Moreland Commission Report Summary

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MORELAND COMMISSION REPORT SUMMARY

Goal of the report

To determine if the overlap of a state agency (NYSERDA) and the private sector - that partially competed for the same market - was efficient and if the oversight by the Public Service Commission (PSC) of a sister agency and the investor owned utilities (IOUs) was appropriately applied.

Methodology

The Commission began examining the energy efficiency program by identifying and interviewing external and internal stakeholders.

Context

"Energy efficiency is the lowest cost way for New Yorkers to meet their electric needs. Recognizing this, the State has in recent years been ranked in the top three nationally in the provision of energy efficiency services. Nevertheless, the Commission has found that New York could – for the money that it is spending – do much better in providing these vital services" (p. 27 of the Moreland report).

Issues & problems

Program and agencies overlap

"Other than NYSERDA providing EEPS [Energy Efficiency Portfolio Standard] programs to low-income communities and new construction programs exclusively, there is no bright line distinction between the NYSERDA and IOU programs." (p. 28) Plus, there are "over a hundred EEPS programs each with different rules, applications and processes for participation" (p. 28).

Direct program comparisons are not possible

Currently, "[n]o life-cycle savings data is collected to allow for cost effectiveness comparisons on a cost per unit energy savings basis or program by program, NYSERDA versus the IOUs, or IOU by IOU" (p. 31). Comparison is difficult due to the lack of uniformity between NYSERDA and the utilities, or even across utilities: "[e]ven within a single program type, the programs offer different incentives for different measures" (p. 31). What is more, the collection of data by the DPS to assess program performance is done on a monthly basis from each program administrator. While "NYSERDA and the IOUs voiced concern about how time-consuming the monthly reporting requirements are", this reporting "includes only savings for the first year or the program measures' operation" (p. 32). Plus, "the failure to collect necessary information has been ongoing without remedy since the inception of EEPS" (p. 32). In short, "despite the stringent and exhaustive reporting requirements, DPS [Energy Efficiency Portfolio Standard]

is not able to present clear and convincing performance comparison of the program administrators across the energy efficiency programs currently being offered in New York State" (p. 32).

DPS does not have one central database to house the data collected from NYSERDA and the IOUs
"Numerous stakeholders explained the immediate need for a comprehensive and standardized program tracking database that would allow NYSERDA and the IOUs to input predetermined data into a group shared information technology (IT) application" (p. 33).

Consequences

"The competition among energy efficiency programs offered by NYSERDA and the utilities under EEPS creates confusion in the marketplace. When customers are confused about how the programs offered to them differ or how to evaluate which program is most appropriate for their needs, they tend to back away from the programs and not pursue any offering" (p. 28). In addition, "[c]ompetition between the IOUs and NYSERDA also prevents DPS and NYSERDA from working collaboratively because there is sensitivity at DPS to avoiding the appearance of giving NYSERDA an advantage over the other EEPS program administrators" (p. 28).

What is more, "[b]ecause the utilities are competing for the same customers as the NYSERDA programs and customers are generally attracted to greater incentives, the utilities may be driven to offer greater incentives to attract customers to their programs and increase the likelihood of receiving shareholder incentives. This practice increases the cost to the collective ratepayers that fund the EEPS program through a surcharge on their utility bill" (p. 28). In other words, "[s]hareholder incentives may be increasing the cost of achieving energy efficiency savings in New York without being properly counted in assessing cost effectiveness" (p. 31).

Concerning the lack of reliable data, it "reduces the ability of program administrators to review the incentive levels themselves" (p. 32).

Recommendations

To overcome customer confusion and energy efficiency program overlaps, the Moreland Commission suggests the "consolidation of programs and a clear delineation of roles and responsibilities between NYSERDA and the utilities is a straightforward way to resolve this issue of duplication" (p. 29). The Commission acknowledges nevertheless that "the specific roles that NYSERDA and the utilities should play are not very clear" (p. 29).

The delineation approaches brought up by interviewees are presented in the report:

- **Division by Type of Program Offering**: "having the utilities offer rebate programs for a limited number of simple measures and having NYSERDA offer more complex, whole-building programs" (p. 29).

