

July 7, 2004

**VIA FEDERAL EXPRESS**

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 L.L.C. (“Ridgewood”), this letter brief opposing exceptions (original and 26 copies) is submitted to the Public Service Commission (“PSC”) in response to exceptions submitted by RETEC to the Recommended Decision issued by Administrative Law Judge Eleanor Stein on June 3, 2004 in the above-referenced proceeding. Ridgewood limits its opposition to RETEC’s arguments against a delivery requirement. See RETEC Brief on Exceptions, at 28.

In its Brief on Exceptions, Ridgewood provided an extensive discussion as to why a strict delivery standard, which requires that the energy associated with renewable certificates used to meet the Renewable Portfolio Standards (“RPS”) must be delivered into the NYISO on an hourly basis, should be imposed. See Ridgewood Brief on Exceptions, at 7-12.

RETEC has argued that any delivery standard is unnecessary because New York is part of an “integrated, regional system, and the trading of renewable energy should reflect this fundamental reality”. RETEC Brief on Exceptions, at 28. However, the “true” fundamental

reality of this “regional system” is that most of the jurisdictions within the region have adopted a strict delivery standard.

As stated in Ridgewood’s Brief on Exceptions, a strict delivery standard has been adopted by NEPOOL, Massachusetts, Maine and New Jersey.<sup>1</sup> On June 29, 2004, the state of Rhode Island also adopted an RPS that requires strict delivery of energy associated with renewable certificates:

b) A generation unit located in an adjacent control area outside of the NEPOOL may qualify as an eligible renewable energy resource, but the associated generation attributes shall be applied to the renewable energy standard only to the extent that the energy produced by the generation unit is actually delivered into NEPOOL for consumption by New England customers. The delivery of such energy from the generation unit into NEPOOL must be generated by:

(i) a unit-specific bilateral contract for the sale and delivery of such energy into NEPOOL; and

(ii) confirmation from ISO-New England that the renewable energy was actually settled in the NEPOOL system; and

(iii) confirmation through the North American Reliability Council tagging system that the import of the energy into NEPOOL actually occurred; or

(iv) any such other requirements as the commission deems appropriate.

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<sup>1</sup> The NEPOOL requirements can be found at [http://www.iso-ne.com/committees/generator\\_information\\_systems/GIS%20Operating%20Rules/](http://www.iso-ne.com/committees/generator_information_systems/GIS%20Operating%20Rules/). Massachusetts’ requirements are set forth at 225 CMR 14.00, which can be found at <http://www.mass.gov/doer/rps/225cmr.pdf>. Maine’s requirements are listed at Chapter 311 of the Maine Public Utilities Commission Rules, and can be found at <http://www.state.me.us/mpuc/rules/Part%203/ch-311.htm>. The New Jersey Renewable Energy Portfolio Standards, N.J.A.C. 14:4-8, can be accessed at [http://www.bpu.state.nj.us/wwwroot/secretary/RPSrules\\_20040419.pdf](http://www.bpu.state.nj.us/wwwroot/secretary/RPSrules_20040419.pdf). The strict delivery standard has also been adopted in several other regions, including Arizona, California, Nevada, New Mexico and Texas.

R.I. Gen. Laws §39-26-5. Unless the same standard is adopted in New York, New York's RPS will not only be inconsistent with much of New England but also New Jersey. This inconsistency would create "seams" between the three regions, ultimately resulting in inequities and potentially higher costs for New York consumers. If New York is truly to become part of a "regional" trading system, then as one of the states within the "region", New York must adopt consistent delivery rules.

The Recommended Decision acknowledged that the PSC "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". Recommended Decision, at 86. As the New England jurisdictions have recognized, the most beneficial delivery rules will mandate strict delivery of energy associated with renewable certificates.

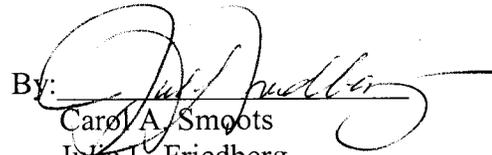
Only by requiring that the energy from which these renewable certificates derived must be delivered within New York can the PSC assure that the renewable attributes of that renewable energy will benefit New York consumers. The absence of a delivery standard (or, even the permissive standard proposed in the Recommended Decision) allows gaming, does not assure that actual renewable generation flows to New York and establishes inconsistent delivery standards and seams between regions. On the other hand, 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.

**Thelen Reid & Priest LLP**

For these reasons, and for those stated in its Brief on Exceptions, Ridgewood again 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 (including Rhode Island).

Respectfully submitted,

Ridgewood Renewable Power

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cc: Service List