

Via Hand Delivery

June 22, 2004

Hon. Jaclyn A. Brillig
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail
Renewal Portfolio Standard

Dear Secretary Brillig:

Attached is a request for intervention on behalf of RCB Wind Advocates in the
above-referenced docket.

Also submitted for filing, is an original letter and 25 copies, in lieu of filing a
Brief on Exceptions in said docket.

Respectfully submitted,

Reunion Power, LLC
for RCB Wind Advocates

By: _____
Steven I. Eisenberg

cc: Hon. Eleanor Stein
Active Parties List (via electronic mail)

June 23, 2004

RCB Wind Advocates
C/O Reunion Power LLC
1 Paragon Drive Suite 215
Montvale, NJ 07645

Hon. Jaclyn A. Brillling, Secretary
Three Empire State Plaza
New York State Public Service Commission
Albany, N.Y. 12223-1350

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

Dear Secretary Brillling:

RCB Wind Advocates (hereinafter referred to as “RCB”) submits this letter in lieu of filing a Brief on Exceptions in the above referenced docket. RCB is an informal coalition comprised of the following companies:

1. Reunion Power LLC, Montvale, NJ, a privately held company with activities in the development and management of power generation facilities including wind power facilities. Currently Reunion Power has equity interests and manages 180 megawatts (“MW”) of wind power facilities.
2. Catamount Energy Corporation, Rutland, VT, a non-regulated subsidiary of Central Vermont Public Service that develops, owns and operates wind energy and other energy projects. Catamount has successfully built and currently operates over 450 MW of generation projects.
3. Barton Mines Corporation is a privately held company with the primary business of producing industrial grade garnet products for technical applications. The company owns substantial property in Warren County, New York and has been exploring the feasibility of developing a wind energy project on Barton owned lands.

The most significant point that RCB want to address in the RPS design proposed in the Recommended Decision (“RD”) issued in this docket on June 3, 2004 is the absolute requirement for the RPS to yield financeable programs, i.e., revenue streams and

underlying power projects that lenders and investors in power facilities will find acceptable for long term financing. There should be no doubt that long term financing will produce more MWs of renewable power at lower cost than any other alternative.

In short the RD contains a number of deficiencies that will have a negative result in terms of successfully realizing renewable energy projects and actual MWs. With full respect to the ALJ and the active parties that have contributed to the process to date, RCB requests that the main points below be given serious consideration as part of final program design.

The main points are as follows:

1. **Procurement:** The Individual Compliance route (i.e. bilateral contracts) has significant advantages over the Central Procurement methodology. Financial investors and lenders are very familiar with long-term power purchase agreements and the certainty of unit pricing will be perceived as critical by the financiers in light of the variable nature of production in the case of wind energy and other forms of renewable energy. Indeed the certainty of unit cost from the power purchaser's perspective is also an advantage from the perspective of budgets, cost control and cost recovery. Lastly the Individual Compliance program will be far easier, and less costly to document and administer than a Central Procurement program.
2. **Long Term Firm Contracts** between Owners of renewable power facilities and Load Serving Entities ("LSEs") will be the optimal product of the Individual Compliance program. Ideally these power contracts will contain both the energy and Renewable Energy Credit ("REC") components, but contracts that offer unbundled energy and RECs are feasible. RCB feels strongly that long-term contracts with a minimum term of 20-years are absolutely required in order to move towards the goal of twenty-five ("25%") percent of New York's electricity from renewable energy sources by 2013. Said power contracts must also contain "Take or Pay" arrangements similar to other market standard power purchase agreements. The 20-year minimum term is consistent with the expected life of generating facilities (such as wind farms) and is also in line with typical contract terms for other generation technologies including hydro, biomass, geothermal and other conventional generation technologies. In this light we have spoken with several lending institutions and other financial investors who are experienced in providing financing for power generation facilities and we are very confident that these institutions will look favorably on financing such projects with 20-30 year term contracts. Conversely, shorter contract terms will not permit favorable long term fixed rate debt or ideal equity investment profiles. To be clear, shorter term power contracts may produce some investment in renewable projects but the aggregate MW amount of said projects will be dramatically less than New York state's goal and the pricing and other economic terms will not be as attractive for buyers and sellers as with long-term power contracts.

3. **Cost Recovery:** Assuming that the underlying contracts meet pre-determined parameters, LSEs must be allowed full cost recovery for their financial obligations under the long-term 20-year minimum power contracts. Not providing for full cost recovery will give mixed signals to the LSEs and they will naturally delay from making commitments. The result of this uncertainty will certainly produce less MWs of new renewable energy.
4. **Hybrid Model:** The proposed Hybrid Model is disadvantageous because given the option to obtain RECs from the open market, LSEs will be encouraged to take a wait and see position and not participate in the bilateral direct contract market. The Central Procurement route, if part of the final recommendation, should be limited in scope and contain specific sunset provisions. Central Procurement should not exceed 50% of the market during the first year and its market share be reduced by 10% per year with a mandated 5 year sunset. Program design including economic structure should encourage the development of an open market. The development of this market must include revenue certainty consistent with financial market minimums. Without the certainty of revenues, the general objective of the RPS, i.e., the stated targets and milestones for renewable levels, will not be achieved.
5. **Deliverability:** The RD should clarify that the deliverability requirement applies only to imported renewable energy. Unbundling the energy component and the RECs for New York producers is possible. However, permitting the trading of RECs on a regional basis will not advance the development of New York based renewable projects.
6. **Penalties:** Non-compliance penalties (which should never be referred to as “alternative compliance mechanisms”) must be clearly stated and provide meaningful financial consequences on an annual basis. The penalty amount should exceed the projected market pricing to encourage the completion of long term power purchase agreements (i.e. currently \$50 per megawatt-hour).
7. **Adjustments:** There can be no doubt that broad RPS reevaluation or reopening of the program terms will be poorly viewed by financiers. Limited (and prospective only) RPS review in 2008 in order to make potential adjustments for load growth may be acceptable, but if the Commission resets volume and/or pricing, there will be a chilling effect on the success of the RPS.
8. **Targets and Timelines:** RCB believes that the recommended schedules (25% by 2013) are fair and in the best interests for New York State to achieve the general objectives in the RPS.

RCB trusts that its comments will be helpful in formulating the final design of this renewable program and looks forward to working with the Public Service Commission and other participants.

Reunion Power, LLC
for RCB Wind Advocates

By: /s/ _____
Steven I. Eisenberg