

June 22, 2004

**VIA FEDEX**

Jaclyn A. Brillling, Secretary  
State of New York Department of Public Service  
Three Empire State Plaza  
Albany, New York 12223-1350

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

Dear Secretary Brillling:

On behalf of Ridgewood Renewable Power LLC ("Ridgewood"), enclosed for filing (original and 26 copies) is Ridgewood's Brief on Exceptions to Administrative Law Judge Stein's Recommended Decision dated June 3, 2004 in the above-referenced proceeding.

Kindly stamp one of the enclosed copies of Ridgewood's Brief on Exceptions as "filed" and return to the undersigned in the enclosed, self-addressed stamped envelope.

Thank you for your assistance.

Respectfully submitted,

  
Julie L. Friedberg

JLF/kl

Enclosure

cc: (via electronic mail and U.S. Mail)  
Active Parties List  
Carol A. Smoots, Esq.  
Daniel V. Giulino, Esq.

**CASE 03-E-0188  
ACTIVE PARTY LIST  
(As of May 12, 2004)**

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**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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

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**INITIAL BRIEF ON EXCEPTIONS OF  
RIDGEWOOD RENEWABLE POWER L.L.C.**

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## STATEMENT OF THE CASE

This case began based, in part, on the issuance of the *2002 State Energy Plan and Final Environmental Impact Statement* (“*State Energy Plan*”), which recommended that the New York State Energy Research and Development Authority (“NYSERDA”) “examine and report on the feasibility of establishing a statewide renewable portfolio standard (RPS) for electricity generation.” It was also recommended that this report “assess the economic impacts of an RPS, and determine whether and how an RPS might be harmonized with a restructured and competitive electricity market and the goals from planned State actions to promote renewable energy development”. *State Energy Plan*, at 1-39. NYSEDA’s resulting preliminary report concluded that the “RPS could be established in such a way that it would provide: . . . [m]arket certainty to renewable resource developers ensuring that there would be a retail market for power generated;. . . [c]onfidence to the financial community . . .; and . . . [a]ssurances to customers interested in purchasing clean energy resources that there would be clean energy options available along with greater customer choice in service providers”. *Preliminary Investigation into Establishing a Renewable Portfolio Standard in New York*, dated February 14, 2003, at 1. NYSEDA further enumerated several issues to be addressed in order for New York to meet its RPS goals, including defining eligible renewable generation, assessing the costs of an RPS program, determining the contribution of existing renewable resources to the RPS, establishing a start date, determining the role of out-of-state renewable resources, and establishing a procurement process. *Id.*, at 6-7.

Based on a review of NYSEDA’s preliminary report, the New York Public Service Commission (“PSC”) commenced the instant proceeding pursuant to Public Service Law §5(2) and 66(2) to develop and implement an RPS for electric energy retailed in the State. Order

Instituting Proceeding, dated February 19, 2003 (Case 03-E-0188), at 2. The PSC emphasized the need for a New York RPS in order to lower air emissions and increase system reliability, and provided the following summary of its goals:

After a decade of relatively stable natural gas and oil prices, high volatility in prices has become a feature of the market in the past several years. This Commission has taken a number of steps to address wholesale market price volatility, by working with the utilities, fellow state agencies, and other market participants to design and implement new programs, such as those for peak load reduction, energy efficiency, and green marketing. While these programs have been effective, renewable resources represent a significant potential energy reserve, which (if properly developed) could lower air emissions and increase system reliability. Only about 17% of the electricity currently used in New York State is provided by renewable resources. This figure reflects a disturbing decline from 25% of four decades ago. A return to the 25% figure would be in the public interest.

Id., at 1-2.

In order to develop an RPS that would return New York to a retail electric market in which 25 percent of the electric energy is produced using renewable resources, the PSC asked Administrative Law Judge (“ALJ”) Eleanor Stein to seek comments on, among other things, fourteen “threshold issues”. Id., at 3-4. The PSC’s Order Initiating Proceeding further provided that the ALJ “should facilitate a collaborative process with the goal of developing a draft policy statement”. Id., at 3.

