DEPARTMENT OF THE PUBLIC ADVOCATE
DIVSISON OF RATE COUNSEL
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Comments on the Energy Efficiency Proposals for "Existing Buildings" Presented by OCE Staff at the September 5, 2007, EMP-EE Working Group Meeting

Introduction

These comments address policy issues raised in two Office of Clean Energy ("OCE") Staff Energy Master Plan ("EMP") option templates presented at the September 5, 2007 EMP-EE meeting:

(1) "Energy Efficiency: Delivery of Energy Efficiency Through EEPS."
(2) "Energy Efficiency: Delivery of Energy Efficiency Through Government."

Draft EMP objectives include reducing electricity and natural gas use in the State's buildings sector by 20% each by 2020, compared to the amount of usage forecasted for that year. Energy savings would grow each year until these objectives are attained in 2020. The policy alternatives discussed in the two templates cited above are seen by Staff as ways to achieve the major portion of the draft EMP energy savings objectives for the buildings sector and industry.

Rate Counsel is supportive of EMP's 20% energy savings objectives, provided that the economic benefits to ratepayers from achieving these ambitious levels of savings exceed the costs of achieving them, and that the most cost-effective programs to achieve these goals are selected The feasibility, likely benefits, likely costs, relative cost-effectiveness, and who bears the costs, all need to be considered in evaluating EMP EE strategies. For example, care should be taken to ensure that low-income customers also benefit from EE programs. To help assure that each increment of energy savings provides net benefits, intermediate savings goals for the years between 2008 and 2020 should grow in a gradual and cost-effective fashion.[1]

Several different policies to achieve the 20% reductions cited are being discussed in the EMP process. Examples include new minimum standards for the energy-efficiency of appliances sold in the state, and requirements that new buildings in the state be constructed in a more energy-efficient manner; bills on both of these policies are before the NJ Legislature. If these new standards and requirements are not enacted, it may affect the reasonableness of the draft 20% savings objective. Even with these new requirements, EMP analysts estimate that the majority of targeted energy savings must come from programs applied to energy use by customers of the electric and gas utilities, to induce them to voluntarily adopt more energy efficient equipment, buildings, and practices.

[1]Because it assumes that 1/12 of the electricity and natural gas savings required in 2020 are added each year after 2008, the linear phase-in currently used in CEEEP's EMP modeling creates too big a jump in savings from 2008 to 2009. A better approach in practice is to aim to more gradually increase savings levels in the immediate years after 2008, then accelerate the annual savings goals as 2020 is approached.

Basic policy approaches to achieving buildings sector energy savings are raised in Staff's "Delivery of Energy Efficiency Through EEPS" and "Delivery of Energy Efficiency Through Government" papers. The same gas and electricity savings targets for 2009 though 2020 are given and assumed for these approaches. These savings targets assume that certain other policies will be implemented, in particular advanced building codes and new appliance efficiency standards, and reflect the rest of the savings needed to attain the 20% target.

1. Delivery of Energy Efficiency through Government

New Jersey currently operates a broad set of energy efficiency ("EE") programs to encourage savings in the use of electricity and gas among the customers of its regulated utilities. At the current time the ratepayer-funded Clean Energy Program ("CEP") offers an array of energy-efficiency incentives and programs to customers of all types -- residential, business, public and private non-profit customers. The CEP is funded through surcharges on all electric and gas ratepayers. The CEP is operated by the OCE in the Board of Public Utilities ("Board" or "BPU"). The OCE uses several contractors to manage and deliver CEP offerings to customers.

Rate Counsel's premise is that the Clean Energy Program must be the foundation of efforts to encourage energy savings among utility customers during the 2009-2012 period. The question of whether the CEP should continue to play the central role after 2012 may be addressed in a future EMP proceeding occurring closer to that time.

