

**STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE**

July 21, 2006

TO: INTERESTED PARTIES

FROM: STAFF OF THE DEPARTMENT OF PUBLIC SERVICE

SUBJECT: CASE 03-E-0188 - Proceeding on Motion of the
Commission Regarding a Retail Renewable Portfolio
Standard.
Report of Notice Provided to Commission.

By Order issued January 26, 2006 in this proceeding (Order Authorizing Additional Main Tier Solicitations and Directing Program Modifications), the Commission directed Staff and the New York State Research and Development Authority (NYSERDA) to proceed with development of a clearing price auction process using a declining clock format. The Order, however, also indicated that Staff should report back to the Commission if it appears that market conditions are not ripe for such a process to be used or if the model for this type of solicitation is not ready in time for the next solicitation. Accordingly, Staff has reported to the Commission on the status of development of the specified auction process and indicated that the model for this type of solicitation is not ready for use in the forthcoming solicitation.

Subsequent to the January 26, 2006 Order, Staff and NYSERDA, in conjunction with consultants hired by NYSERDA, undertook an assessment of the state of the market and began deliberating on how an appropriate auction model could best be developed. The market analysis conclusion

was that there were sufficient potential bidders to validate use of such a model, but work on development of the model has taken longer than expected, and it is not yet available for use. It is imperative, however, that a Main Tier solicitation be initiated soon so as to provide developers with adequate time to obtain financing and complete construction prior to the December 31, 2007 expiration date for projects to receive federal production tax credits. If developers believe they cannot have their projects operational by that time to receive the Federal tax credits, fewer may participate in the solicitation, and bid prices could be higher than we can accept, which will endanger the success of the Program.

In lieu of a clearing price auction process for the next solicitation, Staff and NYSERDA propose to use a request for proposals (RFP) approach, similar to that authorized for the prior solicitation. Development of a clearing price auction model will, however, continue and may be used as soon thereafter as practicable. In addition, a third solicitation approach, a standard offer, may also be used for small-scale solicitations if needed to ensure that all eligible technologies have an opportunity to participate in the Program. A formal request for Commission authorization of the alternative approaches will be submitted immediately following the September 2, 2006 expiration date of the statutory comment period under the State Administrative Procedures Act. This will allow for an orderly conclusion of the Main Tier solicitation process that currently envisions issuance of a Program Opportunity Notice in August and execution of contracts by mid-to-late

CASE 03-E-0188

September, 2006. Any contracts executed prior to the Commission's authorization will be conditioned accordingly.