

**Via Regular and Electronic Mail**

September 15, 2004

Hon. Donald W. Downes  
Chairman  
Connecticut Department of Public Utility Control  
Ten Franklin Square  
New Britain, CT 06051

Dear Chairman Downes,

The New York Independent System Operator, Inc. (NYISO) is pleased to provide its response to your August 3, 2004 letter and 2<sup>nd</sup> Notice of Request for Written Comments concerning the Department's review of RPS Standards and Trading Programs (Docket 04-01-13). The NYISO is very interested in the development of efficient regional trading programs that encourage the development of renewable resources throughout the Northeast and hopes that our response will assist you in your efforts.

The NYISO is responsible for the reliable operation of the state's bulk power system and the efficient administration of the state's markets for energy, capacity and ancillary services. New York constitutes an electric Control Area (CA), and the NYISO is the Control Area operator for the state, responsible for coordinating all power exchanges with neighboring CAs. The NYISO's role in New York is analogous to ISO-New England's role in this regard.

As you may be aware, New York State is still considering the policy and implementation issues associated with implementation of a Renewable Portfolio Standard (RPS) in the state. A Recommended Decision (RD) was issued by presiding Administrative Law Judge Eleanor Stein on June 3, 2004<sup>1</sup> that addressed a number of the questions raised in your letter. A decision by the New York State Public Service Commission (NYPSC) is expected soon.

Until the NYPSC issues its decision, it is impossible to answer questions addressing the specific rules the state will apply to the import of Renewable Energy Credits (RECs) from other states or regions. In the absence of certainty regarding what New York's policy on REC trading will be, the NYISO instead offers its view as to what the appropriate policy on REC trading should be.

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<sup>1</sup> *Case 03-E-0188 – Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio*, Recommended Decision by Administrative Law Judge Eleanor Stein, June 3, 2004.

In general, the parties appear to agree that the import of RECs should be allowed, provided that the exporting state/region allows the import of RECs generated in New York (*i.e.*, reciprocity exists). The principal point of controversy is the extent to which the timing and amount of RECs imported must exactly match the delivery of the associated energy from the renewable resource to the state/region to which the REC is exported.

Some parties have argued that renewable energy deliveries must match REC sales on an hourly basis and must take the form of bilateral sales from the renewable generator to the REC buyer. This approach is sometimes referred to as a “strict deliverability” standard. Others have argued, and the NYISO agrees, that such an approach does not reflect the reality of how power flows are dispatched between Control Areas and disadvantages generators with intermittent output, such as many renewable generators. These parties believe that a more relaxed delivery standard is appropriate, although there is no unanimous opinion as to the extent of relaxation appropriate.

As the NYISO understands it, the June RD advocated a delivery standard that requires delivery of renewable energy commensurate with the associated REC credits imported from the exporting control area to New York within the same month. A specific bilateral energy sale from the seller to the buyer would not be required.

In the case where a specific New England renewable generator sells X MWs worth of RECs in May to a buyer in New York, we understand this to mean that so long as the renewable generator delivers X MWs to the ISO-NE spot market in May, and so long as at least X MW of energy is sold from ISO-NE to the NYISO in May, the energy associated with the REC will be considered deliverable. The NYISO does not object to such deliverability criteria, although we would also support a longer matching period.

The NYISO’s specific views with respect to REC trading (and other RPS issues) are contained in the attached copies of the NYISO’s comments submitted in the New York RPS proceeding. On the issues raised in your letter, the NYISO’s general position is that the states in the region should establish comparable rules that facilitate the trading of RECs, that respect the physical reality of how power flows are dispatched, and that do not erect artificial barriers to the interstate trading of power from certain types of generating facilities.

Even more specifically, while unlikely as a practical matter, the NYISO would have no objection to the Generation Attributes Tracking System (GATS) currently being used in New England simply being expanded to include New York. Absent a single region-wide system for tracking the creation, trading and use of RECs, the NYISO supports the establishment of GAT systems that are as comparable as possible, given the differences in the underlying state RPS policies.

With regard to the issues raised in the 2<sup>nd</sup> Notice of Request for Written Comments directed to the NYISO that are unrelated to REC trading, specifically questions 6 (A)

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through 6 (C) and 6 (E), the NYISO has either taken no position on the issue, or the issue has not yet been addressed in detail by the parties.

If you have any questions, please feel free to call me at 518-356-6023.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Aaron Breidenbaugh". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Aaron Breidenbaugh,  
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**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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

**INITIAL COMMENTS  
OF THE  
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

**I. INTRODUCTION**

The New York Independent System Operator, Inc. (“NYISO”) appreciates the opportunity to submit these Initial Comments in the New York Public Service Commission’s (“PSC”) Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard (“RPS”).

The NYISO is the not-for-profit corporation established in 1999 to facilitate the restructuring of New York State’s electric industry. The NYISO is charged with administering New York State’s wholesale energy markets and operating the State’s high voltage electric transmission system. Last year, the NYISO handled \$5.2 billion in commerce in its wholesale energy and ancillary services markets, installed capacity markets, and transmission congestion contracts markets (referred to, collectively, as “Wholesale Electric Energy Markets” or “Markets”).

**II. SUMMARY OF COMMENTS**

The NYISO supports the goals expressed by the Commission in its February 19, 2003, Order Instituting Proceeding (“Order”). Those specifically enumerated goals include

reducing New York's reliance on fossil fuels, diversifying the state's fuel mix, improving New York's energy security, reducing the environmental impacts of electric generation, and reducing energy price volatility.

The Commission should, however, take into account in its final RPS implementation, design and time table the likely changes in operations that a significant increase in intermittent resources will require for the NYISO to ensure that the New York State's' high voltage electric transmission system remains secure and reliable. Such changes will probably be required because intermittent generating resources, which will be the principal type of resources likely to be constructed under an RPS, have significantly different and unique operating characteristics when compared to traditional generating resources. The costs of such modifications can vary greatly, depending upon the program design and implementation choices that the Commission will be making in this proceeding.

In order to evaluate what changes in existing procedures and market rules may be necessary to accommodate the RPS, the NYISO and NYSERDA have joined forces to evaluate the reliability implications of introducing significant amounts of intermittent generation. This joint study will provide necessary and valuable empirical information on the reliability implications of intermittent resources and on the mitigation opportunities available to a system operator, and market participants including renewable energy suppliers, to respond to significant intermittency on the system.<sup>1</sup> Initial results should be available by December 31, 2003. These study results should assist the NYISO in determining the kinds of changes in infrastructure, operating procedures, or market rules that will be necessary to accommodate an RPS.