- **Division by Upstream/Downstream Markets**: “IOUs should deliver all programs to their actual ratepayers because they understand their ratepayers’/customers’ needs and already have a relationship with them. NYSERDA might be best positioned for “market transformation” programs, which include “upstream” activities to help get energy efficient products into the marketplace, educating consumers on the benefits of energy efficiency, and working with State economic development organizations” (p. 29, 30).

- **Division by Customer Sector**: “This would involve reviewing the programs currently offered and determining which entity is best suited to delivering to the program’s target sector” (p. 30).

- **Single Administrator**: “There should be a sole statewide program administrator and NYSERDA would be best suited for that role” (p. 30).

  The Commission recommends “[m]aintaining involvement of both the utilities and NYSERDA, while establishing some lines of demarcation. The Commission believes that division by customer sector with the IOUs serving lower energy use customers (residential and small commercial and industrial) and NYSERDA serving high-energy use customers (large commercial and industrial), would provide the greatest clarity” (p. 32).

  Furthermore, it also suggests that “[t]he PSC should also provide authorization for NYSERDA to use EEPS funding to begin the development of an enhanced IT platform to assist in sharing customer information between program administrators which will increase the efficiency and effectiveness of programs” (p. 32). As for issues regarding sharing of customer information between NYSERDA and the utilities, it “should be resolved to maximize the benefits and allow for more effective implementation of New York's clean energy programs” (p. 32).

Please note that the present document is a modified version showing only the pages related to energy efficiency. To access the full Moreland Commission Report, please refer to:
http://www.governor.ny.gov/assets/documents/MACfinalreportjune22.pdf

MORELAND COMMISSION

ON UTILITY STORM PREPARATION AND RESPONSE

FINAL REPORT

June 22, 2013

Co-Chairs
Robert Abrams
Benjamin Lawsky

Appointed by
Governor Andrew M. Cuomo

POLICY FINDINGS AND RECOMMENDATIONS

The Commission's Interim Report stated that for the Final Report the Commission would examine the challenges associated with managing the costs of storm hardening activities, as well as identify improvements in PSC and the Department of Public Service's (DPS's) management and public involvement to better serve the ratepayer's interests. The following sections address these items in addition to building on the Interim's Report's preliminary review of the State's energy efficiency programs and activities.

4 ANALYSIS OF ENERGY EFFICIENCY PROGRAMS

Energy efficiency is the lowest cost way for New Yorkers to meet their electric needs. Recognizing this, the State has in recent years been ranked in the top three nationally in the provision of energy efficiency services.[61] Nevertheless, the Commission has found that New York could – for the money that it is spending – do much better in providing these vital services.

As stated in the Interim Report, the Commission has further examined the overlap of energy efficiency initiatives such as the EEPS programs that are authorized by the PSC and administered via NYSERDA and the State's six IOUs. EEPS is a ratepayer-funded statewide program that began in 2008 to reduce New York's electricity usage by 15% of forecasted levels by 2015. EEPS is authorized by the State to collect ratepayer surcharges totaling $3.1 billion for programs offered from 2008 through 2015. To date it has collected over $1.2 billion. EEPS is intended to support a variety of programs that provide incentives to New Yorkers for installing energy efficient equipment and measures. The Commission's goal was to determine if the overlap of a state agency and the private sector that partially competed for the same market was efficient and if the oversight by the PSC of a sister agency and the IOUs was appropriately applied.