In accord with the PSC’s Order Initiating Proceeding, ALJ Stein issued a Ruling Concerning Procedure and Schedule, dated February 20, 2003 (Case 03-E-0188), establishing a preliminary schedule for a procedural conference, initial and reply comments and collaborative meetings. The procedural conference was held on March 4, 2003, and preliminary comments regarding RPS scope, objectives and design were submitted on March 28, 2003. ALJ Stein opened the collaborative portion of the proceeding with a two-day Overview Forum, held on

April 7 and 8, 2003, which allowed party experts to present their views on key issues, including the experience of other states in developing renewable resources, renewable credit trading programs, and eligible renewable resources. A series of meetings was thereafter convened by five, separate working groups that addressed: (1) eligibility (on April 16 and 29, 2003), (2) centralized procurement (on April 15, 2003), (3) individual compliance (on April 15 and May 6, 2003), (4) credits and trading (on May 7, 2003), and (5) long-term contracts (on May 7, 2003). At the conclusion of the collaborative process, on June 25, 2003, a general summary of the working groups' products and discussions was provided to the active parties.

In the Ruling Establishing Comment Procedures, dated June 19, 2003 (Case 03-E-0188), ALJ Stein established an outline for initial comments to be filed on August 15, 2003 and reply comments to be filed August 26, 2003. As of the date of that Ruling, cost studies were to be filed on July 23, 2003. The Department of Public Service Staff ("DPS Staff") filed its *New York Renewable Portfolio Standard Cost Study Report ("Cost Study")* on July 28, 2003. An informational and technical conference regarding DPS Staff's *Cost Study* was then held on August 13, 2003. Upon DPS Staff's motion to postpone filing both responses to the cost studies and initial and reply comments, a revised comment schedule was established by ALJ Stein, which set a deadline for submission of initial comments of September 26, 2003. Initial comments were filed on that date. Reply comments were due and filed on October 31, 2003.

Thereafter, on February 2, 2004, NYSERDA filed a report titled, *The Effects of Integrating Wind Power on Transmission system Planning, Reliability, and Operations – Report on Phase 1: Preliminary Overall Reliability Assessment ("Phase I Reliability Report")*. ALJ Stein convened a technical conference to discuss the *Phase I Reliability Report* on March 8, 2004. DPS Staff released its *New York Renewable Portfolio Standard Cost Study Report II*,

*Volumes A and B ("Phase II Cost Study")* on February 19, 2003 (Volume A) and March 9, 2004 (Volume B). A technical conference regarding the *Phase II Cost Study* was convened on March 17 and 18, 2004. Parties filed comments regarding the *Phase II Cost Study* on April 8, 2004. On April 8, 2004, the *Draft Generic Environmental Impact Statement ("Draft EIS")* was released. Parties submitted comments regarding the *Draft EIS* on May 14, 2004.

On June 3, 2004, ALJ Stein issued the Recommended Decision in this proceeding. Among other things, ALJ Stein made the following recommendations to the PSC:

- The RPS program should be put in place by January 1, 2006, with the targets to be achieved by 2013. Recommended Decision, at 15 and 47.
- NYPA and municipal customers should be exempted from the RPS program. Recommended Decision, at 71.
- Eligible resources should include new biomass, biogas, fuel cells, solar, tidal, wind, hydroelectric upgrades and low-impact run of river hydroelectric plants developed after January 1, 2003, and existing hydroelectric facilities of 10 MW or less with expired contracts. Recommended Decision, at 17-19, Table 3; 53.
- In general, all eligible resources should be in one tier. Recommended Decision, at 67.
- A commercialization/new technologies SBC-like tier should be in place for solar, small wind, and fuel cells. Recommended Decision, at 67.
- The baseline and incremental targets should be adjusted by 22,006 MWh per year (downward and upward, respectively) to offset the attrition of very small hydroelectric facilities that would otherwise be retired due to expired contracts. Recommended Decision, at 20-21.

