

(“NYSEG”). With careful planning the goal of increasing the amount of electrical generation produced by renewable resources can be met. However, it should be noted that energy costs have increased dramatically within New York State. In the future, some sources of renewable energy may reduce rates but for the foreseeable future renewable sources will probably cost somewhat more than conventional sources. Accordingly, the implementation of the RPS should proceed in such a manner as to balance the above noted objectives with the costs to businesses and residents within the State. Westchester believes, with careful planning, the objectives of the RPS and the protection of ratepayers can be achieved.

Westchester supports the use of cleaner renewable resources. It is believed that the demands for electricity in New York State will continue to increase in the future. The issue is therefore not limited to whether renewable resources will replace existing generation resources but whether they will be able to provide sufficient generation to meet the demand for additional electricity within New York, thereby forestalling the construction of fossil fuel facilities.

Westchester believes that the costs of encouraging the development and use of additional renewable energy resources should be fairly distributed among all users based on their respective energy (kWh) usage. It is understood that currently some areas of the state already benefit from existing renewable resources, primarily hydropower. Many of those existing resources are being provided at very favorable rates, in many cases significantly below market prices. It is also understood that the cost to provide new renewable generation facilities, in order to reach the statewide goal of an additional 8% of renewable generation, will most likely be much more costly than the presently available renewable resources. It is clearly expected that these additional facilities will produce power at above market prices. In fact, if it were not anticipated

that renewable resources could only be provided at above market prices this proceeding would not have been necessary.

II. Timing of Implementation & Responsibility to Meet Targets

There does not appear to be any disagreement among the parties that an incremental increase of 8% in renewable resources should be reached over a 10 year period. Nor does there appear to be any disagreement that the obligation to increase the use of renewable energy resources by 8% be equitably distributed among all customers based on their respective loads. As Westchester understands this concept, the targets would be based on the percentage of retail sales in each service territory and each LSE's obligation would be tied to its proportionate share of the statewide incremental target based on kWh usage. Accordingly, if service territory A provided 15% of the statewide electric usage and the statewide incremental goal of 8% was to be reached in year 10, then that service territory would be responsible for 15% of 8% or 1.2% of the incremental renewable energy over the base year.

All utilities and participating LSEs should only be responsible for their share of the actual incremental increase in the required RPS based on their respective share of retail sales in New York State. This would fairly distribute the obligation and concomitant costs among the ultimate consumers.

Timing of reaching an 8% increase in RPS is critical. It is believed that there may be a lag time at the beginning of the ramp-up period to reach the 8% incremental increase in renewable energy sources. However, Westchester does not believe that at this stage of the proceeding a definite schedule can be established. Some parties have advocated an equalized phase-in for each year of the ten year period to reach the eventual goal of 8%. Others have proposed a slow start with a gradual increase until the full 8% goal is realized. However, it must

be recognized that as overall electric consumption increases in NYS during the next 10 years the absolute amount of renewable resources needed to reach the 8% incremental growth will also increase. Depending on available resources and the marketplace, it would appear that the interim targets might have to be smaller in the earlier years and grow progressively each year thereafter. In recognition of the uncertainty involved in predicting load growth and the development of new renewable resources and technologies and the uncertainty of demand factors, some form of adjustable schedule should be considered.

III. Waste to Energy Facilities as a Qualifying Renewable Resource

Most parties appear to have agreed upon the core renewable resources: hydropower, wind, solar, and therefore Westchester intends to only express its opinion on a limited subject, the treatment of “waste to energy” (“WTE”) facilities as a renewable energy source.

Westchester believes that a successful recycling program can co-exist with a WTE facility.

Accordingly, Westchester supports the inclusion of WTE as a renewable energy source. No one can deny that there is a constantly renewable source of municipal solid waste (“MSW”). MSW is both sustainable and indigenous, two basic criteria for establishing what is a renewable energy source. It is understood that some parties may need additional assurances that the inclusion of MSW as a renewable source will not undermine recycling programs.

Municipal WTE facilities have been operating in the United States for at least 25 years. WTE are a significant option for municipal solid waste disposal throughout New York State. Recently constructed WTE facilities have good on-line reliability and successfully meet NYS and federal regulatory requirements for environmental performance. WTE facilities have successfully met or exceeded increasingly stringent emissions requirements mandated by the U.S. Environmental Protection Agency and the New York State Department of Environmental

Conservation as well as NYS Department of Health Requirements. However, as with other renewable energy sources, developers do not necessarily find it lucrative to build new WTE and some existing facilities may also face economic constraints to expansion or upgrades.

