

Honorable Jaclyn A. Brillig
Secretary
New York State Public Service Commission
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Albany, New York 12223-1350

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

Pursuant to the Administrative Law Judge's (ALJ's) Recommended Decision (RD) issued on June 3, 2004, The Business Council of New York State, Inc., (The Council) respectfully submits its brief on exceptions.

The Council believes that the Public Service Commission (the Commission) can enhance the probability of a successful implementation of the RPS program in a manner that will maximize achievement of its 25% working target for renewable resources while minimizing negative economic impacts, by accepting certain of the options presented to the Commission by the ALJ and by adopting a limited number of revised approaches to the recommendations put forth by the ALJ.

Specifically, The Council recommends the Commission:

- * adopt a voluntary approach - with incentives - as part of the 2005--2008 Phase I implementation schedule.
- * phase and extend the recommended schedule for achieving the 25% target.
- * avoid disproportionate impact on commercial and industrial ratepayers.
- * expand exemptions to enhance and ensure economic development.
- * respond to identified reliability impacts.
- * provide more structure and process to the 2008 review.

ADOPT A VOLUNTARY APPROACH FIRST

As we have stated in previous filings, New York State should avoid implementing a mandatory energy procurement system for renewable energy, but should instead adopt a voluntary approach with incentives to participate. This is consistent with the Commission's statutory power to "encourage" (the

law does not say "require") environmental values.

PHASED IMPLEMENTATION

However, if a mandate is used, we strongly recommend a phased implementation schedule which would provide for a "ramping up" period to provide necessary experience for a successful transition to a more aggressive schedule for bringing RPS power on line.

It is unwise and unrealistic to adopt a schedule for a major new program which is premised on growth rates in the early years to match those of the latter years. The challenging design, siting, purchase and delivery issues will need to be worked out early on in the implementation stage. The lessons learned will provide all parties with important real world experience and allow for refinements which can only help to accelerate growth in the out years. We would therefore encourage "ramping up" the percentage of renewables required in the out years in order to allow the market to develop sufficiently.

The ALJ invited the consideration of this option:

"Another option for the Commission is to adopt a more gradual increase in the amount of renewables, as advocated by MI and others, and as illustrated in the appended Cost Analysis. This option is also supported by the record". (RD, page 45)

The ALJ found "There is little disagreement, on this record, that this target will be challenging, in light of New York's geography and climate, siting obstacles, and distribution of load in relation to resources." (RD, page 45).

We therefore urge the Commission to couple a more gradual increase in the incremental targets with a stretching out of the timetable (whether it be 2015, 2018 or some point beyond that).

1. Appendix B, Table 1, calls for roughly equal amounts of renewable consumption to be brought on line during each of the years 2006 through 2013.

AVOID DISPROPORTIONATE INCREASE ON BUSINESS RATEPAYERS

While actual cost increases to the program will not be known until RPS power is purchased, we believe it is important for the Commission to state clearly that it will insist that any system adopted must not disproportionately impact commercial and industrial ratepayers.

Appendix B, Table 13 estimates fully implemented bill increases of 1.83% for residential customers, 1.95% for commercial customers and 2.38% for industrial customers. The cost increases which are projected are 30% higher for industrial ratepayers than residential ratepayers. Competitive cost pressures are the greatest in the commercial and industrial classes and would threaten the viability of many enterprises.

EXPAND ECONOMIC DEVELOPMENT EXEMPTIONS

The detrimental effects of high energy costs on economic development have been well documented. This was cited as the reason for exempting of NYPA customers from the provisions of the RPS. We support this exemption. Page 66 of the RD states: "... that adding costs to a priority program for economic development may have adverse consequences disproportionate to the benefits." There are many specific businesses which have compelling economic development cases to make on the detrimental impact additional energy costs would have. We recommend the Commission exempt businesses receiving economic development rates from at least the Phase I portion of the implementation of the program until such time as rate impacts are fully understood.

RESPOND TO IDENTIFIED RELIABILITY IMPACTS

Given the economic burden of New York's already high energy prices and the substantial cost of the blackout last summer, we are concerned that a proceeding of this magnitude would move forward without the completion of the reliability study by the New York Independent System Operator. The request of parties for "further analysis of reliability" was denied on October 21, 2003 on the grounds that it was "unnecessary." We continue to argue that reliability issues are vital to the preparation of a sound order and must not be relegated to after the fact consideration.

The phased pre-2008 implementation schedule we have recommended would allow for completion of further reliability studies as more gradual amounts of power are brought on line.

This will allow for experience to dictate the necessary response.

Supporting data in the RD forecasts that well over half of the renewable quota will come from wind power (Appendix B, Table 13). The RD states: "first, the bulk (85 percent) of additional wind will be sited west of Central East; second, seasonal and time-of-day characteristics of wind match New York's peak poorly. New York has greatest need for capacity in summer late afternoons and early

evenings, whereas wind generation in this area tends to peak in the morning and summer wind levels are lower than in other seasons." (RD, page 83). This will provide little benefit for the state's load centers downstate. Additionally, if large wind projects come on line in areas that have surplus generation, it will add little, if anything at all, to reliability, and may result in some existing generation being taken off line - some of which may be low cost hydropower.

Many of these issues are part of ongoing reliability studies (Phase 2) and need to be factored into cost analysis since they have definite economic impacts. Therefore, we would ask that the Commission wait until Department Staff has analyzed the implications of the Phase 2 study and provide the parties in the proceeding with ample time to analyze the report as well and provide comment on said report, before issuing any final directives.

2008 REVIEW

We applaud the decision of the ALJ to recommend a 2008 review by the Commission "in recognition of the vicissitudes of project development, site selection, fuel prices, and the economy..." (RD, page 14). The ALJ stated that this review would allow for the Commission "to evaluate the costs and benefits, invite more generation resources to participate, adjust incentives for incremental renewable acquisition, or otherwise modify the RPS." (RD, page 45) This is a very important and positive recommendation. We believe it is good for all parties. No one is able to precisely forecast market changes, technology advances or actions of other levels of government. All these factors will need to be reassessed so that appropriate refinements, or perhaps major revisions, are made to accelerate development of renewable resources or mitigate unintended negative economic impacts.

We would urge the Commission to give structure to this review process to insure that the important issues of cost, reliability and response to market conditions are properly reported. There needs to be a mechanism to prevent the occurrence of significantly increased costs on energy users, and it needs to be clearly delineated in this review process.

CONCLUSION

We urge the Commission to consider the recommendations we have made in a good faith effort to help it achieve its renewable goals while providing a time frame and approach which will enable it to benefit from the experience gained from a phased implementation approach.

Respectfully submitted,

A handwritten signature in black ink that reads "Anne Van Buren". The signature is written in a cursive style with a large, prominent "A" and "B".

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