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June 24, 2009

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

Re: Docket No. 4041 – Narragansett Electric Company d/b/a National Grid's Standard Offer Procurement Plan and Renewable Energy Procurement Plan

Dear Luly:

This office represents Constellation Energy.

Enclosed for filing are an original and nine copies of the Testimony of Timothy Daniels for Intervenor Constellation Energy

If you have any questions, please feel free to call.

Very truly yours,

Michael R. McElroy

MRMc/tmg
cc: Service List

ConstellationEnergy/Massaro5

Constellation Exhibit 1.0
Direct Testimony of
Timothy Daniels
Docket No. 4041

STATE OF RHODE ISLAND

BEFORE THE PUBLIC UTILITIES COMMISION

IN THE MATTER OF NATIONAL GRID'S	:	
STANDARD OFFER PORTFOLIO	:	**Docket No. 4041**
PROCUREMENT PLAN FOR 2010	:	

Direct Testimony of

TIMOTHY DANIELS

On Behalf of

CONSTELLATION NEWENERGY, INC. AND CONTELLATION ENERGY COMMODITIES GROUP, INC.

June 24, 2009

STATE OF RHODE ISLAND

BEFORE THE PUBLIC UTILITIES COMMISION

IN THE MATTER OF NATIONAL GRID'S	:	
STANDARD OFFER PORTFOLIO	:	**Docket No. 4041**
PROCUREMENT PLAN FOR 2010	:	

Direct Testimony of Timothy Daniels

I. INTRODUCTION AND BACKGROUND

Q. PLEASE STATE YOUR NAMES AND BUSINESS ADDRESSES.

A. My name is Timothy Daniels and my business address is 810 7th Avenue, Suite 400, New York, New York 10019.

Q. ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?

A. I am appearing on behalf of Constellation Energy Commodities Group, Inc. ("CCG") and Constellation NewEnergy, Inc. ("CNE," collectively "Constellation").

Q. PLEASE DESCRIBE CONSTELLATION'S BUSINESS.

A. CCG is a power marketer authorized by the Federal Energy Regulatory Commission ("FERC") to sell energy and capacity and certain ancillary services at market-based rates.[1] CCG focuses on serving the full requirements power needs of distribution utilities, co-ops and municipalities that competitively source their load requirements.

[1] *See Constellation Power Source, Inc.*, 79 FERC ¶ 61,167 (1997) (order initially granting CCG market-based rate authority).

CCG currently provides Standard Offer Service ("SOS") supply to Narragansett Electric Company's ("National Grid") in Rhode Island.

CNE is a retail electricity supplier that provides customized energy solutions and comprehensive energy services to commercial and industrial customers. CNE has been certified to act as a competitive retail electric supplier to serve customers located within various service territories throughout the United States and Canada, including in National Grid service territory in Rhode Island, and has been granted market-based rate authority by FERC.[2] Nationwide, CNE has more than 15,000 MW of load under contract with more than 10,000 retail customers.

Q. PLEASE DESCRIBE YOUR POSITION WITH CONSTELLATION.

A. I am Vice President of Energy Policy with Constellation.

Q. WHAT ARE YOUR RESPONSIBILITIES AS VICE PRESIDENT OF ENERGY POLICY FOR CONSTELLATION?

A. I am responsible for representing Constellation's retail and wholesale commodity business interests on matters related to regulatory and government affairs in Delaware, New Jersey, New York, and the six New England states. I also serve as the policy matter expert for Constellation on issues related to demand response.

[2] *See NEV, L.L.C.*, 81 FERC ¶ 61,186 (1997) (order initially granting CNE market-based rate authority).

Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. My resume is attached hereto as Constellation Exhibit 1.1.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE RHODE ISLAND PUBLIC UTILITIES COMMISSION ("COMMISSION")?

A. Yes, including my April 28, 2009 oral testimony during the first phase of this proceeding.

Q. WHAT IS THE SUBJECT MATTER OF YOUR PRESENT TESTIMONY?

A. This testimony will address National Grid's proposed revised Standard Offer Service ("SOS") procurement plan filed on April 29, 2009. Specifically, this revised plan includes National Grid's proposed procurement plan for meeting its SOS obligations starting on January 1, 2010. My testimony will address the following areas:

- The benefits of the Full Requirements Service ("FRS") procurement structure model National Grid has proposed for 2010, as well as discussion of some of the details of National Grid's proposal;
- The shortcomings of National Grid's proposed transition to a managed portfolio ("MP") procurement structure post-2010; and,
- Issues related to the inclusion of renewable long-term contracts in National Grid's procurement plan.

