

INTEGRATED WASTE SERVICES ASSOCIATION

Katie Cullen
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March 28, 2003

VIA EMAIL

Honorable Eleanor Stein
Administrative Law Judge
New York State Department of Public Service
3 Empire State Plaza
Albany, NY 12233-1350
Email: Eleanor.stein@dps.state.ny.us

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

Dear Judge Stein:

The Integrated Waste Services Association respectfully submits comments in the above captioned proceeding pursuant to your ruling of February 20, 2003 and your subsequent letter following the March 4th procedural meeting.

A copy of these comments will be sent to the service list via email, and hard copies will be mailed to Secretary Janet Hand Deixler.

If you have any questions, please do not hesitate to contact me at 202/467-6240.

Sincerely,

Katie Cullen
Vice President

Enclosure

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

COMMENTS OF THE INTEGRATED WASTE SERVICES ASSOCIATION

The Integrated Waste Services Association (IWSA) appreciates the opportunity to comment on a Renewable Portfolio Standard (RPS) in New York State as outlined in the Public Service Commission's February 19th order. The IWSA is the leading trade group, based in Washington, DC, for the waste-to-energy industry. These power plants are dual purpose. We dispose of household trash and generate clean, reliable, renewable electric energy.

We are asking the Commission to include waste-to-energy as a renewable energy source in New York's proposed RPS. Waste-to-energy is the only renewable energy technology that provides communities with dual environmental benefits: a clean source of energy and safe trash disposal. The fuel used in waste-to-energy plants to produce electricity is municipal solid waste (MSW). MSW is "sustainable" and "indigenous" and is not a fossil fuel – three basic criteria for identifying a renewable energy source. Nationwide, 98 waste-to-energy power plants generate more than 2,800 megawatts of electricity from 32 million tons of trash each year.

In New York, our member companies, including American Ref-Fuel Company, Covanta Energy, Montenay Power Corporation and Wheelabrator Technologies Inc, with our municipalities, own and operate 10 waste-to-energy facilities from Niagara Falls to

Long Island. These facilities dispose of over 13,000 tons per day of the state's trash while producing over 300 megawatts of clean power. Thousands of homes in New York plug into trash power. This represents 15.1 percent of the waste managed in New York State. Eighty percent of Long Island's post-recycled waste is managed at the 4 facilities located there – there are no landfills on long Island.

New York's waste-to-energy facilities meet the United States Environmental Protection Agency's ("EPA") new Maximum Achievable Control Technology (MACT) emission standards. In June 2002, EPA announced that waste-to-energy plants have achieved "outstanding" environmental results via "dramatic decreases in emissions" and that dioxin and mercury emissions have declined by over 99% and 95% respectively over the last decade. In a February 2003 letter, EPA states that "these plants produce . . . electricity with less environmental impact than almost any other source of electricity." In the February letter, The EPA also cites waste-to-energy as a "clean, reliable, renewable source of energy." Additionally, use of waste-to-energy technology reduces annual emissions of greenhouse gases by 33 million metric tons.

The use of waste-to-energy has additional environmental benefits. Since most of the facilities in New York are located near more heavily populated areas, the need for long transmission lines and new rights-of-way is reduced. Longer hauls for large diesel trucks and related emissions that are caused by such trips to out-of-state landfills are avoided. The inherent benefit of locating clean, efficient facilities in high electric load areas is also important with respect to land impacts and reliability. Furthermore, waste-to-energy reduces the amount of land needed for landfills by 90%, which is an important factor especially in high population areas.

Historically, waste-to-energy has been recognized as a renewable energy source for more than 20 years. The Federal Power Act, the Public Utility Regulatory Policies Act, the Federal Energy Regulatory Commission's regulations, and the Biomass Research

and Development Act of 2000 all recognize waste-to-energy power as renewable source of energy.

