



New York State Energy Research and Development Authority
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September 26, 2003

Honorable Eleanor Stein
Administrative Law Judge
New York State Department of Public Service
3 Empire State Plaza
Albany, New York 12223-1350

RE: CASE 03-E-0188 - Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard

Dear Judge Stein:

In response to the Ruling Revising Schedule, issued March 6, 2003, and the Further Ruling Concerning Schedule and Procedure, electronically distributed on September 19, 2003 in the above-referenced Proceeding, the New York State Energy Research and Development Authority (NYSERDA) submits these Initial Comments (Comments) with regard to the development and implementation of a renewable portfolio standard (ARPS®) in New York State.

NYSERDA's Comments are organized into two sections. The first section presents design features that NYSERDA considers critical to the success of the RPS, regardless of the structure of the procurement function. The second section presents design features that NYSERDA would consider essential to a central procurement model.

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RPS Design Features

As was stated in NYSERDA's previous comments in this proceeding, the RPS has the potential to bring substantial economic and environmental benefits to New York. In order to maximize the success of the RPS there are several issues that need to be resolved.

Resource eligibility criteria must be clear and must provide for definite verification at the point of generation. Where eligibility is based on fuel source, existing information systems may be insufficient to ensure that the energy being created is eligible under the RPS. Prior to the implementation of any system, attention must be paid to the design of a verification mechanism that will remove any question as to point of generation eligibility. The integrity of the system depends on the certainty that payment for renewable energy credits is made only upon verifiable proof that the generation is from RPS-eligible kWh.

Similarly, the design of a generation attribute accounting system that tracks the origination and trading of renewable energy credits must provide certainty as to the nature of all attributes and the rules that will govern their registration and trading. This system must clearly address the treatment of such credits, whether they are used for the purpose of RPS compliance or to facilitate emerging competitive market initiatives, such as emissions credit trading. As a starting point, credits purchased under the RPS should be inclusive of all environmental claims.

RPS funding mechanisms and contracting standards must be predictable and flexible. The cost studies filed by the various parties predict that a lowest-cost procurement method will reach a variety of eligible

resources over the first several years of operation. The actual contribution of the majority of these resources will depend upon new generation facilities. Funding mechanisms and contracting standards must be designed to accomplish the construction of these new facilities. The magnitude of the capital investment necessary for constructing these facilities will vary depending upon the resource type. Financing mechanisms should be designed to allow the accumulation of a balanced portfolio, with a mix of resource types and contract durations.

The role of the competitive green power market should be preserved during the design and implementation of the RPS. A strong and vibrant competitive green power market will ensure that renewable energy is an important component of New York State's energy supply mix beyond 2013. The RPS should be designed in a manner that will complement, rather than replace, the voluntary green power market.

Centralized Procurement

The Parties to the proceeding have presented various options for implementing the RPS procurement function. The potential benefits of a central procurement system through a New York State governmental entity were discussed at both working group and plenary sessions. The potential benefits of a central procurement system by a governmental entity as opposed to a individual procurement system were discussed. The benefits of a central procurement system include competitive neutrality among energy providers, economies of scale in the procurement process, and equitable participation among all electricity users.

In recognition of the interest in a centralized procurement administration, NYSERDA has developed some functional design features it considers essential to the successful administration of a centralized RPS in a manner consistent with the overall objectives. NYSERDA envisions the role of the central administrator,

generally, as attainment of the RPS goals based on the targets and eligible resources to be identified by the Commission. The central procurement agent would work collaboratively with the Commission in the design and planning of the operating protocols necessary to implement centralized procurement under overall policy guidelines to be developed by the Commission.

As was anticipated among the parties to the collaborative process, the central procurement agent would procure only the renewable energy credits, with the energy generated by the eligible facilities being sold directly into the existing energy market. Because renewable energy credits will be created only upon the verified generation of eligible renewable energy, procurement of the renewable energy credits effectively ensures generation of the renewable energy from which they arise. This system also obviates the need for purchase-power agreements, and minimizes intrusion into the competitive wholesale energy markets, which would operate essentially unchanged.

In order to attract capital investment, the funding of a central system must be designed to ensure that the central administrator will have sufficient cash flow assurance to meet its obligations over the duration of the contracts. To the extent that long-term contracts are necessary to meet the goals of the RPS, funding mechanisms must be in place to meet contract obligations. The term of contracts could extend beyond 2013. The mechanisms must also protect the central procurement administrator from under recovery, ensure timely payment to generators, and otherwise enable efficient and cost-effective project financing. In addition, the revenues must provide for administrative expenses, including the initial expense of establishing the system, and expenses necessary to verify resource eligibility.

The procurement of renewable energy credits should be accomplished through a series of competitive solicitations of bids by the central procurement agent. Design of the solicitation process will require consideration of a series of issues, including:

- \$ Establishing clear incremental goals and expectations from the outset;
- \$ Verifying and auditing point-of-generation eligibility, as discussed above;
- \$ Designing the auction including frequency, bid format and structure, in a manner that minimizes both transaction costs and premiums paid;
- \$ Designing bid evaluation and selection criteria;
- \$ Establishing responsible bid requirements, including financial capability;
- \$ Designing the contractual instruments for use with selected bidders, including the design of non-performance penalties;
- \$ Establishing accounting approaches to track progress and evaluate effectiveness;
- \$ Establishing the renewable credit trading system, for purposes of RPS compliance and environmental disclosure;
- \$ Establishing review and oversight mechanisms to assess progress and recommend modifications.

A great deal will be learned in the initial stages of administration, and from the results of the initial solicitation. The 10-year time frame offers the opportunity for continuous fine-tuning. The rules and plans for meeting the goals should be flexible enough to allow the central administrator to respond, under appropriate review and oversight, to market signals.

Respectfully submitted,

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Assistant Counsel

cc: Service list (by electronic mail only).