

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 03-E-0188 – Proceeding on Motion of
The Commission Regarding
Retail Renewable Portfolio Standard

Before - Hon. Eleanor Stein, Administrative Law Judge

INITIAL COMMENTS
of
THE ENERGY ASSOCIATION OF NEW YORK STATE

These initial comments are submitted by the Energy Association of New York State on behalf of its following member companies: Central Hudson Gas and Electric Corporation; Consolidated Edison Company of New York, Inc.; Entergy Nuclear Northeast; Mirant New York, Inc.; Niagara Mohawk Power Corporation; who are major energy companies in New York State, including a broad range of regulated utilities, combination electric and natural gas companies, electric generation companies and combination energy delivery and supply companies. The Energy Association (EA) offers these comments in response to the Public Service Commission's (Commission) Order of February 19 (the Order), and Judge Stein's Ruling of February 20 and letter to the parties of March 14. These comments are to be understood to be adjunct to the comments that individual member companies of the EA are expected to file.

Given the breadth and overlapping complexity of the issues attendant to the adoption of renewable portfolio standards (RPS), the implementation of the vision of the Commission for the restructuring of New York's energy markets and the evolving interests of the EA member companies, we view these initial comments as an opportunity to identify major issues of concern and raise certain threshold questions, the resolution of which may be critical to achieving a meaningful degree of consensus among the parties. The EA would reserve the right

to place before the parties at a later date comments on such other issues as may arise in the course of this proceeding through collaborative dialogue or further analysis.

1) As a threshold matter, the EA notes the Commission's statement in its February 19 Order that "(a) return to the 25% figure (of electricity used in New York State provided by 'renewable resources') would be in the public interest". The Order does not address an empirical or analytical basis by which it arrived at this specific percentage target, other than that the percentage of renewable resources as a share of the State's electric portfolio was once at that figure, some four decades ago.

Given the fundamental importance of any RPS target number to everything that will follow in this proceeding, and the potential impact of the proceeding itself on electric industry restructuring and the development of competitive energy markets in the State, it would seem prudent and helpful to the parties' understanding of the issues to examine the analytical basis by which the 25% figure (which would be one of the highest standards in the country) was reached, including any economic or energy load-profile modeling that may have impacted the Commission's thinking.

The comments that follow presume, for the purposes of this discussion, the adoption by the Commission of an RPS goal without prejudice, and without reference to any specific target number.

2) Consistent with the Commission's vision for the restructuring of the electric industry, competition and customer choice, it is fundamental that any RPS goal that may be adopted by the Commission should be just that: a goal rather than a mandate. While customers should be able to avail themselves of the opportunity to purchase electricity provided by renewable resources on a voluntary basis, such as through "green power" programs, the mandated procurement of any particular category of resources would be antithetical to the operation of the developing wholesale and retail markets, and is likely to send the wrong

signals to potential developers of base load generation that the State will urgently need regardless of the level of success of an RPS or any number of other alternative energy or demand reduction programs.

3) Any RPS that may be adopted by the Commission ought to be predicated on the recognition, reflected in the State Energy Plan (which by statute is to provide guidance for energy related decisions to be made by the public and private sectors within the state; Energy Law section 6-102, 3.(a)), that all renewable resources currently used in generating electricity used in New York State, including hydropower, should count toward the attainment of such standard.

4) The Commission, in its Order, recognizes that any RPS targets adopted would be New York State targets, a reflection of statewide policy, and would necessarily be determined, measured and implemented on a statewide basis. While development of renewable resources in load-pockets, where they may have the greatest benefit, should not be discouraged, in a state as large and economically, geographically and demographically diverse as New York, where the sources, opportunities and markets for renewable energy are, at best, unevenly dispersed, it would be impracticable and ultimately self-defeating to pursue RPS targets on any type of localized jurisdictional basis. Further, any value of such a localized approach would be, at most, cosmetic given the interdependent nature of the electric grid.

5) The Commission's Order, in its own discussion of RPS target figures, speaks in terms of **electricity used in New York State** provided by renewable resources (emphasis added). We believe this is an appropriate and necessary framework for any RPS the Commission may consider and provides the answer to the second "threshold issue" identified in the Order. It is not only appropriate, but also necessary to the success of any proposed RPS program to include out-of-state procurement of renewable resource energy, including Canadian hydropower, in the calculation of electricity that qualifies toward meeting the standard.

The electric grid is regional and international in its operation. Air emissions do not recognize jurisdictional boundary lines, and much of those emissions with which New York has to contend originate out of state. In this regard increased use of renewable resources in neighboring states and Canada to provide electricity may well benefit New York. Moreover, there can be no certainty that sufficient supplies of dependable renewable sourced electricity can be developed and made available when and where needed, exclusively within New York, within the time frames being contemplated, in order to meet an ambitious RPS. While a parochial approach might benefit a few locally based developers in the short term, over time it is likely to be self-defeating to any overall RPS effort.

6) While always important for the customers of New York's electric systems, the reliability, quality and security of supply have increasingly become the paramount energy concerns, as they are for the Commission and should be for all parties to this proceeding. Any potential impacts of a RPS on that reliability must be carefully analyzed and fully understood as this proceeding moves forward. Among other issues, it should be recognized that not all renewables (e.g. wind or solar energy) are created equal in terms of their ability to contribute to the system's capacity needs.

7) The current efforts of the New York Power Authority (NYPA), the Long Island Power Authority (LIPA) and the New York State Energy Research and Development Authority (NYSERDA) through the systems benefit charge (SBC), should be calculated in measuring the attainment of any such goal. Further, those entities, and the State itself, in the acquisition of electricity for its own facilities, should be obligated to maximize their acquisition of electricity from new renewable sources. In conjunction with the renewable resources already in use in the state, and those that can be realized through voluntary "green power" programs, such an effort

by the state should result in a renewable resource use profile that exceeds that of any state in the union.

If renewable sources of electric generation were currently competitive in the wholesale market, there would be no need for this proceeding. The issue of the added costs associated with those resources and how they are dealt with is unavoidable as a threshold matter and impacts every other aspect of this proceeding. New York energy customers already face some of the highest, if not the highest, externally driven, government added energy costs in the country. At the same time, New York's electric transmission and delivery companies need to have the resources available to invest in maintaining and enhancing the continued reliability and security of an aging delivery system. For a litany of reasons that have been articulated by, in addition to the Energy Association, the Governor, the Commission, the State Energy Planning Board, and many others, it is imperative that the results of this proceeding not add to these burdens. To avoid such a result, the Commission should consider establishing a program that combines direct State efforts with voluntary programs and existing renewable resource use.

8) It is vital, from the outset, that it be understood by the parties, by those in all branches of state government, and most importantly by the public, that if the Commission should adopt an RPS, and however successful that effort may or may not be for however long it may take to implement, those new renewable resources can contribute only marginally to, and are in no way a substitute for, the 7100 MW of base load electric generation that the ISO and others have said needs to come on line in New York State in the next three to four years in order to meet the state's needs and ensure system reliability. This reality needs to be a consistent and high profile message that emanates from this proceeding, as well as from other important sources, both in government and out. To the extent, however inadvertently, this proceeding might contribute to a perception that an RPS will mitigate the short-term need to build new base load generation, it would do a serious disservice to the people of New York State. Further, given the current financing and siting difficulties confronted by potential

developers of generation, this proceeding needs to carefully consider the potential impact not only of an RPS, but of the proceeding itself on the ability of companies to finance the building of new, and the maintenance of existing generation facilities.

The Energy Association appreciates the opportunity to offer these initial comments and looks forward to participating further in this collaborative.

Respectfully Submitted

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