June 23, 2004

Honorable Jaclyn A. Brilling
Acting Secretary
State of New York Public Service Commission
Three Empire State Plaza, 14th Floor
Albany, NY 12223-1350

Re: Brief on Exceptions to the Recommended Decision on CASE 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard.

Secretary Brilling:

Community Energy, Inc. submits an original and twenty-five copies of its comments in the above referenced proceeding.

Sincerely,

R. Brent Alderfer, President & CEO

c: Judge Eleanor Stein (e- mail)
c: Parties to the proceeding (e- mail)

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

Brief on Exceptions to the Recommended Decision

of Community Energy, Inc.

June 23, 2004

Community Energy, Inc. (CEI), a licensed green power marketer in New York, is a signatory to the Exceptions of the Renewable Energy Technology and Environmental Coalition ("RETEC") to the Recommended Decision on CASE 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard (RPS).

These additional comments by Community Energy, Inc. focus primarily on the need for clarity and separation of Green Market demand and tracking from the RPS mandate developed in the Recommended Decision. Because of the confusion created by the treatment of Green Market demand as part of the RPS Targets, CEI takes exception with this blurring of the two market drivers and requests that the Green Marketing sales be removed from the RPS Targets in Table 2.

A. Voluntary Green Market Demand is Additional to the RPS

As presently included in the Calculation of the RPS Targets in Table 2, the RPS undermines the integrity of the emerging competitive Green Market. While the intended effect of including Green Market demand in the RPS target is unclear, the confusion

creates the irrefutable perception that the net effect of the voluntary green market is to reduce RPS purchases. To tradeoff RPS purchases against Green Market demand sends a message to Green Energy customers who have voluntarily agreed to pay the higher price for New York renewable energy supply that they should stop doing so and let the RPS pay the costs alone. Otherwise, the Green Energy customers are merely shouldering the costs that would otherwise be shared by all, rather than creating an increase in demand for renewable energy.

The RPS and Green Marketing both drive the development of new renewable energy projects. Combining voluntary Green Market demand with the ramp-up demand of the RPS is smart policy because it assures the successful launch of new, emission-free generation projects at the most difficult stage—the ignition stage in the most-difficult early years. Merging the two, or replacing the voluntary green market with the RPS, takes a step backward, wasting the momentum of the green market.

The choice in adopting an RPS is to either:

(i) Allow both the RPS and the Green Market to operate side-by-side to accelerate development of new renewable energy, or

(ii) Kill the Green Choice market upon passage of an RPS.

Allowing customer green choice to continue over and above the RPS is not only common sense, but it assures success of the overall renewable energy goal by accelerating economies of scale of renewable energy development in the early ramp-up years of the RPS (See the success of Texas for example).

The Recommended Decision threatens to kill Green Marketing and confuse the RPS by counting them together. Counting Green Market sales as part of RPS

compliance eliminates the key driver of the Green Market---consumer desire to make a difference by supporting additional clean supply. To put a face on the market, current green customers who have led the way in supporting renewable energy include MetLife, Pfizer, Brooklyn Brewery, the Durst Organization, SUNY Buffalo, PACE University, Union College, 20 local governments and over 10,000 residential customers. Mixing RPS compliance with the Green Market demand provided by these green market customers creates confusion among and risks deception of Green Market customers through one version or another of double counting. Green customers who are not confused or deceived would have no reason to pay individually for renewable energy that would otherwise be part of the RPS. Incidentally, the Green Marketing projection included in the Table 2 RPS Target is well below the projected green demand that the state's Green Market is on its way to deliver. On the other hand, mixing the Green Marketing projection within the RPS levels eliminates the green customer's ability to make a difference, and will result green market demand far below the targeted level in Table 2. The inability for consumers to add green demand leads to the collapse of the voluntary green market, as sales decline and ESCO's curtail their green choice programs.

Including likely green market sales in the RPS has already generated confusion and speculation about double counting of Green Market sales for RPS compliance. Even if the intent of the Recommended Decision is otherwise, the Green Market cannot survive the confusion and potential for double counting encompassed in the Recommended Decision.

To the extent that the intent of the Recommended Decision is to include the Green Market demand in the planning for supply in New York, the answer is to either allow the market to do that, or to include a supply set-aside for the Green Market as part

of a central procurement procedure based on the various economic, environmental and educational benefits offered by the Green Market to the RPS and New York. Separation and clarity to preserve the integrity of the market is the key.

Accordingly, the Green Market targets included in the RPS must be removed to allow the Green Market to operate independently of the RPS and allow New York consumers the opportunity to make a difference with additional green energy purchases. The result will be increased renewable energy development in the state, particularly in the early years of the RPS, as well as greater consumer outreach and support for renewable energy.

B. Tracking

The Recommended Decision is relatively silent on the issue of tracking RPS compliance in combination with the Green Market. This tracking and verification system must allow for a clear distinction between green energy sold for RPS compliance and that serving the voluntary green market. Consumers must have full confidence that the premiums they are paying for environmentally superior products are not being used to fulfill mandates. CEI recommends a product-based standard as opposed to a portfolio-based to ensure that green marketing sales are counted as above and beyond the RPS.

C. Existing Wind Farms Cannot Be Relegated to a Separate Market

Finally, CEI takes exception to the Recommended Decision position on eligibility for existing wind projects as expressed in the Erratum issued on June 15, 2004. We support the position of both RETEC and staff to include all wind projects in the RPS. The Recommended Decision argument used for the inclusion of existing small hydropower projects with expiring above market contracts is applicable to existing wind

projects as well. The three wind farms on-line in New York were financed and supported by pioneers who should not now be penalized for their efforts to invest in renewables ahead of an RPS. Green premiums, whether delivered through the voluntary or compliance market, are critical to the economic viability of these projects. Therefore, inclusion of these resources within the eligibility limits of the RPS is essential.

Respectfully submitted,

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