Accordingly, these types of facilities deserve support similar to other renewable energy sources. In addition, if new technologies related to WTE facilities are to be encouraged they need the same opportunities afforded other renewable generation facilities.

Instead of expending tremendous sums of money transporting waste outside of New York with its concomitant economic and environmental costs (such as the burning of fuel to transport the material) the waste could be tapped as a resource to produce electricity. In addition, WTE facilities either operate all the time or on system dispatcher direction, unlike some other sources (wind and solar) that only provide intermittent power and therefore require additional reserve capacity with its concomitant cost.

Westchester is a perfect example of how an integrated solid waste system works. It encompasses both a recycling operation, which has maintained a consistent recycling rate of at least 40% of total MSW, while also ensuring that material that cannot be recycled is turned into energy for use throughout the Con Edison system. Westchester is continually analyzing the material in the waste stream to determine what other materials can be recycled. Over the last five years Westchester pursued a very aggressive campaign to remove organics (leaves and grass) from the waste stream and direct them to merchant composting sites. In addition, Westchester has removed cathode ray tubes (“CRTs”) from the waste stream and redirected them to commercial recycling facilities specializing in recovering computer components and recycling the metals and plastics contained in them.

Westchester is proud of the manner in which its WTE facility operates. The WTE facility completed in 2000 a retrofit project in order to meet new air emissions standards applicable to the facility as adopted by the U.S. Environmental Protection Agency pursuant to the provisions of the Clean Air Act Amendments of 1990. The Project included the installation of three spray dryer absorbers and fabric filters and related equipment. The project cost approximately \$64,256,000, obviously not a small investment.

Of course, Westchester believes that whether MSW is used to produce new products or to produce energy it should be done in an environmentally acceptable manner. In addition, Westchester is willing to look at the source and type of MSW and is willing to consider the utilization of a sliding scale to determine what proportion of electricity generated by WTE facilities should be considered a renewable resource. This determination could be based on the acceptability of the waste stream or on the ratio of acceptable components of the waste compared to the total waste burned. For example, if 20% of the source material that was burned were deemed not to be an acceptable renewable source then only 80% of the electricity generated would be treated as renewable. To encourage upgrades of WTE systems it is proposed that existing facilities that make improvements or have made improvements in the last few years resulting in environmental benefits, be treated as a (new) incremental source of renewable energy. Other parties recognize that the use of WTE facilities provides some positive environmental results, including avoided methane emissions from landfills and in some areas of the state the burning of fuel when transporting MSW long distances to land fills.

WTE treatment as renewable in Federal Law and state policy over the past several years is well documented and that material has already been provided to the parties and need not be repeated here.

IV. Centralized Procurement System Utilizing “Contract for Differences”

The two basic procurement methods that have been discussed are a) the procurement by each load serving entity (“LSE”) through bi-lateral contracts or the purchase by a central procurement agency. Westchester advocates the use of a centralized procurement system. At this time, it is believed there is insufficient information to determine which agency should fulfill this role, either an agency of New York State or the NYISO. However, one of the determinative factors should be which organization will be able to provide the service at the least cost with the most seamless integration into the regular energy market. The central procurement system should leave open the possibility for LSEs to enter into and be given credit for bi-lateral contracts as long as they provide the central purchasing agency sufficient time to adjust its purchases.

The New York Renewable Portfolio Standard Cost Study Report (“PSC Report”) of July 28, 2003 advocates a “contract-for-differences” that pays a variable premium to the generator based on the difference between a negotiated contract price and the actual value of the energy at the time of generation. It is believed that most parties, including Westchester, support the use of a contract for differences. This approach appears to have merit, as it would account for adjustments in market price. One example of this method indicated that if the successful bidder agreed to provide a renewable electric supply for a year for \$80/MWh and the LBMP in the area where the supply was delivered was \$50/MWh, the successful proposer/bidder would receive \$30/MWh. This allows for adjustments in the price such that when market prices increase the additional contract payment (X) decreases and if market prices decrease the additional payment (X) increases.

However, this does not account for the fact that there may be other subsidies that are provided by other agencies, levels of government or entities. It is understood that in a perfect market those other subsidies would be calculated by the supplier and reflected in its bid. However, it is quite possible that some of those subsidies may become available after the bid is accepted. Westchester believes that some mechanism should be considered to take additional subsidies into account when calculating the “difference” to be paid to the bidder. The goal is to encourage the addition of new renewable facilities, including the provision, as necessary, of some form of price support (subsidy) to make these facilities economically practical, not to grant unintended windfalls.

