

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

COMMENTS OF THE
RENEWABLE ENERGY TECHNOLOGY AND ENVIRONMENT COALITION¹
ON
NOTICE OF PROPOSED RULEMAKING NO. 03-E-1088SA2
FOR THE
PROPOSED RPS IMPLEMENTATION PLAN

Submitted on Behalf of RETEC by:

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I. INTRODUCTION AND SUMMARY OF COMMENTS²

RETEC applauds the Commission's adoption of a fast track procurement for generation resources needed to meet the 2006 goals of the Renewable Portfolio Standard (RPS). Now is the time to move swiftly to adoption of a full implementation for the RPS program as a whole. Our comments on the Notice of Proposed Rulemaking for the Implementation Plan (SAPA Notice 03-E-1088SA2) can be summarized as follows:

- NYSERDA should develop eligibility and credibility requirements to ensure that only eligible facilities likely to come to fruition in a timely manner are awarded contracts. These should include development milestones and a posted security.
- Appeals of eligibility denials should not impede the awarding of contracts to others.
- NYSERDA should retain the flexibility to use various procurement strategies as are appropriate to circumstances and lessons learned so as to best realize the RPS program's fundamental policy goals.
- Various pricing mechanisms should also be considered, including variations of contracts-for-differences, which may provide for least cost renewable resources. We support mechanisms that provide incentives to renewable generators to keep their overall costs, and therefore, bid prices as low as possible.
- The Commission should ensure adequate public participation in any decision-making to allow additional technologies to participate in the RPS. Adoption of new technologies without public participation, and ultimately public support, will

² Positions taken by RETEC members in this proceeding are reached as a result of consensus and RETEC members reserve the right to take different positions on the individual matters discussed on a stand-alone basis or in other policy arenas but support RETEC documents as a whole on a consensus basis.

undermine confidence in the RPS program and adversely affect its success.

Developers of technologies excluded from the RPS in the Commission's September 2004 decision should not be allowed to reapply unless and until they can demonstrate substantially different factual circumstances that have overcome the barriers to eligibility identified in the decision.

- When reviewing applications from existing facilities for eligibility under the RPS program, NYSERDA must consider the environmental contributions and/or impacts of the facilities in addition to evidence of need for an above-market premium payment for their environmental attributes.
- While monitoring and evaluation (M&E) must be conducted, annual reports need not include lengthy M&E, which would be too cumbersome to conduct annually in great detail. Rather, detailed M&E should be scheduled at regular intervals during program implementation, primarily 2009 and 2013.
- RETEC urges the Commission to forego the development of interim procedures to adapt the existing Environmental Disclosure Label Program for the RPS and, instead, to rapidly adopt a new, permanent generation attribute tracking system similar to the GIS used in NEPOOL and the GATS under consideration in PJM. If the Commission is truly committed to building a market for renewables, both for the voluntary green market and the mandatory State requirement, it should implement policies to complement, not hinder, that effort. A regionally compatible attribute tracking and trading system is an important step to that end.

II. CRITERIA AND PROCEDURES TO CERTIFY FACILITY ELIGIBILITY

NYSERDA SHOULD ESTABLISH REQUIREMENTS FOR FACILITY

CERTIFICATION

RETEC supports the establishment of facility certification criteria and periodic renewal of certification during the life of contracts provided under the RPS. Either an “advisory ruling” or provisional certification as described in the Notice of Proposed Rulemaking could be used by NYSERDA in order to implement the RPS in a timely manner.

Facility certification is essential to ensure that only RPS eligible facilities participate and to ensure that projects are credible. A project is credible if it can reasonably be expected to enter operation on schedule. Ensuring eligibility and credibility is needed to prevent the reservation of bid blocks by meaningless and unrealistic bids from projects that are unlikely to come to fruition.

RETEC believes that NYSERDA should require all potential renewable energy projects to seek provisional or operational certification as a pre-condition for participation in a central procurement solicitation (projects that are not so certified would not be eligible to participate in the RPS). This would not only provide potential participants with clear guidance on what is required to participate in the RPS program but also will provide an effective means to monitor, learn from, and enforce qualification requirements.

