

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



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October 21, 2005

Luly E. Massaro, Commission Clerk  
Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, R.I. 02888.

Re: Docket 3659, Proposed Regulations Governing the Implementation of a Renewable Energy Standard (RES) - Comments of the State Energy Office

Dear Ms. Massaro:

This letter contains the comments of the Rhode Island State Energy Office on the proposed regulations issued by the Commission on September 23, 2005. The State Energy Office (SEO), through its consultant Robert Grace of Sustainable Energy Advantage, LLC, participated in the Commission's negotiated rulemaking, and offered oral comments at the Commission's October 12, 2005 hearing. The SEO has a unique role in this proceeding, as administrator of the system benefit charge, and because of its statutory requirement to collaborate with the Commission in "maximizing the combined impact and efficiency of the SBC and the renewable energy standard." In implementing this requirement, the SEO has defined goals with respect to its RES program area to facilitate the meeting of RES targets while balancing the objectives of minimizing cost to Rhode Island ratepayers and maximizing benefits to those ratepayers. The SEO has appreciated the opportunity to contribute to this process.

We commend the Commission for initiating a unique and uniquely successful process for developing the draft regulations, as well as respecting the process by adopting nearly all of the negotiated rulemaking participant's recommendations. The purposes of these written comments are to summarize some of the points made in oral comments, respond to oral comments made by another party, and remind the Commission of a critical request made by the participants in the negotiated rulemaking which falls outside the scope of the regulations themselves. In addition, as promised in our oral comments, we

also clarify mischaracterizations of the SEO's analysis detailed in National Grid's written comments of October 11; provide illustrations of the Net Present Value approach to evaluating the relative financial attractiveness to ratepayers of short-term and long-term contract offers; and provide recommended modifications to the draft regulations to (a) distinguish certification details applicable to existing and new renewable energy resources, and (b) prevent subversion of the statutory intent regarding incremental upgrades to generation units.

**Summary of Oral Comments:**

Two changes from the draft submitted by the negotiated rulemaking participants merit comment.

- We do not find the addition of a ***requirement to itemize compliance costs on customer bills*** to be advisable for several reasons. First, it adds unwarranted complexity and is likely to be confusing to customers. Second, since RES compliance is a generation service cost, not a T&D cost, NPPs will not be breaking RPS compliance costs out as a separate line item, but rather will bundle RES compliance into the generation service price. As a result, it would serve to both unlevel the playing field between competitive supply and regulated alternatives, and further confuse customers comparing these alternatives. But perhaps most importantly, we find it *misleading*: to show direct monetary costs without benefits. It is well-accepted and documented that increasing the proportion of renewable energy in the regional mix will lower both electricity and gas prices for all electricity and gas consumed. This "price suppression" effect will be felt by all customers, but to show only the cost without the benefit is surely misleading. Many studies suggest price suppression effects offset much, if not all, of the direct RPS costs (e.g. cost of RECs). With today's elevated natural gas prices, it is now looking far more likely that such price suppression benefits will exceed direct costs. While we are sure it was not the Commission's intent in suggesting this change, it seems the only possible result of showing gross RES cost rather than net RES cost is to foment unwarranted customer displeasure with the RES based on misleading information.

Unfortunately, there are also practical impediments. For example, as noted by National Grid in their written comments, energy and RECs purchased bundled may actually lower energy prices and stabilize/hedge against volatility. Further, in the event of such a bundled purchase, splitting out the direct RES cost would be arbitrary. Even in the near term, as the direct cost may be calculable while National Grid purchases RECs on top of distinct Standard Offer supply, it is not feasible to show the true net costs. To do so with sufficient accuracy requires the ability to ascertain *what would have been*, if not for the RES.

- In the draft regulations, the Commission inserted modest changes to Section 8 suggesting a ***requirement for long-term contracts as part of a portfolio***. The SEO believes a good process has been crafted through negotiation, whereby information on both short and long-term contract costs will be solicited and available to National Grid and the Commission as part of the procurement process. With this information in hand, National Grid and the Commission collectively will be armed to make wise procurement decisions on behalf of ratepayers. Only with this data can one know the tradeoffs, the potential savings foregone or secured, among alternative supply options.

