

State of New York
Public Service Commission

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

Natsource LLC
Reply Brief on Exceptions to the Recommended Decision

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Dated: July 8, 2004

A. Introduction

Natsource is an energy and environmental commodity brokerage firm located in New York. Among the environmental products we handle are various forms of renewable energy, including physical renewable power, renewable energy certificates and “conversion transactions” here in New York State. Having handled transactions in New York as well as in most of the other states in the Northeast and power pools across the United States, Natsource has a strong understanding of the potential impact of different program design elements and how these elements come together to create efficient and effective markets for commodities created by regulation, such as RECs, SO₂ allowances, NO_x allowances and others.

Natsource would like to commend ALJ Stein, the Staff and the Commission for undertaking such a comprehensive study of the issues and the resulting draft RPS. Natsource supports the draft RPS and rejects the majority of exceptions from the parties, with the following exclusions.

B. Implementation timeframe

Natsource opposes delay of implementation as proposed by Multiple Intervenors and the pilot arrangement proposed by the Joint Utilities. The RPS has now been in active development for 18 months. There are current development proposals in the marketplace already awaiting bidders that would be built if the RPS were to begin as proposed in the Draft. Experience in other states has shown that new projects will be found and projects already in the pipeline accelerated if the market demand is there. Delay would be a very weak signal that would further undermine expectations that the RPS would come into force at all.

C. Procurement

Natsource believes that individual procurement by LSEs would be the most effective process to acquire the necessary renewable energy. Individual procurement is the standard in New York in the related market for power. Individual procurement enables companies and developers to come to flexible agreements that match the conditions at hand most closely. Creating an alternative centralized system, as advocated by the Joint Utilities, or hybrid system, as advocated by the Staff, specific to renewable power would be both cumbersome and duplicative, in the end leading to a less efficient achievement of the State’s renewable goals.

D. Tradeable RECs

Natsource is strongly in favor of using RECs and REC trading as a compliance mechanism. Treating the renewable attributes as a separate commodity is conducive to ease of contracting and demonstration of compliance. As the renewable energy target has been expressed as a % of MWh of energy delivered in a given year, there is no need to add the complexities associated with power contracts and hourly deliveries to RECs. The alternative of demanding renewable energy contracts (including both physical power and renewable attributes) will add significantly to complexity and associated confusion in

attaining and demonstrating compliance. It also creates a situation where renewable generation would have to have been sold forward. As power cannot be stored, a transfer of renewable power after the fact would be anomalous.

Tracking systems that create a REC for each MWh of generation from a renewable source are a straightforward way to both enable transactions and demonstrate compliance. Such systems are currently in place in NEPOOL and ERCOT and have been proposed for use in PJM. Strictly speaking, these systems are not necessary, a REC may be created and used for compliance without such a system; however, use of a tracking system helps establish title, thus preventing double-counting of RECs for compliance, whether arising through inadvertent errors, disputes or intentional deceit. Confidence and simplicity are key elements of a liquid and cost-effective market, RECs and tracking systems are very useful in this regard.

E. Alternative Compliance Mechanism

Natsource is favors use of an Alternative Compliance Mechanism, however not in the form that has been proposed in the draft. As described, the ACM will be difficult to administer and will be highly dependent on pricing in the first year, which itself has no precedent and therefore no pre-determined cap. Accomplishing a successful and unbiased survey of pricing for the prior year will be difficult. If, for instance, individual procurement efforts have different terms, conditions and durations, comparability of pricing will be very difficult. Further, REC pricing may vary through the year; frequent sampling of the market would therefore be critical. The low predictability and openness to gaming that would characterize this system could lead to significant problems.

Use of an explicit cap price would provide the best combination of clarity and security. Use of an alternative payment an an aggressive level puts strong pressure on buyers to actively seek compliance through the marketplace. Conversely, a weak level that carries into the future serves as a call option that discourages long term contracts. For this reason, Judge Stein's suggestion of an ACM that can rise with time is the right idea. However, as just discussed basing this on pricing in the prior year is deficient. Setting an alternative compliance payment at an initial level comparable to neighboring states with an escalation over time would be the best combination of factors. An example might be \$50 with an escalation at double the Consumer Price Index. This arrangement would enable some degree of certainty yet minimize incentives to wait or otherwise avoid entering longer term agreements.

F. Voluntary Green Power Marketing

Natsource is not in favor of including voluntary green power marketing in the RPS target. Voluntary purchasers expect that their efforts are incremental to all other obligations. Thus relying on voluntary purchases subverts the goal of their action. The RPS and voluntary markets can easily co-exist so long as the voluntary market is over and above the RPS target. Further, if a tracking system is developed to show compliance with the RPS, it is eminently possible to use that same system for voluntary REC deliveries.

G. 2008 Performance Review

Natsource believes that a review only two years into the program sends a signal of impermanence. Predictability is a key factor in mitigating the risks faced by developers and others who would respond to the RPS by committing capital to new construction. Introducing uncertainty about the RPS levels, target dates, eligible technologies or other aspects of the program will lead directly to price volatility and discourage the investment necessary to reach the 25% target.

H. Comprehensiveness of Record

There is a substantial and complete record of comment upon which the Commission can make an informed decision about the RPS structure, cost and timeframe. The process that the Staff and ALJ Stein have led has been very thorough and productive.