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February 15, 2013

Honorable Jeffrey C. Cohen
Acting Secretary
New York State Public Service Commission
Three Empire Plaza
Albany, New York 12223-1350

RE: Case 03-E-0188 – Petition for Modification of RPS Main Tier Program

Dear Acting Secretary Cohen:

Brookfield Renewable Energy Group (BREG) is appreciative of the opportunity to provide comments on the above-referred case before the Public Service Commission, regarding a petition for modification of the Renewable Portfolio Standard (RPS) Main Tier Program. Our comments are enclosed herein.

Sincerely,

Jon Norman
Vice-President, Commercial Development

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard: ***Petition for Modification of RPS Main Tier Program***	**Case 03-E-0188**

COMMENTS OF BROOKFIELD RENEWABLE ENERGY GROUP

The New York State Energy Research and Development Authority (NYSERDA) has requested that the New York Public Service Commission (the Commission) issue an order to revise the rules of Renewable Portfolio Standard (RPS) Program Main Tier to limit eligibility to projects located in New York State, as published in its December 14, 2012 petition under Case 03-E-0188. The Commission subsequently issued a notice on January 4, 2013 and has invited comments on the request for modifications to the RPS. Brookfield Renewable Energy Group (BREG) wishes to address the proposed changes.

BREG has more than 100 years of experience as an owner, operator and developer of hydroelectric power facilities. Today it operates is one of the largest global publicly-traded renewable power platforms companies. Its current portfolio consists of both clean hydroelectric sources and wind generation, and totals approximately 5,300 megawatts of installed capacity globally, with about half located in the United States. BREG has a particularly significant presence in New York with 75 hydro stations representing well over 700 MW of installed capacity. More than 40 of these stations have received independent low impact certification, which is evidence of our ongoing commitment to proactively manage and, whenever possible, lessen the potential environmental impact associated with our operations and facilities. Over the years BREG has also been an active and successful participant in several of NYSERDA's Main Tier solicitations.[i]

The Commission is currently considering whether the rules of the RPS Program Main Tier should be revised to limit eligibility solely to projects located in New York State and offshore projects directly interconnected to the New York grid. It is asserted by NYSERDA in its petition that such a limitation would further advance three principal objectives of RPS Program, namely: 1) environmental improvement; 2) energy security; and 3) economic benefits to New York.[ii]

BREG believes that the implementation of such a limitation would not only fail to advance any of these objectives, it may also add new risk and costs to the RPS Program, which would ultimately be borne by the ratepayers of New York State.

I. The proposal does not meet the stated economic goals

It is well established that limiting supply to a market will increase costs. Similarly, limiting eligibility of the RPS Program solely to in-state resources will, by design, increase costs associated with the procurement of renewable energy. Indeed, NYSERDA acknowledges this fact by stating that "it has been recognized that the lower bid prices associated with out-of-state projects have an economic value to New York in the form of lower program costs".[iii] It must be remembered that these savings are directly passed through to New York consumers, therefore reducing costs to its industries/commerce and improving overall competitiveness and economic activity in the State.

NYSERDA contends that such savings to the electricity system are exceeded by the economic benefits accruing to the state of New York from in-state development. The problem with such logic is that it ignores the overall value chain economic benefits to New York associated with out-of-state development. Artificial restrictions to trade impair the efficiency of development: if neighboring renewable resources were more cost-effective for energy production all parties can benefit from their development. Trade does not stop at state borders – indeed key economic benefits associated with the development of renewable energy facilities tend to be associated with servicing, constructing and providing equipment for the facilities. By their very nature, and considering the highly integrated economy of the Northeastern United States, such value chain economic benefits tend to accrue to the entire region including New York.

What can shift the balance toward in-state spending is the requirement that economic benefits to the state must be demonstrated. NYSERDA already requires a bidder to demonstrate economic benefits to New York State created by the construction and operation of the renewable energy facility, which is weighted at 30% of the overall evaluation. This encourages a bidder to spend in-state regardless of project location. A geographic restriction therefore provides little to no incremental economic benefit, which is in part borne out by the relatively low level of out-of-state participation in NYSERDA RFPs to-date.

In fact, such restriction seems to only raise legal risks in the form of constitutional issues, which NYSERDA acknowledges in its petition. Increasing the risk of a legal challenge may also cause unintended consequences: if a challenge were pursued it is likely to question all forms of in-state preference, including the 30% weighting criteria. Therefore the proposal to limit eligibility to in-state resources serves only to increase risk to the program while providing little to no incremental economic benefit.

Overall, BREG believes that enabling the most cost-effective renewable sources to qualify, regardless of location, simply allows the most efficient renewable resource development. This therefore translates into greater economic development for the region, and hence the state, allowing more money to be saved that can be put towards further development of renewables.

