



March 6, 2013

VIA ELECTRONIC MAIL

Hon. Jeffrey C. Cohen, Acting Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350
secretary@dps.ny.gov

**RE: Case No. 03-E-0188: Reply Comments of the Sierra Club Regarding
NYSERDA's Request for Modifications to the Renewable Portfolio Standard**

Dear Secretary Cohen:

Pursuant to the New York Public Service Commission's ("Commission's") January 4, 2013 Notice Establishing Comment and Reply Schedule on the New York State Public Service Commission ("Commission") regarding the New York State Energy Research and Development Authority's ("NYSERDA's") Request for Modifications to the Renewable Portfolio Standard ("RPS"), the Sierra Club submits the following reply comments.

As set forth in Sierra Club's February 19, 2013 initial comments, the Sierra Club believes it to be in the long-term interest of New York to maximize development of in-state renewables and believes that State dollars are appropriately spent through the Main Tier process to further that aim. As NYSERDA's petition illustrates, limiting Main Tier eligibility to in-state projects will provide economic, environmental and energy security benefits to New York. Concerns raised by other parties that these benefits are illusory or would be negated by reductions in procurement amounts under NYSERDA's proposal ignore the crucial fact that under the current procurement structure Main Tier contracts cover only a ten-year portion of the life of the projects they support. Consequently, Main Tier investments subsidizing out-of-state projects do not guarantee lasting economic, environmental or energy security benefits to New York State. In addition, concerns that reducing the pool of eligible projects to New York will increase price and thereby curtail renewable development are belied by the fact that under the current 70/30 price/New York benefits weighting, nearly 95% of Main Tier projects selected to date have been in-state, indicating that in-state projects have so far been cost-competitive with out-of-state renewable generation. Ultimately, if the Commission declines to accept NYSERDA's proposal to limit Main Tier eligibility to in-state projects, the Sierra Club strongly urges the Commission to limit eligibility to new projects so that New York is not spending its money to subsidize

existing out-of-state generation that does not need the additional subsidy and that is not contributing to increasing the overall amount of renewable generation in the region.

I. Reply Comments

A. Concerns That NYSERDA's Proposal Would Reduce Economic, Environmental and Energy Security Benefits Ignore the Term-limited Nature of Main Tier Contracts.

Limiting Main Tier eligibility to in-state projects would produce real economic, environmental, and energy security benefits for New York. Arguments that these benefits are illusory are premised on out-of-state renewable generation projects continuing to benefit New York even after their initial 10-year contracts are concluded. But under the current procurement structure, this is by no means guaranteed. Main Tier contracts are signed for a period of ten years. During that time, regardless of where the project is located, the generator must provide energy and renewable energy credits ("RECs") to New York. But upon the termination of the contract, the generator is free to sell its energy and RECs elsewhere.

As an initial matter, as NYSERDA documents in its petition, in-state projects create in-state construction and operation jobs, increase New York's property tax base and payments in lieu of taxes, and produce significant multiplier effects throughout the New York economy, benefits that out-of-state projects simply cannot provide to the same degree. Moreover, even to the extent that out-of-state projects were able to generate comparable environmental or energy security benefits during the duration of the contracts with NYSERDA, these benefits are likely to be dramatically reduced or curtailed following the expiration of the contract. If New York lacks a mechanism to incentivize the facility to continue to sell its energy and RECs to New York, the generator is likely to sell them elsewhere.

Finally, even if the inclusion of out-of-state projects enabled NYSERDA to procure slightly higher quantities of renewables in a given solicitation, given the broader goal of New York's RPS is to increase the fraction of the energy from renewable resources the State consumes, term-limited contracts for in-state renewable generation are far more likely to promote this goal than term-limited contracts for out-of-state renewable generation, the latter of which may provide no renewable energy benefits to New York in the long run.

B. Concerns That NYSERDA's Proposal Would Raise Prices and Curtail Renewable Development Bely Procurement Trends to Date.

Several opponents of NYSERDA's proposal expressed concerns that limiting the pool of eligible projects to New York will reduce competition, thereby increasing price and curtailing renewable development. Procurement trends to date, however, have not borne out this concern. At present, NYSERDA evaluates projects with a 70% weighting on price as compared to only a 30% weighting on benefits to New York. Yet nearly 95% of Main Tier projects selected to date have been located in-state. It is clear that, so far, in-state renewable generation projects have been relatively cost-competitive with their out-of-state counterparts. Some parties have conjectured, however, that the cost-competitiveness of bids from in-state renewables might be adversely impacted by reducing the pool of competitors. But it is entirely possible that reducing

competition to New York State will encourage renewable developers to focus on developing more projects in New York, thereby augmenting competition. Ultimately, it is not possible to know exactly how NYSEERDA's proposed RPS modification would impact competition and prices, but available evidence to date suggests that this concern may be overstated.

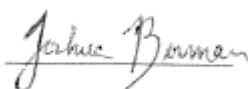
C. If the Commission Denies NYSEERDA's Proposal, the Sierra Club Urges the Commission to Limit Eligibility to New Construction Projects to Ensure That RPS Funds Are Promoting the Development of Additive Renewable Generation.

A primary goal of the RPS is to increase the fraction of New York's energy generated by renewable resources. In order for this goal to produce meaningful benefits to New York, it is necessary that NYSEERDA's procurement resources be used to ensure long-term increases in available renewable generation. Paying for ten years of energy and RECs from existing out-of-state renewable generation resources fails to achieve this goal. If the Commission declines to accept NYSEERDA's proposal to limit Main Tier eligibility to in-state projects, the Sierra Club recommends that the Commission limits eligibility to new projects so that New York is not spending its money to subsidize existing out-of-state generation projects that do not need the additional subsidy and that are not contributing to increasing the overall long-term amount of renewable generation in the region.

II. Conclusion

For the foregoing reasons, the Sierra Club recommends that the Commission approve NYSEERDA's petition. If the Commission were to deny the petition, the Sierra Club urges the Commission to limit Main Tier eligibility to new renewable generation to help ensure that the broader goals of the RPS are being achieved.

Respectfully submitted,



Joshua Berman
Sierra Club
50 F St. NW, 8th Floor
Washington, DC 20001
Tel: (202) 650-6062
Fax: (202) 547-6009
Email: Josh.Berman@sierraclub.org