



Energy in tune with you.

Enel North America, Inc.

One Tech Drive, Suite 220, Andover, MA 01810
Tel. 978 681 1900 Fax 978 681 7727

December 23, 2004

Hon. Jaclyn Brillling
Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Case No. 03-E-0188 – Retail Renewable Portfolio Standard

Dear Secretary Brillling:

Enel North America, (“ENA”) submits an original and five (5) copies of its comments in response to the Commission’s SAPA Notice on the RPS Implementation Plan. ENA has been a leader in the development of renewable resources in New York as reflected in the 88 MW (19 hydroelectric plants and two wind plants) it currently owns and operates in the state. ENA is especially concerned with how certain existing facilities will be treated under the RPS.

While ENA is pleased to note that SAPA No. 03-E-0188SA2, Section IV does outline proposed “criteria and processes for determining eligibility of certain existing facilities,” it is difficult to offer constructive feedback when no clear parameters for what outcome (or combination of outcomes) are sufficient to deem an existing plant as “eligible.” Nonetheless, the criteria does seem to imply an onerous process, and ENA urges the Commission to avoid a situation whereby existing plants must endure a burdensome process to determine eligibility. Furthermore, once a plant is determined to be “eligible” it should be afforded this status for the duration of the RPS period. Just as with developers of new renewable resources, existing generators need to do long-term planning and resource allocation and certainty about RPS eligibility will be a key component of this process.

As for the specifics of the proposed criteria, ENA strongly objects to the possibility that affiliates of the owner/operator may need to submit financial information. Again, this requirement seems excessive and wholly inconsistent with what is being required of other RPS eligible facilities, as well as with the ultimate goal of creating a competitive market. Furthermore, if the Commission insists on a purely economic analysis for determining eligibility, ENA encourages the Commission to consider the full range of entities marketing RECs. For example, the financial viability of a marketer who has taken full ownership of the RECs should be of at least equal relevance in the evaluation.

Finally, in regards to existing wind projects, ENA respectfully reminds the Commission that there are only three existing projects in the state, representing approximately 41 MW of capacity. While these plants were built prior to the initiation of an RPS, in at least one case, there were indications of a future scheme in which the plants may participate. It was in 2001 when Governor George Pataki issued his Executive Order requiring all state agencies to purchase substantial amounts of renewable energy, thus reinforcing NY State's present and future commitment to renewable power generation. It was these types of actions and initiatives going on in 2000 and in 2001, that the early wind power projects owners relied on to forecast the development of a mature market recognizing the benefits of renewable power in New York State. Of perhaps greater importance, these projects have, and continue to, contribute a significant base of experiential information to regulators, wind developers and communities considering the wind installations – everything from tours of the site to demonstrate the “feel” of a wind farm to the mechanics of selling wind into the NYISO, then conducting a Conversion Transaction. In short, these projects have laid important groundwork on which future projects, which automatically benefit from the RPS, are being built. Furthermore, these projects provide the same environmental benefit as new projects and in at least one case, will contain the same generating equipment and technology being used in new projects proposed for 2005. We urge the Commission not to overly burden existing wind projects with onerous eligibility requirements and to value the contributions these projects have made to gaining acceptance of future wind plants. We fear that if the mechanism to gain eligibility for existing projects to participate in the RPS does not take the foregoing into consideration, the existing wind projects may be held to a higher standard than new, proposed projects, while delivering the same environmental benefits the RPS was designed to create. In fact, ENA maintains that accepting existing wind projects as eligible under the RPS is the most equitable solution, as to do otherwise would penalize the pioneers that helped to create the market.

ENA realizes that the universe of hydroelectric projects is much broader and more complex. As such, ENA concurs with the Small Hydro Group's comment that a working group be established to further review and vent the eligibility criteria.

ENA applauds New York's commitment to developing sustainable sources of renewable energy through this RPS. As such, we believe it is in both the regulators and the developers' interests to concentrate administrative resources of looking forward rather than on cumbersome criteria that burden the very renewable energy pioneers that have been dedicated to clean energy for years.

Sincerely,



For Julie Smith-Galvin
Director, Corporate Affairs