Q. WHAT IS YOUR RECOMMENDATION TO THE COMMISSION WITH RESPECT TO NATIONAL GRID'S PROPOSED SOS PROCUREMENT PLAN?

A. Constellation recommends that the Commission approve the proposed 2010 SOS procurement plan based upon the proposed FRS procurement structure without any determination of moving to a managed portfolio approach. With respect to the proposal to enter into long-term renewable contracts, Constellation notes that the issue is currently the subject of pending legislation passed by the Rhode Island General Assembly which is awaiting the Governor's signature. It is likely the issue will be addressed in that context. As such, Constellation recommends the Commission hold off on making a determination on the issue of long-term renewable contracts until it receives the guidance from the legislature.

Q. DO YOU HAVE ANY EXHIBITS THAT YOU PLAN TO SUBMIT IN SUPPORT OF YOUR TESTIMONY?

A. Yes. In support of my testimony, I offer the following exhibit:

Constellation Exhibit 1.1 Resume of Timothy Daniels

II. NATIONAL GRID'S PROPOSED PROCUREMENT PLAN AND TRANSITION TO MANAGED PORTFOLIO

Q. CAN YOU SUMMARIZE NATIONAL GRID'S PROPOSED STANDARD OFFER SERVICE PLAN?

A. I understand the plan contemplates that all calendar year 2010 SOS supply will be supplied via load-following, full-requirements contracts solicited through a Request For Proposal ("RFP") process. (Smithling Direct at 4.) The RFP will include requirements

for contracts that will serve two classes of service: (1) large commercial and industrial customers; and, (2) residential and small commercial and industrial customers. (Id. at 4-5.) As a general matter, Constellation agrees with these structures.

However, most disturbing from Constellation's perspective is the stated rationale National Grid provides in support of its proposed SOS plan. In explaining the basis for its proposal, National Grid witness Mr. Smithling states that one reason it has submitted the SOS plan is "to begin the transition to a managed portfolio approach…". (Id. at 5.) Obviously, beginning the transition to a managed portfolio model is not consistent with the underlying proposal to continue utilizing the FRS model for the 2010 procurement. Constellation filed comments and presented live testimony in this proceeding detailing the deficiencies of a MP process. However, as National Grid's witness in this phase Mr. Smithling again raises the specter of managed portfolio, Constellation is compelled to reiterate the benefits of the FRS approach, and the deficiencies in the MP approach.

Q. PLEASE DESCRIBE HOW A MANAGED PORTFOLIO MODEL WORKS.

A. Under a MP procurement model, the utility pieces together a portfolio from a range of different physical and financial products. These products would typically include short, medium, and long-term physical contracts, financial swaps, financial collars, and transmission rights, combined with purchases from the day-ahead and real-time markets. Additionally, under the MP model, the utility actively monitors the market and attempts to time procurement to achieve the lowest possible cost while maintaining the desired

level of hedging to protect against market volatility. Prior to the development of competitive electricity markets, the MP procurement model was the most common among utilities.

Q. HOW DOES THE FRS PROCUREMENT MODEL DIFFER FROM THE MP MODEL?

A. Many of the same functions are performed under a FRS procurement model; however, under the FRS those functions are managed by competitive wholesale providers rather than the utility. Utilities and regulators are able to then choose the wholesale provider that provides the best all-in price for SOS customers.

Q. PLEASE DESCRIBE THE BENEFITS OF THE FRS PROCUREMENT MODEL IN MORE DETAIL.

A. The FRS procurement process as proposed by National Grid for the 2010 procurement provides a proper balance between the goal of obtaining the most competitive prices for consumers and maintaining a reasonable level of price stability from year-to-year. The FRS model proposed in National Grid's March 3 Filing would result in prices that are reflective of the market, while still insulating customers from excessive volatility. Moreover, requiring National Grid to retain personnel or hire outside consultants and expend resources to actively manage an energy portfolio is an inefficient way to achieve competitive SOS prices for consumers. As National Grid's load must always be met with full requirements products, in order to actively manage its load obligations, National Grid (or its consultants) would have to retain individual experts who understand and follow

not only electric energy and other commodity markets, but also ancillary services, capacity and renewable products markets.

A diverse pool of wholesale suppliers – rather than a small group of independent consultants or utility employees – provides the most cost-effective method of SOS supply management. Wholesale suppliers are experts in the area of portfolio management, and have greater resources, expertise, and ability to appropriately manage portfolios of supply at the least possible cost by allocating the costs for their operations over much larger load obligations throughout the country. These wholesale suppliers pass on the savings they achieve due to their sophisticated risk management skills in the form of more competitive bids for full requirements SOS products in the SOS RFPs. Wholesale suppliers have invested and will continue to invest significantly in acquiring experts and programming in each specific type of market that make up full requirements SOS supply.

