

NEW YORK STATE
PUBLIC SERVICE COMMISSION

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

BRIEF ON EXCEPTIONS OF AES-NY, LLC

Christopher Wentlent
AES-NY, LLC
720 Riverside Drive
Johnson City, New York 13790
(607) 729-6950 (tel)
(607) 729-0540 (fax)

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INTRODUCTION

In February 2003, the Public Service Commission (“Commission”) instituted the above-captioned proceeding to develop and implement a renewable portfolio standard (“RPS”) for retail electric sales. On June 3, 2004, Administrative Law Judge (“ALJ”) Stein issued a decision recommending (“RD”) that the Commission adopt a policy statement designed to achieve the goal that 25% of energy sold at retail in New York be provided by renewable resources by 2013.

Pursuant to the Commission’s June 3, 2004 Notice of Schedule for Filing Exceptions, AES-NY, LLC (“AES”) hereby files its exceptions to the RD. AES owns six electric generation facilities in the State of New York and actively participates in New York markets operated by the New York Independent System Operator, Inc. (“NYISO”). As an active participant in the RPS proceeding, AES’s interest lies mainly in ensuring the RPS is developed in a manner that is consistent with, and does not undermine in any respect, the functioning of reliable, non-discriminatory, competitive energy markets in New York and its surrounding regions.

As discussed below, AES respectfully requests that:

1. Prior to ordering mandatory RPS targets, the Commission address the results of the Phase 2 reliability study being conducted by the NYISO and New York State Energy Research and Development Authority (“NYSERDA”) and incorporate those results into an updated cost analysis.
2. The Commission’s RPS policy statement should make clear that any output from renewable resources built prior to January 1, 2003 should be eligible for RPS benefits to the extent that output exceeds a pre-established historical baseline.
3. The Commission’s RPS policy statement should not determine whether a renewable energy megawatt hour is eligible for CO2 credits.

**I. PHASE 2 OF THE NYISO/NYSERDA RELIABILITY STUDY
MUST BE COMPLETED BEFORE THE COMMISSION ORDERS
COMPLIANCE WITH RPS TARGETS.**

Throughout this proceeding, we have advocated that maintaining reliability and competitive wholesale electricity markets must be primary concerns in developing RPS policies and that the record on these issues was incomplete. The Phase 1 Reliability Study (“Phase 1”), issued on February 2, 2004, merely provides an initial, high-level snapshot related to the effects of integrating wind power into the New York State bulk power system (“NYSBP”). Phase 2 is reserved for the more detailed reliability issues such as load following, unit commitment, operating reserve requirements, and other impacts on real time operation. Phase 2’s conclusion is necessary to determine the amount of wind

generation that can be safely and reliably integrated into the NYSBP. Only after the Phase 2 is complete and costs fully analyzed, should RPS targets be implemented.

II. THE COMMISSION'S RPS POLICY STATEMENT SHOULD MAKE CLEAR THAT OUTPUT FROM RENEWABLE RESOURCES BUILT PRIOR TO JANUARY 1, 2003 SHOULD BE ELIGIBLE FOR RPS BENEFITS TO THE EXTENT THAT OUTPUT EXCEEDS A PRE-ESTABLISHED HISTORICAL BASELINE

The Commission should create a historical baseline as of January 2003 for each renewable resource built prior to that date. The baseline must be driven by actual historical performance over some determined range of years. Going forward, any incremental improvement from that established baseline should be eligible to be offered as renewable energy and receive the associated RPS benefits. For example, an existing facility may have operated historically at a 1-% biomass cofiring, and due to the RPS implementation is motivated to increase that percentage. Any increase above the baseline should be eligible; otherwise, the state will lose the potential to tap a low cost renewable option.

III. THE COMMISSION'S RPS POLICY STATEMENT SHOULD NOT DETERMINE WHETHER A RENEWABLE ENERGY MEGAWATT HOUR IS ELIGIBLE FOR CO2 CREDITS.

The RPS proceeding should only determine what type of resource is eligible to produce renewable energy credits. Whether the megawatt produced is eligible for

potential CO2 offset consideration should be determined by either the regional coalition of states currently evaluating the development of a regional CO2 program or at a national level if a national program is developed.