The Commission began examining the energy efficiency program by identifying and interviewing external stakeholders: organizations or individuals that are consumers, representatives of consumers, implementing contractors, and policy experts from associations, not-for-profits and academia. The Commission also interviewed internal stakeholders - which were either agency or IOU staff charged with implementing the programs on behalf of consumers or those charged with regulatory oversight. Once the Commission concluded that the competition between NYSERDA and the IOU's was inefficient, it concluded that it needed to make a recommendation to address the inefficiencies. In order to do this, the Commission sought to examine the performance of NYSERDA and the IOUs on an EEPS program by program basis, an IOU to IOU basis and a NYSERDA to IOU basis. The Commission's goal was to use the data requested to guide it towards a recommendation. Only after the Commission asked for the data to compare program to program and IOUs to IOUs and NYSERDA to IOUs did the Commission learn that no such comparable data exists. Furthermore, the Commission learned that the entire mandatory reporting required by the PSC is only intended to measure the first year savings of EEPS programs rather than year after year savings. So the Commission was not only unable to determine the more efficient provider, but also unable to ascertain the presumed long-term benefits and savings.

[61] New York ranked third in the American Council for an Energy Efficient Economy's Energy Efficiency Scorecard Report in 2011 and 2012. American Council for an Energy Efficient Economy website, http://aceee.org/sector/state-policy/scorecard (*last accessed* 6/19/2013).

4.1 Competition of Program Administrators

Both NYSERDA and the IOUs are the program administrators for EEPS – they offer various programs to New Yorkers across all sectors (i.e., residential, multi-family, commercial, and industrial) in accordance with the rules set forth by the PSC. Other than NYSERDA providing EEPS programs to low-income communities and new construction programs exclusively, there is no bright line distinction between the NYSERDA and IOU programs. For example, NYSERDA implements EEPS through its Home Performance with ENERGY STAR® program, working with certified contractors, selected by homeowners, who come into homes, perform an energy audit, recommend and offer to install measures that will improve the home's overall energy efficiency. In turn, NYSERDA provides incentives both to the contractors that perform the audit and install the eligible measures, and to the homeowners to help offset the cost of the more energy efficient equipment such as insulation, furnaces, air conditioners, air sealing, refrigerators and light bulbs. The IOUs target the same customers for their programs; however, more often they provide rebates for single measures, rather than taking a comprehensive approach to analyzing the customer's building.

One of the primary issues raised by the stakeholders was the competing energy efficiency programs offered by NYSERDA and the utilities under EEPS. Market competition typically benefits consumers – providing greater choices for goods and services and driving innovation, higher quality and lower prices. However, this is not the case when it comes to administration of EEPS. Nineteen of the twenty-five stakeholders agreed that this competition creates confusion in the marketplace (only two stakeholders supported this competition; the remaining four stakeholders didn't express an opinion). Furthermore, a number of stakeholders noted that when customers are confused about how the programs offered to them differ or how to evaluate which program is most appropriate for their needs, they tend to back away from the programs and not pursue any offering. Exacerbating customer confusion is the number of EEPS programs – over 100 – each with different rules, applications and processes for participation. Competition between the IOUs and NYSERDA also prevents DPS and NYSERDA from working collaboratively because there is sensitivity at DPS to avoiding the appearance of giving NYSERDA an advantage over the other EEPS program administrators.

Under the current EEPS construct, both NYSERDA and the utility program administrators have program budgets and energy savings targets. There are currently no penalties to program administrators who fall short of their assigned targets, though the utility program administrators receive shareholder incentives for meeting their energy savings targets.[62] While this practice may motivate the utilities to hit their targets, it may not necessarily encourage them to do so at the lowest cost because the funding for the programs does not come from the utilities' pockets, but rather the ratepayers they serve. Because the utilities are competing for the same customers as the NYSERDA programs and customers are generally attracted to greater incentives, the utilities may be driven to offer greater incentives to attract customers to their programs and increase the likelihood of receiving shareholder incentives. This practice increases the cost to the collective ratepayers that fund the EEPS program through a surcharge on their utility bill.