Q. WHAT TYPES OF RESOURCES DOES CONSTELLATION UTILIZE IN SERVING FRS CONTRACTS?

A. At Constellation, there are number of employees are involved in the process of providing full requirements service to utilities and customers around the country, including portfolio managers, traders, meteorologists, asset operators, power managers, schedulers, dispatchers and related regulatory and legal support.

For instance, Constellation employs a team of seasoned portfolio managers that manages large regional portfolios for serving Constellation's customers' full requirements loads.

Constellation must ensure that it properly and fully accounts for any transaction that goes into its portfolio, and that requirements for the entire load are met continuously for every hour of every day of every week. A team of 'strategists' continuously develops and improves computer models to keep track of all of the variable inputs that go into providing full requirements service; these strategists provide and analyze various scenarios that Constellation's portfolio managers may face. In addition, a 'fundamentals' group constantly researches basic supply and demand in fuel and power markets in order to monitor macroeconomic trends that affect the costs of serving load. Full-time meteorologists on Constellation's team continually monitor and predict the weather, so that Constellation's team can plan for weather effects on load requirements, and adjust supply accordingly. A 24-hour power trading desk trades power in the hour ahead, day ahead, and week ahead markets each day of the week, in order to help manage Constellation's supply portfolio. Moreover, power managers and traders monitor and trade in not only ISO-NE's market, but also those in Canada, New York, PJM, and other markets throughout the U.S.; fuel managers do the same as fuel markets directly affect power markets. Similar resources focus on fuel oil, currency, emissions and renewable energy markets. The task of meeting full requirements load supply additionally requires controllers, schedulers and dispatchers. Supporting all of these operations is a team of regulatory specialists and attorneys that monitor and participate in regulatory and legal activities impacting energy markets.

Q. MAINTAINING ALL OF THESE RESOURCES MUST BE COSTLY. WOULDN'T THIS RESULT IN HIGHER FRS PRICES?

A. No. The expertise that such a team of employees as that assembled at Constellation, and their advanced programs and systems, drives costs down by utilizing a well-developed infrastructure and spreading the overhead for such activities across Constellation's entire portfolio, in this way producing a far better result than a small team of people at a regulated utility company or its consultant. The costs for providing such service for National Grid's customers is highly constrained by the very competitive nature of this business, because sophisticated wholesale suppliers throughout the market have operations similar in structure to those of Constellation, and compete through the RFPs to serve National Grid's SOS load at the lowest cost.

Q. WITH ALL OF THE DECISIONS THAT NATIONAL GRID WOULD HAVE TO MAKE UNDER A MP MODEL, HOW WOULD THE COMMISSION DETERMINE WHETHER THE LOWEST POSSIBLE SOS RATES HAD BEEN SECURED?

A. In my opinion this would be a very difficult determination for the Commission to make. A move to a MP model would raise a host of regulatory oversight and prudence issues that are not present under the current FRS approach. The Commission has an obligation to ensure that National Grid has acted prudently in procuring its SOS obligations. Under a FRS approach, the Commission can be assured that National Grid has acted prudently by choosing the lowest all-in price through a well-designed, standard competitive procurement. However, under a MP approach, the Commission by necessity will have to conduct an after-the fact review to determine the prudence of National Grid's various

trading practices, choices on mix of contracts, and timing of contracts. Such a review would require a tremendous amount of data, and would take a significant amount of the Commission's and parties' time and resources. Because National Grid may face a risk of after-the-fact disallowances of certain portfolio costs on the grounds of imprudence, it may be reluctant to develop and take advantage of more complicated risk strategies to mitigate its portfolio risks. In addition, under a MP approach, National Grid's suppliers and lenders – cognizant of the potential for after-the-fact disallowances – may be more likely to charge premiums to National Grid (and, in turn, its SOS customers) due to concerns regarding the utility's creditworthiness.

Q. IS THE FRS PROCUREMENT STRUCTURE WIDELY USED?

A. Yes. With the growth of competitive wholesale and retail markets, regulatory agencies and utilities in restructured states such as Rhode Island have increasingly moved towards the use of the FRS model, and away from the MP model. Some of these states just in the East Coast include Maine, Massachusetts, Connecticut, New Jersey, Maryland, and Delaware.