We believe fears expressed by some stakeholder of new “stranded costs” are vastly overstated. As we noted in oral comments, future REC prices are uncertain, and REC market prices will fluctuate year to year based on supply and demand, dropping quite low on a temporary basis if supply ever exceeds demand. However, new renewable energy generators will simply not be built if the prices of RES-eligible RECs over any extended period do not provide sufficient revenue to attract capital. In a RES market environment in which demand is constantly increasing each year through 2019, there is no reason to expect sustained REC prices at or near zero. Banking provisions will cause surplus RECs to be valued towards future compliance, providing a floor to prices well in excess of zero. One can be highly confident that there is a long-term average REC price below which is not sustainable. A conservative estimate of such minimum long-term sustainable REC prices would be proper to consider in evaluating the net present value cost to customers under short-term and long-term contracting alternatives.

While it is up to the Commission to decide whether such commitments are compatible with the market structure, the SEO believes it seems wise to consider long-term contracts, and to make prudent decisions based upon available data and conservative assumptions. The process agreed to by National Grid through the negotiated rulemaking discussions provides such information. Even so, there may be prices at which long-term contracts do and don’t make sense. Therefore the SEO *would not oppose* a requirement that long-term contracts be considered in procurement plan, but would not insist that long-term contracts be required. The SEO believes that the Commission should require as part of procurement plan that choices among offers of various terms reflect a net present value (NPV) analysis over a comparable time horizon and quantity of RECs procured. Such analysis should consider, at a minimum, a conservative but realistic floor price below which it is unlikely REC prices could be sustained, rather than the assumption that REC prices could drop to at or near zero for any sustained period. In attachment 1, we provide some hypothetical examples of such calculations, from a presentation by Mr. Grace during the RES negotiated rulemaking.

Finally, we acknowledge that there is undoubtedly some risk associated with entering long-term contracts. As a result, the SEO is currently considering establishing a program that would create complementary incentives to partially offset those risks for parties to enter into long-term contracts with new renewable energy resources as a result of the National Grid RES procurements.

**Responding to Oral Comments of James Grasso of Silent Sherpa:**

Mr. Grasso made a number of points in his oral comments to the Commission with which the SEO must disagree.

- We do not believe the report from the negotiated rulemaking participants was biased by who funded the services of the facilitator. Facilitation services were funded by both the Renewable Energy Fund and the Commission. We believe these services were very effective at helping the participants identify consensus wherever possible, and were critical in helping the negotiated rulemaking participants meet the Commission's deadlines. The Fund has engaged the same facilitator in the past, and several parties involved in both the Fund's Advisory Board and the negotiated rulemaking concurred that he was an independent and objective facilitator and a proper choice for this effort. The decision by the Fund to foot the lion's share of the facilitation cost was at the recommendation of the Renewable Energy Fund's Advisory Group,<sup>1</sup> which does not include a single generator, undermining Mr. Grasso's claim of generator bias.
- The negotiated rulemaking process, facilitation and final report were respectful of the opinions of each party, designed to reflected consensus where possible (not majority dominance as suggested by Mr. Grasso), and any and all dissent was faithfully reflected in the report to the Commission. Mr. Grasso's points of contention can be traced back to his insistence that the negotiated rulemaking participants incorporate regulations on topics beyond the scope of their mission, i.e. items that required statutory change.
- The negotiated rulemaking included participants from six organizations dedicated to reducing RES compliance costs (the SEO, Attorney General, the Division, TEC-RI, Silent Sherpa and People's Power & Light), and six organizations representing generators (UPC, Cape Wind, Spinblade Energy, PSNH, Ridgewood, FPL). This is hardly the gross imbalance in perspectives suggested by Mr. Grasso.
- We cannot concur with Mr. Grasso's assessment of the renewable energy marketplaces in New England. We do not believe that the RES market,

