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October 21, 2003

Luly E. Massaro
Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

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In re: Rhode Island Resource Recovery Corporation

Dear Luly:

Enclosed for filing with the Commission is a Petition for Declaratory Judgment being filed on behalf of Rhode Island Resource Recovery Corporation.

For your information, I have provided courtesy copies to Richard Beretta and Craig Eaton who represent Florida Light and Power, Paul Roberti at the Attorney General's Office, and Terry Schwennesen at Narragansett Electric.

Pursuant to Rule 1.5(b), we have included the original and nine copies of the petition.

Should you have any questions or comments regarding this matter, please do not hesitate to contact us.

Sincerely,



W. MARK RUSSO

WMR/was
Enclosure

cc: Sherry Mulhearn, Executive Director and General Counsel (w/encl.)

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

In re: Rhode Island Resource Recovery Corporation

Docket No. _____

PETITION FOR DECLARATORY JUDGMENT
PURSUANT TO RULE 1.10(c)

I. Petitioner's Grounds of Interest and Factual Allegations

1. Petitioner, Rhode Island Resource Recovery Corporation (the "Corporation") is a corporation organized under R.I. Gen. Laws § 23-19-1 *et seq.*

2. The Rhode Island General Assembly has mandated as a public purpose that the Corporation develop an industrial park (the "Industrial Park") on lands owned by the Corporation located south of Central Pike, west of Old Pocasset Road, to the intersection of Old Pocasset Road and Scituate Avenue, then west to Route 295, bounded to the south by the northern shore (mean high waterline) of the upper Simmons Reservoir and the lower Simmons Reservoir and east to Greenhill Road.

3. The General Assembly has further mandated as a public purpose that the Industrial Park have direct highway access to Route 295, the construction of which has been substantially completed.

4. On or about June 23, 1998, the Corporation and Reliant Energy Hope, L.P., f/k/a RI Hope Energy, L.P. (the "Generator") entered into an Option and Purchase and Sales Agreement, as amended on or about July 13, 1998, and as further amended on or about June 1, 1999 (the "Agreement").

5. The Agreement served as the basis for the Rhode Island Energy Facility Siting Board the ("Board") licensure of a 500MW, combined-cycle, gas-fired power plant (the

"Project") on land within the boundaries of the legislatively mandated Industrial Park. The Agreement was presented to the Board and to the Commission. The Commission, in turn, provided an affirmative advisory opinion to the Board in support of said licensure.

6. The Agreement provides as follows:

- i. The Generator shall arrange with a third-party to contract with Industrial Park tenants to provide, in the aggregate, up to 12MW of total power supplied at a cost structure discount;
- ii. The Industrial Park tenants and/or the Corporation would be allowed to void distribution and/or structure cost recovery (transmission charges) by direct electrical connection to the Project;
- iii. The Generator would provide Industrial Park tenants up to a maximum aggregate load of 40MW to connect the Generator's switchyard in order to obtain transmission level service.
- iv. The Generator shall make surplus steam from the Project, if any, available to Industrial Park tenants; and
- v. The Generator shall provide up to 500 man hours of in-time consulting service, supporting engineering, design, and construction of a central heating/chilled water plant to be owned, constructed and financed by the Corporation for the Industrial Park tenants.

7. The Generator's obligations were subsequently assumed by FLP Energy which is currently operating the Project.

II. Request for Relief

8. The Corporation seeks a declaration pursuant to R.I. Gen. Laws §§ 39-1-2 and 39-1-2(20)(ii), that connection to the Project for the purpose of producing and delivering electricity to end-users within the Industrial Park in accord with the Agreement, as approved and incorporated into the licensure of the Project, is exempted from the definition of "Public Utility", "Electric Distribution Company", "Distribution Facility" and/or "Non-Regulated Power Producer", thus, enabling the consumption of said electricity without the requirement that the Corporation and/or the Industrial Park tenants pay any distribution and/or stranded cost recovery charges or any form of so-called exit or transition fees.

Respectfully submitted,

Rhode Island Resource Recovery Corporation,

By Its Attorney,



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Date: October 20, 2003

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the within was mailed to the following on this 21st day of October, 2003.

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