DPS acknowledged that while utility shareholder incentives have been somewhat effective in motivating utilities to pursue energy efficiency, there are also indications that they are "driving utilities toward behavior

[62] Utility program administrators had the potential for penalties and positive incentives in the first phase of EEPS (2008 to 2011). The PSC, however, eliminated penalties for the second phase of EEPS (2012 to 2015). NYSERDA, as a public benefit corporation, does not receive financial incentives for meeting its EEPS program targets.

that is counterproductive to the overall goals of the program."[63] To date no incentives have been approved for distribution to the utilities and according to DPS staff interviews, the Commission was advised that not enough money has been collected to cover those incentive costs. Therefore it is likely that, absent cutting other EEPS program funding to cover these costs, EEPS collections may well have to increase to cover the shareholder incentives, potentially as much as $27 million for the energy savings produced by the utility programs during the 2008 to 2011 timeframe.[64]

4.1.1 Approaches for Eliminating Program Overlap

Elimination of customer confusion and energy efficiency program overlaps through consolidation of programs and a clear delineation of roles and responsibilities between NYSERDA and the utilities is a straightforward way to resolve this issue of duplication. However, the specific roles that NYSERDA and the utilities should play are not very clear. A variety of approaches were presented by the stakeholders interviewed as part of the Commission's investigation, including having the utilities and NYSERDA both remain involved in all markets, but offering different options of the same programs; dividing the energy efficiency market up between the utilities and NYSERDA based on upstream/downstream markets; dividing the energy efficiency market up between the utilities and NYSERDA based on customer sector; or having a single administrator to run all programs either statewide or in a given region of the State. These approaches are discussed in detail below.[65]

<u>Approach 1: Division by Type of Program Offering</u>

Five of the stakeholders interviewed suggested divisions of EEPS responsibilities by program type; having the utilities offer rebate programs for a limited number of simple measures and having NYSERDA offer more complex, whole-building programs. This could involve a unified outreach and marketing campaign to reduce customer confusion and help direct customers to NYSERDA or the utility program that best suits their needs. The utility rebate programs could be used as a feeder program to NYSERDA's comprehensive programs.

This approach would take advantage of the program administrators' strengths.[66] By having distinct programs, NYSERDA and the utilities could jointly market the programs and send potential participants to their utility for single- or few- measure, simple projects, such as appliance and lighting replacements and installation of programmable thermostats, and to NYSERDA for whole building projects, including building integrated systems like heating and air conditioning, for example. However, additional elimination or consolidation of some programs would still be necessary in order to reduce customer confusion.

<u>Approach 2: Division by Upstream/Downstream Markets</u>

Four stakeholders suggested a variation of the market sector division, asserting that the IOUs should deliver all programs to their actual ratepayers because they understand their ratepayers/customers' needs and already have a relationship with them. Those stakeholders suggested that NYSERDA was best positioned for

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[63] Energy Efficiency Portfolio Standard Program Review White Paper, Case 07-M-0548 Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, prepared by Department of Public Service Staff, at 57 (July 6, 2011).
[64] New York State Public Service Commission, Order Concerning Utility Financial Incentives, Case 07-M-0548 Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, at 45 (August 22, 2008).
[65] Any of the approaches pursued must be done in a manner that considers potential disruption to the program participants, including customers and various program support contractors.
[66] A number of interviewees mentioned the utilities' strength in rapidly processing high volumes of rebates and NYSERDA's history of providing strong comprehensive, custom programs.

"market transformation" programs, which include "upstream" activities to help get energy efficient products into the marketplace, educating consumers on the benefits of energy efficiency, and working with State economic development organizations. For example, the IOUs would provide energy efficiency audits and installations to all ratepayers in their jurisdiction – including residential, commercial, and industrial – and NYSERDA would work with the retail stores on marketing energy efficient appliances and customer education. There are several potential downsides to this division of markets, including: (1) a lack of continuity with regard to NYSERDA's nearly exclusive role in serving the low-income and new construction sectors; (2) an inconsistency with NYSERDA's statutorily prescribed role to offer free energy audits and on-bill financing through the Green Jobs Green New York Program (GJGNY); and (3) the loss of the ability to use complementary NYSERDA funding sources to provide oil and propane efficiency measures through the Regional Greenhouse Gas Initiative (RGGI). RGGI funds support residential and multifamily oil efficiency programs than can complement projects that involve electric efficiency measures under EEPS. If NYSERDA were not involved in the EEPS programs, it would be imperative that a way be found to use multiple funding sources to create comprehensive projects.

