

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Case 03-E-0188 - Proceeding on Motion of the Commission
Regarding a Retail renewable Portfolio Standard**

Initial Comments of the City of New York

I. Introduction

The City of New York (City) hereby responds to the February 19, 2003 Order of the Commission instituting this Renewable Portfolio Standard Proceeding and the March 6, 2003 Ruling of Administrative Law Judge Eleanor Stein revising the schedule in this matter.

The City is supportive of the goals identified in the Commission's Order, including a lessening of exposure to periodic fossil fuel scarcity and price volatility. It is possible that the cost of certain forms of renewable energy will decrease over time as they are further developed and more widely adopted. Moreover, increased development of renewable energy sources offers the prospect of genuine environmental improvements.

New York already has a quite diverse range of such sources, including significant hydroelectric power. However, a Commission standard that explicitly identifies and fosters the development of renewables could further increase that diversity. As the Order noted, establishment of an RPS should also provide an incentive for greater investment in renewable technologies. Both emerging and more mature technologies for renewable energy generation would benefit from the impetus provided by establishment of explicit regulatory standards and appropriate governing criteria for the use of such renewables.

The RPS initiative by the Commission is a welcome development that should gradually provide a measure of protection from fossil fuel price volatility, and also benefit the environment. However, the City will seek assurance that that the goals and requirements that are set by the Commission will be fair to the City residents and businesses who will undoubtedly bear a significant portion of the costs associated with the implementation of RPS.

According to the Energy Information Administration,¹ some 18-19% of New York's electricity is obtained from renewable sources at present. Of that, approximately 17% is derived from upstate hydroelectric power, and most of the balance is presumably from wind energy and agricultural biomass sources.² Some renewable technologies, such as photovoltaics and fuel cells, may represent considerable promise for the future, but in the near term are likely to be too limited to have a significant impact on the State's energy portfolio.³ Therefore, the prospect of reaching whatever goal the Commission sets will likely depend to a great extent on relatively few forms of renewable energy unless a more liberal definition is applied. Accordingly, the proposal to the Commission should consider establishing a preference schedule for certain non-traditional forms of renewable energy, perhaps by using tiers or classes as other jurisdictions have done. The City believes that consideration should be given in the RPS to certain other forms of environmentally beneficial energy sources, as we explain further below at page 6.

The RPS structure that emerges from this proceeding could have significant ratepayer impacts. For example, if a mandatory standard were ultimately to be adopted by the Commission, and were it difficult for City energy suppliers to meet the required level of

¹ United States Department of Energy, EIA Report *Renewable Market Share of Net Generation by State, 1999-2000*

² The reported figures for New York State renewables vary slightly, depending on the definitional criteria used. See NYSERDA's *Preliminary Investigation* report, which at p. 4 cites figures of 17-18%.

³ For example, the Fala Direct DM Group photovoltaic system on Long Island, described in 2001 as the world's largest application of solar technology by a single commercial enterprise, reportedly produces 1.5 MW of electricity from approximately 7800 PV panels during peak generating periods.

renewable use, they would likely face some form of financial penalties. Even if a market in tradable renewable credits were established as part of the RPS as has been done in several other states, deficient New York suppliers would obviously incur costs in purchasing such credits. Under either scenario, there would be a significant rate impact to in-City consumers as the suppliers pass the additional RPS compliance costs through to them. The foregoing discussion is not meant to suggest that the City is opposed to an RPS in New York State. Rather, the City simply asks that the collaborative participants recognize the legitimate equity concerns that must be addressed in establishing the parameters of such a Standard.

There are certain specific issues that the City believes need to be addressed before the Commission promulgates an RPS rule in this area. These include the following:

Initially, a comprehensive cost-benefit analysis should be undertaken to determine the impact of a RPS on each region of the State. While the development of the RPS should in principle benefit the State as a whole, there are important regional and local considerations to be taken into account before the RPS is created. This step would respond to the Commission's call in its Order⁴ for an assessment of the likely benefits and burdens of adopting an RPS. The City believes that a number of factors suggest that such an undertaking is essential, particularly if it employs varying assumptions, and considers the likely implications of including or excluding certain form of energy from the scope of the RPS. Alternate scenarios might be considered in the cost-benefit analysis in order to establish a Standard that will provide the benefits sought without unnecessary dislocation or hardship on any region of the State, or any particular group of utility customers.

