



National Energy Marketers Association

STATE OF NEW YORK PUBLIC SERVICE COMMISSION

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

COMMENTS OF THE NATIONAL ENERGY MARKETERS ASSOCIATION

I. Summary of Comments

The National Energy Marketers Association (NEM) hereby submits Comments pursuant to the Commission's request for comments in its June 19, 2003, Ruling Establishing Comment Procedures and its August 18, 2003, Ruling Granting, In Part, Motions To Amend The Comment Schedule in the above referenced proceeding.

NEM is a national, non-profit trade association representing wholesale and retail marketers of energy, telecom and financial-related products, services, information and related technologies throughout the United States, Canada and the U.K. NEM's Membership includes wholesale and retail suppliers of electricity and natural gas, independent power producers, suppliers of distributed generation, energy brokers, power traders, and electronic trading exchanges, advanced metering and load management firms, billing and information technology providers, credit, risk management and financial services firms, software developers, clean coal technology firms as well as energy-related telecom, broadband and internet companies.

This regionally diverse, broad-based coalition of energy, financial services and technology firms has come together under NEM's auspices to forge consensus and to help resolve as many issues as possible that would delay competition. NEM members urge lawmakers and regulators to implement:

- Laws and regulations that open markets for natural gas and electricity in a competitively neutral fashion that bring suppliers and consumers together at the lowest possible cost;
- Standards rates, tariffs, taxes and operating procedures that unbundle competitive services from monopoly services and encourage true competition on the basis of price, quality of service and provision of value-added services;

- Accounting and disclosure standards to promote the proper valuation of energy assets, equity securities and forward energy contracts, including derivatives; and
- Policies that encourage investments in new technologies, including the integration of energy, telecom, digital communications and Internet services to lower the cost of energy and related services.

NEM submits that, as a policy matter, attempts to improve environmental quality are an extremely important and worthwhile endeavor, however, renewable supply quotas as proposed in the renewable portfolio standard (RPS) could prove to be an extremely high cost means of accomplishing that policy objective. NEM submits that attempts to improve environmental quality should begin with a baseline measurement of the current weighted average supply mix and environmental quality thereof. NEM submits that all resources (including demand reduction, distributed generation, and cleaner burning fossil fuels) that may provide improvements over the current environmental quality in New York and the region should be part of a cost benefit analysis of the environmental quality of each new supply source. If a cost/benefit analysis of only renewable generation sources is performed, it may not yield the optimal results for the state, the region, or the market place. Lastly, NEM urges the Commission, if it needs to impose a renewables-only approach, to establish the cost of complying at the RTO level so that it is shared equally, in a competitively neutral fashion, among all suppliers.

II. Comment on the Revised Working Objectives

A. Working Target

B. Revised Working Objectives

1. New York's Environment

2. Generation Diversity

The revised working target establishes that "at least 25% of the electricity retailed in New York will be derived from renewable resources by 2013,"¹ and the revised working objective is to "[i]mprove New York's environment, by reducing air emissions, including greenhouse gas emissions, and other adverse environmental impacts on New York State . . .".² NEM submits that a more efficient and realistic approach to accomplish the above would be to attempt to improve the environmental quality of New York State or the region by the equivalent of achieving a 25% renewable mix of generation or some realistic percentage over current environmental conditions. A renewables-only approach may prove upon proper analysis to be a more expensive and a less efficient way to improve environmental quality. Particularly if demand reduction, distributed generation and cleaner burning fossil fuels are not analyzed for their cost/benefit aspects.

NEM's suggested policy approach would be more representative of all environmental improvements that are possible as well as their respective costs and benefits. NEM's

¹ Ruling Establishing Comment Procedures, Case 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, June 19, 2003, p.3.

² Id.

suggestion would recognize demand reduction programs, distributed generation, natural gas, and cleaner burning fossil fuels if it can be demonstrated that they can enhance the environmental quality of New York and the region at an overall lower cost. NEM submits that the economic reality and financial impacts of a fossil fuel-based economy for the foreseeable future should be accounted for in New York's environmental policy and represents a proper policy goal for New York. Additionally, attaining the maximum environmental improvement at the lowest total costs to New York ratepayers and its economy by including an analysis of all new potential supplies available to the state is clearly within the Commission's authority.

