

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of the System Benefits Charge III Case 05-M-0090

Proceeding on Motion of the Commission Case 03 -E- 0188
Regarding a Retail Renewable Portfolio
Standard

COMMENTS OF PLUG POWER INC. IN RESPONSE TO REQUESTS FOR
COMMENTS DATED APRIL 1, 2005

The System Benefits Charge is an invaluable program promoting economic development, environmental protection, and energy independence in New York. Plug Power has stated, in comments submitted previously, that there are a number of ways in which the program could be improved. However, both in process and in substance, the program has been well-managed by NYSERDA and the PSC.

The Renewable Portfolio Standard will also be beneficial to the state and, though lacking the track record of the SBC, will doubtless be as well-managed by NYSERDA and by DPS Staff as the SBC program.

If these programs are subjected to the appropriation process, the programs may be hampered by uncertainty and delay. Multi-year planning will be more difficult to accomplish. The greatest impact is likely to fall on the RPS. Long-term performance-based awards, if they are dependent upon annual appropriations, may not be reliable enough for project developers to make capital investments. The RPS may have to be restructured, to assure that long-term commitments will be honored.

This restructuring may come at the expense of programs funded through one-time capital buy-downs. If long-term commitments are arranged so that they must be honored, and if appropriations are below the amounts planned, then the impact of the shortfall is likely to fall on the capital buy-down programs.

These complications are serious but are not, in themselves, a reason to alter the Commission's plan to move forward with SBC III and the RPS. The value of the programs far outweighs any added complexity or uncertainty created by the appropriation requirement. At this time, it is unclear whether the language included by the Legislature

will be included in the final budget bills signed by the Governor, or whether the language will withstand judicial scrutiny. In the event that the present language remains in effect when the budget process is resolved, the Commission should take measures to identify and revise any elements of the programs that will be affected.

Respectfully submitted,

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