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<sup>1</sup> Study the Effects of Integrating Wind Power on Transmission System Planning, Reliability and Operations ("Wind Study"), Issued by the NYISO and the New York State Energy Research and Development Authority (NYSERDA), August 2003. The proposal can be found at [www.nyseda.org/825rfp.html](http://www.nyseda.org/825rfp.html).

The NYISO also strongly urges the Commission to adopt an RPS framework that recognizes and is consistent with the existing Wholesale Electric Energy Markets in New York. Such RPS framework should also have the flexibility to accommodate these Markets' almost continual evolution. For example, an RPS should not hinder the NYISO's extensive efforts to reduce so-called "seams" or barriers to efficient energy trading between New York and its adjacent control areas. The NYISO is also concerned that the RPS not deter the needed development of additional non-intermittent generation in New York. An RPS could hinder the development of such non-RPS resources if it creates price signals or other economic incentives that exacerbate the already significant obstacles that all generation project developers currently face. Moreover, it is vitally important to the continued growth of competitive electric energy markets that the RPS framework adopted by the Commission encourage, rather than dissuade, the participation of existing and new energy service companies ("ESCOs") in New York's Wholesale Electric Energy Markets as well as in its retail markets.

These Initial Comments will address issues in the order provided for by Administrative Law Judge Eleanor Stein on June 10, 2003.

### **III. COMMENTS ON REVISED WORKING OBJECTIVES**

NYISO agrees that the Working Target and Working Objectives, as enumerated in Judge Stein's May 2 memorandum to the parties, are legitimate public policy objectives that the Commission should address:

**"Working Target:** To guarantee that by 2013 at least 25% of the electricity retailed in New York will come from renewable resources.

1. New York's environment: improve New York's environment, by reducing air emissions, including greenhouse gas emissions, and other adverse environmental impacts on New York State of electricity generation.
2. Generation diversity: diversify New York State's electricity generation mix and improve energy security and reliability.
3. Economic development: develop renewable resources and advance renewable resource technologies in, and attract renewable resource generators, manufacturers, and installers to New York State.
4. Equity and economic efficiency: develop an equitable and economically efficient RPS requirement that minimizes adverse impact on energy costs.
5. Competitive neutrality: develop an RPS compatible with competition in energy markets in New York State.
6. Administrative fairness and efficiency: develop an RPS that is administratively transparent, efficient, and verifiable.”

The NYISO suggests that a seventh Working Objective be added, as follow:

7. Reliably efficient: develop an RPS requirement that mitigates potentially adverse impacts on reliability in an economically efficient manner and ensures a level of system reliability at least equal to that which exists today.

The results of the NYISO/NYSERDA Wind Study reliability evaluation should inform the Commission on Working Objective Two and on the proposed Working Objective Seven by identifying the impacts of an RPS upon energy security and reliability. The NYISO discusses the Wind Study, and suggests how to incorporate its findings and recommendations into this proceeding, in Part IX, below.

With regard to the Renewable Energy Technology and Environment Coalition (RETEC) proposal, the NYISO supports that portion which discusses the trading and tracking of Renewable Energy Credits (“RECs”) and takes no position on the balance of the RETEC recommendations.

#### **IV. ELIGIBILITY**

The NYISO takes no position on the RPS Baseline, Target Levels, Target Resource Eligibility, or Tiers.

#### **V. OVERALL RPS STRUCTURE**

##### **A. Preferred Structure - Central or Individual Procurement, with rationale**

The NYISO supports an individual, or load serving entity (“LSE”)-based, procurement requirement. Individual procurement would encourage competition among RPS Suppliers and LSEs and would avoid the introduction of quasi-governmental entities that could be insulated from the market forces that today guide both LSE purchase decisions and generator operating and investment decisions.

The NYISO urges the Commission to adopt a design that does not so burden individual LSEs that they are driven out of the market altogether. The RPS should ensure that new non-utility LSEs and those LSEs that are also Providers of Last Resort with regulated retail rates are treated equally. The Commission can mitigate any financial pressures that may result from imposing the RPS as an LSE requirement by designing an efficient, broad, liquid market for renewable credits with a reasonable, phased-in timetable for achieving full compliance.



IF the Commission determines that RPS resources should be centrally procured, the NYISO respectfully advises the Commission that it cannot fulfill the role of a central procurement agency.

During the earlier collaborative discussions in this proceeding, several parties proposed that the NYISO serve as the central procurement organization for RPS resources. These parties envisioned that any above-market costs for acquiring renewable resources could be recovered on a statewide basis through the NYISO's Rate Schedule 1 charge ("RS1").<sup>2</sup>

The NYISO is charged with the reliable operation of the New York bulk power system and the efficient administration of its wholesale electricity markets. The NYISO derives its entire authority to carry out these two functions from its Federal Energy Regulatory Commission ("FERC")-approved Market Administration and Control Area Services Tariff ("Services tariff") and Open Access Transmission Tariff ("OATT"), as well as from various FERC-approved organic agreements among and with the New York Transmission Owners<sup>3</sup> and Market Participants.<sup>4</sup>

The NYISO is not authorized by the FERC to fund RPS-related premiums or other costs under its tariffs, and its organic Agreements.<sup>5</sup>

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<sup>2</sup> The NYISO's operating costs, among other costs, are recovered from NYISO Market Participants on a \$ per Megawatt basis under Rate Schedule 1 of its Open Access Transmission Tariff ("OATT") and its Market Administration and Control Area Services Tariff ("Services Tariff").

<sup>3</sup> Agreement Between New York Independent System Operator And Transmission Owners ("ISO-TO Agreement").

<sup>4</sup> Independent System Operator Agreement ("NYISO Agreement").

<sup>5</sup> ISO-TO Agreement, Section 3.0: Responsibilities of the ISO, NYISO Agreement, Article 6: Duties of the ISO

<sup>6</sup> NYISO Agreement, Article 19. FERC approval is based on the powers that are conferred upon it by the Federal Power Act ("FPA").

The NYISO suggests that the Commission establish the collection of RPS-related premiums through a non-bypassable local distribution company (“LDC”) distribution charge.

**B. Individual Compliance Determination of Participating Entities**

Any RPS program adopted by the Commission must treat all participants consistently and in a non-discriminatory fashion and, to the greatest extent possible, minimize the obligations and burdens imposed on all LSEs. Thus, the NYISO urges the Commission to require all LSEs to share in the RPS obligation comparably, either by sharing the costs of centrally- procured resources or by requiring individual procurement.

