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September 25, 2003

**VIA FEDERAL EXPRESS**

Hon. Jaclyn A. Brillling  
Acting Secretary  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223

**Re: Case 03-E-0188 Proceeding on Motion of the Commission  
Regarding a Retail Renewable Portfolio Standard**

Dear Acting Secretary Brillling:

Enclosed for filing is an original and six (6) copies of the Comments of KeySpan Corporation ("KeySpan"). KeySpan also served its Comments upon the Presiding Officer and the Active Parties electronically today, through the list server for the case.

Please date stamp the extra copy of this letter and return it to me in the enclosed, self addressed envelope.

If you have any questions, please do not hesitate to call.

Sincerely,

Cynthia R. Clark  
Senior Counsel

CRC/dmg

Enclosures

cc: Hon. Eleanor Stein (electronically, via email list server for the proceeding)  
Active Parties (electronically, via email list server for the proceeding)

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

**Proceeding on Motion of the Commission  
Regarding a Retail Renewable Portfolio  
Standard**

**Case 03-E-0188**

**COMMENTS OF KEYSpan CORPORATION**

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**INTRODUCTION**

Pursuant to the June 19, 2003 Order of Administrative Law Judge Eleanor Stein, KeySpan Corporation (“KeySpan” or “the Company”) respectfully submits these comments. On February 19, 2003, the New York Public Service Commission (“Commission”) issued its Order Instituting Proceeding in this case (“Order”), articulating the goal of “develop[ing] and implement[ing] a renewable portfolio standard for electric energy retailed in New York State.”<sup>1</sup> After observing that “[o]nly about 17% of the electricity currently used in New York State is provided by renewable resources,” the Commission opined that “[t]his figure reflects a disturbing decline from 25% of four decades ago” and concluded that “[a] return to the 25% figure would be in the public interest.”<sup>2</sup>

The Commission did not provide a precise definition of “renewable.” Instead, it identified concerns -- including climatic effects of fossil-fired generation, security implications of importing fuel for electricity, system reliability, and vulnerability to price fluctuations and supply disruptions<sup>3</sup> -- which the Commission noted could be addressed at least in part by an increase in electricity production from alternative resources. The Commission asked interested

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<sup>1</sup> Order at 2.

<sup>2</sup> *Id.*

parties to discuss what types of resources should be considered “renewable” for purposes of a New York Renewable Portfolio Standard (“RPS”).<sup>4</sup>

In March 2003, interested Parties, including KeySpan, submitted Initial Comments on the threshold issues raised in the Order.<sup>5</sup> Throughout the spring of 2003, the Parties met both in plenary sessions and in working groups to attempt to find consensus on the issues raised by the proceeding. Topics of the working groups included resource eligibility, individual compliance, central procurement, regional trading and contract provisions.

While each of these areas must be considered when determining the ultimate structure of a New York RPS, KeySpan will comply with Judge Stein’s (“ALJ”) admonition that Parties not repeat arguments previously made, and that they comment exclusively on the issues affecting their interests.<sup>6</sup>

Several entities within KeySpan, specifically, The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York (“KEDNY”), KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island (“KEDLI”) (collectively “the KeySpan Energy Delivery Companies”), KeySpan Technologies, Inc. (“KTI”), KeySpan Services, Inc. (“KSI”) and KeySpan-Ravenswood, LLC (“Ravenswood”), conduct businesses which are aligned with and which support the Commission’s goals in this proceeding. KeySpan, through Ravenswood and various other subsidiaries, is engaged in the business of electric generation. Ravenswood owns electric generation facilities located in Queens, New York and sells energy, capacity and

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<sup>3</sup> *Id.* at 1-2.

<sup>4</sup> *Id.* at 3.

<sup>5</sup> References to the March 2003 comments of interested Parties will be hereafter cited as “[Party] I.C. at \_\_\_\_.”

<sup>6</sup> *Ruling Establishing Comment Procedures* (June 19, 2003) (“June 19 Ruling”) at 2.

ancillary services at wholesale under market-based rates approved by the Federal Energy Regulatory Commission (“FERC”).<sup>7</sup> KTI is working to develop new energy products and services, including certain environmentally beneficial technologies discussed below. KEDNY’s research and development area has performed fuel cell demonstrations and pursued other environmentally beneficial projects. KSI, through its affiliates, currently provides installation, system design and maintenance services for natural gas fuel cells. KSI subsidiaries also design and build green buildings and develop combined heat and power (“CHP”) projects. KEDNY and KEDLI anticipate potential load growth for natural gas as a result of development of the renewable market.

