



100 Pine Street • PO Box 1166 • Harrisburg, PA 17108-1166
Tel: 717.232.8000 • Fax: 717.237.5300

Susan E. Bruce
Direct Dial: 717.237.5254
sbruce@mcneeslaw.com

May 31, 2016

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA ELECTRONIC FILING

**RE: Proposed Policy Statement on Combined Heat and Power;
Docket No. M-2016-2530484**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission are the Comments of the Kimberly-Clark Corporation regarding the above-reference proceeding.

Please let me know if you have any questions. Thank you.

Very truly yours,

McNEES WALLACE & NURICK LLC

By

A handwritten signature in black ink, appearing to read 'Susan E. Bruce', written over a horizontal line.

Susan E. Bruce

Counsel to the Kimberly-Clark Corporation

SEB/sar

Enclosure

c: Chairman Gladys M. Brown (Via e-mail and First Class Mail)
Vice Chairman Andrew G. Place (Via e-mail and First Class Mail)
Commissioner John F. Coleman, Jr. (Via e-mail and First Class Mail)
Commissioner Robert F. Powelson (Via e-mail and First Class Mail)

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Proposed Policy Statement on Combined Heat and Power :
Docket No. M-2016-2530484

COMMENTS OF KIMBERLY-CLARK CORPORATION

Kimberly-Clark Corporation (“K-C”) respectfully submits these Comments in response to the Pennsylvania Public Utility Commission’s (“PUC” or “Commission”) request for comments on its *Proposed Policy Statement on Combined Heat and Power* (“Policy Statement”) in the above-referenced proceeding. As the owner, operator, and developer of natural gas-fired distributed generation (“DG”) resources using Combined Heat and Power (“CHP”) located in other states, K-C appreciates the opportunity to inform this important initiative by sharing its experience and perspective with the Commission. K-C looks forward to working collaboratively with the Commission and other Pennsylvania stakeholders to craft a strategy that will promote CHP development throughout the Commonwealth.

K-C is a manufacturer of health and hygiene products whose well-known global brands include Kleenex®, Scott®, and Huggies®. K-C manufactures its health and hygiene products in 15 states, including Pennsylvania, and in 38 countries. K-C, directly or through wholly owned subsidiaries, owns and operates onsite cogeneration units at its manufacturing facilities located in Chester, Pennsylvania; New Milford, Connecticut; and Fullerton, California. K-C is also contemplating the development of additional CHP resources in the future.

- **The Commission's CHP Policy Statement**

K-C commends the Commission's initiative in commencing a public process to identify and surmount the barriers to CHP development in Pennsylvania for the benefit of Commonwealth ratepayers in all customer classes. As the Commission's Policy Statement accurately observes, "CHP is an efficient means of generating electric power and thermal energy from a single fuel source, providing cost-effective energy services" to business and industry.¹ The Policy Statement recognizes the benefits of CHP include, "improving manufacturing competitiveness and reducing greenhouse gas emissions...reducing energy costs and enhancing reliability for the user."² In addition, promoting CHP development will benefit Pennsylvania by encouraging investment in the Commonwealth's energy infrastructure, thereby improving the efficiency of electric production and avoiding more costly investment in conventional generation or new distribution facilities.³ Finally, promoting CHP will complement the Commonwealth's compliance with the federally mandated Clean Power Plan Initiative, by facilitating the deployment of environmentally friendlier baseload generation along with other renewable, but intermittent sources of generation. In short, customer-side CHP projects, large or small, present a "win-win-win" situation for Pennsylvania ratepayers, the Commonwealth, and customer-developers of CHP projects.

¹ Policy Statement, p. 1.

² *Id.*

³ The higher efficiency of CHP translates into lower operating costs, reduced emissions of all pollutants, increased reliability and power quality, reduced grid congestion and avoided distribution losses. See Environmental Protection Agency Energy and Environmental Guide to Action, Chapter 6: Policy Considerations for Combined Heat and Power, p. 6-4 (*available at* https://www.epa.gov/sites/production/files/2015-08/documents/guide_action_chapter6.pdf) (last visited May 27, 2016).

