

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

RESPONSE TO PETITIONS FOR CLARIFICATION AND RECONSIDERATION OF
THE COMMISSION'S IMPLEMENTING ORDER FOR CASE 03-E-0188
OF THE
RENEWABLE ENERGY TECHNOLOGY AND ENVIRONMENT COALITION¹

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I. INTRODUCTION	1
II. SUMMARY OF RESPONSE.....	1
III. DISCUSSION	3
A. NYSERDA.....	3
1. Clarification of Post-2013 Wires Charges and Transfer to NYSERDA.....	3
2. The Need for Long Term Contracts and Financial Assurances.....	4
B. SMALL HYDRO GROUP	4
1. Withdrawal of Exemptions	4
2. Environmental Attributes.....	5
3. Unfair Treatment for Existing Hydro	5
C. RIDGEWOOD POWER.....	6
1. Elimination of seams.....	6
2. Rationale for Monthly Matching	6
IV. CONCLUSION.....	7

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I. INTRODUCTION

On September 24, 2004, the NYS Public Service Commission (the Commission) issued an implementing order in Case 03-E-0188: Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard. Three parties subsequently filed motions and petitions for clarification and reconsideration of certain provisions of the implementing order. In keeping with New York State regulations 16 NYCCRR 3.7 under which responses to petitions are due within 15 days of service, RETEC respectfully submits this response to the submissions of NYSERDA, the Small Hydro Group, and Ridgewood Power.

II. SUMMARY OF RESPONSE

RETEC's position with respect to the three petitions can be summarized as follows. First, RETEC fully supports NYSERDA's request for clarification of the contracts and agreements to be entered into by the utilities and NYSERDA. NYSERDA seeks to clarify that such contracts or agreements must include the authorization to continue to receive non-bypassable wires charge from ratepayers for the duration of the contracts it enters into to

fulfill the Renewable Portfolio Standard even though the exact amounts that will be collected are not delineated beyond 2013. Indeed, without such authority, NYSERDA is highly unlikely to be able to find sellers of renewable energy willing to sign contracts that extend beyond 2013.

Second, with respect to the petition of the Small Hydro Group, RETEC supports a number of the arguments put forth on retaining value of environmental attributes and on the need to include all ratepayers within the program. We disagree, however, with the Small Hydro Group's suggestion that small hydro owners will be paying for the RPS.

Third, RETEC takes strong exception to Ridgewood Power's assertion that the elimination of "rate-pancaking" and export fees between the NYISO and NEPOOL makes unnecessary the monthly matching scheme for imports put forward by the Commission. While this reduction in seams between these two markets is highly commendable, the beneficial effect of monthly matching for renewable generation remains key to facilitating the flow of RPS-eligible renewable energy across borders.

Therefore, we request that NYSERDA's petition be accepted in whole, Ridgewood's petition be rejected in whole and the Small Hydro Group's petition be accepted in part and rejected in part. Specifically:

- The RPS Implementing Order should be clarified to assure the authority of continued collection of a wires charge to fulfill all contracts entered into by NYSERDA for RPS procurement purposes, including the costs of administration.
- The RPS Implementing Order should be altered to remove the exemption for industrial entities currently not paying the System Benefits Charge.

- The State of New York should either adopt itself, or encourage NYISO development and use of, a generation attributes tracking and trading system whereby energy and generation attributes can be unbundled and contracted for separately. The Commission can adjust the environmental disclosure label program as necessary to ensure accurate and reliable information is provided to consumers based on data from the attribute tracking system. We believe this would answer in part some of the concerns expressed in the petition of the Small Hydro Group.

All other requests for clarification and reconsideration in the above-referenced petitions should be rejected. We discuss each of these petitions and our positions in more detail below.

III. DISCUSSION

A. NYSERDA

1. Clarification of Post-2013 Wires Charges and Transfer to NYSERDA

NYSERDA correctly affirms the Commission's intent for RPS procurement to depend substantially on long-term contracts that will undoubtedly extend beyond 2013. Clarification is needed that the contracts and agreements required between the distribution utilities and NYSERDA must extend in time until all contracts between NYSERDA and renewable energy generators entered into for RPS compliance purposes have ended. The level of funds collected pursuant to the Commission's Order will be revised as needed based upon actual costs as described in Ordering Clause 4.

