



**FPL Energy**

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April 7, 2005

Ms. Jaclyn A. Brillling, Secretary  
New York State Public Service Commission  
3 Empire State Plaza  
Albany, New York 12223-1350

RE: Case 03-E-0188 – Proceeding on the Motion of the Commission Regarding a Retail Renewable Portfolio Standard (RPS); and Case 05-M-0090 – In the Matter of the System Benefits Charge (SBC) III

Dear Secretary Brillling:

FPL Energy, LLC (“FPLE”), a leading clean energy provider and the nation’s largest generator of wind energy, is replying to the New York State Public Service Commission’s Notices Seeking Additional Comments (issued April 1, 2005) in the above-referenced cases.<sup>1</sup> FPLE provides the following comments with respect to the potential impact of budget language, contained in Section 2 of Part I of Assembly Bill 6843/Senate Bill 3669, on the RPS and SBC programs.

The legislation requires the Governor’s Executive Budget, beginning with the 2006-2007 State Fiscal Year, and each fiscal year thereafter, to “provide appropriations for currently non-appropriated moneys 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 funding public policy energy programs.”

In describing the legislation, the Bill Memorandum for Assembly Bill 6843/Senate Bill 3669 provides that “beginning with State Fiscal Year 2006-2007, currently unappropriated funds collected for the purpose of funding public policy energy programs, including funds generated from the System Benefits Charge and the Renewable Portfolio Standard, will be placed on the budget.”

FPLE, like others in our industry, has historically looked upon New York State as a leader in encouraging the development of clean energy, particularly renewables, for the benefit of the people of New York. The System Benefits Charge and, now, the Renewable Portfolio Standard, are important, progressive programs that we hope will continue to ensure that New York maintains its leadership status. Regulatory and financial uncertainty is critical

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<sup>1</sup> FPL Energy, LLC is the competitive generating subsidiary of FPL Group, Inc. FPLE has two exempt wholesale generator subsidiaries in New York that are engaged in the wholesale generation and sale of electric power in the New York Independent System Operator, Inc. (“NYISO”) control area. FPLE’s subsidiaries participate in the NYISO markets and own approximately 108 MW of wholesale generation in New York State. In addition, FPLE subsidiaries own and operate over 11,500 MW of generation in 24 states. FPLE is also the leading wind power producer in the United States, with its subsidiaries having over 2,850 net megawatts currently in operation in 15 states, though it does not have any such facilities in the NYISO control area.

to developers of renewable generation facilities as they consider investment opportunities and decisions. As FPLE reviews the aforementioned legislative language, our concern is that an unintended consequence may be a chilling of the environment for renewable energy development. A change in NYSERDA's ability to administer funding, and the prospect that such funding could experience delays associated with the annual appropriations process, reflect the kind of uncertainty that will be detrimental to private investment.

FPLE believes that New York State's renewable energy programs continue to meet a high standard of accountability. We urge the Commission to ensure that this budget language does not jeopardize funding, or the overall investment climate, for renewable generation.

Sincerely,

David B. Applebaum  
Director, Regulatory Affairs

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