K-C also lauds and encourages the Commission's willingness to explore other states' efforts to promote CHP development. According to the Policy Statement, "the Commission would like to explore whether Pennsylvania should utilize some of the systemic changes and programs that other states have adopted."⁴ Considering the strategies used in other states could avoid the need to "reinvent the wheel" and position Pennsylvania to start closer to the finish line, thereby realizing the benefits of CHP development more quickly. As the Commission looks beyond its own borders, K-C commends the innovative and successful model used in Connecticut that was first embodied in Public Act No. 05-01, "An Act Concerning Energy Independence" ("Connecticut Act" or "Act 05-01").⁵

K-C was encouraged by the incentive program established by Act 05-01 to build a 35 MW CHP system at its New Milford, Connecticut mill (*i.e.*, "Energy Independence Project"). For K-C, and likely many other large commercial and industrial customers with energy-intensive business operations, energy costs represent a significant percentage of total operating costs. K-C's Energy Independence Project, which became operational in 2008, has played and continues to play a crucial role in enabling the New Milford mill to control its energy costs and remain competitive with competitors that operate in lower cost energy markets, while fulfilling K-C's own corporate policies of sustainability and environmental stewardship.⁶ The development of the CHP project has also been vital in retaining the mill's 300-member work force earning family-sustaining wages and maintaining the tax base for

⁴ *Id.* at 4.

⁵ See generally Public Act No. 05-01, "An Act Concerning Energy Independence" (approved July 21, 2005) (*available at* <https://www.cga.ct.gov/2005/act/Pa/2005PA-00001-R00HB-07501SS1-PA.htm>). The statutory provisions introduced by the Act, as amended since 2005, and cited in these Comments are provided for the Commission's convenience in Appendix A.

⁶ See K-C's Sustainability 2022 Program (*available at* <http://www.kimberly-clark.com/sustainability2022.aspx>)

the town of New Milford. Thus, K-C agrees with the Commission that CHP development will benefit the Commonwealth by providing its businesses and industry with valuable tools to reduce their energy costs, improve their competitiveness, promote the development of environmental resources, and continue supporting local economy.

In addition to allowing K-C to remain competitive in Connecticut, the Energy Independence Project has been critical in allowing the New Milford mill to operate without interruption, despite severe weather events and the resulting widespread power outages the New England experienced in recent years. During power outages, the Energy Independence Project enables the New Milford mill to isolate itself from the primary distribution system, thereby permitting K-C to continue operating. Like many other Connecticut manufacturers, hospitals, and educational institutions with CHP resources, K-C's New Milford Mill operated without interruption during major storms in 2011 and 2012, thereby continuing to support the local economy. Thus, CHP resources present valuable tools for enhancing distribution system reliability in the event of extreme weather and other emergencies that may cause power outages, thereby safeguarding other electricity customers, the economy, and critical health and public safety functions.

In K-C's experience, the development of its onsite CHP in Connecticut has yielded many of the benefits the Commission seeks to confer on Pennsylvania ratepayers. Because of CHP investments by K-C and other Connecticut manufacturers, educational institutions, and medical facilities prompted by effective public policy, Connecticut has become a leader in the nation in CHP development. Accordingly, K-C encourages the Commission to consider the framework set forth by Connecticut's Act 05-01. K-C recognizes that implementing certain aspects of Connecticut's framework may require

legislative action; however, fundamental parts of Connecticut’s framework, most notably the rate design of standby service, are squarely within the Commission’s authority.

- **K-C Encourages the Commission To Incorporate into Its Policy Statement Key Elements of Connecticut’s CHP Incentive Program.**

In promulgating Act 05-01, Connecticut sought to realize many of the objectives discussed in the Commission’s Policy Statement. The Connecticut Act’s overarching goal was to stimulate the development of “customer-side distributed generation” – which includes CHP resources⁷ – in order to reduce energy costs, improve system reliability, and promote the deployment of certain environmentally preferred resources through direct customer investment in CHP in a manner that supports economic development in Connecticut. To stimulate CHP development the Connecticut Act set forth various incentives, including natural gas delivery charge rebates, waiver of back-up demand charges, renewable energy credits, and monetary grants, among others. This “tool box” of incentives was intended to address the different barriers to entry faced by CHP projects. It has proven to be instrumental to the success of Connecticut’s CHP development, and K-C recommends that the Commission consider Connecticut’s innovative approach, particularly the following incentives:

- **Natural Gas Delivery Charge Rebates**

Customers who install new on-site generation in Connecticut are eligible to receive a rebate of certain local gas delivery charges under the Connecticut Act.⁸ In assessing whether to develop a CHP project, the costs of delivering the natural gas to fuel the project is a significant variable in a customer-developer’s cost-benefit analysis. Rebates play an

⁷ Conn. Gen. Stat. § 16-1(a)(34).