- Municipal solid waste should not be considered an eligible technology at this time. Recommended Decision, at 62.
- The RPS should be evaluated periodically, beginning in 2008, to determine what adjustments, if any, should be made. Recommended Decision, at 48.
- Procurement should be a hybrid model allowing for both central procurement and individual procurement. Recommended Decision, at 75.
- Alternative compliance payments should be equal to 150 percent of the past year's certificate cost. Recommended Decision, Appendix C, at iv.
- Imports of all types of otherwise eligible resources should be eligible for renewable credits or certificates provided that an associated amount of energy is delivered to the New York Control Area in the same month. Recommended Decision, at 24.
- Splitting the renewable energy certificate between a greenhouse gas reduction component and the balance of renewable attributes should be explored. Recommended Decision, at 24.
- The Phase I Reliability Report recommendations to protect reliability should be adopted. Recommended Decision, at 93.

## SUMMARY

Ridgewood Renewable Power L.L.C. (“Ridgewood”) believes that ALJ Stein has issued a well-reasoned and balanced Recommended Decision, which, with only a few changes, should be adopted by the PSC. Although the overall approach and structure of the Recommended Decision are sound, Ridgewood submits its Exceptions regarding two important points. First, although Ridgewood strongly supports a delivery requirement, the Recommended Decision erred in recommending that the PSC adopt a delivery requirement that would permit

eligible resources imported from out-of-State to be eligible for renewable credits or certificates as long as an associated amount of energy – whether or not it is renewable – is delivered to the New York Control Area in the same month. Such a delivery standard, although well-intentioned, would permit gaming of the RPS requirements, and, ultimately, would undermine the goals advocated by the *2002 State Energy Plan* and the PSC’s Order Initiating Proceeding. A strict delivery standard, which requires that the energy associated with renewable certificates used to meet the RPS must be delivered into the NYISO on an hourly basis, should be imposed. A strict delivery standard is reasonable, has been used in other jurisdictions (including the New England ISO) and assures that New York actually receives the renewable generation for which its consumers have paid.

Ridgewood further believes the Recommended Decision was correct to include existing small hydroelectric facilities in the RPS program because these facilities are at great risk of permanently going out of service. Ridgewood does take exception to the recommended limitation that only such existing facilities with expired contracts should be eligible for renewable energy credits or certificates. Such a recommendation errs by arbitrarily limiting inclusion in the RPS program to those small hydroelectric facilities that have expired contracts. The small hydroelectric facilities with existing contracts at or below a market price are far more vulnerable and should be afforded the ability to participate in the RPS in order to remain viable participants in the New York renewable energy market. Accordingly, the RPS should be open to very small hydroelectric facilities with expired contracts and to very small hydroelectric facilities with existing contracts priced at or below the market price.

## ARGUMENT

### I. PERMITTING IMPORTS OF RENEWABLE RESOURCES TO BE ELIGIBLE FOR RENEWABLE ENERGY CREDITS OR CERTIFICATES WITHOUT A STRICT DELIVERY REQUIREMENT UNDERMINES THE GOALS OF THE RPS.

It has been recommended that “[i]mports of all types of otherwise eligible resources should be eligible for renewable credits or certificates as long as an associated amount of energy is delivered to the New York Control Area in the same calendar month”. Recommended Decision, at 24. The delivery requirement is discussed on pages 77 through 86 of the Recommended Decision. At the conclusion of this discussion, the Recommended Decision provides as follows (at 85):

Conversion transactions are available for any generator selling power directly into the New York State spot market. A Maine wind generator cannot, without risk of penalty, presently take advantage of this because to deliver energy into NYISO requires a NERC tag, and scheduling based upon an hourly matching system, under NYISO rules. This system disadvantages intermittent generation.