While RETEC encourages NYSERDA to be specific and clear in its certification requirements, and the RPS has clearly identified eligible technologies, we see no reason to oppose the existence of an appeal process conducted by either NYSERDA or the

Commission. However, the existence of an appeal by a particular facility or group of facilities must not result in delays in procurement. In other words, NYSERDA should make it clear that the awarding of contracts to clearly eligible and certified resources will proceed even in the event of an appeal; if the appeal is ultimately successful, the facility or facilities can then participate in any then-open or future procurements. In the event an appeal is successful, those appealing should be unable to make claims for possible losses against the State or winning bidders.

With regards to the use of biomass in renewable energy facilities, RETEC supports the approach outlined in the Notice of Proposed Rulemaking. We note that the State of Vermont already employs as standard practice an approach that incorporates such fuel acquisition review and oversight for the McNeil Plant in Burlington. The proposed Forest and Harvest Management Plans together address both the standards for biomass fuel acquisition from forest resource areas and the necessary checks to verify that the standards for fuel acquisition are being met in practice. With escalating fossil fuel prices, the demand for wood fuel for plants in wood only and in co-firing applications will place strong commercial pressure to harvest large volumes of forest resources at lowest cost. The steps outlined in the SAPA Notice represent prudent measures to ensure that the fuel harvesting is carried out in an environmentally responsible way.

NYSERDA SHOULD ESTABLISH REQUIREMENTS TO ENSURE FACILITY CREDIBILITY

In addition to certification requirements, NYSERDA should establish milestones and other requirements to ensure credibility of the projects. RETEC supports the use of a

bid fee or bond requirement (perhaps on a MW or expected MWh basis) on projects participating in procurements. The requirement to post a security, which can be forfeited or used to pay damages as described in contract language, will help ensure that only projects with every expectation of successful development and operation will be bid into the process. The use of bid fees and bonds has ample precedence in procurements held elsewhere, such as those used in Pennsylvania and California, and if set at an appropriate level will not deter serious developers.

In addition, certain milestones should be established and failure to meet them should entail ramifications such as loss of all or a portion of the security posted. Examples include obtaining all needed local and environmental permits and/or completion of NYISO required studies and interconnection agreements by a specified number of months prior to expected energy deliveries. We do not advise NYSERDA to require permitting and NYISO approvals in order to participate in procurement. We believe procurement should take place substantially in advance of expected energy deliveries to allow time for project financing and construction. Therefore, it would be onerous to require that all permitting and approvals be completed prior to contracting with NYSERDA. Contracts also could include a provision for renegotiation under certain extenuating circumstances.

In addition, NYSERDA should consider modest oversubscription since it is likely some of the chosen projects will not result in operating resources on a timely basis. In the event that the contracted MWs exceed the goals for a particular period, NYSERDA can adjust subsequent procurements accordingly.

III. PROCUREMENT METHODOLOGIES FOR MAIN TIER AND CUSTOMER-SITED TIER RESOURCES

A. Main Tier

NYSERDA SHOULD RETAIN FLEXIBILITY FOR ONGOING PROCUREMENT

The Commission discusses three alternative procurement strategies in the Notice of Proposed Rulemaking – Standard Offer, Auction and Request for Proposal. Each of these three options, and their variations, may be appropriate and effective, and each has distinct advantages and disadvantages as discussed in the Notice. RETEC supports the use of different procurement strategies during different phases of the RPS as the renewable market in New York matures. An RFP may be the most appropriate in earlier stages, while an auction may better serve the Program's least-cost objective if a liquid market for renewables and renewable energy credits develops. We urge NYSERDA to keep in mind the Commission's stated long-term goal of fostering a least-cost system for renewable energy in New York through competitive, market-based procurement.

NYSERDA SHOULD CONSIDER A CFD AND OTHER PRICING MECHANISMS

All three procurement options discussed by the Commission (Standard Offer, Auction and Request for Proposal) can be used with various pricing options. In other words, contracts can be awarded with payments made on an as-bid basis, at market-clearing prices, or using a “contract for difference” where the premiums paid by NYSERDA fluctuate depending upon energy prices (and the contract-for-difference can, in turn, be awarded on an as-bid or market-clearing basis). The option used will have a direct influence on the market-behavior of bidders and on the cost of the program. For

example, the use of a “contract-for difference” means bids are based on the total price needed by a project and the premiums paid represent the difference between the total price and the price of the energy sold. Contracts based on a total price (for energy and environmental attributes) have less risk, which makes project financing less costly resulting in lower priced bids and a lower cost RPS program. While payments on an as-bid basis are generally used for RFPs, the energy market uses market-clearing prices, and this approach should be considered.

