

September 26, 2003

VIA FEDERAL EXPRESS

Hon. Jaclyn A. Brillling
Acting Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223

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

Dear Acting Secretary Brillling:

Enclosed for filing with the Commission is an original and six (6) copies of comments submitted by the undersigned companies.

The parties on the service list have been served by electronic mail.

Respectfully submitted,

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Enclosures

cc: Hon. Eleanor Stein (electronically, via email list server for the proceeding)
Active Parties (electronically, via email list server for the proceeding)

September 26, 2003

NEW YORK STATE
PUBLIC SERVICE COMMISSION

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

Initial Comments of the Undersigned Companies
Regarding the Summary of Working Group Discussions

Summary of Comments

A fundamental component of any RPS is a credible and verifiable accounting system to adequately back up the financial transactions taking place in the RPS market. As such, the undersigned companies support the development of a credit trading system in New York. More specifically, we feel that a certificates-based accounting system that allows for the full separation or unbundling of energy and attributes is the most appropriate type of credit trading program for New York. This system is uniquely capable of providing the credibility and veracity of data that is needed to support the RPS market, ensuring that New York is compatible with other accounting and trading systems in the region, and supporting several other critical market and regulatory needs. We also agree that New York should move ahead with implementation of a certificates system in advance of the development of any type of regional trading system.

In addition, we support the consensus item that Working Group Four should continue its work in a separate track. We do, however, strongly urge that this work begin as soon as possible and that an aggressive schedule be maintained in order to ensure that work is completed in a time for Commission action simultaneous with Commission action on all other RPS issues. An accounting system is a critical component of RPS implementation and should be implemented concurrently with the RPS.

Introduction

The undersigned companies submit these Initial Comments in response to the “Summary of Working Group Discussions” provided by Judge Stein on June 15, 2003 in Case 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard. The focus of these comments is on the establishment of a certificate-based accounting and verification system to support the RPS and other environmental policies in New York. Such a system would facilitate the creation of an attribute commodity that would allow the purchase and sale of the generation attributes of all megawatthours of energy transacted through the New York Independent System Operator (NYISO) and neighboring systems.

We refer the reader to the comments filed by this group on March 28, 2003 for a detailed discussion of both the benefits that a certificates-based accounting system can provide for New York as well as the deficiencies of the current conversion transaction mechanism. We focus this set of comments, therefore, on the work done by Working Group Four as summarized in Section VI. Credit Trading of the “Summary of Working Group Discussions” document.

VI. Credit Trading

A. Consensus Issues

Establishment of New York-based Credit Trading System

The undersigned companies are fully supportive of the consensus items that New York should move ahead with a trading and accounting system compatible with neighboring systems and should do so in advance of the development of any type of regional trading system.

We strongly recommend that New York adopt a certificates-based accounting system that allows for the full separation or unbundling of energy and attributes. A fundamental component of any RPS is a credible and verifiable accounting system to adequately back up the financial transactions taking place in the RPS market. Without such a system, market participants cannot be assured that the transactions they are entering into are sound. We feel that a fully unbundled certificates-based system is uniquely capable of providing the credibility and veracity of data that is needed to support the RPS market. In addition, the system can support several other critical needs in New York.

This system will (a) enable retail suppliers to meet their requirements in the most cost-effective manner possible, (b) provide regulators with credible, precise, transparent data to verify supplier compliance with environmental requirements, (c) ensure consumer confidence in the retail electric products they purchase, and (d) provide owners of renewable generation a flexible system that will enable them to receive the full value of their environmentally preferable supply.

The current conversion transaction mechanism creates inefficiencies and market barriers and is not able to support these critical needs in the ways that a certificates system can.

The conversion transaction mechanism limits retailer suppliers' ability to compete based on transaction costs that are higher than necessary, because the only opportunity to purchase attributes without the associated energy is through the spot market. Similarly, the generators' ability to compete is compromised because they are forced to sell into the spot market for conversion transactions and cannot engage in bidding strategies that maximize return. The generators' ability to compete is further compromised by the current limitations on the markets they can access. The conversion transaction mechanism also lacks the flexibility to adapt to changing regulatory and market environments.

The flexibility and value-neutrality inherent in the certificate-based accounting system we envision for New York will enable it to adapt to changing regulatory and market environments and provide compliance verification for changing and new regulations. For

instance, the implementation of such a system will enable New York to easily adapt to and accommodate environmental policies such as emissions performance standards as well as a regional or national RPS if adopted in the future. In addition, the flexibility will enable the system to adapt to any changes that may be required as a result of FERC's RTO and Standard Market Design proceedings. Based on the direction from FERC and from NARUC supporting certificates-based systems, we do not foresee any roadblocks to proceeding with a certificates system now, particularly since FERC has recognized New England's certificates system as a best practice.

A fully unbundled certificates-based accounting system is critical in order for New York to be compatible with neighboring systems and to eliminate impediments to cross-boundary transactions. Such a system will provide the opportunity to simplify cross-border trading of renewable energy attributes and potentially expand the market for New York generators. This system will also facilitate the reduction of seams issues between New York and other control areas such as New England, where a certificates system is currently operating, and PJM and Ontario where regulators and market participants are in the process of developing certificates systems.

Establishment of An Implementation Track

We support the consensus item that Working Group Four should continue its work in a separate track. There are many details and issues that need to be resolved and continuing the work will be critical to moving ahead with the implementation of a New York system. We do, however, strongly urge that this work begin as soon as possible and that an aggressive schedule be maintained in order to ensure that work is completed in time for Commission action simultaneous with Commission action on all other RPS issues. An accounting system is a critical component of RPS implementation and should be implemented concurrently with the RPS.

In addition, we support the continuation of the current conversion transaction mechanism only until a full certificates-based system is put into place. While the conversion

transaction mechanism allows the limited unbundling of energy from environmental characteristics, this mechanism does not provide the needed flexibility, efficiency, transparency, or accuracy that is needed to support an RPS or other policy and market goals. In addition, New York's environmental disclosure program can easily be accommodated with a certificates system. Therefore, we recommend that the conversion transaction mechanism be eliminated once a full certificates-based system is operational.

We agree that the accounting system for New York must be able to accommodate imports and exports and must allow the attributes of imports to be traded in the same manner that all other MWhs are traded.

B. The Deliverability Requirement

We leave discussion of the issue of whether energy needs to physically be delivered into New York in order to trade the associated attributes to the individual parties. However, we would like to point out that the system contemplated in these comments can easily accommodate the various approaches to delivery being discussed including a strict delivery requirement, a relaxed delivery requirement, and no delivery requirement.

C. Other Open Issues

We generally agree with the criteria outlined in this section of the Summary of Working Group Discussion document, particularly that the system should:

- be administratively and economically efficient
- minimize regional market seams
- cover all generation sources in the market
- facilitate the most liquid market possible
- provide credibility and transparency; and
- be used to support RPS, environmental disclosure, and retail electric markets.

However, further definition and refinement of these criteria and many other related issues will be required as Working Group Four continues with its work. These issues can be complex and many are inter-related necessitating detailed discussion and negotiation. Therefore, we will address these criteria more fully in future Working Group Four sessions.

In conclusion, we recommend that the Commission adopt a certificates-based accounting and verification system and establish a separate procedural track for Working Group Four to develop detailed system requirements and functionality for the implementation of such a system.

Very Truly Yours,

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