

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

IN RE: RULES AND REGULATIONS :
GOVERNING THE :
IMPLEMENTATION OF : **DOCKET NO. 3798**
A RENEWABLE ENERGY STANDARD:

REPORT ON FINAL RULES

I. Introduction

In 2004, a Renewable Energy Standard (“RES”) was enacted for the State of Rhode Island. The legislation, codified as R.I. Gen. Laws § 39-26-1 et seq., sets forth the parameters of such a standard designed to diversify energy sources, reduce carbon dioxide, and encourage the development of renewable energy resources. Pursuant to this law, Obligated Entities, which are defined as those persons or entities selling electrical energy to end-users in Rhode Island, shall obtain escalating percentages “of the electricity they sell at retail to Rhode Island end-use customers, adjusted for electric line losses, from eligible renewable energy resources.” R.I. Gen. Laws §39-26-4.

In January, 2005, the Commission initiated a docket to commence a Negotiated Rulemaking Process pursuant to its Rules of Practice and Procedure¹ to develop and adopt regulations for implementing a renewable energy standard as required by R.I. Gen. Laws § 39-26-6(a). After public comment and hearing, the Rules were promulgated and approved by the Commission on November 30, 2005 and filed with the Secretary of State’s Office on December 8, 2005 for effect January 1, 2006. Subsequent to the promulgation of these Rules, the New England Power Pool (“NEPOOL”) Generation Information System (“GIS”) Rules were changed requiring modification of the

¹ Rule 1.29 of the Commission’s Rules of Practice and Procedure provides for a process by which affected parties can participate in the development of rules.

Commission's rules to comply with those NEPOOL GIS changes which allowed verifiers to input generation data resulting in certificate creation. This method of input was initially desired by the Commission at the time its Rules were originally adopted but required change to the NEPOOL GIS Rules to allow this method.

II. Notice and Hearing

On January 9, 2007, in accordance with the Administrative Procedures Act ("APA"), R.I. Gen. Laws §42-35-1 *et seq.*, the Commission issued a Notice of Rulemaking and Public Hearing regarding the Rules and Regulations Governing the Implementation of a Renewable Energy Standard in order to bring the Rules into conformance with the recent changes to the NEPOOL GIS Rules. The notice identified specific sections of the Rules upon which the Commission was seeking comment, specifically sections 6.8(iii)(e) and 6.8(iii)(g).

The Commission conducted a Public Hearing on February 8, 2007. Fat Spaniel Technologies, National Grid and the Department of the Attorney General commented at the hearing, agreed that the clarification in the Rules proposed by the Commission better delineated the roles of aggregation owner and verifier and all supported the Commission's proposed changes. Three written comments were received from the Department of the Attorney General, Fat Spaniel Technologies and Conservation Services Group, Inc. Commissioner Holbrook recommended including definitions for aggregation owner and verifier, and the hearing was closed.

Subsequent to the hearing, the Commission developed definitions for aggregation owner and verifier. On April 3, 2007, a Supplemental Notice of Rulemaking and Hearing was issued, and a public hearing was scheduled for April 16, 2007. On April 16, 2007,

the Commission held a public hearing for the purpose of taking verbal comments from interested parties. Ken Jestings of the Portsmouth Abby School provided oral comment, and Laura Olton of National Grid provided oral and written comment.

The oral comments provided by Mr. Jestings concerned who he could hire as a verifier. National Grid provided two comments. The first comment requested that the language regarding verifiers' certification be mandatory in order to ensure that all verifiers are fully qualified and competent. The second comment requested that the language regarding entry of the generation data be rephrased for clarity. During the open meeting on June 14, 2007, the Commission discussed National Grid's comment requesting that certification of verifiers be mandatory. The Commission concluded that at the time the rules were initially drafted, it had made a decision to leave to the discretion of an aggregation owner whether or not to hire a certified or non-certified verifier. The Commission found no reason to change this language.

III. Administrative Procedures Act Requirements

The APA, R.I. Gen. Laws § 42-35-1 *et seq.*, governs the Rulemaking Process. It requires at least 30 days notice prior to the adoption of final rules and requires the Commission to provide opportunity for comments to be made during that 30-day period. R.I. Gen. Laws §42-35-3. The Commission must then file final rules with the Secretary of State's office within 30 days of finalizing the rules. R.I. Gen. Laws §42-35-4(a). The Rules become effective 20 days after filing with the Secretary of State, or on such date as indicated in the Rules. R.I. Gen. Laws §42-35-4(b). In this case, the Commission published notice of the Rules on January 9, 2007 and April 3, 2007. The Commission received written and oral comments from interested parties. Satisfied that the comments

reflect the legislative intent, the Commission reworded existing language to provide for a clearer reading. When Rules are promulgated under the APA, the Commission provides an Order Number only for administrative purposes. The Rules and Regulations Governing the Implementation of a Renewable Energy Standard were filed with the Secretary of State's Office on July 5, 2007 for effect July 25, 2007.

(19004)

EFFECTIVE AT WARWICK, RHODE ISLAND ON JULY 6, 2007 PURSUANT TO AN OPEN MEETING DECISION ON JUNE 14, 2007. FINAL RULES FILED WITH THE SECRETARY OF STATE'S OFFICE ON JULY 5, 2007. REPORT ISSUED ON JULY 6, 2007.

PUBLIC UTILITIES COMMISSION



Elia Germani

Elia Germani, Chairman

Robert B. Holbrook

Robert B. Holbrook, Commissioner

*Mary E. Bray, Commissioner

*Commissioner Bray concurs but is unavailable for signature.