Via e-mail: secretary@dps.state.ny.us

August 22, 2011

Hon. Jaclyn A. Brilling
Secretary
Public Service Commission
3 Empire Plaza
Albany, New York 12223

Re: C. 07-M-0548: Energy Efficiency Portfolio Standard (EEPS)

Dear Ms. Brilling,

Consumer Power Advocates (CPA) is an association of large, non-profit universities and medical institutions that collectively employ over 115,000 people with over $13 billion in annual operating expenditures, whose primary goal is to decrease the cost of energy to consumers through regulatory intervention, advocacy before governmental officials, and the development of energy efficiency, economic development, and other programs and initiatives targeted to large energy consumers in New York City. Eight of CPA's recent member hospitals are among the 15 largest regional health organizations, including five of the six biggest, and seven are among New York City's 18 largest employers. Member organizations include Continuum Health Partners, Fordham University, Memorial Sloan Kettering Cancer Center, NYU Hospitals Center, Mount Sinai Medical Center, Montefiore Medical Center, and New York University.

CPA offers these comments on the July 6, 2011 Program Review White Paper prepared by Department Staff

Self-directed programs by large commercial and industrial customers are unnecessary

CPA does not support proposals to allow large C&I customers to bank surcharge payments to fund self-designed programs. We are concerned that such programs would drain revenue from the larger public effort, require unique and costly measurement and verification protocols, and at worst would allow large customers to avoid SBC surcharges without transparency or accountability. If participants in a self-directed program were not allowed to participate in other EEPS funding opportunities, it would result in a misallocation of resources to the extent C&I customers might forgo larger EEPS funded opportunities. The annual SBC charge for any individual customer is small relative to the capital cost of many effective efficiency measures, and in order to provide adequate cost recovery, and in order to be effective, the rate relief implied by SBC charge banking might need to extend to a period long past the limited term of SBC IV.

Administrative overlap should be avoided

CPA supports efforts to avoid duplication and conflict between utilities and NYSERDA in the administration of EEPS programs. To that end, we consider proper incentive structures to be essential. Regardless of rational administration rules or policy directives, we believe utility management will persist in pursuing its own interest. If incentive programs place that interest in opposition to cooperation with NYSERDA, it is efficient administration and public policy goals, not utility interest, that will suffer. Finally, clear boundaries between NYSERDA administered programs and utility administered programs will minimize duplication and conflict. We proposed that utilities focus principally on mass market programs for residential and small commercial and industrial customers, and that NYSERDA focus on large customers who operate large facilities. These facilities typically require sophisticated management of complex energy systems, often with unique information and control technology.

Incentives should be structured to discourage duplication of effort

CPA supports the Staff recommendation to eliminate incentives after 2011, subject to a reassessment during 2012. In the current shared administration of programs, performance incentives encourage utilities to compete with NYSERDA for limited program opportunities. This competition leads only to duplication of effort and wasteful use of the limited funding available. Performance incentives must be designed with this conflict in mind, and that can only be done once there are clear boundaries between NYSERDA and utility administration. Staff's other expressed concerns that incentives may cause utilities to understate goals, distract utility management from other important public policy and business goals, place an undue focus on avoiding negative incentives are important matters as well. The Commission should reevaluate the entire incentive program, and consider all of the concerns enumerated by Staff. Further, CPA believes that any incentive program, particularly one that includes only positive payments to shareholders, is inextricably bound to the entire ratemaking process, and as such should be considered only as part of a comprehensive determination of rates.

Thank you for the opportunity to offer these comments.

Very truly yours,

ss//Catherine M. Luthin

Executive Director