Brief on Exceptions of the Solar Energy Industries Association
NY PSC Case 03 – E – 0188
Proceeding on Motion of the Commission
Regarding A Retail Renewable Portfolio Standard
June 22, 2004

The Solar Energy Industries Association supports the June 3, 2004 Recommended Decision of Administrative Law Judge Stein, except as noted below and in the exceptions of the Renewable Energy Technology and Environment Coalition, of which SEIA is a member.

1. The final decision should explicitly provide for the generation of renewable energy credits (RECs) by "behind the meter" projects, and for the retention of these credits on the part of a project owner unless sold or transferred.

2. The Recommended Decision overstates the cost of an SBC-like tier by nearly 100% due to an arithmetic error, and further understates the amount of deployed solar technologies substantially by failing to take into account cost reductions. .

3. The SBC-like tier should be substantially larger than contemplated in the recommended decision to maximize cost-effective benefits associated with distributed generation.

1. The final decision should explicitly provide for the generation of renewable energy credits (RECs) by "behind the meter" projects, and for the retention of these credits on the part of a project owner unless sold or transferred.

The Recommended Decision correctly identifies the SBC-like tier as "essential" to the proper functioning of an RPS and the gradual development of a competitive market for all electricity suppliers and all energy resources. On-site solar, small wind, and fuel cell technologies are incentivized throughout the RPS procurement period via generation-capacity-based buydowns, rather than direct utility procurement As such, the estimated generation from these sources is removed from the utility RPS procurement requirements.

We concur with the Judge Stein that this is the preferred approach, at least in the early years of the RPS, when initial administrative tracking methods and transaction costs would effectively exclude small or behind the meter renewables from the REC market.

However, nowhere is it affirmatively addressed that while these technologies should receive incentive-based buydowns for the initial period of any RPS, that they are eligible to generate salable renewable energy credits. We believe that

these small generators should retain the ownership right to RECs, now and in the future.

The estimated generation capacity of the technologies incentivized by the "SBC-like" tier is effectively removed from the baseline of the RPS. The output from these systems is not measured for RPS compliance purposes. While these technologies are incentivized using funds from the RPS, their renewable attributes are not exchanged. By employing this incentive-based approach, the Commission can design the Standard to promote a comprehensive range of generating technologies with differing attributes.

Within the systems benefits charge fund currently administered through NYSERDA, on which this program is modeled, the state does not assume ownership of the renewable attributes of installed systems. The purchaser of a solar system retains their renewable attributes - among them the right to claim the full environmental benefits of the generation they install.

As technologies and markets develop, the ability of owners of small, behind-the-meter renewable systems to sell their RECs into the market stands to become the best means of encouraging increased production from renewable distributed generation.

Nascent markets in solar credits are developing nationwide. The first sale of solar RECs in a green electricity market just occurred in Florida, where Lakeland Electric transferred several hundred megawatt-hours of solar energy to Sterling Planet, a retail provider of "green tags." Similarly, the New Jersey RPS is developing a solar REC market,, which should become fully operational over the next several years.

In this context, it is logical to explicitly establish that the owner of a small-scale renewable energy system is as eligible as any other renewable project owner to generate renewable energy credits. Once generated, it is critical that it be made clear these remain with the system owner until sold or otherwise transferred.

Upfront incentives are the most efficient means of encouraging these behind the meter technologies at the moment. However, the final decision should pave the way towards full integration in the competitive renewables market by affirming that "behind the meter" systems are eligible to generate and transfer RECs, and that the owners of all such systems retain the right to the credits generated over the lifetime of their system.

2. The Recommended Decision overstates the cost of an SBC-like tier by nearly 100% due to an arithmetic error, and further understates the amount of deployed solar technologies substantially by failing to take into account their current and expected future cost trends.

The cost estimates attached as appendices to the Recommended Decision uniformly overestimate the cost of the SBC-Like Tier. It does so by failing to account for the fact that the 2% of resources obtained from this tier are not *in addition to* the annual percentage targets, but rather *reduce* these targets proportionately. The approximately $148.9 million lifetime cost of the SBC-Like Tier should therefore be considered in the light of its "backing out" the most expensive 2% of the Main Tier, according to the demand curve as established by Staff.

Pending a correction to the actual cost spreadsheets as examined by Staff and the Commission, this correction should reduce the estimated cost of the SBC-Like Tier within the RPS by half or more. (Due to the proportionately higher costs of the last 2% of renewable credits on the demand curve as established in these proceedings – detailed calculations may be found in the exception filings of RETEC.)

Further, the SBC-like tier estimates of solar production contemplate the need for a $4.50 / Watt buydown for solar photovoltaic technologies over the period 2006 – 2013. This tends to deflate the anticipated deployment (in megawatts) of solar energy far below what could reasonably be expected in the state with the deployment of this incentive mechanism.

The California Energy Commissions' Emerging Renewables program, the largest solar rebate program in the United States, offers a buydown of just $3.20 per Watt of solar capacity starting July 1, 2004, and an annual 10% reduction in CEC rebate levels consistent with the anticipated reduction in PV costs over time. The New Jersey Clean Energy Rebate program offers $5.50 per Watt for the smallest systems, but as little as $3.75 for incremental watts above 500 kilowatts. The Long Island Power Authority recently decreased its Solar Pioneer incentive from $5 to $4.50 per watt – two full years before the RPS is expected to become effective.

New York's retail electric rates are among the highest in the nation, it has an eminently valuable solar resource, and the incentives contemplated in this decision are not expected to come on line until 2006. As the cost of solar technologies decline, it is prudent, to assume a lower – and steadily descending – per Watt incentive over the 2006 – 2013 period.

Since solar prices continue to decrease year by year, a lower per watt incentive level could result in dramatically higher rates of solar deployment by spreading available funds further. Conservative industry estimates are that a 2006 incentive of $4 / Watt, which descended by 10% per year, would be adequate to spur substantial solar deployment. At recommended funding levels, this would result in the deployment of more than 27 megawatts of solar in the state – a substantial increase above the levels possible under the Recommended Decision. If the overestimate of SBC-like tier costs is taken into account but the

total proposed SBC expenditure level were to remain constant, the RPS could result in more than 50 MWp of installations over this 7 year period – enough for more than 20,000 New York homes.

3. The SBC-like tier should be substantially larger than contemplated in the recommended decision to maximize cost-effective benefits associated with distributed generation.

.

As we have noted above, the estimated costs of the SBC-like tier appear to have been overstated by nearly 100% throughout the Recommended Decision. If the Decision seeks to strike an optimum balance between minimizing total RPS expenditure and maximizing the public good for the State of New York, it is logical to assume that the proposed tier should increased proportionately – to 4 or 5 percent, at the current cost level. This adjustment would accommodate the currently acceptable cost level, while maximizing the public benefits associated with rapid deployment of solar technologies.

The comments of RETEC, SEIA and others throughout the proceeding have made clear the excellent value for money to be realized from the SBC-Like Tier over the lifetime of the RPS. The Commission should realize these benefits to the fullest extent possible, and has here an opportunity to do so without increasing the final cost of the proposed Standard.

Respectfully Submitted,
Colin Murchie
Director of Government Affairs
Solar Energy Industries Association