

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on August 14, 2014

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman

CASE 03-E-0188 - Proceeding on Motion of the Commission
Regarding a Retail Renewable Portfolio
Standard.

ORDER APPROVING REQUEST FOR FUNDING AS A MAINTENANCE RESOURCE

(Issued and Effective August 20, 2014)

BY THE COMMISSION:

INTRODUCTION

In this order, the Commission authorizes the New York State Energy Research and Development Authority (NYSERDA) to enter into a three-year "maintenance" resource contract with Battenkill Hydro Associates (Battenkill) at an incentive rate of \$2.80 per MWh delivered for renewable energy attributes associated with electricity generated at its hydroelectric facilities located in Greenwich, New York.¹ Maintenance support is provided to certain renewable energy facilities which, under certain financial circumstances, might otherwise cease operations or be abandoned altogether. Maintenance support is

¹ Battenkill Hydro Associates facility in Greenwich NY is composed of two hydroelectric generators. The capacity of the Upper Greenwich generator is 0.6 MW; the capacity of the Middle Greenwich generator is 0.3 MW.

provided as a component of the Main Tier of the Renewable Portfolio Standard (RPS) program administered by NYSERDA.

BACKGROUND

The availability of financial support, or "maintenance," to certain eligible renewable generating facilities was established in the Commission's September 24, 2004 RPS Order.² Two subsequent orders, issued April 14, 2005 and October 31, 2005, provided guidance and a process for a case-by-case review and analysis to determine the level of funding that should be afforded to an eligible renewable energy facility.³ This approach was intended to ensure that the amount of support provided is sufficiently tailored to each facility to enable it to stay in operation, while reserving the largest possible portion of RPS program funds to encourage the development of new renewable resources. Eligibility criteria include consideration of operating costs, financial performance, effect of market rules, and potential for capital improvements, and relationship with a parent company.⁴

On October 3, 2013, Battenkill submitted an application to the Director of the Office of Energy Efficiency and the Environment (OEEE), per RPS program rules, for a determination that its hydroelectric generation facilities are eligible for RPS maintenance funding. The facilities have a combined nameplate capacity of 0.9 MW, commenced commercial

² Case 03-E-0188, Renewable Portfolio Standard (RPS), Order Regarding a Retail Renewable Portfolio Standard (issued September 24, 2004).

³ Case 03-E-0188, Renewable Portfolio Standard (RPS), Order Approving Implementation Plan Adopting Clarifications, and Modifying the Environmental Disclosure Program (issued April 14, 2005) (April 14, 2005 Order); Order Approving Modifications to Maintenance Resource Category (issued October 31, 2005) (October 31, 2005 Order).

⁴ April 14, 2005 Order, Appendix A at 10-12

operations in 1987, and generate approximately 2,453 MWh annually. Battenkill requested a maintenance contract for \$17 per MWh, and provided in its application an economic analysis that illustrated inadequate revenues to meet operating costs. After extensive review, Department of Public Service Staff (Staff) determined that a lower level of support, \$2.80 per MWh, is justified.

NOTICE OF PROPOSED RULEMAKING

A Notice of Proposed Rulemaking (Notice) concerning the Battenkill application and the Commission's consideration for funding the eligible facility was published in the State Register on April 23, 2014. The minimum period for the receipt of public comments pursuant to the State Administrative Procedure Act regarding the Notice expired on June 9, 2014. No comments were received.

STAFF'S ANALYSIS

Application Review

Staff's analysis included extensive review of Battenkill's October 3, 2013 application, supporting records and documentation, and updated work papers. Consistent with the Commission's October 31, 2005 Order, Staff adjusted Battenkill's operating expenses to provide for a level of support that would "be adequate to allow the facility to cover its future operating costs and any necessary future capital costs (together sometimes referred to as "to go" costs), but need not cover all sunk costs."⁵ Specifically, Staff discounted administration expenses that are allocated from Battenkill's parent company or otherwise do not qualify as "to go" costs.

⁵ October 31, 2005 Order, page 3.