Approach 3: Division by Customer Sector

Three stakeholders suggested division of EEPS responsibilities by customer sector. This would involve reviewing the programs currently offered and determining which entity is best suited to delivering to the program's target sector. This could result in division of responsibilities by market (i.e., residential, commercial, and industrial) or by customer size (or another attribute) within markets. For example, NYSERDA could provide EEPS to commercial and industrial over 50,000 square feet while the IOUs would provide it to all customers fewer than 50,000 square feet. Conversely, NYSERDA would service commercial and industrial customers statewide, while the IOUs would service all residential properties within their jurisdictions.

However, this approach is complicated by the fact that NYSERDA offers other programs funded by the System Benefits Charge (SBC), GJGNY, RGGI, and Renewable Portfolio Standard (RPS) to all or many customer sectors.

Approach 4: Single Administrator

Two stakeholders suggested there should be a sole statewide program administrator and that NYSERDA would be best suited for that role. In this scenario, NYSERDA would run all EEPS programs statewide, as they currently do with the RPS programs, and the utilities could partner with NYSERDA to do outreach and marketing for the programs. Having a single administrator for energy efficiency and renewables programs could help streamline delivery of the programs and ensure statewide programmatic consistency, which might aid in marketing and customer uptake. This approach would likely require additional resources for NYSERDA, thereby increasing enrollment in the State employee pension and benefit system. The utilities might also be reluctant to assist in the marketing of the programs absent the potential for utility shareholder incentives.[67]

[67] With regard to utility shareholder incentives, the PSC's August 22, 2008 Order Concerning Utility Financial Incentives stated that "positive incentives, in addition to revenue decoupling mechanisms, may be desirable to increase utilities' promotion of efficiency, where the utilities are directly engaged in program administration." New York State Public Service Commission, Order Concerning Utility Financial Incentives, Case 07-M-0548 Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, at 45 (August 22, 2008). In addition, the PSC's October 25, 2011, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule affirmed "without question the incentives have made successful efficiency measures a high priority for utility management." It is unclear how high a priority the utilities would make marketing of EEPS programs in the absence of shareholder

4.1.2 Issues Identified During Program Overlap Analysis

In its attempt to evaluate the various approaches suggested by the stakeholders, the Commission sought to analyze the program administrators' current program performance. The Commission found that:

- Direct program comparisons are not possible – No life-cycle savings data is collected to allow for cost effectiveness comparisons on a cost per unit energy savings basis or program by program, NYSERDA versus the IOUs, or IOU by IOU.
- DPS does not have one central database to house the data collected from NYSERDA and the IOUs.
- Shareholder incentives may be increasing the cost of achieving energy efficiency savings in New York without being properly counted in assessing cost effectiveness.

<u>Lack of Data to Make Program Comparisons</u>

As indicated earlier, comparison of EEPS programs is difficult because the programs are not uniform between NYSERDA and the utilities, or even across utilities. For instance, as shown in Figure 3 below, in just the residential sector there are four different types of programs: behavioral; bounty; comprehensive; and rebate. Behavioral programs are intended to encourage efficiency through information related to the consumer's energy use, often compared to those in similar homes. Bounty programs provide funding to consumers who surrender inefficient appliances. Comprehensive programs analyze the efficiency of a home in total and suggest a range of interacting measures to improve the home's overall efficiency. Rebate programs provide an incentive to cover a portion of the incremental cost of efficiency equipment, appliances and measures. Even within a single program type, the programs offer different incentives for different measures.

Compounding the difficulty in comparing program administrator performance, particularly on a cost per unit of energy savings, is that the program performance data collected by DPS on a monthly basis from each program administrator includes only savings for the first year of the program measures' operation.[68] In simple terms, you could have a program that funds inexpensive measures with a shorter life cycle being compared with a program that funds more expensive measures that might last decades. If the measures in the two programs provide the same energy savings in the first year, the program with the less expensive measures intended to only last a few years would appear to be a more cost effective program (on a cost per unit savings basis), when in actuality, it may not be because those measures would need to be replaced every few years. This is at least partially a result of how EEPS was initially structured around the '15 by 15' goal to reduce the State's electricity use by 15% below 2015 forecast levels. Because the goal is related to energy use at a particular point in time (i.e., 2015) and the majority of installed measures had a lifetime that extended into 2015, the sum of the first year savings from all EEPS program was sufficient for measuring progress toward attaining the 2015 goal.

