Utility Administration of System Benefit Charge-Funded Energy Efficiency Programs in New Jersey: Model or Mess? An Update from the Field

Dale S. Bryk, Natural Resources Defense Council
John J. Plunkett, Optimal Energy, Inc.
Susan E. Coakley, Northeast Energy Efficiency Partnerships, Inc.

ABSTRACT

In March, 2001, the New Jersey Board of Public Utilities (BPU) issued a long-awaited order settling debates regarding the size, shape and administrative structure of the state's energy efficiency programs. As a result, for the next eight years New Jerseyans will enjoy the benefits of one of the most comprehensive packages of market transformation programs in the nation, supported by over $1 billion.

New Jersey is one of the first states to develop a comprehensive plan for investing energy efficiency funds in the newly competitive energy industry, and the only state in which all of the investor-owned electricity *and* gas utilities are working together to deliver a single set of statewide programs. Although the utilities have committed to ambitious market transformation goals and are working in a Collaborative with the Natural Resources Defense Council (NRDC) and a collection of national efficiency experts, they have labored under persistent criticism from certain sectors throughout their tenure. This is due in large part to the conflict of interest created by the state's rate cap regulatory structure, under which efficiency investments – or anything else that reduces throughput – directly reduces utility profits. Indeed, the BPU's decision to appoint the utilities as administrators was one of the most controversial elements of its Order.

This paper provides a preliminary evaluation of the New Jersey model of statewide market transformation programs in comparison to two other approaches: the "efficiency utility" as demonstrated by Efficiency Vermont, and state administration, as rendered by the New York State Energy Research and Development Authority (NYSERDA). We identify specific advantages and disadvantages of utility administration with respect to program design, implementation and evaluation, with a particular focus on the pursuit of market transformation objectives through policy initiatives such as codes and standards and through coordination with regional and national initiatives.

Background

New Jersey, New York and Vermont established statewide market transformation programs as a key element of their portfolio of energy efficiency programs funded by electric service ratepayers. While they offer similar programs on a statewide basis, each approached this differently.

New Jersey

In February 1999, New Jersey enacted the Electric Discount and Energy Competition Act, which mandated funding for energy efficiency and renewable energy programs in the state for an eight-year period. After a yearlong administrative proceeding and another year of deliberation, the BPU issued a Final Order in March 2001, approving a comprehensive set of market transformation programs for both the residential and commercial sectors. The BPU commissioned the state's seven electric and gas utilities to work together to administer the programs on a statewide basis, at least for an initial period.[1] The utilities, who have been working collaboratively with the Natural Resources Defense Council and a collection of national efficiency experts, jointly launched these new programs on May 1, 2001. The Order also established specific funding levels for each utility for the first three years, totaling $358 million; although the BPU will determine specific funding levels for years four through eight in future orders, total spending is likely to exceed $1 billion. Of the initial $115 million budget for 2001, $86 million was allocated for efficiency, of which $71 million was actually spent or committed. System benefit charges, which range from 0.4 to 1.8 mills/kwh and 4.7 to 8.9 mills/therm, are based largely on the level of efficiency funding in rates at the time the restructuring legislation was enacted.[2]

Vermont

Efficiency Vermont (EVT) is a statewide, non-utility entity that operates as an "energy efficiency utility" under a multi-year, performance-based contract with the Vermont Public Service Board (PSB). The concept of an energy efficiency utility was initially considered as part of electric restructuring deliberations, but in early 1999, when the Vermont Legislature declined to proceed with restructuring, the Department of Public Service (DPS) decided to pursue the idea independently. After reviewing utility energy efficiency efforts over the prior decade, it concluded that the efficiency utility approach was preferable for Vermont because it would provide (i) statewide program coverage and uniformity, instead of varied program offerings from 22 separate utilities, (ii) reduced regulatory contentiousness and cost, (iii) reversal of the recent downward trend (1996-1999) in utility program spending, and (iv) greater administrative and delivery effectiveness and efficiency.