The application identified \$341,000 worth of expenditures for capital projects to be incurred through 2017. In its filing, Battenkill presented these capital projects as one-time annual expenditures. Staff amortized those expenditures over useful life of each forecasted project, which greatly reduced annual fiscal impacts.

Based on Staff's total adjustments, it is estimated that Battenkill would need to receive payment for its delivered energy at an average annual location-based marginal price (LBMP) of \$54.00 per MWh in order to break-even for the projected years 2014 through 2018. The projected 2014 through 2018 average LBMP in the NYISO's Capital Zone (the zone in which Battenkill's facility is located) is approximately \$51.00 per MWh⁶, an amount below the break-even point.

DISCUSSION AND CONCLUSION

Based on Staff's detailed review, we find that Battenkill is in need of financial support in order to break-even on operation costs. We believe an incentive level of \$2.80 per MWh will provide the necessary financial support to maintain operations and fiscal viability. We believe a three-year contract term is appropriate at this time given that we are involved in two major proceedings, Reforming the Energy Vision (REV)⁷ and the Clean Energy Fund,⁸ that will examine, in varying degrees, the role of utilities and the establishment of markets in procuring and deploying clean energy resources including

⁶ NYISO 2013 Congestion Assessment and Resource Integration Study -Draft, Table E-24: Projected Zonal LMBP \$/MWh (2013-2022) by Zone

⁷ Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Commencing Proceeding (Issued April 25, 2014).

⁸ Case 14-M-0094, Proceeding on Motion of the Commission to Consider a Clean Energy Fund, Order Commencing Proceeding (Issued May 8, 2014).

renewable generation, beyond 2015. Therefore, a three year contract term aligns well with meeting the near-term financial needs of the eligible facility while we deliberate on the future of existing and new renewable energy resources and the programs to support them. We put Battenkill on notice that we reserve the right to review the financial books and records of the facilities going forward to determine if the level of support is still prudent.

We therefore authorize NYSERDA to enter into a three year maintenance resource contract beginning August 1, 2014 with Battenkill in the amount of \$2.80 per MWh, up to 2,453 MWh per year. This will result in a maximum annual RPS incentive payment of \$6,870.

The Commission orders:

1. Battenkill Hydro Associates (Battenkill) is offered a maintenance resource contract under the Renewable Portfolio Standard Program (RPS) for its Greenwich facilities with a production incentive of \$2.80 per MWh for a term of three years for actual electricity production beginning August 1, 2014, as described in the body of this Order.

2. Battenkill shall provide written notice of its decision whether or not to accept the offer to the Secretary of the Commission within 30 days after the date of issuance of this Order. Failure to timely file the notice shall be deemed a decision by Battenkill to decline this offer.

3. The New York State Energy Research and Development Authority (NYSERDA) is authorized to enter into an RPS maintenance resource contract, as described in the body of this Order and the Appendix.

4. NYSERDA is authorized to begin making payments for actual electricity produced on or after August 1, 2014, upon Battenkill's submission of a written notice of its acceptance of this decision and execution of the contract.

5. The Secretary in her sole discretion may extend the deadlines set forth in this order. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

6. This proceeding is continued.

By the Commission,

KATHLEEN H. BURGESS
Secretary

Battenkill Hydro Associates
Terms of Maintenance Resource Contract

RPS-eligible Attributes:

In order to enter into a Renewable Portfolio Standard (RPS) Maintenance Resource contract with the New York State Energy Research and Development Authority (NYSERDA), Battenkill Hydro Associates (Battenkill) must possess, for the entire contract term, the rights to assign the RPS-eligible attributes to NYSERDA. The RPS-eligible attributes associated with the energy delivered under a PURPA contract, or power purchase agreement, and claimed by the party to that contract, are not eligible for RPS support. The definition of RPS-eligible attributes will be subject to the contract executed with NYSERDA.

Contract Term

The award will be offered for a term of three years. The contract term will become effective August 1, 2014 and expire on July 31, 2017.

Energy Deliverability:

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

RPS Production Incentive:

Battenkill will be paid a fixed RPS production incentive of \$2.80/MWh, on up to 2,453 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 2,453 MWh will not be subject to a production incentive.