

June 23, 2004

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
Empire State Forest Products Association

As an “active party” we have participated in much of this proceeding and would like to compliment the PSC and Judge Stein for conducting a fair and open process. We find Judge Stein’s June 3, 2004 Recommended Decision (herein after RD) to be reflective of the various concerns and interests in this process and are generally supportive of its adoption. There are several exceptions that we would like to note for further consideration.

Biomass Eligibility

The Recommended Decision accepts biomass with some limited conditions as a fuel source. Tables 3 and 4 of the RD (pages 17 and 18) layout the technologies and types of biomass fuels that would be eligible. The approach of specifying each source of biomass is not what was envisioned by the Biomass Working Group and raises the concern that some very appropriate sources of biomass may be left out. It does, however, accommodate the bulk of the sources of biomass. We have only one issue that we would like to raise for further consideration with respect to eligibility.

Co-firing with Biomass

The Recommended Decision recognizes and makes eligible biomass when used as a combined fuel source with coal. The amount of energy attributable from the biomass fuel would be covered by the RPS. This was a discussion point of the Biomass Working Group and it was recognized that this was appropriate.

The RD restricts eligibility of co-firing to coal. The energy derived from biomass in mixed fuel supplies is measurable and can be determined so as to assure that the RPS

benefits are only applied to the biomass fuel. This makes it logical to include co-firing within the RPS, however, this extended to other fuel mixtures and not simply limited to coal co-firing. There are other fuel mixtures (i.e. wood/petroleum) in use today and there may even be more in the future. Biomass co-firing will contribute to the RPS goals, it has proven to provide positive reductions in emissions when mixed with coal and petroleum fuels and should logically be included.

Tiers

We have been a consistent advocate for an open and competitive RPS that does not distinguish between technologies or fuels but rather maintains an even playing field for all. This approach will help to assure that the RPS adds the least cost for ratepayers.

The RD basically adopts this position with two minor exceptions. It allows for a “system benefit charge – like tier” for solar, small wind and fuel cells, and provides a limited maintenance tier for small hydro that are currently counted in the “base-line” but have questionable economic situations. We would like to see some further refinement of these two tiers particularly with respect to the “maintenance tier”.

1. Maintenance Tier

The logic that anticipates the need for this tier is sound and is equally applied to a range of existing facilities. It is not clear that our existing biomass facilities will continue to operate without the support of the RPS. In fact, it is quite likely that given their history and loss of prior rate agreements under which these facilities were constructed, that these facilities will not survive without being included in the economic benefits of the RPS.

This is important for several reasons. Perhaps most compelling is that they are already included in the “base-line” numbers meaning that loss of this production will make it harder to attain the established goals.

We find it very important that the RPS recognize and respect the existing investments in renewables. This is important to generating confidence for continued future investment in these fuels and technologies.

Finally, the economic contributions of the existing biomass facilities are significant. Direct employment is not high but the fuel demands leads to an extensive

supply chain that provides economic returns for hundreds of families and supports the stewardship of thousands of acres of forest land. These are important public values that can be indirectly supported through the RPS' inclusion of the existing biomass facilities.

2. *SBC – Like Tier*

While combustion of biomass to generate electricity is a mature technology, new technologies or process improvements are occurring that may provide increased opportunities for biomass generation. Examples of new or emerging technologies include gasification, utilization of circulating fluidized beds, conversion of biomass to liquid fuels, and use of biomass-based fuels to power fuel cells (thus making fuel cell technology truly renewable). ESFPA believes that development, demonstration and commercialization of these technologies should be fully supported within this tier.

There are some tremendous advances taking place in the area of bio-fuels that are being touted by researchers and supported in other governmental initiatives. We noted in our initial comments that other state RPS' have already anticipated the emergence of these promising new sources of renewables. These technologies offer the prospect of renewable fuels with extremely low emissions but are not fully developed. They clearly deserve to be part of the "SBC – like" tier and we strongly encourage their inclusion.

Respectfully Submitted,

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