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March 27, 2003

The Hon. Janet H. Deixler  
Secretary to the Commission  
New York State Department of Public Service  
3 Empire State Plaza  
Albany, New York 12223-1350

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

Secretary Deixler:

Strategic Energy L.L.C., submits an original and three copies of its initial  
comments in the above referenced proceeding.

Sincerely,

Francis E. Pullaro, Esq.

c: Judge Eleanor Stein (e-mail)  
Parties to the proceeding (e-mail)

STATE OF NEW YORK  
DEPARTMENT OF PUBLIC SERVICE

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

INITIAL COMMENTS OF STRATEGIC ENERGY, L.L.C., ON A RETAIL  
RENEWABLE PORTFOLIO STANDARD

Strategic Energy, L.L.C. (“Strategic Energy”) respectfully submits its comments on the “Threshold Issues” identified for the development and implementation of a renewable portfolio standard (“RPS”) for electricity in the State of New York. Strategic Energy is an Energy Service Company (“ESCO”) serving over 42,000 commercial and industrial customers across the United States whose electricity demand totals over 3,000 megawatts. We are a market participant with the New York Independent System Operator (“NYISO”), serving several hundred megawatts of load in the New York market.

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

The list of qualifying resources in the renewable portfolio should be broad to ensure that compliance with the program rules minimizes costs to consumers.

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

In the interest of promoting market efficiency and limiting the potential for market power abuses, renewable energy from outside of the New York should qualify as a resource under the RPS. The acceptance of renewable imports will also reduce Commerce Clause concerns arising from placing a barrier to out of state producers. Renewable imports should be delivered to New York in compliance with the rules of the RPS.

3. *The retail suppliers that should be required to sell energy from renewable resources.*

The Commission should require all retail electricity suppliers, including, who serve end use customers sell energy under the RPS.

4. *The impact, if any, on the ability of energy services companies' (ESCOs) abilities 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.*

An RPS requirement that load procure renewable energy above a level requested by their customers will not disadvantage ESCOs to the benefit of utilities provided the RPS contains a wide range of renewable resources and an alternative compliance mechanism to mitigate suppliers from exercising market power.

5. *The best methods for retail suppliers to procure renewable resources (e.g., construction and ownership versus purchases).*

Suppliers should comply with the RPS by entering bilateral contracts with renewable generators, ownership of renewable energy "certificates" sold by generators, or by contributing to an alternative compliance mechanism.

6. *Methodologies for the recovery of costs by regulated utilities.*

Regulated utilities must recover the costs of complying with the RPS through the energy charge.

7. *Individual retail suppliers' targets, if appropriate.*

Suppliers should be required to purchase a certain percentage of renewable energy based on their total load. The RPS should not require suppliers purchase a minimum amount of one type of renewable resource. The RPS should make no distinction between customer classes.

8. *The potential impact on reliability and system operations due to the addition of renewable resources, especially those resources that operate only intermittently (e.g., windmills and photovoltaics), and what, if anything, must be done to ensure that reliability is maintained.*

The NYISO, as part of its responsibility under the Market Administration and Control Area Services Tariff, should ensure that the intermittent availability of some renewable resources does not interfere with the reliable operation of the New York State power system. NYISO can make any tariff changes necessary to address the increase use of renewable generating resources on its network.

9. *The appropriate means to monitor progress toward meeting the goal and to ensure results, including possible rewards and disincentives.*

The success of the renewable energy program will depend upon the minimization of regulatory burdens on suppliers. A health market for renewable energy presents New York with its best chance to achieve its renewable energy goals. A system where market participants can efficiently trade and account for renewable energy will encourage the development of more renewable supply in terms of both quantity and resource types more than regulatory rewards and disincentives.

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

The RPS must include a “renewable attributes trading” system such as the New England Power Pool’s (“NEPOOL”) Generation Information System (“GIS”) to develop a robust market for renewable energy. The issuance of a certificate for every MWh generated from a renewable resource will provide the holder of a certificate with a property right to the renewable energy attributes. Allowing market participants a mechanism to trade units of renewable energy attributes using certificates creates a liquid market for the certificates that will benefit consumers by minimizing the transaction costs passed onto them. New York State’s adoption of the NEPOOL system will also reduce the cost and seems of trading renewable energy between New York and New England creating a more liquid market. Finally, GIS offers a way to track the purchase of renewable energy. These certificates will enable suppliers to account for their purchase of renewable energy to demonstrate compliance with the goals of the program to the Commission and their customers. The Commission can assess the demand for renewable resources by looking at the value of the certificates as traded in the market.

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.*

The Commission’s Environmental Disclosure Label Program should remain separate from the RPS. Supply will continue to disclosure the content of their energy.

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, 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.*

The RPS should not create preferences for the development of new renewable facilities based either on a technology or a location. The Commission should examine

other approaches, such as subsidies, for encouraging the installation of renewable facilities in certain locations. The RPS should be based on a free market that will not favor a particular supplier, generator or generation type.

*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 marketers during the process of developing rules to implement the standard.*

It will have no direct impact as the RPS is not a competitive product; it is a regulatory requirement.

*14. Changes needed, if any, by the Public Service Commission and NYSEERDA in the SBC-funded renewable energy program to coordinate with the new target.*

Strategic Energy makes no comment on this question.

Respectfully Submitted,

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