II. The proposal jeopardizes long run environmental benefits

Given that increasing locational restrictions on renewable resources will increase costs, the end result is less renewables developed. This means missed opportunities to reduce reliance on fossil fuels across the integrated electricity grid in the Northeastern US and within New York itself, regardless of the location of the renewable energy source. It is also important to consider that the pollution associated with fossil fuel use does not stop at state borders – reducing emissions of such pollution from fossil fuel sources, whether inside or outside the State, provides environmental benefits to New York. Furthermore, the proposal will leave less money available within the State for other environmental initiatives, such as energy efficiency programs, that could be funded through the benefit charge. The environment thus loses: emissions are higher than they would have been otherwise for the same amount of cost.

BREG appreciates NYSERDA's comments that REC tracking is important to ensure that renewables secured through the program are incremental in nature. As it noted in its petition, NYSERDA already requires that hourly matching energy be delivered along with RECs into the state. In addition to this, NYSERDA has been working on the development of the necessary tracking mechanisms as required by legislative changes enacted in 2012. Therefore, the foundations are already in-place to ensure that renewable energy generated under the RPS is incremental in nature. BREG therefore supports implementation of a formal tracking system as has already been mandated, which would alleviate these risks. We would also note that such tracking systems are standard across most other jurisdictions with an RPS.

III. The proposal impairs energy security over the long-term

NYSERDA asserts that out-of-state projects that could be encouraged through the RPS are unlikely to provide any energy security benefit to the State. However, it is our strong opinion that, far from being detrimental, energy security is enhanced through interties and cross-state trade. If each jurisdiction planned its own resources in isolation of a broader market and interties, sub-optimal solutions would result to the detriment of cost-effective energy security across the entire region. Geographic portfolio diversification, achieved by enhanced interconnectedness between markets, provides greater optionality for system operators at times when the grid is in need. For example PJM, ISO-NE and NYISO have all identified the benefits from increased intertie scheduling associated with interconnection agreements and reciprocal emergency assistance programs. NYISO is also in the process of attempting to alleviate trade barriers between jurisdictions by eliminating transaction costs, which would improve geographic portfolio diversity and reduce cost to consumers. BREG therefore believes that greater integration between North American electricity and associated RECs markets is a fundamental driver of energy security. NYSERDA's proposal simply enacts greater barriers between organized energy markets and therefore impairs overall energy security over the long term.

IV. The importance of existing in-state resources

Finally, BREG would like to note a long-standing concern about the eligibility of existing resources in the state RPS, which becomes magnified in the event the Commission does pursue an in-state eligibility restriction. The RPS Program goal currently includes existing renewable energy facilities in its 25% target without providing any RPS compensation. This means that existing renewable energy facilities, which account for approximately 19% of the target, do not receive any support for being renewable. The unfair treatment that faces these existing in-state renewable facilities encourages them to have RECs qualified in neighboring RPS Programs and export their renewable power, which undermines the RPS Program's 25% target and the stated objectives of the in-state requirement. Without such payments some of these facilities may face difficult decision that could culminate to them asking to retire from the market a situation that may create an increase cost burden to consumer as these facilities are replaced by more expensive ones.

In other words, the new emphasis on in-state resources begs additional assurance that existing resources are operating to the benefit of the State as intended. This is particularly true for existing facilities that are smaller-scale, such as low-impact hydropower, which has unique operating characteristics and cost drivers. Without appropriate revenue streams commensurate with newer resources, determined on a facility by facility basis, it cannot be assured that such smaller-scale facilities will be able to continue their operations in an effective and optimized way.

V. Conclusion

In summary, BREG believes that the proposal to limit RPS eligibility to in-state resources fails to provide greater economic benefits to the State, reduces the potential environmental benefits of the program, and impairs rather than enhances the State's long-term energy security. At the same time it will unquestionably increase costs to New York State electricity consumers, and raises legal risks that would otherwise have been avoided. Furthermore, it appears that the proposal tries to fix a perceived problem that has not be borne out by the relatively low level of out-of-state participation observed in the NYSERDA RFPs to-date.

BREG therefore respectfully suggests that the Commission reject NYSERDA's petition to further limit eligibility of the RPS Program. If the Commission does, on the balance of evidence before it, determine the petition to be advisable, BREG believes that it becomes even more important to reconsider eligibility restrictions on existing renewable energy facilities in the state. Such reconsideration, particularly for smaller low-impact resources that have unique operating and cost characteristics, would ensure that the stated objectives of the RPS program continue to be upheld to the benefit of New York consumers.

Finally, we note that the petition refers to a scheduled 2013 RPS Program Review. We look forward to a public process associated with this review and suggest that it reconsider the overall eligibility requirements of the program to ensure state objectives are being met effectively and efficiently.

Endnotes:

[i] 2012 RPS Performance Report – Appendix A: http://www.nyserda.ny.gov/Program-Planning/Renewable-Portfolio-Standard/Documents.aspx

[ii] NYSERDA Petition: http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={98BC8B49-D8FB-4054-A6B5-8F34F9EB5A1C}

[iii] NYSERDA Petition, p.3