American Wind Energy Association

April 8, 2005

Hon. Jaclyn A. Brilling
Secretary
New York Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

Re: Case 05-M-0090 – In the Matter of the System Benefits Charge III
Case 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard

Dear Secretary Brilling:

WindPower NY, a project of the American Wind Energy Association (AWEA)[1], submits this letter in response to the Commission's Notice Seeking Additional Comments, dated April 1, 2005. The notice seeks comments on the potential impact of the proposed budget amendment language, S.3669/A.6843, Part I Section 2, on the continuation and scope of the Systems Benefit Charges ("SBC") Program and on the implementation and administration of the Renewable Portfolio Standard ("RPS") program. The budget language states that:

> Commencing with the 2006-2007 state fiscal year, and each fiscal year thereafter, the governor shall, in his or her executive budget, as submitted pursuant to Article VII of the state constitution, provide appropriations for currently non-appropriated

[1] AWEA is a national trade association that has represented wind power plant developers, wind turbine manufacturers, utilities, consultants, insurers, financiers, researchers, and others involved in the wind industry since 1974.

monies received by the New York state energy research and development authority, under the direct oversight of the department of public service, related to assessments collected for the purpose of public policy energy programs. (S.3669/A.6843)

WindPower NY opposes the budget language because it appears to subject the dedicated revenue stream for the Renewable Portfolio Standard (RPS) to the annual appropriations process. The budget language subjecting this program to the annual appropriations process, which in itself may be of questionable validity, is most certainly detrimental to the effective implementation of the program. It is also detrimental to the State's ability to meet the State Energy Plan goals of increased reliance on non-polluting, renewable energy and energy efficiency.

The RPS is in its infancy and at a critical juncture for the renewable energy industry in New York. This is a time of volatile and rising energy costs and increasing concern over environmental impacts of fossil fuel and energy security. In addition, the wind energy industry is very hopeful that the federal Production Tax Credit (PTC) will be reauthorized. The existence of the PTC provides an important convergence with the RPS, allowing the State to achieve its goals at lower cost, which a delay in RPS implementation will jeopardize. Now is the perfect opportunity for New York to be a renewable energy leader and to reap the benefits of investment in the non-polluting technologies of the future.

The uncertainty of annual appropriations will hamper the Commission's ability to effectively implement the RPS program at least cost to New Yorkers. All companies must face uncertain market conditions and use sound business practices to guide investment decisions and evaluate competition, including those companies expecting to participate in the RPS. However, companies also expect good government to reduce uncertainty through sound public policy. Uncertainty increases risk, which causes postponed or cancelled investment and/or higher prices. This will most certainly be the case if the budget language in question becomes law.

Wind energy companies are currently investing millions of dollars in project development in New York State and most are doing so without the benefit of existing contracts for their eventual output. These investments are being made with the assumption that there will be a robust, although competitive, market and are making calculated business decisions based upon the Commission's Order in the RPS proceeding which identifies a predictable amount of money available for meeting the State's renewable energy goals. Subjecting this program to the annual appropriations process will not provide the certainty needed for investment and production of least-cost renewable energy, nor will it allow for the program flexibility needed to respond to changing market conditions. Billions of dollars of investment in New York are at risk, along with the multiple benefits this investment could provide, including:

- reduced air pollution and global greenhouse gas emissions,
- increased grid stability,
- reduced fuel imports,
- reduced dependence on natural gas, coal and oil
- reduced wholesale electricity prices

Given the adoption of the RPS, the wind energy industry is ready to meet the future energy needs of New York with pollution-free, domestic power as shown by the presence of over 2,000 MWs of wind energy on the interconnection request queue at the New York Independent System Operator.

The procurement method chosen via the collaborative process used in the RPS proceeding was not that originally envisioned by RPS advocates such as WindPower NY/AWEA, who argued for the standard approach of requiring individual energy service providers to contract for State-mandated percentages of renewable power. The use of a central procurement approach was identified by the Commission, based upon the discussions among active parties and research efforts, as the most appropriate method of using utility-collected funds to further the goals of the State Energy Plan and to reap the benefits of renewable energy as rapidly as possible and at least cost. The Commission's Order calls for a reconsideration of this procurement method in 2009, at which point it was envisioned that the State will have had an opportunity to lay the foundation for a successful renewable energy industry and a more competitive procurement process. The budget language undermines this effort by creating a level of uncertainty for the wind energy industry that may drive investment out of New York State. At the very least, this language will set back the goals of the State for some time while a reevaluation of how to meet the goals is undertaken. The wind energy industry is surprised that the legislature would prefer to enact this language unilaterally, without a stakeholder process like that used during the RPS proceeding, and jeopardize the rapid attainment of the many benefits the RPS will provide.

The Commission's proceeding and ultimately its Order on the RPS are considered by the industry to have established a dedicated revenue stream of utility-collected monies for a very specific public benefit purpose. We believe the Commission should remain committed to full and effective implementation of the RPS, regardless of the outcome of the current budget language debate. The Commission and NYSERDA should take any necessary steps, including limited revision of the funding mechanism and procurement process in the September 24, 2004 Order, to ensure investment in renewable energy technologies in New York State continues unhampered by funding uncertainty.

Respectfully Submitted,

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