In 1999, the PSB adopted a settlement among the state's regulated utilities, the DPS, and business, consumer, and environmental groups that set out a blueprint for the efficiency utility, and issued an order relieving Vermont electric distribution utilities of their energy efficiency obligations, establishing the alternative administrative structure and the energy efficiency charge, defining a set of initial "core" statewide programs, and setting initial five-year budgets. The Vermont Legislature authorized the PSB's actions and set an annual funding cap of $17.5 million, without "sunsetting" the authorization. The initial funding for

[1] The Final Order indicated that the BPU would revisit this decision after evaluating the utilities' performance in the first year. The independent evaluation, completed in April 2002, found the Collaborative to be "impressive" and recommended that the BPU retain the utilities as administrators for the efficiency programs (Davies Associates Incorporated April 2002). The BPU is currently reviewing the evaluation and public comments and has not yet determined whether to maintain utility administration.

[2] Note that total efficiency expenditures for some utilities are substantially higher due to debt associated with prior pay-for-savings programs not included in these figures.

2000 was $8.3 million, totaling $31 million through 2002. This translates into energy-efficiency charges ranging from 1.4 mills/kWh in 2000 to up to the cap of 3.0 mills/kWh. The level of the efficiency charge varies between utilities, depending largely on the level of efficiency program costs already being recovered in utility rates. The PSB issued an RFP for the energy efficiency utility in October 1999 and in January 2000 awarded the contract to Vermont Energy Investment Corporation.

New York

In 1998, the New York Public Service Commission (PSC) established a three-year, $234 million public benefit program, and appointed NYSERDA to administer $175 million of these funds to implement a portfolio of statewide energy efficiency, low income and research and development programs. In January 2001, this mandate was extended another five years at an increased level of $150 million per year, of which NYSERDA administers $139 million.[3] This is collected through a system benefit charge (SBC) on customer bills that ranges from 1.6 to 0.8 mills/kWh, again varying among utility service territories depending largely on the level of funding previously included in rates. Ninety percent of the resulting revenue is provided to NYSERDA to fund the statewide programs. The policy goals for the programs are to (i) promote competitive markets for energy efficiency services, and (ii) provide direct public benefits to electricity ratepayers *or* be of clear economic or environmental benefit to the people of New York. NYSERDA is addressing these goals through a range of programs under the umbrella of New York Energy Smart^{sm} (NYSERDA; GDS Associates; Inc., Megdal & Associates; Oak Ridge National Laboratory January 2002). The majority of the funding, 71%, is allocated among three main program areas – Energy Services Industry, Market Transformation and Technical Assistance Programs. The remaining funds support R&D programs, low-income programs, administration, evaluation and environmental disclosure.

Comparative Assessment of Statewide Administrators of Market Transformation Programs – New Jersey, New York and Vermont

The different approaches that each state adopted to statewide program administration offers a unique opportunity to assess the relative strengths and weaknesses of each administrative model. However, at this time, it is difficult to base such an assessment primarily on market transformation results as none have more than 3-years of program implementation experience. In most cases, only initial results are available to assess the relative success or strength of a particular administrative model with regard to market transformation. Lacking definitive program results, this assessment is based on several criteria important to the success of transformation strategies for energy efficiency:

- **Policy and Funding:** Is there a clear policy mandate and informed regulatory oversight that recognizes the long-term and market oriented nature of market transformation program strategies?

[3] The New York electric utilities administer the remaining funds. In addition, the Long Island Power Authority and the New York Power Authority collect in aggregate another $50 million/year to implement efficiency programs for their customers.

- **Program Design:** Are the program designs structured to achieve lasting market changes to increase the market adoption of energy efficient products, services and practices?
- **Program Implementation & Evaluation:** Does the administrator have the capability to effectively implement, track and evaluate the programs?
- **Organizational Capacity:** Does the administrator have the organizational commitment, skills and ability to interface with the marketplace to successfully implement the programs to achieve long-term goals and implement transition strategies?
- **Results:** Has the administrator made significant progress towards market transformation goals and/or objectives?

Policy and Funding

The policy and funding context is of particular concern for market transformation strategies that usually involve multiple years of program activities to establish sustainable market effects, during which it is often difficult to directly attribute specific market changes to particular program strategies. A stable policy structure that recognizes the long-term, market-oriented nature of market transformation programs will significantly aid program administrators in their work. The strength of legislative and regulatory policy commitment, and the size and duration of funding commitments, both influence how successful program administrators can be in transforming markets and maximizing savings. Consistent statewide implementation, essential to the success of market transformation programs, requires both consistent and flexible funding within the state. Market transformation also requires a regulatory structure that allows administrators flexibility to quickly modify rebate levels or other program elements to respond to changing market conditions.

