

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

May 2, 2003

TO: WILLIAM M. FLYNN, Chairman

FROM: ELEANOR STEIN, Administrative Law Judge

SUBJECT: CASE 03-E-0188 - Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard—Status Report.

INTRODUCTION

On February 19, 2003, the Commission instituted this proceeding, establishing the working target that, by the year 2013, 25% of the energy retailed in New York State would be generated from renewable resources.¹ The Instituting Order established that the proceeding should commence with a collaborative effort to develop and design options for a renewable portfolio standard (RPS) with the participation of the market players, consumer advocates, the environmental community, and other affected stakeholders. There are over 100 active parties participating in this proceeding. The collaborative process is well underway: it is on schedule, and parties are grouped by shared interests and working intensively and with expert assistance to identify and examine major design options.

In order to begin with a common vocabulary and to draw upon the experience of the 13 other states that have already instituted RPS programs, the proceeding was opened with a two-day Overview Forum, with presentations from experts provided by parties on key issues, including: other states' experiences; credit trading system choices; and characteristics of specific resources that can be considered for RPS eligibility.²

Parties were informed that this would be a consultative process--that is, a legislative-type process that is open and public, and that has as its goal advising the Administrative Law Judge and the Commission. While consensus is being encouraged, the parties are not expected to reach a formal overall settlement.³

¹ Case 03-E-0188, Retail Renewable Portfolio Standard, Order Instituting Proceeding (issued February 19, 2003) (Instituting Order).

² The April 7-8, 2003 Overview Forum Agenda is attached. The presentations are available on the RPS case web site, <http://www.dps.state.ny.us/03e018.htm>.

³ This public consultative process is not a formal settlement under the Commission's regulations, and therefore the rules requiring confidentiality do not apply. *See* 16 NYCRR 3.9.

ELEMENTS OF RPS DESIGN

To arrive at a proposed policy statement to offer several options for the design of an RPS, a number of steps are necessary, and these have been begun. These steps include: arriving at working objectives for New York's RPS; establishing targets and milestones for renewables levels; defining the baseline of present renewable purchases; delineation of eligible incremental resources; examining the overall structure of an RPS; investigation of credits trading systems; contract standards; and scoping methodologies to consider costs, benefits, and other factors. In addition, the final Commission determination on an RPS will be informed by the Generic Environmental Impact Statement process, public outreach and education, and consideration of the interplay between the RPS and related Commission and state programs and policies. A brief status report on these steps follows.

Establishing Objectives

The process of designing options for an RPS for New York began with drawing up a set of Working Objectives, following parties' comments and discussion. The purpose of defining objectives reflects that an RPS can be crafted any number of ways depending upon what the state is trying to achieve. By defining a working set of objectives, based upon parties' own comments and with parties' contributions, we create a yardstick to measure the policy choices. For example, Rhode Island defines its RPS as a greenhouse gas initiative. If that were our only objective in New York, it would be irrelevant where the non-fossil fuel fired generation was located. But because one of our environmental objectives is to improve New York's environment, the location of generation could be very important.

Based on the Instituting Order and parties' comments filed March 28, 2003, I drafted a set of Working Objectives, which has been modified several times in response to a discussion of the draft with all parties on April 8, and concerns raised by groups of parties. The Working Objectives currently state:

Working Target: To guarantee that by 2013 at least 25% of the electricity retailed in New York will come from renewable resources.

1. New York's environment: improve New York's environment, by reducing air emissions, including greenhouse gas emissions, and other adverse environmental impacts on New York State of electricity generation.
2. Generation diversity: diversify New York State's electricity generation mix and improve energy security and reliability.

3. Economic development: develop renewable resources and advance renewable resource technologies in, and attract renewable resource generators, manufacturers, and installers to New York State.

4. Equity and economic efficiency: develop an equitable and economically efficient RPS requirement that minimizes adverse impact on energy costs.

5. Competitive neutrality: develop an RPS compatible with competition in energy markets in New York State.

6. Administrative fairness and efficiency: develop an RPS that is administratively transparent, efficient, and verifiable.

Controversies about the Working Objectives remain, particularly as to the treatment of environmental and economic costs and benefits; and rate recovery.

Definition of the Baseline and Eligible Resources

To begin the design of the RPS, the first steps included defining a baseline; in other words, to achieve at least 25% renewables by 2013, it was first necessary to quantify the ultimate energy target, and then develop a trajectory, or glide path, to begin establishing milestones in the interim. In order to develop a glide path, State Energy Plan and other load forecasts were discussed.

