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By Electronic Delivery

December 8, 2011

Honorable Jaclyn A. Brilling
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, New York 12223-1350

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

Dear Secretary Brilling,

Enclosed for filing is the response of the Alliance for Clean Energy New York (ACE NY) to the questions and concerns raised by Commissioners at the November 2011 monthly meeting of the Commission.

Sincerely,

Carol E. Murphy, Executive Director
Alliance for Clean Energy New York, Inc.

**THE ALLIANCE FOR CLEAN ENERGY NEW YORK IN RESPONSE TO QUESTIONS
AND COMMENTS OF COMMISSIONERS**

I. Introduction

The Alliance for Clean Energy New York (ACE NY) respectfully submits the following supplementary filing to help address the questions and concerns raised by Commissioners at the November 2011 monthly meeting of the Commission. We continue to believe that Covanta Energy Corporation's petition should be rejected in its entirety and find their most recent filing once again provides incomplete and misleading information in response to the Commissioners' concerns. Municipal solid waste incineration is not renewable energy, pollutes more than the fossil fuels that renewables are supposed to substitute for as a matter of public policy, and very few other states, if any, treat it as fully equal to renewables within their RPS programs.

II. Treatment of Incineration in Other State RPS Programs

Covanta attempts but fails to show that its environmental profile is equal to that of other technologies eligible for the RPS. The reality is that the pollutant emissions of incinerators are often in excess of those at fossil fuel plants, as the Department of Environmental Conservation data and other filings in this proceeding clearly show.

Covanta continues to provide incomplete or misleading information on how other states treat solid waste incineration in RPS programs. Only seven states allow garbage incineration in the same RPS class/program (usually called Tier 1) as renewables such as wind, solar and

hydropower, and none of the states surrounding New York do so.¹ Furthermore, a number of the states have stricter program requirements, for instance they allow solid waste but from pyrolysis and not combustion, or have limits on the number of megawatts of incineration that will be supported (and Massachusetts currently has a moratorium). The Commission should also note, as DPS staff pointed out at the November 2011 Commission meeting, that it is easier to implement these types of restrictions in the more traditional RPS programs in other states where the RPS is accomplished by mandates on utilities to purchase particular energy types in specified amounts. In New York, the RPS is a statewide program administered by state agencies and implemented through statewide competitive auctions, not individual utility purchase decisions.

For New York to meet its goals of increasing its use of clean and renewable energy resources, the RPS funding pool cannot be decimated by the diversion of funds to polluting resources such as incineration. Although we clearly oppose incineration being part of the PSC-approved programs in any way, as the Department of Environmental Conservation noted in its comments, if the Commission chooses to support incineration it must not use funds clearly earmarked for clean energy resources. Therefore, if the Commission seeks to create a “Tier 2” for incineration, it should approve additional collections from ratepayers in order to provide incentives to solid waste incinerators, otherwise it will be jeopardizing the state’s clean energy programs.

Commissioners also asked for information from European renewable energy programs as comparisons. We do not believe these comparisons are useful since European countries have vastly different renewable energy support programs, as well as different waste management systems, including very robust recycling programs. Many European countries also have much

¹ For information on specific state RPS provisions, see the online Database of State Incentives for Renewables and Efficiency at: <http://www.dsireusa.org/summarytables/rrpre.cfm>.

stronger and broader programs to support renewable energy investment, including feed-in-tariffs and strong mandates. If the Commission is interested in pursuing such programs in New York we would be happy to provide further information.

III. Funding for New and Existing Plants

Approving Covanta's petition would allow Covanta's existing facilities to apply for and receive RPS funds under the Maintenance Tier program of the RPS. Covanta conveniently ignores the fact that the Maintenance Tier is funded with the same dollars as the Main Tier of the RPS. As such, allowing the technology to be eligible does, in fact, allow both existing and new facilities to apply for and receive RPS funding, and is likely to substantially decrease the funding available to clean, renewable resources, thereby undermining the state's clean energy goals and public confidence and support for the program. In addition, facilities requesting Maintenance Tier funds are not required to compete against other facilities for funding, nor are their requests and funding amounts (price per megawatt hour) made public. Providing these facilities with clean energy incentives would not be in accordance with the goals of the RPS.

IV. Geographic Balancing Issues

The Commission chose to adopt a special RPS program for the downstate region based on geographic balance concerns. Although we believe Covanta's petition should be rejected for other reasons, it also holds true that acceptance of garbage incineration as an eligible technology would create a new geographic balancing issue given the location of incineration on Long Island. Long Island ratepayers do not contribute to the RPS program and therefore providing RPS funding to facilities on Long Island would exacerbate the ill feelings of some ratepayers who pay into the RPS but do not feel they are directly benefiting.

V. Energy Production

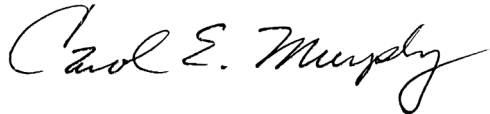
The Commissioners also had questions concerning energy production at incinerators. As staff pointed out in response, undifferentiated garbage (i.e. garbage that has not had recyclables removed) produces more energy. Staff stated that having plastics in the waste stream improves the output. Burning rather than separating and recycling these resources is counter to the state's solid waste management priorities and is environmentally irresponsible. Furthermore, although incineration may be "cheaper" in a competition for RPS incentives than renewables, that is not a valid reason for accepting it into the RPS, which is expressly meant to support clean, renewable energy (and would be akin to arguing for coal or gas plants to be supported with RPS funds). It makes no sense to ignore neither pollutant emissions nor the need to recycle and compost. The RPS was established first and foremost to promote environmentally preferable electric generation in order to improve air quality and combat climate change. Incineration is not an environmentally preferable method of electricity production but a solid waste management option that produces electricity as a byproduct (and reduction, reuse, recycling and composting are of higher priority for energy and environmental reasons). The RPS is meant to help level the playing field in the energy markets. Covanta acknowledges that its economics are not based on the energy markets and therefore it has no place in making claims on funds meant to level the playing field in energy markets: "Facility economics are more influenced by plant throughput of waste than power revenues." (*Covanta Petition, p.18*)

V. Conclusion

ACE NY continues to strongly oppose the inclusion of solid waste incineration in the RPS, and believes the filings of the Department of Environmental Conservation and the NYS Attorney General, as well as the DPS staff presentation at the November 2011 PSC meeting, all

make it clear that revising the RPS eligibility rules as Covanta has requested will undermine rather than contribute to the progress being made in reducing greenhouse gas emissions and growing New York's green energy economy.

Respectfully Submitted.

A handwritten signature in black ink, reading "Carol E. Murphy". The signature is written in a cursive style with a large, stylized "C" and "M".

Carol E. Murphy, Executive Director
Alliance for Clean Energy New York, Inc.
Albany, NY
December 8, 2011