

## New York Solicits Renewable Portfolio Attributes Proposals

On Thursday, January 20, 2011, the New York State Energy Research and Development Authority (“[NYSERDA](#)”) issued a request for proposals for up to \$250 million in renewable portfolio standard attributes (“[RPS Attributes](#)”). RPS Attributes are generated in connection with electricity derived from eligible renewable sources or renewable fuels. Initial applications to qualify for the program are due February 10, 2011. Qualified applicants may submit bid proposals between February 25 and March 16, 2011 to sell RPS Attributes to NYSEERDA.

### Background

NYSEERDA is a public benefit corporation designated by the New York Public Service Commission to administer the State’s renewable portfolio program. The goal of that program is to generate 30% of the State’s electricity demand from renewable resources by 2015. Funding for the program is obtained through an RPS surcharge imposed upon customers of the State’s investor-owned utilities. At least once per year, NYSEERDA is required to issue solicitations to purchase RPS Attributes from renewable projects using the funds collected from the surcharge.

### Eligible Facilities

Eligible facilities include those that generate electricity from renewable sources, and commence commercial operations on or after January 1, 2003, and before July 31, 2012 (subject to extension to December 31, 2012 under certain circumstances). Electricity generated from renewable technologies, such as wind and solar facilities, is eligible, as well as generation from the combustion of renewable fuels. Electricity generated from gas produced using biological sources, such as landfill gas, and gas from anaerobic digestion of agricultural wastes, manure and sewage, is eligible, as is electricity generated from gasification of biomass. Combustion of biomass is eligible, but only if the fuels are verified to be separated municipal solid waste or clean biomass from specified sources (e.g., clean wood separated from demolition debris, and wood harvested from managed forests). Mass-burn municipal solid waste facilities are not eligible. Incremental increases in hydroelectric generation above certain baselines, as well as verified and substantial repowering of renewable sources, may be eligible. Renewable and conventional fuels may be used as fuels, if the eligible generation is based on renewable fuels and is verified in accordance with NYSEERDA requirements.

### Eligible Attributes

RPS Attributes are generated at the rate of one RPS Attribute per MWh of electricity. Sellers of RPS Attributes must designate a percentage of their output that is used to calculate RPS Attributes, ranging from 30% to 95% of the electricity generated by the eligible facility. Facilities participating in the NYSEERDA program may not participate in other renewable incentive programs, including the Regional Greenhouse Gas Initiative or other states’ renewable

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energy credit programs, using the same electricity or RPS Attributes that are sold to NYSEDA. Also, facilities receiving certain kinds of state funding or assistance will not be eligible. In general, the program permits Sellers to keep the benefits of tax credits, such as the production tax credit. Facilities outside of New York may participate in the program, but only those RPS Attributes generated in connection with electricity delivered into New York will be eligible.

## Procedure for Bidding

Bidding sellers of RPA Attributes will need to be pre-qualified to participate in the competitive bidding process. Pre-qualification submissions are due February 10, 2011, and include basic information required to determine the eligibility of the project and the RPS Attributes associated with it. The second phase is the competitive bidding phase for which a complete application is required to be submitted by March 16, 2011. The complete bid application will be required to include information on the jobs created in New York, economic contributions in New York through payments or purchases and a bid price. The competitively bid proposals will be evaluated 70% on the basis of the price bid and 30% on the basis of other economic contributions in New York. A deposit of up to \$50,000 is required in connection with the pre-qualification application (returnable if the project or applicant does not qualify), and a deposit totaling up to \$12 per MWh of RPS Attributes is payable in increments in connection with the competitive bid application and review. Successful bidders will be required to enter into standard form agreements for the sale of RPS Attributes for fixed 10-year terms. Projects subject to contracts with NYSEDA from previous solicitations may be eligible to extend their contracts if the original commitment was for a period of less than 10 years.