Zilkha Renewable Energy

3 Columbia Circle,
Albany,
New York 12207.
(518) 426-1650

April 8,2005

NEW YORK STATE
PUBLIC SERVICE COMMISSION,
3 Empire State Plaza,
Albany,
New York 12223-1350.

Attention: Jaclyn A. Brilling
Secretary

Dear Secretary Brilling,

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

Additional comments on the potential impact of proposed budget amendment (S.3669/A.6843) on the implementation and administration of the Retail Renewable Portfolio Standard

In response to the Public Service Commission Notice seeking additional comment issued April 1 2005, Zilkha Renewable Energy has significant concerns about the prospect of subjecting Renewable Portfolio Standard (RPS) funds to annual appropriations. The budget language referred to in the Notice may be read to shift responsibility for providing annual funding for the Renewable Portfolio Standard (RPS) from the New York State Public Service Commission (PSC) and the New York State Energy Research Development Authority (NYSERDA) to the New York State Legislature. Zilkha Renewable Energy believes that budget language with this intended effect will have a chilling effect on wind power development in New York and deprive rural upstate communities of significant economic and environmental benefits.

1001 McKinney, Suite 1740
Houston, Texas 77002
www.zilkha.com
Phone: 713-571-6640
Fax 713-571-6659

We believe that subjecting RPS funding to the vagaries of annual legislative appropriations, if that is the intent of the language quoted above, would increase the risks and uncertainty faced by the wind energy industry in New York. This uncertainty would have unwelcome results for the industry and the State: many prospects in the early stage of development will be dropped; some projects will not be undertaken on account of the increased risk; projects that do proceed in New York will be more expensive in order to account for the greater risks; and investment presently earmarked for New York will be redirected to other states with a more favorable investment climate.

Making changes to the RPS program could cost New York up to $50 million per year in highly valuable development and engineering services (the vast majority of which are provided by highly qualified New York-based firms) and $400 million dollars a year in investment in renewable energy facilities in New York. This would be a lost opportunity for improving the fortunes of scores of upstate New York businesses and communities who could use it most. It would also represent a lost opportunity for New York to grow renewable energy technology and manufacturing businesses that could export to other states and other countries and jeopardize other benefits wind energy offers New Yorkers including:

- reduced air pollution and global warming,
- increased grid stability,
- reduced imports of oil and electricity,
  reduced consumption of natural gas and coal and
- reduced wholesale electricity prices by $300 million per annum

The initial procurement model prescribed by the PSC Order regarding a Retail Portfolio Standard on September 24 2004, whereby NYSERDA would "centrally procure" renewable energy credits appears to be a good first step in jumpstarting New York toward a competitive marketplace. The wind industry has responded favorably to this initiative as demonstrated, by an increase of approximately 2,000MW of wind energy requests in the NYISO Interconnection Request Queue since September 2004 -- compared to less than 250MW prior to January 2003.

However, Zilkha believes that, ultimately, the RPS will be most successful (in terms of reduced prices and enhanced long-term benefits) when a competitive marketplace with multiple buyers and sellers for renewable energy credits (RECs - the "currency" used in renewable energy markets) is created. This is the approach followed in other states and the transition that we have urged the PSC to make in or before 2009. We are concerned that legislation mandating a specific appropriation approach could limit the flexibility necessary in the present start up program and actually prevent the desired transition from this "jumpstart" model to a truly competitive market

In the past two years, our industry (and New York) has suffered from year-to-year uncertainty on account of Congress's stop/start approach to reauthorizing the popular Federal Wind Production Tax Credit QTC). Not knowing if the PTC will be extended has prevented the investment of hundreds of millions of dollars nationwide in the past two years because of the inability of developers, equipment suppliers and contractors to adequately plan their activities. New York would repeat and compound these federal mistakes if it were to subject wind project decision-making to the uncertainty and possible delay of the legislative budget process.

New York faces serious and growing electricity and environmental challenges. The PSC has taken a strong first step to meet these challenges in prescribing an RPS based on a State central procurement model. In order to secure and expand these benefits and promote investment in wind development in New York, the PSC and NYSERDA must retain funding certainty and flexibility in order to retain developer and investor confidence in the RPS and transition the present program to a truly competitive market. Any unclear budget language which could be construed to undercut this necessary certainty and flexibility will greatly diminish wind project investment and associated benefits in New York. The language should be clarified to remove any reference to annual appropriations of NYSERDA funds for renewable energy programs or make clear that this language does not apply to the RPS initiative.

Respectfully Submitted,

Patrick Doyle
Director of Development
Zilkha Renewable Energy