**VI. CREDIT TRADING**

**A. Consensus Issues**

**1. Establishment of New York-based Credit Trading System**

The Parties appear to agree that New York should develop and deploy a Generation Attribute Tracking System (“GATS”), similar to that system now administered by the Automated Power Exchange in New England.<sup>7</sup> As the name suggests, this system records and tracks a variety of generation attributes for each unit of output based on settlement data provided by ISO-New England. The system can be used to verify the creation, trading, and use of Renewable Energy Credits under an RPS, as well as to support New York’s Environmental Disclosure program and possibly NO<sub>x</sub> and SO<sub>2</sub> Emission Trading systems.

The NYISO supports the development of a similar system in New York and is working informally with Market Participants and vendors such as Automated Power Exchange (“APX”) to attempt to develop the scope of a GATS requirement. Such a system

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<sup>7</sup>In New England, the system is termed a Generation Information System (“GIS”), but the function is the same. APX currently administers the New England GATS under contract to NEPOOL.

should accommodate attribute-only trading, with or without an associated deliverability requirement.

The NYISO believes that attribute-only trading should be allowed with all adjacent control areas that provide reciprocal treatment. Where an adjacent control area does not currently permit attribute-only trading, the Commission should permit trading to begin automatically once such restrictions are lifted without the need for additional approvals.

Because larger markets tend to be more efficient than smaller ones, the NYISO opposes in principle the adoption of RPS rules intended to prohibit attribute trading with neighboring control areas. As discussed in greater detail below, the NYISO encourages and will support a collaborative effort with the regulators, ISOs, and regional transmission operators (“RTOs”) in adjoining regions to develop a set of principles for designing seamless attribute-only trading practices with New York’s neighbors.

## **2. Establishment of An Implementation Track**

The NYISO supports the implementation track proposed by Judge Stein in her June 25, 2003, Summary of Working Group Discussions and stands ready to work with Department of Public Service staff and other interested parties to develop a workplan and schedule for completing the design of an effective GATS. As noted above, NYISO staff has met and will continue to meet with representatives of vendors of such services to better understand the information system and data transfer requirements that would be necessary to support a GATS system similar to the system in New England.

### **B. The Deliverability Requirement**

There appears to be agreement among the parties that renewable attributes should be unbundled from renewable MWhs and that the two should trade separately within New

York State. A number of parties, including DPS Staff, however, believe strongly that renewable energy and attributes should only be imported into New York State with a strict deliverability requirement. Such an approach would effectively re-bundle attributes and energy for imports. Due to the inherent difficulty in ensuring the deliverability of energy from what are likely to be largely intermittent resources, the NYISO is concerned that a deliverability requirement for imports and exports will act as a *de facto* bar on such trades. Parties involved in the New England markets have asserted that the current deliverability requirement in NEPOOL effectively precludes the import of wind and other intermittent resources.<sup>8</sup> The NYISO is currently involved in a number of major collaborative efforts with neighboring ISOs and RTOs that are intended to reduce or eliminate barriers to the interstate commerce of electricity in the Northeast. Such efforts to eliminate the “seams” between the region’s control areas are a high priority for all of the regions’ ISOs and RTOs. The NYISO has a significant concern that the adoption of a strict deliverability requirement would not only hamper existing efforts, but could result in the creation of an entirely new “seam” applicable to importing and exporting intermittent renewables.

The NYISO disagrees that an attribute-only or REC market can be efficiently operated in an isolated geographic area, i.e., in New York alone. A tenet of electricity deregulation is that broadly traded, liquid markets produce more efficient resource allocation and pricing. The electricity markets in New York have not operated in isolation from those of our neighbors, and neither should a New York REC market.

Importantly, a deliverability requirement would increase the costs of an RPS to New York States’ energy consumers. The DPS Cost Study confirms that a regional REC

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<sup>8</sup>Comments of Select Energy in Massachusetts Department of Telecommunication and Energy, Case D.T.E. 03-62 at 7

market will reduce the costs of complying with the RPS, just as PSC studies have shown that efficient regional power markets will reduce energy costs.<sup>9</sup> Other states have recognized this fact and support the move to regional attribute-only trading systems. Discussions with officials in New England, PJM, and Ontario all indicate a preference among those regions for a vibrant and liquid regional market for RECs – without a deliverability restriction.

While New England currently requires strict deliverability of energy associated with imported RECs, the NEPOOL GIS business rules specifically call for this restriction to be revisited if and when an adjacent control area adopts a compatible GATS system. This caveat was recommended for inclusion in the NEPOOL GIS rules by Massachusetts, whose Department of Energy Resources (“DOER”) adopted a strict RPS deliverability requirement, the language of which appears verbatim in the NEPOOL rules. The NYISO has received assurances from DOER officials that the Massachusetts strict deliverability requirement (which is embodied in regulation, not legislation) would likewise be revisited if New York were to adopt a comparable system supporting REC-only trading on a reciprocal basis. The other states in New England with an RPS, Connecticut and Maine would allow REC imports from New York if the NEPOOL GIS rules were changed.<sup>10</sup>

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<sup>9</sup>“New York Renewable Portfolio Standard Cost Study Report” (“Cost Study”), Issued July 28, 2003 by DPS Staff. The DPS Cost Study goes on to note that while the RPS premium drops by \$50.6 million, wholesale energy prices rise by \$77.5 million, resulting in a net price increase for RPS compliance of \$26.9 million. As noted below, the NYISO has concerns that the Cost Study may significantly overstate the price suppression effects of in-state RPS resources. To the extent that this concern is well-founded, the benefits of a strict deliverability standard may be similarly overstated. In other words, the No Deliverability Requirement Sensitivity may erroneously conclude that strict deliverability provides net benefits.

