

September 25, 2003

VIA FEDERAL EXPRESS AND ELECTRONIC MAIL

Honorable Eleanor Stein
Administrative Law Judge
State of New York Department of Public Service
Three Empire State Plaza
Albany, New York

Re: Case 03-E-0188

Dear Judge Stein:

On behalf of Ridgewood Renewable Power (“Ridgewood”), these initial comments are submitted, in accordance with Your Honor’s letter dated September 17, 2003, for the purpose of presenting Ridgewood’s proposal for the design of New York State’s Renewable Portfolio Standards (“RPS”). In brief, Ridgewood proposes an RPS with three “tiers” of renewable resource requirements and incentives designed to achieve the goal of obtaining 25% of the State’s electric energy supply from renewable resources by 2013.

As more fully described below, Ridgewood proposes three tiers of renewable resource requirements, to include all categories of renewable resources and to differentiate between those resources based upon size, market penetration and other attributes. Ridgewood also proposes that a centralized procurement agent be appointed to create, procure and track

renewable certificates to satisfy the RPS. The agent would charge all load serving entities (“LSE”) a share of the cost to procure those certificates, or require an “alternative compliance payment” in the event that an insufficient number of certificates are procured.

In order to assure that the State receives the environmental and economic benefits expected from the RPS program, Ridgewood also proposes that a strict delivery requirement be imposed. Such a requirement would ensure that the renewable energy from which these certificates derive, would actually be delivered to the NYISO in order to serve customers of the State’s LSEs.

Ridgewood has reviewed the comments filed by the Staff of the Department of Public Service (“DPS Staff”) on March 28, 2003, the baseline estimates submitted by DPS Staff on March 17, 2003, the *New York Renewable Portfolio Standard Cost Study Report* dated July 28, 2003 that was prepared by DPS Staff in collaboration with Sustainable Energy Advantage, LLC (“SEA”) and endorses many of their suggestions and conclusions. As summarized by DPS Staff and SEA, “New York State supports the commercialization and development of significant new renewable energy supplies to increase energy resource diversity and to reduce air emissions”. *New York Renewable Portfolio Standard Cost Study Report*, at 1. “To realize these objectives, State policies should be based on long-term incremental strategies designed with an understanding of relevant economic, environmental, service reliability and equity considerations”. Ibid. As a developer and operator of renewable generation facilities throughout the nation, including New York State, and as an active participant in the working group discussions, Ridgewood agrees with the State’s positions on these issues and has designed its proposal with these considerations in mind.

In its March 28, 2003 comments, DPS Staff described its principal interests in developing the RPS:

1. Diversify New York State's electricity generation mix and improve energy security by less reliance on fossil fuel sources.
2. Reduce air emissions, including greenhouse gas emissions, and other adverse environmental impacts of electricity generation affecting the environment in New York State.
3. Develop a program that is economically efficient within the context of a [RPS] requirement so as to minimize consumer energy costs.
4. Increase economic development opportunities in developing renewable resources in New York State.
5. Attract renewable resource generators, manufacturers and installers to New York State.
6. Accelerate progress in developing a broad range of renewable resource technologies so as to promote future opportunities.
7. Develop a program that is compatible with competitive energy markets in New York State.
8. Develop a program that is administratively efficient.

Based upon its extensive experience in markets throughout the nation, Ridgewood believes that DPS Staff's interests in this proceeding are both laudable and highly achievable. Moreover, Ridgewood's RPS proposal would allow the State to achieve each of these interests within the timeframe set forth by Governor Pataki.

