

EXPRESS TERMS

The New York State Public Service Commission (NYPSC or Commission) is considering modifying the settlement period used for the Environmental Disclosure Program. New York State's Environmental Disclosure Program was established to provide information to retail electricity customers about the attributes of the electricity being purchased by their Load Serving Entity. The information is presented to the customer in the form of a label that discloses information based on the last calculated annual period. The label contains a disclosure of the mix of fuel sources used to produce the electricity that was purchased by their supplier and a graph that displays how the emission levels of sulfur dioxide (SO₂), nitrogen oxide (NO_x) and carbon dioxide (CO₂) for that fuel mix compare to the average for New York State. Staff of the New York State Department of Public Service (the Administrator) administer the program and currently compile and distribute updated environmental disclosure information in a six-month cycle or settlement period. The Commission is considering modifying the settlement period so that the compilation and distribution of updated environmental disclosure information would occur in a twelve-month cycle or settlement period corresponding with the calendar year.

If this modification is adopted, the Administrator would not distribute labels for the period July 2006 to June 2007; the next label settlement period would be January to December 2007.

The Opinion and Order Adopting Environmental Disclosure Requirements and Establishing a Tracking Mechanism, issued in Case 94-E-0952 on December 15, 1998, recognized the importance of informed customer choice in the newly competitive market place and the need to give customers useful environmental information. Accordingly, the Commission required every electric utility, energy service company (ESCO) and, municipal and jurisdictional cooperative electric utility providing retail sales of electricity to provide consumers with useful environmental information regarding the fuel mix and emission characteristics of the generation sources relied upon by their electricity supplier. Consumers could in turn choose the electricity supplier that offered improved environmental quality and resource diversity, a key desired outcome of the Environmental Disclosure Program.

This disclosure information is presented to customers at least twice a year in the form of a standardized label. The Administrator collects information from a variety of parties in order to produce the information necessary for production of the labels. In an order issued May 12, 2004 (Order Approving Change to Settlement Period in the Environmental Disclosure Program), the Commission established that the compilation and distribution of updated environmental disclosure information would occur in a six-month cycle or settlement period corresponding with the first half and second half of each calendar year. The six-month settlement period was intended to be long enough to provide electricity suppliers with needed flexibility in matching renewable resource demand with the intermittent production characteristic of wind and hydroelectric facilities.

As the retail market in New York has grown and the Commission's Renewable Portfolio Standard initiative has stimulated development of new renewable generating sources, there has been a corresponding increase in the resources necessary to manage the Environmental Disclosure Program label calculation process. With nearly eight years of experience in operating the Environmental Disclosure Program, it is readily apparent that significant numbers

of customers have signed on with electricity suppliers that can offer renewable energy mixes.¹ These are referred to as "green power" programs. These numbers reflect consumer willingness to invest in more renewable energy, as anticipated in the original order.² However, during this time period the proliferation of market participants and growing enthusiasm for green products has put a strain on the label calculation process itself such that timely production of labels has become a concern.

The label calculation currently in process, for the 12 months ending December 2006, reflects data for 226 unit specific generation sources selling into the market and more than 160 suppliers purchasing from the market. The process of settling transactions for the current six-month update period accounts for approximately sixty percent of the total time necessary to produce the labels. If the update period is extended from six to twelve months, electricity suppliers will be afforded even more flexibility in locating and securing renewable sources of electricity for their green product offers and the administrative burden of reconciling transactions will be minimized for the Administrator, market participants and the agencies who provide the generation data, fuel mix and emissions information used in the label calculation process.