Considerable effort has gone into structuring the CEP as a comprehensive suite of EE programs operated by competitively procured managers under the direction of the Board's Office of Clean Energy. Growing levels of cost-effective energy savings from the CEP EE programs have been documented. Significant evolutionary progress from where the CEP stands now should be the primary strategy for the 2009 through 2012 period, as far as energy efficiency is concerned. Progress would consist of (1) reasonable growth in CEP goals and budgets, (2) enhancements to CEP programs, and (3) improvements to CEP administrative efficiency. Rate Counsel's ideas concerning the first and second of these items will be presented to the Board through comments in the Comprehensive Resources Analysis ("CRA") proceeding. With respect to the third item, Rate Counsel believes that the Board and the OCE are mindful of the need to improve administrative efficiency within the CEP and present no specific proposals in this area. Rate Counsel would simply note that as the attainment goals for the CEP increase, the performance parameters in the State's contracts with the Market Managers need to be adjusted, when and as feasible, to foster superior results.

One option discussed in the "Delivery of Energy Efficiency through Government" strategy is establishing an overall "energy efficiency utility" ("EEU") to run the EE programs currently administered by the CEP. Legislation might be required to implement an EEU. Under the EEU model, the State would either contract with or form an entity to provide overall management of these programs. Presumably the Office of Clean Energy ("OCE") would move a step up the management chain, overseeing a new "efficiency utility" that would exercise OCE's current overall direct management of the particular CEP program managers the State has hired. It is possible that the EEU approach could lead to better overall management in the long run, but to

introduce it at this stage could lead to transitional disruptions. If OCE believes the EEU approach could significantly improve managerial efficiency in the CEP, we would not be opposed to its consideration. Otherwise, however, we would not urge its consideration at this point in time.

2. The Energy Efficiency Portfolio Standard ("EEPS")

The recently enacted New Jersey Global Warming Response Act ("Act") empowers the BPU to adopt an "energy efficiency portfolio standard" ("EEPS") requiring regulated electric and gas utilities to "implement energy efficiency measures" contributing to a 20% reduction in projected electric usage. An EEPS is potentially another way to help attain draft EMP energy savings objectives. The Act empowers the BPU to adopt an EEPS. Thus, the EMP could conceivably recommend that the BPU consider adopting EEPS.

The direct costs to utilities of causing additional energy efficiency pursuant to any EEPS might likely be recovered through surcharges on all electric and gas ratepayers, somewhat as the CEP is funded now. Additionally, several regulated utilities are advocating for revenue decoupling in the EMP process, on the grounds that increasing energy use reductions will adversely affect their financial condition, and/or on the grounds that decoupling revenues from sales will remove financial disincentives to them more actively pursuing energy efficiency measures. Decoupling is not addressed in these comments. The point here is that utility re-involvement in realizing energy efficiency necessarily entails costs, so an EEPS should be implemented only to the extent that its costs are lower than alternative policies for achieving savings targets.

The "efficiency measures" the Act refers to are expected to be the same kinds of voluntarily adopted energy efficient equipment, buildings, and practices as are now promoted through the CEP. Under an EEPS, however, the utilities would be obligated to ensure that energy savings in the aggregate meet a schedule of increasing annual savings levels. The utilities would be responsible for *adding* to savings from other new policies and programs (such as the building codes, appliance standards, and the CEP programs cited above) a sufficient increment of savings to ensure that the EMP's EE savings targets are met. In Rate Counsel's view, EEPS is best seen as a possible supplement to the CEP and not, at least in the 2009-2012 time frame, a substitute for it.

If an EEPS is investigated and adopted by the BPU, it may require the utilities to cause significantly more energy savings that are available from the sum of other policies and programs. Two main modalities whereby that would occur have been discussed: utility-based customer programs, or a trading system based on energy savings certificates sometimes called "white tags".

1. Utility-Based Programs

- In this model, the gas and electric utilities would design customer programs to complement what the CEP offers. These programs might include additional customer information, additional incentives, and on-bill financing for the customer's costs to implement efficiency measures in his or her premises. The "Conservation Incentive Program" currently run by

some gas utilities offers hints of what such programs would be like. If the budget, scale, scope, and effectiveness of CEP programs do not grow very substantially, then the utilities' complementary programs would have to be substantial in order to meet the schedule of aggregate reductions.

- Utilities might propose to rate-base their efficiency program costs, or to expense them; but either way they would likely propose cost recovery surcharges similar to or as part of the Societal Benefits Charge. They might also propose performance incentives for savings achieved by their own programs. In assessing the feasibility of any new utility-based efficiency programming, the likely benefits, likely costs, and who bears the costs, all need to be considered, as well as the relative cost effectiveness of the program.