2. The Need for Long Term Contracts and Financial Assurances

RETEC has argued since the inception of the Proceeding in Case 03-E-0188 that a majority of renewable energy providers will need long term contracts in order to deliver a product at reasonable cost, or to be able to deliver at all (see RETEC's previous comments in this case). The clarification requested by NYSERDA will assure all parties to the subject agreements understand the term-lengths of their responsibilities. A program with guaranteed financial support only through 2013 will not produce sufficient confidence to lure investors. Rather, the RPS must provide assurances that the State remains committed to long-term support of renewable energy development to ensure that New Yorkers receive at least 25% of their retail electric supply from renewable energy sources from 2013 forward.

B. SMALL HYDRO GROUP

1. Withdrawal of Exemptions

RETEC agrees, and has stated as such in previous comments, that as all New Yorkers will benefit from the increased use of renewable energy, all New Yorkers should pay. RETEC agrees with the Small Hydro Group that large electricity customers currently receiving low-cost power should not be exempt from participating in the RPS. These consumers are, by definition, receiving low cost power and should contribute their fair share of the programs from which they too will receive energy security and environmental benefits. These economic development customers have for many years been the beneficiaries of low-cost power at subsidized rates well below the otherwise applicable utility tariff. Their power will remain below the cost of others.

2. Environmental Attributes

The Small Hydro Group argues that they will receive no recognition of their environmental attributes. RETEC once again respectfully submits that the development and use of a generation attributes tracking and trading system whereby energy and generation attributes can be unbundled and contracted for separately would rectify this situation. The Commission can adjust the environmental disclosure label program as necessary to ensure accurate and reliable information is provided to consumers based on data from the attribute tracking system. With a system for tracking generation attributes, any and all such attributes, including environmental attributes, can be documented and then used in various programs depending upon the specific program's rules and requirements.

RETEC believes the issue of compensation for attributes is a separate issue from recognition and tracking of such attributes. The tracking system itself is neutral on the value of such attributes; it is merely an accounting system. The NY RPS does not, as currently described in the September 24, 2004 Order, include existing hydro power as automatically eligible for the RPS since the objective of the RPS is to stimulate the development of new renewable energy generation.

3. Unfair Treatment for Existing Hydro

The Small Hydro Group's concerns that they are paying for the RPS via a wires charge appear to be based on a misinterpretation of the Commission's Order. Retail customers, not generators will pay the wires charge. To the extent that the Small Hydro Group members must pay for station power, they may well be subject to a small wires charge. While the issue of retail rate charges for station power remains controversial, the RPS proceeding is not its proper venue.

C. RIDGEWOOD POWER

1. **Elimination of seams**

RETEC takes strong exception to Ridgewood Power's assertion that recent actions by the ISONE and NYISO to reduce and eliminate "seams" between the two regions makes a monthly matching protocol for imports unnecessary. The changes in rules referenced in Ridgewood Power's petition are commendable. However, they address only the elimination of export fees and so-called "rate-pancaking." The rationale for monthly matching for imports from renewable generation is based on the imposition of scheduling requirements for cross-border transactions. The referenced FERC-approved changes to tariffs in ISONE and NYISO do not impact scheduling requirements. The arguments put forth by Ridgewood Power are not relevant and should be rejected.

2. **Rationale for Monthly Matching**

The use of monthly matching for cross-border delivery of renewable energy is not only appropriate but essential. Ridgewood Power argues that renewable energy generators are treated no differently than other generators. But many renewable energy generators *are* different, and that is precisely the point. Variable, or intermittent, generators have difficulty scheduling their output with complete accuracy and are at a significant economic disadvantage when faced with scheduling requirements they can not meet. Market rules for scheduling are established both for smooth operations and for the maintenance of competitive

and fair markets. In other words, the market rules have been established to prevent gaming by resources that can and do control their output. Allowing monthly matching for renewable energy imports does not adversely impact operation of the grid in any way, and variable generators can not “game” the system by changing their output at will the way fossil fuel generators can. Therefore, the monthly matching regime adopted by the Commission in the September 24, 2004 Order should be maintained and Ridgewood Power’s petition should be rejected.

IV. CONCLUSION

To conclude, RETEC respectfully requests that the Commission accept and reject the positions of the petitioners in accordance with this response submitted by RETEC, and move as expeditiously as possible to implementation of the Commission’s RPS Order.

Respectfully Submitted on Behalf of RETEC by:

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