

New York State Energy Research and Development Authority
17 Columbia Circle
Albany, New York 12203
(518) 862-1090

October 25, 2004

Hon. Jaclyn A. Brillling
Secretary
Public Service Commission
3 Empire State Plaza
Albany, NY 12223

Re: Case 03-E-0188
Retail Renewable Portfolio Standard

Dear Secretary Brillling:

Enclosed please find the original and 25 copies of
NYSERDA's Petition for Clarification in this proceeding. Copies
have been served on all active parties on the attached service
list.

Very truly yours,

PETER R. KEANE
Assistant Counsel

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

PETITION FOR CLARIFICATION

PETER R. KEANE
Assistant Counsel
New York State Energy Research
and Development Authority
17 Columbia Circle
Albany, New York 12203
(518) 862-1090

Dated: Albany, New York
October 25, 2004

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

PETITION FOR CLARIFICATION

INTRODUCTION

The New York State Energy Research and Development Authority (NYSERDA) hereby seeks clarification, pursuant to Public Service Law § 22 and 16 NYCRR 3.7, of the Commission's "Order Regarding Retail Renewable Portfolio Standard" issued on September 24, 2004 in the above-referenced proceeding. ("Order"). Specifically, NYSERDA seeks clarification regarding the contracts or agreements to be entered between NYSERDA and the delivery utilities, as directed by the Order, "as are necessary for NYSERDA to be able to administer the central procurement component of the [retail Renewable Portfolio Standard] RPS program and all associated funds." NYSERDA seeks clarification that said contracts or agreements shall not only provide for transfer payments through Year 2013 (for program and administrative costs), but shall also expressly require the delivery utilities to continue making transfer payments beyond Year 2013 as necessary to fulfill, until the completion of their term, such long-term RPS program contracts as are entered into

by NYSERDA, as well as to fund NYSERDA's related administration costs beyond Year 2013.

ARGUMENT

1. NYSERDA is an active party in Case 03-E-0188 and, as the Commission's designated administrator of the central procurement component of the RPS program, is clearly interested in the Commission's Order Regarding Retail Renewable Portfolio Standard issued on September 24, 2004.

2. This request is made within 30 days of the issuance of the RPS Order (the 30 day period effectively ends on Monday, October 25, 2004 due to its otherwise falling on a non-business day).

3. An original and 25 copies of this request have been submitted to the Secretary, and a copy has been electronically served on each party to the proceeding.

4. Pursuant to Ordering Clause 5 of the Commission's RPS Order, NYSERDA is designated as "the administrator of the central procurement component of the RPS program and all associated funds, for which it shall be compensated by an appropriate administrative fee to be determined by the Commission."

5. Further, pursuant to Ordering Clause 5 of the

Commission's RPS Order, "all RPS program and administrative funds collected by the utilities through the RPS surcharge shall be transferred to NYSERDA."

6. Pursuant to Ordering Clause 6 of the Order, by December 23, 2004 (90 days from the September 24, 2004 issuance date) the identified delivery utilities are directed to "enter into such contracts or agreements with NYSERDA as are necessary for NYSERDA to be able to administer the central procurement component of the RPS program and all associated funds, including the establishment of a schedule of transfer payments of the RPS program funds and associated administrative fees which shall be made to NYSERDA no less frequent than quarterly."

7. Pursuant to Ordering Clause 4 of the Commission's RPS Order, the levels of funding for the RPS program, to be collected in delivery rates through Year 2013, has been set forth in Appendix E of the RPS Order, until such time as the Commission revises the figures based on differing actual costs or for other purposes including administrative costs.

8. As described in the Order, the RPS program is structured such that program costs for the Main Tier are based on long-term incentive contracts that will likely extend well beyond Year 2013; indeed it is anticipated that some such contracts will commence in Year 2013.

9. Therefore, the collection of RPS program costs and any related administrative fee costs from customers and the transfer of such program costs to NYSERDA will need to continue well beyond Year 2013 and therefore may be in excess of those costs identified in Appendix E of the RPS Order (Cost Collection Allocations by Delivery Utility).

10. While Appendix E calculates the estimate of the RPS Program costs through the end of the Year 2013 study period, it is anticipated that, beginning in Year 2005, NYSERDA may be entering incentive contracts with developers that will extend beyond the Year 2013 date.

11. Given the importance of the funding to the RPS Program, it is desirable that the Commission clarify that, while the Commission has only calculated the estimate of the RPS Program costs out until the end of the Year 2013 study period, RPS Program costs (and administrative costs) will continue beyond Year 2013, and will be collected in delivery rates and transferred to NYSERDA, sufficient to allow the incentive contracts are fulfilled according to their terms.

12. While the amounts of these post-2013 collections must be determined later when the costs are known with more certainty, NYSERDA believes that such a clarification will provide necessary assurance to the financial community that will

be financing the development projects, will assist NYSERDA in contracting with developers, and will avoid any potential misunderstandings with the delivery utilities as they undertake to comply with the Commission's directives.

CONCLUSION

For the foregoing reasons, the New York State Energy Research and Development Authority respectfully requests a clarification of the September 24, 2004 Order.

Respectfully submitted,

PETER R. KEANE
Assistant Counsel

Dated: Albany, New York
October 25, 2004