



194 Washington Avenue
Suite 320, Albany, NY 12210
Ph. 518.432.1405 • Fx. 518.432.1407
info@aceny.org • www.aceny.org

By Electronic Delivery

March 6, 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 reply 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**

**REPLY COMMENTS OF
ALLIANCE FOR CLEAN ENERGY NEW YORK
On NYSERDA's Petition for Modification of
Renewable Portfolio Standard Main Tier Program Eligibility**

I. Introduction

The Alliance for Clean Energy New York (ACE NY), a nonprofit organization whose mission is to promote the use of clean, renewable electricity technologies and energy efficiency in New York State, respectfully submits the following brief reply comments. ACE NY's views on the petition submitted by NYSERDA were filed on February 19, 2013 and remain unchanged. NYSERDA's request is in keeping with the multiple goals of the RPS and with overall state policy on energy issues, and it is in the best interests of New York ratepayers. In our comments below, we take exception and provide our views on several of the comments filed by other parties. Silence on our part on other comments does not constitute agreement or endorsement, however. We continue to support the request of NYSERDA to limit eligibility within the RPS to projects located within New York. If, notwithstanding the sound arguments in support of the petition, the Public Service Commission chooses to deny NYSERDA's request, we suggest the Commission seek to ensure that any out-of-state projects obtaining RPS contracts be new project developments delivering new – or “incremental” – renewable energy to the grid.

II. Limiting Eligibility to In-State Projects is in Keeping With the RPS Goals

The stated goal of the RPS is to provide environmental benefits, energy security, and economic development in New York by increasing the amount of renewable energy used by New Yorkers. Several parties (see comments of Multiple Intervenors and H.Q. Energy Services) commenting in the proceeding misconstrue the reasons for NYSERDA's request to limit eligibility to in-state projects by arguing it is driven by the recommendations of the New York Energy Highway Blueprint: "NYSERDA extrapolates from the Blueprint a conclusion that the RPS Main Tier hereinafter should be restricted to renewable energy projects located in New York State," (Multiple Intervenors, *Comments in Opposition*, p.4). They also claim that the RPS goals – promoting environmental improvement, economic development, and energy security – are "ancillary" goals. NYSERDA makes no such claim, and that representation is false. NYSERDA correctly lists and begins the discussion of the **primary** goals of the RPS on page 1 of its petition while the Energy Highway, on the other hand, is not discussed until page 5. The so-called "ancillary" goals are the main goals of the RPS, and NYSERDA merely notes that the Energy Highway is designed to "maximize the value of renewable energy infrastructure in New York," (*Petition for Modification of RPS Main Tier Program*, p. 6). Whether or not the RPS requires modifications to support implementation of the Energy Highway Blueprint should not be the main basis for consideration of NYSERDA's petition. The Energy Highway and the RPS are supportive of one another and are two pieces of a comprehensive energy policy for New York that maximizes the value of renewable energy development to New Yorkers.

III. Restricting Eligibility to In-State Projects Does Not Impede Competitive Pricing

Several parties comment that the restriction on out-of state projects is not necessary given so few have won contracts to date. ACE NY disagrees and finds the logic of this argument faulty. Past experience is not necessarily evidence of the future and market conditions have changed substantially in recent years. Furthermore, if the restriction isn't necessary because so few projects have won and few are likely to do so, then it also stands to reason that imposing the restriction will not have an adverse impact. Parties commenting also argue that in-state projects will bid higher in the absence of out-of-state competition. First, NYSERDA routinely evaluates the market and has an undisclosed "cap" on what it will pay for RPS contracts; that need not change with a change in eligibility requirements. Second, developers must choose where to spend resources upfront in an attempt to get financing (including financing via state RPS programs). Some developers have pulled out of New York or slowed their development here in recent years and could return to the state if the NYSERDA petition is approved. Increased competition in state could offset the loss of out-of-state competition.

IV. The RPS is Meant to Increase the Amount of Renewable Energy Used in New

York

Parties opposed to NYSERDA's request also argue that there is no need for RPS projects to provide "incremental" renewable energy (see comments of H.Q. Energy Services, p. 10) and that existing projects should be provided with financial support (see comments of Brookfield Renewable Energy Group and comments of the Independent

Power Producers of New York). ACE NY completely disagrees; the RPS was instituted precisely to **increase** the amount of renewable energy used by New Yorkers.

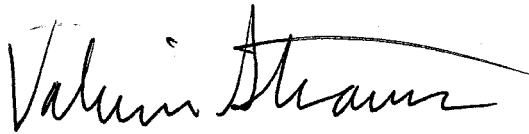
ACE NY sees no reason why New York ratepayers should provide a revenue stream to existing plants that have already been built in surrounding states and provinces (i.e., those that do not need a New York RPS contracts to obtain project financing). RPS money is intended to fund new project development in order to obtain benefits that would not otherwise be provided. Furthermore, previously existing and otherwise eligible projects *within* New York are able to obtain financial support *if and when necessary* under the Maintenance Tier of the RPS. The commenting parties either appear to be asking for financial support where it is not needed for a plant to remain in operation or, alternatively, for those projects counted in the existing baseline of “renewable energy” that are not eligible for the RPS regardless of the date they commenced operation. Those eligibility questions have been addressed repeatedly and need not be repeated here at length; there are sound reasons for restricting eligibility to truly sustainable, renewable resources. As we stated in our original comments, an alternative approach would be a regional strategy for increasing renewable energy development by, for example, allowing new projects from adjoining states that also have an RPS or equivalent program so that all states are assured economic benefits and are competing for lowest-cost resources on an equal basis. Another alternative is to change the vintage date such that only new projects are eligible; however, in that case care must be taken not to penalize projects that may build sooner to take advantage of federal programs in the expectation of winning of an RPS contract.

Also, note that the Maintenance Tier, as well as the Customer-Sited Tier (discussed in our original comments), already require projects to be located within New York.

V. 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. The only reasonable alternatives are a regional strategy establishing an agreement for all states to contribute funding and procure new project development such that all participating states reap benefits commensurate with their investments, or perhaps limiting eligibility to new projects rather than any project built post-2013.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Valerie Strauss". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Valerie Strauss, Interim Executive Director
Albany, NY
March 6, 2013