In RPS designs in some other states, certain existing resources —such as large hydropower projects—are considered renewable for the purpose of establishing a baseline but not necessarily eligible for RPS premiums for incremental construction of plants. Because the issue of what resources should be eligible to be included in an RPS (target resources) is one of the most hotly controversial, there are ongoing efforts to achieve a consensus or compromise on how to calculate the baseline of existing resources. In this effort, parties are using the definitions and descriptions of resources developed by NYSERDA and by DPS Staff in the environmental disclosure program. The environmental disclosure project gives all the parties a common vocabulary of resources and their environmental effects.

A Working Group of parties has been meeting to discuss the eligibility of various resources including, among others, biomass, fuel cells, hydro, solar, solid waste, tidal, wind. In addition to ongoing discussions of the properties of each of these resources, and sub-types of each, sub-groups have developed more specific proposals. One sub-group has developed proposals for the inclusion or exclusion of imports, including examining specific criteria for imports from other states and from Canada. A second sub-group is developing approaches to creating tiers of resources, for the purpose of establishing targets for acquisition of a certain percentage of solar power, for example, within the total RPS portfolio. Other proposals for tiers included encouragement of developing new technologies, and maintenance of existing renewables at risk because of expiring contracts.

Overall Structure of an RPS

Another central choice in the design of an RPS concerns the overall structure: should the procurement of renewables be through some centralized mechanism, or by individual load serving entity. To tackle this complex issue, parties divided into two Working Groups. One is thoroughly examining various approaches to central procurement, with the task of reporting on the best practices to use that method. Groups of parties in that Working Group have proposed several different central procurement models, and have heard reports from NYSERDA, NYPA and LIPA about their legal authority to participate in these models.

Another Working Group, similarly, is testing various approaches to procurement by individual load serving entities, including LIPA, NYPA, municipal providers, cooperatives, energy service companies, and delivery companies. They are examining, among other things, incentive mechanisms, which entities will participate, and how to establish percentage or megawatt hour targets. This group is also developing several options for that procurement method. These two groups will meet to compare the two approaches.

Credit Trading and Contract Standards

These working groups will convene for the first time next week.

The Credits Trading Working Group will investigate various systems for trading renewable energy credits, including an evaluation of characteristics of trading systems in neighboring regions; possible impacts of various options on compliance cost and supply; and the relationship to New York's existing conversion transactions market and environmental disclosure program.

The Contracting Standards Working Group will explore when are whether standards for the duration of contracts, or other contract standards, are necessary.

THE BALANCE OF THE RPS INQUIRY

In addition to the RPS design work underway by the parties in working groups, are several other inquiries. These concern the evaluations of methodologies to determine the economic, environmental, and other costs and benefits associated with RPS targets and design choices. Some are detailed below.

The Generic Environmental Impact Statement Process

As required by law, a Positive Declaration notice has been issued and published in DEC's Environmental Notice Bulletin. Staff is preparing a Draft Generic Environmental Impact Statement, planned to be completed by July 23, 2003. This effort will include a Market Assessment and Portfolio Strategies ("MAPS") production simulation model. Staff will meet

with the parties to discuss the scope of the environmental review process. A minimum of 30 days is required for comments on the Draft Generic Environmental Impact Statement for Commission consideration following the comment period.

Public Outreach and Education

The Office of Consumer Education and Advocacy suggests public outreach and education to get information about the RPS to community-based organizations, including business groups. In August and September, DPS Staff would facilitate and seek public input at educational forums in all regions of the State. Public input will also be sought on the Commission's toll-free Opinion Line and consumer website. The results of the public opinion process will be added to the record of the proceeding.

Interaction with Other PSC Programs and Policies

In the course of the collaborative process, parties raised concerns about possible interaction between an RPS and existing PSC and other state programs and policies. An analysis will be needed concerning these interactions and interdependencies before a final RPS plan is adopted. These related policies include: barriers to interconnection in parts of the grid; environmental disclosure; aspects of stand-by rates; uses of the Systems Benefit Charge; and DSM measures.

CONCLUSION

The proceeding is on schedule and the parties are working intensively to examine these complex issues. Some partial consensus on program design issues is likely to be forged over the next few weeks. Differences will be narrowed; however, many issues will be left to be determined based on parties' comments and the record. Based on the preliminary work to date, a range of policy options are being developed for presentation in a Recommended Decision.

Attachments

Overview Forum Agenda

Active Party List