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incentives. New York State Public Service Commission, Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule, Case 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard (October 25, 2011).

[68] There are also other considerations that need to be included in such an analysis, including health, safety, and environmental factors, the benefits of which can be difficult to quantify. Customer equity should also be considered so that every customer that pays into EEPS via the surcharge on their utility bill also has programs available to participate in.

Figure 3: EEPS Residential Electric Programs

Program	2008 - 2015 EEPS Electric Budget	Sum of Total EEPS MWh Target	Sum of Total EEPS $ Budget / MWh Target
Behavioral			
Central Hudson Home Energy Reporting	$4,220,027	54,000	$78
NiMo Residential Building Practices and Demonstration	$3,697,437	68,040	$54
NYSEG Home Energy Reports Demonstration Program	$789,280	16,051	$49
RG&E Home Energy Reports Demonstration Program	$698,948	13,949	$50
Bounty			
Central Hudson Residential Appliance Recycling Program	$5,565,727	12,188	$457
Con Edison Appliance Bounty Program	$23,842,141	68,393	$349
NiMo Residential Energy Star Products and Recycling	$15,135,000	36,166	$418
NYSEG Refrigerator and Freezer Recycling Program	$6,842,105	21,805	$314
O&R Residential Efficient Products Program	$3,972,977	10,599	$375
RG&E Refrigerator and Freezer Recycling Program	$6,842,105	21,805	$314
Comprehensive			
NYSERDA Home Performance with Energy Star	$22,321,822	36,484	$612
NYSERDA NY Energy Star Homes	$8,501,849	25,148	$338
Rebate			
Central Hudson Residential HVAC Program	$5,999,886	5,526	$1,086
Con Edison Residential Direct Installation Program	$15,883,713	28,493	$557
Con Edison Residential HVAC Program	$26,731,475	11,928	$2,241
Con Edison Residential Room Air Conditioning Program	$7,942,072	6,602	$1,203
NiMo Enhanced Home Sealing Incentives Program	$6,993,600	11,848	$590
Grand Total	**$165,980,164**	**449,025**	**$370**

The Commission finds the lack of a metric to allow comparison of EEPS programs or program administrators particularly disconcerting considering the competition model embedded into the design of EEPS. The Commission is troubled by this discovery. Without exception, NYSERDA and the IOUs voiced concern about how time-consuming the monthly reporting requirements are and the failure to collect necessary information has been ongoing without remedy since the inception of EEPS. So despite the stringent and exhaustive reporting requirements, DPS is not able to present clear and convincing performance comparison of the program administrators across the energy efficiency programs currently being offered in New York State. This further begs the question how the PSC plans on measuring the long-term energy savings from a program that is authorized to collect over $2 billion from ratepayers. Adding insult to injury, the Commission learned that there are known inaccuracies in some of the data provided by certain program administrators, so the quality of the data provided to DPS is compromised as well.[69] The lack of reliable data also reduces the ability of program administrators to review the incentive levels themselves – many energy efficiency measures should pay for themselves, so it is important to understand whether the incentive itself is the best vehicle to achieve the energy reduction goal. This situation could certainly have been avoided had the DPS put in place

[69] DPS staff acknowledges this as an issue and stated they are working to obtain corrected data dating to 2011 from one program administrator.

internal controls to track programs and quickly identify trends and anomalies and question data. Yet, when asked what documents the Commission should review to offer recommendations on creating efficiencies in the evaluative process, DPS staff acknowledged no single repository or report currently exists that would allow an "apples to apples" comparison.