I. Eligibility Criteria

As a starting point, Ridgewood does not propose to limit eligible renewable resources to "new" facilities constructed after 2001. To limit the eligible pool in this manner not only would penalize existing, smaller renewable facilities, but also ultimately would make the

achievement of the RPS less cost-efficient. According to DPS Staff's baseline estimates, the State already obtains a significant percentage – 17.58% – from (renewable) hydroelectric generating facilities. However, this calculation does not differentiate between small (5 MW or less), medium (greater than 5 MW and less than 30 MW) and large (greater than 30 MW) hydroelectric facilities. By Ridgewood's estimates, less than 1% of the statewide electric supply is obtained from small hydroelectric facilities. Moreover, as a percentage of the total supply procured from April 2001 through March 2002, less than 5% of the statewide electric supply was produced by renewable resources other than large hydroelectric facilities.

Renewable resource facilities exist and are being relied upon, but not to the extent that would justify excluding these facilities from participation in the RPS. Including existing facilities in the pool of eligible facilities, rather than limiting eligibility to “new” resources, will meet DPS Staff's interest in “develop[ing] a program that is economically efficient within the context of a [RPS] requirement so as to minimize energy costs”. The renewable energy market in New York is far from being mature. If a market is to develop, and the State wishes to encourage efficient pricing, then the State should not eliminate existing competition from the nascent marketplace. Existing facilities do not have to recover the “start-up” costs incurred by new facilities, reducing the level of such costs in their pricing. Additionally, existing facilities have experience in the market, and, as a result, are aware of the associated market risks. This awareness translates into a more accurate reflection of known risks in their pricing, reducing the need for pricing “placeholders”, which only serve to increase prices. While newer facilities may require higher prices, older facilities will charge a comparatively lesser “premium” due to these factors. Accordingly, both “new” and “old” renewable facilities must be eligible sources of

renewable energy to satisfy the RPS in order to provide a more balanced range of pricing and other benefits.

Many renewable energy facilities, particularly smaller facilities, must operate on very slender profit margins in order to maintain competitive pricing. Excluding existing resources from the State's RPS would thus artificially limit the market for their products and make them even less competitive. This problem was recognized by DPS Staff's study as well. In fact, this study showed that a failure to provide existing renewables with the same payment would cause many existing resources to be lost, with approximately seven megawatts of small hydroelectric resources lost each year. Further, if existing renewables are required to export their products to another state in order to receive renewable credits, then their operating costs will increase as well. Because facilities within another state do not incur the same level of increased costs, a New York facility would be forced to lower its already reduced profit margin in order to compete in another market. Hence, exclusion of existing renewable resources from the New York RPS would place local facilities at a competitive disadvantage both within and outside of the State.

Inevitably, as with any unprofitable business, these in-state facilities may be forced to close their operations. One obvious result of such closures would be the loss of jobs within the State. Clearly, job losses from implementation of the RPS are an undesirable cost, particularly when a desired benefit is incremental job growth from the development of additional renewable facilities. The State also must consider the loss of tax contributions from such facilities, as well as the loss of their individual contributions to the communities in which they may be located, putting further pressure on the State's economy.

It is clearly the State's goal to promote further development of renewable resources and, thereby, displace existing or future non-renewable electric generation resources. However, the State would suffer a huge loss if, in attempting to displace non renewable electric generation resources, the State also displaced existing renewable resources and their concomitant contributions to the State's efforts to reduce air emissions. Rather than adding to the State's renewable resources, the State would merely be replacing renewable resources, making the RPS more difficult to achieve, depriving the State of valuable environmental and other benefits and greatly increasing program costs.

II. Ridgewood's Proposed Structure

If the RPS program is to succeed, and DPS Staff's interest in "increas[ing] economic development opportunities in developing renewable resources in New York State" and "attract[ing] renewable generators, manufacturers and installers to New York State" is to be met, then any RPS requirements and incentives must encourage further development of "underdeveloped" resources. To encourage development, an effective set of RPS is one that properly incents development of renewable technologies based upon their market-readiness and existing market penetration. Accordingly, Ridgewood proposes the following RPS structure:

