



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Rhode Island Division of
Public Utilities and Carriers
89 Jefferson Blvd.
Warwick RI 02888
(401) 941-4500

February 4, 2014

Luly E. Massaro, Commission Clerk
Public Utilities Commission
89 Jefferson Boulevard
Warwick, R.I. 02888

RE: Docket 4265 – Review of Power Purchase Agreement between The Narragansett Electric Company d/b/a National Grid and Orbit Energy Rhode Island, LLC Pursuant to R.I.G.L 39-26.1-7
Amendments to Power Purchase Agreement

Dear Ms. Massaro:

On December 19, 2013, National Grid submitted a letter to the Commission informing the PUC of certain amendments to a Power Purchase Agreement (PPA) between National Grid and Orbit Energy. The PPA had been previously approved by the Commission in Docket 4265. National Grid had informed the Division of the nature of the PPA modifications prior to the submission of the December 19, 2013 letter to the Commission. In summary, the modifications relate to; changes to the location of the facility; adjusting the Commercial Operation Date (COD) to September 1, 2015, and; adjusting various interim milestone dates out as well. There is no change to the initial bundled price, or to the size or scope of the project as well, as represented by National Grid. According to National Grid, the extension of the Commercial Operation Date by two years is allowed under the approved PPA. The Division agrees with this assertion. In Orbit's response to Commission Data Request 1-2 in Docket 4265, the COD was identified as September 30, 2013. The Second Amendment extending the COD to September 1, 2015 is within the two year window provided for in the PPA.

A review of National Grid's response to Commission Data Request 5-1 in Docket 4371, filed on October 25, 2013, indicates that the Orbit project, with an expected start date in September of 2015, is still "below market" by approximately \$8.4 million. Additionally, National Grid has confirmed to the Division that Orbit has achieved the February 1, 2014 milestone required in the Second Amendment to the PPA relating to site control. The Company disclosed to the Division that Orbit provided National Grid with written confirmation that as of January 31, 2014 Orbit has obtained the required site control rights in the form of a signed lease

for the property located at Tax Assessors Plat 43, Lot 2 in Johnston, Rhode Island. This site was identified as the facility location in the Second Amendment.

National Grid does not believe the amendments to the PPA require regulatory approval for the reasons set forth in its December 19, 2013 submission. The Division however defers to the Commission as to the need for formal regulatory approval regarding the proposed amendments to this PPA. Additionally, the Division does not agree with the characterization by National Grid that the change in site location of the proposed project is a “*de minimis* and immaterial change to the PPA”.

The Division was of the opinion that the Orbit PPA was commercially reasonable when it filed its position in Docket 4265. With the caveats mentioned, the Division remains of the opinion that the PPA with the amendments is commercially reasonable and recommends approval of such amendments, if such approval is deemed required.

I appreciate your anticipated cooperation in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jon G. Hagopian".

Jon G. Hagopian
Senior Legal Counsel

cc: Stephen Scialabba