<sup>10</sup>“Renewable Portfolio Standards, Background and Analysis for New York State”, Bob Grace, Sustainable Energy Advantage, Ryan Wisser, Mark Bolinger, Lawrence Berkeley National Laboratory, May 2002 at 24. Indeed, even without a change in the NEPOOL GIS rules, recent regulations proposed in Connecticut would allow sales of New York RECs into that state, provided that a corresponding amount of energy was delivered from the New York Control Area to the New England Control Area (see Notice of Intent to Adopt

Similarly, the only PJM state with a significant RPS - New Jersey - treats resources located in New York on a comparable basis with PJM resources and credits generated in New York are eligible for use in New Jersey. The PJM Working Group that is developing the PJM's GATS also supports REC trading without deliverability - if New York reciprocates:

In an effort to minimize seams issues and reduce certificate transaction costs, the system will allow for the import of certificates from neighboring regions that offer reciprocal treatment of PJM certificates. A system average shall be used in the absence of such a compatible system. Certificate transactions from incompatible systems can be allowed if appropriate verification measures are in place and the transactions are bi-lateral contracts.<sup>11</sup>

The Ontario Independent Electricity Market Operator ("IMO") has reached similar conclusions.<sup>12</sup>

Comparable systems that allow for reciprocal treatment of traded attributes do not need to include identical RPS eligibility requirements. In other words, it is not necessary for New York and its neighbors to agree on which resources are "renewable" in order to have an effective interstate REC trading system. Instead, the GATS would keep track of all the resources' attributes and automatically ensure that only those that met a given state's RPS eligibility requirements could be used in that state. As a multistate entity, NEPOOL has already confronted this issue and the NEPOOL GATS system is designed to accommodate differing state eligibility requirements.

Failure to adopt a reciprocal trading policy could effectively foreclose New York renewable resources from meeting demand in neighboring states, stifling additional

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Regulations, Docket 02-14-14 – DPUC Promulgation of Regulations for Renewable Energy Portfolio Requirements, July 16, 2003 at 5)

<sup>11</sup>"GATS Concept Draft", PJM GATS Working Group, June 2, 2003 at 6.

<sup>12</sup>Case 03-E-0188, Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard, Memorandum to the Members of Working Group 4, May 14, 2003 at 1,2.

renewable construction in the state and precluding associated economic development and air quality benefits.

Finally, the Commission should consider New York's central location in the regional market and the possible regional consequences of adopting a strict deliverability standard. If, as many trading proponents including the NYISO have proposed, REC-only trading is allowed only with electrically adjacent ISOs or RTOs, a strict deliverability standard for imports into New York could significantly reduce region-wide trading. All of our neighbors offering reciprocal REC trading with New York are electrically interconnected with one another primarily through New York. While regional interstate REC-only trading rules have not yet been defined, it is possible that New York's adoption of import standards that require deliverability could create a hole in the middle of the region and limit the availability of regional REC trading.

Rather than require a strict deliverability standard that precludes renewable imports and possibly jeopardizes regional markets, the NYISO recommends that the Commission develop criteria, similar to those proposed by RETEC (with a reciprocity requirement) under which interstate trading of RECs would be allowed. In parallel, the NYISO recommends that the regional ISOs and RTOs work together with Market Participants to design a regional trading system that meets those criteria and permits cross-border REC trades. This process could be similar to the Resource Adequacy Model ("RAM") process now ongoing to create a regional market for capacity/resource adequacy.<sup>13</sup>

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<sup>13</sup> See discussion of the RAM process at [http://www.nyiso.com/services/documents/groups/mgmt\\_comm/09\\_17\\_03/agenda\\_09\\_ramupdate.pdf](http://www.nyiso.com/services/documents/groups/mgmt_comm/09_17_03/agenda_09_ramupdate.pdf)

## **C. Other Open Issues**

### **1. Accounting Issues**

NYISO supports the use of annual accounting periods to allow shortfalls in RPS procurements in one season to be offset by excess production in others and to generally reduce the burdens imposed on LSEs. If a shorter accounting period is adopted, the NYISO supports the banking of credits between quarters. At the end of a trading year however, all unused certificates should be returned to the residual mix to ensure that The system mix appropriately reflects the fuels actually used during the prior year.

While New England currently uses a quarterly accounting period, the NYISO understands that the issue is being revisited and that there is significant support for the move to an annual accounting period. The NYISO also understands that PJM and Ontario contemplate using annual accounting periods.

### **2. Administrative Issues**

The NYISO is presently considering whether it could serve as the Administrator of a New York GATS system, in the same way that NEPOOL fills that role in New England. Should the NYISO serve as the GATs Administrator, GATs-related should costs be funded out of the System Benefits Charge (“SBC”) administered by NYSERDA. NYSERDA currently funds the NYISO’s participation in disclosing to retail customers the fuel-types used by their retail electric suppliers in providing them with electricity.

### **3. Financial Issues**

The NYISO takes no position on this issue.

### **4. Credibility Issues**



The NYISO believes that with the support of environmental organizations and appropriate marketing, the public will understand that an attribute-based, REC trading system, without strict deliverability standards, most efficiently fulfills the goals of an RPS. The Commission should not adopt restrictive trading rules solely in response to concerns that the RPS would otherwise not be a credible program. Similar concerns were raised during debates about the use of conversion transactions to strip environmental attributes from energy sales in the NYISO markets for environmental disclosure purposes. Since then, environmental supporters assert that credibility fears have largely been dispelled and former opponents among environmental groups now support the unbundling and separate trading of RECs, both inside New York, and with its neighbors.<sup>14</sup>

#### **5. Banking and Borrowing**

Absent banking, a quarterly accounting period could make it very difficult for LSEs to offer a 100% wind product, since shortfalls in one quarter could not be made up in another. As noted above, if an annual accounting period is not adopted, the RPS should allow limited banking of RECs from one quarter to the next.

#### **6. Compatibility with Other Jurisdictions**

As noted previously, New York should strive to adopt an RPS and accounting/tracking system that is compatible with adjacent control areas. Such compatibility will facilitate the trading of RECs and reduce the likelihood that the RPS will create additional barriers to regional commerce.

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<sup>14</sup> RETEC Proposal at 2.

## **VII. CONTRACTING STANDARDS**

### **A. The Role of Long-Term Contracts**

- 1. Necessary Duration for Developers**
- 2. Financial Risk Management for Load Serving Entities**
- 3. Proposal for Pilot or Interim Requirement for Early Long-term Contracts**

The NYISO has no comments on these issues.

### **B. Establishment of Contracts**

- 1. Model/Template Contracts or Individual Negotiations**
- 2. Preferable Contract Types:**
  - a) Power Purchase**
  - b) Attributes Only**
  - c) Installed Capacity**

### **C. Features of Bilateral Contracts**

- 1. Qualification and Verification of Resource Eligibility and Attribute Tracking.**
- 2. Structure and Length**
- 3. Fixed premium or Contract for Differences**
- 4. Pricing**
- 5. Other**

NYISO takes no position on the contracting issues generally and defers to renewable suppliers and LSEs to express their respective contract needs. The NYISO does have a concern with the potential impact of certain contract structures on the incentives faced by renewable resources and the potential impact of those incentives on the reliable and efficient operation of the wholesale power markets.

