

March 28, 2003

Honorable Janet H. Deixler, Secretary
State of New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

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

Dear Secretary Deixler:

Please accept for the State of New York Public Service Commission's consideration an original and three copies of the Initial Comments of AES-NY,LLC in the above proceeding pursuant to the Ruling Revising Schedule (Issued March 6, 2003).

Respectfully submitted,

Christopher Wentlent
AES-NY,LLC

c: Active Party List as of March 28, 2003 via e-mail

Case 03-E-0188 – Proceeding on Motion of the
Commission Regarding Retail
Renewable Portfolio Standard

COMMENTS OF AES-NY, LLC ON A PROPOSED
POLICY FOR A RENEWABLE PORTFOLIO
STANDARD

Introduction

The Public Service Commission (“Commission”) instituted this proceeding to develop and implement a renewable portfolio standard (“RPS”) for retail electric sales. Pursuant to the Commission’s February 19, 2003 *Order Instituting Proceeding (the “Order”)* a procedural conference was held on March 4, 2003 and the submission of comments was set for March 28, 2003. Two days of collaborative meetings among interested parties are scheduled for April 7th and 8th and thereafter Administrative Law Judge Eleanor Stein is scheduled to provide a preliminary report to the Commission on May 2, 2003.

AES-NY, LLC (“AES”) appreciates the opportunity to provide comments on the proposed policy concerning the expanded use of renewable resources in New York. AES-NY, LLC owns and operates generation facilities in central and western New York totaling in excess of 1200 mws of capacity.

AES submits comments on the threshold issues set forth in the *Order* and upon additional matters that are involved in the development of a RPS. These additional matters include:

1. Development and implementation of a RPS offers the state an opportunity to meet a number of laudable objectives; however, care must be taken to ensure that the costs to be borne by the state and its stakeholders do not outweigh the benefits to be derived by the program. The details of the RPS implementation mechanism must not disrupt the current wholesale electricity market, create unfair competitive advantages, provide a disadvantage to existing supply sources, or jeopardize the state’s current fuel diversity portfolio mix.

2. Maintain the short and long term system wide reliability of the New York Transmission Control area; and
3. Ensure the continued development of the wholesale, competitive electric market, through the New York Independent System Operator (“NYISO”) and avoid seams issues between the NYISO and its neighboring energy markets; and
4. Include full utilization of biomass as an important renewable energy resource including the cofiring of biomass with fossil fuels.
5. Include cofiring of tire derived fuel as a solid waste resource eligible under the RPS program.

1) Balanced Development of RPS

The introduction of a renewable portfolio should be done in a manner that does not undermine the current development of the competitive wholesale electric marketplace in New York. This proceeding must determine whether the requirements should be based solely on installed capacity, energy generated, or on a hybrid of the two approaches. RPS development should not result in increased out-of-merit dispatch, protect the current method of economic dispatch within New York, and ensure a fair, competitive marketplace for new and existing supply sources. Any deviation from the supply/demand dynamic of the marketplace will result in higher energy costs for New York consumers.

2) Maintain short and long term reliability

The introduction of new blocks of renewable generation resources, which are variable in nature, could result in energy balancing issues within the NYISO. The expected changes should be fully reviewed and studied by the NYISO and New York State Reliability Council to ensure compliance with NERC, NYISO, and NYSRC reliability standards.

3) Avoid seams problems with neighboring control areas

The development of a seamless regional wholesale energy market will provide the most efficient and effective wholesale and retail markets. The New York RPS must be developed in a manner which is consistent with those renewable programs developed in other markets. However, New York must ensure that in-state resources are treated in the same consistent manner

as an external resource and only states with reciprocal requirements should be included in the New York program.

4) Fully utilize biomass including the cofiring of biomass with fossil fuels

The ability to co-fire wood with coal, oil, or gas should be included within the scope of the renewable portfolio. This inclusion will represent a viable and beneficial mechanism to take full advantage of a potential renewable resource and expand the utilization of biomass sources within New York. In development of the RPS rules, it is important that the definition of biomass be broad enough to include full utilization of raw wood, wood waste, wood products, and wood product wastes.

5) Include tire derived fuel (TDF) as a solid waste resource eligible under the RPS program

New York State has a significant waste tire problem with minimal solutions in place. Daily, New York State is exposed to the various environmental and health risks associated with existing waste tire piles and uncontrolled waste tire pile fires. Inclusion of tire derived fuel, as a solid waste resource within the RPS will promote more timely, creative solutions for this problem.

THRESHOLD ISSUE COMMENTS

1) The types of resources that should be considered as “renewable” for the purposes of a renewable portfolio standard.