This is not simply a theoretical concern for the City. To cite but one specific issue, upstate utilities already make great use of hydropower, in part due to statutory and regulatory

allocation preferences directing a large share of that power to municipalities and other political subdivisions, as well as to certain rural and industrial users.⁵ Others, such as users in the New York City metropolitan area, typically do not have comparable access to such large-scale renewable sources of energy. This is partly a function of such physical factors as the limited availability of transmission connections between upstate and the City, and partly due to public policy choices made in such statutes as one cited above. The uneven distribution of hydropower resources, while perhaps largely an accident of geography, does impose a certain burden on customers of investor-owned LSEs, particularly those located in metropolitan areas. The City simply notes that the existence of any impediments to the increased use of renewables in certain regions or service territories must be taken into account in the RPS collaborative process.

Similarly, there are fewer opportunities for the use of certain promising forms of renewable generation in New York City than exist elsewhere in the State. For example, wind turbines now appear to be the most likely form of large-scale renewable energy generation (recent technological developments suggest that each turbine can generate upwards of 3.5 MW of electricity). Such increased turbine capacity allows the use of far smaller wind farm facilities than was possible with the 1.5 MW turbines that have previously been the industry standard. This in turn raises the prospect of economies of scale that will permit wider use of wind energy as a significant source of electricity generation.

As a practical matter, however, the space requirements of even relatively compact wind farms are far more suitable to rural upstate areas than to metropolitan regions.⁶ In addition, such

⁴ Commission Order Instituting Proceeding, February 19, 2003, p. 2

⁵ See e.g., Public Authorities Law § 1005(5), which refers to [hydroelectric] preferences for "... domestic and rural consumers to whom the power can economically be made available," and "sale to and use by industry ... [as] a secondary purpose...."

⁶ Even a wind farm with a relatively modest peak capacity of 50 MW would require the use of almost 15 turbines rated at 3.5 MW, and the installed turbines are each more than 500 feet high.

factors as topography and meteorological conditions in northern and western New York State are far more conducive to the placement of efficient wind farms. In the case of offshore wind facilities, such as those now under consideration by LIPA for placement off the Long Island shoreline, technological concerns reportedly remain, and the prevailing winds tend not to coincide with the most critical summer peak load period.

Thus, the cost-benefit calculus should not simply look at projected effect on the State as a whole, but rather at the likely burdens placed on certain parties and regions by particular versions of RPS. That process should in turn lead to the formulation of a Standard that would minimize those burdens to the fullest extent possible while achieving the aims identified by the Commission in its Order.

II. City Comments on Threshold Issues Identified in the Commission Order

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

The definitional issue is one that various jurisdictions adopting RPS provisions have addressed in different ways. While NYSERDA in its Preliminary Investigation report identified several existing listings of renewable sources, the City’s view is that those definitions are too narrow. This is particularly true of renewable energy compilations such as that found in 6 NYCRR Part 204, which specifically excludes the combustion of solid waste.

The City believes that under the ambitious objective for New York State that the Governor has announced, the Commission should consider as renewable for purposes of the RPS as broad an array of sources of energy as possible. Specifically, the Commission should consider the inclusion of such systems as steam air conditioning from modern combined-cycle plants, and waste-to-energy facilities. This might be done by the explicit recognition of such energy sources

as renewable, as has been done elsewhere at least with waste-to-energy,⁷ or alternatively by the creation of a preference schedule or tiered standard to encourage methods of generation that may not fall into the universally accepted scope of renewable sources of energy, but which nevertheless offer many of their advantages. At least two states have recently taken the approach of creating a two-tier standard with designated classes of renewable or preferred sources of energy.⁸

Steam air conditioning is especially appropriate for consideration for New York City given the expected difficulty in installing other renewable sources in the City. While it may not be “renewable” in the strictest possible sense of that term, steam air conditioning does involve the use of steam that would not otherwise be put to a useful purpose. Moreover, given the general recognition of the environmental benefits of district heating and cooling systems, steam air conditioning, as a crucial component of such a system, deserves special recognition.

2. The appropriateness of including renewable resource energy procured from outside the State, such as hydropower from Canada or wind energy from New England.

This practice has already been adopted in some jurisdictions that have adopted RPS provisions, including neighboring states such as Massachusetts. That fact suggests the need to consider a similar inclusion of imports in New York, in part out of a concern over not creating an unintended disadvantage for State entities and their customers. Also, this State should to the extent possible avail itself of inexpensive hydroelectric power from Canada. Such an approach would offer New York access to relatively large-scale generation from a clean, renewable source. In addition, hydropower from Ontario and New Brunswick tends to be most readily

⁷ Massachusetts Statutes, Chapter 164, Section 50

⁸ See New Jersey Statutes, Title 48, Chapter 3-51; Connecticut Statutes § 16-1 (26) and (27)

available when it is most needed - during New York's summer peak load season. Moreover, there are ongoing efforts at the NYISO to establish regional markets that include both other northeast ISOs and the Canadian Independent Market Operators. The FERC has encouraged this trend as a means of making energy markets more rational and efficient.