KeySpan, together with its above-described subsidiaries, supports the efforts of the Commission to encourage development of renewable electric generation in the State, and has participated in this proceeding and submits these comments with that goal in mind.

## **I. SUMMARY OF COMMENTS**

KeySpan will briefly summarize its March 2003 and current comments here. KeySpan believes the Commission should design and implement a RPS that achieves the working objectives established in the proceeding and prioritize them as discussed *infra*. Of particular importance are improving the environment in New York State by reducing air pollution by increasing generation diversity and doing so in an economically efficient and reliable manner. Other issues of importance include a broad definition of resource eligibility for inclusion in a New York RPS so that technologies which offer environmental benefits and do so in a reliable manner – such as fuel cells – are included in the definition because of their positive attributes.

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<sup>7</sup> Ravenswood is separately a party in this proceeding but for the purposes of these Comments, Ravenswood is filing comments jointly with other KeySpan subsidiaries as KeySpan Corporation.

KeySpan believes a broad definition of “renewable” is consistent with the Commission’s concerns set forth in the Order and should therefore be adopted in this proceeding.

KeySpan supports the efforts of the Clean Technology Coalition (“CTC”), which has advanced a concept that would not exclude any technology from a New York RPS unless that technology did not help to meet the objectives of the RPS. KeySpan, for example, believes high efficiency, reliable distributed generation (“DG”), which would include, but not be limited to CHP installations, should fall under the mantle of “renewable.” Additionally, the Commission should include fuel cells in its eligible resources, regardless of the current fuel supply. KeySpan also believes landfill gas and fuels derived from sustainably managed biomass should constitute renewables and appropriate credit be given for use of such fuels, without regard to where they are consumed.

System reliability, however, is paramount; and the Commission must consider potential system impacts when designing any RPS. The introduction of a large amount of potentially unreliable renewable resources could jeopardize system performance and, accordingly, the details of the RPS needs to be carefully developed with input and guidance from the New York State Reliability Council (“NYSRC”) and the New York Independent System Operator (“NYISO”), which is itself in the process of issuing an RFP on to perform a study of the reliability implications of integrating intermittent wind generation resources into the New York Control Area.

The NYSRC has offered its expertise for use by the Commission and the parties in this proceeding.<sup>8</sup> Specifically, the NYSRC questions the impact of renewable resources on:

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<sup>8</sup> In letters dated June 9, 2003, August 20, 2003, and September 8, 2003 in this proceeding, the NYSRC has advocated for serious consideration of the reliability concerns related to implementation of an RPS.

- 1) capacity reserve requirements, including both installed capacity and operating reserves;
- 2) transmission system design, based on the variable operation of renewable resources; and
- 3) transmission system operations, due to the seasonal and daily variations inherent in the use of renewable resources.

To the extent eligible renewable resources are sited within New York State, they can provide direct environmental and economic benefits and energy security if properly integrated into a system designed to optimize reliability based on the combined generation from all sources. Eligible renewable resources sited outside New York state can also provide environmental benefits within the state because of reduced emissions delivered by prevailing weather patterns and displacement of other generation resources.

Economic development in targeted areas of New York could also be achieved with the development of projects in areas needing assistance. Again, these resources would have to be evaluated for potential reliability impact. In metropolitan areas which are highly populated and which are classified as severe ozone non-attainment regions,<sup>9</sup> siting of renewable technologies is burdened by space and cost considerations, rendering certain types of renewable technology such as wind unfeasible (as reflected in the cost study of Staff and the New York State Energy and Research Development Authority (“NYSERDA”)).<sup>10</sup> However, smaller, more efficient, economic and reliable technology such as biofuels, fuel cells and other forms of distributed generation could be sited directly in such high emission or non-attainment zones to alleviate environmental concerns and provide direct environmental benefits.

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<sup>9</sup> The New York downstate area and adjoining areas of New Jersey and Connecticut are classified as a severe ozone non-attainment region.

KeySpan respectfully urges the Commission to include the above considerations and seek input from the New York State Reliability Council (“NYSRC”) in developing a New York State RPS.