**PROPOSED TIER STRUCTURE
 NEW YORK STATE RENEWABLE PORTFOLIO STANDARDS**

Tier	Qualified Generation	Alternative Compliance Payment	Initial Requirement	Annual Growth
One	Biomass, Biogas, Geothermal, Photovoltaics, Scheduled Wind, Fossil-fired Fuel Cells, Lowest Mercury Emission MSWs and Small Hydroelectric (5 MW or less)	\$50.00 per MWh	0.5 % of 2005 NYISO Load	0.5 % per year until 2010, 1.0% until 2013, held constant thereafter at 6.0%
Two	Low Mercury Emission MSWs, Convergence Wind and Medium Hydroelectrics (greater than 5 MW but less than 30 MW)	\$25.00 per MWh	0.5 % of 2005 NYISO Load	1.0% in 2010 and thereafter; Tier One can satisfy the Tier Two Requirement
Three	All other MSWs, Large Hydroelectrics (30 MW or greater), all renewable New York Power Authority Generation and post-1985 Contracts with energy payments greater than or equal to 6 cents per KWh	\$1.00 per MWh	18.0 % of 2005 NYISO Load	None but Tier One and Two can satisfy the Tier Three Requirement

Under Ridgewood's proposal, renewable resources would be divided into three tiers for purposes of determining RPS requirements and eligibility. Tier One resources would include biomass, biogas, geothermal, photovoltaics, scheduled wind,¹ municipal solid waste facilities with the lowest mercury emissions,² fossil-fueled fuel cells and small hydroelectric facilities (up to 5 MW). Tier One RPS requirements would start at 0.5% in 2005 and increase at a rate of 0.5% per year until 2010, increase at a rate of 1.0% per year until 2013, and be held constant thereafter at 6.0%. Tier Two resources would include municipal solid waste facilities with low mercury emissions,³ convergence wind,⁴ and mid-sized hydroelectric facilities (greater than 5 MW and less than 30 MW). Tier Two RPS requirements would start at 0.5% in 2005, increase to 1.0% by 2010 and be held constant (*i.e.*, at 1%) thereafter. Tier Three resources would include large hydroelectric facilities (greater than 30 MW), all renewable New York Power Authority generation facilities and post-1985 renewable energy contracts with energy payments greater than or equal to 6 cents per KWh over the remaining life of the contract.

¹ "Scheduled wind" resources would be those wind generators that meet the monitoring, staffing and scheduling requirements equivalent to those developed in accordance with the California ISO's Participating Intermittent Resources Program Status Report in Docket No. ER02-922-000 ("Amendment No. 42"). A copy of Amendment No. 42 can be found at the following address: www.caiso.com/docs/2002/02/01/200202011116576547.html

² In general, MSWs are not considered renewable energy resources. However, under Ridgewood's proposal, if the facility meets certain mercury emissions standards, then the facility would be classified as satisfying Tier One or Tier Two based on its degree of "cleanliness". If an MSW does not meet these low emissions standards, then it would be categorized as a Tier Three resource.

³ See note 2, above.

⁴ "Convergence wind" resources would be those wind generators that do not satisfy the criteria for scheduled wind resources. See note 1, above.

Ridgewood's proposal recognizes that certain renewable resources, such as large hydroelectric facilities, already supply a significant share of the State's energy requirements, and, under the RPS, bring the State a long way toward reaching its 25% renewable generation goal. The objective of Ridgewood's proposal is to encourage further use and development of diverse, smaller renewable resources within the State. Thus, growth of Tier One resources, which are currently the most underdeveloped within the State, but which provide the most reliable and environmentally beneficial resources, will be encouraged under Ridgewood's proposal. Yet, Ridgewood's proposal also recognizes that such growth will not happen instantaneously. Therefore, the proposed RPS provides for a gradual increase in the Tier One requirements. Tier Two resources do not require the same level of development, and also either are not as environmentally beneficial (e.g., MSWs with low emissions), or would not provide as high a level of reliability to the State as Tier 1 renewable resources. (e.g., convergence wind facilities). For that reason, Ridgewood's proposed RPS provides a limited increase in the RPS requirements for these resources. Those resources that currently provide a significant portion of renewable energy to the State would be placed in Tier Three. In recognition of their market penetration level, the RPS requirements simply stay constant over time for Tier Three resources.

