

**Case No. 03-E-0188
Renewable Portfolio Standard**

Working Group No. 2 – Individual Compliance

May 6, 2003 Meeting Notes

Working Group No. 2 met for its 3rd session on May 6th.

Introduction

It was reported that Judge Stein wanted to provide a process check on what Group 2 (and 3) were doing. She wanted Group 2 to produce a report on its conclusions on Individual Compliance and report this to Group 3 during the combined meeting (scheduled for later in the day). A ranking of options was desired if at all possible.

Group 2 decided to use the Straw Proposal developed by NYDPS Staff (“Staff”) as the basis for its report.

Straw Proposal – Clarifying Questions (approx 1 hour 30 minutes)

Wayne Furman from the Staff reviewed the document for the Group. Clarifying questions were generally directed towards and answered by Staff, but this was not always the case.

There was a question about the difference between “Consensus” and “Strawman” in the document. It was reported that;

The “Consensus” column identified issues that the Group generally believes (almost 100% agreement?).

The “Strawman” column contains the Staff’s views (and may or may not match items in the Consensus column).

There was a question about trading/banking of credits. It was noted that Staff addressed this issued under Item 4 (Alternative Compliance Mechanism) of the document.

There was a question on what was meant in Item 2 concerning removal of (NYPA, LIPA, etc.) load. A clarifying statement was made that the 25% requirement for the “load served” by LSE would remain the same under all circumstances.

It was noted that Consensus Item #3 was not 100% correct. The dates (“2005 or 2006”) for a target ramp-up were never identified during the previous week’s meeting. Also, the shape of any ramp-up was never discussed. It was suggested that these issues be moved out of the Consensus column and into the Strawman column. It was stated that Judge Stein would like the Consensus column to reflect “true consensus” items. There is consensus that there will be some target percentage each year and that these targets will increase as we go through time, but dates were never discussed. It was suggested that the first part of the subject sentence be retained and the years moved to the Strawman.

There was a question as to whether there was consensus that ESCOs should not be competitively harmed (or have a competitive disadvantage) as a result of implementing an RPS. There was not a general agreement with this view. It was suggested that this issue be entered in the “Options Not Included” column.

Under Item 4 (Strawman), there was a question whether “where the (Alternative Compliance Mechanism) payment goes” has to be addressed here and now. A discussion followed on where the dollars go and what they mean. Some questions were:

The purpose of the ACM is to what?

Do dollars paid today mean compliance today, or do the dollars help to meet future targets? (The answer sounded like a yes on both counts to the note taker.)?

Must payments be made even if supplies are not available? (Answer - yes; Consensus - no)?

Should this subject be fleshed out here, or part of the general cost study?

A general statement from Staff was that the ACM is necessary to help LSE’s meet their obligations.

Under Item 4 (Options Not Included), some parties wanted the word “technology” changed to “tier.”

The ESCO revived the discussion on being competitively harmed by an RPS requirement. He read from the original order noting that it talks about the impact (“if any”) the Order could have on an ESCO’s ability to compete with utilities. Staff noted that the Consensus statement in Item 1 does not include ESCOs (while the Strawman does), implying that ESCOs are not included in the Consensus statement. The ESCO stated that it would like more specific wording to that effect. The ESCO will provide suggested wording for the Consensus statement to reflect that ESCOs need to be able to compete with utilities and that they specifically are not included in the Consensus statement. It was noted that if ESCOs are left out (of the requirement), we could be implying that utilities must retain retail commodity service until (at least) 2013.

Straw Proposal – Line By Line Review (approx 20 minutes)

The Group decided to perform a line by line review of the document in the time remaining prior to being joined by Group 3.

Consensus:

- 1) Determine Participating Entities – Need to update this section to reflect the ESCO’s concern (noted previously) with the language. The ESCO will provide suggested language.
- 2) Adjust Target Level – While there is consensus on the item, there was a question whether we can develop a process that will allow the “Statewide” target to be less than 25%. A counter point was made that Participating Entity customers should not experience an increased burden if some parties can not be forced to participate.
- 3) Determine Individual Entity Target Levels Based on Energy Proportion – There is consensus, after the dates are removed.
- 4) Alternative Compliance Mechanism – No consensus.
- 5) Determine Enforcement Mechanism – No consensus.
- 6) Cost Recovery for Compliance by Delivery Utilities – Consensus.

Strawman:

Item 1 – The addition of the suggested ESCO language noted above may move some of these elements to the Consensus column.

Item 2 – Disagreement on what is stated. Some want the load distributed to all Participating Entities in order to insure 25% Statewide. This position puts in doubt agreement to the Consensus statement (noted above).

Item 3 – The Group was running out of time so this was skipped.

Item 4 – Some would like reference to DSM removed. Money should be used for renewable generation resources only. Not all parties agreed with this view.

The Group started to prepare for the arrival of Group 3.

The Staff will update the document and pass it around again for written comments and/or Strawman alternatives.

There was a final question to the Group about what financial institutions are saying about New York's RPS. Will this result in investment dollars? The general reply was "keep it simple."