HANDY LAW LLC

Memorandum
From: Seth Handy, on behalf of the Washington County Regional Planning Council
To: RI Public Utilities Commission
Date: October 7, 2011
Regarding: Distributed Generation Enrollment Application and Enrollment Process Rules Docket No. 4277

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On behalf of the Washington County Regional Planning Council I submit the following comments on National Grid's proposed Distributed Generation Enrollment Process Rules, Docket No. 4277.

As a general statement, the proposed enrollment process is much more complicated and burdensome than what was envisioned by the statute. The statute requires a performance deposit designed to discourage applicants from applying for contracts upon which they cannot deliver. That deposit makes most of the project screening criteria National Grid proposes to administer as part of enrollment unnecessary, especially since it is precisely this kind of administrative burdens that are very likely to discourage the kind of projects the statute was designed to encourage.

1) Page 3, §1.2.2 intro: Distributed Generation projects are not required to be in the "Rhode Island zone" but are required to be in the "electric distribution company's load zone." This terminology is not mere semantics but has legal significance and therefore should be corrected.

2) Page 3, footnote 3: See comment 1.

3) Page 4, §2.1: The requirement to indicate whether you intend to enroll within five days and sign the contract within two days is an apparent typographical error. Schedule 1 allows 30 days for the agreement to be executed.

4) Page 4, §2.2: The requirement for the applicant to have filed an interconnection application and developed a feasibility study upon submission of their application is overly burdensome. Given the new statutory requirements for interconnection (RIGL 39-26.3-1) and the requirement to complete the project within 18 months of signing the DG contract, developers should merely have to explain the feasibility of interconnection at the time of their application.

5) Page 4, §2.3:

   a. See general comment above as applicable to section 2.3.
   b. See comment 4.
   c. It should be made clear that any reasonable "minimum threshold criteria" may be used as ranking criteria (if/as reasonable at all) for project

prioritization (per Schedule 3) but are not independent criteria upon which projects can be disqualified. If there is a minimum threshold score (as evaluated in Schedule 3) that a project must meet to be qualified, that score must be presented and justified based on the statutory criteria (eg, "ability to build"). Applicants should be given notice and an opportunity to cure any such deficiencies within short time after the notice, especially if (after reviewing all applicants) NGrid has not met the required annual target.

d. If projects can be disqualified for failure to meet any individual criterion, then those criterion must be identified and the guidelines must explain why the failure to meet that criterion impairs the proponents "ability to build" the project, as set out in the statute. Applicants should be given notice and an opportunity to cure any such deficiencies within short time after the notice, especially if (after reviewing all applicants) NGrid has not met the required annual target.

6) Page 5, §2.3:
   a. There is no requirement to meet minimum standards for bidder experience mandated by statute and schedule 3 indicates it is one among many criteria that are to be evaluated in assessing.
   b. There is no requirement to demonstrate site control at the time of filing although it is reasonable to expect an explanation of how site control will be obtained. Site control should be defined to include any arrangement that allows execution of the project (eg, lease, etc). The proponent's deposit is at risk so there is no reason to suspect that applicants will not take this project requirement seriously.
   c. See comment 4 regarding interconnection status.
   d. Economic benefit is assumed in the purpose of the statute and is not required as a project evaluation criterion.

7) Page 6, §2.3: See comment 5b. What is the non-price evaluation minimum score for qualification and how is that justified according to the statutory selection criteria?

8) Page 6, §2.7: See comment 1.

9) Page 6, §2.8: Project owners are not required to act as lead market participants in the administration of projects in the forward capacity markets and the statute did not intend for developers to shoulder that significant administrative burden or any risk related to its fulfillment. The statute provides that project owners are paid for a bundled commodity that is transferred to National Grid. What National Grid chooses to do with that commodity is then up to them and is not the responsibility of the project owner.

10) Page 7, §2.9: Project owners may be required to register and ensure the project's eligibility for renewable energy credits and then designate NGrid as recipient of the RECs but it should be made clear that after that point NGrid must administer

eligibility for RECs. The statute did not intend for developers to shoulder that administrative burden or any risk related to its fulfillment. The statute provides that project owners are paid for a bundled commodity that is transferred to National Grid. What National Grid chooses to do with that commodity is then up to them and is not the responsibility of the project owner.

11) Page 7, §2.11: The formatting is wrong (centered text)