

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Proceeding On Motion of the Commission Regarding Retail Case 03-E-0188
Renewable Portfolio Standard

**COMMENTS OF THE
VILLAGE OF BERGEN, VILLAGE OF FREEPORT,
CITY OF JAMESTOWN BOARD OF PUBLIC UTILITIES,
TOWN OF MASSENA, VILLAGE OF ROCKVILLE CENTRE,
SALAMANCA BOARD OF PUBLIC UTILITIES,
VILLAGE OF SHERBURNE, CITY OF SHERRILL
POWER & LIGHT AND THE VILLAGE OF SOLVAY**

The Village of Bergen, Village of Freeport, City of Jamestown Board of Public Utilities, Town of Massena, Village of Rockville Centre, Salamanca Board of Public Utilities, Village of Sherburne, City of Sherrill Power & Light and the Village of Solvay (collectively the NY Municipals) file these comments on the New York State Public Service Commission's (Commission) *Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard*. These comments are submitted pursuant to the June 25, 2003 Letter and Summary of Comments, the August 18, 2003 Ruling Granting, In Part, Motions to Amend the Comment Schedule, and the Further Ruling Concerning Schedule and Procedure issued in September, in this proceeding.

The RPS should recognize the unique contribution of municipally-owned utilities to the renewables portfolio in New York. **Unlike other load-serving entities (LSEs), municipally-owned utilities already meet and far exceed the proposed 25% Renewable Portfolio Standard (RPS) requirement. Municipally-owned utilities comply with three times the proposed RPS 25% standard: on average, a municipal utility purchases over 80% of its energy from a renewable resource, namely the New York Power Authority's (NYPA) Niagara Hydroproject.**

The RPS should not, inadvertently or otherwise, impose additional requirements on municipal utilities when these utilities already comply with and far exceed the proposed RPS standard. Any participation by municipalities in the RPS should be purely voluntary. Further, the RPS should be structured to give municipalities credit for their significant existing renewables purchases. Municipalities could be given credit by establishing a credit trading mechanism where LSEs, such as the municipals, receive credit for their renewables purchases, including renewables that are in the Commission's baseline.

The NY Municipals

The NY Municipals are consumer-owned utilities created under New York's General Municipal Law. The NY Municipals include some of the largest municipal utilities in New York.

For a representative municipality in New York, over 80% of its energy purchases are renewable, namely hydropower purchases. Pursuant to the Niagara Redevelopment Act, 16 U.S.C. § 836 *et seq.*, New York municipalities receive an allotment of hydropower from NYPA's Niagara Hydropower Project. The NY Municipals, as well as all other municipal utilities and rural electric cooperatives in New York, receive 752 MW of firm power and associated energy (so-called "preference power"). The Niagara Project is a 2400 MW generating station on the Niagara River in Niagara County. The Project is currently being upgraded with new generating equipment and other improvements intended to increase efficiency and output of the Project while minimizing negative environmental impacts.

Because Municipal Utilities Already Meet and Far Exceed the Proposed RPS Standard, the RPS Should Not Impose Additional Requirements on Them.

Municipal utilities already comply with not only the proposed RPS but with three times the proposed RPS. With an average of over 80% of their purchases being renewable, the municipalities far exceed the proposed RPS. Further, the NYPA preference power allocation that is the basis for the municipals= renewables purchases is statutorily mandated, ensuring that the municipal utilities will continue to purchase renewable generation at approximately the current levels into the future. In fact, when most of the municipal contracts were executed with NYPA in 1981, the hydropower resource was not a low-cost resource.

There is no need to, and the RPS should not impose, any additional requirements on municipals. Municipalities already meet the proposed RPS standard. Imposing additional requirements on municipal utilities would only maintain the existing disparity in renewables purchases between municipal and other LSEs. In contrast to municipally-owned utilities, whose energy purchases are over 80% renewable, the Environmental Disclosure Labels of many other LSEs indicate renewables purchases in the 5-8% range. It is important that the RPS address these notable differences in renewable distribution among publicly-owned and consumer-owned (municipal and rural electric cooperative) LSEs, as opposed to non-publicly-owned LSEs. Instead of requiring additional RPS investment from municipal utilities, the vast majority of whose purchases are renewable, the RPS should focus on LSEs with minimal renewable purchases. One way to do that would be to impose the RPS requirement on LSEs individually, rather than on a system-wide basis. In the alternative, once LSEs with low levels of renewables purchases reach the level of renewables purchases that municipalities have already achieved should additional municipal purchases even be considered.