KeySpan also believes the working objectives for the proceeding would best be satisfied if the NYISO procures eligible renewable resources in a central fashion. Finally, KeySpan shares the virtually unanimous view that a renewable attributes trading system is an essential component of a successful and efficient RPS.

## **II. REVISED WORKING OBJECTIVES**

The proposed working target and revised working objectives for the proceeding are set forth in the June 19 Ruling.<sup>11</sup> The source of the working target -- which states: “[b]y the year 2013, at least 25% of the electricity retailed in New York will be derived from renewable resources” -- is the Order, which clearly states that “[a] return to the 25% figure [which the Commission said was the percentage of electricity derived from renewable resources four decades ago] would be in the public interest.”<sup>12</sup> KeySpan believes the 25% figure is a worthy and ambitious goal which should be pursued prudently and with a careful eye on the overall impact on the State’s economy, relative competitive position within the regional energy marketplace and electric system reliability. To help achieve the target, KeySpan urges the Commission to include “behind the meter” applications in this proceeding. For example, KeySpan supports high efficiency on-site DG, including what the Renewable Energy Technology and Environment Coalition (“RETEC”) describes in its Initial Comments as

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<sup>10</sup> New York Renewable Portfolio Standard Cost Study Report by Staff and NYSERDA dated July 28, 2003 at 22.

<sup>11</sup> June 19 Ruling at 3-4.

<sup>12</sup> Order at 2.

“generation installed on the customers’ side of the meter.”<sup>13</sup> “The RPS should include distributed generation owned by customers as well as distributed generation owned by energy providers.”<sup>14</sup> Thus, KeySpan would not restrict the application of the RPS to “retailed” electricity, but would include all electricity generated in the State, including that produced by distributed generation and supplied behind the meter, when determining whether the 25% goal has been met.

KeySpan believes periodic assessment points should be built into implementation of the RPS to assure that unacceptable reliability, economic and/or competitive inequities do not occur.<sup>15</sup> The failure to identify such undesirable trends or effects of the RPS could result in premature retirement of valuable existing conventional generation, which could lead to unacceptable capacity shortfalls and commensurate increases in energy prices or reliability risks.

Each of the revised working objectives set forth in the June 19 Ruling<sup>16</sup> is laudable. While the broad nature of those objectives may provide the Commission with flexibility in

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<sup>13</sup> RETEC I.C. at 9.

<sup>14</sup> Plug Power I.C. at 2.

<sup>15</sup> For example, if the cost to achieve the 25% goal is increasingly burdensome to consumers or if reliability is threatened, alternatives may have to be considered and adjustments made to substantially attain the goals. Assessment is also necessary to determine that the harm posed by increasing costs is not disproportionate to the benefits of the RPS nor that the competitive market is harmed. An advantage given to renewable technology, *e.g.*, in the form of funding or subsidies, may disrupt the existing competitive supply market so that investments in existing generation are unfairly affected.

<sup>16</sup> *Ruling Establishing Comment Procedures* (June 19, 2003) at 3 - 4. They are:

1. 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. Diversify New York State’s electricity generation mix and improve energy security and reliability.
3. Develop renewable resources and advance renewable resource technologies in, and attract renewable resource generators, manufacturers, and installers to New York State.
4. Develop an economically efficient RPS requirement that minimizes adverse impact on energy costs, allocates costs equitably among ratepayers, and affords opportunities for recovery of utility investment.
5. Develop an RPS compatible with competition in energy markets in New York State.
6. Develop an RPS that is administratively transparent, efficient, and verifiable.

designing its RPS policy statement, KeySpan believes the Commission should prioritize its working objectives in the policy statement. A ranking of the goals for a New York RPS should reduce areas of controversy and guide the parties in the case. For example, KeySpan would argue that three of the working objectives – improving New York’s environment, increasing generation diversity and system reliability, and doing these in an economically efficient manner – are of primary importance. The other objectives – economic benefits, maintaining competitive neutrality and administrative fairness – should flow from the successful implementation of the primary objectives.