Staff's Cost Study and the RETEC proposal both discuss using a form of a Contract for Differences ("CFDs"). These contracts do not appear to be the same sort of CFDs that are presently utilized for bilateral energy transactions in the NYISO markets. In traditional CFDs, suppliers have an incentive to produce when their incremental costs are below market energy prices and to purchase supplies to meet their obligation from the energy markets when their incremental costs exceed market prices. The contracts proposed so far

in this proceeding appear to be a “hybrid CFDs” or a contract that pays the resource the difference between the LBMP and the total contract amount. This results in a variable premium or subsidy that floats with changes in LBMP revenues.

This structure insulates the RPS resources from the normal incentives provided by CFDs to produce when LBMPs are higher than the resource’s incremental production costs, and to cease production when LBMPs fall below production costs. Exacerbating the NYISO’s concern about the incentives provided by some contract structures is the fact that a significant percentage of the RPS resources could be located west of the Central-East constraint, where most of New York’s lower incremental cost generating units are located. According to the NYISO’s 2003 Load and Capacity Data report, 3,008 MW of coal, 3,103 MW of nuclear, and 3,537 MW of hydropower resources are located in the western New York Zones A-D. Most of this 9,648 MW is relatively low cost, with hydro resources having essentially zero or even negative incremental costs. These resources can reasonably be expected to bid into the NYISO’s energy markets as “price takers” with very low energy bids.

The addition of another 2,000 MW of low incremental cost RPS resources in the same region will place further downward pressure on Western New York LBMPs. In an effort to get their units scheduled, however, it is possible that RPS resources might be forced to submit negative bids. While this would not affect RPS resources if their contracts provide a “floating premium” that varies with LBMPs, it could have an adverse impact on other price takers. Negative bids can send the energy price negative and require energy suppliers to pay load to take power. The NYISO encourages the Commission to avoid

contract designs that insulate RPS suppliers from routine market forces or that provide perverse operating incentives.

The Commission should also adopt an RPS procurement mechanism that reflects market forces. Such a mechanism should seek to minimize overall REC program costs rather than just the REC premium alone. Moreover, all RPS costs should be transparent to retail end use customers through, for example, a separate RPS cost line on retail billings. The NYISO also encourages the Commission to adopt mechanisms that encourage new RPS suppliers to locate in areas where additional energy is most needed and to operate when prices are highest. While structuring the contracts in this way could shift some timing and locational risks to RPS developers (since resource location and timing are often dictated by resource availability) and could result in higher RPS premiums, it would better allocate the risks between RPS developers and the owners and developers of non-RPS resources.

## **VIII. COST AND BENEFIT CONSIDERATIONS**

The NYISO is concerned with the DPS's RPS Cost Study's ("Cost Study") assumption of robust capacity additions from non-RPS generating capacity. Overly optimistic capacity projections can understate the future cost of energy. While the Cost Study reports that its assumptions are based on the most recent (year 2002) State Energy Plan, these assumptions may overstate current capacity expansion expectations, given the recent financial setbacks in the energy markets.

While it is not clear from the Cost Study itself, the NYISO has assumed that the Cost Study uses the State Energy Plan Reference Forecast for Supply Additions. This

scenario assumes that 7,139 MW of new capacity is placed into operation between 2002 and 2006. These new resources include 5,224 MW of Article X projects, 1,000 MW of firm capacity from facilities located outside New York State, 693 MW of small scale generation under construction in New York City and on Long Island, and 222 MW of projects through the SBC program.

While this assumes only about half of the plants that have filed for Article X certificates will be developed, even this level of new development may be optimistic given the financial considerations in the energy market today. As indicated in its most recent Power Alert III Report, the NYISO is not optimistic that much of this development will occur without significant actions by New York State, not the least of which is the reenactment of the now-lapsed Article X siting law:

“The future outlook for adequate, efficient and environmentally friendly generation is bleak. After the current construction “bubble” of 2,500 - 3,500 MW is completed, there is little evidence that serious consideration is being given to additional new generation in New York State, New York City, or on Long Island. This dim outlook is due to a confluence of factors, which combine to produce market uncertainty and paralysis. The major negative drivers are:

- The expiration of New York’s Article X Siting Law.
- Market rule uncertainty (typical of evolving wholesale markets) does inhibit investment. Opposition to the Federal Energy Regulatory Commission (FERC) Standard Market Design (SMD) Order and pending federal energy legislation is adding considerably to market uncertainty.
- The ENRON disclosures and the subsequent severe financial problems of merchant generation companies, effectively eliminating near-term financing of new merchant projects, including those that hold siting permits.
- Problems in New York (and the region’s) wholesale capacity markets and the institutional difficulties of entering into long-term power supply contracts further restrict generation developers’ and end use suppliers’ options.
- Up until now, the New York wholesale electricity markets, in particular, the real-time wholesale energy markets, have not

provided adequate or consistent price signals during periods of scarcity when short supply should be accompanied by appropriately higher prices.

- New state emissions standards may cause the retirement of existing generating facilities.”<sup>15</sup>

The addition of significant RPS capacity may exacerbate this bleak outlook for fossil-fuel-fired units if new RPS capacity further reduces Western New York State LBMPs. While RPS resources may receive revenue stream guarantees sufficient to remain profitable, non-RPS resources are not similarly assured. The risk, if not the actuality, of additional renewable resources lowering market prices for all generators will add yet another negative driver to those noted above.

The Cost Study also assumes additional generation will be added after 2006, as necessary, to maintain required reserve levels. The Cost Study indicates, “moderate changes to (sic) non-renewable capacity expansion mix are reflected in the MAPS runs to address the proportionately higher operating reserve requirements of a high-renewables mix.” (Cost Study at 13.) These and other modeling changes made to accommodate RPS resources, such as “upstream transmission upgrades”, should be detailed and the Cost Study should indicate what assumptions have been made with regard to increased reserve requirements.

The Cost Study could also provide valuable additional information if it examined the potential for the retirement and/or delay of fossil-fired capacity and the potential impacts that this could produce in the energy, capacity, and ancillary services markets.

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<sup>15</sup> NYISO Power Alert III at page 11.

