State of Rhode Island and Providence Plantations

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Patrick C. Lynch, Attorney General

BY ELECTRONIC AND REGULAR MAIL

December 3, 2008

Ms. Luly Massaro
Clerk
Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Re: Tariff Advice Filing To Amend R.I.P.U.C. No. 2006, Qualifying Facilities Power Purchase Rate – PUC Docket No. 3999

Dear Ms. Massaro:

Please find attached for filing in the referenced docket an original and nine (9) copies of the Division of Public Utilities and Carriers' responses to the Public Utilities Commission's first set a data requests.

Sincerely,

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Encls

cc: Service List Docket No. 3999

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: TARIFF ADVICE FILING TO AMEND	)	
R.I.P.U.C. NO. 2006, QUALIFYING FACILITIES	)	**DOCKET NO. 3999**
POWER PURCHASE RATE	)	

RESPONSES OF THE DIVISION OF PUBLIC UTILITIES AND CARRIERS
TO THE PUBLIC UTILITIES COMMISSION'S
FIRST SET OF DATA REQUESTS

November 19, 2008

PUC 1-1. Does the Division have a proposal regarding the creation of the renewable energy low income fund? For example, should the account be set up with the Company as an interest bearing account similar to other reconciliation accounts, with an annual reporting to the Commission with a proposal for the distribution to customer accounts?

Response: Yes, the Division believes that an account should be set up with the Company as an interest bearing account similar to other reconciliation accounts, with an annual reporting to the Commission with a proposal for the distribution to customer accounts.

Prepared by: David Stearns

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: TARIFF ADVICE FILING TO AMEND	)	
R.I.P.U.C. NO. 2006, QUALIFYING FACILITIES	)	**DOCKET NO. 3999**
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RESPONSES OF THE DIVISION OF PUBLIC UTILITIES AND CARRIERS
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PUC 1-2. Regarding the calculation of the renewable generation credit, where a qualifying facility elects to apply the credits to more than one account, does the Division have an opinion regarding how the Company should calculate the credit if each account has a different distribution charge?

Response: The Division's opinion is:

The first credits available would be applied to the generator's primary account (the "primary account"), that is the account most directly associated with the qualifying facility. Anyremaining credits would be available to offset any other accounts serving that customer. The customer, at the time of contract negotiation or renegotiation with the distribution company, would determine the order in which such additional credits would be applied to the customer's other accounts. However, the credits would not be spread over other accounts until / unless a zero balance was reached on the account at each location(s). Credits would not be applied to more than one account at any time.

Prepared by: David Stearns

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: TARIFF ADVICE FILING TO AMEND R.I.P.U.C. NO. 2006, QUALIFYING FACILITIES POWER PURCHASE RATE	)))	**DOCKET NO. 3999**

RESPONSES OF THE DIVISION OF PUBLIC UTILITIES AND CARRIERS
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PUC 1-3. Referencing Sheets 5-6 of the redlined version and R.I. Gen. Laws § 39-26-6(g)(1), specifically, "For qualifying facilities which utilize solar or wind technology and (i) are 1.65 megawatts (MW) or less or (ii) are 2.25 MW or less and are developed but not owned by cities or towns, but are located on city or town owned land and provide power solely to the city or town that the project is located in, or (iii) are 3.5 MW or less and are owned by cities and towns of Rhode Island and the Narragansett Bay Commission....", what is the Division's position as to the applicable maximum where:

a. The city or town owns a portion of the project with a non-profit entity.
b. The city or town owns a portion of the project with a for-profit entity.

Response: The Division's position is that the intent of this section of the statute is to limit the size of the qualifying facilities. In other words, a project that qualifies under 6(g)(1)(ii) is limited to a maximum size of 2.25 MW regardless of how many municipalities and developers are participating in it, and a project that qualifies under 6(g)(1)(iii) is limited to a maximum size of 3.5 MW even if the city owns only a percentage of it. For example, let's say that Developer and City enter into an agreement whereby Developer will build what they intend as a qualifying facility in City on municipal land and providing energy solely to the City. Developer will own 50% of the facility and the City will own 50%. That should not allow the project to exceed the statutory limit in total because half of the project comes under (ii) and half under (iii). A project owned either entirely or partially by a city or town or the Narragansett Bay Authority would be subject to the 3.5 MW maximum. You cannot increase the allowable maximum size of the project by designing it to fit partially under two different criteria.

With respect to the impact of partial ownership of a qualifying facility on a municipality's (or the NBC) credit share, we believe their share of the credits will be limited proportionately to their share of the benefits. That is, if a town owns 45% of a qualifying facility built under section (iii) and 3.5 MW in size, it would be entitled to 45% of the credits generated by that facility.

Given the language of section (ii) ("provide power solely to the city or town that the project is located in"), any generating facilities that "are 2.25 MW or less and are developed but not owned by cities or towns" and do not provide all of their power to the municipality in which they are located cannot be designated a qualifying facility. Since they cannot be designated a qualifying facility, there will be no credits available to the municipality regardless of what proportion of the power generated (less than 100%) is provided to that municipality.

Prepared by: David Stearns