Public policy support is also crucial to the overall success of market transformation programs, especially to lock in the programs' resulting market effects with "transition" strategies such as updating building energy codes and establishing new minimum appliance or equipment efficiency standards.

Administrators of market transformation programs must maintain regulatory and policy support for the long-term, market oriented goals of these multi-year initiatives. This entails detailed reporting and regular communication with regulators, legislators and other key stakeholders regarding progress towards goals as well as a clear explanation of the direct and indirect economic, environmental and public health benefits that efficiency programs provide.

Policy mandate. The New Jersey utilities and EVT benefit from a strong legislative mandate, guaranteed long-term funding and a regulatory commitment to program goals. NYSERDA also enjoys stable program funding but without a legislative mandate. The policy directive in all three states includes some commitment to market transformation for energy efficiency, though this is weakest for EVT.

Level, term and consistency of funding. All three administrators operate within the context of multiple year policies and funding. However, inconsistent or lack of adequate funding are challenges for two states.

NYSERDA has the most limited funding. This was somewhat relieved by recent funding increases and a five-year commitment to programs by the New York PSC. The low funding level limits NYSERDA's ability to offer consumer rebates to stimulate consumer awareness, or to support broad marketing efforts. It also complicates participation in several of the regional initiatives.

Uneven funding (i.e., differences in the SBC charge collected in the state) is an issue in all three states but to date has only caused implementation problems in New Jersey, where some utilities have had to curtail programs due to lack of funding. This unevenness hampers the ability to provide consistent market-place messages and services to overcome market barriers. It remains to be seen how this will effect the long-term program goals.

Regulatory oversight. In New Jersey, the BPU is seriously understaffed and has not issued timely rulings and approvals.[4] Although existing staff are knowledgeable and committed, they cannot provide the support that a $1 billion program warrants. A substantial increase in staff resources is needed in order to provide oversight, to broker negotiations among the various parties, and to ensure that program goals trump other concerns. Rigorous oversight can help ensure that the utilities' conflict of interest does not interfere with their achievement of program goals. The BPU's award of administration to the utilities on a temporary basis has also hampered their performance relative to EVT and NYSERDA. A longer-term commitment would allow the utilities to enter into long-term contracts to help reduce program costs, and facilitate the development of long-term goals.

Regulatory oversight and staffing is more clearly established and adequate for NYSERDA and EVT. Both have benefited from timely regulatory proceedings and decisions. In Vermont, the establishment of a multi-year contract managed by a contract administrator at the Board has proven to be an efficient and effective approach to provide both stability and flexibility. Like the New Jersey utilities, NYSERDA has produced required plans and reports in a timely manner (in some cases under very tight schedules), but NYSERDA has benefited from timely decisions where New Jersey rulings have been months and years behind schedule.

Performance incentives. Performance incentives (which Vermont offers but New York and New Jersey do not) encourage administrators to reach and exceed goals. EVT carefully maintains tracking systems and provides regular reports that demonstrate their ability to meet or exceed program goals. A challenge for Vermont is to establish performance goals that are tied to long-term market transformation goals versus a nearly exclusive focus on annual savings and participation. The New Jersey utilities proposed performance incentives for 2001 and 2002 but still await a policy decision from the BPU. Lacking clear direction or incentives, the development of tracking systems to report program results and market impacts in New Jersey has lagged. Nonetheless they do provide the required reports to regulators. NYSERDA, too, provides regular reports and recently completed an initial evaluation of all programs. However, neither New Jersey nor NYSERDA, had a sophisticated program tracking system in place such as that established in the first 6 months of EVT's contract.

[4] It is important to note that the leadership of the BPU changed in January 2002 with the commencement of the McGreevey administration.

Program flexibility. Only NYSERDA has significant flexibility to shift funds between programs, to change rebate levels and modify program elements in response to changing market conditions. While EVT has the authority to change programs quickly, its ability to shift funds among programs is quite constrained under its current contract. The New Jersey utilities have only a very limited ability to act absent BPU approval. This lack of flexibility impedes program consistency, optimization and cost-effectiveness, for example, when administrators are unable to maintain consistent program outreach or response to market demand for services.