#### **IV. ELIGIBILITY**

##### **B. Target Levels**

It is KeySpan’s position that all resources that are capable of providing the benefits sought under a defined RPS should be able to participate and compete in a non-discriminatory manner. The 25% target will put New York among the most ambitious of those states that have instituted renewable standards. KeySpan believes that a necessary part of meeting such an aggressive goal will be to define “renewable resources” broadly to include all resources and technologies that advance the working objectives of the case. KeySpan discusses certain technologies it believes are useful to that end below; and supports the comments of the Clean Technology Coalition (“CTC”) on resource eligibility, which urges that no technology should be eliminated *per se* from the definition of “renewable.”<sup>17</sup>

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<sup>17</sup> CTC’s proposal was circulated to the RPS Contact List on June 10, 2003. Signatories to the June 10 proposal are: KEDNY, City of Jamestown Board of Public Utilities, City of New York, Consumer Power Advocates, Coast Intelligen, Inc., The E Cubed Company, LLC, Hess Microgen, Invensys, KBS, KEDLI, KTI, Niagara Mohawk Power Corporation, NiSource Inc., Nuvera Fuel Cells, Real Energy, Turbosteam, Encorp, Gas Technology Institute, OfficePower, and Enertec, LLC.

### **3. Interim Targets**

KeySpan supports a flexible mechanism for the RPS target level that would adjust the amount of renewable megawatt hours procured up or down in response to: changes in load growth; technical issues arising from the myriad genres of new renewable technology and implementation issues such as integrating renewable resources with the existing transmission system in New York; economics; competitive energy markets or other unforeseen implementation issues. KeySpan believes the flexibility afforded by a megawatt hour adjustment mechanism that consistently strives to meet the 25% RPS goal will enable the Commission to achieve the working objectives of the proceeding without jeopardizing reliability or imposing unreasonable costs on consumers.

#### **C. Target Resource Eligibility**

KeySpan strongly supports the consensus view in this proceeding that RPS targets should be measured as energy, rather than capacity. As KeySpan has emphasized both in its initial comments and above, it believes a wide variety of environmentally beneficial technologies should be included in a New York “renewable” portfolio standard. Each technology should compete to meet the needs established under the RPS, and the most cost-effective solutions should be chosen. Certain technologies should not be favored by targeting them to meet specific amounts of the renewable requirement. However, as discussed further below, measurable and verifiable technology attributes such as reliability, efficiency and cost effectiveness can provide appropriate incentives to certain resources over others in return for a corresponding benefit.

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Other parties – representing diverse constituencies -- share the view that many technologies should be included in an RPS. For example, Amerada Hess supports a definition of renewable that is “as broad as possible;”<sup>18</sup> and National Energy Marketers Association supports “a broad definition of ‘renewables’ for purposes of a RPS.”<sup>19</sup> Strategic Energy suggests that “[t]he list of qualifying resources should be broad to ensure that compliance with the program rules minimizes costs to consumers.”<sup>20</sup> The City of New York urges that “under the ambitious objective for New York State that the Governor has announced, the Commission should consider as renewable for purposes of the RPS as broad an array of sources of energy as possible,” and further advocates “that consideration should be given in the RPS to certain other forms of environmentally beneficial energy sources. . . .”<sup>21</sup> Similarly, Assembled CHP Interests favors an RPS that “depend[s] on technologically neutral environmental performance . . . rather than mandating purchase of power from specific technologies based on their perceived benefits.”<sup>22</sup> KeySpan would include the following in a broad definition of “renewable:” landfill gas placed into an existing gas distribution system; fuel cells powered by natural gas; and high efficiency CHP applications, and will discuss these below. KeySpan would also include fuels derived from sustainably managed biomass as “renewable.” Exclusion of efficient, cost-effective, and beneficial new technologies may not only affect performance of the objectives of the case, but also stall the development of those technologies.

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<sup>18</sup> Amerada Hess I.C. at 4.

<sup>19</sup> National Energy Marketers Association I.C. at 3.

<sup>20</sup> Strategic Energy, L.L.C., I.C. at 1.

<sup>21</sup> City of New York I.C. at 5, 2.

<sup>22</sup> Assembled CHP Interests I.C. at 2.

### 3. Landfill Gas

Landfills generate methane and other combustible gases that are: 1) vented into the atmosphere; 2) flared; or 3) used to generate electricity on-site. It is also possible to treat this waste gas, which is of relatively poor quality compared to conventional natural gas, in a manner that allows it to be injected into proximate, existing natural gas distribution systems, where it could be transported, *e.g.*, to a modern, high efficiency/low emission combined cycle or CHP generating facility. Such a process would avoid the capital costs associated with on-site generation.