NEM submits that a working objective that incorporates all sources that could enhance the current and future environmental quality of New York should be quantitatively analyzed. The result of which could prove to be a more cost-effective way to "[d]iversify New York State's electricity generation mix and improve energy security and reliability."³ Additionally, NEM submits that analyzing all possible generation sources against the current baseline for qualifying environmental improvement also recognizes and promotes distributed generation as well as demand reductions and could also improve reliability in a cost-effective manner.

3. Economic Benefits

NEM agrees that "[d]evelop[ing] renewable resources and advanc[ing] renewable resource technologies in, and attract[ing] renewable resource generators, manufacturers, and installers to New York State" is an important objective.⁴ NEM suggests that this goal can also be achieved through incentives. Incentives could be in the form of tax credits and/or retail adders or increased back-out credits for customers buying green power.

NEM believes that voluntary customer choice is a cost-effective way to increase consumer awareness of renewable energy. If the RPS adopted by the Commission is more onerous than current green marketers or other marketers can comply with, the Commission runs the risk of discouraging competitive entry and possibly causing market exit by those suppliers that would otherwise offer green products in New York.

NEM recognizes that some consumers will be interested in purchasing power from green sources, and submits that the market should give them the opportunity to do so. However, the benefit of a renewables-only approach may not justify the increased costs to suppliers and ultimately consumers.

NEM also suggests that the NYPSC could consider an approach similar to that used in Georgia. In case No. 13305-U the Georgia Public Service Commission approved a new Green Energy Rate for Georgia Power. The new rate will allow consumers to pay a premium to use electricity generated from green technologies such as wind, solar and

³ Id.

⁴ Id. at 4.

landfill gas-to-energy.⁵ The Green Energy Rate allows green energy to be purchased by customers at an established price but does not impact bills of customers who chose not to participate. Additionally, the program serves as an inducement to Georgia Power to offer green energy because the utility will receive an extra \$5.50 a month from each participating customer. NEM submits that this type of program helps create a market for renewable energy and should encourage the development of more sources and better technologies without the disadvantages of increasing costs to all ratepayers.

4. Equity and Economic Efficiency

See NEM's Response to II.A. and II.B. 1-3.

5. Competitive Neutrality

6. Administrative Fairness and Efficiency

If the NYPSC decides not to implement NEM's alternative suggestion then, NEM urges the Commission to ensure that the added costs of complying with the proposed RPS be imposed in a competitively neutral manner to be "compatible with competition in energy markets in New York State."⁶ NEM submits that another efficient way to promote competitive neutrality is to provide ESCOs with the opportunity but not the obligation to sell energy from renewable sources. Absent that, any new costs associated with an RPS as proposed should be applied at the RTO or ISO level and passed along to all market participants in a non-bypassable charge.

If an RPS is imposed on ESCOs, it will force them to incur costs, which they may not be able to recover, whereas utilities will be able to recover compliance costs from captive customers. Whether the ESCO constructs renewable energy generation plants or purchases emission credits or qualifying eligible resources it will incur the costs of providing renewable energy to consumers who may not value, want or be willing to pay for such a product. Consequently, it is vital that if the RPS is adopted as proposed, that the costs associated with it be recovered in a competitively neutral manner.

Green energy is an important potential market and NEM urges the Commission to rely on the market to establish both its supply and price. ESCOs may be unable to recover the RPS costs from customers absent a competitively neutral cost recovery mechanism. Competitive retail suppliers do not have sufficient margins to absorb additional costs and many ESCOs cannot succeed unless they can offer consumers lower prices than the local utility. The true supply and demand for green energy should be permitted to develop in a manner that properly prices this important resource. Additionally, imposing additional compliance costs and administrative complexity could discourage participation in the

⁵ Georgia Power customers will be able to purchase 100 kilowatt hour blocks of green energy for an additional \$5.50 a month. The monthly fee pays the additional cost of purchasing green energy from companies who have won bids through competitive solicitations to provide energy to Georgia Power. See <http://www.southernco.com/gapower/green/home.asp?mnuOpco=gpc&mnuType=sub&mnuItem=ge>.

