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Friday, July 02, 2004

Acting Secretary Jaclyn Birlling
State of New York Dept. of Public Service
Three Empire State Plaza
Albany, NY 12223-1350

Re.: Case 03-E-0188

Dear Secretary Birlling:

Enclosed please find the brief on exceptions requested by Taylor Recycling Facility, LLC. in the above referenced case.

These enclosed comments were also submitted via e-mail on the RPS listserve today which broadcast them to all active parties. Thank you for your assistance in this matter.

Sincerely,

Tom Kacandes
Vice President – Business Development



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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.

Taylor Recycling Facility, LLC. ("Taylor Recycling") hereby submits its exceptions to the Recommended Decision issued by Hon. Eleanor Stein on June 3, 2004 in the above-captioned matter.

The ALJ had a great many issues to explore in a limited amount of time in this proceeding. Many issues received significant attention, several were left underserved by the process. Unfortunately, the attempt to include mixed waste combustion as an eligible resource absorbed a great deal of energy and we support the ALJ in excluding waste incineration from the RD. Many RETEC members, the Attorney General and others have institutional policies opposed to waste incineration. Engaged in that fight, these policies consequently led them to reflexive positions opposing even the separation and recovery of biomass from mixed waste and conversion to energy using advanced non-combustion processes, even in the total absence of experience or data to support their opposition. In the face of this, the recommended decision (RD) adopted a default position by defining eligible biomass as only unadulterated sources of manure and *wood only*. We request an exception to this definition because defining "biomass" as wood is contrary to all other common definitions of biomass which include non-wood renewable matter such as food, leather, offal, grass, leaves, natural textiles (cotton, wool, etc.), paper and paperboard (i.e. boxes). Certain biomass technologies can also produce power with fewer emissions than existing biomass generation using adulterated forms of wood, such as plywood and particle board. These other sources of biomass

represent a vital resource roughly equal in volume to source-separated wood presently available (i.e. not including theoretical sources of energy crops). The RD's default position had its origin in consultant reports to NYSERDA¹ that in turn *offered no basis* for restricting the definition of biomass to the unadulterated wood portion of all available biomass. The bottom line is that the proceeding timeline did not allow completion of the discussion of how adulterated wood and other biomass could be recovered, qualified as eligible through standard NYSDEC permitting processes, and converted into clean renewable energy through non-combustion gasification technologies. Our comments demonstrating how this should be done were ignored by the RD even while the Biomass Working Group concluded that some mechanism to match so-called "alternative fuels" to the capability of several technologies to use them could be established given more time, as NYSERDA's exceptions correctly note. We strongly agree with NYSERDA that the time required to develop new renewable generation means that **the rules need to be defined now** so that REC procurement can go forward in 2005 just to allow projects to come on line in 2007-'08, much less 2006. Therefore, we request an exception to the RD's suggestion that a separate mechanism for determining additional eligible sources of biomass be created. Instead, the Commission must review the information already in the record but overlooked by the RD and include all biomass resources determined by NYSDEC's permitting processes to be sufficiently clean for a particular **non-combustion** technology (which eliminates the concern about old-technology waste incineration becoming eligible) as eligible resources under the RPS.

Relatedly, there was no basis in the record for the RD to limit biomass gasification to combined cycle and combustion turbine power conversion technologies and there is information in our previous comments explaining that true gasification allows synthesis gas to be cleaned as necessary separate from the gasification process and prior to use in boilers, engines, fuel cells, and other conversion technologies, exactly the same as landfill gas which the RD allowed for all technologies. Indeed, it is important to note that in some instances, it may make sense to co-locate a gasifier with an existing landfill and combine the two gas streams for use in any of the available technologies. The RD

¹ "Energy Efficiency and Renewable Resource Development Potential in New York State", August 2003.

presents no supportable logic for allowing relatively dirty landfill gas derived from completely mixed waste to be fired without restriction in any technology while clean synthesis gas from only the energy-appropriate portion of the waste stream is not eligible and restricted arbitrarily to combustion turbines. This is an indefensible state of affairs that the Commission must now correct through minor additions to the biomass definition.

In addition, the RD references DGEIS definitions and analyses of biomass resource that are not comprehensive, reflecting the lack of understanding of the topic pervasive in the RD.

The RD provides no basis for its determination that only unadulterated biomass would be consistent with public expectation of what a renewables premium should buy. In fact, I have personally presented the prospect that the RD would exclude energy-appropriate biomass my firm recovers every day from the RPS to public audiences, including most recently citizens attending the Clearwater Revival last week. In my direct experience, without exception, the public thinks it is outrageous that the RD would in effect exclude biomass recoverable from mixed waste and condemn it to long-distance transportation to landfills where the gas from that unscreened mixed waste suddenly becomes “renewable”.

We take exception to RD’s assertion that adoption of the recommendations will result in desired resources coming on line on schedule predicted – the unnecessarily restricted definition of biomass in the RD will certainly create price and supply risk for biomass developers that will reduce the amount of biomass generation to far less than predicted and much later on.

We request an exception to the RD’s projected cost of the recommended RPS – it will be more costly than projected unless amended by the Commission to include additional biomass resources.

We request an exception to inclusion of fuel cells fired by natural gas as renewable – they are not and no evidence in the record explains how “water was turned into wine” in this instance.

We request an exception to the RD's projected emissions reductions – the RD effectively encourages continued increased emissions from long-haul waste disposal and won't realize reductions attributed to biomass that isn't there just because a consultant concluded that it might be there ten years ago when the underlying data were collected.

We request an exception to RD for being inconsistent with Connecticut's and Massachusetts' renewable portfolio standards which in not being reciprocal, will limit the larger market for biomass generation developed in New York that could be delivered to those states We also take exception to the consequent advantage provided by the MA and CT RPS biomass definitions, which will allow developers outside of NY to out compete us for biomass supply because they can accept all forms of wood, including plywood and creosote-treated wood and other biomass, an added-value for suppliers.

Just as the market availability of renewable energy will likely suppress the price premium commanded by natural gas, the market availability of non-wood biomass as an eligible resource will suppress the price premium of source-separated wood streams for which there is already market demand.

It is up to the Commission to refine the recommended decision by presuming the *inclusion* of energy-appropriate adulterated wood and other sources of biomass as eligible resources to the limit deemed appropriate by the NYSDEC through its solid waste and air permitting processes – an approach agreed upon by the Biomass Working Group. The recommended decision does not accurately reflect the record of this group's work when it recasts the non-objection by group members to unadulterated wood as an eligible resource as the extent of consensus.

Thank you,

/s/

Tom Kacandes

Vice President

Taylor Recycling Facility, LLC.