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<sup>1</sup> The Fund's voting members consists of Brown University, Conservation Law Foundation (or Coalition of Consumer Justice), Environmental Council of Rhode Island, the Energy Council of Rhode Island, Narragansett Electric Company, Pascoag Utility District, the Department of Environmental Management, Division of Public Utilities, Rhode Island League of Cities and Towns, the Rhode Island Office of Attorney General, the Public Utilities Commission, the State Energy Office, the Rhode Island Statewide Planning Program, and the University of Rhode Island. Not all of these members participate actively on a regular basis.

with RES targets for new renewables growing at an average rate of over 100% per year (e.g. 1% in 2007 to 14% in 2019), will act exactly like a commodity energy market fundamentally in supply-demand equilibrium. The RES market is entirely dependent upon project financing, as all increases in the RES targets must come from generation not producing today. In contrast, the spot energy markets have no dependency whatsoever on project financing, as supply comes from existing sources in the market. Finance is an absolutely critical piece to the RES, and Silent Sherpa's rationale against long-term contracts ignores the fundamental connection of long-term contracts by credit-worthy parties and finance of new, capital-intensive construction.

- Finally, we cannot concur with Mr. Grasso's conclusions regarding renewable resource availability, which conflicts with all available data. For example, he states that we are "in an area where there isn't very much wind... there are very few pockets that you can produce wind that can produce efficiencies on the turbines (transcript at pg. 54)." In fact, New England has a very substantial wind resource, with potential to meet renewable energy mandates many times over. A recent study performed for the Regional Greenhouse Gas Initiative's modeling group, which heavily discounts National Renewable Energy Laboratory data based on aggressive land use exclusions, concluded that New England possesses on-shore wind resources conservatively estimated to exceed 5400 MW. The same study identifies a similarly large developable potential for biomass and off-shore wind generation. Whether renewable generation actually developed keeps up with demand is not a matter of whether there is resource potential in the area – there is ample potential -- but the pace and degree to which projects get permitted.

**Language Requested for Inclusion on the Commission's Order:**

We remind the Commission of the importance of incorporating in its final RES order the following consensus language, requested in the Negotiated Rulemaking Final Report's cover letter: *"In the event a cap and trade or similar air emissions program is newly created in which tradable emission rights are created and (are or could be) allocated to eligible renewable energy resources, RI Department of Environmental Management (DEM) or the Commission may request that the Commission and DEM hold a joint technical conference on the program, to ensure that the combined approaches and regulations of the DEM, Commission and any regional program will produce the desired results consistent with promulgated Rhode Island legislation and underlying policy."*

**National Grid Mischaracterized Mr. Grace's Analysis in Their Written Comments:**

In National Grid's written comments at page 3, in arguing that long-term contracts give rise to stranded costs, National Grid mischaracterized an analysis by Mr. Grace, on behalf of the SEO. National Grid implied that

because “Robert Grace presented an analysis that used \$15.00 megawatt-hour (or \$0.015 per kilowatt-hour)...as a price floor for Renewable Energy Certificates when supply exceeds the legally mandated demand”, any long-term contract in excess of such a price would result in stranded costs. However, the analysis referenced actually drew the opposite conclusion: even if prices dropped and stayed as a very low level, it would not be prudent to forego a long-term contract at prices whose NPV basis were lower than that of paying elevated short-term prices for even a few years followed by conservatively low market REC prices thereafter. The market floor price of \$0.015 per kWh used in this analysis was intended to be a very conservatively low figure, lower than any ever suggested by any analysis of the RI or New England renewable energy markets. Even using such low numbers, the analysis concluded that long-term contracts at prices likely to be available in the market may well be preferable from a ratepayer perspective. Only if market prices stayed below this conservative market price floor on a sustained basis would such a contract ever cost ratepayers more than the alternative. In Attachment 1, we present Mr. Grace’s analysis for clarification.

In addition, we also wanted to dispense with the validity of National Grid’s other example of why “long-term contracts give rise to stranded costs”. In referring to prices in its GreenUp program, National Grid argues that retail suppliers are selling below the level of \$0.015 per kWh to buttress the argument that purchasing RECs above this price would result in stranded costs. However, comparing the GreenUp prices to RES REC prices is not a valid comparison for two reasons. First, the prices of GreenUp products reflect product blends dominated by plentiful and inexpensive RECs from existing renewable energy sources, along with RECs from new renewables akin to those eligible for the RI RES whose cost to GreenUp suppliers is far higher. This is like buying 3 pounds of caviar and 7 pounds of pasta at the grocery and then applying the average cost of your bag of groceries to the caviar. Second, the Renewable Energy Fund provides substantial financial incentives to GreenUp marketers which make the retail price of the GreenUp offerings not comparable to the wholesale cost of a REC for RES procurement.