The Commission stated in its Order Authorizing Fast Track Certification and Procurement issued on December 16, 2004 that it will continue to explore the adoption of a CFD approach for future procurements. RETEC believes that a CFD may very well produce the lowest cost renewables and is therefore worth considering. Without an approach such as a CFD (an approach that approximates most closely the standard power purchase agreements used widely in the wind industry), wind energy projects may have difficulty obtaining financing, which will adversely impact the success of the RPS. RETEC also could support pricing options that include variable rates and indexed rates, rather than fixed prices only.

RETEC also notes two other factors that will significantly impact the cost of the RPS program. First, the length of contracts impacts the price at which renewable energy attributes or RECs will be bid into the RPS procurement. The longer the contract length, the lower the price is likely to be. Second, the current lack of a system for unbundling “attributes” (or Renewable Energy Credits, RECs) impacts how renewable energy providers package and sell their output. If a market for REC trading existed in New York, renewable energy providers could, in essence, transfer some of the risk to that market.

Without such a system, and without a long-term contract for energy, more of the market “risk” is placed on the premium to be paid by NYSERDA.

NYSERDA SHOULD CONDUCT TIMELY AND APPROPRIATE PROCUREMENTS

RETEC applauds the Commission for enacting a fast-track procurement for resources to meet the 2006 goals of the RPS. Timely procurement must continue in order for the goals of the RPS to be met in 2006 and beyond. We encourage NYSERDA to conduct another round of procurement for any additional resources needed for 2006 and for resources needed for 2007 before or during the summer of 2005. Subsequent procurements should likewise be conducted in a manner that allows for financing and construction to take place after the award of the contract. The timeline presented in the Proposed Notice of Rulemaking at II.A.2. Procurement Timeframe Considerations is reasonable and appropriate.

In addition, RETEC supports the notion of different procurement strategies for smaller main tier resources (as distinct from mid to large sized projects). Smaller main tier projects may more closely resemble customer-sited resources and be better served by a Standard Offer or other support mechanism. Likewise, NYSERDA may find that larger customer-sited resources may be more appropriately funded under the main tier.

B. Customer-Sited Tier

In its Implementing Order issued on September 24, 2004, the Public Service Commission identified the following among the goals for the customer-sited tier:

- “ensuring continued and accelerated development in New York State of the emerging technologies of photovoltaics, fuel cells, and customer-sited wind”
- Contributing two percent of the total RPS MWh incremental level from these technologies.
- Accomplish the above at a total cost of approximately \$130.4 million.

DETAILED PRECERTIFICATION AND ELIGIBILITY REQUIREMENTS ARE NOT NEEDED FOR THE CUTOMER-SITED TIER

The Notice of Proposed Rulemaking identifies methods for establishing facility eligibility under the RPS, citing a need to ensure reliable delivery of eligible projects while minimizing unnecessary administrative delay or burden to project developers. RETEC would respectfully submit that in the case of customer-sited installations using largely off-the-shelf equipment, concerns associated with the latter consideration should be assigned proportionately greater weight than the former. With comparatively minimal requirements for equipment pre-purchase, creditworthiness, and siting, individual customer-generator projects promise a high probability of completion once awarded. Given this environment, any “provisional certification” process for this tier appears unnecessary. In the case of fuel cells, use of a precertified eligibility list may be warranted, as discussed in the Comments of Plug Power Inc.

The Commission could obtain sufficient guarantee of deployment through a system of installation payments to approved projects such as that currently employed by NYSERDA’s cost-share programs operated with System Benefit Charge funding (for example, 75% upon delivery of the necessary system components to the installation site,

and 25% upon successful interconnection). Such a system would provide a substantial financial incentive to rebate recipients to eliminate “non-starter” projects without adding undue administrative burden to the customer-generators. Rebate awards could be revoked if unpaid at 6 or 9 months after issue for existing facilities (6 months for PV and fuel cells and 9 months for wind turbines) or 18 months (for new construction.)

