

EXPRESS TERMS OF PROPOSED RULE FOR 03-E-0188SP21

The Commission is considering whether to authorize a 2009 Renewable Portfolio Standard (RPS) program Main Tier procurement solicitation (2009 Solicitation) by the New York State Energy Research and Development Authority (NYSERDA) utilizing up to \$95 million of RPS program funds, and whether to adopt, modify, or reject, in whole or in part, specific design details and methodologies pertinent to such a 2009 Solicitation. In general, the 2009 Solicitation would follow the design details and methodologies already established by Commission orders in Case 03-E-0188. However, to leverage funds available through the American Recovery and Reinvestment Act of 2009 (ARRA), for the 2009 Solicitation the Commission is considering the Design Details and Methodologies Changes set forth below that differ from past solicitations. These changes pertain to the 2009 Solicitation and are not indicative of potential future procurement rules.

Design Details and Methodologies Changes:

1. Proposals will be requested using a sealed, "pay-as-bid" auction procedure. A price will be determined above which bids will not be considered, but such price will not be revealed to bidders.
2. Contracts will be awarded for a ten year term, except that fuel-based bid facilities may bid any whole number of contract years from three to ten. A fuel-based bid facility receiving an RPS contract for less than ten years will be permitted to bid in subsequent RPS solicitations; however the cumulative terms of RPS contracts for such fuel-based bid facility may not exceed ten years.
3. The selection of winning bids will primarily be based on a weighted combined score with price comprising 70% and projected incremental economic development benefits at 30%. No weight will be given to economic benefits that are not incremental due to the awarding of an RPS contract. Those projects taking advantage of the ARRA grant funds will be given priority consideration.

4. Only facilities that will be placed in service on or after the date of notice of the solicitation will be eligible to bid. Facilities that began operation prior to the date of notice of the solicitation will not be eligible to bid. Hydroelectric and Wind & All Other facilities will be required to be in service on or before January 1, 2011. Biomass & Biogas facilities will be required to be in service on or before January 1, 2012.

Note: Generation resource types are as defined in Case 03-E-0188, Renewable Portfolio Standard, Order On Customer-Sited Tier Implementation (issued June 28, 2006) Attachment pp. 1-5.

Background

To date, NYSERDA has been given Commission authority to procure RPS Main Tier resources through three (3) separate solicitations. These solicitations were based on a request for proposals (RFP) "pay-as-bid" format and resulted in awards to provide approximately 3.5 million MWh of RPS-eligible attributes annually through mostly 10 year contracts at a cost totaling approximately \$558.5 million.

Not all contracts for facilities eligible to receive them as a result of these solicitations were executed. In addition, one project has failed to deliver its contracted quantity of attributes for three (3) consecutive years and, as a result, the future attribute quantity has been reduced per terms of its contract. The above factors have resulted in a reduction of approximately 485,000 MWh of annual RPS-eligible attributes from what would have been awarded. Consequently, approximately \$95 million of RPS funding has been unencumbered and is available for a new solicitation.

In the three previous solicitations, all renewable resource generation types have been eligible to bid against each other in the RPS Main Tier. This procedure has resulted in selection of winning bids based on a weighted combined score with price comprising 70% and projected economic development benefits at 30%, and awards have been made to hydroelectric upgrades, biomass co-firing, landfill gas and wind projects.

The limited funding for the fourth solicitation is largely available due to the unencumberance of funds from the other solicitations. For the fourth solicitation, the Commission is considering changes in in-service dates in an attempt to leverage funds available through the American Recovery and Reinvestment Act of 2009 (ARRA) and to ensure value for ratepayer funds. In general, for the fourth solicitation, contracts will be awarded for a ten year term. In recognition that fuel-based bid facilities may have difficulties securing long-term fuel supply contracts, they will be permitted to bid for shorter-term RPS contracts subject to a subsequent limitation in future solicitations such that the subject generation facility will not be permitted to obtain RPS contracts in aggregate that exceed ten years. These changes pertain to the fourth solicitation and are not indicative of potential future procurement rules which will be under further consideration at a later time.