\* \* \*

As long as the transaction into the ISO-New England and the NYISO occur within the same calendar month and the generator surrenders its New England REC, it would be assigned a New York REC. This approach puts intermittent renewables in New England and New York on the same footing.

Unfortunately, the above recommendation will neither put intermittent renewables in New York and New England “on the same footing,” nor will it lead to the environmental or economic benefits sought to be achieved by adopting an RPS. In order to achieve these benefits, Ridgewood and DPS Staff proposed to require “strict delivery” of renewable energy.

Within the *Cost Study*, the “strict energy delivery” requirement is defined as meaning “attributes may only be imported via an energy import from a specific generator, with energy and attributes scheduled across the border into the sink region via a unit-contingent contract. The

energy import must match the generator's production profile in real time". See Cost Study, at 17, note 10 (citing Grace, Robert and R. Wisner, Transacting Generation Attributes Across Market Boundaries – Compatible Information Systems and the Treatment of Imports and Exports, prepared for U.S. Department of Energy and New York State Energy Research & Development Authority, November, 2002).<sup>1</sup> In other words, qualifying renewable certificates must be associated with energy that actually flows into the NYISO and then to a load serving entity ("LSE") within the State. The Recommended Decision acknowledges that the PSC recognized this principle in the Order Initiating Proceeding:

Without detail, the Commission envisioned a program in which New York State would reap directly the benefits of a local renewable industry; some of these benefits, including local air emission reductions, energy supply diversity and security, and protection from natural gas price spikes or possible supply disruptions, only accrue if the energy is actually delivered into New York State. In addition, only with a delivery requirement will New Yorkers enjoy the offset to RPS costs in lower wholesale energy prices.

Recommended Decision, at 86. Despite the Recommended Decision's apparent recognition of the PSC's intent, however, the Recommended Decision advocates a standard that would not assure that any of these desired benefits would actually accrue to New York State.

Simply put, the month-long lag between the creation of a renewable certificate and the production of an associated amount of energy to be delivered into the New York Control Area provides an opportunity for gaming and thus undermines the central purpose of a delivery requirement. Under the proposed standard, an LSE could, for example, purchase a renewable energy certificate generated at a renewable facility located in California (or any other state) on July 1<sup>st</sup>, and then purchase on July 31<sup>st</sup> the associated amount of energy generated at a coal-fired

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<sup>1</sup> In fact, Ridgewood has been informed by the authors of the Cost Study that it was designed based on a strict delivery standard and not on a monthly match.

plant located in Pennsylvania for delivery into the New York Control Area.<sup>2</sup> Although this transaction would technically satisfy the delivery requirement, since both renewable certificates and actual energy delivery into the New York Control Area are accomplished within one month, it completely defeats the purpose and goal of the delivery requirement. It is also counterproductive to require LSEs to procure renewable certificates to satisfy the RPS requirements, but to nonetheless allow these LSEs to purchase power from non-renewable generators in order to serve the associated load. Only by requiring that the energy from which these renewable certificates derived must be delivered within New York can the PSC assure that the renewable attributes of that renewable energy will benefit New York consumers.

Ridgewood also challenges the notion that a permissive delivery standard is required to facilitate imports of intermittent generation. As Ridgewood and others have noted, delivery costs and other charges will not keep imports from participating in the New York RPS even if a strict delivery standard is used. As noted in the Massachusetts RPS Cost Study,<sup>3</sup> which was discussed at length in these proceedings, the cost of imports into New England from the NYISO was found to be approximately \$3.50/MWh for base load units and \$8.00/MWh for wind. When this price is compared to the value of a REC, at \$25/MWh, it is clear that this delivery price is neither unreasonable nor a barrier to entry.

Furthermore, while strict delivery does not mandate that facilities be located within New York, one obvious benefit from a strict delivery requirement is that it does encourage future

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<sup>2</sup> Even if RECs could only be procured from adjoining regions the gaming problem would still exist. Further, because adjoining regions, such as PJM, now include over one-third of the nation, environmental benefits achieved in Illinois, for example, would not provide any direct benefits to New York.