No single type of renewable generation should be favored to the exclusion of other competitive renewable technologies. AES encourages the Commission to adopt a renewable portfolio standard that includes wind turbines, biomass and wood waste cofiring with a fossil fuel, solar, thermal, photovoltaics, biomass, methane waste, hydroelectric facilities, and solid waste-to-energy including tire derived fuel. Each generation resource will derive its fuel from a sustainable source and allow potential siting and development that will result in system reliability, lower air emissions, economic energy dispatch, and potential economic development potential.

- 2) **The appropriateness of including renewable resource energy procured from outside New York**
-And-
- 3) **The retail suppliers that should be required to sell energy from renewable resources**

The RPS should adopt policies that promote regional and competitive markets. A RPS with rules that promote a seamless regional renewable marketplace is in the best interest of New York and its consumers and parallels the general direction of the wholesale energy markets. However, the program specifics must allow a fair, non-discriminatory marketplace with respect to the creation of any RFPs for such resources and require reciprocal requirements for any external market participation.

The RPS should apply to all LSEs, be based on a statewide standard, and be administered by the NYISO in coordination with key state agencies such as the Commission and NYSERDA.

- 4) **The impact, if any, on the ability of energy services companies' to compete with utilities given the relative sizes of the loads supplied by utilities and energy services companies' and how such impacts should be overcome**
-And-
- 5) **The best methods for retail suppliers to procure renewable resources**

New York must develop a renewable resource attribute or certificate trading platform that provides a common and transparent market place to acquire renewable resources. The market should allow multiple alternatives including long term competitive bid RPS contracts, bilateral agreements, and market purchases of certificates. The greater degree of flexibility promoted will encourage the most creative and cost effective solutions for end users.

- 6) **Methods for cost recovery by regulated utilities**

The Commission should be willing to consider and approve cost recovery of contracts where costs are within a reasonable range and will be in compliance with the RPS. The actual credit must be unbundled from energy and capacity arrangements. The NYISO installed capacity market, including the demand curve,

should further assist in the development of the renewable standard.

7) Individual retail suppliers' targets

-And-

8) How should progress be monitored to ensure results, including possible rewards and disincentives

Individual retail electric sale providers should have specific annual targets. An annual compliance report due by the first quarter of the following year should be required. Non-compliance with established targets should result in significant penalties and the penalty funding should be utilized to create investment incentives. A full review of the New England program maybe worthwhile in establishing the details of the New York program. Tradable renewable energy credits should be utilized to promote a transparent marketplace with the full ability to bank credits not purchased. These credits would be eligible for sale in future periods. The entire mechanics of the program should be administered by the NYISO.

9) The potential impact on reliability and system operations due to the addition of renewable resources, especially those resources that operate only intermittently, and what must be done to ensure that reliability is maintained.

The potential reliability problems include short-term load balancing issues due to the variable output of some renewable resources. The impacts of poor load balancing include increased out-of-merit generation requests, unhedgeable uplift charges for consumers, increased reserve pickups, and potentially increased regulation and operating reserve requirements for the NYISO. Accordingly, this particular issue requires substantial analysis by the NYISO, NYSRC, and NERC.

10) The appropriateness of a “renewable credit trading” system and how the components of any such system might be developed

An attribute tracking and trading system will be necessary. This system should provide flexibility and overall administrative cost reductions by streamlining access to renewable attributes.

A competent tracing and trading system for attributes would match a retail supplier's load with the renewable attributes they have purchased, provide a reliable measurement of RPS compliance and provide a trend analysis of RPS progress. Integration with other reciprocal neighboring control areas will maximize the use of all available resources.

11) The impact, if any, on the Commission's Environmental Disclosure Program, and any modifications that might be needed and appropriate

The trading system established must assure that no double counting of renewable attributes or credits occurs. Accordingly, the results of this proceeding must be integrated with the Environmental Label Program.

12) The practicality of installing new renewable facilities in the high load areas of the State. If the targeted renewables are built upstate, the impact, if any, that such construction might have on the addition of new resources in the load centers where they are most needed, and the appropriate means to ensure that additional generation and transmission resources will be built where they are most needed

Utilization of wood cofiring with fossil fuel generation resources and inclusion of solid waste facilities, including tire derived fuel, are the two renewables sources most likely to be located in geographical proximity to the high load areas. Wind, solar, hydroelectric and other sources are more likely to be located in less developed areas.

13) The impact, if any, the renewable portfolio standard would have on existing green marketing programs in the State

Requirements under existing green marketing programs should be transferable to any final requirements established under this RPS proceeding.

14) Changes needed, if any, by the Public Service Commission and NYSERDA in the SBC-funded renewable energy program to coordinate with the new target

NYSERDA funded programs should be continued through 2005 and include any new defined renewables from this proceeding.

Otherwise, no additional funding should be considered at this time in order to allow sustainable market forces to develop.

AES appreciates the opportunity to provide the aforementioned comments.

Respectfully submitted,

Christopher Wentlent
AES-NY, LLC