Support for building energy codes and minimum efficiency standards. Both NYSERDA and EVT support building energy code development and implementation as elements of their residential and commercial new construction programs. Code upgrades and effective implementation help lock in program-induced changes in building design and construction practices. However, due to contract limitations, EVT is not able to advocate public policy positions either with the legislature or the Public Service Board (which is EVT's client). NYSERDA is also limited in its ability to do direct advocacy, though it actively participates in discussions regarding code upgrades or new standards and is working to establish state purchasing standards in coordination with related program efforts.

Active policy support for building energy codes and minimum efficiency standards has proven even more difficult for utilities, which are large corporations with myriad political interests, of which energy efficiency is only a small part. As a result, New Jersey utility program management cannot weigh in on policy issues that impact program goals, such as codes and standards, without due consideration of overriding corporate interests. As noted, New Jersey's rate cap regulation ensures that the policy initiatives that support program goals, such as improving building energy codes and appliance and equipment standards, are in direct conflict with the financial interests of the utility.

Program Design

Although administrators need not be involved in program design at the outset, effective program designs are essential tools to transform markets and maximize cost-effective energy savings over the long-term. Well-designed market transformation programs have clearly defined overall long-term goals that address the intended market change, and short-term goals or objectives tied to specific "market effects" by which administrators (and others) can track and measure progress towards long-term goals. They are based on an underlying theory of how program specific market effects can be achieved and sustained over time.

Market transformation program designs address market barriers and intended market effects in both *upstream* markets (i.e., manufacturers, distributors and retailers) and *downstream* markets (i.e., consumers), and recognize that the geographical scope of markets extends beyond utility service territories and state boundaries. Successful market transformation programs are consistent statewide and well integrated with regional and national efforts to effectively engage the upstream markets and send consistent messages to consumers.

Long-term goals, market barriers and intended market effects. All three states have program designs that address the core elements of market transformation. Short-term goals, such as issuing specific numbers of rebates and increasing market share for particular high efficiency technologies, are well defined in all cases and effectively motivate staff. The New Jersey and NYSERDA programs are particularly strong with respect to market transformation design, though both have several programs that lack clearly articulated statements of intended market effects, transition strategies, or the underlying theory of market transformation for that specific program. For example, states could set a target date for adopting more stringent building efficiency codes, based on achieving a specific target market share of high-efficiency new construction. These have been established for several of the regional programs, but not for all programs. Both the New Jersey Collaborative and NYSERDA are developing such materials for all market transformation programs including an overall statement of the underlying program theory and transition strategies.

Statewide consistency. All three sets of programs are consistent statewide with the exception of programs implemented in New York by LIPA and NYPA, and one small utility service territory in Vermont, which has its own version for one program. New Jersey is the only state with all gas and electric utilities engaged in a statewide program plan. The consistency of the statewide effort is burdened by lack of consistent funding or budget flexibility, as well as a desire by the utilities to use their individual branding for program marketing – particularly to their customers.

Regional & national coordination. All three administrators are fairly well integrated with regional and national efforts, such as Northeast Energy Efficiency Partnerships, the Consortium for Energy Efficiency, and EPA and DOE initiatives. EVT works hard to take maximum advantage of coordinating with regional and national market transformation initiatives. Such coordination is in Vermont's interest, given its tiny market relative to the region and the country

In New Jersey, some of the utilities have been cautious in their support and participation for these efforts, due in part to an overriding focus on delivering direct benefits to customers in their respective service territories and little understanding of how work in other states might advantage New Jersey. Uneven funding and lack of funding flexibility also hamper full participation in such efforts.

NYSERDA has leveraged both regional and national initiatives to achieve program goals, but the limited funding has in some cases complicated full participation in regional initiatives. Nonetheless, NYSERDA supports regional and national initiatives as a core element of their market transformation strategies.

Program Results

Program results are essential elements of any comparison of the relative effectiveness of different administrative approaches. Unfortunately, only preliminary results are available at this time and these, in themselves, are insufficient for a conclusive analysis. Nonetheless, it is useful to review the initial results.

All three entities were successful getting programs up and running in a timely fashion, and have had some initial successes. All have established evaluation plans and

established mechanisms to procure services needed for program implementation and evaluation.