<sup>3</sup> See Massachusetts RPS: 2002 Cost Analysis Update - Sensitivity Analysis, at p. 31, [www.mass.gov/doer/programs/renew/rps-docs/cau-sap.pdt](http://www.mass.gov/doer/programs/renew/rps-docs/cau-sap.pdt).

project development within New York. To the extent that additional renewable resources are developed in direct response to the New York RPS, the siting of those facilities within the State will provide direct environmental and economic benefits to the State and should be fostered. Siting of such resources within the State will also assure that the reductions in emissions they provide will be environmental benefits felt directly by the State. Thus, although renewable energy imports should not be prohibited, certainly it is reasonable to establish policies that encourage renewable energy projects to be built in New York.

A strict delivery requirement will also recognize the supply security and cost benefits provided by in-state renewable generators. Because in-state generators will not incur costs to wheel their power to the State, the overall cost of renewable energy from such facilities should also be lower. Added to this lower overall cost of renewable energy from resources within the State are the additional jobs and tax payments that will result from development within New York. The reduced pressure on pricing, increased jobs and taxes will provide direct economic benefits to the State and its consumers that should be recognized and promoted. Obviously, such positive contributions to the State's well-being will only serve to encourage further development of renewable resources within the State in the future.

In its Initial Comments, DPS Staff also recommended a strict delivery requirement, for the very reasons relied upon by Ridgewood:

Without a delivery requirement, electric ratepayers would incur the premium costs of renewable resources but would forego the *considerable* reductions in local air emissions, energy security, and wholesale prices that would result from the reduction in fossil fuel generation in New York displaced by the delivered energy. The other advantage of a delivery requirement is that for New York's RPS to win public support, its benefits must accrue to New York.

DPS Staff Initial Comments, at 24-25 (emphasis in original; footnote omitted). As recognized by the Recommended Decision, many states have recognized the value of a strict delivery requirement. To date, California, Nevada and Texas have statutorily mandated strict delivery of renewable energy by out-of-state renewable energy generators. Recommended Decision, at 86. As acknowledged by DPS Staff, the delivery requirements for out-of-state renewable energy are a critical component of any RPS and must be adopted in New York if the RPS goals are to be fully realized.

Although the Recommended Decision states that intermittent renewable generators within New York and New England would be “on the same footing” under the proposed 30-day delivery standard, a 30-day delivery standard is actually inconsistent with New England and would therefore create “seam” problems between the two regions. The ISO-New England’s operating rules mandate strict delivery into ISO-New England. See: [www.iso-ne.com/committees/generatorinformationsystems/GIS%20operating%20rules/](http://www.iso-ne.com/committees/generatorinformationsystems/GIS%20operating%20rules/).<sup>4</sup> In fact, the Recommended Decision acknowledges that ISO-New England “mandates strict delivery of renewable energy by out-of-state renewable energy generators”. Id., at 86. Thus, the proposed permissive delivery standard recommended is actually inconsistent with the strict delivery requirement adopted by ISO-New England.

Clearly, intermittent resources in New England and in New York will not be “on the same footing” if these renewable resources are subject to – and must comply with – a higher standard in New England. Thus, having properly recognized the value of adopting a delivery standard that is compatible with New England, the Recommended Decision errs in recommending a 30-day delivery standard. In sum, a permissive standard permits gaming, does

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<sup>4</sup> In particular, note Section 2.7(c), at pages 13 and 14. As a practical matter, the New England strict delivery standard amounts to an hourly delivery requirement.

not assure that actual renewable generation flows to New York and establishes inconsistent delivery standards and seams between regions.

For all of these reasons, Ridgewood urges the PSC to reject the recommendation to adopt a permissive delivery requirement set forth in the Recommended Decision, and, instead, adopt the strict delivery requirement adopted in New England and proposed for New York by DPS Staff and Ridgewood.