⁶ Id.

New York market, particularly if it is not accomplished in a competitively neutral manner.

III. The RETEC Straw Proposal

As stated above, if the RPS model is adopted as proposed, it should be based on a central procurement model and be imposed on all consumers in a competitively neutral way. NEM would recommend that it recognize all sources that can contribute to an improvement in current environmental quality (e.g. demand reduction, distributed generation, and cleaner coal technologies) as eligible resources for inclusion in the cost-benefit models.

NEM 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: i.e. 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) and the potential developer can evaluate and even secure financing for the value of the underlying electricity based on the existing bilateral energy and capacity markets.

IV. Eligibility

NEM urges the Commission to assess the costs and environmental benefits associated with each new source of supply or demand reduction to achieve the requisite improvement in environmental quality. NEM submits that all resources that can provide

improvements over the current environmental quality in New York and the region should compete to satisfy the environmental quality goal. For example, programs that encourage customers to reduce total or peak demand can have significant environmental benefits. Distributed generation technologies enable customers to control their energy use often offsetting the need for larger generation units. A new combined cycle unit that offsets an older, "grandfathered" coal unit could also make a significant improvement in environmental quality. Lastly, investments in cleaner burning coal technology may also yield a higher benefit to cost ratio to society. The Commission's RPS model could recognize and encourage each supply addition that has a positive environmental benefit at the lowest marginal cost. Such a model could yield significant environmental improvement over the status quo at a lower cost to society.

V. Overall RPS Structure

A. Preferred Structure—Central or Individual Procurement, with rationale

NEM suggests that the NYPSC should use NYISO to implement the RPS program as proposed. NEM submits that a majority of power in New York is purchased directly from NYISO, and NYISO can more easily and efficiently comply with a RPS mandate. Using a central procurement model could save the market place and consumers needless complexity and financial risk and therefore potentially result in lower prices for consumers.

B. Individual Compliance

NEM urges the Commission not to implement individual retail supplier targets. (See NEM Response to II.B.5 and II.B.6)

C. Central Procurement

1. Preferred Central Procurement Entity, with rationale
2. The ISO Procurement Model

See NEM's Response to V. A.

VI. Credit Trading

If the Commission implements the RPS as proposed then NEM recommends that the NYPSC establish a tradeable green certificate system (or other emission credits system). A tradeable system will establish a transparent cost of compliance. However, NEM urges that such costs be borne at the NYISO level to maintain competitive neutrality

B. The Deliverability Requirement

Currently, external renewable resources can only be counted towards an ESCOs fuel mix if it is physically delivered into New York. NEM submits that such resources may still

improve environmental quality in New York and the region. Often external intermittent resources cannot be physically scheduled due to the unpredictable nature of their output. The NYISO has a process to coordinate with the surrounding jurisdictions to ensure that external installed capacity is not double counted. NEM submits that a similar process can be adopted to allow the use of "credits" from external resources while ensuring that the external renewable resources are not double counted.

VII. Contracting Standards

NEM submits that the best method to procure renewable resources is a business decision that should be determined by the marketplace to the maximum extent possible. Mandating a particular contracting method on specific suppliers may not be consistent with individual business models or business plans.

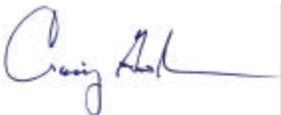
VIII. Cost and Benefit Considerations

In addition to NEM's Response to II. A, II B. 1-6, we have concerns that if the renewable requirements are phased too fast, it can increase the already high cost of electricity in New York State. Accordingly, NEM recommends that the PSC monitor the compliance costs on an annual basis and increase the targets more aggressively if compliance costs are lower than expected and less aggressively if costs are higher than expected.

X. Conclusion

NEM appreciates this opportunity to comment on the threshold issues of a retail renewable portfolio standard.

Sincerely,

A handwritten signature in blue ink, appearing to read "Craig Goodman", followed by a vertical line.

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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.

Dated: September 17, 2003
Washington, D.C.

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