⁸ *Id.* § 16-243l.

important role in defraying a portion of the CHP project's projected ongoing operating costs. Thus, a natural gas delivery charge rebate incentive is important to address the significant (and growing) role played by natural gas delivery costs in the economic justification of CHP projects.

Alternatively, Pennsylvania should consider how to facilitate the development of privately funded natural gas infrastructure, including circumstances where bypassing the local natural gas distribution company's ("NGDC") system may be necessary to make the business case for a CHP project by avoiding hefty contributions in aid of construction imposed by the NGDC. A bypass may not only improve the economics underlying a CHP project, it may also reduce the potential for any negative impacts on the existing distribution system, particularly where the system is already experiencing constraints and frequent interruptions.

- **Waiver of Electric Back-Up Demand Charges**

Customers in Connecticut who install new on-site generation are also eligible to receive a waiver of electric backup demand charges, provided that the CHP unit is available during system peak period and the capacity is less than the customer's maximum metered peak load.⁹ Under this provision, it is the non-electricity components – *i.e.*, the demand ratchet – that is being waived. Rather than imposing a reasonable charge for a highly improbable one-time outage, a demand ratchet translates into a long-term fee. Because a threshold requirement for the viability of CHP project is that the avoided cost of purchasing electricity from the grid be greater than the capital and operating costs involved with a CHP project, an excessive demand ratchet negatively impacts the cost-benefit calculation by adding to operating costs of building the CHP. Thus, the back-up charge waiver in

⁹ *Id.* § 16-243o.

Connecticut has been an effective strategy for overcoming high back-up power rates that present yet another barrier to the development of CHP.¹⁰

As the Commission considers the rate design associated with standby service, it is important for the Commission to understand that industrials have every incentive to operate their CHP units to produce products at their manufacturing facilities. For maximum efficiencies, CHPs are ideally sized relative to the customer's thermal requirements. If a CHP unit is not operating, it is because there is a temporary shutdown of the manufacturing facility which uses the steam from the CHP unit. Properly designed standby and maintenance rates should be "just and reasonable" and based on well-established "cost causation" principles.

Generally speaking, some electric utilities charge disproportionate charges in the event that there is even the slightest trip of the CHP unit. This becomes very costly to a manufacturer with CHP if the demand charges for standby service are not designed properly and are similar to the demand charges for full retail service. K-C recommends that the Commission closely review existing standby service rates with the lens of whether they discourage CHP development. Based on this assessment, K-C urges the Commission to implement the best practices for standby rate design, including those currently being utilized in Connecticut, in order to remove barriers for CHP development.

¹⁰ See, e.g., PECO Energy Company's Energy Company's Pilot Capacity Reservation Rider, Tariff Electric Pa. P.U.C. No. 5 at Original Page No. 68-70 (applying a monthly minimum charge to customer generators needing standby service, effective January 1, 2016).

- **Renewable Energy Credits**

CHP resources¹¹, along with certain others, form their own class of renewable resources (*i.e.*, Class III) under Connecticut's Renewable Power Portfolio Standards ("RPS").¹² Under Connecticut's RPS requirements, the State's electricity suppliers must serve a certain percentage of their retail load from Class III sources.¹³ In addition, there is a Class III trading platform that establishes prices for Class III Renewable Energy Credits ("RECs") generated by these Class III resources, using a combination of elements that are market-like and others that are administratively determined to achieve particular policy objectives. The Class III platform includes administratively determined safeguards, such as a price floor of 1 cent per kilowatt-hour, that ensures stable revenue streams necessary to encourage development of new, and support the operation of existing, CHP resources.¹⁴ Such stability is particularly important for capital-intensive CHP resources in light of the higher costs to operate and maintain such resources.