## **II. THE RECOMMENDED DECISION ERRED IN LIMITING ELIGIBILITY TO EXISTING, SMALL HYDRO ELECTRIC FACILITIES WITH EXPIRED CONTRACTS**

Although the Recommended Decision includes existing small hydroelectric facilities of less than 10 MW as eligible resources, this recommendation only allows those facilities to become eligible for the RPS as their above-market priced contracts expire. Ridgewood endorses the Recommended Decision's recognition of very small hydroelectric facilities within the State as a unique class worthy of protection and inclusion in the RPS. However, Ridgewood is troubled by the restrictive scope of this recommendation. The underlying assumptions about the nature of the contracts held by existing, very small hydroelectric facilities in the State are flawed. For that reason, Ridgewood urges the PSC to modify the Recommended Decision on this issue, and expand the eligibility criteria for very small hydroelectric facilities to include those facilities with existing contracts that are priced at or below market.

Although not stated directly, this aspect of the Recommended Decision appears to be based upon DPS Staff's RPS proposal and expressly relies on the assumptions made by DPS Staff in the *Phase II Cost Study*. Recommended Decision, at 18, Table 3. When it first submitted its RPS proposal, DPS Staff's rationale for hinging the eligibility of very small

hydroelectric facilities on contract expiration was that “some of these units, due to their size, may not be economically viable without an above-market contract”. However, as Ridgewood pointed out in its Initial Comments of September 25, 2003, the assumption that all small hydroelectric facilities have above-market contracts is in error. For instance, under its power sales contracts with Niagara Mohawk, Ridgewood is paid either the LBMP or 90 percent of the LBMP for energy, and receives virtually no compensation for the associated capacity. Hence, Ridgewood’s contracts are priced at or below market. Ridgewood believes the proposed conditioning language for small hydroelectric facility eligibility is thus too limited.

In addition to including small hydroelectric facilities with expired contracts, the State’s RPS should also include existing small hydroelectric facilities with contract prices that are either equal to or less than the LBMP, which is an appropriate proxy for current market prices. Such a change would recognize the fact that the continued viability of existing hydroelectric facilities with very low-priced contracts are also threatened. It also recognizes the fact that facilities with low-priced contracts have no financial incentives, or ability, to increase their production or make project improvements and repairs that will allow these facilities to remain in operation over the long term. Similarly, it would be highly unfair if hydroelectric facilities that have enjoyed high contract prices for many years are included in the RPS but those facilities that have been a great bargain for consumers are excluded. Moreover, excluding such hydroelectric facilities with low-cost contracts puts them at a tremendous competitive disadvantage with other resources.

Notwithstanding recent improvements in the demand for renewable power, many renewable energy facilities, and particularly smaller facilities such as Ridgewood’s, continue to

operate on very slender profit margins and are very threatened.<sup>5</sup> In addition, these facilities lack bargaining power by virtue of their small size and the fact that they cannot simply relocate in order to obtain more favorable market prices. Thus, these smaller facilities have a limited marketplace in which to sell their products and no market power. DPS Staff has recognized the value to consumers of maintaining all of these existing facilities, and has stated that “it may be less costly to society to maintain these units than it would be to replace them with new eligible resources”. DPS Staff Initial Comments, dated September 26, 2003, at 25. Certainly, Ridgewood agrees that it would be far less costly to maintain their small hydroelectric facilities than it would be to replace them with new generation. It is also clear that this clean and environmentally beneficial generation provides tremendous benefits to the State, which, with proper incentives will be available to the State for many more decades. Thus, the RPS must also permit these facilities to participate in the REC market if they are to have the financial resources to survive and make needed improvements and repairs.

