

# Consumer Power Advocates

Continuum Health Partners  
Fordham University  
Luthin Associates, Inc.  
Memorial Sloan Kettering Cancer Center

Montefiore Medical Center  
Mount Sinai Medical Center  
New York University  
NYU Hospitals Center

Via e-mail: [secretary@dps.state.ny.us](mailto:secretary@dps.state.ny.us)

August 26, 2011

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

Re: C. 11-E-0176: Recharge New York

Dear Ms. Brillling,

Consumer Power Advocates (CPA) is an alliance of large not-for-profit institutions located in New York. Our mission is to lower energy costs for our members through representation in energy-related regulatory and legislative proceedings. CPA was founded in 2001 and our membership is open to hospitals, universities, medical schools, and cultural institutions. In total, CPA's current and recent members employ over 115,000 people. This represents 1.3% of all workers in New York State and 6.8% of the jobs in the largest, non-government, industry sector, Educational and Health Services.

CPA's current member organizations include:

Fordham University	Beth Israel Medical Center
New York University	Memorial Sloan-Kettering
Long Island College Hospital	New York Eye and Ear Infirmary
NYU Hospitals Center	Montefiore Medical Center
Mount Sinai Medical Center	St. Luke's – Roosevelt Hospital Center

Collectively, the CPA members represent a substantial opportunity for maintaining or creating new jobs in New York. Many of our members maintain leadership positions in the fields of bioscience and biomedical research – fields that New York State and the NYC Economic Development Corporation are pursuing by promoting New York as a location for world-class research. Assisting the economic viability and growth of non-profit institutions is essential to meeting New York's economic and job growth objectives.

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Currently, Recharge New York (RNY) is only one of two low cost power programs for which non-commercial entities such as non-profit healthcare and higher education are eligible. The only other low cost power program is the Con Edison Business Incentive Rate which is strictly limited to bio-technology projects and is limited to 20 megawatts in the Con Edison territory. The need for low cost power as an economic incentive for large non-profit hospitals and universities located in New York remains critically important. However, most of the economic development programs are not available to the non-profit sectors because they require some form of tax based incentive to qualify.

The non-profit sector is one of the leading sources of new project development in New York and one of the most active growth engines. However, it is necessary to continue to incentivize these sectors as the need to support daily operations is starting to take capital funding away from new facility development. The passage of the RNY program was a critical step towards equalizing the disadvantages of the non-profit sector in New York State. However, unless the program is implemented in a method that meets the requirements of the legislation, it will not make its full impact felt leaving the development and job growth potential unfulfilled. This would happen at the expense of our scarce tax dollars. We cannot afford to implement our recovery programs in a manner which is not efficient as CPA believes will happen unless RNY is implemented as anticipated by the legislation. CPA believes that unless our recommendations are adopted, the RNY program will not fully realize the intent of the legislation and will not fully leverage the investment of tax revenue.

CPA offers these comments on the Petition of the New York Power Authority Concerning the Delivery Service Rates, Terms and Conditions of the Recharge New York Program filed on June 27, 2011.

### **The delivery rate discounts proposed by NYPA are inadequate**

NYPA has proposed to reduce RNY delivery rates by continuing the exemption from the System Benefits Charge and other surcharges used to support policy initiatives currently enjoyed by NYPA customers. NYPA ignored any other reduction of delivery rates.

This ignores the plain language of the law (section 188a-(d) :

*(d) The authority shall **work cooperatively with the department of public service to recommend to the public service commission reduced rates or an equivalent mechanism for the delivery by utility corporations of recharge New York power program allocations. Any such recommendation for reduced delivery rates shall be at such level as to allow the utility to (i) recover the incremental cost of providing delivery service to such customers, and (ii) contribute to the common delivery and related costs which otherwise would be borne by other customers.***  
(emphasis added)

The simple exemption from SBC and similar charges, while necessary, cannot be construed to result in a delivery rate that has been determined by the incremental, rather than embedded, cost of providing services.

The Commission should continue this proceeding to allow Staff and NYPA time to cooperate on recommendations for further delivery rate reductions.

### **Exemption from rate surcharges used to fund policy initiatives should continue**

CPA supports the NYPA proposal to continue the surcharge exemptions that currently apply to the Power for Jobs program. These programs are designed, in part, to counter the competitive disadvantage that New York employers encounter relative to employers in jurisdictions that may not impose equivalent charges. This exemption is an intrinsic part of the economic development purposes and must be continued. This logic extends to all current surcharges, and to any new surcharges that may be imposed in the future.

### **Exemption from stranded cost recovery should continue**

The NYPA petition is silent on the issue of stranded cost recovery from RNY services. This can only mean that NYPA agrees that it goes without saying that the stranded cost charges, as is the case with PFJ, should not apply to RNY services.

### **The market supply portion of RNY awards should remain eligible for reduced delivery rates**

It is important that RNY discounts extend to power supply purchased from competitive suppliers. If these discounts apply only to supply purchased directly from NYPA, participants competitive opportunities would be diminished, thwarting the purpose of the program. In its petition (p.5), NYPA states:

*“Such discount would be applied, of course, to the entirety of the RNY Power sold by NYPA to Program participants, i.e. the power derived from both NYPA hydroelectric resources and market purchases.”*

To the extent that the word “sold” in the above sentence applies to the sale of NYPA *delivery* services only, and that “market purchases” implies purchases from third party suppliers, we support the petition. That sentence must not be interpreted to mean that RNY participants must purchase the non-hydro portion of their RNY supply from NYPA. PFJ has no such requirement, and such a requirement would serve no purpose. The Commission should clarify this point.

### **Utilities should continue the “load splitting” function and other services**

CPA supports NYPA’s proposal to require utilities to perform certain functions, including that of default supplier and of splitting load between NYPA and non-NYPA supply. Load splitting is critically important for customers who wish to pursue competitive opportunities. For reasons which are not obvious, our members find that LSEs choose not to serve loads that are combined with economic development allotments. Load

splitting resolves this issue, and in doing so helps support the retail access market generally. However, CPA cannot support additional incremental cost based fees for this activity. Load splitting is a well-established practice, and we believe all utilities have had ample opportunity for consideration of these costs in rates cases. NYPA's concern for these putatively incremental costs is particularly disappointing when compared to its failure to propose RNY rate reductions based on incremental costs, as required by law.

In conclusion, Consumer Power Advocates respectfully requests that our comments be incorporated in the operating rules for the implementation of RNY. We believe that these changes will foster the intent of the RNY legislation.

Thank you for the opportunity to offer these comments.

Very truly yours,

*ss//Catherine M. Luthin*

Executive Director