In order to prevent reliance on a single technology, and to encourage development of a wide-range of renewable technologies, Ridgewood also proposes that no load serving entity be permitted to satisfy more than 50% of its Tier One requirements with certificates or electrical energy from any single Tier One resource. In addition, the procurement agent would be prohibited from relying on a single technology for more than 50% of the annual requirements for

Tier One resources.⁵ In this manner, development of multiple technologies will be encouraged, and assure that a single technology is not “favored”. Imposition of the three-tiered RPS will, of course, “diversify New York State’s electricity generation mix and improve energy security by less reliance on fossil fuel sources.” However, preventing the LSEs and the procurement agent from relying too heavily on a single technology will also serve DPS Staff’s interest in “accelerat[ing] progress in developing a broad range of renewable resource technologies so as to promote future opportunities”. If a single technology is allowed to dominate the renewable energy market in New York, then, rather than encouraging the development of a competitive renewable market, a single technology will garner a monopolistic hold on the renewable market. Such a result is obviously neither desirable nor consistent with the State’s goals.

III. Centralized Procurement

Ridgewood proposes a centralized procurement agent, preferably NYISO, to be responsible for the generation information system (“GIS”) that would create and track certificates from renewable generation. The centralized procurement agent also would be responsible for procuring a sufficient number of certificates to satisfy the RPS (subject to the import rules suggested below in Point IV), and would assess each LSE a pro-rata share of the cost for the certificates. In the event that an inadequate supply of renewable certificates are procured (due to availability limitations or other reasons), then the procurement agent would, instead, assess each LSE a pro-rata share of the “alternative compliance payment”

⁵ The use and role of a centralized procurement agent is discussed below in Point III of Ridgewood’s initial comments.

responsibility.⁶ Using a single, central procurement agent to create, procure and track renewable certificates will also satisfy DPS Staff's interest in "develop[ing] a program that is administratively efficient". In fact, the structure proposed by Ridgewood is consistent with the system adopted and implemented by the New England Power Pool ("NEPOOL"). Ridgewood actively participated in the development of NEPOOL's GIS and would be pleased to provide input to the process in New York State, as well. The NEPOOL model would provide valuable guidance to the DPS in developing the New York GIS.

As stated above, in the event that an inadequate supply of renewable certificates is procured, the procurement agent would, instead, assess each LSE a pro-rata share of the "alternative compliance payment". The alternative compliance funds collected would be deposited in a trust account to be used as a funding source for incentive payments to renewable resource developers within the State, according to rules adopted by the DPS. Ridgewood's proposal provides for variances in alternative compliance payments to reflect the varying degrees of market penetration required for each of the Tiers. For instance, Tier One resources currently possess a relatively small share of the market. Accordingly, Tier One resources have the most significant growth requirements under Ridgewood's proposed RPS. In order to encourage investors to focus on developing Tier One resources, any deficiency of Tier One certificates would be subject to an alternative compliance payment of \$50.00 per MWh.⁷ Tier Two

⁶ The payments collected for the alternative compliance payment would be deposited in a single, trust account to be used as a funding source for incentive payments to renewable resource developers within the State, according to rules to be adopted by the DPS.

⁷ This alternative compliance payment level is consistent with compliance premiums throughout the country (e.g., Texas (\$50/MWh), Massachusetts (\$50/MWh), Connecticut (\$55/MWh)).

resources currently hold a larger market share than the Tier One resources. Tier Two resources are somewhat less reliable and provide fewer environmental benefits than Tier One resources, and, for these reasons, Ridgewood's RPS provides for less growth in reliance on these resources. Any deficiency of Tier Two certificates would be subject to an alternative compliance payment of \$25.00 per MWh. Because Tier Three resources currently hold a substantial share of the market, any deficiency of Tier Three certificates would be subject to an alternative compliance payment of \$1.00 per MWh.

