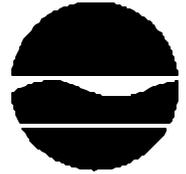


New York State Department of Environmental Conservation



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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

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

Dear Judge Stein:

Pursuant to the Order Instituting Proceeding of the Secretary of the Public Service Commission ("PSC"), issued on February 19, 2003 and your ruling dated February 20, 2003 and letter dated March 14, 2003, the Department of Environmental Conservation ("DEC") submits this statement of position. DEC views this statement as a preliminary position and looks forward to participating in the series of collaborative meetings scheduled for the exchange of information and development of the concept of a renewable portfolio standard. Although DEC will not be presenting information at the April 7-8 collaborative meetings, DEC will, at a later date, be available to provide information concerning air emissions data and other environmental impacts of various types of energy facilities that may be included in the renewable portfolio standard.

The majority of the 14 questions posed by the PSC relate to market impacts, costs and retail suppliers, issues which fall outside the scope of DEC's expertise. Therefore, in lieu of answering the 14 enumerated questions presented in the Order Instituting Proceeding issued by the Secretary of the PSC, DEC provides the following general position statement.

The purpose of establishing a renewable portfolio standard is to foster a market for environmentally sound and “clean” energy, focusing on nascent renewable energy technologies, including wind, solar, thermal, photovoltaics, sustainably managed biomass, tidal, geothermal, methane waste and fuel cells. To simply purchase existing energy from the grid and label it as “renewable” would not be consistent with the Governor’s directive in Executive Order 111 and the New York State Energy Plan. DEC believes that to the extent that energy sources such as waste-to-energy are already encompassed in the existing 17% of electricity generated by renewable sources, such technologies may continue to contribute and be accounted to that extent only. Thus, in order to achieve the increase to 25% of the electricity generated in New York State coming from renewable sources, waste-to-energy, and other well established technologies, should not be considered a “renewable” source.

DEC looks forward to participating in the upcoming collaborative meetings and will be happy to provide environmental impact data upon request. DEC Staff are currently compiling such information.

Very Truly Yours,

Jennifer Hairie, Senior Attorney

Meghan Purvee, Senior Attorney

cc via U.S First Class Mail: Honorable Secretary Janet Deixler, PSC