

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

FURTHER RULING ON PROCEDURE

(Issued October 21, 2003)

ELEANOR STEIN, Administrative Law Judge:

On September 15, the Joint Utility parties filed a request for a substantial revision in the schedule and procedure currently contemplated to bring the policy decisions inherent in this case to the Commission for determination.¹

The Joint Utilities requested that formation of an RPS policy await completion of the inquiry into potential reliability, operations and market-related interactions of an RPS with the electrical system. Enthusiastic about the plan to hold the initial meeting on reliability issues, the Joint Utilities suggested fuller consideration was required to adopt a policy on an RPS; in addition, the Joint Utilities suggested the need for additional cost studies and urged reconvening the working groups to analyze further cost considerations and generate efficient solutions. Finally, the Joint Utilities proposed that Working Group Four (Credit Trading) should regroup, as agreed by that group upon the conclusion of its meetings in the Spring. In sum, Joint Utilities urged postponement of the issuance of a recommended decision until the reliability and cost considerations have again been aired by the parties or, in the alternative, that the recommended decision

¹ The Joint Utility request was filed pursuant to the schedule requiring filing by that date any additional motions concerning schedule, process, further meetings or added procedural steps. Parties were instructed to include responses to the Joint Utility proposal in their September 26, 2003 Initial Comments on the merits of this proceeding. Case 03-E-0188, Ruling Granting, in Part, Motions to Amend the Comment Schedule (issued August 18, 2003).

explicitly acknowledge that further development of information may require alteration of its recommendations. In support of the Joint Utility request are Multiple Intervenors and Tannery Island (comprising Tannery Island Power Corporation, Hydro Power, Inc., and Energy Enterprises, Inc.). IPPNY, similarly, supports the Joint Utility request and urges reserving completion of the recommended decision until after further cost and reliability studies.

In addition, on October 8, 2003, Multiple Intervenors (MI) added a new procedural request, in response to a revision by Department of Public Service Staff (Staff) to its Cost Study Report, correcting for the omission of assumptions related to future ICAP prices, and including a new estimate of the net present value of RPS-related costs. MI argued that further examination of both reliability impacts and cost was essential before adoption of an RPS policy. MI fears a rush to judgment in this proceeding could compromise the system's reliability and cost.

RETEC strongly opposes the approach to cost and other policy issues proposed by the Joint Utilities, characterizing that proposal as tantamount to rendering the recommended decision an interim document subject to change by a series of reconvened working groups. In RETEC's view the working groups' process, cost and other studies, information requests and responses, and three rounds of briefing constitute an adequate record basis for a recommended decision on RPS policy and design. In addition, RETEC opposes the Joint Utility view that the proceeding should not move forward before the parties complete more work on reliability issues. In its view the appropriate bodies for substantive analysis and policy development on reliability are the NYISO, the PSC, and FERC.

Analysis of Reliability Impacts

On October 10, 2003, an on-the-record parties' conference was held to explore the possible reliability implications of the addition of substantial intermittent resources to New York's power market. The New York State

Reliability Council presented its concerns at length; the NYISO also presented the scope and schedule for its comprehensive study of this issue, the first phase report of which will be available by the end of this year. Following extensive questioning and discussion, including discussion of the opportunities available to parties to air their views prior to the second phase of the study, the Reliability Council and other parties appeared satisfied that this was the vehicle for the reliability investigation and that the planned study was comprehensive.² The first phase results of that study will be before the Commission before it makes its decision on an RPS policy. Because this study will be available to the parties during the exceptions period and to the Commission in time for its finding to be considered in adopting an RPS policy, the request to delay the schedule for further analysis of reliability is denied as unnecessary.

Examination of Cost Studies

As to the MI request for a technical conference or other procedure to further subject the filed and proposed cost studies to examination by the parties on the record, there are two issues: the first concerns the advisability of this procedure, the second concerns the timing. MI's request for an on-the-record examination of cost studies is granted. However, the value to the parties or the Commission's decision-making process of holding such an examination at present, while the costing process is still underway, is doubtful. While specific corrections and changes were communicated to the parties by Staff concerning ICAP and net present value, further iterations of the cost analysis will be incorporated in the Draft Generic Environmental Impact Statement to be presented to the Commission and issued for public comment.

An on-the-record technical conference on the cost studies will be held following the completion of the Draft Environmental Impact Statement. I expect to schedule this

² Case 03-E-0188, Conference Concerning Reliability, Tr. 100.

technical conference for January 2004, and I expect the Recommended Decision to have been issued by then. Parties will be examining cost consequences of the Recommended Decision, with options, and the rerun cost study embodied in the Draft GEIS. Cost issues can be briefed to the Commission in comments on the Draft GEIS and on exceptions, as appropriate. Accordingly, the Commission will have before it the full record on costs and benefits prior to its determination on an RPS policy.

Reconvening Working Group Four

Numerous parties, including Staff, MI, ISO, Joint Utilities, LIPA, and IPPNY support the continuation of Working Group Four to develop the details concerning renewable energy credit (REC) trading. The ISO offers to work with parties to develop a workplan and schedule for effective design. RETEC agrees that Working Group Four (Credit Trading) should reconvene to seek further consensus on renewable energy credit trading issues, to commence implementation of this innovative program. Undersigned Companies (Green Mountain Energy Company, American Wind Energy Association, Clean Energy Program, Union of Concerned Scientists, Evolution Markets, Sea West WindPower, Inc., Atlantic Renewable Energy Corporation, Conservation Services Group, US Energy Biogas Corporation, Global Wind Harvest, and Zilkha Renewable Energy) agree.

This Working Group should be reconvened and will have an important charge. However, several concerns require additional groundwork. The first is the development of the scope of effort for a reconvened Working Group, including developing creative options to address cross-border trading, reciprocity, and compatibility, verification and banking. Parties are encouraged to circulate proposals for the scope of this effort. The second is the composition of the group. Almost all active parties to this proceeding sent representatives to Working Group Four last Spring; many sent more than one. For a reconstituted working group to actually study options and produce suggested results will require a considerable paring down, to no more than fifteen members.

Members may represent numerous parties with like interests, and will be responsible to report back to and hear suggestions from those parties. Parties are also encouraged to begin discussing the composition of the Working Group.

Finally, since several intensive work efforts are going forward simultaneously in this proceeding, scheduling, resource, and effort conflicts abound. Parties are, finally, encouraged to consider and discuss timing and workplan.

(SIGNED)

ELEANOR STEIN