Imposing additional RPS requirements on New York municipals is particularly inappropriate because it could effectively require municipalities to pay for renewable sources for almost all of their energy. Municipal utilities currently purchase over 80% of their energy from the Niagara Hydroproject. The RPS is proposing an approximately 7-8% increase in renewable purchases. That new 7-8% RPS requirement, if imposed on an incremental basis on all LSEs, could require municipalities to effectively pay for approximately 90% of their energy purchases from renewable resources - over 80% from existing hydro and 7-8% from the additional RPS requirement. Imposing what would be close to a mandatory all-renewables purchase requirement on municipal utilities does not appear to be, and should not be, the goal of the RPS. It should also not be its inadvertent result.

A voluntary approach for the municipals would be more appropriate. For example, despite its existing purchases of hydropower and the price disadvantages of wind, at least one New York municipal is presently negotiating with a wind developer. Municipals have aggressively pursued a variety of energy efficiency initiatives. For example, the City of Jamestown has developed and expanded its district heating facility. The Village of Freeport has established a unique partnership with the Ford Foundation to target weatherization services to promote affordable housing. Municipal utilities have already complied with the RPS and no additional requirements, and particularly not a 90% renewables funding requirement for municipalities, should be imposed via the RPS. A voluntary approach would be more appropriate.

The RPS Should Not Impose Additional Requirements on Municipalities Because Virtually No Other State RPS Includes Municipalities and There Is No Reason To Reach a Contrary Conclusion In New York

Excluding municipalities from additional requirements under the RPS would be consistent with the actions of virtually all states that have RPS policies. According to the Renewable Portfolio Standards Background and Analysis document in this docket (Grace *et al.*, 2002), consumer-owned utilities are almost always exempt from RPS requirements. . . @ *Id.* at 12-13. Among the states expressly exempting municipally-owned utilities serving in their franchise territories are Massachusetts, Nevada, New Jersey, Texas, Maine, Connecticut and Arizona. The Background Document only identifies Wisconsin as requiring municipal participation in an RPS and in that case, the municipals are nowhere near the over 80% renewables purchases that the municipals in New York achieve.

There is no reason for New York State to reach a different conclusion and in fact every reason to be consistent with the other states. The imposition of additional requirements on New York Municipals is unnecessary to effective implementation of the RPS. The NY Municipals comply with three times the RPS threshold. The preference power allocation in the Niagara Redevelopment Act ensures that this level of renewable purchases will continue. Thus, municipal participation in the RPS is not in any way necessary to the goals of the RPS. New York, like the other states that have adopted the RPS, should not impose additional requirements on municipalities under the RPS.

Participation in the RPS Should Not be Mandated Through a System-Wide Charge, Such as the NYISO Uplift Charge, and Instead Should Be Done on an LSE Basis

The RPS should not be extended to municipals through the imposition of a system-wide charge that applies to all LSEs. For example, to the extent that the Commission elects to implement the RPS through the NYISO, the Commission should act to ensure that additional renewables purchases

are not mandated on municipalities through the imposition of an uplift charge applicable to all LSEs. The June 25, 2003 *Summary of Working Group Discussions* suggests that municipally owned-utilities would be assessed such a charge. *Id.* at 8 (A Working Group Three identified the following as advantages of an ISO Procurement as [sic] (1) including all New York State load hence reducing the per-unit cost of an RPS . . . @).

As discussed in more detail above, municipal utilities already comply with three times the proposed RPS. There is no need to impose additional requirements on them. The Commission should either not impose the renewables requirement through a system-wide charge such as the NYISO uplift charge or, if it elects to utilize a system-wide charge, should make clear that it is not applicable to municipally-owned utilities.

Renewables Should Be Defined to Include Hydropower

The Commission, in its Order Instituting Proceeding stated that A renewable resources represent a significant potential energy reserve, which (if properly developed) could lower air emissions and increase system reliability.@ Order at 2. The Order also notes A an RPS has the potential to improve energy security and help diversify the state's electricity generation mix.@ *Id.* In Executive Order No. 111, Governor Pataki stated that A the generation and use of energy has a significant impact on the environment, contributing to emissions of sulfur dioxide, nitrogen oxides, greenhouse gases, and other pollutants.@ Executive Order No. 111 directed that:

State agencies and other affected entities with responsibility for purchasing energy shall increase their purchase of energy generated from the following technologies: wind, solar thermal, photovoltaics,

sustainably managed biomass, tidal, geothermal, methane waste and fuel cells. State agencies and other affected entities shall seek to purchase sufficient quantities of energy from these technologies so that 10 percent of the overall annual electric energy requirements of buildings owned, leased or operated by State agencies and other affected entities will be met through these technologies by 2005, increasing to 20 percent by 2010. No agency or affected entity will be exempt from these goals except pursuant to criteria to be developed by NYSERDA, in consultation with DOB, OGS and the Advisory Council.

Executive Order, Paragraph IV.