KeySpan urges that the RPS proceeding encourage both the continuation and expansion of this pre-treating and injection process by allowing landfill gas, and other forms of digester gas, such as gas from water and sewage treatment facilities, and fuels produced from sustainably managed biomass<sup>23</sup> to be placed into commerce and contracted for by high efficiency power generators. The physical landfill gas commodity could be consumed at the generating station, but that would not be a requirement. It must, however, be linked contractually as a source of fuel for the facility and injected into the same natural gas grid network from which the generating facility normally withdraws its natural gas supply. The electrical energy produced from the recovery and processing of such waste fuels should then qualify as renewable electric energy. Thus, KeySpan supports the inclusion of landfill gas in a New York RPS to encourage the harvesting, purifying and placing into the gas distribution system of this by-product of the landfill process for combustion in an efficient electric generating station.

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<sup>23</sup> Including fuels derived from these materials would encourage the development and deployment of waste technologies utilizing, *e.g.*, sludges, agricultural and animal wastes, which represent an underutilized renewable source of energy, as well as a growing environmental problem in our communities.

KeySpan is not alone in urging favorable treatment for this waste product. The Governor's Executive Order No. 111 includes methane waste as a "Renewable Source."<sup>24</sup> Other Parties agree.<sup>25</sup> The Attorney General, for example, noted that landfill gas has "emissions equivalent to efficient natural gas turbines and provide[s] broad environmental benefits."<sup>26</sup> RETEC also supports landfill gas eligibility in its June 24 Discussion Proposal.<sup>27</sup>

#### **4. Fuel Cells**

KeySpan also believes natural gas powered fuel cells should be eligible for a New York State RPS. Fuel cells – including those powered by natural gas – generate electricity through a process that does not require combustion, and which therefore avoid emissions associated with the combustion process.<sup>28</sup>

Fuel cells have certain attributes that make them particularly attractive to any renewable portfolio plan and argue for their inclusion. Unlike many other renewable technologies, they are reliable, efficient and cost-effective. Wind and photovoltaic power, for example, are only available intermittently, weather and wind conditions permitting; and cost-efficiency and space requirements are additional considerations in the case of such power. Fuel cells, on the other hand, are small, efficient and can be scheduled to run because the fuel input is natural gas.

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<sup>24</sup> The Executive Order defines "Renewable Sources" as "wind, solar thermal, photovoltaics, sustainably managed biomass, tidal, geothermal, methane waste and fuel cells." Governor George E. Pataki's June 10, 2001 Executive Order 111 at IV.

<sup>25</sup> Long Island Power Authority ("LIPA") I.C. at 1; RETEC I.C. at 4; Attorney General I.C. at 6, 7; New York Power Authority ("NYPA") I.C. at 2 ("methane waste"); Independent Power Producers of New York, Inc. ("IPPNY") I.C. at 5 ("methane waste").

<sup>26</sup> Attorney General I.C. at 6.

<sup>27</sup> RETEC *Discussion Proposal: Individual Procurement/Compliance Method* (June 24, 2003) at 2 ("June 24 Discussion Proposal").

<sup>28</sup> As Plug Power stated in its Initial Comments, "[b]ecause there is no combustion involved, fuel cells are free or virtually free of most of the pollutants typically associated with combustion, such as carbon monoxide, nitrogen oxides, and particulates." Plug Power I.C. at 2.

Indeed, fuel cells have been identified as a critical component of several long-term energy plans, including the Governor’s Executive Order No. 111.<sup>29</sup> Again, despite different views on many issues in the proceeding, various parties agreed that natural gas powered fuel cells should be included in a New York State RPS.<sup>30</sup> In its June 24 Discussion Proposal, RETEC maintains that position, advocating inclusion of “fuel cells (using otherwise eligible fuel sources or natural gas as a bridge technology.)”<sup>31</sup> Additional parties also support including fuel cells, without specifying the hydrogen source.<sup>32</sup>

## **8. Other – CHP**

KeySpan believes that any New York State RPS should include as an eligible resource high efficiency on-site generation, which would include CHP. Efficient CHP generation reduces fossil fuel consumption by utilizing the heat normally discarded in the production of power. As one CHP developer said, the engine turning the generator in these systems not only generates electricity but also provides heat for space heating, domestic hot water, pools, etc., using “the same fuel that would normally be used in the boilers to only provide heat.”<sup>33</sup> CHP systems therefore offer greater efficiency and reduced emissions to satisfy the same end-user demands.<sup>34</sup> These efficient and environmentally beneficial systems should be included in a New York RPS.