**Net Present Value Analysis Should Determine Contracts Most Likely to Minimize Ratepayer Cost:**

Hand-waving arguments of stranded costs deprive consideration of benefits of long-term contracting when the price is right. It is far more preferable to consider the merits of actual prices under the best assumptions available in considering what is best for ratepayers. A net present value analysis over comparable terms and volumes is a time-tested analytical approach. The key assumptions in making such comparisons include the assumptions of what prices would be faced in the latter years of the short-term contracting scenario, and the discount rate selected to make the comparison of costs over time. Attachment 1 provides sample calculations with what we believe to be

representative numbers, for the Commission's consideration.

**Suggested Modifications to Certification Language:**

As noted in Mr. Grace's oral comments, some stakeholders have identified a possible oversight by negotiated rulemaking participants with respect to the draft certification language of Section 6. This language does not distinguish between new and existing renewable energy resources. We offer some modest edits, adapted based on feedback received on a draft circulated to parties prior to the Commission's October 12 hearing, in Attachment 2.

**Suggested Modifications to Definition of New Renewable Energy Resources:**

Finally, we offer some modest edits to paragraph 3.22 subparagraphs (v) and (vi) to address some of the concerns raised by other stakeholders, including Ridgewood Power. We feel these are necessary to comply with the statutory intent while closing off potential opportunities for gaming to subvert that intent. The suggested edits are included as Attachment 3.

**Conclusion:**

We thank the Commission for the opportunity to participate in the process of developing RES regulations, and for consideration of these comments in crafting final regulations.

Yours Truly,

A handwritten signature in black ink that reads "Janice McClanaghan". The signature is written in a cursive, flowing style.

Janice McClanaghan  
Chief of Energy & Community  
Services, State Energy Office

cc: Docket 3659 Service List

**Attachment 1:**

Extracts from a presentation made to the negotiated rulemaking participants by Robert Grace on behalf of the SEO, May 13, 2005. These slides detail the NPV approach to determining the relative attractiveness of short-term and long-term contracts based on ratepayer NPV impact, with examples.



## R.I. Renewable Energy Fund Perspectives and Goals for the Success of the Renewable Energy Standard

Bob Grace, Sustainable Energy Advantage, LLC  
on behalf of the Rhode Island Renewable Energy Fund,  
Administered by the State Energy Office

RI RES Negotiating Committee  
May 13, 2005

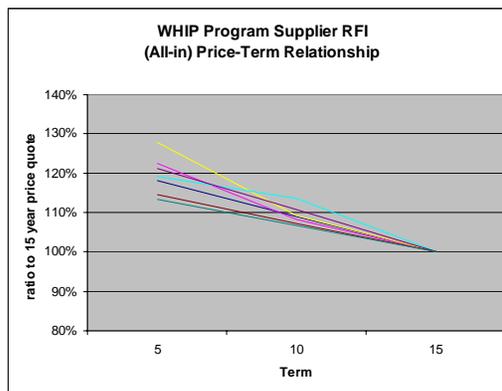


### What is Possible? Observations on Renewable Energy Contract Pricing:

**Price-Term Relationship**

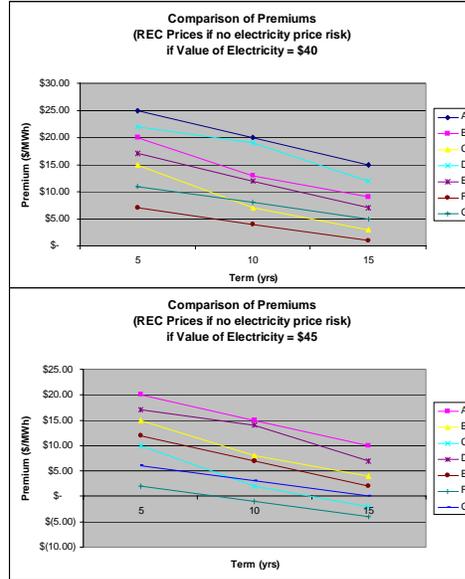
- Key Point: longer Term = better price when getting new RE financed is at stake