If the goal of New York State is to reduce emissions of SO₂, NO_x, greenhouse gases and other pollutants, then there is a compelling basis for inclusion of hydroelectric facilities in a list of renewable resources. Hydropower reduces acid rain and other air emissions that threaten New York's parks and forests. Large hydropower units such as NYPA's Niagara plant eliminate the need for thousands of MWs of additional fossil-fuel fired base load generation, generation that would result in significant increases in acid rain in New York and further deterioration of the Adirondacks and other sensitive areas.

Similarly, if the goal is generation resource diversification and the utilization of indigenous resources, then the case for inclusion of hydroelectric facilities is just as necessary, and as compelling, as that for using a mix of wind and solar. New York State is hydro rich and given that this generation source is fueled by a naturally renewable source, water, then it should qualify in any definition

of A renewable.@ Including hydro generation in the definition of renewables in the RPS would maintain generation diversity in achieving the RPS' goal of 25% of the State's generation coming from renewables. Commission Order at 2. In order to achieve the 25% goal identified in the Commission's Order, it would not only be appropriate to encourage new renewable technologies, but equally important to include existing renewable resources with encouragement to upgrade these existing facilities to ensure their continued contribution to a safe, reliable and secure source of renewable energy.

The New York State Energy Plan defines renewable energy as Aenergy derived from resources that are not depletable or are naturally replenished when used at sustainable levels.@ This definition would clearly include hydroelectric facilities.

Hydro resources also provide significant reliability benefits that are crucial to state generation diversity. During the August 2003 blackout, NYPA's Niagara and St. Lawrence projects continued to provide power. The importance of this reliable renewable power and energy should be considered in the RPS. Hydropower can provide important reliability benefits in a renewable portfolio, benefits that could offset the lower availability factor of other renewables.

While arguments have been made in this proceeding that only small or new hydro should be included in the RPS, the air emissions and generation diversity benefits of large hydro are equal to and more significant than smaller hydro. Further, to the extent that any limitation on the hydro category is adopted, that limitation should focus on the environmental impact of the hydro and not its size or age. NYPA's Niagara Project, although older and larger than many other hydroprojects, has generated fewer negative environmental impacts and less controversy than many other smaller hydro projects.

NYPA's upgrade and increases in output from the Niagara Project, which are currently ongoing, should be included regardless of which categories of hydro are included in the RPS. The upgrades at the Niagara Project will not have any negative environmental impacts while increasing available renewable generation. As such they are non-impact hydro and should be included as a renewable resource.

NY Municipals Support the Criteria Approach to RPS Listing

The NY Municipals support the June 9, 2003 Clean Technologies Coalition **A**Technology Attributes Measurement[®] proposal. The proposal would not exclude any technology per se; each technology would be assigned a score based upon a weighted set of RPS objectives. The NY Municipals support including technologies that achieve some minimum score. The NY Municipals also support the broad criteria for listing included in the Attributes Measurement proposal, including: greenhouse gas life cycle emission; pollutant life cycle emissions, including waste recovery; fossil fuel reduction; increased generation diversity and improved energy security and reliability; economic activity; and cost effectiveness. A criteria listing has the advantage of potentially including a broad range of renewables and excluding none.

Further, the NY Municipals generally support a broad definition of renewables. A variety of renewable resources, including biomass, municipal solid waste, and district heating can provide important contributions to the RPS. The NY Municipals support their inclusion in the RPS.

The RPS Should Give Municipalities Credit for Their High Renewable Purchases

The RPS should be structured to give municipalities credit for their existing high renewables purchases. The municipalities already purchase over 80% of their energy from renewable sources, three

times the proposed RPS standard.

One option for appropriately crediting municipals would be to include an RPS credit trading mechanism in the rule. Credits in such a trading system should be awarded to the LSEs, such as the municipals. Only by awarding the credits to LSEs can the Commission ensure that the renewables attributes are used in New York. Awarding the credits to the LSEs also rewards the party that pays for and purchases the energy that contains the renewable attribute. Further, a credit trading system should include both baseline (*i.e.*, existing) renewables generation and new generation. Including baseline generation would give appropriate credit to LSEs that have, even without a Commission mandate, made renewables an important part of their energy portfolio. It would also give credit to the hydro generation that is a unique New York resource. The NY Municipals support a credit trading mechanism where LSEs receive credit for their renewables purchases and where baseline renewables purchases are assigned credits as an appropriate way to credit to municipalities for existing and continued high renewables purchases.

The New York Municipals are pleased to have this opportunity to provide comments in the Commission's RPS proceeding and look forward to working with the Commission in the development of the RPS. The NY Municipals look forward to further cooperation with the Commission, the New York State Energy Research and Development Authority and NYPA to develop and implement innovative, voluntary renewable energy and energy efficiency programs. The New York Municipals reserve the right to supplement these comments with additional information at a later time.

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Respectfully submitted,

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