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VIA ELECTRONIC SUBMISSION
Secretary@dps.ny.gov

January 8, 2018

Hon. Kathleen H. Burgess
Secretary
NYS Public Service Commission
Three Empire State Plaza
Albany, New York 12223

RE: Case 15-E-0302: Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard

Dear Secretary Burgess:

On December 15, 2016, the New York State Public Service Commission ("Commission"), *inter alia*, directed Department of Public Service staff ("DPS Staff") to "further develop the eligibility criteria for Tier 2 to ensure that cost effective retention of baseline resources is achieved to the extent practicable" without awaiting the first triennial review.[1] DPS Staff complied with this Commission directive on October 19, 2017, by the filing of the "Staff Report Regarding Retention of Existing Baseline Resources Under Tier 2 of the Renewable Energy Standard Program" (the "Staff Report").

Pursuant to the Commission Secretary's "Notice Soliciting Comments" issued in this proceeding on October 20, 2017, ReEnergy Holdings LLC ("ReEnergy") hereby respectfully submits its comments on certain aspects of the Staff Report.

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1 Case 15-E-0302, *Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard*, "Order on Petitions for Rehearing," at pp. 14-15 (issued Dec. 15, 2016) (sometimes referred to herein as the "December 15 Order").

I. Background

A. ReEnergy Holdings LLC

ReEnergy, headquartered in Latham, New York, owns and operates facilities that use biomass as fuel to produce renewable electricity in New York and Maine. ReEnergy' s portfolio includes two biomass facilities in New York: the 60-megawatt ReEnergy Black River at Fort Drum, which provides all of Fort Drum's electricity needs, and the 22-megawatt ReEnergy Lyonsdale facility in Lewis County. ReEnergy is New York's largest generator of electricity from biomass fuels.[2]

As to the ReEnergy Lyonsdale facility ("Facility"), its most recent Maintenance Tier contract with the New York State Energy Research and Development Authority ("NYSERDA") expired by its terms on December 31, 2017. ReEnergy petitioned the Commission to authorize a short-term renewal and/or extension of this contract, but absent a Commission decision before December 31, 2017, operations ceased for economic reasons at the end of 2017. This resulted in the layoff of approximately 22 workers at the facility, and will impact dozens of indirect jobs in the area, most in logging operations and mills that supply fuel to the Facility.

B. Commission Orders

On August 1, 2016, the Commission issued its "Order Adopting a Clean Energy Standard, which adopted two principal programs intended to enhance New York State's ability to retain and develop renewable energy resources and meet the State's ambitious "50 by 30" goal. As pertinent to these comments, the Commission adopted the "Tier 2" program, which supports the maintenance of certain at-risk baseline resource attributes from biomass generation facilities and other resources, provided these resources demonstrate financial need, *i.e.*, that they would cease operating without contractual support. In summary, the Commission essentially continued the Maintenance Tier program as it existed under New York's Renewable Portfolio Standard ("RPS"), in which ReEnergy has been an active participant and beneficiary of NYSERDA maintenance contracts, while continuing to produce important renewable attributes.

In the December 15 Order, the Commission directed DPS Staff to prepare recommendations for certain changes to the Tier 2 program. After a series of stakeholder discussions, the Staff Report was issued on October 19, 2017.

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[2] ReEnergy also owns and operates four biomass facilities in Maine with a combined nameplate capacity of 163 megawatts. In addition to its generating portfolio, ReEnergy owns and operates recycling facilities in New Hampshire, Massachusetts and Maine.

II. ReEnergy's Comments on the Staff Report

ReEnergy appreciates DPS Staff's willingness to revisit its prior application of the Commission's rule that Tier 2 (f/k/a Maintenance Tier) contract awards be set at levels "just sufficient for the owner, or its financial supporters, to continue to operate the facility."[3] As ReEnergy has previously stated in this proceeding, strict application of the Commission's "just sufficient" standard does not provide any economic rationale for an owner to bear the risk of continued operations. At best, the "just sufficient" standard permits a facility to break even -- not a sustainable business model in any private sector market.