Assurance of continued operation could be obtained by the simple expedient of requiring a manufacturer warranty, as is currently standard in many state rebate programs. The recipient of a state rebate has received an effective reduction in the installed cost of their system, but retains a compelling financial incentive to ensure that the system continues to operate at peak efficiency, such that the remainder of their investment may be realized. Sufficient assurance of continued system operation could be obtained by periodic examination of a sampling of awarded systems – as by limited in-person inspections of a sampling of systems, self-reporting associated with an annual service visit, or submission of utility bills showing reasonable production levels. In the case of fuel cells, additional performance guarantees may be required, as noted in the Comments of Plug Power Inc. These guarantees may take the form of a more stringent pre-certification process or enhanced performance requirements.

Additionally, RETEC feels that given the RPS’ stated goal of ensuring the “continued and accelerated development” of these technologies, that only new, commercially available equipment should be eligible for any RPS offer. The California Energy Commission requires that only new equipment (affixed in a permanent installation) be made eligible for rebates; if it is feasible to do so, the Commission should additionally establish a “vintage” requirement, excluding equipment with a manufacture

date earlier than a set date, i.e., perhaps two years in the past or a technology-specific vintage date. This would ensure that the limited resources of the RPS are used to promote the latest technologies and those technologies with the potential for future development.

RETEC also believes that customer-sited resources should remain eligible for the RPS program incentives even when receiving federal grants and tax credits. Just as the federal PTC can be used to lower RPS implementation costs for main tier resources, programs such as USDA 9006 grant funding could be used to lower the cost of implementing the customer-sited tier of the RPS.

RETEC believes that all customer-sited and net-metered projects should be potentially eligible under this tier. RETEC notes that the Commission, in an apparent oversight noted by RETEC in previous comments, has limited eligibility for customer-sited wind energy facilities to 300 kw or less. There is no reason whatsoever to limit this valuable renewable resource. The RPS program should be revised to correct this flaw. However, with relatively limited annual funding available, there is a concern that individual onsite renewable projects of a megawatt or more could quickly consume the available RPS funding, leaving smaller customers “out in the cold”. We recommend a 1 MW per project funding cap. If there is demand for larger projects, the Commission and NYSERDA should consider allowing large scale customer-sited facilities to participate in the main tier of the RPS. RPS eligibility for these resources -- solar photovoltaics, fuel cells, and wind energy -- should be dependent upon technology type and not system size.

A CAPACITY-BASED STANDARD OFFER REBATE PROGRAM IS THE BEST
PROCUREMENT METHOD

In the Notice of Proposed Rulemaking, the Commission considers alternative methods of acquiring the resources sought in the customer-sited tier. In discussion of procurement options, it is critical to remember that these customer-sited resources will be primarily distinguished by their use of standardized equipment and an extreme sensitivity to transactional and administrative costs. The Commission, therefore, should not begin this program with a novel or excessively complicated funding mechanism; home and small business owners are unlikely to have the time or inclination to participate in any type of auction or variable offer process.

RETEC believes that the Commission's best option is to offer fixed-price standard offers for customer-generator systems – effectively a capacity-based rebate administered by NYSERDA. Furthermore, RETEC believes the transition from current rebate programs to an RPS-rebate program will offer the opportunity for program changes designed to maximize the value for money received by New Yorkers under any such program.

Many renewable energy manufacturers report it has been very difficult even to commit resources to the state under the current NYSERDA Program Opportunity Notice (PON) system - substantial effort goes into finding leads and developing customers only to be potentially and unforeseeably denied a rebate award. At a larger level, it is difficult to develop a business plan when the PONs “come and go” unpredictably.

If significant development of small-scale renewable industries is going to happen in New York, it is critical that a capacity-based standard rebate offer level, its approval criteria, and the total available funding, be explicit, stable and known to all parties in

advance. Just as critical, rebates must be made available on a first-come, first-served basis.

An exception to the standard offer approach may be warranted in the case of fuel cell projects larger than 25 kW. NYSERDA may determine that the variety of fuel cell technologies, combined with the difficulty of determining fuel cell costs without extensive investigations into proprietary information, may require the establishment of an auction or RFP process because an appropriate standard offer price is too difficult to determine.