Lack of a Central Database

Numerous stakeholders explained the immediate need for a comprehensive and standardized program tracking database that would allow NYSERDA and the IOUs to input predetermined data into a group shared information technology (IT) application. California currently uses this type of model with its Energy Efficiency Groupware Application, Database for Energy Efficiency Resources and Standard Program Tracking database in its measure reporting and evaluation process.[70] The fact no such IT platform exists at the DPS compounds the concern that the agency spent years collecting EEPS data, yet no single report can be produced which yields constructive or interpretative analysis of programs and program administrators. A shared IT platform could also be a vehicle to address the lack of customer information sharing between the utilities and NYSERDA. The current barrier to customer information sharing prevents the full potential benefit of the energy efficiency programs from being realized. Utility sharing of customer usage information with NYSERDA would facilitate market analysis and evaluation of programs, while NYSERDA sharing of clean energy program participant information with the utilities would support utility resource planning efforts.

Shareholder Incentives

Related to program comparisons is the concept of utility shareholder incentives for meeting program targets. These costs must be included in a comparison of program cost effectiveness.

4.1.3 Discussion of Program Overlap Recommendations

Steps must be taken to eliminate and consolidate programs and reduce overlap and competition among NYSERDA and the IOUs. Given the challenge to do so absent empirical data on program performance, the Commission recommends maintaining involvement of both the utilities and NYSERDA, while establishing some lines of demarcation. The Commission believes that division by customer sector, as discussed in section 4.1.1 as Approach 3, with the IOUs serving lower energy use customers (residential and small commercial and industrial) and NYSERDA serving high-energy use customers (large commercial and industrial), would provide the greatest clarity.

However, given the complexity of the EEPS program, the Commission believes it is necessary to bring in a consultant to review this approach and work out the structural details. Furthermore, as detailed above, the lack of appropriate data and the disparity between all the programs prevents the Commission from comparing which of the 100 programs actually best serves the public interest and whether NYSERDA or the IOUs or a particular IOU administers the EEPS program more efficiently. This lack of targeted data has prevented the Commission from providing a detailed recommendation as to program administration. Continuation of the present EEPS program virtually guarantees that many opportunities to do vital energy efficiency will be lost. What is needed now is a program under a skilled independent management consultant first to design and gather comprehensive cost-effectiveness data and then to recommend a division of jurisdictions among the utilities, NYSERDA and the PSC.

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[70] California Public Utilities Commission's Energy Efficiency Groupware Application, http://eega.cpuc.ca.gov (*last accessed* 6/19/2013), The Database for Energy Efficient Resources, http://www.energy.ca.gov/deer (*last accessed* 6/19/13).

The PSC should also provide authorization for NYSERDA to use EEPS funding to begin the development of an enhanced IT platform to assist in sharing customer information between program administrators which will increase the efficiency and effectiveness of programs. In addition, issues regarding sharing of customer information between NYSERDA and the utilities should be resolved to maximize the benefits and allow for more effective implementation of New York's clean energy programs. Consideration should also be given to how such data could be used in the marketplace to deliver additional products and services to customers to reduce energy use and reduce energy costs. The Commission is sensitive to the customers' right to privacy; however, it is incumbent upon the PSC to create an environment that optimizes use of ratepayer funds in the administration of clean energy programs.

Recommendations:

- **The PSC should eliminate and consolidate programs and divide the EEPS portfolio between NYSERDA and the utilities, using a consultant to offer recommendations on the most appropriate structure.**
- **The PSC should immediately commence development of a comprehensive IT platform that NYSERDA shall manage (using the California system as a model) to track and evaluate EEPS programs, including taking all necessary steps to remove the current barriers to sharing customer information between NYSERDA and the utilities.**

4.2 Level of DPS/PSC Oversight

As the PSC authorizes use of ratepayer funds to support the State's energy efficiency programs, it is also responsible for monitoring the funds to ensure they are being used appropriately and are resulting in the intended benefits. To this end, DPS is deeply involved in the day-to-day details of the programs. On the program administration end, this includes details such as approval of specific measures allowed in the various EEPS programs. On the program evaluation end, it includes review of all draft materials from the evaluation contractors that NYSERDA and the utilities manage in the evaluation of their own programs. Several PSC orders also contain very detailed information regarding what is or is not to be included in specific programs.

