Energy Management, Inc.

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

May 22, 2013

Re: Docket No. 3878; Petition of Seneca Energy II, LLC for Designation as an Eligible Renewable Energy Resource; Protest and Objection to Motion Requesting Exemption from Statutorily-Imposed Requirement.

Dear Ms. Massaro,

Energy Management, Inc. ("EMI") hereby files its Protest and Objection to the Motion for Waiver of Bilateral Contract ("Motion") filed by the Applicant on May 16, 2013, in the above-referenced docket, whereby the Applicant requests waiver of the statutorily-imposed requirement that external generators deliver energy under "a unit-specific bilateral contract." EMI is a company actively engaged in the development of renewable resources within the New England Power Pool ("NEPOOL") and was actively engaged in the legislative proceedings that led to the adoption of Rhode Island's statutory Renewable Energy Standard ("RES") at R.I.G.L. c. 39-26, as well as the administrative proceedings of the Commission leading to the promulgation of the Commission's RES regulations ("Regulations"). EMI protests and objects to the Motion as an impermissible request to disregard and violate the express terms of the controlling statute, R.I.G.L. 39-26-5(b)(1), which provides as follows:

> A generation unit located in an adjacent control area outside of the NEPOOL may qualify as an eligible renewable energy resource, but the associated generation attributes shall be applied to the renewable energy standard only to the extent that the energy produced by the generation unit is actually delivered into NEPOOL for consumption by New England customers. <u>The delivery of such energy from the generation unit into NEPOOL must be generated by: (1) A unit-specific bilateral contract for the sale and delivery of such energy into NEPOOL</u>.…

Thus, the Legislature has imposed the requirement of a bilateral contract as a statutorily-defined prerequisite to RES eligibility, such that any relief from such provision must be sought from the Legislature, and not the Commission, which is not authorized to disregard express statutory provisions. Further, the Motion is not appropriate under Rule 1.10(a)("<u>Petitions for Issuance, Amendment, Waiver, or Repeal of Rules</u>"), since the requested relief is not merely the waiver of a "rule" initiated by the Commission, but of an express statutory requirement. The Motion should thus be summarily denied.

Sincerely,

Dennis J. Duffy

Dennis J. Duffy, V.P.

CC: Service List

Certificate of Service

I hereby certify that the foregoing Protest and Objection was served on the service list for this docket on the 22nd day of May, 2013.

Dennis J. Duffy