In view of all these factors, the City believes at this stage that renewable imports should be included in those energy sources that meet an RPS requirement.

3. The retail suppliers that should be required to sell energy from renewable sources.

The City expresses no present view on this issue.

4. The impact, if any, on the ability of energy services companies' (ESCOs) abilities to compete with utilities if they are required to procure renewable resources beyond what their customers request, given the relative sizes of the loads supplied by utilities and ESCOs currently, and how such impacts might be overcome.

The City expresses no present view on this issue.

5. The best methods for retail suppliers to procure renewable resources (e.g., construction and ownership versus purchases.)

The City expresses no present view on this issue.

6. Methodologies for the recovery of costs by regulated utilities.

While the utilities may well be entitled to recovery of prudently incurred costs to implement a Commission mandate, the City believes that issues outside of a mandate should first be explored. In addition, the system benefits charge could be used to reduce the cost to utilities, if they are the primary purchasers behind a renewables mandate.

7. Individual retail suppliers' targets if appropriate.

The City expresses no present view on this issue except to the extent that it involves resolution of the geographic issues discussed above.

8. The potential impact on reliability and system operations due to the addition of renewable resources, especially those resources that operate only intermittently (e.g. windmills and photovoltaics), and what, if anything, must be done to ensure that reliability is maintained.

The City does not believe at this time that reliability will be an issue in this proceeding.. The existing diversity of State energy sources should limit the effect of some renewables' low capacity factors and intermittent generation patterns, particularly in the near term. In addition, the NYISO and the Reliability Council have sufficient experience with the State's capacity and energy markets to address this issue if renewable energy adoption of intermittent sources becomes sufficiently widespread to raise potential reliability concerns.

9. The appropriate means to monitor progress toward meeting the goal and to ensure results, including possible rewards and disincentives.

If the Commission adopts a long-range schedule for RPS implementation (such as a ten-year time frame), consideration should be given to a phased approach that would use benchmarks or interim goals. In addition, there may be a role for voluntary targets, at least in the early years of the implementation period. These might be succeeded by mandatory obligations (contingent on the degree of success achieved voluntarily) to reach the adoption level required by the Commission. Periodic reporting, such as on an annual basis, should be adequate to permit the Commission to monitor progress toward meeting the RPS goal.

10. The appropriateness of a “renewable attributes trading” system, and the components of any such system that might be developed.

The present New York State system of conversion credits is likely to limit the scope of renewable trading, particularly as other states are increasingly adopting tradable renewable energy credits. To the extent that the latter become the recognized standard in the renewables industry, the City believes that failure to adopt and implement them will disadvantage market participants in this State. A system for trading renewable attributes is necessary to any program mandating a renewable portfolio standard regardless of which entities are responsible for meeting this standard. A trading system must be able to track available renewable energy generation as well as any transactions among market participants involving the supply and consumption of renewable environmental attributes, and permitting inter-state and ultimately, international trading. If properly designed, such credits would also increase public confidence in the renewable power system, and would contribute to the expansion of renewable generation.

11. The impact, if any, on the Commission’s Environmental Disclosure Label Program, and any modifications that might be needed and appropriate for that program.

The City expresses no present view on this issue.

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, 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.

See the discussion in the Comments of the City above on equitable and practical considerations that the Commission should examine in addressing regional RPS issues. In addition, the City believes that the Commission should take into account the variations inherent in the present pattern of renewables use across the State by the use of two methods of RPS implementation: a baseline that recognizes the current portfolio mix of each individual utility or

LSE in the State, and mandates improvement from that position, and/or a service-territory based requirement rather than a rigid statewide formula that simply requires a fixed percentage of renewables.

These approaches would require roughly comparable efforts from each market participant to meet the newly-established renewable standard, and would not unfairly reward or punish those accidents of history or geography that affect the current use of renewables, most notably large-scale hydroelectric power.

In addition, the City believes that the Commission should take into account the lack of transmission between upstate and downstate and the impact that has on any renewable mandate. While an order to construct new transmission lines may be difficult to issue within the context of this proceeding, the Commission should consider the feasibility of constructing such lines and the fairness of imposing renewable requirements on the downstate region in the absence of such new line(s).

Finally, because downstate's densely populated region will make it difficult to site wind facilities, the City believes as noted above that the Commission should consider the eligibility of sources such as steam air-conditioning for preferential status.

13. The impact, if any, the renewable portfolio standard would have on existing green marketing programs in the State, and what the State might do to support developers and green power marketers during the process of developing rules to implement the standard.

The City expresses no present view on this question.

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.

The City believes that directing more SBC money downstate to promote renewable energy would be a reasonable policy choice given the current inequitable distribution of hydroelectric power and the difficulty of constructing renewables in the downstate region.

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Respectfully submitted,

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