We expect the costs of these technologies to continue decreasing over the seven-year period of this RPS. The Commission should be responsive to this trend, both to ensure maximum value for ratepayers and to avoid supporting artificially high prices. RETEC would therefore propose that the standard offer levels be reviewed and, if warranted, decreased periodically – albeit no more frequently than every six months.

In setting the standard offer level for an upcoming period, NYSERDA should consider current installed prices of equipment, electricity costs, and the subscription level of the previous period. The purpose of reducing the rebate level would be to develop more behind-the-meter resources every year without necessarily increasing the funding needed – maximizing ratepayer value and gradually developing ever-larger, functional and sizeable behind-the-meter renewables.

This method has been used to great effect in Japan's photovoltaics market – steady funding plus an explicit and steadily declining rebate had the effect of creating a steady, exponential growth in photovoltaic sales, and the further salutary effect of

encouraging early adoption. (Decreasing incentives moderate the market-delaying effect of continually decreasing system prices.)

NYSERDA SHOULD NOT USE PERFORMANCE – BASED INCENTIVES AT THIS TIME

The Commission requests comments on performance – based incentives for customer-sited systems. While RETEC supports the aims of such a program, we feel that the time is not yet ripe for performance-based contracting of behind – the meter systems, and that the program would experience better early success with a fixed-price standard offer program.

In later years, we expect that NYSERDA could benefit and build upon the experience gained in California, which will be launching a pilot project for performance-based fees in the near future, and New Jersey, whose Solar REC (SREC) trading program has been in operation for several months, with active participation from regulated entities, customer-generators, and aggregators. New York could benefit from the policy and technology development arising from this process by delaying performance-based incentives, allowing for their considered development.

NYSERDA SHOULD CONSIDER MARKET DEVELOPMENT, TECHNOLOGY TYPE AND PROJECT SIZE IN FUNDING ALLOCATIONS AND LEVELS

Any technology specific allocation made now may very well need to be changed depending on customer demand for specific technologies and, potentially, the addition of other eligible technologies. While NYSERDA must balance a large number of

competing factors in the determination of SBC-like technology allocations, the overriding consideration must be to provide stability and continuity to those industries developing capabilities in the customer-sited market. We recommend that SBC-like tier allocations be made according to the most transparent methods possible, using publicly available criteria and models, and that any changes in funding from year to year be gradual and predictable.

For reasons articulated in earlier filings, fuel cell subsidies under the RPS should be programmed to end in 2011. The years 2006-2010 are crucial years for the fuel cell industry, and by 2011 fuel cells should be able to compete with main tier technologies. The Recommended Decision suggested allocating fuel cell spending most heavily in the years 2006-08; that is a reasonable approach providing the demand is there.

IV. PROCESS TO DETERMINE ELIGIBILITY OF ADDITIONAL TECHNOLOGIES

The Commission adopted a list of eligible technologies based upon extensive discussion and lengthy consideration. Consideration of additional technologies should also entail careful consideration of the objectives of the RPS and the need to ensure eligible resources are truly renewable – environmentally sound and sustainable. RETEC recommends the Commission ensure adequate public participation in any decision-making to allow additional technologies. Adoption of new technologies without public participation, and ultimately public support, will undermine confidence in the RPS program and adversely affect its success. RETEC also urges the Commission to specify that technologies explicitly excluded from the RPS in the Commission’s September 2004

decision should not be allowed to reapply for eligibility without a showing that the technology has significantly changed sufficient to overcome the barriers to inclusion identified in the Commission's decision. In other words, developers of technologies excluded from the RPS should be able to use the process of adopting new technologies as simply a second bite at the apple.

V. CRITERIA AND PROCESS FOR DETERMINING ELIGIBILITY OF CERTAIN EXISTING FACILITIES

The Commission chose to include in the RPS only those otherwise eligible facilities that begin operation after January 1, 2003. The Commission has stated it will consider certain existing resources, namely hydroelectric facilities of 5 MW or less, direct combustion biomass facilities and wind facilities on a case-by-case basis to prevent erosion of baseline resources that would be eligible for the RPS but for their date of initial operation. While RETEC offered a simpler solution of an eligibility cut off date of January 2000, we believe NYSERDA must consider the environmental contributions of the existing facilities in addition to financial evidence of need for an above-market premium payment. For example, we are not suggesting additional environmental review for existing wind energy facilities because these facilities are all quite new and have been subject to environmental licensing that is equivalent to the environmental review imposed on new wind generator facilities. In fact, RETEC would argue that all existing wind projects in New York should be eligible for the RPS.