Data Source: Based on real data, NY wind projects (from NYSERDA WHIP RFI indicative prices, 2004) representing purchasing both energy+RECs at fixed price, or financial equivalent (REC PD-CFD)



## Price-term Relationship & the Incredible Shrinking Premium

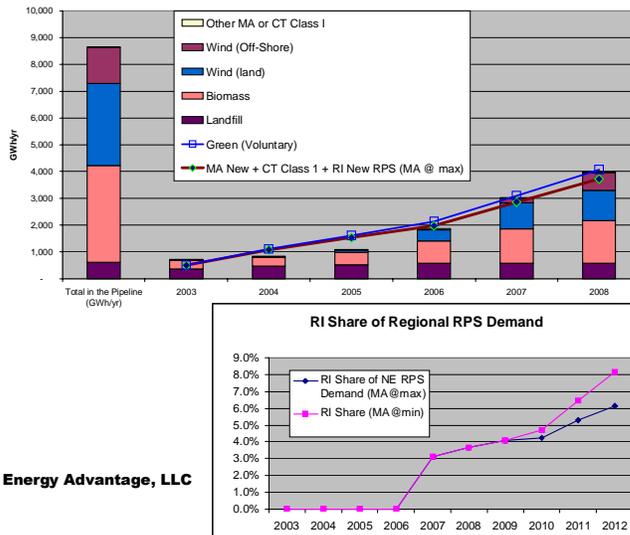
- **Premium versus all-in cost**
  - Key Point: there is leverage when you focus on just the premium
    - Observation: at \$40 market value of electricity, tripling the term cuts unit price by more than 1/3 for at least some plants, before considering the time value of \$
    - Observation: at \$45 market value of electricity, benefits are even more dramatic



## What is likely? Observations on the Regional REC Market

### New Renewable Energy in New England Probability Derated Projections

- Those in the spot market at times of shortage pay ~ ACP
- RI Share of regional demand is small
- Even if region as a whole is short, it doesn't mean RI has to be short
- There is enough supply that RI need not be short (even if MA, CT are short)



Source: Sustainable Energy Advantage, LLC  
Feb 2005 analysis

## What is "Prudent"?

### Conceptual Approach: Price

- Principle: *There exists a LT contract price with NPV less than alternative that would clearly be imprudent to pass up*
  - Depends on alternative, e.g. the procurement plan in the absence of LT contracting (e.g. 3 yrs short-term contracting in shortage market at or near ACP)
- How to determine this price?
  - Compare vs. hypothetical LT commitment
  - To compare, must assume REC cost for remainder of comparable term
    - What is the floor value? It is not zero... the statute ensures that "downside" is delay in rate of increase...
    - Consider a price below which the probability is extremely low that prices will not be maintained below this floor... e.g. \$15/MWh
      - Conservative assumption: there have been no studies suggesting prices will be maintained below this level
  - Assume a discount rate
    - What is appropriate? Neco wtd avg cost of capital? Consumer opportunity cost? (credit card interest rates? Savings account interest?)
    - Assumed 10%; sensitivities show not highly sensitive to rate chosen