Parties who provide information to the Administrator include the New York Independent System Operator (NYISO), the New York State Department of Environmental Conservation, the U.S. Dept. of Energy, the distribution utilities and ESCOs, owners/operators of generating facilities, the Long Island Power Authority (LIPA), the New York Power Authority (NYPA), and "green-power" brokers. Key among these parties is the NYISO which provides the Administrator with generation sales and purchase information for each update period four months after the close of the period (final settlement data). Once the NYISO data is obtained, load modifier and miscellaneous independent power generation data from distribution utilities must be added to the NYISO data to determine total generation and purchases for the label period. Once total sales (generators) and purchases (load serving entities) has been determined, the Administrator issues email requests for Conversion Transactions to every generator and load serving entity that sold into or bought out of the NYISO spot market during the update period.

Conversion Transactions allow a load serving entity to contract voluntarily with generators to convert blended NYISO spot market transactions into specific attribute-differentiated bilateral transactions for environmental disclosure purposes. In doing so, the generator-specific energy along with the environmental attributes is allocated by the Administrator from the specific generator to the specific load serving entity for environmental disclosure purposes. Accordingly, the environmental disclosure label of the load serving entity reflects the transaction in its fuel mix and the residual mix in the spot market does not reflect the transaction. During this process, the Administrator reviews the details of the Conversion Transactions received from the various parties involved in each transaction including primarily the generator and the load serving entity, with the assistance of information provided by green brokers and generators' agents. There must be a match between the transactions filed by a generator (or its designated agent) and the transactions filed by a load serving entity. As the number of market participants and demand for renewable resources has grown, there has been a corresponding increase in the number of Conversion Transactions filed. Frequently, there are inconsistencies that must

¹ Based on informal survey of load serving entities offering green-power products, approximately 59,000 customers in New York State had signed on to participate in these renewable resource energy programs as of September, 2007.

² Case 94-E-0952, Competitive Opportunities Proceeding, Opinion and Order Adopting Environmental Disclosure Requirements and Establishing a Tracking Mechanism (Issued December 15, 1998) p. 7 "Consumer Interest."

be resolved. The resolution process can be time consuming and labor intensive, and can involve multiple parties. If the total generation claimed from a particular generator (or other party) exceeds the figure supplied by the NYISO, reductions must be made by the Administrator to reconcile to the NYISO number. The manual nature of the reporting system is cumbersome and allows the submission of data that is inconsistent. The Administrator is pursuing options to automate the Conversion Transaction process, but those options are not being pursued as part of this particular proposal.

The Administrator has identified two potential improvements that can be made to the Conversion Transaction process. (1) Modifying the settlement period so that the settlement of Conversion Transactions would occur in a twelve-month cycle or settlement period corresponding with the calendar year will reduce confusion by new entrants as to how to manage their generation portfolios for environmental disclosure purposes. The current six-month process results in data that is calculated on a rolling twelve-month basis. The rolling twelve-month data was intended to minimize the lag time between label updates and to reflect the seasonal limitations of certain intermittent generation sources. The rolling nature of the data appears to cause confusion for portfolio managers such that they frequently report out-of-period data creating a need to resolve inconsistencies. The need to resolve these inconsistencies acts as a drag on the process, delaying the issuance of label updates, which is the opposite effect from that originally intended. The concern about reflecting the seasonal limitations of certain intermittent generation sources appears to be no longer relevant given actual experience. It is expected that extension of the settlement period to a one-calendar-year period would reduce the administrative burden of all participating entities by reducing the number of times per year then need to participate in the settlements process. (2) Another clear benefit of modifying the settlement period is to put it on the same periodic basis as some key emissions data. Previously, the Energy Information Agency (EIA) has provided this information in a particular survey form (EIA 767). However, the Administrator has been informed that the data previously collected on this form is in the process of being migrated to two (2) other forms.³ The fuel mix and emission data for 2007 should be obtainable by late 2008 or early 2009 according to EIA. Once this migration is complete, the EIA will issue this report on a yearly calendar basis, which will coincide with the yearly period being proposed herein.

³ From the Energy Information Agency, an entity within the U.S. Department of Energy. The change of reporting forms is detailed at:
<http://www.eia.doe.gov/cneaf/electricity/2008forms/consolidate.html>