



September 25<sup>th</sup> 2003

Hon. Jaclyn Billing  
Secretary  
NYS Public Service Commission  
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**RE: 03E-0188 Renewable Portfolio Standard.**

Dear Secretary,

I would like to take this opportunity to outline the initial comments of Airtricity Inc. on the introduction of a renewable portfolio standard in New York.

Airtricity Inc. is the US subsidiary of Airtricity Holdings Ltd. a renewable energy firm headquartered in Dublin, Ireland with extensive operations in Ireland and the UK. Airtricity Holdings Ltd. currently has under operation or in construction 100 MW of onshore wind energy projects in the Republic of Ireland, Northern Ireland and Scotland. The company is also involved in the co-development, with GE Wind Energy, of the first phase of the Arklow Bank project, Irelands first offshore wind energy project. Construction of 25 MW first phase of this project has commenced and is due for completion later this year. The company also owns a successful green energy retail business operating in the Republic of Ireland and Northern Ireland markets with a combined customer base of approximately 27,000 small business users supplied with 100% green energy from wind and hydro resources.

Airtricity established a US base in April 2003 and the company is currently pursuing early stage development opportunities in a number of US states, including New York.

Given Airtricity's experience in operating in a number of different regulatory regimes in Europe, we have developed a fundamental understanding of what type of regulatory regime works and what does not. The true test of any regulatory structure is that it promotes sustained and long-term growth in the application of renewable energy technology without imposing unnecessary additional cost burdens on electricity customers.

### **Market Based Approach versus Central Buyer**

Airtricity strongly supports the Market Based Approach over a Central Buyer model.

The key components of Market Based Approach are as follows:

1. Obligation to source an escalating proportion of renewable energy is placed on all Supply Companies in proportion to total customer load. The obligation must set long-term targets and have a strong legal basis. A commitment to use best endeavours is not sufficient.
2. All Qualifying Renewable Energy Sources are issued with Renewable Energy Certificates as proof of the export onto the grid of each MWh of qualifying energy. The system operator can easily track this system.
3. Suppliers must satisfy their compliance with the Renewable Obligation by submitting an amount of Renewable Energy Certificates equal to their obligation, or face a penalty.

4. Various entities can fulfil the Central Registry function. This function both issues REC to qualifying generators and accepts the redemption of REC's from suppliers. In the UK this role is carried out by the regulatory agency Ofgem in Holland the system operator, Tennet, fulfils the role. A private company may also be contracted.
5. The REC's can be traded separately to the electricity. This has many advantages, including facilitating a secondary market in which Supply Companies can optimise their position.
6. Suppliers who fail to redeem sufficient REC's relative to their target must pay a penalty for each MWh of the shortfall. The level of this penalty sets a cap on the overall cost of the scheme to final customers by capping the total exposure of Supply Companies to extra costs.
7. All monies gathered through the payment of penalties are recycled to those companies who fulfilled their obligation. In this way non-compliant Supply Companies subsidise Compliant Supply Companies. This has two effects, firstly it acts as a strong incentive to comply and it also filters down into high prices for REC's if targets are not being met, this in turn attracts capital into developing new projects.

By comparison, it is likely the Central Buyer model would work as follows:

1. Central Agency determines incremental MW that needs to be installed each year to reach desired target.
2. Requests for Proposals (RfP's) are issued on a periodic basis, whereby developers are invited to compete for long term off take contracts
3. As the Central Buyers sole purpose is to organise RFP processes and it is likely not a 'for-profit' entity, no meaningful penalty can be imposed for failure to meet targets.
4. As early stage and speculative projects can be bid into the RFP process, many contracts awarded will fail to be constructed.

Table 1 compares the two systems under a number of headings.

**Table 1**

	<b>Market Based</b>	<b>Central Buyer</b>
<b>Cost to Customers</b>	Capped by Penalty Price. Market forces push generators to compete and Supply Companies to minimise cost pass through.	Bidding process can deliver cheap contracts but many are never built. Pressure on bid price often pushes developers into conflict with community interests (scenic areas, reduced spend on site aesthetics) As targets are continually missed and small developers forced out, risk of bidding cartel emerges.
<b>Support for Development</b>	True market of many purchasers and many sellers send clear market signals. Bilateral nature of contracts avoids stop start nature of RfP by monopoly buyer.	Stop-start nature often fatal for smaller developers can encourage predatory behaviour by developers with stronger cash flow.
<b>Efficiency</b>	Ensures only experienced and well-managed developers are successful. Avoids influx of speculators attracted to RfP processes. Little regulatory	On the surface efficient but the large failure rate in projects awarded contracts requires the repeated running of RfP processes with

	oversight required.	associated high legal costs. Increased risk of legal challenge.
<b>Compatibility with Energy Market</b>	Projects must get best price in the market for REC AND electricity. Therefore projects will seek to locate were possible in areas where LMP market identifies need.	No Locational signals, RfP is simply on price, regardless of value of generation in the region proposed.

While the points above give only a general overview to the function of a Market Based RPS, it can be clearly shown that it passes the fundamental test of a good policy.

There are many details that require specific attention in either broad approach; however, at this stage the key decision is whether to take a market approach or a centralised one.

I hope I have managed to clearly establish the case for a market based approach and look forward to the opportunity to further comment on the development of policy in New York.

Yours Sincerely,

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Declan P. Flanagan  
CEO  
Airtricity Inc.