## **IX. OTHER ISSUES - RELIABILITY**

As mentioned earlier, NYSERDA and the NYISO are jointly conducting an evaluation of the effects of intermittent resources on system operation and reliability. This evaluation will model wind-fueled generation with the expectation that wind will be the single largest source of RPS-eligible new generation. The study is in two phases. In the first phase, the study will assess whether the New York power system has adequate resources to reliably incorporate and deliver a large amount of wind-generated power. This assessment is scheduled to be completed by December 31, 2003.

Phase II is a more detailed system performance evaluation of the impact of large-scale wind generation on the New York transmission system. Phase II research will indicate what modifications to existing procedures are necessary to reliably accommodate new wind generation on the New York transmission system. Reliable accommodation includes maintaining NYISO compliance with Northeast Electric Reliability Council (“NERC”), Northeast Power Coordinating Council (“NPCC”), and New York State Reliability Council (“NYSRC”) reliability standards, criteria and rules for planning and operation of the New York Power System. The NYISO and NYSERDA will also be evaluating the extent to which the addition of significant intermittent resources may require changes to market design rules and procedures. Phase II results will not be available until October 1, 2004.

The initial phase of the evaluation will highlight the reliability implications of intermittent generation, and identify any potential need to mitigate those implications. This information, together with the initial Recommended Decision in this case, will provide an opportunity for the parties to better frame and comment upon the remaining issues.

**X. CONCLUSION**

For the foregoing reasons, the NYISO urges the Administrative Law Judge to adopt the recommendations for an RPS program described in these Initial Comments.

Respectfully submitted,

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current market for installed generating capacity (“ICAP”). Other parties recommended a “hybrid” or “opt-in” approach that would focus on Individual Procurement but would allow LSEs the flexibility to participate in a Central Procurement market either at their choosing or for some initial period of time.

While it advocated against Central Procurement in principle in its Initial Comments, after reviewing the comments of the other parties, the NYISO now concludes that a carefully considered Central Procurement approach could play a role in an overall RPS structure adopted by the Commission if it is performed by another entity, if it is used only as a transitional mechanism, and if it is combined with an efficient and liquid RECs market. It is vital that the Commission ensure that the procurement mechanism it establishes expose those participating in it to market forces. It is also important that Central Procurement be used, if at all, only during a short transitional period, no longer than three years, to mitigate what could otherwise be significant financial impacts that an LSE procurement design might impose. The NYISO agrees that Central Procurement by an appropriate agency or entity could ameliorate the potentially excessive burden of the RPS’ requirements on some individual LSEs. It is important however, that any procurement process, including a Central Procurement process, be designed as a transitional mechanism and in a manner that does not insulate it from market forces.

**B. The NYISO Should Not Serve as the Procurement Agent**

The NYISO noted in its Initial Comments that its enabling Agreements and Tariffs presently preclude it from filling the Central Procurement agency role that is advocated by several parties. Although this reality was acknowledged by these parties, they also

suggested that the NYISO's enabling Agreements and Tariffs might be amended to accommodate an RPS procurement role. While this may be true, the NYISO remains opposed to serving as the Central Procurement agency. Such a role conflicts with the current role and responsibilities for which the NYISO was originally established – to operate the New York State high-voltage electric transmission grid in a safe and reliable manner and to oversee the competitive wholesale energy markets in a non-discriminatory fashion.

Other parties have also provided several compelling reasons why the NYISO would not be an appropriate designee to serve as the Central Procurement agent. Assigning the NYISO this role would require extensive revisions to the NYISO's Agreements, Tariffs, Manuals, and procedures; changes that are subject to Market Participant, Board and Federal Energy Regulatory Commission ("FERC") approval. The PSC should not assume that this approval would be automatic. Moreover, as others have also argued, the use of the NYISO as the Central Procurement Agency could require significant incremental NYISO resources, an additional financial burden that the Market Participants, or FERC, may not approve.

The pursuit of an RPS that incorporates the NYISO as the Central Procurement Agency introduces the significant risk that these externally required approvals would delay, require a re-design or ultimately scuttle the RPS proposal. Designating the NYISO as the procurement agency is not so compelling an outcome as to warrant such a risk.

**C. NYISO Administration of RPS Certificate Auction Process**

The Joint Utilities’ Initial Comments support the adoption of the Central Procurement Model, with the NYISO designated as the centralized procurement entity and the administrator of REC auctions. The Joint Utilities believe that the administration of a certificates auction and a payment and collection process for RPS premiums are natural extensions of the NYISO’s current function and role in maintaining transmission grid reliability and operating existing energy markets in New York State. The NYISO appreciates the endorsement of its abilities to carry out the suggested RPS role that is reflected in the Joint Utilities’ comments. For the reasons detailed above, however, the NYISO cannot support the proposition that it serve as the centralized procurement agency or that it directly administer the REC auctions.

**D. Credit Trading**

**1. Establishment of New York-based Credit Trading System;  
Deliverability Requirements for Imports**

Essentially all parties agree that New York State should develop and deploy a Generation Attribute Tracking System (“GATS”) that is similar to the tracking system now administered by the Automated Power Exchange in New England. Consensus does not exist, however, regarding the requirements that should apply to the import or export of RECs.

A number of parties continue to advocate a “deliverability” requirement for imported RECs. A deliverability mandate would require that imported RECs be bundled with energy and that the energy be scheduled or “delivered” into the New York Control Area (“NYCA”). As the NYISO noted in its Initial Comments, depending upon

implementation details, such a requirement could either disallow the import of intermittent renewable resources such as wind into New York altogether, or, at the very least make it quite expensive to use imported RECs to meet the RPS mandate. Without reasonably priced, imported RECs, the price of internally produced RECs could rise substantially to meet growing demand.

In addition to substantially increasing the cost of RECs in New York, a requirement that imported RECs be bundled with their associated energy would create an entirely new “seam” between New York and its neighboring control areas – something that all of the ISOs in the region have been working diligently, at the FERC’s direction, to eliminate.

Instead, the NYISO continues to urge the Commission to allow attribute-only trading with any adjacent control area that provides reciprocal treatment to New York State resources. To further this goal, the NYISO reiterates its availability to join with the Commission, other interested state agencies in the region, regional ISOs and RTOs, and Market Participants to develop criteria under which interstate trading of RECs would be allowed. This process could be similar to the Resource Adequacy Model (“RAM”) process to create a regional market for capacity/resource adequacy that is currently ongoing.

