

**Conservation Services Group
and
CSGServices**

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**Proceeding on Motion of the
Commission Regarding a Retail
Renewable Portfolio Standard**

Case 03-E-0188

**COMMENTS OF CONSERVATION SERVICES GROUP:
Implementation Considerations for New York**

I. Executive Summary

Conservation Services Group hereby submits Comments pursuant to the State of New York Public Service Commission's request for comments in its February 19, 2003 Order Instituting Proceeding, and February 20, 2003 Ruling Concerning Procedure and Schedule in Case No. 03-E-0188.

Conservation Services Group (CSG) is a non-profit company, founded in 1982, that is a leader in the design and implementation of energy efficiency and solar energy projects. CSG manages energy conservation programs in New England, New York, Wisconsin, and California. CSGServices is a New York-based corporation that is partially owned by CSG that operates appliance recycling facilities at several locations in New York, Massachusetts, Wisconsin and Iowa, and is a developer of photovoltaic power plants in several New England states, New York, New Jersey, Pennsylvania, and Texas. CSG has provided assistance in the design of RPS standards in Massachusetts, Rhode Island and other New England states. CSGServices has become an active developer and trader of Renewable Energy Certificates (RECs) in the fast developing New England market.

Our objective in this submission is to provide suggestions for implementation of Renewable Portfolio Standards for the State of New York. We bring to this submission our policy experience from the New England RPS system, and CSGServices' practical experience in operating in the New England REC market. The critical regulatory and institutional conditions for developing a market are:

- A clear and supportable definition of acceptable renewable resources and acceptable "new" resources.
- An effective Generation Information System (GIS) that ensures:
 - 1) proper creation, accounting and retiring of renewable energy Certificates;
 - 2) facilitation of compliance with the RPS;
 - 3) a formal system to create green power products and provide proper consumer disclosure.

- Crafting the rules to provide renewable generators with increased value for their renewable energy certificates to encourage the development of new renewable energy projects in NY State.

II. Creating a System for Proper Creation of Renewable Energy Certificates (RECs)

CSG recommends that the creation of a GIS system, preferably compatible with the one in use in New England, should be established as the accounting system for the creation of RECs to be used for RPS compliance. Through the creation of a GIS, RECs can be created and accounted for with ease. Such a system can be for RPS compliance, but it can also greatly simplify the creation of differentiated retail electricity products that have increased environmental performance. By utilizing a GIS, a retail electricity supplier can comply with the RPS as well as create green power offerings while providing the adequate means for proper consumer disclosure regarding the environmental attributes of the retail electricity sold to their end-use customers.

A properly designed system such as the NE GIS creates the basis for recognizing the attributes associated with power generation and rewarding those generators whose attributes are environmentally superior. This is essential for creating the increased value renewable generators need for their projects compared to conventional generating power plants. A GIS can also provide the means for consumer disclosure regarding where consumers' power comes from. This information is essential in providing consumers with information needed to make informed decisions about their choices for electricity.

III. Issues Identified by the Commission

1. Defining eligible renewable generation.

Determining what constitutes a renewable resource that meets the eligibility requirements of the State's RPS is a threshold issue. Setting the definition too broadly will allow virtually any resource to enter the mix. Setting it too narrowly will make it unnecessarily difficult to meet the governor's target. The following list comprises currently available technologies that are generally accepted as "renewable":

1. Solar photovoltaic or solar thermal electric energy.
2. Wind energy.
3. Ocean thermal, wave or tidal energy.
4. Fuel cells using a renewable resource.
5. Landfill methane gas and anaerobic digester gas.
6. Low-emission biomass.
7. Potentially in-state hydropower depending on future growth rates for new renewable capacity and how this relates to the current hydropower capacity.
8. Off-Grid Generation. Allow Off-Grid generation located in NY to be included.
9. Behind the Meter Renewable Generation (BTMR). Allow BTMR generation located in NY to be included.

10. Existing generation units should be given "vintage waivers" that allow credit for expansion of existing facilities. This would enable existing facilities to be expanded to participate in meeting the RPS goal.

