

# Consumer Power Advocates

Continuum Health Partners  
Fordham University  
Luthin Associates, Inc.  
Memorial Sloan Kettering Cancer Center

Montefiore Medical Center  
Mount Sinai Medical Center  
New York University  
NYU Hospitals Center

Via e-mail: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

February 24, 2012

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

Re: Case 11-E-0706: Petition of Boralex for Modification of its RPS  
Maintenance Tier Contract

Dear Ms. Brillling,

Consumer Power Advocates (CPA) offers these comments in opposition to the petition of Boralex New York, LLC (Boralex) for modification of its RPS maintenance tier contract. CPA is an association of large, non-profit universities and medical institutions that collectively employ over 115,000 people with over \$13 billion in annual operating expenditures, whose primary goal is to decrease the cost of energy to consumers through regulatory intervention, advocacy before governmental officials, and the development of energy efficiency, economic development, and other programs and initiatives targeted to large energy consumers in New York City. Eight of CPA's recent member hospitals are among the 15 largest regional health organizations, including five of the six biggest, and seven are among New York City's 18 largest employers. Member organizations include Continuum Health Partners, Fordham University, Memorial Sloan Kettering Cancer Center, NYU Medical Centers, Mount Sinai Medical Center, Montefiore Medical Center, and New York University. All of our members take electric service from Con Edison.

In its petition, Boralex states it operates an 18 MW biomass generating plant under RPS contract that provides a subsidy of \$15 per MWh for up to 128,000 MWh under a NYSERDA contract. Boralex would have the Commission more than double this subsidy to \$35 for up to 140,000 MWh. This amounts to an additional subsidy of \$3 million.

The Boralex petition should be denied. The purpose of the maintenance tier subsidies was to prevent the loss of renewable resources that were in place and operating prior to the development of RPS.

While that is a worthwhile program to support RPS goals, it should not be construed to be blank check to guarantee continued profits for inefficient and/or uneconomic operations. Changes to existing contracts should be considered only when those changes are essential to meeting the State's renewable resource goals.

Boralex has made no claim that its failure to continue operations will prevent achievement of those goals. It has not even asserted that this added subsidy is the least costly way to provide renewable energy. Under these circumstances, regulatory intervention to prevent the failure of Boralex is an unjustified interference in the market, preventing more efficient resource operators from entering the market.

Moreover, Boralex has requested that the Commission keep its financial information confidential. Without that information, it is impossible for the public to judge whether this requested increase in subsidy is justified at all. It is surely not good public policy to make at ratepayers' expense a decision to provide substantial relief to a single private party, without disclosing the full basis of that decision.

Thank you for the opportunity to comment on this important issue.

Very truly yours,

*Catherine M. Luthin*

Executive Director