To argue that waste-to-energy facilities do not need to be included in the RPS because they currently operate in New York without the benefit of an RPS would be to assume, incorrectly, that these plants could operate and succeed in an open, competitive market today. Forcing these plants to compete with pure-play energy generators in such an open competitive market, places risks on the very infrastructure municipal governments across New York rely on. Losses in energy revenues would need to be recovered, potentially through increased residential trash rates, or increased local taxes. It also ignores the fact that these facilities provide the dual benefit of clean electricity generation and safe disposal of trash. This latter service places additional costs on waste-to-energy facilities that pure power plants do not incur. Facilities in other states that have not been able to meet economic challenges have closed, leaving the local community and the state with a solid waste disposal dilemma.

Waste-to-energy has been included in many state renewable definitions and portfolio standards. In this region, Connecticut, New Jersey, Maine and Massachusetts include waste-to-energy in their renewable portfolio standards and definitions. New Hampshire, while it does not have an RPS, includes waste-to-energy in its definition of renewable energy. The Commission should not “type cast” waste-to-energy as a non-renewable based upon emotional and philosophical arguments. Waste-to-energy is, in fact, a sustainable and environmentally sound generation that should be included in the RPS. To deny waste-to-energy’s inclusion in the RPS would be to potentially deny New York of, according to U.S. EPA, plants that produce “electricity with less environmental impact than almost any other source of electricity.”

Comments on Threshold Issues

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

IWSA believes that the types of resources that should be considered as renewable for the purposes of a renewable portfolio standard should be as broad as possible. In order to meet a 25% RPS, existing as well as new renewable facilities should be included. We encourage the Commission to rule that resources within the scope of the “renewable” portfolio will include wind turbines, co-firing wood with oil or coal, solar, thermal, photovoltaic, biomass, methane waste, hydroelectric facilities, waste-to-energy facilities and fuel cells. The determination should be fact-based, not based on outdated information and emotional claims.

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

The RPS should adapt policies and approaches that support a regional and robust competitive marketplace. In addition, the flow of commerce across state lines is protected by the Commerce Clause of the Constitution and any state protectionism or discriminatory preference for in-state renewable resources would run into serious questions of legality. On the other hand, a poorly crafted RPS could create unintended and harmful economic and environmental outcomes. One such outcome could occur if one particular renewable resource were permitted to dominate the resource mix to the exclusion of others. To avoid such an outcome, and to serve the State’s interests, an RPS should be designed to create reciprocal and cross-regional trading opportunities and markets. IWSA believes the Commission should support the free regional flow of Attributes, but should require that eligible participants in this market adopt reciprocal

requirements. Thus, imports from other regions should be accepted, but only to the extent that those regions offer open, non-discriminatory markets for capacity, energy and Attributes.

- 3. The retail suppliers that should be required to sell energy from renewable sources.**
- 4. The impact, if any, on the ability of energy services companies' (ESCOs) 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.**
- 4. The best methods for retail suppliers to procure renewable resources (e.g., construction and ownership versus purchases).**
- 6. Methodologies for the recovery of costs by regulated utilities.**
- 7. Individual retail suppliers' targets, if appropriate.**
- 8. The appropriate means to monitor progress toward meeting the goal to ensure results, including possible rewards and disincentives.**

The IWSA has no comments on these threshold issues at this time.

- 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 if anything, must be done to ensure that reliability is maintained.**

Waste-to-energy is one of the most reliable sources of energy in the county. Our facilities operate 24-hours per day, seven days per week and average over 90% reliability.

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

An attributes tracking and trading system will be necessary in order to successfully implement a broad-based, uniform RPS. Without it, every retail supplier required to comply with the RPS would have to acquire renewable generation and/or enter into long-term contracts for such generation. A central attributes tracking and trading platform would provide flexibility and administrative cost reduction by streamlining access to renewable attributes. Retail suppliers could purchase those attributes that are needed to comply with the RPS for the load that they have served, and generators could sell their attributes as they are generated.

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.

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.

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 markets during the process of developing rules to implement the standard.

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.

IWSA has no comments on these threshold issues at this time.

Respectfully submitted,

INTEGRATED WASTE SERVICES
ASSOCIATION

By:

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Dated: April 10, 2003
Washington, DC