As DPS Staff’s own *Cost Study* and *Phase II Cost Study* demonstrated, these existing hydroelectric facilities should be eligible now, not just when their existing contracts expire. A failure to provide existing small hydroelectric generators with the same incentive payment made to “new” facilities would cause many such existing resources to be lost, with approximately seven megawatts of small hydroelectric resources lost each year. Governor Pataki stated, in Executive Order 111, that New York is “dedicated to the mutually compatible goals of environmental protection and economic growth”. Eligibility of these existing small hydroelectric

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<sup>5</sup> For example, the revenues Ridgewood receives are so limited, if it had to make even one major repair, such as replace a turbine, it would require 8 years of profits to just pay for this replacement. Because most small hydro facilities, such as Ridgewood’s, are older units, the need for costly improvements and repairs in the near term is almost a given. Thus, without either a high-priced contract or inclusion in the RPS, most expensive repairs could not be made and these projects permanently lost.

facilities is a crucial component in assuring that there is, in fact, economic growth, rather than economic loss, due to the implementation of the RPS. The Recommended Decision only partially recognized this component in making an adjustment to the baseline and the incremental RPS target to offset the attrition of very small hydroelectric facilities with expired contracts. A further adjustment should be made to allow very small hydroelectric facilities with contracts at or below the market price to participate in the RPS as well.

DPS Staff has concluded that “[t]he 25% RPS will also increase diversity in the resources used to generate the electricity provided to New York consumers and decrease the risk to New York consumers of price spikes and supply interruptions due to reliance on foreign sources of fossil fuels”. *Cost Study*, at 47. Adoption of an appropriate RPS structure will be crucial to these benefits. In fact, hydroelectric facilities are some of the most reliable producers of electric energy available among all generation facilities. Because they are so reliable, these types of facilities are important sources of capacity to the New York power grid. By not only encouraging the development of these facilities within the State, but also assuring that these existing resources continue to operate, the RPS will assure that New York will have a reliable source of energy and capacity readily available to serve the State’s growing electricity needs.

For all of these reasons, Ridgewood urges the PSC to include very small hydroelectric facilities with expired contracts and very small hydroelectric facilities with existing contracts priced at or below market as eligible RPS resources.

## CONCLUSION

Ridgewood once again commends ALJ Stein for issuing a Recommended Decision that, with very few modifications, will provide the PSC with a detailed road map to guide its development and implementation of an RPS. Using the Recommended Decision as a guide, the

PSC will be able to move toward attaining its goal of reaching a retail energy market in which 25 percent of all electricity consumed in the State is generated using renewable energy resources. The Recommended Decision, however, errs in two areas. First, the Recommended Decision errs in proposing a 30-day delivery standard. Such a standard will not only permit gaming and create seams between regions, but also will limit the intended environmental and economic benefits of an RPS to the State. Ridgewood therefore urges the PSC to adopt a strict delivery standard, requiring energy associated with renewable certificates to be scheduled and delivered into the New York Control Area on an hourly basis in order for the renewable certificates to satisfy the RPS. A strict delivery standard will ensure that in satisfying the RPS, consumers will receive the renewable energy – and accompanying environmental benefits – for which they have paid. Such a standard will also encourage development of renewable facilities within the State, result in lower emissions and increase system reliability and supply security.

Second, the Recommended Decision errs by not adequately protecting very small hydroelectric facilities. Clearly, the Recommended Decision recognizes that very small hydroelectric facilities comprise a unique class among the State's renewable facilities that both requires and deserves protection. Ridgewood applauds the recommendation to include existing very small hydroelectric facilities with expired contracts as eligible RPS resources. However, the Recommended Decision errs by establishing a protected group that is too narrow in scope. Very small hydroelectric facilities with contracts that are at or below the market price also require and deserve protection as members of the same unique group of renewable facilities. Moreover, unless they are included as eligible resources, the continued operation of these facilities will be threatened. Accordingly, Ridgewood urges the PSC to include very small

hydroelectric facilities with contracts at or below market as eligible RPS resources, in addition to those with expired contracts.

Respectfully submitted,

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