Early results from New Jersey. The New Jersey utilities demonstrated exceptional leadership in preparing for implementation even in advance of regulatory approval. In 2001, after 8 months of operation, the Collaborative had successfully launched ten programs, securing savings of 125,000 MWhs and 370,000 decatherms (New Jersey Clean Energy Collaborative, March 2002). While these savings are not quite as impressive as those achieved by EVT in its first year, the ratio of dollars to savings improved dramatically towards the end of the year.[5] One source of the disparity in results between Vermont and New Jersey is EVT's negotiated incentives for custom measures and comprehensive design approaches, which require greater staff time to develop. Some of the New Jersey utilities are much more limited in the staff available for such projects than EVT.

One of the most notable New Jersey achievements to date is the EPA's recognition of the New Jersey utilities as "Partner of the Year" for the ENERGY STAR homes program, in which the they secured a commitment from the state's largest homebuilder, K. Hovnanian, to build all of its homes to ENERGY STAR standards. This early success of the ENERGY STAR Homes program is due in part to a similar program operated by two New Jersey utilities for two years prior to the statewide Collaborative. The residential HVAC program, in its second year of operation (it, too, predated the Collaborative) has also been exceptionally successful, achieving 30% market share for high efficiency units – 7 to 9 times the national average. In 2002, the utilities have had difficulty implementing some programs consistently throughout the state because of disparities in relative funding levels across utilities and budget inflexibility. Some were not able to fund full participation in some programs.

EVT results. Efficiency Vermont achieved 23,000 MWh in 2000 after its first 10 months of operation. This was 55% more than it planned to achieve in this early period. It did so by spending just under its $5.5 million budget for the year. EVT managed to achieve these results at the same time that it accomplished major tasks associated with organizing and launching the operation. These include designing and implementing fully-functioning accounting and data tracking systems, not to mention hiring the numerous staff and consultants needed to deliver efficiency programs. EVT also managed to design new initiatives and enhance initial core programs for the next two years. EVT has a larger staff than the others as they don't contract out staff functions.

NYSERDA results. Having had the longest period for program implementation, NYSERDA is the only one of the three statewide administrators that has completed an initial evaluation of savings and progress towards goals for the market transformation programs (NYSERDA; GDS Associates, Inc.; Megdal & Associates; Oak Ridge National Laboratory January 2002). This study, conducted by independent consultants in consultation with NYSERDA staff, found that the programs achieved significant energy savings in the first three years of implementation (927,700 MWh per year). In some cases, the programs have resulted in significant market effects including increased consumer awareness of the ENERGY STAR label (from 34% in 1999 to 43% in 2001), increased retailer activity and market share

[5] The $14 million committed but not yet spent in 2001 will fund measures that are projected to save 70,000 MWhs.

of ENERGY STAR lighting and appliance products (e.g., market share increases ranging from 7% to 119% in 2001 compared to 1999), and contributed to the increase in the range of premium motors now available in New York and nationally.

Table 1. Program Results – Comparison of Costs & Savings

State	Program Years	Annual Budget ($millions)	Annual Savings		Costs per	
				MMBTU/yr	kWh/yr	MMBTU/yr
New Jersey	7 months	$71	125,000 MWh/yr	426,625	$0.041	
			370,000 Decatherms/yr	370,000	n/a	
			total	796,625		$ 6.73
NYSERDA	3 years	201	927,700 MWh	3,166,240	$0.016	$ 4.53
Efficiency Vermont	10 months	5.5	23,000 MWh	78,499	$0.017	$ 5.00

Note: Costs of saved energy are undiscounted and assume an average measure life of 14 years.

In all cases long-term savings are projected to be substantially higher per dollar invested than first year results indicate, as programs affect markets more broadly.

Organizational Capability

To effectively implement programs and get results, administrators must be well organized and well managed. They must employ an adequate number of staff and contractors who are properly trained and rewarded for achieving program goals. As noted above, to transform markets, administrators must effectively engage both downstream and upstream players as necessary. They must have, also, the capability to track and evaluate progress towards both short- and long-term goals on a timely basis, and fine-tune or even overhaul programs as markets respond – or fail to respond – to the program strategy. Finally, administrators must have sufficient organizational commitment to and alignment with long- and short-term program goals and objectives.

Each type of administrative organization has a distinct set of strengths and weaknesses that will help or hinder its effectiveness. A potential concern in having utilities serve as program administrators is the conflict of interest that results from the fact that effective energy efficiency programs erode kWh sales – the basis for utility revenues and profitability, though regulators can overcome this, for example through rigorous oversight and performance incentives. In making assessments and comparisons regarding the suitability or fit of an organization to serve as administrator of market transformation programs, it is useful to consider the following factors:

- What is the basis for the organization's commitment to program goals (e.g., financial, regulatory, institutional mission)?
- What is the strength of the organizational commitment to all goals and objectives, and does it extend throughout the organization?
- If not, do the administrators have the capability to overcome any impediments?