Q. BEYOND THE BENEFITS OF THE FRS MODEL THAT YOU HAVE ALREADY DESCRIBED, ARE THERE OTHER REASONS WHY REGULATORY AGENCIES AND UTILITIES HAVE CHOSEN THE FRS OVER THE MP MODEL IN THE PAST?

A. Yes. Under the FRS procurement model, the full requirements provider assumes 100 percent of the risk should the all-in price be too high and customers decide to switch to a competitive retail provider. In this scenario, the consumers are protected against the cost

of over or under-hedging that results from changes to market prices over the time. The FRS model also places the risk on the supplier in the event that the all-in price is too low.

By contrast, under the MP model, if a utility enters into a contract that ends up being above market, more customers will migrate to competitive retail suppliers, leaving a small volume of stranded customers to pay for prices that were locked under an MP contract at prices set higher than current market, resulting in so-called "stranded costs." Notwithstanding, under the MP model, the utility is typically granted full cost recovery of these stranded costs from the remaining ratepayers. Avoiding this type of stranded cost risk was one of the main reasons customers first pushed for the creation of competitive retail markets.

Q. DO YOU HAVE ANY OTHER COMMENTS ON THE BENEFITS OF FRS OVER THE MP MODEL?

A. There is one last point for the Commission to consider. One issue that is often overlooked when comparing these two models is that FRS is more compatible with competitive retail markets. Under the FRS model, a customer has an all-in fixed price rate against to which it can compare offers from competitive retail providers. This sort of certainty is a valuable tool to a customer in making an informed and accurate determination of its energy options. With the MP model, however, such an option is not available to the customer because the true cost of serving a customer for a certain period of time is not reflected in rates until a later date when the utility trues-up its rate with its actual costs to serve.

III. LONG-TERM RENEWABLE CONTRACTS

Q. DOES NATIONAL GRID PROPOSE TO UTILIZE RENEWABLE CONTRACTS IN ITS 2010 PROCLUREMENT PLAN?

A. While National Grid's proposed plan discusses generally renewable contracts as part of its overall 2010 procurement, the filing contains little in the way of substantive details on the renewable contracts it would seek to enter into under its plan. In light of the lack of details in the plan related to long-term renewable contracts, I will keep my observations related to renewable contracts to a few over-arching concerns that the Commission should consider in reviewing the proposal, and encourage the Commission to require National Grid to provide more substance on the manner in which its plan will utilize renewable contracts.

Q. PLEASE DESCRIBE YOUR GENERAL CONCERNS RELATED TO RENEWABLE CONTRACTS.

A. Due to the increased cost of producing electricity via renewable resources, renewable energy generators generally require all-in payments that are above market prices. These renewable generators, therefore, require additional payments for their environmental attributes in order to cover this premium. When entering into these renewable contracts, there are several general considerations that should be addressed.

First, longer-term contracts carry the risk of stranded costs for consumers. To the extent National Grid is contemplating entering into contracts for renewable resources, the

contracts should be as short as possible and generally expose customers to the least possible stranded cost risk.

Q. PLEASE EXPLAIN HOW STRANDED COST RISK MAY BE REDUCED.

A. Shortening contract length is one of the best ways to minimize stranded cost risk. Additionally, purchasing just the RECs from a generator reduces the overall cost of the contract and would, therefore, tend to reduce the risk of stranded costs to ratepayers.

Q. PLEASE CONTINUE.

A. A second general concern is that, to the extent National Grid enters into longer-term, all-in contracts with renewable generators, all the components of those contracts should be recovered in the same manner. In other words, the components of the contract – energy, capacity, RECs – should not be broken apart.

Q. WHAT IS THE PROBLEM WITH BREAKING APART THE COMPONENTS OF THE CONTRACTS?

A. The only means for National Grid to determine a reasonable price for each component would be to procure just that single component through a competitive procurement process. If National Grid enters into an all-in contract with a generator, it will not know exactly what portion of the contract costs is attributed to energy, capacity, and/or RECs. If National Grid attempts to break apart the contract and recover the different parts through different mechanisms (i.e. SOS for energy vs nonbypassable charge for RECs), it

risks creating a price in SOS that does not reflect actual market prices. This creates distortions in the SOS pricing and risks undermining retail competition.

Q. DO YOU HAVE ANY ADDITIONAL CONCERNS WITH BREAKING APART THE COMPONENTS OF THE CONTRACTS?

A. Yes. Additionally, whatever cost recover mechanism is adopted great care should be taken to ensure that the costs are recovered in a competitively neutral manner, and that no customers end up double-paying for the same resource.

