September 25, 2003

Honorable Jaclyn A. Brilling

Acting Secretary

State of New York Public Service Commission

Three Empire State Plaza, 14th Floor

Albany, NY 12223-1350

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

I. Summary of Comments

Consolidated Edison Solutions, Inc. ("CES") is a registered energy services company ("ESCO") providing electric and gas commodity services to residential and commercial customers in New York State. As indicated in the comments filed on March 28, 2003, CES applauds the Commission's efforts to encourage the development of renewable energy products. However, CES believes that the best way to achieve improvements in New York State's use of renewable energy is through continued encouragement of voluntary procurement by retail customers and the establishment of a certificates-based accounting and verification system to enable renewable products to be traded across state boundaries. Establishing a mandatory Renewable Portfolio Standard ("RPS") for electric suppliers in New York is unnecessary to achieve significant improvements in the use of renewable energy and is likely undermine the existing efforts of CES and other marketers to develop renewable products on a voluntary basis.

In the event that the Commission decides to adopt a mandatory RPS requirement, CES recommends that the renewable resources be procured on a State-wide basis by the New York Independent System Operator with the costs passed along to all market participants in a non-bypassable charge. Such an approach would allow the Commission to review the costs of the RPS implementation on a periodic basis and adjust the ramp-in of the requirement to avoid adverse rate impacts.

II. Comments on the Revised Working Objectives

As indicated above, CES' preference is for renewable energy to be procured through voluntary markets without the imposition of mandatory standards. However, assuming that mandatory standards are imposed, there are several issues that must be addressed to ensure that the voluntary markets are not disrupted.

First, it is critical that any mandatory standards be carefully crafted so as to support, and not derail, the nascent green power market. Assuming the introduction of a mandatory renewable portfolio standard, voluntary green markets should continue to play a critical role in the development of renewable power sources.

It is also imperative that any mandatory RPS not distract from New York State's effort, through NYSERDA programs and otherwise, to foster the green power markets. If properly structured, the RPS can serve to bring in additional development resources that can then be leveraged by green marketers on a separate but parallel track to realize the full potential of the renewable power market. CES recommends that NYSERDA be requested to continue, and expand on, its efforts to date to grow the voluntary green power markets, whether or not a mandatory RPS is adopted.

Finally, an accounting and verification system is required that clearly distinguishes between renewables obtained for the purpose of compliance and those that serve the voluntary markets. Consumers must have full confidence that the premiums they are paying for environmentally superior products are not being used to fulfill mandates that are required by statutory compliance.

III. The RETEC Straw Proposal

CES has concerns with three aspects of the RETEC Straw Proposal pertaining to eligibility, treatment of resources located outside New York, and the procurement of resources based on "total" price.

RETEC's proposal for eligibility would exclude all resources built before 2000. This limitation would increase the cost of compliance, exclude older units that can materially improve the New York fuel mix, and could cause older units that have historically sold into the New York energy market to sell their clean power into other regions.

RETEC's proposal for units located outside of New York would apparently exclude resources from regions that did not have "an RPS system that is 'similar' to New York's". While it is appropriate to ensure that there is no double counting of environmental benefits and while there may be justification to relax the current physical deliverability requirement if an external region has a "similar" program, the RETEC proposal would apparently disqualify external resources that were actually delivering energy into New York and thereby improving New York's air quality if their host region did not emulate New York's model.

RETEC's proposal for the State Agency to "solicit bids in the form of a 'total' price" would require a prediction of the relative value of losses and congestion in order to evaluate the relative economics of different proposals:for example, is an $80/MWH unit on Long Island better than a $75/MWH unit in the Hudson Valley or a $70/MWH unit in Mohawk Valley? The analysis is even more complicated if the competing options have different operating characteristics (e.g., solar produces during daylight hours, whereas wind will have more off-peak production). A better approach is to have the solicitation ask for bids in the form of a premium above market (e.g., a renewable premium) so that a potential developer may evaluate and secure financing for the value of the underlying electricity based on the existing bilateral energy and capacity markets.

IV. Eligibility

CES recommends adoption of a broad eligibility criteria to allow for a market based solution to meet the RPS requirement in a cost effective manner. In addition to traditional resources such as wind, hydro-electric and photo-voltaic resources, CES believes that fuel cells, biomass and waste to energy projects should also be considered as RPS compliant resources.

CES is concerned that adoption of tiers and/or locational requirements will fragment the RPS market and introduce artificial incentives that will increase the cost of RPS compliance. As a result, CES recommends that all renewable resources be equally weighted for purposes of RPS compliance.

V. Overall RPS Structure

CES recommends that RPS requirements be structured as a State-wide requirement that is procured by the NYISO. Such a "Central Procurement" model would be preferable to individual compliance because it can create a forward market for renewable power that is more likely to attract future investments in renewable generating projects.

Given the amount of load participating in Retail Access (approximately 25% State-wide) and the associated customer switching, individual ESCOs would be hard pressed to project their future renewable requirements and would be likely to rely on shorter-term purchases to match the duration of their retail commitments. Individual compliance would also be problematic for smaller ESCOs that would have to procure small blocks of renewable power.

CES believes that the NYISO is best situated to administer a Central Procurement model as it has existing business relationships (including credit mechanisms and contract language) with the generating owners and marketers that would presumably be participating in the RPS market.

VI. Credit Trading

Cross border sales of physical units as well as environmental certificates should be allowed and can be fostered by the establishment of a certificates-based accounting and verification system. For example, the system employed in New England allows for the sale of renewable attributes between states without the physical delivery of the electricity. In contrast, current rules require that electricity from external renewable resources be physically delivered into New York in order to be counted toward a New York ESCO's fuel mix. This discriminates against external intermittent resources that, due to the unpredictable nature of their electric output, do not lend themselves to the physical scheduling necessary for delivery into New York. Establishing a certificates-based system in New York will broaden the amount of renewable supplies that can be sold into the New York market.

VII. Contracting Standards

As noted in our comments regarding the RETEC Straw Proposal (see Section III, above), CES believes that renewable procurement should be structured as the procurement of the environmental premium above any market revenues that the generator would expect to receive from the underlying electricity markets. That allows the RPS solicitation to ask for bids in the form of a premium above market (e.g. a renewable premium) and a potential developer can evaluate and even secure financing for the value of the underlying electricity based on the existing bilateral energy and capacity markets.

VIII. Cost and Benefit Considerations

CES is very concerned about the potential rate impacts of a mandatory RPS requirement and the economic harm that such costs could have on the New York State economy. If the Commission implements an RPS requirement, CES recommends that it conduct a periodic review of the actual compliance costs (preferably on an annual basis), including both the direct costs of RPS procurement as well as a rigorous quantification of the indirect or offsetting savings that have been identified in the cost-benefit studies. The Commission should use this information to fine tune the ramp-in schedule: the Commission could accelerate the phase-in if compliance costs are less than expected or reduce subsequent targets if costs and rate impacts are higher than projected.

Respectfully Submitted,