

Via Hand Delivery

April 7, 2003

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

Re: Case 03-M-0188 – Proceeding on Motion of the Commission Regarding a Retail
Renewable Portfolio Standard.

Dear Secretary Deixler:

Enclosed please find an original and five (5) copies of the New York Energy Service
Providers Association's Initial Comments regarding a retail renewable portfolio standard.

Respectfully submitted,

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By: _____
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Enclosures

cc: Active Parties
(Via Electronic Mail)

NEW YORK STATE
PUBLIC SERVICE COMMISSION

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

INITIAL COMMENTS OF THE NEW YORK ENERGY
SERVICE PROVIDERS ASSOCIATION
REGARDING A RETAIL RENEWABLE PORTFOLIO
STANDARD

Respectfully submitted,

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Dated: March 28, 2003
Albany, New York

NEW YORK STATE
PUBLIC SERVICE COMMISSION

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

INITIAL COMMENTS OF THE NEW YORK ENERGY
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We submit the following comments on behalf of the New York Energy Service Providers Association (“NESPA”)¹ and the Small Customer Marketer Coalition (“SCMC”) in response to the Public Service Commission’s *Order Instituting Proceeding*² and ALJ Stein’s procedural rulings in this docket. The following comments are general in nature and do not respond directly to each enumerated issue in the *Order Instituting Proceeding*.³ Our comments are directed solely to issues affecting the competitive retail market.

¹ NESPA is an association of national energy marketers who are current and prospective participants in the competitive retail electric market in the New York State. For purposes of this proceeding NESPA consists of Constellation NewEnergy and Energy America, LLC.

² Case 03-E-0188 - Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, *Order Instituting Proceeding* (Issued and Effective Feb. 19, 2003).

³ Id. at 3 -5. These are our preliminary comments. We respectfully reserve the right to address additional issues enumerated in the Order as well as any that may arise throughout the collaborative process and the formal proceeding.

Generally, NESPA and SCMC support the establishment of a renewable energy portfolio standard (“RPS”) in New York. The following are suggested guidelines for the development of an RPS that will effectively encourage investment in renewable resources while protecting energy consumers.

- An RPS requirement should be competitively neutral, applying equally and fairly to all retail suppliers.
- All customer classes should contribute appropriately to the RPS.
- The system implementing RPS should be compatible with other systems and Environmental Disclosure requirements.
- An RPS requirement should be set at a level that is obtainable.

These guidelines are more fully explained in the discussion below.

DISCUSSION

1. An RPS requirement must be competitively neutral.

An RPS requirement should be established with the competitive energy market in mind. It should be competitively neutral – applying equally to all retail suppliers, including all utilities and all ESCOs. Applying the requirement equally to all suppliers will prevent some competitors from having an unfair advantage. The application of disparate RPS requirements would be harmful to the competitive market. RPS requirements that would apply unequally or only to some suppliers would unjustly interfere with the competitive marketplace, send the wrong signals to consumers and ultimately would harm electricity customers.

Additionally, to ensure competitive neutrality, ESCOs should have the opportunity to acquire “renewables” on an equal footing with the utilities.

An RPS requirement would affect the prices of utility service. The enforcement of an RPS standard should not be implemented in any given territory until such impact is otherwise mitigated. For instance, in the NYSEG territory, the fixed rate default option must be properly adjusted to reflect the cost of any RPS requirement.

2. All customer classes should contribute appropriately to the RPS.

An RPS requirement should avoid placing the burden primarily on some classes or groups. Implementation of an RPS must treat all customers and their suppliers fairly. The RPS standard therefore should apply to all product offerings, not merely to a suppliers overall mix of generation. This principle ensures that all customers—residential, commercial and industrial—support the renewables standard. Allowing suppliers to meet the standard with their overall mix of generation would enable them to place a higher renewable standard on some customers, requiring those customers to carry the lion’s share.

3. RPS requirements should be compatible with other systems.

Another important consumer protection will be a system for tracking and verifying renewable generation and the associated environmental attributes. This might be accomplished by use of renewable energy certificates (“RECs”). The system should provide transparency for generators, retail providers and consumers. The adoption of a generation information system (“GIS”) similar to and compatible with that used in the ISO-NE allows for a regionally integrated system. Additionally, because it may be cost efficient to obtain renewables from the regional market beyond New York State, it will be important for the GIS to be compatible with the other systems in the region. PJM is currently developing a credit tracking system and New England already has one in place. The New England GIS is a proven platform that is fully supported by all six New England utilities and commissions. It is fully expandable and can be

quickly implemented. This compatibility can also prevent double counting of renewable generation attributes in the event renewables are traded into or out of the state. Compatibility with neighboring systems will also have the benefit of maximizing the value of New York renewable resources.

Additionally, it is appropriate to coordinate to make RPS requirements and the Public Service Commission's Environmental Disclosure Program consistent.

4. RPS requirements should be obtainable and reasonable.

Implementation of an RPS Requirement should be practical. The percentage of electricity produced from renewable sources indeed should be set to provide an incentive for voluntary, market-based offerings of renewable energy-based products by competitive suppliers, but the magnitude and design of the RPS requirements must reflect the ability of New York ESCOs and other suppliers to reasonably procure electricity generated from eligible renewable sources at reasonable prices. Allowing the use of regional sources outside of New York State for meeting the RPS might assist in procuring RECs and could mitigate problems associated with a shortage. More fundamentally, however, the RPS must be obtainable. The RPS may need to be phased in over time, or otherwise set at an appropriate level.

Because of the intermittent and weather dependent output of renewable resources, compliance with the RPS should be over a sufficient interval to be practical. We recommend an annual compliance period. Suppliers should be allowed to "bank" their RPS credits. Allowing "banking" ensures that renewable generators have a reasonable opportunity to receive the full value of their generation while preventing gaming in the market by those holding back RECs for an unreasonably long period.

CONCLUSION

NESPA and SCMC encourage the development of a Renewable Portfolio Standard that will ensure implementation in a competitively neutral manner, will be compatible with other systems and will protect retail consumers.

Respectfully submitted,

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