- **Capital Grants**

In the first years of Connecticut's program, capital grants were available to customers developing CHP. Capital grants help to reduce the initial barrier to entry associated with the sizable upfront capital investment required for CHP projects.¹⁵

¹¹ Notably, Class III CHP resources must be located within the State and consequently, positively impact economic development by attracting capital investment, creating and maintain jobs, and providing energy cost management opportunities to retain business and industry.

¹² Conn. Gen. Stat. § 16-1(a)(38).

¹³ *Id.* § 16-243q(a).

¹⁴ *Id.* § 16-243t(a).

¹⁵ The capital grant program ended in 2009.

- **K-C Supports Streamlined Utility Interconnection Protocols for Industrial Customers Developing CHP.**

Interconnection protocols, at both the state and RTO levels, can serve as barriers to entry for CHP units, particularly for manufacturers, which are not otherwise in the business of selling power. K-C supports the development of a streamlined interconnection approach in Pennsylvania designed for CHP units that are part of manufacturing facilities in order to lessen the burden associated with interconnection. For CHP units siting in Pennsylvania, K-C recognizes that interconnection protocols may also fall within the aegis of the PJM interconnection process, which requires manufacturers developing CHP to navigate a process that requires considerable expense, time, and dedication of resources. Accordingly, we encourage the Commission to support, to the extent within its jurisdiction, streamlining the state-jurisdictional rules applying to interconnection for CHP and advocate for similar enhancements with respect to PJM's interconnection protocols, particularly for manufacturing facilities investing in CHP.

- **K-C Encourages the Commission To Recognize the Benefits of Regulatory Certainty.**

In addition to incentives such as those offered in Connecticut and reviewed above, an important factor that will help Pennsylvania to spur CHP investment is regulatory certainty. Developing, installing, and operating CHP is a costly proposition. The high level of capital investment makes CHP developers more sensitive to long-term revenue predictability. Customers contemplating CHP investment do so as part of an overall business plan, which is by necessity a forward-looking process that anticipates a company's future needs and addresses the means by which it fulfills those needs. To effectively prepare and execute a business plan that includes a large capital investment, a company requires a high degree of certainty with respect to its return on investment during the

lengthy payback period as well as its strategy for managing ongoing operating costs. In the current context, this means that the framework for CHP development must provide a prospective customer-developer with a clear roadmap that offers regulatory certainty over a long-term horizon. Uncertainty and undue delay increase risks and costs and, as a result, may undermine a project's viability and success.

- **Next Steps**

While some of the potential tools in the customer's tool box offered in these Comments may require legislative changes, the Commission should turn its immediate focus on matters directly within its jurisdiction, particularly the oversight of rates and rate design. The Commission is uniquely positioned to ensure rate design eliminates certain barriers to CHP development. In other areas, the Commission should share its expertise with Pennsylvania ratepayers and lawmakers, at both the state and federal level, regarding the benefits of CHP and non-rate measures that could assist in realizing those benefits, such as the passage of legislation offering various financial incentives as well as the extension of certain federal incentives that are on the verge of expiration, such as the Investment Tax Credit for CHP.

In closing, K-C appreciates the Commission's dedicated efforts to advance the Commonwealth's energy and environmental goals while welcoming public input on innovative approaches to support ongoing and future CHP investment in Pennsylvania.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

Susan E. Bruce (PA ID No. 80146)
Vasiliki Karandrikas (PA ID No. 89711)
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
Phone: (717) 232-8000
Fax: (717) 237-5300
sbruce@mcneeslaw.com
vkarandrikas@mcneeslaw.com

Counsel to the Kimberly-Clark Corporation

Dated: May 31, 2016

Appendix A

Conn. Gen. Stat. § 16-1(a)

Section 16-1. Definitions. (a) Terms used in this title and in chapters 244, 244a, 244b, 245, 245a and 245b shall be construed as follows, unless another meaning is expressed or is clearly apparent from the language or context:

[...]

(34) "Customer-side distributed resources" means (A) the generation of electricity from a unit with a rating of not more than sixty-five megawatts on the premises of a retail end user within the transmission and distribution system including, but not limited to, fuel cells, photovoltaic systems or small wind turbines, or (B) a reduction in the demand for electricity on the premises of a retail end user in the distribution system through methods of conservation and load management, including, but not limited to, peak reduction systems and demand response systems;

[...]

