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Promoting Clean Energy, A Healthy Environment
And A Strong Economy For The Empire State.

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By Electronic Delivery

February 19, 2013

Honorable Jeffrey Cohen
Acting Secretary to the Commission
New York State Public Service Commission
Agency Building 3, Empire State Plaza
Albany, New York 12223-1350

RE: **Case 03-E-0188: Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard**

Dear Acting Secretary Cohen,

Enclosed for filing are the comments of Alliance for Clean Energy New York (ACE NY) on the petition for modification of the Main Tier program of the Renewable Portfolio Standard submitted by the New York State Energy Research and Development Authority (NYSERDA).

Sincerely,

Valerie Strauss, Interim Executive Director
Alliance for Clean Energy New York, Inc.

Encl.

New York State
Public Service Commission
Case 03-E-0188 **Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard**

COMMENTS OF ALLIANCE FOR CLEAN ENERGY NEW YORK On The Petition for Modification of Renewable Portfolio Standard Main Tier Program Eligibility

I. Introduction

The Alliance for Clean Energy New York (ACE NY) respectfully submits the following comments on the Renewable Portfolio Standard (RPS) program. ACE NY is a nonprofit organization whose mission is to promote the use of clean, renewable electricity technologies and energy efficiency in New York State in order to increase energy diversity and security, boost economic development, improve public health, and reduce air pollution. Members of ACE NY include nonprofit environmental, public health and consumer advocacy organizations, educational institutions, and private companies that develop, produce and sell renewable energy and renewable energy technologies as well as energy efficiency services in New York.

The New York State Research and Development Authority (NYSERDA), which manages the RPS program, has requested a change in the eligibility rules for projects within the "Main Tier" of the RPS. The Main Tier supports projects that sell power into the wholesale market, in contrast to behind-the-meter, distributed generation, which is supported by the "Customer-Sited Tier" of the RPS. Currently there are no geographic restrictions on eligibility to participation in the Main Tier of New York's RPS program. NYSERDA has requested that only in-state projects, i.e. projects wholly located within New York, be eligible for the NYSERDA-administered program. ACE NY supports NYSERDA's requested program change. The request is in keeping with the multiple goals of the RPS as originally proposed and as reaffirmed in numerous PSC decisions, as well as in keeping with overall state policy on energy issues, and it is in the best interests of New York ratepayers. In addition, ACE NY believes the Commission should extend the RPS collections and timeline to ensure that the State continues on the path to full development of its clean energy resources in order to reap the many benefits these resources provide.

II. RPS Main Tier Eligibility Should be Restricted to In-State Projects

A. In-state projects provide economic benefits to New Yorkers

The Commission, the Governor and the Legislature have recognized the importance of the economic benefits provided by renewable energy in our state, especially when the development of these resources is made possible through the use of ratepayer funds. While clean power generation provides important public health, environmental and energy security benefits, the economic paybacks are also crucial and substantial. Clean energy projects lower and stabilize power prices, provide payments to local and in-state hosts, and utilize goods and services from local suppliers, including transport providers such as trucking companies and ports. The original and still pertinent goals for the RPS include a strong economic development component, along with environmental benefits and energy security from fuel diversity, with economic benefits described as: "(to) develop renewable resources and advance renewable resource technologies **in**, and attract renewable resource generators, manufacturers, and installers **to** New York State" (*emphasis added*).[1] Furthermore, the Commission reiterated its concern with ensuring that economic benefits flow to ratepayers in its imposition of a delivery requirement for out-of-state generation:

[1] *Order Regarding a Retail Renewable Portfolio Standard*, September 24, 2004, Case 03-E-0188, p. 23.

> We adopt the recommendation to impose a delivery requirement with a monthly matching component. As stated in the RD and as argued by many of the parties, imposition of such a requirement is consistent with and in furtherance of our stated goals of increasing the amount of renewable energy retailed in the State, improving energy security, diversifying the State's electricity generation mix, reducing local air emissions and protecting against oil and natural gas price spikes or possible supply disruptions. Moreover, as noted by several parties, the requirement will also help ensure that New York State ratepayers enjoy the benefits from the costs they will incur to support the RPS program and its objectives.[2]

The PSC reconfirmed these goals when it supported NYSERDA weighting Main Tier bids to account for the importance of the economic development benefits provided by in-state projects.