## **II. COST AND BENEFIT CONSIDERATIONS**

The DPS Staff Cost Study indicates that renewable resources are limited to providing no more than 500 MW of ICAP cumulatively in New York. The NYISO wishes to clarify that its current rules impose no limitation on the cumulative amount of ICAP that renewable or intermittent resources can supply in New York. The NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) does provide that

existing intermittent renewable resources in operation on or before November 18, 1999, plus up to an additional 500 MW of such generation, enjoy special Real-Time Market Settlement Rules for deviations between actual and scheduled output.<sup>1</sup> Similarly, this amount of intermittent renewable resource generation is excused from under-generation penalties and from the requirement that is imposed on certain UCAP suppliers to bid into non-spinning reserves markets, should they be capable of providing non-spinning reserves.<sup>2</sup> The NYISO urges DPS Staff to consider revising its Cost Study in light of these corrections.

In addition, DPS Staff should include in its cost study the interplay between energy and capacity revenues for non-RPS resources in light of the expected price suppression effects of the RPS. Several parties, including the NYISO, have presumed that significant amounts of intermittent resources introduced into New York through the RPS will bid their output into the energy market as price takers. As Staff and others have noted, this will tend to suppress energy prices.

The NYISO's independent Market Advisor suggests that, under certain circumstances, lower energy prices may correlate to higher prices in other New York electricity markets. To the extent that lower energy prices reduce energy revenues for non-RPS resources, non-RPS resources may need to increase their bids in the ICAP and ancillary service markets to maintain the viability of these units. To the extent that these non-RPS resources continue to be scheduled to meet reliability requirements, prices may increase proportionately. In the alternative, the NYISO may need to consider mechanisms such as the Reliability Must-Run Contracts currently used by ISO-New England to retain

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<sup>1</sup> NYISO Market Administration and Control Area Services Tariff, Section 4.18.

<sup>2</sup> *Id.*, Rate Schedule 3 and Article 5, Section 5.12.1(xi).

resources that are deemed essential to maintaining reliability. These could also increase the ultimate cost of energy to Loads. The NYISO urges DPS Staff to reflect this reality in its Cost Study when assessing likely market prices and expectations concerning unit retirements.

### **III. OTHER ISSUES - RELIABILITY**

As mentioned in Initial Comments, NYSERDA and the NYISO are jointly conducting an evaluation of the effects of intermittent resources on system operation and reliability. The NYISO is cooperating in this undertaking with the New York State Reliability Council.

The study has two phases. The first phase will assess whether the New York bulk-power transmission system has adequate resources to reliably incorporate and deliver a large amount of wind-generated power. This initial phase of the evaluation will highlight the reliability implications of intermittent generation and identify any potential need to mitigate those implications. This assessment is scheduled for completion by January 31, 2004. This information, together with the initial Recommended Decision in this case, will provide an opportunity for the parties to better frame and comment upon the remaining issues.

Phase II is a more detailed system performance evaluation of the impact of large-scale wind generation on the New York transmission system. Phase II research will indicate what modifications to existing procedures are necessary, if any, to reliably accommodate new wind generation on the New York transmission system. Reliable accommodation includes maintaining the NYISO's compliance with the reliability

standards, criteria and rules for planning and operation of the New York Power System that are established by the Northeast Electric Reliability Council (“NERC”), Northeast Power Coordinating Council (“NPCC”), and the New York State Reliability Council (“NYSRC”). The NYISO’s tariffs and its enabling agreements, including the *Agreement Between New York Independent System Operator and Transmission Owners*, requires that it comply with these reliability standards. The NYISO and NYSERDA will also be evaluating the extent to which the addition of significant intermittent resources may require changes to market design rules and procedures. Final Phase II results will not be available until November 1, 2004.

On October 10, 2003, NYISO, NYSERDA and NYSRC met with the parties, provided an overview of the reliability concerns raised thus far, and discussed the manner in which those concerns would be addressed by the wind study. The NYISO found the meeting to be productive and informative with respect to the parties’ reliability concerns. As a result of the input received at this meeting, the NYISO is comfortable that the wind study, as presently framed, will adequately address the reliability concerns and issues that have been raised by the parties in this proceeding.

#### **IV. CONCLUSION**

For the foregoing reasons, the NYISO urges the Administrative Law Judge to adopt the recommendations for an RPS program described in the NYISO’s Initial Comments and in these Reply Comments.



Dated: October 31, 2003  
Albany, New York

Respectfully submitted,

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June 23, 2004

**Via Hand Delivery and Electronic Mail**

Hon. Jaclyn A. Brillling  
Secretary  
New York State Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223

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

Dear Secretary Brillling:

Please accept the original and twenty-five copies of this letter in lieu of a Brief on Exceptions from the New York Independent System Operator, Inc. (“NYISO”) in the above-identified proceeding.

The NYISO supports Administrative Law Judge (“ALJ”) Stein’s June 30, 2004 recommendation that the Commission moves ahead in this proceeding and issue a policy statement on the basic renewable portfolio standard (“RPS”) infrastructure issues. These issues include procurement design, funding mechanisms, eligible technologies, targets, objectives, and the development of a Generation Attributes Trading System (“GATS”).<sup>1</sup>

The ALJ also appropriately recommends that the Commission initiate an implementation phase to put its policy decisions in place. The details of that implementation phase, however, are sufficiently vague that the NYISO is concerned that

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<sup>1</sup> Case 03-E-0188, *Recommended Decision by Administrative Law Judge Eleanor Stein*, June 3, 2004, (“RD”) at p. 6.

significant issues surrounding reliability and market impacts may not be adequately addressed. If the Commission agrees with the ALJ and supports the RPS, the NYISO urges the Commission to affirmatively commit to address, in the implementation phase, operational, reliability and market implications that have yet to be identified, but which are the subjects of various pending studies.<sup>2</sup> The conclusions of these evaluations need to serve as guiding principles that will shape the resolution of issues in the implementation phase. Thus, the Commission's policy statement should affirmatively indicate that they will be addressed. These issues are discussed more completely below.

Commit to Implement the RPS in a Manner that will Promote Reliability

The Phase I Report of the joint NYISO/NYSERDA Wind Study provides only a preliminary review of the reliability impacts of adding significant wind resources to the New York transmission system; Phase II of the Wind Study will complete that review. Among other things, the Phase II study will address changes that may be required by the North American Electric Reliability Council ("NERC"), the Northeast Power Coordinating Council ("NPCC"), and the New York State Reliability Council ("NYSRC"). These include the reliability standards, criteria, and rules for planning and operating the New York State Power System (*e.g.*, any special requirements or conditions that should be placed on wind generation development) to meet the overall needs of New York for a reliable electrical grid.

