

**(c) NYAPP's Members Have Different Pricing and Incentive Issues Than Other Regulated Utilities and a Mandatory EPS Would Be Inappropriate for Them**

NYAPP's Members have unique pricing and energy portfolio issues that make it difficult to analyze energy efficiency for them on a similar basis as other regulated utilities, and make a uniform EPS inappropriate for them.

Unlike other utilities, NYAPP Members receive the bulk of their power from low-cost NYPA hydropower, which poses unique challenges for energy efficiency measures. Energy efficiency measures that are cost effective for customers of a higher priced utility may not be as effective or as well received in the service area of a municipal or a cooperatively-owned utility. Nonetheless, as the NYPA/Nexant Report concludes, there are energy efficiency measures that are effective for customers of consumer-owned utilities. Analyzing energy efficiency measures under the same rubric and implementing the same energy efficiency standard for municipally-owned utilities and other LSEs in New York, however, would fail to recognize the very different energy costs and comparative value of energy efficiency measures for the customers of consumer-owned utilities as opposed to other utilities.

Residential customers constitute the largest share of many municipal and cooperative utility sales. Unlike other LSEs, fuel switching is generally not an attractive option for municipal and cooperative retail customers. Alternative fuel sources (natural gas, propane, fuel oil), if available, are approximately two to three times as expensive as electric energy.

Municipalities also face unique issues in the administration and implementation of energy efficiency programs. Because of their small size, it is difficult to cost-effectively



establish and operate an energy efficiency program in the typical publicly-owned utility. For larger utilities, administration and employee costs associated with such a program can be spread among a larger group of customers. For municipally-owned utilities these costs are imposed among a much smaller group of customers and present another challenge for energy efficiency measures.

As a result of their unique characteristics, in particular the high percentage of their portfolio that is renewable and their ongoing relationship with NYPA, NYAPP's Members have not been subject to either the Systems Benefit Charge ("SBC") or the Renewable Portfolio Standards ("RPS") requirements.

NYAPP and its Members believe that energy efficiency is an integral component of their resource portfolio. However, consistent with the SBC and the RPS, the unique aspects of municipal energy efficiency issues are more appropriately addressed through ongoing efforts under a partnership with NYPA. A uniform standard with other LSEs in New York makes little sense when the municipals have little in common with other LSEs in terms of their energy portfolio or appropriate energy efficiency measures.

**(d) NYAPP's Members Have the Lowest Carbon Emissions in the State**

The Commission's Order identifies carbon emission reductions as one of the important benefits of an expanded energy efficiency program. Consumer-owned utilities currently provide the largest percentage of carbon-free power of any supplier in New York State. To the extent that carbon reductions are an anticipated benefit of the EPS, that benefit is already being experienced in the area of NYAPP's Members because of their large renewable hydropower purchases.

The typical New York municipal and cooperative utility obtains over 85% of its energy from NYPA's Niagara Project; the largest percentage of carbon-free generation of any supplier in New York State. Most of the Members first entered into contracts with NYPA for Niagara hydroelectric power in 1961 and the costs of these resources were higher. Since then, the NYAPP membership has financially supported the Niagara Project, which contributes significant carbon-free power to the State.

**(e) The Municipals Have Unique Jurisdictional and Structural Issues that Make a Uniform EPS Inappropriate for Them**

The EPS should not be mandated for the Municipals because of their unique structural and jurisdictional issues. It is inappropriate for the Commission to impose an EPS burden on NYAPP's Municipal Utility Members because they are local governments. As community-owned public power systems, NYAPP members have a particular and unique responsibility to their customers. They are governed by their local elected officials and ultimately by their citizens, not distant shareholders as is the case with investor-owned utilities. Unlike investor-owned utilities in New York, NYAPP Members have an incentive to minimize total costs to their customers, including promoting energy efficiency. In light of their present contractual support of the NYPA Niagara Project – which on average accounts for over 85% of consumer-owned utility sales – and their ongoing efforts to implement energy efficiency measures, it is neither necessary nor desirable for the Commission to impose a mandatory energy efficiency portfolio requirement on them. Given their uniquely heavy reliance on renewable generation, these local governments should not be subject to a new State program.

Further, the NYAPP Members raise unique jurisdictional issues. The Commission has regulatory jurisdiction over some of NYAPP's Members. NYPA,

because it is their full energy requirements supplier, has regulatory jurisdiction over other NYAPP Members. While the Commission could impose an EPS on the NYAPP Members it regulates, it could not impose such a requirement on those it does not. There are good reasons, including the need to maximize the effectiveness of the NYPA-consumer-owned utility partnership, to maintain similar requirements for both Commission jurisdictional and non-jurisdictional utilities.

### **Conclusion**

The New York Association of Public Power and its Members are pleased to have this opportunity to participate in the Commission's EPS proceeding. NYAPP's Members have made energy efficiency a priority and continue to work with NYPA to further improve energy efficiency in their communities. For the reasons discussed above, however, imposition of a uniform EPS requirement on consumer-owned utilities is inappropriate. NYAPP looks forward to continuing to work with the Commission on this important proceeding.

July 11, 2007

Respectfully submitted,

/s/ Jeffrey C. Genzer  
Jeffrey C. Genzer  
Thomas L. Rudebusch  
Tanja M. Shonkwiler  
Duncan, Weinberg, Genzer  
& Pembroke, P.C.  
1615 M Street, N.W., Suite 800  
Washington, D.C. 20036  
(202) 467-6370  
Fax: (202) 467-6379

Attorneys for the New York Association  
of Public Power