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<sup>29</sup> Governor George E. Pataki’s June 10, 2001 Executive Order No. 111 at IV.(Fuel cells included in the definition of “renewable sources”).

<sup>30</sup> *See e.g.*, RETEC I.C. at 4; Amerada Hess I.C. at 4; Plug Power I.C. at 2; Assembled CHP Interests I.C. at 1.

<sup>31</sup> June 24 Discussion Proposal at 2.

<sup>32</sup> LIPA I.C. at 1; Con Edison Solutions I.C. at 1; NYPA I.C. at 2; Attorney General I.C. at 7; and Consumer Protection Board I.C. at 8.

<sup>33</sup> Aegis Energy Services I.C. at 1.

<sup>34</sup> Assembled CHP Interests I.C. at 12.

## **9. Customer-sited**

KeySpan supports including customer-owned resources, including those behind the meter, in an RPS. These resources can not only contribute to accomplishing the environmental goals of an RPS, but also provide the potential benefit of avoided costs to upgrade electric transmission and distribution systems. RETEC asserts that “[o]ne of the best ways to support diversity in New York’s RPS is through the inclusion of distributed generation, including generation installed on the customers’ side of the meter.”<sup>35</sup> This is of particular consequence in New York City and other urban areas, where transmission constraints, and space and siting limitations may inhibit the development of renewables that require a large amount of space, such as photovoltaics, wind and hydro.

### **D. Tiers**

#### **2. Emerging Technology Tier**

KeySpan does not support a separate tier that would provide financial benefits to emerging technology. The Company believes the issues of emerging technologies are more appropriately and efficiently addressed as part of research and development (“R&D”) programs such as those directed by NYSERDA and funded by the System Benefits Charge (“SBC”). R&D programs are better suited to address initial development, and should be kept separate from the competitive market. Once a technology is proven and cost is the remaining barrier to development, the RPS should recognize that technology so it can receive the same financial incentives as other renewable resources.

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<sup>35</sup> RETEC I.C. at 9-10. *See also*, RETEC June 24 Discussion Proposal at 2; and Plug Power I.C. at 2 - 3.

#### **4. Resource Criteria Tier**

As a general matter, KeySpan believes the Commission should not artificially favor certain technologies by targeting them to meet specific amounts of an RPS requirement. However, KeySpan would support an RPS structure that increases compensation for resources that provide measurable and verifiable benefits above other resources. KeySpan joins in the June 9, 2003 CTC inclusive technology proposal – the “Technology Attribute Measurement” (“TAM”) – which would not exclude any technology, *per se*, but rather, would measure the technologies based upon how well they meet the working objectives of the RPS. This concept would allow for inclusion of environmentally beneficial technologies that may not meet a “traditional” definition of “renewable.” The proposal would require quantifiable criteria to be developed based upon a prioritization of the RPS objectives, and – once those criteria are developed – would begin to eliminate the subjective comparison of different technologies. It provides a method to create a commodity each resource would have to sell and/or trade, regardless of its specific technology.

Moreover, resources using the same technology could be awarded different credits depending on their individual circumstances. For example, a renewable resource being constructed in an economically depressed area, or in an area that will displace Midwestern coal emissions, could receive a higher score as compared to the same renewable resource type constructed elsewhere.

The TAM will also create better economic efficiency because fewer resources and investments may be required to meet the RPS goals. The CTC concept attempts to base RPS eligibility on quantifiable criteria and merits further exploration.

KeySpan strongly urges the Commission not only adopt the concept of the TAM, but, more importantly, to include i) landfill gas and fuel derived from sustainably managed biomass regardless of whether they are consumed on-site; ii) fuel cells regardless of their fuel source; and iii) high efficiency natural gas CHP applications, as eligible resources for a New York RPS. To the extent renewable resources are sited in non-attainment areas, as discussed earlier, certain technology, such as fuel cells and distributed generation, is more appropriate in terms of reliability, cost-effectiveness and direct environmental benefits to the area.