### Example:

10 Year Term, \$15 REC Price floor, 10% discount rate

Year	ACP for 1 year, Price Equivalent Floor Thereafter		ACP for 2 years, Price Equivalent Floor Thereafter		ACP for 3 years, Price Equivalent Floor Thereafter		Projected ACP
	REC Price \$/MWh	REC Price \$/MWh	REC Price \$/MWh	REC Price \$/MWh	REC Price \$/MWh	REC Price \$/MWh	
1 2006	\$54.22	<b>\$20.80</b>	\$54.22	<b>\$26.22</b>	\$54.22	<b>\$30.87</b>	\$54.22
2 2007	\$ 15.00	\$20.80	\$54.22	\$26.22	\$54.22	\$30.87	\$55.24
3 2008	\$ 15.00	\$20.80	\$ 15.00	\$26.22	\$54.22	\$30.87	\$56.27
4 2009	\$ 15.00	\$20.80	\$ 15.00	\$26.22	\$ 15.00	\$30.87	\$57.29
5 2010	\$ 15.00	\$20.80	\$ 15.00	\$26.22	\$ 15.00	\$30.87	\$58.32
6 2011	\$ 15.00	\$20.80	\$ 15.00	\$26.22	\$ 15.00	\$30.87	\$59.34
7 2012	\$ 15.00	\$20.80	\$ 15.00	\$26.22	\$ 15.00	\$30.87	\$60.37
8 2013	\$ 15.00	\$20.80	\$ 15.00	\$26.22	\$ 15.00	\$30.87	\$61.39
9 2014	\$ 15.00	\$20.80	\$ 15.00	\$26.22	\$ 15.00	\$30.87	\$62.42
10 2015	\$ 15.00	\$20.80	\$ 15.00	\$26.22	\$ 15.00	\$30.87	\$63.44
11 2016							\$64.47
12 2017							\$65.49
13 2018							\$66.52
14 2019							\$67.54
15 2020							\$68.57
NPV	\$127.82	\$127.82	\$160.24	\$161.08	\$189.70	\$189.70	\$453.54



### Example:

15 Year Term, \$15 REC Price floor, 10% discount rate

Year	ACP for 1 year, Price Floor Thereafter		ACP for 2 years, Price Floor Thereafter		ACP for 3 years, Price Floor Thereafter		Projected ACP
	REC Price \$/MWh	Equivalent LT Contract \$/MWh	REC Price \$/MWh	Equivalent LT Contract \$/MWh	REC Price \$/MWh	Equivalent LT Contract \$/MWh	
1 2006	\$54.22	<b>\$19.69</b>	\$54.22	<b>\$23.95</b>	\$54.22	<b>\$27.82</b>	\$54.22
2 2007	\$ 15.00	\$19.69	\$54.22	\$23.95	\$54.22	\$27.82	\$55.24
3 2008	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$54.22	\$27.82	\$56.27
4 2009	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$57.29
5 2010	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$58.32
6 2011	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$59.34
7 2012	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$60.37
8 2013	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$61.39
9 2014	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$62.42
10 2015	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$63.44
11 2016	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$64.47
12 2017	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$65.49
13 2018	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$66.52
14 2019	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$67.54
15 2020	\$ 15.00	\$19.69	\$ 15.00	\$23.95	\$ 15.00	\$27.82	\$68.57
NPV	\$149.75	\$149.75	\$182.16	\$182.16	\$211.63	\$211.63	\$453.54



## What is Prudent?

- Would it ever be prudent to turn away a long-term contract that is superior on an NPV basis to the alternative?
  - Worst case, if contract must be sold, ratepayers still benefit
- What is the right term?
  - if NPV breakeven defines the prudence threshold, this approach could be applied independent of term
- What is right volume (for NECo)?
  - 1. Consider rate of attrition from NECo services
  - 2. Consider rate of increase of RES targets
  - Experience suggests #2>#1
  - Result: If commit to LT contracts for the current level of residential + small commercial load
    - Even at a sustained migration rate of 20%/yr (there is no precedent in any comparable market at or near this level)

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Load	1,000	800	640	512	410	328	262	210	168	134
Annual Migration Rate		20%	20%	20%	20%	20%	20%	20%	20%	20%
RPS Target (new)	1.00%	1.50%	2.00%	2.50%	3.50%	4.50%	5.50%	6.50%	8.00%	9.50%
REC Appetite	10	12	13	13	14	15	14	14	13	13

**Attachment 2:  
Changes required addressing certification of New vs. Existing Renewable Energy Resources**

- Different forms would need to be developed for New and Existing Renewable Energy Resources
- **Highlighted** text indicates additions to language in the most recent draft regulations

**1.0: Certification**

1.1 The Commission will certify **New and Existing** Eligible Renewable Energy Resources by issuing statements of qualification within ninety (90) days of application.