(38) "Class III source" means the electricity output from combined heat and power systems with an operating efficiency level of no less than fifty per cent that are part of customer-side distributed resources developed at commercial and industrial facilities in this state on or after January 1, 2006, a waste heat recovery system installed on or after April 1, 2007, that produces electrical or thermal energy by capturing preexisting waste heat or pressure from industrial or commercial processes, or the electricity savings created in this state from conservation and load management programs begun on or after January 1, 2006, provided on and after January 1, 2014, no such programs supported by ratepayers, including programs overseen by the Energy Conservation Management Board or third-party programs pursuant to section 16-245m, shall be considered a Class III source, except that any demand-side management project awarded a contract pursuant to section 16-243m shall remain eligible as a Class III source for the term of such contract;

Conn. Gen. Stat. § 16-243I

Section 16-243I. Rebate for customer-side distributed resource projects that use natural gas. On or before January 1, 2006, each electric distribution company shall institute a program to rebate to its customers with projects that use natural gas, which projects are customer-side distributed resources, as defined in §16-1, an amount equivalent to the customer's retail delivery charge for transporting natural gas from the customer's local gas company to such customer's project of customer-side distributed resources. Costs of such a rebate shall be recoverable by the electric distribution company from the federally mandated congestion charges, as defined in §16-1. The authority may adopt regulations, in accordance with chapter 54, to implement the provisions of this section.

Conn. Gen. Stat. § 16-243o

Section 16-243o. Waiver of back-up power rates. (a) If a customer of an electric distribution company implements customer-side distributed resource capacity after January 1, 2006, and such capacity is less than the customer's maximum metered peak load, the customer shall not be required to pay back-up power rates if the customer's distributed resources are available during system peak periods, provided the customer shall continue to be required to pay otherwise applicable charges for electricity provided by the electric distribution company.

(b) The costs that a customer is not required to pay pursuant to subsection (a) of this section shall be recoverable through federally mandated congestion charges by the electric distribution companies.

Conn. Gen. Stat. § 16-243q.

Sec. 16-243q. Class III renewable energy portfolio standards. (a) On and after January 1, 2007, each electric distribution company providing standard service pursuant to section 16-244c and each electric supplier as defined in section 16-1 shall demonstrate to the satisfaction of the Public Utilities Regulatory Authority that not less than one per cent of the total output of such supplier or such standard service of an electric distribution company shall be obtained from Class III sources. On and after January 1, 2008, not less than two per cent of the total output of any such supplier or such standard service of an electric distribution company shall, on demonstration satisfactory to the Public Utilities Regulatory Authority, be obtained from Class III sources. On or after January 1, 2009, not less than three per cent of the total output of any such supplier or such standard service of an electric distribution company shall, on demonstration satisfactory to the Public Utilities Regulatory Authority, be obtained from Class III sources. On and after January 1, 2010, not less than four per cent of the total output of any such supplier or such standard service of an electric distribution company shall, on demonstration satisfactory to the Public Utilities Regulatory Authority, be obtained from Class III sources. Electric power obtained from customer-side distributed resources that does not meet air and water quality standards of the Department of Energy and Environmental Protection is not eligible for purposes of meeting the percentage standards in this section.

(b) Except as provided in subsection (d) of this section, the Public Utilities Regulatory Authority shall assess each electric supplier and each electric distribution company that fails to meet the percentage standards of subsection (a) of this section a charge of up to five and five-tenths cents for each kilowatt hour of electricity that such supplier or company is deficient in meeting such percentage standards. Seventy-five per cent of such assessed charges shall be deposited in the Energy Conservation and Load Management Fund established in section 16-245m, and twenty-five per cent shall be deposited in the Clean Energy Fund established in section 16-245n, except that such seventy-five per cent of assessed charges with respect to an electric supplier shall be divided among the Energy Conservation and Load Management Funds of electric

distribution companies in proportion to the amount of electricity such electric supplier provides to end use customers in the state using the facilities of each electric distribution company.