In addition, Ridgewood proposes that, except to the extent expressly provided by contract, the renewable certificates should remain the property of the generator, unless and until purchased by the centralized procurement agent. In other words, a renewable certificate associated with renewable energy produced within the State should not be "bundled" with the energy (or capacity). Hence, a renewable generator may enter into a contract to sell energy (and/or capacity) from its facility to an LSE within New York, and the centralized procurement agent may purchase the renewable certificate that derives from that energy, which has been delivered within the State, to satisfy the RPS. This structure will facilitate the procurement and tracking of certificates by the centralized procurement agent. It will also prevent an artificial shortage of certificates from developing within the State because generators' certificates will remain available to satisfy the RPS in New York even once the renewable energy has been sold.

In addition, Ridgewood does not believe the centralized procurement agent should purchase bundled energy, capacity and certificates in order to satisfy the RPS. Obviously, some renewable resources are more reliable than others. Bundling the certificates with the energy will mask individual resources varying degrees of reliability. By not bundling the energy and

capacity with the certificate, renewable facilities will be held to the same standards of deliverability and reliability required of other generators selling into the grid and market pricing and demand for those resources should be commensurate with their reliability. Bundling of the certificates, energy and capacity would not send the appropriate pricing signals to the market. Nor would bundling send the appropriate signal to would-be developers or existing owners of renewable resources, who should be encouraged to develop and maintain not only environmentally helpful facilities, but reliable ones, as well. By separating the certificates from the energy and capacity, subject to the strict delivery requirement described above, renewable generators will have to compete with non-renewable generators for market share. In doing so, renewable generators will have to provide a product that justifies any premium that they might receive for reliable delivery of energy to the grid, or be responsible for any penalties associated with failing to reliably deliver.

IV. Delivery Requirements

Ridgewood urges your Honor to recognize that the delivery requirements for renewable energy are a critical component of any RPS and must be carefully considered. DPS Staff and SEA have concluded that “the 25% RPS will also result in indirect economic development, environmental quality and public health benefits”. *New York Renewable Portfolio Standard Cost Study*, at 47. In order to meet the RPS and achieve these benefits, Ridgewood’s proposal for RPS delivery requirements is to require “strict delivery” of renewable energy. In other words, qualifying renewable certificates must be associated with energy that actually flows

into the NYISO and then to an LSE within the State.⁸ In this manner, the State can assure that the environmental and economic benefits expected to accrue to the State by virtue of the RPS requirements, do, in fact, inure to the State's benefit.

It is counterproductive to require the LSEs to procure renewable certificates to satisfy the RPS requirements, but to nonetheless allow the LSEs to purchase power from non-renewable generators in order to serve the associated load. Only by requiring that the energy from which the renewable certificates derived must be delivered within New York can the DPS assure that the renewable attributes of that renewable energy will benefit New York consumers.⁹ Thus, requiring strict delivery of renewable energy and certificates to the State will achieve DPS Staff's interest in "reduc[ing] air emissions, including greenhouse gas emissions, and other adverse environmental impacts of electricity generation affecting the environment in New York State".

Furthermore, while strict delivery does not mandate that facilities be located within the State, one obvious benefit from such a requirement is that it further encourages development within the State. To the extent that additional renewable resources are developed

⁸ Within the *New York Renewable Portfolio Standard Cost Study Report*, the "strict energy delivery" requirement is defined as meaning "attributes may only be imported via an energy import from a specific generator, with energy and attributes scheduled across the border into the sink region via a unit-contingent contract. The energy import must match the generator's production profile in real time". See *New York Renewable Portfolio Standard Cost Study Report*, at 17, note 10 (citing Grace, Robert and R. Wiser, Transacting Generation Attributes Across Market Boundaries – Compatible Information Systems and the Treatment of Imports and Exports, prepared for U.S. Department of Energy and New York State Energy Research & Development Authority, November, 2002). Ridgewood agrees with this definition.