- (i) Applicants for certification of **Existing and New** Renewable Energy Resources and those requesting a Declaratory Judgment under Section 6.2 of these rules must use the **applicable** standardized application form for certification developed by the Commission for such purpose entitled **New Renewable Energy Resources Eligibility Form, or Existing Renewable Energy Resources Eligibility Form**, posted on the Commission’s web site. If a Generation Unit has been certified in another state, then the applicant must attach that state’s order to its certification application. Applicants proposing the use of a biomass fuel must include with the application a biomass fuel source plan, as described in Section 6.9. All filings must be in conformance with the Commission’s Rules of Practice and Procedure, in particular Rule 1.5, or its successor regulation, entitled “Formal Requirements as to Filings”.
- (ii) The Commission Clerk will keep a list of interested parties who wish to be notified when an application for certification is filed or a Declaratory Judgment is requested under Section 6.2 of these rules. Such list will include the Division of Public Utilities and Carriers. In addition to filing with the Commission applicants are required to send, either electronically or in paper copy, a copy of the completed application form to the interested parties including any attachments. The Commission Clerk will post all completed Renewable Energy Resources Eligibility forms, including all attachments to the Commission website.
- (iii) Any party in interest may comment on such filings to the Commission in writing within 30 days. Following the 30-day comment period, the Commission will consider an application for certification or request for Declaratory Judgment in an open meeting. The Commission may approve the application or

request at that time, or set the matter for hearing following not less than 10-day notice.

- (iv) The Commission's statement of qualification will include a unique certification number for each Generation Unit, and will designate whether the facility is qualified to as a New Renewable Energy Resource, an Existing Renewable Energy Resource, or a resource capable of producing as both a New and Existing Renewable Energy Resource. For any Generation Unit qualified as capable of producing as both a New and Existing Renewable Energy Resource, and therefore able to produce "new" and "existing" NEPOOL GIS Certificates, the Commission will issue two statements of qualification, one as a New Renewable Energy Resource, and one as an Existing Renewable Energy Resource. For such Generation Units with both New and Existing Renewable Energy Resource statements of qualification, each statement of qualification shall clearly delineate all information necessary for the NEPOOL GIS administrator to properly allocate the Generation Unit's production among New and Existing Renewable Energy Resources, consistent with paragraph 3.22 of these regulations.

**Attachment 3:**

Proposed edits to Paragraph 3.22, New Renewable Energy Resources definition, subsections (v) and (vi):

(v) for an Existing Renewable Energy Resource other than an Intermittent Resource, the incremental output in any Compliance Year over 110% of the Historical Generation Baseline, provided that such Existing Renewable Energy Resource using Eligible Renewable Energy Resources was certified by the Commission pursuant to Section 6 to have demonstrably completed capital investments after December 31, 1997 attributable to the efficiency improvements or additions of capacity that are ~~both~~-sufficient to, ~~and~~ were intended to, and demonstrated an increase annual electricity output in excess of ten percent (10%). The determination of incremental production for purposes of this paragraph shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity; or

(vi) for an Existing Renewable Energy Resource that is an Intermittent Resource, provided that such Existing Renewable Energy Resource using Eligible Renewable Energy Resources was certified by the Commission pursuant to Section 6 to have demonstrably completed capital investments after December 31, 1997 attributable to the efficiency improvements or additions of capacity that are ~~both~~-sufficient to, ~~and~~-were intended to, and have demonstrated on a normalized basis an increase annual electricity output in excess of ten percent (10%), the incremental production in any Compliance Year shall be determined as a percentage of production in each month. Such percentage shall be equal to the percentage of average annual production at the Generation Unit following the improvements or additions of capacity that is attributable to the efficiency improvements or additions of capacity placed in service after December 31, 1997 as determined by the Commission using the information consistent with that used to determine the Historical Generation Baseline for such facility. Such percentage shall be certified by the Commission. The determination of incremental production for purposes of this paragraph shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity. In no event shall any production that would have existed during the Historical Generation Baseline period in the absence of the efficiency improvements or additions to capacity be considered incremental production for purposes of this paragraph.