> Providing economic benefits to New York State was one of the formal objectives adopted when we established the RPS Program in September 2004. We agree with the Commenting Parties addressing this issue that because New York ratepayers are funding the RPS Program, the impacts of projects on economic development in New York localities that host a renewable energy facility should be considered in the bid evaluation process.[3]

The provision that 30 percent of the bid evaluation be conducted based on economic benefits to New Yorkers was sound public policy, but restricting eligibility to in-state projects would truly ensure that benefits accrue to New Yorkers. In the 2006 Order cited above, the Commission also claimed that going beyond 30% at that time could increase the price paid for the generation supported by the RPS. However, the Commission did not evaluate the full "return on investment" that RPS dollars provide to New Yorkers. Obtaining the least cost RPS resources – no matter where they are located or how long they will provide benefits to New York – is not sound public policy. The 30% weighting factor and the energy delivery requirement may provide assurances that *some* benefits accrue to New York during project development and the life of the RPS contract. However, after the end of the contract,

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[2] Ibid, p. 63.
[3] *Order Authorizing Solicitation Methods and Consideration of Bid Evaluation Criteria and Denying Request for Clarification,* October 19, 2006, Case 03-E-0188, p. 16.

out-of-state projects will not provide income to local communities via land lease and tax payments while in-state projects will do so even after the expiration of their RPS contracts. In addition, these direct economic benefits create indirect economic benefits from local and in-state spending of the money paid to New Yorkers by the project owners. Out-of-state projects do not provide these long-term benefits.

As the NYSERDA petition points out, the RPS evaluation reports prepared by KEMA and Summit Blue clearly indicated the substantial benefits provided by investment in using our domestic renewable resources through the RPS. NYSERDA notes the reports found that RPS projects could produce $6 billion in direct economic benefits. NYSERDA also notes that it has found these estimates are likely to be accurate based on the verified and substantiated review of RPS program compliance on evaluating in-state benefits to date. NYSERDA also correctly notes that in-state benefits will only continue to accrue at the end of the individual RPS contracts if the projects are located in state, and that New York will need to ensure that its clean energy goals are met long-term.[4]

Another problem with out-of-state project eligibility at present is that there are existing projects in other states that could possibly bid in and win New York RPS contracts (since all otherwise eligible projects built after 2003 are eligible) when the goal of the RPS is to enable new project development. In the case of existing projects, therefore, there are no incremental benefits being provided by these projects even to their host states, to regional air quality, or to regional economic development. An alternative would be a regional approach to increasing renewable energy development by, for example, limiting eligibility to new projects from adjoining states that also have an RPS or equivalent program, so that all states

[4] *Petition for Modification of RPS Main Tier Program*, NYSERDA, Case 03-E-0188, pages 2-4.

would be assured economic benefits and compete for lowest-cost resources on an equal basis. We recognize, however, that is unlikely to become a workable solution in the near term.

New Yorkers fund the RPS program and should be assured that financial benefits flow back to New Yorkers. We respectfully suggest that the Commission needs to be taking the "long" view (as expressed in our own state and federal policies) on energy security and economic development by investing now in stable-priced clean energy for the future. New York's experience with hydropower projects shows that significant upfront investments in clean energy can pay huge economic development dividends for many years.

B. In-state only criterion already applies to the Customer-Sited Tier

The NYSERDA petition only concerns Main Tier resources, not because the Customer-Sited Tier (CST) does not face the same concerns, but because they have already been addressed. Projects receiving an RPS incentive under the CST must be located in New York and be interconnected to an account that pays into the RPS fund. It was immediately apparent to the program administrators and the Commission that RPS money used for on-site projects should ensure that those paying for the incentive fund should receive the benefits. The same holds true for Main Tier resources given out-of-state projects will not deliver the same level of benefits as in-state projects, and most certainly will not for the full life of the projects.