The NYISO suggests, therefore, that the ALJ overstates the completeness of the record on this point when she comments that the record contains a "comprehensive

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<sup>2</sup> For instance, Phase II of the joint NYISO/ NYSERDA evaluation of the reliability implications of the RPS will not be finalized before early next year. Phase I of that evaluation, *Effects of Integrating Windpower on Transmission System Planning, Reliability and Operations* ("Phase I Wind Study"), was

examination of . . . reliability considerations.”<sup>3</sup> Moreover, the RD recommends only that the implementation proceeding “take into consideration” the joint NYISO/NYSERDA Phase II Report. Although the RD acknowledges the further work that the NYISO is performing on its own to assess the short-term reliability and resource adequacy implications of adding these resources, it is silent on how the NYISO’s conclusions will be incorporated, or even considered in the implementation phase.<sup>4</sup>

The conclusions of these evaluations are too significant to simply be “considered” in implementing the RPS. For example, voltage or stability constraints, from a network security point of view, as well as operational considerations, could ultimately decrease the preliminary Phase I determination that the transmission system could interconnect up to 3,300 MW of intermittent resources.<sup>5</sup> The RD, nonetheless, recommends now that wind resources increase to just less than 3,000 MWs by 2013.<sup>6</sup>

Similarly, the addition of significant subsidized resources, particularly in the western part of the State, could adversely impact existing, marginally operating, thermal generation. The retirement of existing generation, or the deferral or cancellation of expected new generation that could be displaced by significant additions of new wind power may adversely impact system reliability, although the NPCC minimum reliability

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released late last year. As well, the NYISO’s evaluation of the impacts of significant, subsidized resources on wholesale market efficiency and competition will not be ready for several months.

<sup>3</sup> RD at p. 31. Nonetheless, the NYISO agrees that even a preliminary review of reliability is sufficient to support, as the ALJ does, the issuance of a policy statement supporting the establishment of the broad infrastructure for an RPS.

<sup>4</sup> RD at pp. 28-30. While the NYISO agrees that an analysis of barriers to interconnection in parts of the grid needs to be performed before a final RPS is implemented (RD pp. 106-107), this is not the only issue that will be addressed by the further examination of reliability impacts.

<sup>5</sup> Case 03-E-0188, Comments of the New York Independent System Operator, Inc. On Phase I *The Effects Of Integrating Windpower On Transmission System Planning, Reliability And Operations*, March 18, 2004, (“Comments”), p. 2.

<sup>6</sup> RD at p. 89.

threshold would be maintained. The Phase I Report did not examine the effects of new wind generation on existing generation.

The RD correctly recommends that the Commission adopt the measures to protect reliability outlined in the Phase I report. These include interconnection requirements and the implementation of features still under development – features that offer the ability to set power ramps, governor functions, reserve functions and zero-power voltage regulation.<sup>7</sup> The RD also appears to endorse the development and use of a centralized wind-forecasting center that would provide data to the NYISO and wind farms.<sup>8</sup>

The implementation phase, however, must accommodate, and not merely consider, the conclusions reached in the Phase II report and in the NYISO's short-term reliability study. The NYISO will continue to keep the Commission apprised of any adjustments to the RPS design or implementation that may be prudent, based on the results of these evaluations. The NYISO reiterates that firm conclusions in the crucial reliability area cannot be made until the conclusions of Phase II are reviewed and analyzed.

Commit to Implement the RPS in a Manner that will Support Market Efficiency and Competitiveness

The RD does not adequately recognize the value and significance of the market impact analysis that the NYISO is performing. The Commission should strongly commit to implement the RPS in a manner that will support wholesale market efficiency and promote competition. The Commission should also indicate that final decisions on such issues as the design of the subsidy and the precise role of the central procurement entity

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<sup>7</sup> RD pp. 90, 93.

<sup>8</sup> RD Appendix D., p.1.

will be further addressed during the implementation phase and after receipt of the NYISO-sponsored recommendations.

As the NYISO indicated in its Comments, it plans to evaluate the impacts of intermittent resources on the efficiency and effectiveness of the wholesale market.<sup>9</sup> The NYISO intends to consult with its independent Market Advisor, Dr. David Patton on, among other things, RPS-resource procurement options that would bring these resources on-line in a manner that minimizes adverse impacts on the wholesale market's efficiency and competitiveness.

The Commission's policy statement should refrain from endorsing the details of any particular procurement or contracting methodologies (including the hybrid contracts for differences approach initially proposed by DPS Staff) until the results of the NYISO analysis are available. The eventual decisions on these issues will be crucial to maintaining an efficient and competitive market and they should be reached in a manner that incorporates Dr. Patton's recommendations. Only through a very comprehensive examination of the market implications of these issues will the Commission avoid unintended, adverse economic consequences.

Finally, the NYISO supports Judge Stein's recommendation to reinvigorate efforts to develop a GATS in order to "immediately" establish a New York State attributes trading system, and to "develop as soon as possible" a trading system without borders.<sup>10</sup> The NYISO also strongly supports the Judge's recommendation that the GATS include the functionality that will allow parties to buy and sell Renewable Energy Credits ("RECs") online in real time.

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<sup>9</sup> Comments, p. 6. The NYISO will utilize the infrastructure decisions included in any Commission-issued policy decision to guide this effort.

The NYISO has a significant interest in the design, trading rules, and operation of a New York GATS, and should be an active participant in its design. NYISO involvement is necessary to ensure that any trading system's design or rules do not create new "seams" between New York State and its neighboring electrical control areas. NYISO involvement is also crucial to ensure that the interface between a GATS and the NYISO's financial settlement system is efficient and workable. Because the RD does not specifically recommend that the NYISO be included in developing the GATS implementation plan since the NYISO is not a state agency<sup>11</sup>, the Commission should affirmatively indicate that the NYISO is to be an involved party in the design of any GATS system.

The NYISO anticipates and looks forward to working effectively with DPS Staff and other interested parties on these important issues in this proceeding.

Respectfully submitted,

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<sup>10</sup> RD, Appendix C at iv.

<sup>11</sup> The RD states: "The recommendation is that DPS Staff should draft rules with other state agencies as appropriate and that Working Group Four be reconvened for consultation, with a charge to present an implementation plan to the Commission no later than December 2004." (RD at 99.)