

December 9, 2009

VIA HAND DELIVERY & ELECTRONIC MAIL

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

**RE: Docket 4111 - Review of Proposed Town of New Shoreham Project
Pursuant to RI General Laws § 39-26.1-7**

Dear Ms. Massaro:

Enclosed for filing with the Commission is pre-filed testimony, along with a copy of a power purchase agreement (“PPA”) for the potential purchase of renewable power from Deepwater Wind Block Island, LLC (“Deepwater”), which National Grid has executed with Deepwater.

As the Commission and other parties are aware, National Grid has spent the last few months attempting to negotiate the best possible power purchase arrangement it could achieve for customers in connection with this project. As stated in an earlier filing in this docket, the Company has been particularly mindful of the cost to customers. National Grid has been able to negotiate the 2013 bundled energy price down to 24.4 cents per kilowatt-hour, from a price of 30.7 cents in October. National Grid now believes that this agreement, as executed, represents the best agreement that could be achieved with Deepwater, given all the circumstances associated with this proposed demonstration project. Given the new price and the resolution of all other non-price issues in the agreement, National Grid now supports the Commission approving this agreement, but with two very important caveats and observations.

First, National Grid still believes that the cost of this power is higher than what can likely be obtained from other renewable energy sources. For that reason, it is imperative that customers and the Commission recognize that facilitating this small-scale off-shore wind project comes at a premium. In that regard, the power purchase agreement is not likely to bring electric cost savings for customers. To the contrary, the power will cost more than other alternatives. Having said this, however, there are valid policy reasons to move forward. Specifically, if the State of Rhode Island desires to meet climate change objectives through the development of off-shore wind, this small demonstration project is a reasonable place to start. In addition, while a smaller component of the overall cost, this project has the added benefit of facilitating a cable interconnection between Block Island and the mainland.

Second, and perhaps most important, National Grid believes it is critical that this power purchase agreement, including its terms and pricing, not establish a precedent for future projects. In that regard, National Grid’s support is based on the assumption that the Commission, in any order approving the agreement, will distinguish it from other projects that the Company may consider in the future. This higher priced project should not create the standard for future long term contracts. National Grid has the obligation to seek contracts from renewable generation for up to 10% of its load under the law. It will be extremely important that, in fulfilling that obligation, National Grid not be required to purchase power at

the same price and on the same terms as has been provided for purposes of facilitating this demonstration project.

As also explained in the testimony being filed with the agreement, if the Commission applies a “commercial reasonableness” standard to this power purchase agreement to determine whether it should be approved, National Grid believes it is very important for the Commission to make clear that it is commercially reasonable only in the context of a limited demonstration project that was statutorily capped at eight wind turbines. It is National Grid’s view that the terms and pricing in this PPA by no means represents what an experienced power market analyst would expect to see in transactions involving newly developed renewable projects generally, where the complexities associated with an off-shore wind demonstration such as this are not present. But if this agreement and its terms are placed in proper context, there is a rational basis for approving it.

In addition to the executed power purchase agreement, National Grid is filing the following testimony:

- (1) Testimony of Madison Milhous, who discusses the negotiations and pricing under the agreement;
- (2) Testimony of Cliff Hamal, who identifies other market pricing data points that are publicly available, for comparison purposes;
- (3) Testimony of Daniel Glenning, who discusses the transmission undersea cable portion of the project; and
- (4) Testimony of David Tufts, who provides a revenue requirement analysis for the estimated cable cost, as well as a typical bill impact for both the cable and the power purchases, assuming the project is approved and goes into service in 2013.

Please be advised that the Company is seeking protective treatment of a confidential exhibit, identified as Exhibit 5, provided in Mr. Milhous’ testimony, as permitted by Commission Rule 1.2(g) and by R.I.G.L. § 38-2-2(4)(i)(B). The Company has submitted a Motion for Protective Treatment along with a copy of confidential Exhibit 5 to the Commission pending a determination on the Company’s Motion.

National Grid looks forward to participating in the proceedings and assisting the Commission in considering the approval of the agreement.

