

Working Group 2 – Individual Compliance
Case 03-E-0188
Meeting Notes – April 15, 2003

Working Group 2 met on April 15, 2003, and used the outline previously distributed by Staff as the agenda for the meeting. The following represents the annotations to and comments on the outline.

- A. Determine the following:
1. Determine Participating Entities:
OPTIONS:
 - a) LIPA
 - b) NYPA
 - c) MUNIs
 - d) COOPs
 - e) ESCOs
 - f) Delivery Companies
 - g) **Self Generators?**
 - **Jurisdictional issues – PSC does not have jurisdiction over all of these entities, which impacts enforcement**
 - **Possible that the Governor could direct LIPA and NYPA to participate under PSC umbrella**
 - **Different models should be developed, one assuming NYPA/LIPA participation, one assuming no NYPA/LIPA participation**
 - **The word “participating” as used above indicates that each entity would be subject to the same compliance rules and targets**
2. If appropriate, adjust Target Level to exclude non-participating segments of energy **service providers**
- **The term “non-participating” should indicate those entities in the list above who are not subject to the same compliance rules and targets**
 - **This question brings up the subject of revisiting target levels, when is it done and how is it done?**
 - **What if the decision is made that participating is too burdensome on ESCOs? Do we exclude very small ESCOs? (Different models can account for this, like that used in Massachusetts where ESCOs pay for alternative compliance.)**
 - **Counting load vs. counting generation – targets could be based on load or based on sales, issue of capacity vs. energy; using capacity, the existing renewable only represent about 12% of the state’s load.**
3. Determine individual entity Target Levels based on energy proportion.

- **Interim targets vs. final targets – do you have a target every year, every two years, or only one target in 2013?**

OPTIONS:

- a) Percentage Targets
- b) MWH Targets

- **The percentage could be based on load served on MWH basis**
- **Some feel this is easier to implement**
- **Any shortages can be taken care of with a trading system – if a target is established based on a percentage of expected load, which turns out to be greater than estimated, the entity can resolve the shortage by trading with other entities who may have lost load and ended up with more renewable MWHs than they had to have to reach their target**
- **Customer migration will impact the load of utilities and ESCOs**
- **The ability to true-up actual renewable energy with the estimated need is important, as well as flexibility in how targets are met**
- **How the accounting is done afterward is very important – different accounting methods can have different results as far as did an entity meet its target, can it buy into an alternative compliance mechanism, etc.**

OPTIONS:

- a) Incentive mechanism for prompt or accelerated compliance
- b) No incentive mechanism

- **The compliance period needs to be defined**
- **The ability to trade imbalances could be an incentive**
- **Some feel that tax incentives could be helpful, although it was recognized that is not in the power of the PSC**
- **Where would the money come from for incentives?**
- **Charging entities for not meeting targets could create a pool of money to be used as incentives – it was pointed out that the New York Power Pool used this method for years regarding capacity reserves**
- **Commission ratemaking is one form of incentive which only applies to utilities and maybe ESCOs**
- **Some feel that a trading system doesn't allow for doing better – if a target is set for the total market then individual entities will trade up to the target but no one will have any incentive to exceed the target on a state-wide basis**
- **Should there be incentives for generators or retail sellers? If so, what?**
- **Compliance and incentives are really separate issues**

OPTIONS:

- a) Alternative compliance mechanism
- b) No alternative compliance mechanism

- There was a discussion about the system used in Massachusetts, which allows entities to pay 5 cents/kwh in lieu of procuring renewable energy, which is kind of a pay or play plan which some feel helps ESCOs participate
- What do you do with the money that is paid in?

4. Determine enforcement (**compliance**) mechanisms

OPTIONS:

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

- Is enforcement necessary? If so, some feel it needs to be symmetrical, there should be both penalties and incentives.
- Some feel that the voluntary system is not productive and penalties are critical to success
- Compliance with prudence – utilities would like assurances that decisions made to procure renewable energy will not be judged imprudent later on for price or other reasons
- Deficiency charges vs. penalties – some feel the word “penalty” is too negative whereas the term “deficiency charge” connotes no wrongdoing
- Cost caps vs. penalties – The amount paid for renewable energy could be capped
- Utilities are concerned about cost recovery
- Regional issues – what is the footprint for individual compliance? Can a New York utility who also has operations in another state procure its renewable energy in that other state?

5. What are the assumptions made in the model?

- The existence of tradable credits
- Regional issues – including different regions within New York State – some regions of the State have very limited opportunities for development of renewable energy
- What is lost by using credits?
- Renewables can bid zero into the energy markets at the New York ISO since they basically have no fuel costs – this means they would not only be used as much as possible but they would help to bring down the energy costs statewide
- Operational aspects of the chosen model – there is a difference between a realistic model and an idealistic model
- Availability of SBC monies – NYSERDA will provide the group with more information on this subject, but NYSERDA does have some money which can be used to encourage

renewable project development but would not be enough to pay for all of the State's renewable energy

- This group has assumed it is only talking about the incremental portion of the 25% target (some take exception to the establishment of that particular number) of which 18% is already in service – NYPA hydro represents about 15%
- Not all renewable resources will be eligible, which must be kept in mind (another working group is dealing with that question)
- Long-term purchased power agreements- some feel these would be beneficial to the development of the renewable energy market, as some developers need these in order to get project financing
- Are we concerned about all 8,760 hours of the year when setting the target or only that one peak hour of electric usage?
- Setting a target as a percent of MWHs, rather than MWs, creates a competitive market among renewables
- Regional trading for renewable credits could possibly be the best solution, as it could encourage the development of technologies in neighboring states that could displace dirty fossil-fuel burning which contributes to our acid rain; also it would alleviate the problem of trading creating a cap mentioned above.
- The members of this group do not agree that the Individual Compliance model is good – as a matter of fact it is may be less desirable than the Central Procurement model Group 3 is working on, but the members of this group want to ensure that the model developed is as good as it can be

Next steps – Staff has asked that everyone send to Wayne Fuhrman and the RPS list serve (put Working Group 2 in the subject line) any criteria they have for the model this group should develop. Wayne will put together a list of the criteria, which staff will distribute ahead of the next meeting of this group on April 30. At that meeting, Staff's document will be discussed, as well as what input will be given to Judge Stein for her May 2 report to the Chairman and Commission.

Next Meeting – Wednesday, April 30, 2003, 9:00am, 19th floor Board Room, 3 Empire State Plaza, Albany, NY.

Please send any comments or questions about these notes to Cindy McCarran at cynthia_mccarran@dps.state.ny.us.