

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: THE NARRAGANSETT ELECTRIC :
COMPANY, d/b/a NATIONAL GRID : DOCKET NO. 4012
RENEWABLE ENERGY STANDARD :

REPORT AND ORDER

I. Introduction

On June 29, 2004, the General Assembly, with the Governor's signature, enacted a Renewable Energy Standard (RES) 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. Under the RES legislation, beginning in compliance year 2007, Obligated Entities, 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." Obligated entities can fulfill their obligations through the purchase of renewable energy certificates ("RECs") or through the payment of an Alternative Compliance Payment ("ACP") which escalates with inflation. The ACP for the 2008 compliance year is \$58.58/MWh and for 2009 will be \$60.92/MWh. Any ACPs are made to the Rhode Island Renewable Energy Development Fund administered by the Economic Development Corporation.

R.I. Gen. Laws § 39-26-6(a) required the Public Utilities Commission ("Commission") to "[d]evelop and adopt regulations on or before December 31, 2005 for implementing a renewable energy standard..." within certain parameters. This was completed on December 8, 2005. In accordance with Section 8.2 of the Commission's

Rules and Regulations Governing the Implementation of a Renewable Energy Standard and Order No. 19801, on November 14, 2008, Narragansett Electric Company, d/b/a National Grid (NGrid) filed with the Commission its RES Procurement Plan for the period commencing January 1, 2009.

In addition to procuring renewable energy supply, R.I. Gen Laws § 39-26-6(b) requires the Commission to “authorize rate recovery by electric utility distribution companies of all prudent incremental costs arising from the implementation of...” the RES. Accordingly, on November 14, 2008, NGrid also filed its proposed RES Charge for usage on and after January 1, 2009.

II. Travel

A. National Grid’s Proposed Plan and RES Charge

NGrid filed the direct testimony of John D. Warshaw, Principal Analyst in Regulated Electric Load and Distribution Generation – New England for National Grid USA Service Company, Inc. In his testimony, Mr. Warshaw outlined the proposed RES Procurement Plan, explaining the results of NGrid’s RES procurements during 2008, the proposed RES charge for 2009, NGrid’s estimated RES obligation for 2009, its Proposed Procurement Schedule in 2009, and the Evaluation Criteria, Risks and Mitigation, and Resource Monitoring, Performance and Review of Procurement Process.¹ Mr. Warshaw noted that in 2007, the Commission approved NGrid’s first Renewable Energy Procurement Plan which “provided for the procurement of a portion of NGrid’s 2007, 2008 and 2009 RES obligations through a series of competitive procurements...”² Mr.

¹ National Grid Exhibit 1 (Prefiled Testimony of John D. Warshaw), pp.4-14.

² Id. at 4.

Warshaw noted that NGrid is not proposing to procure any RES obligations for the period beyond 2009 in this filing.³

Mr. Warshaw indicated that NGrid requested Last Resort Service (“LRS”) bidders to provide a price which included RES obligations in its two LRS solicitations. However, because the price provided by the winning suppliers was higher than NGrid’s estimate of the market price for RECs, NGrid did not purchase RES obligations with its LRS supply in March 2008. However, NGrid did purchase RES obligations with its LRS supply in September 2008. As a result of the two stand-alone solicitations for RECs, Mr. Warshaw testified that NGrid purchased 222,700 RECs at an expected aggregate cost of \$5.1 million.⁴ Of the 222,700 RECs purchased, 114,400 were from existing energy resources and 108,300 were from new energy resources.⁵

Addressing the 2007 RES obligation, Mr. Warshaw stated that the bids received as a result of the April 9, 2008 solicitation provided a sufficient number of RECs to allow the Company to meet its 2007 RES obligation. As a result, NGrid met its 2007 obligation entirely through the purchase of RECs and without having to make ACPs. Additionally, NGrid was able to bank 74 RECs to use in meeting its 2008 obligation.⁶

To project its SOS RES obligation for 2009, the Company developed three cases based on various assumptions to come up with a range of RES obligations for the period. The base case assumes that the SOS requirement increases at the historical rate for 2000-2008 of 0.11% per year in 2009. Case 1 assumes a 2.4% annual increase and Case 2 assumes a 5.8% annual decrease. NGrid proposed to use the base case for projecting its

³ *Id.* at 9.

⁴ NGrid Exhibit 1 (Pre-filed Testimony of John D. Warshaw), pp. 4-5.

⁵ *Id.* at 5.

⁶ *Id.* at 6.

RES obligation. Mr. Warshaw pointed out that using historical data to project future SOS load is not without some risk as SOS load could change significantly as a result of energy market changes, changes in weather, and competitive supply opportunities as the SOS contracts approach expiration in 2009. He also pointed out, however, that any variance from the base case can be accounted for in future procurements.⁷ With regard to LRS, he stated that since 2000, the company's LRS load has been very volatile. As such, NGrid proposed to link its purchase of RECs with its purchase of Last Resort load rather than purchasing a specified quantity of RECs.⁸

Regarding the schedule of procurements, NGrid proposed stand-alone solicitations twice in 2009 to satisfy its Standard Offer RES obligation. To satisfy the LRS RES obligation, the RECs will be procured through the LRS procurement process. The company proposed to conduct the first stand-alone solicitation in April 2009 and the second in October 2009.⁹ Mr. Warshaw testified that the process to be used in each solicitation would be the same as approved in the 2008 RES Order.¹⁰

Mr. Warshaw provided a list of criteria that it will use in the evaluation of proposals. Those criteria are the: (1) the lowest evaluated bid price; (2) quantity of NEPOOL-GIS Certificates offered; (3) ability of supplier to meet its obligation to deliver NEPOOL-GIS Certificates; (4) firmness of delivery; (5) supplier's past experience in providing similar services to National Grid; (6) supplier's past experience in providing similar services to other companies in New England; (7) supplier's past experience in providing similar services to other companies in other regions; (8) supplier's

⁷ Id. pp. 10-11, 14.

⁸ Id. at 11.

⁹ Id. at 12.

¹⁰ Id.

demonstrated understanding of its obligation under the proposed Certificate Purchase Agreement (9) whether there have been any past or any present events that are known that may adversely affect the supplier's ability to provide NEPOOL-GIS Certificates; and (10) location of the renewable resource(s) and how the renewable resource satisfies the goals of stabilizing long-term energy prices, enhancing environmental quality, and creating renewable sector jobs in Rhode Island.¹¹ He stated that a supplier bidding a unit contingent offer would also be required to demonstrate the likelihood that NEPOOL-GIS Certificates will be created by a resource. Furthermore, if a unit is under construction, NGrid will require the supplier to demonstrate the likelihood that the resource will create NEPOOL-GIS Certificates during the contract period.¹²

Addressing the proposed RES Charge, Mr. Warshaw explained that in 2009, the RES obligation increases from 3.5% of NGrid's load to 4.0% of its load. Therefore, the RES Charge needs to reflect the increased obligation. In 2007 and 2008, NGrid contracted for 67% of its projected 2009 RES obligation. The 2009 RES Charge is based on the weighted average cost of the 2009 RECs procured in 2007 and 2008. The proposed RES Charge in 2009 is 0.105 cents per kWh, a 0.021 cent increase over the 2008 charge of 0.084 cents per kWh.¹³ According to Mr. Warshaw, the actual costs associated with the procurement of RECs will be reconciled in NGrid's Annual reconciliations.¹⁴

Mr. Warshaw also provided a status report of a working group formed to develop an approach for the long-term procurement of RECs for the period commencing after the

¹¹ *Id.* at 13.

¹² *Id.* at 13-14.

¹³ *Id.* at 7.

¹⁴ *Id.* at 7-8.

end of the current SOS period. He indicated that the group had explored a number of long-term procurement options and had held its last meeting on January 22, 2008. At that time, the group reviewed a draft legislative bill addressing long-term contracting for renewables that was subsequently passed by the legislature and vetoed by the Governor. Mr. Warshaw stated that “National Grid expects the issue of long-term contracting for renewables may be addressed as part of the extension of Standard Offer Service.”¹⁵

B. Division of Public Utilities and Carriers

On December 18, 2008, the Division of Public Utilities and Carriers (“Division”) filed a letter from its attorney stating that after its review of NGrid’s proposed procurement plan, the Division had no objection to the plan as filed.¹⁶

C. Bluewater Wind

On December 8, 2008, Bluewater Wind filed a letter from its attorney stating that its position is that long term contracts are required for the procurement of renewable energy, but despite that, Bluewater Wind did not object to NGrid’s plan as filed in 2009.¹⁷

D. Cape Wind Associates, LLC

On December 8, 2008, Cape Wind (“CWA”) filed a letter indicating that its position is that long term contracts are required for the procurement of renewable energy. However, Cape Wind stated that “[b]ecause CWA expects that National Grid will undertake long-term contracts for renewable energy...by the time the Commission rules in 2009 on the extension of National Grid’s standard offer service, CWA does not object

¹⁵ *Id.* at 8-9.

¹⁶ Division Exhibit 1 (Letter from William K. Lueker, Esq. to Luly Massaro, dated 12/8/08).

¹⁷ Bluewater Wind Exhibit 1 (Letter from Michael R. McElroy, Esq. to Luly Massaro, dated 12/8/08). Bluewater Wind also requested the Commission take administrative notice of its pre-filed testimony in Docket Nos. 3765 and 3901.

to National Grid's plan...." CWA reserved its rights to revisit the issue in the SOS proceeding.¹⁸

E. Conservation Law Foundation

On December 5, 2008, the Conservation Law Foundation ("CLF") filed a statement incorporating by reference its statement of March 6, 2007 that long-term contracts "to procure at least a sizeable portion of its renewable energy..." is required. In its Statement, CLF also stated that it agreed with prior Commission findings that success of the RES will necessitate long term contracts. Finally, CLF stated that it expected NGrid to enter into long-term contracts for renewable energy by the time the Commission rules on the post-2009 SOS period procurements. Therefore, CLF stated that it did not object to NGrid's REC procurement plan as filed.¹⁹

III. Hearing

Following public notice, a public hearing was held at the Commission's offices, 89 Jefferson Boulevard, Warwick, Rhode Island, on December 11, 2008 for the purposes of hearing evidence regarding a review of the proposed renewable energy standard charge and the proposed RES procurement plan. The following appearances were entered:

FOR NATIONAL GRID:	John K. Habib, Esq. Keegan Werlin, LLP
FOR CONSERVATION LAW FOUNDATION:	Jerry Elmer, Esq.
FOR THE DIVISION:	William Lueker, Esq. Special Assistant Attorney General
FOR THE COMMISSION:	Cynthia G. Wilson-Frias, Esq. Senior Legal Counsel

¹⁸ Cape Wind Exhibit 1 (Letter from Dennis J. Duffy to Luly Massaro, 12/8/08, p. 2). Cape Wind also requested the Commission take administrative notice of its pre-filed testimony in Docket No. 3765.

¹⁹ CLF Exhibit 1 (Statement of Conservation Law Foundation), pp. 1-2.

National Grid presented Mr. Warshaw and Ms. Jeanne Lloyd, Manager of Rates, New England in the Regulation and Pricing – Electricity Distribution and Generation Department of National Grid USA Service Company, Inc. Mr. Warshaw explained that he calculated the proposed RES charged based on the average cost of the 2009 RECs procured in 2007 and 2008. The average cost for new renewable resources was \$48.19 per MWh and for existing renewable resources, the cost was \$1.32 per MWh. Mr. Warshaw multiplied the costs by the obligation to calculate an incremental cost of \$0.96 for the new renewable resources and \$0.03 for the existing renewable resources. He then converted it to the retail per kWh rate and multiplied that rate by the average line loss factor to arrive at the proposed per kWh charge of \$0.00105.²⁰ Ms. Lloyd indicated that the incremental increase to a residential customer using 500 kWh per month is \$0.11 for a total proposed overall RES cost to the typical residential customer, including the gross earnings tax, of \$0.55 per month.²¹

Ms. Lloyd acknowledged that as of June 2009, NGrid anticipates an over-recovery of \$856,834 in the RES reconciliation account related to 2008 RECs and while there may be some true-up costs that may be incurred, “virtually everything has been contracted for.” In addition, she noted that 74 excess RECs were purchased in 2007. If the projected over-recovery is applied against the proposed RES charge, the charge is reduced by a factor of .00012, resulting in an RES charge of \$0.00093 per kWh.²² The total RES cost to the typical residential customer using 500 kWh per month, including the gross earnings tax, would be \$0.48 per month.²³ Ms. Lloyd also acknowledged that there

²⁰ Tr. 12/11/09, pp. 12-13.

²¹ *Id.* at 14.

²² *Id.* at 15-17.

²³ *Id.* at 17-18.

is an anticipated over-recovery at the end of 2009 in the RES reconciliation account, but cautioned against reducing the RES charge further to reflect the projection because of the uncertainty in the cost of future REC procurements to satisfy the 2009 obligation.²⁴

Addressing NGrid's obligation regarding LRS, Mr. Warshaw indicated that NGrid was able to procure RECs from the LRS supplier for the period October 2008 through April 2009. Therefore, NGrid will not have to include the LRS load for that period in its RES procurements.²⁵ However, depending on the outcome of the LRS procurement for the period May 2009 through December 2009, NGrid may need to procure RECs to meet its LRS related obligation in 2009.²⁶

The Division presented David Stearns, Rate Analyst V, who testified that in formulating the Division's position which was previously provided to the Commission in written form, he had discussed the potential over-recovery with NGrid during the discovery phase of this docket. He indicated that he had no other concerns with the filing.²⁷

IV. Commission Findings

On December 23, 2008, after public notice, the Commission convened an open meeting to render a decision on NGrid's proposed RES Procurement Plan for calendar year 2009. The Commission rejected NGrid's proposed RES charge and approved an RES charge of 0.093 cents per kWh effective on usage on and after January 1, 2009. The Commission finds that the calculation of the rate for 2009, which includes refunding the anticipated over-collection of \$856,834, is reasonable in that it is based on actual costs

²⁴ *Id.* at 28-29.

²⁵ *Id.* at 19.

²⁶ *Id.* at 46.

²⁷ *Id.* at 54-55.

incurred for 2008 RECs already purchased. The Commission directs NGrid to file its proposed 2009 RES Procurement Plan simultaneously with its proposed SOS procurement plan on or before March 2, 2009.

The Commission approves NGrid's proposed RES Procurement Plan as filed. The Procurement Plan addresses procurement of the remaining RECs for 2008 through short term contracts. NGrid will also procure in 2009 the remaining portion of its REC requirement for 2009 through short term contracts. This is the final portion of the three-year strategy that allowed ratepayers the benefit of dollar cost averaging over time, insulating them somewhat from any spikes that may have occurred in the REC market through 2009 as renewable energy supply requirements in the New England states increase each year.

The Commission will continue the requirement that there should be a certain amount of transparency in the bidding process. Therefore, the Commission requires NGrid to continue filing as part of its compliance filing a public notification of the number of RECs procured for 2008 and 2009, the type (existing or new) and the average cost of the RECs for each period. This will allow bidders and financiers to review the procurements and should provide a level of comfort that the value of RECs is higher than \$0.00 while also protecting against artificially inflated bids in future procurements and bidder concern regarding any release of potentially competitively sensitive information. NGrid's witness testified that suppliers did not provide any negative feedback to NGrid regarding the additional requirements which commenced in 2008 and that public disclosure of this information did not dissuade bidders from responding to NGrid's

Requests for Proposals. NGrid's witness also noted that no other state in which NGrid operates requires more public disclosure than this Commission.²⁸

The Commission notes that on or before March 2, 2009, NGrid will be filing its proposed SOS procurement plan for the period commencing January 1, 2010.²⁹ At the hearing, NGrid agreed that it would make sense to file a proposal for addressing the renewable energy supply obligation at the same time. Therefore, the Commission expects that the SOS procurement plan will be filed either with an RES component or simultaneously with an RES procurement plan.

The Commission still believes that long term contracts will be necessary for the success of the renewable energy supply. However, because the SOS and RES procurement plans for the period commencing 2010 are due imminently, the Commission declines from indicating a fixed percentage of the RES procurement which must come from long term contracts and declines to define what constitutes a long term contract in this docket. These are questions which will be answered by the Commission in the aforementioned proceeding(s). The Commission cautions that all parties must keep in mind that the charge of the Commission is to ultimately set rates which are just and reasonable. In order to do this, the Commission will have to assess the risk associated with asking the ratepayers to act as "financiers" of a project which, by the very testimony in this and other matters, is considered risky to investors. The Commission will also have to evaluate how this type of investment will affect the "least cost procurement" goal of the legislature. In anticipation of the upcoming SOS and RES procurement filing(s), the Commission has conducted informal sessions in which these very issues have been

²⁸ *Id.* at 21.

²⁹ R.I. Gen. Laws § 39-1-27.3 requires the plan to be filed on or before March 1, 2009 which is a Sunday.

discussed. The issues are complicated and will raise serious policy considerations for the Commission.

Accordingly, it is hereby

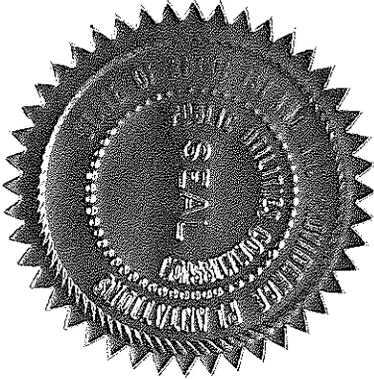
(19580) ORDERED:

1. National Grid's Renewable Energy Standard Procurement Plan filed on November 14, 2008, is hereby approved.
2. National Grid's proposed Renewable Energy Standard rate of 0.105 cents per kWh is denied.
3. National Grid is authorized to collect a Renewable Energy Standard rate of 0.093 to become effective for usage on and after January 1, 2009.
4. National Grid shall continue to show the Renewable Energy Standard Charge as a separate line item on customer bills and explain by footnote on the bill that the RES charge is mandated by State law.³⁰
5. National Grid shall calculate the Renewable Energy Standard reconciliation separately in the Standard Offer Service and Last Resort Service reconciliations.
6. National Grid shall file no later than March 2, 2009 its proposed 2010 Renewable Energy Procurement Plan.
7. The Parties shall act in accordance with all other findings and instructions contained in this Report and Order.

³⁰ "The Renewable Energy Charge is being collected for the purpose of acquiring a portion of Rhode Island's energy supply from renewable sources, as required by R.I. General Laws Section 39-26-1."

EFFECTIVE AT WARWICK, RHODE ISLAND, PURSUANT TO AN OPEN
MEETING DECISIONS ON DECEMBER 23, 2008. WRITTEN ORDER ISSUED
FEBRUARY 25, 2009.

PUBLIC UTILITIES COMMISSION



Elia Germani

Elia Germani, Chairman

Robert B. Holbrook

Robert B. Holbrook, Commissioner

Mary E. Bray

Mary E. Bray, Commissioner