Very truly yours,



Ronald T. Gerwatowski

Enclosures

cc: Docket 4111 Service List
Leo Wold, Esq.
Steve Scialabba, Division

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
RHODE ISLAND PUBLIC UTILITIES COMMISSION

**Review of Proposed Town of
New Shoreham Project
Pursuant to R.I.G.L. § 39-26.1-7**

Docket No. 4111

**NATIONAL GRID’S REQUEST
FOR PROTECTIVE TREATMENT OF CONFIDENTIAL INFORMATION**

National Grid¹ hereby requests that the Rhode Island Public Utilities Commission (“Commission”) provide confidential treatment and grant protection from public disclosure of certain confidential, competitively sensitive, and proprietary information submitted in this proceeding, as permitted by Commission Rule 1.2(g) and R.I.G.L. § 38-2-2(4)(i)(B). National Grid also hereby requests that, pending entry of that finding, the Commission preliminarily grant National Grid’s request for confidential treatment pursuant to Rule 1.2 (g)(2).

I. BACKGROUND

On December 9, 2009, National Grid is filing with the Commission a signed power purchase agreement that it negotiated with Deepwater Wind Block Island, LLC (“Deepwater”), pursuant to the requirements of R.I.G.L. § 39-26.1-7. Also on December 9, 2009, the Company is submitting testimony in this proceeding. As an exhibit (Exhibit 5) to the testimony of one of National Grid’s witnesses, Mr. Madison N. Milhous, Jr., the

¹ The Narragansett Electric Company d/b/a National Grid (“National Grid” or the “Company”).

Company is submitting a confidential report on long-term price projections for capacity, energy and renewable energy certificates prepared by Energy Security Analysis, Inc. (“ESAI”). ESAI prepared this report acting as consultant to National Grid and at National Grid’s request. Under National Grid’s arrangement with ESAI, the energy, capacity and REC forecasts are considered proprietary. Therefore, National Grid requests that the Commission give the ESAI report contained in Exhibit 5 confidential treatment.

II. LEGAL STANDARD

The Commission’s Rule 1.2(g) provides that access to public records shall be granted in accordance with the Access to Public Records Act (“APRA”), R.I.G.L. §38-2-1, *et seq.* Under APRA, all documents and materials submitted in connection with the transaction of official business by an agency is deemed to be a “public record,” unless the information contained in such documents and materials falls within one of the exceptions specifically identified in R.I.G.L. §38-2-2(4). Therefore, to the extent that information provided to the Commission falls within one of the designated exceptions to the public records law, the Commission has the authority under the terms of APRA to deem such information to be confidential and to protect that information from public disclosure.

In that regard, R.I.G.L. §38-2-2(4)(i)(B) provides that the following types of records shall not be deemed public:

Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

The Rhode Island Supreme Court has held that this confidential information exemption applies where disclosure of information would be likely either (1) to impair

the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained. Providence Journal Company v. Convention Center Authority, 774 A.2d 40 (R.I.2001).

The first prong of the test is satisfied when information is voluntarily provided to the governmental agency and that information is of a kind that would customarily not be released to the public by the person from whom it was obtained. Providence Journal, 774 A.2d at 47.

In addition, the Court has held that the agencies making determinations as to the disclosure of information under APRA may apply the balancing test established in Providence Journal v. Kane, 577 A.2d 661 (R.I.1990). Under that balancing test, the Commission may protect information from public disclosure if the benefit of such protection outweighs the public interest inherent in disclosure of information pending before regulatory agencies.

II. BASIS FOR CONFIDENTIALITY

The ESAI report contained in Exhibit 5 was developed by ESAI through its proprietary methods of analysis and was provided to National Grid on a confidential basis. The ESAI report contains information that is not publicly available. National Grid is providing this information to the Commission on a voluntary basis to assist the Commission with its decision-making in this proceeding. Disclosure of the report could adversely affect ESAI's competitive position and would tend to make it less likely that such information would be provided voluntarily in the future. Moreover, such disclosure would impede National Grid's future ability to obtain this type of proprietary information

from third-party consultants or would increase the cost at which that information could be obtained.

III. CONCLUSION

Accordingly, the Company requests that the Commission grant protective treatment to the ESAI report contained in Exhibit 5 to the testimony of Madison N. Milhous, Jr.

WHEREFORE, the Company respectfully requests that the Commission grant its Motion for Protective Treatment as stated herein.

Respectfully submitted,

NATIONAL GRID

By its attorney,



Ronald T. Gerwatowski, Esq.(RI Bar #4502)
National Grid
40 Sylvan Road
Waltham, MA 02451
(781) 907-1820

Dated: December 9, 2009