Q. IS THE RHODE ISLAND GENERAL ASSEMBLY CURRENTLY LOOKING INTO THE ISSUE OF THE APPROPRIATE LONG-TERM RENEWABLE CONTRACTS FOR USE IN THE STATE?

A. Yes. I understand the General Assembly has passed legislation that will mandate National Grid to put out solicitations for long-term renewable contracts for a substantial quantity of power from renewable generators, which is awaiting signature by the Governor. This legislation may make National Grid's proposed plan moot, if adopted.

Q. DO YOU HAVE ANY OTHER GENERAL RECOMMENDATIONS ON LONG-TERM RENEWABLE CONTRACTS?

A. Yes. All contracts should be procured through an open and competitive procurement process. By open and competitive I mean a process that is designed to attract the greatest possible number of bidders in order to achieve the lowest possible costs to ratepayers.

Q. PLEASE EXPLAIN WHAT CHARACTERISTICS THE PROCUREMENT PROCESS FOR LONG-TERM RENEWABLE CONTRACTS SHOULD HAVE IN ORDER TO MAKE IT AS OPEN AND COMPETITIVE AS POSSIBLE.

A. First, prior to releasing the RFP, National Grid should file with the Commission a detailed plan for their procurement process on which other parties may offer comments. Among other details, the plan should include an analysis of all of the potential risks and costs to ratepayers as well as the specific cost recovery structure for all components of the contracts. Second, the eligibility criteria for resources should not be arbitrary or unnecessarily restrictive. Third, all bidders should have equal access to information on the bidding process. Finally, contracts should be awarded on the basis of cost.

Q. DO YOU HAVE ANY OTHER COMMENTS ON LONG-TERM RENEWABLE CONTRACTS?

A. Yes. While the Commission ruled in its Order released on March 18, 2009 in this proceeding that National Grid was required to include renewable long-term contracting provisions in its procurement plan, Constellation would respectfully suggest that the preferable way for the State to achieve its renewable energy goals would be through a more market-based approach similar to the Renewable Energy Standard created in 2004. Similar standards in other states have supported substantial investments in renewable energy without the stranded cost risks associated with long-term contracts.

Q. WHAT IS YOUR RECOMMENDATION WITH RESPECT TO LONG-TERM RENEWABLE CONTRACTS UNDER THE 2010 PROCUREMENT PLAN?

A. For these reasons, Constellation recommends the Commission hold off on making a determination with respect to the appropriate long-term renewable contracts to utilize until it receives the expected input from the General Assembly in the near future. In the event the Commission determines it will proceed with the issue absent legislation, Constellation recommends the Commission only approve contracts in which the costs are all recovered through the same mechanism.

Q. DOES THAT CONCLUDE YOUR TESTIMONY TODAY?

A. Yes.

Timothy Daniels
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New York, NY 10019
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212-885-6454

Experience

2006-2009
Constellation Energy Group
New York, NY
Vice President, Energy Policy (2009)
Director, Energy Policy (2006-2008)

- Manage policy issues in 9 Eastern States for retail and wholesale commodity businesses
- Serve as Subject Matter Expert on issues related to demand response across North America
- Represent Constellation in regulatory proceeding and before state legislatures
- Report to Managing Director of Energy Policy

2004-2006
New York City Economic Development Group
New York, NY
Asst Vice President, Energy Policy

- Manage the implementation of Mayor Michael Bloomberg's 2004 Energy Policy
- Represent City of New York on local, state, and federal activities related to infrastructure investment, energy efficiency, and alternative energy
- Reported to SVP of Energy Policy

2003-2004
Independent Consultant
New York, NY

- Represented both private sector and institutional clients in on regulatory and legislative matters related to the development of alternative energy systems

2001-2003
RealEnergy, Inc.
New York, NY
Vice President, Government Affairs

- Managed East Coast and Federal government affairs on issues related to air permitting, electric and gas interconnections, and rate treatment of onsite energy systems
- Represented company on a number of association boards as well state and federal advisory groups
- Reported to COO

1998-2001
Northeast-Midwest Congressional Coalition, US Congress
Washington, DC
Legislative Director

- Managed bipartisan caucus of 120 Members of Congress
- Worked on legislation to restructure national energy markets and reform the federal power marketing administrations
- Managed funding initiatives for a range of federal energy programs within the Department of Energy and the Environmental Protection Agency
- Reported to Congressional Co-Chairs

Education

MS in Environmental Science & Policy, Johns Hopkins University, 2001

BA in Political Science, Emory University, 1995