It is understood that most renewable generation resources will be “price-takers” and will therefore be dependent on some sort of “subsidy” with some parties advocating the trading of “renewable energy credits” or some other extra-market revenue stream (“premium”) to cover above-market costs. The difficult question is to determine how long these premiums should be paid. It is obvious that certain renewable resources will not be able to be competitive without some form of subsidy for a substantial period of time. However, other facilities may be able to eventually compete without a subsidy.

Westchester believes that for the program to be successful the contracts will have to be for extended periods of time rather than for a one or two year period in order to attract financing. The length of contracts must be of long enough duration to encourage investment and to enable the operators to borrow from traditional lending sources. Financial institutions usually look for a consistent and long-term revenue stream to support their loans. Long-term contracts provide other benefits, such as some level of certainty. It is recognized that in the past long-term

contracts have produced problems for the industry but a properly structured “contract for differences” should be able to compensate for some of those potential problems.

Westchester recommends that if a renewable generator fails to deliver the required electricity or otherwise defaults that all LSEs share proportionately, based on energy usage/load factors, any costs incurred due to the failure of a particular generator/provider. In this manner, all LSEs and their respective customers share the risk of non-performance.

V. Energy Certificates or Credits

Westchester does not have any direct comments at this time on the use of energy certificates or credits. However, the goal is not to just create another “profit center” for energy producers. The use of certificates or credits as presented by some parties indicates that these credits may be traded independent of the sale and delivery of the renewable power. Therefore, the actual electricity may not be delivered into New York State. Energy from renewable resources should be either produced or delivered into New York State. The delivery of this power into the state will reduce the use of non-renewable resources, including fossil fuels, which should produce an environmental benefit, which Westchester does not necessarily believe will be obtained if the energy is delivered outside of New York. In addition, if New York residents and businesses are to subsidize the development and use of renewable resources, even if the cost is relatively negligible as represented by some parties, then New York residents and businesses should derive the benefit. Westchester is aware of the fact that we are part of a larger ecosystem and activities that take place in other areas do impact New York. However, until assurances can be given that there will be measurable benefits to New York, there should be a requirement for delivery into New York State.

A number of parties have represented that the delivery of additional power from renewable resources, though requiring some form of price support or subsidy, will result in savings that will offset at least a portion of those costs for consumers. The theory is that the increase in electricity produced by renewable generators and delivered in New York State will exert a downward pressure on the LBMPs by replacing the last increment of power purchased from the market. The question is how would this downward pressure take effect if the energy were not produced or delivered into New York.

VI. Emerging Technologies and the Tier System

Westchester does not disagree with the principal of encouraging the development of certain emerging technologies. However, Westchester disagrees with the tier system and with the use of additional incentives paid through the RPS to accomplish this purpose as other types of subsidies might be more appropriate to support development of these emerging technologies. The issue of development of some of these technologies may be better addressed at the national level or through other methodologies.

There has not been a strong enough case put forward in this proceeding to justify favoring one renewable over another. If New York wishes to contribute to development of several different renewable energy sources, a separate program should be developed to support such development instead of including it in this program. Ten years is not a long time to build a new facility, especially when utilizing an as yet unproven technology.

The technology to produce electricity from sunshine is still thermally inefficient and very expensive. It is not expected that this renewable resource will be able to contribute significantly to the State's overall supply of electricity in the near future. Similarly, some technologies, such as fuel cells, are not fully developed and it is expected that it will be years before they may be

practicable or economically viable. The RPS may not be the proper way to subsidize or encourage their development. Even the use of a tiered methodology will not adequately subsidize the development of these technologies. Accordingly, it is believed that other methods should be used to assist in the development of these technologies.

VII. Reliability

Westchester is also concerned with issues of system reliability. It is understood that all parties will be provided an opportunity in their reply comments to address this important issue.

VIII. Conclusion

The goal is to create a “lightly” subsidized renewable market that will encourage and enable various renewable energy sources to become operational and eventually fully competitive. In the short run, certain renewables will obviously predominate and therefore the expectations of a fully diversified electric generation mix may not be readily attainable in the near term.

Dated: September 26, 2003
White Plains, New York

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding via e-mail through the list-serve at rps@dps.state.ny.us.

Dated: September 26, 2003
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