⁹ The strict delivery requirement is also entirely consistent with the system adopted by NEPOOL.

in direct response to the New York RPS, the siting of those facilities within the State will provide direct environmental and economic benefits to the State. In the first instance, by DPS Staff's and SEA's own estimates, "total annual nitrogen oxide (NO_x) emissions will be reduced by approximately 8,000 tons (19%); sulfur dioxide (SO₂) by 14,000 tons (11%); and carbon dioxide (CO₂) by 5,942,000 tons (12%) when the RPS reaches its target level in the year 2013". *New York Renewable Portfolio Standard Cost Study Report*, at 2. In addition, DPS Staff and SEA estimate that the RPS will displace about "13% of energy derived from oil and gas resources". Ibid. Siting of such resources within the State will assure that the reductions in emissions provide these environmental benefits directly to the State.

A strict delivery requirement will also give in-state renewable generators a "home field" advantage in satisfying such requirements. Because they will not incur costs to wheel their power to the State, the overall cost of renewable energy from facilities within New York will also be lower. Added to this lower overall cost of renewable energy from resources within the State are the additional jobs and tax payments that will result from development within New York. The reduced pressure on pricing and increased jobs and taxes will provide direct economic benefits to the State and its consumers. Obviously, such positive contributions to the State's well-being will only serve to encourage further development of renewable resources in the future.

V. Additional Benefits

Ridgewood wholeheartedly agrees with DPS Staff's and SEA's conclusion that "[t]he 25% RPS will also increase diversity in the resources used to generate the electricity provided to New York consumers and decrease the risk to New York consumers of price spikes

and supply interruptions due to reliance on foreign sources of fossil fuels”. *New York Renewable Portfolio Standard Cost Study*, at 47. Adoption of an appropriate RPS structure will be crucial to these benefits. As DPS Staff and SEA have recognized, increased reliance on renewable resources will enhance supply security and reliability in New York. In fact, hydroelectric, biomass and landfill gas generation facilities are some of the most reliable producers of electric energy available among all generation facilities. Because they are so reliable, these types of facilities are important sources of capacity to the New York power grid. Encouraging the development of these facilities within the State through the RPS will assure that New York will have a reliable source of energy and capacity readily available to serve the State’s growing needs.

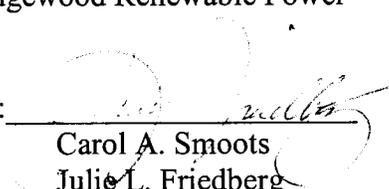
In addition, renewable energy facilities can help keep overall electricity prices stable and predictable. By their very nature, renewable resources are not dependent on oil or natural gas and, thus, cannot be affected by supply shortages, price shocks, or other fuel market influences. During the California energy crisis, for example, it was widely recognized that renewable resources were critical to dampening price spikes and enhancing reliability. As such, and given the extreme strain placed upon California energy markets, California’s renewable resources within the state were the only generating resources consistently available to the state to “keep the lights on”. Renewable resources thus provide a valuable “hedge” against market risks, and will give an added level of supply security to the State. An increased reliance upon renewable resources ultimately also may be expected to reduce upward pressure on consumer rates, because an increased portion of the State’s energy portfolio will be procured from reliable generation at stable prices. It of course follows that encouraging development of such

renewable, reliable resources within New York State will further enhance the State's supply security and stability.

Conclusion

With the State's goals in mind, and for all of the above-stated reasons, Ridgewood urges your Honor to adopt its RPS proposal establishing three-tiers of renewable resource requirements and requiring strict delivery of renewable energy to the State in order for the associated renewable certificates to satisfy the RPS.

Respectfully submitted,
Ridgewood Renewable Power

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