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March 28, 2003

Hon. Eleanor Stein
Administrative Law Judge
NYS Department of Public Service
Three Empire State Plaza
Albany, NY 12223-1350

Re: Case 03-E-0188
Initial Comments

Dear Administrative Law Judge Stein:

These initial comments are submitted by the Staff of the New York State Department of Public Service (DPS Staff) designated to participate in an advocacy role in this proceeding.

The purpose of these initial comments is to describe DPS Staff's principal interests in this proceeding, to assist in a determination of the scope of the policy considerations, and to begin to identify common ground to serve as a basis for the upcoming collaborative meetings. For the sake of efficiency given the large number of parties, our "interests" have been organized into a concise but comprehensive one-page list attached to these comments. In the spirit of collaboration, DPS Staff will be entering into the collaborative discussions without firmly established initial positions so as to give every party a fair opportunity to be heard and to maximize the consideration of potential options.

The purpose of this proceeding is develop policies to achieve a goal that by the year 2013, at least 25% of the electricity bought by, or supplied to, retail end-users in New York State will come from renewable energy resources. To that end, in the collaborative phase of this proceeding, we believe

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it would be useful for the parties to focus their discussions along a common outline of Renewables Portfolio Standard (RPS) design elements. Borrowing upon the experiences in other jurisdictions and considering New York's particular situation, DPS Staff proposes that the parties be guided by the attached outline of RPS design elements. We hope that use of the outline will effectively focus the collaborative proceedings in a meaningful and productive manner.

When considering the adoption of new policies that will affect the public, it is appropriate to inform the public of the proposals and alternatives under consideration and to solicit public response so as to better inform the decision maker of the public needs, values and evaluations of proposed solutions. In that regard, DPS Staff intends to conduct an outreach and education program in conjunction with this proceeding to inform the public and to receive public comment in a manner such that it contributes to making a decision that is technically and economically feasible, environmentally sound, and in the public interest. We invite active parties interested in joining us in this effort to contact Anne Dalton at (518) 473-5263 or by E-Mail at anne_dalton@dps.state.ny.us.

Very truly yours,

PAUL AGRESTA
Assistant Counsel

cc.: Secretary Deixler
All Active Parties

Case 03-E-0188

DPS Staff's "Interests" in Developing a
Renewables Portfolio Standard (RPS)

(March 28, 2003)

1. Diversify New York State's electricity generation mix and improve energy security by less reliance on fossil fuel sources.

2. Reduce air emissions, including greenhouse gas emissions, and other adverse environmental impacts of electricity generation affecting the environment in New York State.

3. Develop a program that is economically efficient within the context of a Renewables Portfolio Standard requirement so as to minimize consumer energy costs.

4. Increase economic development opportunities in developing renewable resources in New York State.

5. Attract renewable resource generators, manufacturers and installers to New York State.

6. Accelerate progress in developing a broad range of renewable resource technologies so as to promote future opportunities.

7. Develop a program that is compatible with competitive energy markets in New York State.

8. Develop a program that is administratively efficient.

Renewables Portfolio Standard
Collaborative Design Elements

(March 28, 2003)

Design Element I - Overall Target Level

A. Establish a Baseline.

1. In the context that Baseline resources need not be the same as Target resources (see I,C,5 below for the designation of Target resources), choose which resources are eligible to be counted as Baseline resources.

   OPTIONS:
   (a) Biomass
   (b) Fuel Cells
   (c) Hydro
   (d) Solar
   (e) Solid Waste
   (f) Tidal
   (g) Wind
   (h) Sub-types of the above

   OPTIONS:
   (a) Imports
   (b) No Imports
   (c) Selected Imports

   OPTIONS:
   (a) Customer-Sited Facilities (PV, Fuel Cells)
   (b) No Customer-Sited Facilities
   (c) Selected Customer-Sited Facilities

2. Tally eligible Baseline resources by annual MWHs using the best available and reliable data.

B. Estimate Target Year Electricity Levels.

1. In the context that long-term forecasts are difficult to make with precision and that the inherent inaccuracy of such forecasts could perhaps be mitigated by development of a target level MWH adjustment mechanism, establish an electricity forecast through Year 2013.

   OPTIONS:
   (a) Develop a new annual MWH electricity forecast through Year 2013.
   (b) Use State Energy Plan annual MWH electricity forecast through 2013 as a default.
   (c) Use NYISO annual MWH electricity forecast through 2013 as a default.