### **5. Maintenance Tier**

Some parties argue that existing renewable resources should be treated differently than newly constructed renewable resources, specifically, that existing resources would not receive the same incentives as new resources. This would unfairly discriminate between new and old and KeySpan does not support this nor does it support a maintenance tier that would place existing resources, such as hydro, on a different financial footing than newly built eligible generation resources by providing only part of the compensation associated with being a renewable resource. Existing resources already meet the working objectives of the proceeding. An RPS which applies the same rules to all eligible resources will produce the most efficient and cost effective resources and reduce any impact on the existing competitive markets. This competitive neutrality is an important goal of the RPS proceeding and subjecting *all* renewable resources to the same rules provides this neutrality.

## **V. OVERALL RPS STRUCTURE**

Several cost impact studies in the proceeding indicate the RPS will increase the cost of energy to consumers in varying degrees. Accordingly, to minimize this projected cost increase, New York needs efficient and liquid markets, as well as bilateral agreements, to maximize

flexibility for market participants. That is why KeySpan supports a centralized procurement structure where individual load-serving entities and other market participants will have the opportunity to trade, procure and balance their RPS requirements. Individual load serving entities will use a mixture of long and short-term bilateral agreements as well as financial transactions to meet their individual requirements. A centralized market, which would allow price transparency, alternative procurement opportunities, and balancing of positions, would support the proceeding's objectives of equity, economic efficiency, competitive neutrality and administrative fairness. This is all required if a viable bilateral market is going to develop as needed. This market should also track actual loads for each entity to determine meeting of RPS targets.

KeySpan supports an NYISO – administered central procurement model. The NYISO has a great deal of experience with creating and facilitating centralized procurement markets for various energy products such as capacity, ancillary services and energy. These NYISO markets have played an integral part in providing market participants price transparency that is used to help parties reach agreement on bilaterals. Using the NYISO as the administrator of the centralized procurement model would minimize potential conflicts between its existing competitive markets and the RPS requirements because the NYISO would be able to integrate renewable requirements into its market. Load serving entities already use the existing NYISO markets as well as bilateral agreements and financial hedges to meet energy requirements. A NYISO market could be designed to be able to accommodate a renewable energy product as well. As the central procurement working group noted, the NYISO already has detailed payment and collection mechanisms in its Open Access Transmission Tariff (“OATT”). Using the NYISO, its OATT and experience should reduce transaction costs and improve the overall

efficiency of a New York RPS. Additionally, a centralized procurement model should increase liquidity for renewable energy because a greater number of market participants will be involved and more transactions will occur in a visible manner.

Concerns which have been raised about recovering the costs of the RPS as part of NYISO rate schedule 1 can be resolved if load serving entities are assigned individual compliance requirements and then charged directly in accordance with those requirements rather than pooling all costs to all market participants. KeySpan also believes the parties can resolve potential issues of obtaining approval for market design changes as well as possible limitations on the NYISO's mandate through the NYISO governance process. In sum, the addition of a NYISO market for renewable resources will provide market participants the greatest flexibility to purchase and sell the renewable product along with all the other products the NYISO currently administers. This is the most competitively neutral manner in which to implement an RPS.

## **VI. CREDIT TRADING**

### **B. The Deliverability Requirement**

KeySpan does not believe that in order for a New York RPS to be successful, electricity generated with eligible renewable resources must be delivered in New York State. As long as the generation from those renewable resources, wherever situated and wherever delivered, provides benefits within New York State, the goals of the RPS will be successfully met. New York can benefit from renewable resources in other locations, *e.g.*, from reduced in-state emissions, as renewable resources outside the state displace coal and other fossil fuel resources.

## **X. CONCLUSION**

KeySpan appreciates the opportunity to participate in this important proceeding. The Company is hopeful that this case will address the concerns identified in the Order, and set the

stage for the development of environmentally beneficial, cost-effective technologies, including those identified herein, that do not impair the reliability of the delivery of electric service in the State. The Company also welcomes this and other proceedings designed to encourage the efficient DG market. KeySpan looks forward to working with the Commission in developing a New York RPS.

Dated: Hicksville, New York  
September 25, 2003

Respectfully submitted,

KEYSPAN CORPORATION

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