- Does the organization have specialized skills or relationships that will facilitate implementation or otherwise advance program goals? Does it lack any necessary skills or relationships?

Structure and management. NYSERDA and EVT benefit from their structure as single entities, with standard decision-making processes in place. They are both organizations for which improving energy efficiency is part of the core institutional mission. In contrast, New Jersey's Collaborative is comprised of program working groups – utility staff and expert advisors who develop and implement each program – and a management team of utility representatives and NRDC that provides oversight and makes policy decisions. While the extreme dedication of most participants has allowed this structure to work well, the fact that eight distinct corporate entities (the seven utilities plus NRDC) must negotiate agreement on every issue of import necessarily poses challenges. New Jersey has suffered some problems with decision-making generally and joint contracting and joint marketing in particular, as well as ineffective collaboration by some, all of which are unique to multi-utility administration. The Collaborative also poses an administrative burden for regulators, who must negotiate cost recovery and other matters with the seven companies. On the other hand, cross-pollination of ideas and experiences of the Collaborative participants can lead to better results. EVT enjoys similar benefits, as many of their staff previously managed efficiency programs at different utilities and many have experience in a variety of states.

Organizational commitment to program goals. Where NYSERDA and EVT are focused on energy efficiency as a core mission, a particular challenge for the New Jersey Collaborative is that each utility has corporate goals and objectives that are not always consistent with program needs. These range from the superficial, such as each company wanting its own name and logo on program brochures, to the truly integral, such as a company's unwillingness to challenge a regulator on efficiency standards that are integral to program objectives, but, relative to other matters before that regulator, an insignificant issue not worth expending political capital. From a management perspective, the utilities' primary interests are to satisfy regulators and deliver value to their customers. While these interests should fully align with program goals, they are not the same and all parties do not necessarily perceive them as consistent. In some cases, this contributes to a lack of aggressiveness to achieve long-term goals or to go exceed minimum requirements in a particular year.

Staffing & expertise. All three administrators have experienced and committed staff. Although few of the New Jersey utility staff have the same level of technical expertise regarding market transformation that NYSERDA and EVT staff have, this is offset somewhat by the participation of expert advisors, and growth of utility staff expertise. One of the most important assets that utility staff bring to the table is their detailed knowledge of customers and markets in the state, which exceeds that of NYSERDA and EVT (which likewise is growing with experience). Their established relationships with customers and many contractors, as well as their name recognition, existing marketing and communication channels and credibility in the marketplace, make it easier for them to identify partners, enlist program participants and build public awareness of program efforts, than it would be for a new independent entity that lacked these resources. These assets have been key to the quick start the New Jersey Collaborative has achieved.

One challenge that the utilities face moving forward is devoting adequate staff to program implementation. Due to the persistent criticism from the Ratepayer Advocate and other local stakeholders, utility management has been overly focused on administrative costs to the detriment of proper staffing. Only 35 staff are in place to run programs with an annual budget of nearly $100 million, compared to EVT's staff of 60 to implement a $17.5 million annual program. Though part of this disparity is due to the fact that the utilities use third party contractors to deliver most programs and EVT delivers them directly, the utilities are very limited in the staff resources allocated to program implementation, marketing and evaluation.

Conclusion and Recommendations

Is the New Jersey Collaborative a model for other states to consider, or is it too complicated or "messy" to replicate elsewhere with real success? The honest answer is that it is too soon to tell.

