

Consumer Power Advocates

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

September 13, 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) previously commented on the filing of the New York Power Authority to establish discounted power rates under the Recharge NY (RNY) program, and by this letter requests permission to comment on NYPA's reply to our August 29 comments in this matter. This untimely submission is necessary because of the obscure process that preceded NYPA's filing, from which consumers were excluded. NYPA's response included one misstatement of fact that must be brought to the Commission's attention.

In response to our assertion that NYPA's proposal does not meet the requirements of the law, which requires that NYPA recommend "...reduced delivery rates ... 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." NYPA responded by asserting that the law allows, and that it proposed, rates which are the "equivalent" to the incremental rates required by the law. In this context, "equivalent" can only mean "equal in value," and the rates proposed by NYPA are certainly not equal in value to the existing Power for Jobs program rates, which exclude the recovery of stranded costs (as in Con Ed's Monthly Adjustment Charge) as well as all the other items proposed to be excluded by NYPA. In addition to incremental delivery costs, the law allows the only the recovery of "...common delivery and related costs..." This excludes the recovery of stranded costs based on uneconomic generation investments, which are clearly unrelated to delivery costs.

We are aware that greater discounts will lead to utility claims for greater recovery of so-called "lost revenue", but that issue is not addressed in the RNY law. It is possible that RNY will cause an overall increase in revenue by promoting economic activity, obviating the need for any lost revenue recovery. In any event, the Commission has the responsibility to determine that amount of lost revenue and broad discretion to allow recovery. It has no such discretion to ignore the requirement to base RNY rates on incremental cost.

Thank you for the opportunity to offer these comments.

Very truly yours,

ss//Catherine M. Luthin

Executive Director