C. In-state projects increase energy security for New Yorkers

The New York Independent System Operator (NYISO) manages the wholesale electricity markets in New York and ensures the electric grid is safe and reliable. The NYISO has complex market rules in place to govern the markets within New York and to allow and control flows of electricity with neighboring systems. Grid ties with neighboring systems provide clear energy security and price benefits (though at times, such as the 2003 blackout, they also can do the opposite). Regardless of the close cooperation between the systems, however, the primary responsibility of each operator is to ensure the reliability of its own grid. There is, therefore, no guarantee whatsoever that energy from generators outside of the NYISO will necessarily flow into New York. If Canada, for example, has an internal electricity demand crisis it would undoubtedly seek to keep all its power within Canada; New York would likely do the same in an emergency or high demand period if at all possible. A diversified portfolio of generating resources *within* New York provides New Yorkers with increased energy security while keeping New York dollars in New York.

D. Clean energy fund programs should be state programs

New York's RPS program is unique in that it does not place a mandate on load-serving entities or any other entity to purchase renewable energy at a specified price. Rather, the RPS is a clean energy fund program established to meet clearly defined state goals, including economic development, environmental improvement and enhanced energy security. Providing incentives to attract businesses to New York is also used in other, non-energy programs. Restricting eligibility to in-state projects is therefore is a logical rule. NYSERDA is not proposing to limit eligibility to fiscal entities based in New York, only specifying that projects receiving funds must be located here.

III. The Commission Should Extend and Modify the RPS to Provide Increased Benefits to New Yorkers

Building large-scale generation of any type requires significant lead times, and this is especially true for renewable energy projects such as wind plants. While ACE NY believes restricting eligibility to in-state projects is important to ensure benefits for New Yorkers, we also believe it is essential for the Commission to extend the RPS beyond 2015 as soon as possible, but no later than the end of 2013, to ensure continued project development. The several year lead time it takes to develop and permit a projects means that companies will shortly be making investment decisions for projects expected to come on line beyond 2015. Without program certainty and longevity, those investments will not be made in New York. As such, without a timely commitment to extending the RPS program, New York will lose the environmental, public health, energy security and economic benefits full development of our clean energy resources could provide.

The Commission should also consider program changes to the RPS to enhance benefits to New Yorkers. Current market conditions, including low natural gas prices, have made it increasingly difficult for RPS-eligible projects to obtain financing with only a 10-year incentive payment from NYSERDA. We believe NYSERDA and the Commission should explore other means of enhancing opportunities for project development, including innovative financial and revenue structures. New York has ample clean energy resources that need to be developed, especially given our increased reliance on natural gas, which is unlikely to remain at the current low prices over the long term and still emits significant air pollutants.

IV. Conclusion

As described above, we support NYSERDA's position that limiting RPS Main Tier eligibility to in-state projects is sensible and furthers the objectives of the RPS and the State's overall clean energy goals. Furthermore, it is entirely consistent with the eligibility requirements of the Customer-Sited Tier (CST), which restricts installation of projects supported by RPS funds to New Yorkers contributing financially to the RPS. There are clear economic benefits from the development and operation of clean energy projects, and we believe these benefits should accrue to the citizens of New York. As we have repeated in numerous comment filings in this case, out-of-state Main Tier projects do not provide local economic benefits to New Yorkers, do not result in infrastructure investments, and fail to even provide price-suppressing clean energy once the NYSERDA contract is over and they are no longer required to deliver energy into New York's wholesale market. ACE NY believes the State's best approach to ensuring we have clean energy to serve us now and in the future, and to fully reap the benefits it provides, is to use our funds to support in-state projects that will provide long-lasting benefits to New York State and its residents. The only reasonable alternative is a regional strategy with an agreement among states to contribute funding and procure new project development, such that all participating states reap benefits commensurate with their investments.

Respectfully Submitted,

Valerie Strauss, Interim Executive Director
Albany, NY
February 19, 2013