We believe that it is very important to build public awareness, trust and choice about renewable energy. It is critical to provide accurate information to consumers about what constitutes renewable energy. Resources that come from finite resources and are not truly accepted as renewable energy should not be included to qualify as an eligible NY RPS resource. It is, in our view, a mistake to dilute the meaning of "renewable" energy to include fossil fuels, such as natural gas, because they are "cleaner" than other fossil fuels. Similarly, we think it is important to exclude the use of trash-to-energy facilities; unfortunately, trash is being renewed constantly, but it is the policy of the state of New York and other levels of government to reduce the amount of trash being generated through recycling, reuse and planned de-manufacturing. Trash-to-energy facilities generally have high emissions when compared to other renewable resources. The intent of the RPS is to support resources that provide increased environmental performance and provide such generators the value for having those attributes. Allowing trash-to-energy to qualify could also undermine the intent of creating more new renewable generators in NY if there is an abundance of supply.

2. **Determining the contribution of existing renewable resources in meeting RPS requirements.**

It will be necessary to understand the amount of new renewable capacity expected to come on-line through 2013. Renewable energy (principally hydro-electric generation) already supplies between 15% and 17% of current consumption; the RPS system will have the formidable task of adding approximately 1% of current consumption per year for ten years in new renewable resources to achieve the 25% overall goal by 2013. This relatively high goal will be required to make up the existing gap between renewable resources now on line and Governor Pataki's announced goal, plus additional renewable energy added quickly enough to offset continued growth in consumption in New York State. By comparison, the goal in Massachusetts is to add 1% of current consumption in renewable energy the first year, and .5% per year for each year following until 4% of total consumption is provided from "new" renewable sources.

3. **Determining the starting date for the RPS.**

The starting date for RPS calculations should be set for a date that will avoid inadvertently creating a gap in production, or reward developers for "gaming" the new system. Such a gap might occur if the cutoff date is set at any time in the future, as developers stop production and wait for whatever incentives and new market opportunities will come with the RPS system. Gaming could occur as contractors who were already deep into the planning process adjust their schedules to take advantage of the new opportunities. For this reason, setting a starting date at the time of the governor's announcement of the goal could be an option, defining those facilities in commercial operation prior to that day as "existing" resources, and all others as "new" from the point of view of the RPS programs.

“Existing resources” capacity would be counted to determine the level of the gap that the RPS program needs to close to meet the 25% goal. It is likely that special incentives will be created to promote “new” resource production, and those facilities already in operation would be excluded from these incentives. Using New England’s start date could also be an option as long as this date provided the adequate supply and demand ratio to encourage new supply and fair market prices for the RECs. This is the distinction that was made in Massachusetts (with the “start date” being December 31, 1997), and which appears to have produced a plan with a minimum of opportunity for gaming.

4. Determining the role of sales based on out-of-state renewable purchases or green-attribute purchases toward the goal.

As we understand it, the 25% renewable source goal is designed to spur the development of new electric generation from renewable sources. This underlying goal must govern the choices about accepting out of state renewable purchases. Out-of-state renewable sources should only be counted if they meet the New York definition of a new qualifying resource. The New York RPS should support its regional ISO resources. Allowing imports from adjacent control areas to qualify to meet the NY RPS would give adjacent hydropower facilities the ability to qualify. Since the adjacent territory is Quebec, which has a significant amount of hydropower, this could flood the market and undermine the intent of creating more new renewable resources in NY. For BTM resources, we suggest allowing only in-state resources to qualify. This qualification requirement is similar to Massachusetts’.

5. Establishing a procurement process.

New York should consider a procurement process that promotes competition among all retail electricity suppliers. It should require that all retail electricity products sold to end-users in the State comply with the RPS regulations. This will require retail electricity suppliers and generating power authorities to compete for the lowest price to comply with the RPS. This is the system that is in place in Massachusetts, and seems to be working well in terms of both meeting the policy goal and promoting innovation.