It is understandable that DPS/PSC increased its level of involvement in the management of New York's clean energy programs over time. The State's original SBC ratepayer-funded technology and market development programs began in the late 1990s at less than $100 million annually. The SBC program grew to more than double that annual funding amount over the next decade, when the RPS was also established. By the time EEPS was put into place in 2008, ratepayer collections for clean energy programs had grown substantially. It was also at this point that the utilities, which had been largely out of the administration of the State's clean energy programs, were brought into a program administration role with EEPS. As a result, the PSC determined that more oversight of EEPS (as compared to SBC and RPS) was necessary. While the PSC's intent was to be a responsible steward of the exponentially growing EEPS funding, it did so by directing DPS staff to undertake functions better left to NYSERDA and the IOUs rather than focusing on ensuring that policy and evaluative criteria were being met.

Operationally, this detailed involvement and oversight has presented some issues. The staff in the Office of Energy Efficiency and Environment (OEEE) at DPS spends substantial time and resources attempting to manage nearly all aspects of EEPS program administration. This results in a significant lack of flexibility for program administrators to make real time decisions to modify programs or funding in order to increase program effectiveness and efficiency. Many of the stakeholders interviewed commented that DPS staff

resources are insufficient for the current level of oversight, which can be evidenced by some petitions for EEPS program changes languishing unaddressed for months and in some cases over a year. Many interviewees expressed the level of DPS oversight is too focused on the details of the programs at the expense of other important policy issues, such as tracking overall program progress and establishing guidance as how to apply evaluation results. As mentioned in the previous section, despite the volumes of data required of program administrators, there is an apparent failure of DPS to analyze that data, send timely signals to the program administrators for program adjustments based on the performance to date, or identify best practices and areas for efficiencies and collaboration among program administrators.

An example of this misdirected attention to detail that came up frequently in the stakeholder interviews is related to the Total Resource Cost (TRC) test. The TRC is a cost effectiveness test that measures the benefit of energy efficiency compared to the total cost (of the program administrator plus consumer) of the energy efficiency measures. DPS has chosen to apply the TRC at the measure level, meaning that in order for a measure to be incentivized in an EEPS program, the benefits of reduced energy consumption must outweigh the installed cost of the individual measure. The logic is that by making sure every measure in a given project is cost effective, the entire project and program as a whole will also be cost effective. There was general consensus among the stakeholders interviewed that the current application of the TRC at the measure level, while ensuring the EEPS portfolio of programs is cost effective, is too conservative and leaves some potential savings on the table. One program administrator gave an example of this in practice, saying that after installing insulation in a home, they sometimes have not been able to air seal the home because air sealing did not pass the TRC on its own. Generally, interviewees suggested a move towards application of the TRC at the program level would be more appropriate, allowing some measures that may not individually pass the TRC to be incentivized as long as the program passes the TRC. Another potential option is to switch to an alternative cost effectiveness test altogether, such as the Program Administrator Cost Test.

Recommendation:

- **Redirect the level of PSC/DPS oversight to allow programs to be more nimble and have the flexibility to adjust and respond to the market. Specifically, the PSC should:**
    - **Set clear savings targets and budgets in consultation with NYSERDA, the IOUs and other entities based on market studies or other relevant information;**
    - **Delegate authority to DPS staff to develop, maintain and revise program guidance with the assistance of NYSERDA, in consultation with the IOUs; and**
    - **Collect only pertinent information and appropriately use that information to guide the program administrators and increase transparency.**

5 Utility Infrastructure Investment

5.1 Need for Better Resiliency

The Recent Storms impacting New York State, most notably Hurricane Sandy, made it evident that utility infrastructure and the customers served by it are vulnerable during extreme weather events. In fact, a recent storm surge report suggested that in the residential sector alone, New York State has approximately 270,000 properties potentially at risk of hurricane-driven storm surge damage with a total potential financial