We believe that utility administration was the best option for New Jersey to launch a comprehensive set of statewide market transformation programs quickly, as most of the utilities had years of experience running similar programs, all had knowledgeable staff in place, and there was no credible alternative. The success of the Collaborative to date demonstrates that utility administration can bring a number of very important advantages to market transformation initiatives that other states should consider. These include:

- Strong knowledge of local markets and substantial marketing experience
- Existing relationships with customers and potential program participants and partners
- Name recognition and credibility in the marketplace
- Substantial resources to effectively and timely report and respond to inquiries
- Established relationships with regulators, administration and legislators
- Political weight of large constituency (including customers, employees, shareholders)

The utilities' initial success getting excellent programs up and running bodes well for this approach, but the Collaborative remains a fragile institution that labors under persistent criticism from a small but vocal group of stakeholders. The participation of NRDC and the expert advisors has been a key factor in the success of program design, development and evaluation, but more is needed to make this a sustainable model. Utility administration poses unique challenges, primarily due to the conflict of interest brought about by rate cap regulation and the myriad political and economic interests of utilities that may conflict with market transformation goals. New Jersey and other states contemplating this approach should consider the following options to overcome, or at least mitigate, these obstacles in order to support successful utility administration over the long term:

- Regulatory reform. Regulators and legislators must ensure that utilities' regulatory incentives are aligned with market transformation goals. Under the rate cap regulation in place in New Jersey and most other states, even the most cost-effective investments in energy efficiency reduce utility profits. Severing the connection between utility revenues and kilowatt-hour sales, through revenue caps or other performance-based regulation, will make utilities natural proponents of energy

efficiency and more effective program administrators. We recognize that this is a long-term proposition and in the interim support rigorous oversight of utility performance, including achieving minimum performance goals, and performance incentives for stretch goals.

- Informed and thorough regulatory oversight and support. All administrators benefit from consistent policy direction and guidance, but due to the inherent conflicts of interest described above, strong oversight of utility administrators is particularly important. In New Jersey, NRDC and the expert advisors have served as the advocates for market transformation within the Collaborative. Ideally, regulators should themselves act as strong champions for statewide market transformation initiatives and ensure that a market transformation champion representing the public interest is required as an integral part of the administration.
- Aggressive but clear and achievable long and short-term goals. Clearly stated goals motivate staff and establish objective criteria by which to measure administrators' success. This is especially important for utility administrators, who often must overcome conflicts of interest and critics who are predisposed to distrust them. Objective criteria will help ensure that administrators are judged on the basis of their performance, not their pedigree. For market transformation programs, establishing long-term goals and benchmarks toward them is essential and something that all administrators have found particularly challenging.
- Performance incentives. Regardless of the type of administrator, performance incentives for program excellence are essential tools to properly motivate staff to aggressively pursue goals. Well-designed performance incentives are tied to clear and achievable long and short-term goals and allow administrators flexibility in how they achieve them. Incentives can also help put program goals on a more equal footing with other corporate objectives.
- Consistent long-term statewide funding. In New Jersey, New York and many other states, system benefit charges vary among service territories. This creates an inequity for the ratepayers who shoulder a disproportionate share of the cost of programs that bring statewide benefits. It also makes it extremely difficult to implement programs on a statewide basis, since there is an enormous amount of pressure to spend funds in the service territory from which they are collected. Legislators and regulators should ensure that ratepayers who have historically underfunded efficiency increase their support to the level of those funding it at the highest rate.
- Credible alternative administrator. Any administrator is more likely to meet minimum criteria for success if there is a reasonable likelihood that not doing so will result in the appointment of a replacement. In New Jersey, some stakeholders supported utility administration because no other entity had the capacity to launch the programs in a timely fashion. Utilities should be selected as administrators because they are the best alternative, not because they are the only alternative. One way to ensure this is to issue an RFP for administration and other parties to propose how they might better administer programs. This approach was used with success in Vermont. However, regulators should be mindful that transition to a new administrator could substantially impair or delay program implementation.
- Independent evaluation. Regulators should commission independent evaluation of programs and administrators from the time of program launch. Evaluations should

assess multi-year, market oriented program goals, objectives and strategies as well as their implementation.

References

Davies Associates Incorporated. April 2002. *Recommendation on the Administration of Energy Efficiency and Renewable Energy Programs for New Jersey Board of Public Utilities* Docket No. EX01070447

Efficiency Vermont. 2001. *Annual Report 2000*. Burlington, VT.

New Jersey Clean Energy Collaborative. March 2002. *Comprehensive Resource Analysis Report submitted to the New Jersey Board of Public Utilities for the Reporting Period: Year-to-Date through Fourth Quarter 2001* (January 1, 2001 through December 31, 2001).

NYSERDA; GDS Associates; Inc.; Megdal & Associates; Oak Ridge National Laboratory. January 2002. *New York Energy Smart Program Evaluation and Status Report to the System Benefits Charge Advisory Group – Initial Three-Year Program.*