

# Sierra Club – Atlantic Chapter

---

353 Hamilton St Albany, NY 12210 (518) 426-9144

September 26, 2003

## **Sierra Club – Atlantic Chapter Comments on Case O3-E-00188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard**

Sierra Club – Atlantic Chapter is joined with other parties in the Renewable Energy Technology and Environment Coalition (RETEC). Sierra Club supports the comments filed by RETEC with one exception regarding the eligibility of biogas from concentrated animal feeding operations or CAFOs. We also wish to amplify on the issue of siting of wind turbines.

### CAFOs

Sierra Club does not support the use of biogas from digesters at concentrated animal feeding operations part of the New York State Renewable Portfolio Standard. The concentration of large numbers of animals in a farming operation has the potential to threaten both air and water quality. There are several high profile examples from New York State that demonstrate this potential. In 1994, in one of the first rulings of its kind, the US Court of Appeals for the Second Circuit ruled that Southview Farms in the Town of Castile had discharged manure into surface waters in violation of the Clean Water Act. More recently, Willet Dairy in the Town of Genoa has been cited by DEC for discharging animal wastes into surface waters and is currently the subject of a Clean Water Act citizen's suit filed by residents of the Town of Genoa. While the digestion of animal wastes for the production of biogas is proposed as a possible means of mitigating the environmental threats posed by CAFO's. Sierra Club believes that the regulation of the digestion process is currently not adequate to ensure that it abates, rather than exacerbates the threats from CAFO's.

Currently DEC regulates the management of animal wastes from CAFO's through a general permit. The crucial detail of this permit, the animal waste management (AWM) plan is developed through the New York State Department of Agriculture and Markets Agriculture Environmental Management Program (AEM). The AWM plan is developed by the CAFO in consultation with a state certified AEM planner who is a private consultant paid by the CAFO. The AEM planner certifies that the plan meets the criteria of the CAFO general permit, but the plan is not as a regular practice reviewed by either DEC or Ag & Markets staff and is never open for public comment or available to the public at any point after this. It is our understanding that regulation of the siting and operation of digesters would only be addressed in the context of the AWM plan.

In our view this process lacks adequate accountability, transparency and disclosure. It is further our understanding that in some instances digesters operated by CAFO facilities are accepting off-site biological wastes, such as whey from cheese processors and manure from other CAFOs, and charging a tipping fee. This practice will further concentrate biological wastes at these facilities, which will magnify their potential to cause environmental harm. We do not support inclusion of electricity generated from CAFO digester gas in the New York State Renewable Portfolio Standard because to do so will promote an environmentally risky and currently inadequately regulated practice.

## Wind Power

Sierra Club strongly supports the development of substantial wind resources for electricity generation. Wind power is a clean emission free, renewable resource that can help reduce our dependence on polluting fossil fuels (coal, oil, and natural gas) and nuclear power for electricity. The consequences of our continued dependence on burning fossil fuels for electricity include global warming, acid rain, smog, increased incidence of asthma and other respiratory diseases, and other forms of pollution and natural resource damage, including mountaintop removal and strip mining. While there are drawbacks to all forms of power generation, we strongly support wind power where it can be responsibly sited and generated as part of the answer to these problems.

We particularly support the development of wind power on agricultural land where wind production complements existing land use. Sierra Club opposes development in protected areas such as national and state parks, national monuments, wilderness areas, wildlife refuges, designated roadless areas, critical habitat for wildlife, areas of cultural significance and other areas that have special scenic, natural or environmental value. In these areas, it is inappropriate to build power plants, roads, transmission lines, or any other structure related to energy development. Sierra Club urges the Public Service Commission to adopt siting criteria for wind power installations to ensure that the renewable portfolio standard encourages the appropriate siting of these facilities.