DPS Staff's recommendations include adding to a facility's "to-go costs" a "risk contingency component . . . equal to five percent (5%) of the forecasted Operation and Maintenance to-go costs" along with "a return on capital for new capital expenditures required to maintain safe, efficient operation of the facility."[4] We see these as important, positive improvements to the program. There is one clarification regarding the DPS Staff's analysis, however, that we would like to bring to the Commission's attention. The Staff Report notes that this "to-go cost" methodology is used by PJM in its Reliability Must Run ("RMR") contracts.[5] While the RMR methodology utilized by PJM is similar to that recommended by DPS Staff, PJM's methodology includes a component referred to as the "Applicable Adder"[6], which in essence provides a partial operating margin for the generator. ReEnergy believes this is a prudent approach to ensure that the generator remains operationally viable during the term of the contract, and we would encourage the Commission to adopt a similar approach in the case-by-case Tier 2 price determination methodology.

As ReEnergy has repeatedly stated in this proceeding, however, the financial profiles of different renewable resource technologies are too disparate to afford a meaningful or fair comparison if pricing is the only criteria for the award of Tier 2 contracts. Indeed, looking at fuel costs alone, biomass generation facilities are placed at an immediate disadvantage under this methodology. In addition, other renewable resources benefit from federal tax incentives that are not available to biomass resources. Under the Tier 2 program the Commission should allow DPS Staff some discretion as to whether, and if so in exactly what amount, a support payment continues to meet the Commission's dual goals of resource retention and resource development.

ReEnergy further submits that to the extent the cost of existing and new facilities should be compared at some level, baseload facilities offer tangible reliability and resiliency benefits that should be quantified in this analysis of existing vs. new resources. Facilities that do not rely on sun or wind, but which can instead run and generate energy and renewable attributes all day, every day, offer greater reliability and resiliency benefits than intermittent resources that are not readily apparent in a side-by-side analysis that focuses solely on pricing. ReEnergy again encourages a much more nuanced

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3 Case 03-E-0188, 'Order Approving Modifications to Maintenance Resource Category" (issued Oct. 31, 2005) at p. 3.

4 Staff Report, at pp. 14-15.

5 Staff Report, at p. 13.

6 See Section 114 of the PJM Transmission Tariff: Effective Date: 7/18/2016 – FERC Docket #: ER16-1737-000 (also at http://www.pjm.com/directory/merged-tariffs/oatt.pdf).

comparison that takes into account all of a resource's costs and benefits, not just the price at which it can be economically viable.

In fact, the proposed program for Tier 2 resources, by its very nature, lends itself to a process whereby the resources selecting a case-by-case review should not by definition be restricted by a price cap. In the case-by-case review process, DPS Staff would be engaged in a rigorous review of a resource's projected revenues, costs and benefits, and would be in a position to determine whether circumstances would warrant a REC price above the cap that may be imposed on resources electing the streamlined Tier 2 process.

III. Conclusion

ReEnergy has a significant financial interest in the future efficacy of New York's energy policy that supports the development and continuance of in-state renewable energy projects, and policies that will foster and preserve New York's biomass and forest products industry. The biomass sector contributes to a diverse renewable portfolio and a robust rural regional economy. Furthermore, the largest biomass power facility in New York State – ReEnergy's Black River facility located inside-the-fence at Fort Drum, which has a Main Tier REC contract that terminates in 2023 – is critical to Fort Drum's energy security under the terms of a 20-year electricity supply agreement with the U.S. Army pursuant to which the Black River facility supplies 100% of Fort Drum's electrical demand in a behind-the-meter configuration.

Many of the projects currently participating in the RPS program as Main Tier and Maintenance Tier resources have substantial remaining life, and it would not be in New York State's interest for the energy, renewable energy attributes and capacity from some or all of these resources to be exported from the New York market or for these resources to shut down, both of which have already occurred. If these outcomes continue to occur with respect to additional existing resources, New York's ability to achieve its "50 by 30" renewable energy goal will be significantly impaired, as it will not be able to claim the renewable energy from these facilities toward this goal. Furthermore, the loss of these resources to premature retirements will lead to lost jobs, the loss of fuel diversity benefits and the related adverse effects on grid resiliency from less baseload generation.

ReEnergy thanks the Commission for the opportunity to provide comments on these issues.

Respectfully submitted,

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