C. Establish the Target Level.

1. Calculate the Year 2013 MWH target level (25% of projected electricity).

2. Subtract the Baseline MWHs from the Year 2013 target level.

3. Choose a first target year.

4. Establish an annual ramp-up target from the first target year to the Year 2013.

5. In the context that Target resources need not be the same as Baseline resources, and considering environmental impacts and other criteria, choose which resources are eligible to be counted as Target resources.

   OPTIONS:
   (a) Biomass
   (b) Fuel Cells
   (c) Hydro
   (d) Solar
   (e) Solid Waste
   (f) Tidal
   (g) Wind
   (h) Sub-types of the above

   OPTIONS:
   (a) Imports
   (b) No Imports
   (c) Selected Imports

   OPTIONS:
   (a) No Tier Mechanisms
   (b) Tier Mechanisms

      OPTIONS:
      (i) PV Tier
      (ii) Fuel Cells Tier
      (iii) Wind Tier
      (iv) Hydro Tier
      (v) Hydro Sub-type Tier
      (vi) At-Risk Expiring Contracts Tier
      (vii) Incremental Only Tier
      (viii) Long-term Development Tier
      (ix) Lowest Cost Tier
      (x) Baseline Tier

D. Consider Establishing a Target Level MWH Adjustment Mechanism.

OPTIONS:
1. Adjust target annually (or bi-annually) to match actual load growth.
2. Adjust target when actual load growth deviates by a predetermined significant amount.
3. Adjust target for unforeseen implementation barriers.
4. Do not establish a target level MWH adjustment mechanism.

E. Consider Target Level Beyond 2013.

Design Element II - Overall Structure

A. Determine if targets will be set individually by Load Serving Entity or statewide (considering PSC jurisdictional issues and parties willingness to act collectively).

B. If individual targets are to be established, determine the following:

1. Determine participating entities.

OPTIONS:
(a) LIPA
(b) NYPA
(c) MUNIs
(d) COOPs
(e) ESCOs
(f) Delivery Companies

2. If appropriate, adjust Target Level to exclude non-participating segments of energy.

3. Determine individual entity Target Levels based on energy proportion.

OPTIONS:
(a) Percentage Targets
(b) MWH Targets

OPTIONS:
(a) Incentive Mechanism for prompt or accelerated compliance
(b) No Incentive Mechanism

OPTIONS:
(a) Alternative Compliance Mechanism
(b) No Alternative Compliance Mechanism

4. Determine enforcement mechanism.

   OPTIONS:
   (a) Pre-set penalties for non-compliance
   (b) Unstated Penalties

C. If statewide targets are to be established, determine the following:

1. Determine participating entities.

   OPTIONS:
   (a) LIPA
   (b) NYPA
   (c) MUNIs
   (d) COOPs
   (e) ESCOs
   (f) Delivery Companies

2. If appropriate, adjust Target Level to exclude non-participating segments of energy.

3. Determine agreements necessary to establish cooperative procurement method.

4. Determine administrative entity.

5. Determine procuring entity.

6. Determine enforcement mechanism.

   OPTIONS:
   (a) Pre-set penalties for non-compliance
   (b) Unstated Penalties
   (c) Default to individual compliance targets

Design Element III – Regional Trading of Renewable Energy Credits

A. In the context that New York already has a viable Conversion Transactions market for the trading of energy credits, by quarter, within New York State, consider whether adjustments are desirable to count renewable energy not actually delivered to New York State.

    1. Determine the likely availability of excess renewables in neighboring control areas.

    2. Determine the existence and characteristics of trading systems in neighboring control areas.

    3. Determine the compatibility of trading systems in neighboring control areas.

    4. Determine the likely impact on compliance cost.

    5. Determine the likely impact on supply availability.

    6. Determine administrative activities and costs.

Design Element IV - Administration

A. Determine whether contract standards are necessary.

B. Determine certification of eligible generators.

C. Determine cost recovery mechanism.

Design Element V - Interaction with Other Policies

A. Determine Compatibility With:

    1. Treatment of emission credits.

    2. Overall reliability.

    3. High load area issues.

    4. Green marketing programs.

    5. Greenhouse gas reduction programs.

    6. System Benefits Charge (SBC) program.