

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on October 27, 2005

COMMISSIONERS PRESENT:

William M. Flynn, Chairman
Thomas J. Dunleavy
Leonard A. Weiss
Neal N. Galvin
Patricia L. Acampora

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

Petition of Lyonsdale Biomass, LLC for Clarification of the
Commission's August 31, 2005 Order Approving Request for RPS
Program Funding as a Maintenance Resource.)

ORDER GRANTING PETITION FOR CLARIFICATION

(Issued and Effective October 27, 2005)

BY THE COMMISSION:

INTRODUCTION

By Order issued August 31, 2005, the Public Service Commission approved the request of Lyonsdale Biomass, LLC (Lyonsdale) for Renewable Portfolio Standard (RPS) Program funds as a maintenance resource.¹ In that Order, we offered Lyonsdale two funding options for its 19 megawatt (MW) facility. In its petition dated September 28, 2005, Lyonsdale seeks clarification that it has the ability to reject both of the funding options and instead choose to participate in RPS Program Main Tier procurements by offering all of its output, and, further, that this ability will not be

¹ Case 03-E-0188, Retail Renewable Portfolio Standard, Order Approving Request for RPS Program Funding as a Maintenance Resource (issued August 31, 2005) (August Order).

affected by any future Commission decision not to allow such a choice as regards other companies' funding requests. In this Order, we grant these clarifications.

BACKGROUND

By Order issued September 24, 2004 (September Order), we established a maintenance resource category eligible for RPS Program support to assist certain existing renewable resource facilities, in operation prior to January 1, 2003 (the date we set for the purpose of establishing vintage and calculating the baseline of renewable energy resources), to continue operation.² The purpose of this category is to maintain valuable baseline resources that are in danger of ceasing operation or abandonment for financial reasons. In an Order issued April 14, 2005 (April Order), we approved implementation measures pertinent to the maintenance resource category.³

On April 15, 2005, NGP Power Corporation (NGP Power), on behalf of its subsidiary, Lyonsdale Biomass, LLC (Lyonsdale), submitted an application for a determination that its Lyonsdale biomass facility is eligible for RPS Program funding as a maintenance resource. After review and consideration of the application, the Director of Electricity and Environment (OEE Director) determined, in a letter to NGP Power dated April 23, 2005, that the facility is eligible to participate in the RPS Program as a maintenance resource.

In the August Order, we offered Lyonsdale two choices it could make regarding RPS Program funding. We also stated in Ordering Clause 3 that "[i]f

² Case 03-E-0188, supra, Order Regarding Retail Renewable Portfolio Standard (issued September 24, 2004). The maintenance resource category is composed of hydroelectric facilities 5 MW and under, direct combustion biomass facilities, and wind facilities.

³ Case 03-E-0188, supra, Order Regarding Retail Renewable Portfolio Standard (issued September 24, 2004).

Lyonsdale does not select one to the two options, it will be permitted to bid its output into the next procurement for which it qualifies."⁴

A Notice of Proposed Rulemaking published in the State Register on August 17, 2005 stated that we are considering modifying the implementation of the maintenance resource category by eliminating the automatic ability of a company to reject our offer of RPS Program funding and instead choose to participate in general Main Tier procurements.

THE PETITION

Lyonsdale requests clarification that, pursuant to Ordering Clause 3 of the August Order, one of the options available to it is to decline both Option 1 and Option 2 and instead to participate (with the full output of the plant) in any Main Tier procurement in which biomass resources are included. Lyonsdale further requests clarification that its eligibility to participate in any such procurement will not be affected by any action we may take with respect to the August 17 Notice.

DISCUSSION AND CONCLUSION

The April Order generally provided a maintenance resource with the opportunity to bid a plant's entire output into Main Tier procurements; the August Order treated Lyonsdale in a consistent fashion. We shall not disturb this decision with respect to Lyonsdale even though future maintenance resource requests may be treated differently.⁵

The Commission orders:

1. Case 03-E-0188, Retail Renewable Portfolio Standard, Order Approving Request for RPS Program Funding as a Maintenance Resource (issued August 31, 2005) is clarified as discussed in the body of this Order.

⁴ Case 03-E-0188, supra, Order Regarding Retail Renewable Portfolio Standard (issued September 24, 2004).

⁵ Requests for maintenance resource funding currently on file with the Commission will also not be affected by any potential modifications.

2. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary