

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

IN RE: NATIONAL GRID
STANDARD OFFER SERVICE
PROCUREMENT PLAN

Docket # 4041

COMMENT OF CONSERVATION LAW FOUNDATION
IN RESPONSE TO NATIONAL GRID'S
REVISED RENEWABLE ENERGY PROCUREMENT PLAN

Conservation Law Foundation (CLF), a full party in this proceeding, respectfully files the following comments in response to National Grid's (Grid) Revised Renewable Energy Procurement Plan (Revised Plan) as reflected in the pre-filed testimony of Grid's witness Madison Milhous, filed in this Docket on April 29, 2009.

The context for Grid's filing of the Revised Plan is important. Pursuant to a decision at the Open Meeting on March 16, 2009, the Public Utilities Commission (PUC) issued Order 19602 in this Docket. In Order No. 19602, the PUC rejected Grid's Standard Offer Service (SOS) filing in Docket 4041 for lack of a renewable energy component; and rejected Grid's Renewable Energy Standard (RES) procurement plan for 2010 for lack of a component providing for Long Term Contracts (LTCs). In Order No. 19602, the PUC was quite explicit. The PUC ordered:

On or before April 16, 2009, Narragansett Electric Company d/b/a National Grid shall file a Renewable Energy Supply Procurement Plan which includes long term renewable contracts.

On or before April 16, 2009, Narragansett Electric Company d/b/a National Grid shall file a Standard Offer Service Procurement Plan that incorporates long term renewable contracts.

PUC Order No. 19602, at 8. Grid's Revised Plan is a response to Order No. 19602.

In some respects, Grid's Revised Plan is a significant improvement over Grid's prior submissions (which the PUC rejected in Order No. 19602). Grid's Revised Plan does contain a renewable energy component for SOS procurement. There is a tentative commitment to LTCs. And CLF is pleased to be working cooperatively with Grid (and many other stakeholders) in the General Assembly to secure passage of legislation that will provide a comprehensive solution to the long-standing controversy concerning LTCs.

There are several aspects of Grid's Revised Plan which CLF is pleased to endorse.

First, CLF supports Grid's proposal for seeking to purchase a bundled commodity, including capacity, energy and RECs. Milhous Testimony (April 29, 2009), at page 9 of 12, lines 1-4. CLF has previously stated, and continues to believe, that such purchase of a bundled commodity is both in the interest of rate-payers (because it will ultimately help to reduce energy prices in Rhode Island) and in the interest of renewable energy developers and generators. Grid's proposal to purchase a bundled commodity if possible is commendable.

Second, CLF recognizes and supports Grid's intention to use RECs purchased under LTCs for meeting RES requirements associated with SOS. Milhous Testimony (April 29, 2009), at page 10 of 12, lines 6-11.

Nevertheless, CLF has a number of concerns about Grid's Revised Plan.

First, Grid's Revised Plan defines LTCs as being five, 10, or 15 years in length. Milhous Testimony (April 29, 2009), at page 8 of 12, lines 16-17. While such laddering of contract lengths is generally acceptable, the suggestion that five-year contracts would satisfy any part of the utility's LTC requirement is not. In the past, this Commission has repeatedly acknowledged that the purpose -- the raison d'être -- of LTCs is to help renewable energy developers secure financing for their new renewable energy projects. In recognition of this purpose, the Commission has sought the advice of renewable energy developers as to how long a Long-Term Contract ought to be in order to accomplish that purpose. The consistent answer, over many years and in many renewable energy dockets, has been that renewable energy developers seek LTCs of 15 years or more. In this context, Grid's Revised Plan, which calls for LTCs of five or 10 years is inconsistent with the purpose of Rhode Island's Renewable Energy Standard (RES).

Second, CLF is concerned about the following question and answer that appears in the Milhous Testimony (April 29, 2009), at page 5 of 12, lines 4-12:

Q. Is the Company making a commitment to enter into long-term contracts to meet its RES obligations?

A. Although the Company is submitting an alternative long-term procurement process, it is not at this time committing to entering into any long-term contracts.

CLF understands that Grid has valid reasons for expressing caution, including uncertainty about the future of renewable energy markets. CLF believes that Grid is acting in good faith in proposing a "long-term procurement process [which is] an open and flexible

competitive solicitation, which will involve collaboration with the Division, and is intended to evaluate procurement of RECs or bundled renewable energy at prices consistent with the current markets” Milhous Testimony (April 29, 2009), at page 8 of 12, lines 1-4. And, as indicated earlier, both CLF and Grid are hopeful that the General Assembly will enact a LTC statute this year that will provide a comprehensive solution to the LTC issue. CLF does not question Grid’s good faith.

Nevertheless, CLF urges the PUC to make clear in this docket that it intends to supervise closely Grid’s proposed “flexible” procurement plan and will apply a kind of strict scrutiny in the event that Grid returns to the Commission in future years claiming that its RFP for LTCs did not produce any commercially reasonable proposals. At this critical juncture, in the aftermath of Order No. 19602, it is crucially important that the PUC make clear that Grid will not be permitted endlessly to postpone its LTC obligation. If the Commission is inclined to approve Grid’s proposed “flexible” procurement plan in this docket, CLF urges the Commission to include a strong statement that endless procrastination will not be acceptable.¹

Third, Grid’s Revised Plan contains no schedule of mandatory deadlines. In light of the history in Dockets 3765, 3901, and 4012 (Grid’s RES procurement plans for 2007, 2008, and 2009, respectively) this omission is both salient and unacceptable.

¹ It is, of course, within the realm of possibility that the General Assembly does not enact the LTC bill which CLF and Grid both support (or that the bill, if passed by the legislature, is again vetoed by the Governor). These possibilities further support that the PUC should make clear its intention to monitor closely Grid’s compliance with its RES and LTC obligations.

Respectfully, the PUC should insist on reasonable deadlines before approving the Revised Plan.

CONSERVATION LAW FOUNDATION,
by its Attorney,

A handwritten signature in black ink, appearing to read "Jerry Elmer". The signature is written in a cursive style with a long, sweeping underline that extends across the width of the signature.

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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to PUC Rule of Practice and Procedure 1.7(a), an original and nine copies of the within Comment were hand-delivered to Luly Massaro, Commission Clerk, Public Utilities Commission, 99 Jefferson Blvd., Warwick, RI 02888. In addition, a hard copy was hand delivered to Mr. Thomas F. Ahearn, Administrator, Division of Public Utilities, 99 Jefferson Blvd., Warwick, RI 02888. In addition, a hard copy of the within Motion was sent by first-class mail, postage prepaid to Thomas Teehan, Senior Counsel, National Grid, 280 Melrose Street, Providence, RI 02907. In addition, a true and accurate electronic copy, in the form of a PDF attachment, was transmitted electronically to the e-mail service list associated with this Docket, which list was transmitted to counsel by PUC attorney Cindy Wilson-Frias on May 13, 2009. I certify that all of the foregoing was done by me or under my direct supervision on May 22, 2009.



Jerry Elmer, Esq.

4394