

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE  
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February 6, 2013

Mr. Matthew Foley  
Azure Mountain Power Company  
2351 County Route 10  
Wadhams, New York 12993

Re: Application for Determination of RPS Eligibility and Funding of Certain Resources that Were in Commercial Operations Prior to January 31, 2003 (Maintenance Tier).

Dear Mr. Foley:

I am in receipt of your application for support from the Renewable Portfolio Standard's (RPS) Maintenance Tier, dated February 20, 2012. In your application you seek a 10-year Maintenance Tier contract and support in the amount of \$30/MWh, which equates to \$75,000 annually (based on an average annual generation level of 2,500MWh) for your facility located in St. Regis Falls, NY.

In its October 31, 2005 Order<sup>1</sup>, the New York Public Service Commission (Commission) indicated that the level of support offered through the Maintenance Tier would at least be adequate to allow the facility to cover its future operating costs and any necessary future capital costs (referred to as "to go" costs), but need not cover all sunk costs. It also indicated that the level of support should be just sufficient for the owner, or its financial supporters, to continue to operate the facility. However, by no means should such support be more than the level of support required to encourage the development of new renewable facilities.

Department of Public Service Staff has reviewed your application and the supporting documentation you subsequently provided. As a result of that review, as discussed with you, adjustments to your reported financial results were made in order to allocate certain costs between your two facilities, located in St. Regis Falls and Wadhams, NY. In keeping with the Commission's principle concerning "to go" costs, additional adjustments were made to the reported net income calculation to eliminate the existing depreciation expense and interest

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<sup>1</sup> Case 03-E-0188 Order Approving Modifications to Maintenance Resource Category (issued October 31, 2005).

expense. These expense items were subsequently increased to account for added depreciation and interest costs associated with new capital additions related to the scheduled dam reconstruction.

As a result of this review, RPS Maintenance Tier funding, in the amount of \$20/MWh for the first 2,500 MWh of annual generation, up to \$50,000 annually, will be recommended to the Commission to support the Azure Mountain project.

Attached to this letter are conditions that Staff will recommend to the Commission for this RPS Maintenance Tier award. Please review it carefully. Azure Mountain Power Company shall provide my office with written notice of its decision whether or not to accept the offer prior to Friday, February 22, 2013. Failure to timely file this notice shall be deemed a decision by Azure Mountain Power Company to decline this offer of RPS program support. If accepted, the proposed award will be subject to public notice and comment through the State Administrative Procedures Act before the Commission can make a final decision.

If you have any questions please contact Thomas Rienzo at (518)486-2837 or by email at [thomas.rienzo@dps.ny.gov](mailto:thomas.rienzo@dps.ny.gov).

Sincerely



Floyd E. Barwig  
Director, Office of Energy Efficiency  
and the Environment

Attachment

**Azure Mountain Power Company**  
**Recommended Conditions for**  
**Maintenance Tier Support**

**RPS-eligible Attributes:**

In order to enter into an RPS Maintenance Tier contract with New York State Energy Research and Development Authority (NYSERDA), Azure Mountain Power Company (Azure) must possess, for the entire contract term, the rights to assign the RPS-eligible attributes to NYSEERDA. The RPS-eligible attributes associated with the energy delivered under a PURPA contract, or purchase power agreement, and claimed by the party to that contract, are not eligible for RPS support. The definition of an RPS-eligible attributes will be subject to the contract executed with NYSEERDA, but generally refers to any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to the generation of the facility. One RPS-eligible attribute shall be created upon the generation of one MWh of production. RPS-eligible attributes generally include, but are not limited to any avoided emissions of pollutants to the air, soil or water and any set-aside allowances from emissions trading programs.

**Contract Term**

The award will be offered for a term of 10-years. The contract term will become effective January 1, 2013 and expire on December 31, 2023.

**Energy Deliverability:**

Energy must be deliverable into a market controlled by the New York Independent Systems Operator.

**RPS Production Incentive:**

Azure will be paid a fixed RPS production incentive of \$20.00/MWh, on up to 2,500 MWh per year, for energy actually delivered to the New York energy market in conformance with RPS Program requirements. Generation, in any year, in excess of 2,500 MWh will not be subject to a production incentive.

**Award Revocation:**

This award is presented in anticipation of the repair/reconstruction of the existing timber crib dam at the St. Regis Falls facility. If the repair/reconstruction of the dam at this facility is not completed by October 1, 2013, this offer may be rescinded and all funds paid under a Maintenance Tier contract executed as a result of this offer will be subject to refund.

Upon completion of the repair/reconstruction of the dam, the Azure Mountain Power Company shall provide staff of the Department of Public Service all documentation, including but not limited to, invoices, engineer's reports, dam re-certification (from either Federal or state regulatory agency), necessary to support the completion of the dam project.

**Suspension of Contract:**

Subject to the terms of the contract to be executed with the NYSEERDA, Azure may, at its discretion, and upon sufficient notice to NYSEERDA, suspend its obligation to deliver RPS-

eligible attributes to NYSERDA, if such RPS-eligible attributes are sold into the New York State voluntary market or pursuant to a New York State Executive Order 111 procurement (energy and attributes may not be export outside of New York State).

The New York Public Service Commission reserves the right to revise the term of this award, including the production incentive amount, if a review of the books and records of Azure indicate that the level of support provided here is no longer necessary for the continued operation of the project.