



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

150 South Main Street • Providence, RI 02903

(401) 274-4400 - TDD (401) 453-0410

Peter F. Kilmartin, Attorney General

October 26, 2011

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

RE: **OFFICE OF ENERGY RESOURCES
DISTRIBUTED GENERATION CEILING PRICES
DOCKET NO. 4288**

Dear Luly,

Enclosed for filing with the Commission on behalf of the Division of Public Utilities and Carriers ("Division"), please find an original and nine (9) copies of the Division's Comments in the above entitled matter.

Very truly yours,

Jon Hagopian
Special Assistant Attorney General

JGH/dmm

Encl.

To: Rhode Island Division of Public Utilities and Carriers
From: Al Pereira & Dick Hahn – La Capra Associates, Inc.
Re: Distributed Generation Standard Contracts Act—Ceiling Prices and Class Targets for 2011
Date: October 24, 2011

In this memo, we summarize the results of our review of the ceiling prices filed by the Rhode Island Office of Energy Resources (“OER”) on September 27, 2011. In general, we believe that the 2011 prices and class targets are reasonable. We also agree that actual costs will be specific to each installation and are dynamic, but offer discussion of a few issues that should be reviewed or explained.

We also reviewed the distributed generation standard contract that was also filed in this docket and recommend that the contract be approved as filed. We believe that the filed contract complies with the Act’s requirements and understand that it was based on the Commission-approved Orbit Energy contract. We also agree with the working group’s desire to monitor and review the effectiveness of the contract.

Overall Comments on the Filed Prices and Targets

The Act requires the distributed generation standard contract board, or the OER until this board is duly constituted, to file ceiling prices and class targets. Overall, we find the 2011 targets to be reasonable, though slightly skewed toward larger solar projects. In addition, it is uncertain why solar projects less than 10kW are not included in the ceiling price filing for 2011 (and therefore, presumably ineligible for the 2011 program year). This may be an important consideration if economic development goals are of primary concern, since smaller PV projects tend to use more local labor content and thus tend to have greater local economic impacts.

In addition, though the filing mentions “wind projects”, plural, the size of eligible wind projects is 1.5 MW and the class target is 1.5 MW, implying that only a single project would be able to enroll for 2011. For this class target, the project would be considered a “small distributed generation project” and would be awarded on a first-come, first-served basis, thus effectively awarding the filed price to the first project that met the relevant criteria and tariff requirements.

Turning to the ceiling prices, we conclude that the major assumptions underlying the prices are reasonable. Installed (or capital) costs, operations and maintenance costs, and capacity factors appear consistent with our experience with similar projects and the existing literature. We discuss some elements that should be reviewed (or at least explained). This review is especially important for “small distributed generation projects” where competitive procurement pressures are not in play.

Elements That Should Be Reviewed:

- The ceiling prices are calculated by averaging two calculations or model runs: (a) one that assumes that tax benefits are realized as they are generated, and (b) one that assumes that net operating losses are carried forward and only used by the project (rather than the host). Though the lack of tax appetite has been a general concern with the weak economic conditions, the OER should explain why it believes that 50% (as the calculation implies) of project applicants will not be able to take advantage of tax benefits as they are generated by the project.
- The ceiling prices assumed that the federal investment tax credit is available and that 50% Bonus Depreciation will be utilized. However, no other federal, state, local, or other grants are assumed. It is our understanding that projects in Rhode Island have received state grants from the Renewable Energy Fund (“REF”) and other sources. Though not all projects will receive state or local grants, we believe that it is possible to include an allowance for these grants in the ceiling prices.
- The ceiling prices assume that projects would involve lease payments. Though we acknowledge that third-party providers are eligible to participate, it is unclear how many of the installations will actually involve lease payments to the site host, since most of the projects (especially for solar) will be customer-sited. The OER should explain the reasons for including lease payments, including its assumption regarding what percentage of installations will actually involve lease payments.