While RETEC understands NYSERDA may require the submission of certain financial information (subject to appropriate confidentiality requirements), extensive data

requirements and review of the operator's books and affiliates is not appropriate. RETEC continues to believe that the Commission should focus on building a self-sustaining competitive market, not a return to a heavily regulated market where it is the Commission determining appropriate profits and appropriate bookkeeping practices. In fact, in the Commission's most recent Order in this proceeding it noted that use of a cost-based pricing model is not only impractical but "antithetical to the development of competitive markets." (Order Authorizing Fast Track Procurement, December 16, 2004, footnote 16, p. 28).

RETEC recommends that the Commission require that existing hydroelectric facilities of five megawatts or less and existing direct combustion biomass facilities demonstrate that they are meeting or soon will meet environmental performance standards that are similar to those required of new generating facilities. New hydroelectric and new direct combustion biomass facilities will be required to meet environmental performance standards that may be significantly more stringent than the performance standards imposed on older, existing facilities.

In the case of the hydroelectric facilities, changes in Federal licensing requirements in 1986 required increased attention to the impacts of hydroelectric facilities licensed by the Federal Energy Regulatory Commission. RETEC recommends that the PSC acknowledge this by requiring that existing hydroelectric facilities seeking qualification for financial hardship reasons obtain certification as a "low impact hydroelectric facility" from the not-for-profit Low Impact Hydropower Institute. The Institute largely bases its certification on the public record recommendations of public

agencies responsible for environmental management. The Commission rejected RETEC's recommendation to develop a separate review process to determine the overall RPS eligibility of hydro. We are here proposing a much simpler approach, using the existing now well established "low impact certification" administered by the Low Impact Hydropower Institute. The Institute's certification addresses only existing hydropower and, therefore, could not be applied more generally. We suggest that the Institute's certification process offers a convenient, open to public scrutiny, process for identifying "qualifying" existing hydropower facilities which may participate in the RPS. The Institute's certification program is explained in detail on the Internet web site www.lowimpacthydropower.org.

NYSERDA may also want to consider a distinct procurement method for very small facilities such as existing hydropower plants of 1.5 MW or less. They could qualify as a group based on installed capacity or annual output and they could receive a standard offer. It may be quite difficult for many of the small hydro owners to comply with a complicated and lengthy NYSERDA process for review of financial information. Therefore, another option is to provide RPS premiums for a portion of annual output, such as the first 1 or 2 or 5 million kilowatt hours. Owners could opt for this method or, if the owner would prefer, could opt to comply with the Commission's financial tests for eligibility for payments for total output. The portion of total output method would amount to a proportionately decreasing subsidy for larger plants, is easily verifiable, and has a predictable maximum annual cost. (A 1 mw installed capacity plant operating at 40% capacity factor will produce 3.5 million kilowatt-hours/year.)

In the case of direct combustion biomass facilities, new facilities are subject to more stringent emission standards than are older ones. The Report of the Biomass Working Group reported agreement on eligibility standards for existing solid fueled biomass facilities sited in marginal and moderate non-attainment areas of New York for NOx emissions set at 3.0 lbs. NOx/MWh (for Existing Solid Fueled & Landfill Gas Facilities). RETEC recommends the Commission adopt this standard and further recommends that facilities located in severe non-attainment areas for NOx emissions be excluded or required to meet a much more stringent standard, i.e., 0.6 lbs. NOx/MWh. RETEC recognizes that the standard it proposes for severe non-attainment areas is very stringent. But new biomass facilities tend to use newer, state of the art air pollution technologies that existing facilities generally do not employ. Moreover, the goal of the RPS should be to promote new renewable facilities that contribute state-of-the-art environmental improvements, not to subsidize existing facilities that do not. Given these factors, it is appropriate for the Commission to use the qualification test for RPS eligibility for existing biomass facilities to encourage these facilities to upgrade their air pollution technologies in exchange for using RPS support.