6. Determining the organization or entity obligated to meet the RPS goal.

We recommend that all retail electricity suppliers be obligated to meet the RPS goal. This will promote diverse and innovative approaches to meeting the RPS requirements. This would make compliance with the RPS, consistent with all retail suppliers who intend to sell energy in New York and not give competitive advantage to any specific Supplier. Making the RPS goals optional will make the development of a viable market for new renewable resources problematic as many potential customers wait out the market in the hopes that some other entity will take up the challenge.

7. Considering of the binding nature of the RPS requirement.

It is clear from the Massachusetts experience that the automatic penalty provision is the driving force that brings load serving entities into the market for renewable energy. The Massachusetts system is driven by the deadlines associated with the automatic penalty provision. In Massachusetts the penalty is a payment of \$50 per MWh to the Massachusetts Technology Collaborative (MTC), and the MTC is then tasked with using this money to fund programs that will promote the creation of renewable energy generation capacity. The critical design aspect of the penalty provision will be to set the amount higher than the cost to comply with the RPS. This will provide the incentive that meeting compliance will be less expensive and will also create a more competitive market to try to secure the RECs at the lowest price. The price cap should be set at a level higher than what the expected REC values will be.

Massachusetts has a \$.05 per kWh ceiling on the price of RECs, demonstrating that the incremental cost of renewable energy in a well-designed RPS system is relatively low. Current market conditions in Massachusetts are producing an incremental cost of well under \$.01 per kWh for retail customers (as the additional cost of the renewable sources is effectively spread over all kWh sold). Having a well-defined upper limit will serve as a brake to price shocks in NY as well, and as long as the ramp-up required is not so rapid as to overwhelm the entrepreneurs seeking to provide the renewable energy, this system should work well in New York also. This modest premium will increase New York's self-reliance on energy, reduce pollution and increase system reliability. The dispersed generation that will need to be built to meet this demand will increase the flexibility of the grid, and reduce its vulnerability to accidental or intentional disruptions.

NYSERDA, because of its position in state government, its successful history in promoting renewable energy and its pre-existing mission, is the logical equivalent of the MTC to serve as the recipient of any penalty moneys that may be forthcoming and as the promoter of new sources to make up any shortfall that may develop.

9. Defining the role of the New York Power Authority (NYPA), Long Island Power Authority (LIPA), and New York State Energy Research and Development Authority (NYSERDA) in helping meet the RPS.

In CSG's view, LIPA and NYPA are major load serving entities in New York, and NYPA controls a major portion of the pre-existing renewable capacity of the state. If the two authorities cannot be brought into the RPS system, then the calculation of what renewable power exists already, and the means of reaching the state's goal will have to be substantially revised, and the meaning of the 25% target will have to be carefully defined to ensure feasibility. NYPA may have the capacity to expand its renewable portfolio and may be able to provide renewable energy certificates to other load serving entities with less capacity to develop or acquire renewable resources.

IV. Conclusion

Conservation Services Group and CSGServices appreciate the opportunity to comment on the threshold issues of a retail renewable portfolio standard. Governor Pataki's commitment to

create a system that will provide 25% of New York's electric demand from renewable resources is a significant challenge to the regulators, load service entities and the various firms either presently or potentially developing renewable electricity resources in and around New York State. The goal is feasible and visionary. CSG and CSGServices are ready to make a contribution to meeting that goal. Our experience in other venues indicates that careful formulation of the rules can encourage entrepreneurial and innovative approaches that produce new jobs and resources and reduce pollution. On the other hand, weak definitions can make these goals easy to achieve without any significant change in the mix of fuels being used, and, unless care is taken, it is easy to set up a system that makes the existing players comfortable while stifling small firm initiatives. We hope that, as the rules for RPS in New York are developed, that regulatory support for innovative, small scale and behind the meter approaches will be included in the final mix. Beyond the testimony in this necessarily brief format, we will make our experience available to the case in direct testimony, should it be appropriate, and through roundtable discussions or collaborative processes.