(c) An electric supplier or electric distribution company may satisfy the requirements of this section by participating in a conservation and distributed resources trading program approved by the Public Utilities Regulatory Authority. Credits created by conservation and customer-side distributed resources shall be allocated to the person that conserved the electricity or installed the project for customer-side distributed resources to which the credit is attributable and to the Energy Conservation and Load Management Fund. Such credits shall be made in the following manner: A minimum of twenty-five per cent of the credits shall be allocated to the person that conserved the electricity or installed the project for customer-side distributed resources to which the energy credit is attributable and the remainder of the credits shall be allocated to the Energy Conservation and Load Management Fund, based on a schedule created by the authority no later than January 1, 2007, and reviewed annually thereafter. The authority may, in a proceeding and for good cause shown, allocate a larger proportion of such credits to the person who conserved the electricity or installed the customer-side distributed resources. The authority shall consider the proportion of investment made by a ratepayer through various ratepayer-funded incentive programs and the resulting reduction in federally mandated congestion charges. The portion allocated to the Energy Conservation and Load Management Fund shall be used for measures that respond to energy demand and for peak reduction programs.

(d) An electric distribution company providing standard service may contract with its wholesale suppliers to comply with the conservation and customer-side distributed resources standards set forth in subsection (a) of this section. The Public Utilities Regulatory Authority shall annually conduct a contested case, in accordance with the provisions of chapter 54, to determine whether the electric distribution company's wholesale suppliers met the conservation and distributed resources standards during the preceding year. Any such contract shall include a provision that requires such supplier to pay the electric distribution company in an amount of up to five and one-half cents per kilowatt hour if the wholesale supplier fails to comply with the conservation and distributed resources standards during the subject annual period. The electric distribution company shall immediately transfer seventy-five per cent of any payment received from the wholesale supplier for the failure to meet the conservation and distributed resources standards to the Energy Conservation and Load Management Fund and twenty-five per cent to the Clean Energy Fund. Any payment made pursuant to this section shall not be considered revenue or income to the electric distribution company.

(e) The Public Utilities Regulatory Authority shall conduct a contested proceeding to develop the administrative processes and program specifications that are necessary to implement a Class III sources conservation and distributed resources trading program. The proceeding shall include, but not be limited to, an examination of issues such as (1) the manner in which qualifying activities are certified, tracked and reported, (2) the manner in which Class III certificates are created, accounted for and transferred, (3) verification of the accuracy of

conservation and customer-side distributed resources credits, (4) verification of the fact that resources or credits used to satisfy the requirement of this section have not been used to satisfy any other portfolio or similar requirement, (5) the manner in which credits created by conservation and customer-side distributed resources may best be allocated to maximize the impact of the trading program, and (6) setting such alternative payment amounts at a level that encourages development of conservation and customer-side distributed resources. The authority may retain the services of a third party entity with expertise in the development of energy efficiency trading or verification programs to assist in the development and operation of the program. The authority shall issue a decision no later than February 1, 2008.

Conn. Gen. Stat. § 16-243t

Sec. 16-243t. Class III credits. (a) Notwithstanding the provisions of this title, a customer who implements energy conservation or customer-side distributed resources, as defined in section 16-1, on or after January 1, 2008, shall be eligible for Class III credits, pursuant to section 16-243q. The Class III credit shall be not less than one cent per kilowatt hour. For nonresidential projects receiving conservation and load management funding, twenty-five per cent of the financial value derived from the credits earned pursuant to this section shall be directed to the customer who implements energy conservation or customer-side distribution resources pursuant to this section with the remainder of the financial value directed to the Conservation and Load Management Funds. For nonresidential projects not receiving conservation and load management funding submitted on or after March 9, 2007, seventy-five per cent of the financial value derived from the credits earned pursuant to this section shall be directed to the customer who implements energy conservation or customer-side distribution resources pursuant to this section with the remainder of the financial value directed to the Conservation and Load Management Funds. Not later than July 1, 2007, the Public Utilities Regulatory Authority shall initiate a contested case proceeding in accordance with the provisions of chapter 54, to implement the provisions of this section.

(b) In order to be eligible for ongoing Class III credits, the customer shall file an application that contains information necessary for the authority to determine that the resource qualifies for Class III status. Such application shall (1) certify that installation and metering requirements have been met where appropriate, (2) provide a detailed energy savings or energy output calculation for such time period as specified by the authority, and (3) include any other information that the authority deems appropriate.

(c) For conservation and load management projects that serve residential customers, seventy-five per cent of the financial value derived from the credits shall be directed to the Conservation and Load Management Funds.