VI. DESIGN OF ONGOING MONITORING AND EVALUATION PROGRAM

The RPS Order directs NYSERDA to establish a monitoring and evaluation (M&E) program to help ensure that program administration is transparent, efficient and verifiable. The Notice on the implementation plan suggests that NYSERDA use the evaluation model and framework used for the New York Energy Smart SBC program. This would allow NYSERDA to use existing M&E contractors to ensure comparability to SBC program protocols and metrics. While we do agree that using existing evaluation

infrastructure can avoid duplicative efforts and be cost effective, the RPS is a different program than the SBC and care should be taken to ensure M&E is conducted in a manner appropriate to the Renewable Portfolio Standard and its specific objectives.

While M&E should be an ongoing effort, annual reporting should not be unduly burdensome on agency staff nor program participants. Annual reports need not include lengthy M&E, which would be too cumbersome to conduct annually in great detail. Rather, detailed M&E should be scheduled at regular intervals during program implementation, primarily 2009 and 2013 although such activities may need to be initiated earlier in order to be completed in time for scheduled reports in those years.

The additional potential M&E activities listed on pages 25-26 of SAPA Notice 03-E-1088SA2 appear comprehensive but perhaps overly and unnecessarily ambitious. To give an example, “assess costs and benefits” appears to be sensible but as we have seen during the entire RPS proceeding, many of the benefits (especially macroeconomic benefits as mentioned on the same page) are difficult to quantify, especially under agreed upon methodologies. RETEC can only agree that costs and benefits should be assessed when such benefits include impacts on public health and the environment, as well as energy security and diversity, including downward pressure on natural gas prices and supplies. In addition, any evaluation of the addition of renewable resources must be seen within the context of what would have been added in the absence of those renewables.

Finally, measuring the voluntary sales component of the State’s efforts to promote renewable energy is absolutely essential. As RETEC has noted in previous statements, the State has committed to ensuring that 25% of retail sales of electricity come from renewable resources by 2013. The Commission’s vision for fulfillment of this goal is to

have the voluntary green market provide 1% of the 25% total. NYSERDA must track progress of the voluntary sales market to ensure the overall program goals are met. That 1% actually encompasses a significant portion – close to 15% -- of the total incremental new renewable energy expected between now and 2013 and cannot simply be assumed. It must be verified. And if the level of participation does not meet expectations, the mandatory incremental increase in renewable resources should be increased accordingly.

VII. POTENTIAL MODIFICATIONS TO THE ENVIRONMENTAL DISCLOSURE PROGRAMS AND MECHANISMS TO ENSURE ALLOCATION AND DISCLOSURE OF RENEWABLE POWER

RETEC supports an Environmental Disclosure Label Program as a key mechanism for increasing consumer energy awareness. However, as we have repeatedly stressed during this proceeding on a Renewable Portfolio Standard, such a disclosure program can be served by a generation attribute tracking system, which can more effectively support the renewable energy market New York is attempting to develop. Footnote 5 of Proposed Notice of Proposed Rulemaking No. 03-E-0188SA2 states the Commission is considering launching discussions of a transition to such a system in early 2005. We support this, and note that similar discussions took place during the RPS Proceeding. As the Commission acknowledged in its Instituting Order, all of the active parties to the case agreed upon the need to establish a generation attribute tracking system. As a result, we do not need further lengthy discussion of an attribute tracking system. NYSERDA and the NYISO have done extensive research on this topic and neighboring control areas are well ahead of New York in this area. There is ample

information available to allow for the rapid adoption of such a system in New York. We urge the Commission to bypass the development of interim procedures based on an adaptation of the existing program in favor of a new, permanent generation attribute tracking system similar to the GIS used in NEPOOL and the GATS under consideration in PJM. The use of a REC trading system would enable accurate information for presentation to consumers on a timely basis.

As discussed in our comments above, the Commission has correctly endorsed a transition to a more truly market-based RPS and required NYSERDA to report on how to make this transition in its 2009 review. Given the Commission's commitment to building a market for renewables, both for the voluntary green market and the mandatory State requirement, it should implement policies to complement, not hinder, that effort. A regionally compatible attribute tracking and trading system is an important step to that end.

Again, RETEC commends the Commission and Staff for moving forward quickly to implement the RPS. We hope that the Commission will take these comments into account in approving the RPS implementation plan.

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