2. "White Tag" Trading Model

- Under the state's renewable portfolio standard ("RPS"), renewable energy certificates ("RECs") are issued for each 1000 KWH of electricity generated from qualifying renewable energy resources. There are only two kinds of RECs – Solar RECs ("SRECs") for solar energy projects, and general RECs for other renewable resources, the main one being windpower. Electricity suppliers -- BGS or other third party power suppliers -- must obtain sufficient RECs to satisfy the RPS. Adopted by the BPU, the RPS requires an increasing percentage of electricity sales from renewable energy each year. RECs are traded in the market, so that the owners of facilities where renewable projects are installed can sell the RECs those projects generate into the market, where they are bought by the power suppliers subject to the RPS.

- White tags are based loosely on the RPS model. White tags would be energy efficiency certificates that could be used by utilities to satisfy any EEPS requirements they become subject to. Each white tag might represent, for example, 1000 KWH of electricity saved or some number of therms of natural gas saved through qualifying energy efficiency measures. White tags would be sold by the owners of energy efficiency projects -- who might be utility customers at host facilities, or might be other parties who help customers implement qualifying energy efficiency measures. The BPU would have to create a white tag system as none exists now.

- Expressing a preference for the first type of approach (utility-based programs) over any EEPS in its comments at the EMP-EE meeting on September 5, 2007, Public Service Electric & Gas Company ("PSE&G") stated that a "white tag" approach is an "untested concept that requires considerable additional analysis and investigation." PSE&G is concerned that customers might not implement sufficient energy efficiency measures under a white tag approach. These are legitimate concerns.

- There are other risks with a white tag approach. In its August 27, 2007 draft report on EEPS, the Center for Energy, Economic and Environmental Policy at Rutgers University's Bloustein School found that this approach would cost more than the current approach used by

the CEP, that of rebate incentives, for the same energy savings.[2] This would be the case particularly if white tags trade at marginal cost, as RECs do now. That would mean the cost to produce the last (and thus most costly) units of energy savings to meet an EEPS requirement would determine the market price of all of the tags issued in a given year.

- On the other hand, CEEEP also opined that if white tags were issued for each separate type of energy efficiency measure, the cost premium of this approach could be reduced. However, as there are many different types of energy efficiency measures it would seem that issuing different certificates by class of measure would introduce enormous regulatory administrative complexity into any trading system.

- There are risks to both the utility-based program approach and a white tag approach. Overall, if the BPU considers an EEPS, the better course may be to focus on developing utility-based programs. There is more experience with this approach and it may be less costly and/or more administratively feasible than a white-tag based approach. In addition it may be easier to combine with an enhanced CEP that should continue to deliver the bulk of savings from statewide programs.

Conclusion

In order to help achieve draft EMP goals for electricity and natural gas EE savings, a policy mechanism is needed to induce energy users to voluntarily adopt energy-efficiency measures and practices. The primary mechanism that the State should rely on for the period 2009 through 2012 is the existing Clean Energy Program. The CEP should be expanded, while at the same time efforts should be focused on improving its operating efficiency and the energy savings it achieves per ratepayer dollar invested. Rate Counsel does not urge consideration of an "energy efficiency utility" approach to operating the CEP at this time, unless it is demonstrated that such an approach could offer significant operational improvements. It is too soon to conclude that oversight by the existing CEP should be the main policy approach to induce voluntary implementation of energy efficiency beyond 2012. This issue should be examined in a future EMP proceeding occurring closer to 2012 in time.

If an Energy Efficiency Portfolio Standard is considered, such an approach should be seen as a supplement to, and not a substitute for, a CEP-based approach to achieving EMP energy savings targets. In any consideration of an EEPS, utility-based initiatives should be seen as the delivery mechanism for implementing EEPS, provided that utility costs can be kept lower than any alternative policies which may be available for achieving savings targets. A so-called market-based approach involving trading in energy efficiency certificates ("white tags") involves too many cost and regulatory risks to be considered at this time.

[2] Rutgers CEEEP, *Energy Efficiency Portfolio Standard: Initial Evaluation of Generic Alternatives,* Draft Report, August 27, 2007, page 30.