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 ENEL NORTH AMERICA, INC.

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Enel North America, Inc. ("ENA"), through its subsidiaries, owns and operates 88 MW of renewable energy capacity in the state of New York, including 19 hydroelectric facilities and 2 wind projects. As an active party to the above referenced proceeding, ENA hereby files the following exceptions and comments on the Recommended Decision ("RD") issued on June 3, 2004.

The comments contained herein concentrate primarily on the need to include existing wind as an eligible generation source under the Renewable Portfolio Standard ("RPS"). Additional comments are also offered on the treatment of Green Market demand within the RD.

First, ENA takes exception to the ineligibility of existing wind projects as expressed in the Erratum issued on June 15, 2004. ENA strongly believes that all wind, including existing wind generation, should be included as a RPS Main Tier Eligible Electric Generation Source, Table 3. The exclusion of the few existing wind projects in New York as eligible generation sources under the RPS endangers these projects' ongoing viability. Without RPS eligibility, existing wind projects will be forced to rely exclusively on the fluctuating voluntary Green Market for recognition of its significant social and environmental benefits. Under the very possible scenario that the voluntary market is insufficient or unwilling to absorb all of the existing wind generation (see below) considerable portions of the projects' power will be valued as equal to conventional power with no worth placed on the real environmental benefits accruing to the state of New York. This is counter not only to the spirit of the RPS, but also unduly penalizes early developers of the over 41 MW of wind currently installed in New York. These developers took early risks in an undefined market and created high profile projects that have been instrumental in stimulating ongoing interest in the potential wind power holds for New York. These projects turned wind studies into reality, gave new income sources to small farmers, and helped demystify wind power to local government officials, community members and visitors. The inclusion of existing wind as an eligible RPS generation source would signal New York's genuine support for wind energy, just as the inclusion of certain classes of existing hydroelectric projects recognizes its value to the state. ENA strongly urges the inclusion of existing wind as an eligible generation source under the RPS.

Second, ENA concurs with Brief of Exceptions filed by Community Energy, Inc. regarding the need for clarity and separation of Green Market demand from the RPS mandate, as currently contemplated in the RD. It is essential that the proactive support of renewable energy by Green Market customers not be perceived as subsidizing or reducing the RPS mandates, which may occur if the Green Marketing sales are included in the RPS Targets, Table 2. Any confusion or lack of transparency between the RPS and Green Market will, at best, negate the important groundwork already achieved by green marketers and, at worst, will erode the future of Green Marketing, thus undermining the very stated goals of the RPS. Green Marketing has an important role to play in promoting renewable energy development and use. As such, the Green Market should be allowed to operate in parallel with, but separate from, the RPS.

In conclusion, ENA believes that the exclusion of existing wind as an eligible RPS generation source, combined with the potential deterioration of the Green Market – a market that already expressly favors new over existing generation -- puts existing wind at double risk. Without access to a green premium from the RPS and with uncertain demand from the Green Market, the economic viability of these projects will be threatened.

Respectfully submitted

/s/

Julie Smith-Galvin
Enel North America, Inc.
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