

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: RHODE ISLAND OFFICE OF ENERGY :
RESOURCES MOTION FOR RELIEF FROM : DOCKET NO. 4288
ORDER NO. 20676 REGARDING THE 2012 :
DISTRIBUTED GENERATION TARGETS :

ORDER

In Order No. 20676, the Public Utilities Commission (“Commission”) approved a filing by the Rhode Island Office of Energy Resources (“OER”) which stated in Ordering Paragraph 6 that “The Distributed Generation Classes and Targets proposed by OER on September 27, 2011 are approved, as filed and set forth in Appendix A, for 2011 and 2012. The approved Classes and Targets are set forth in Appendix A shall remain in effect until new classes and targets are proposed by OER and approved by the Commission.”¹ The Target for 2012 was set at 15MW. In 2012, to date, National Grid has met 10 MW of the target through two solicitations.

On September 20, 2012, the OER requested that the Commission amend the Order so as to permit OER to reallocate the last 5 MW to the 2013 program and suspend the third solicitation scheduled in 2012. As grounds therefore, OER stated that the reallocation would allow for a reduction in the ceiling prices to be paid to distributed generation projects through this program, reducing adverse impacts to ratepayers. The result would be a delay of the solicitation by approximately three months.²

Following the filing of OER’s Motion, the Commission, through Notice to the official service list in this docket, notified the parties that the ten day objection period would run on October 1, 2012. On September 28, 2012, The Narragansett Electric Company d/b/a National Grid filed a letter supporting OER’s Motion on the basis that the law governing the distributed generation

¹ Order No. 20676 (issued March 15, 2012).

² OER Motion for Relief from Order.

program provides OER the flexibility to modify the program, subject to Commission review in the event ceiling prices are too high. National Grid suggested that based on its experience in the solicitations, OER was correct that ceiling prices for 2012 had been set higher than necessary to meet the statutory intent.³ No objections were received.

On this basis, the Commission voted unanimously at an Open Meeting on October 4, 2012 to approve OER's Motion on the basis that R.I. Gen. Laws § 39-26.2-5(c) allows that "...[OER] may on its own initiative, elect to revisit the ceiling prices if the [OER] determines that the prices are either too low or too high. In such case, it may make a filing with the commission to seek a modification to the program for that year, which shall be acted upon by the commission within sixty (60) days. While such request is pending, [National Grid] may suspend executing standard contracts until a decision is reached on the request."⁴ The Commission's decision was made within sixty (60) days on the basis that OER had determined that the 2012 ceiling prices appeared to have been set too high. At the Open Meeting on October 4, 2012, potential program participants appeared wishing to provide public comment, which intent was made known following the Commission's decision. Therefore, in the interest of a fully transparent process, the Commission scheduled a hearing on its own motion of whether to reconsider its decision. The Notice of Hearing was published in the Providence Journal on October 12, 2012.

Prior to the hearing, the Commission received written comments from two companies representing potential project participants in favor of a reconsideration of the Commission's decision. On October 23, 2012, the Commission conducted a hearing at its offices at 89 Jefferson Boulevard, Warwick, Rhode Island. The following appearances were entered:

FOR OER:

Peter V. Lacouture, Esq.

³ Letter from Thomas Teehan, Esq. to Commission Clerk on behalf of National Grid in support of OER's Motion.

⁴ R.I. Gen. Laws § 36-26.2-5(c).

FOR DEPARTMENT OF ADMINISTRATION:	Michael Mitchell, Esq.
FOR CONSERVATION LAW FOUNDATION:	Jerry Elmer, Esq.
FOR NATIONAL GRID:	Thomas Teehan, Esq.
FOR THE DIVISION:	Leo Wold, Esq. Assistant Attorney General
FOR THE COMMISSION:	Cynthia G. Wilson-Frias, Esq. Senior Legal Counsel

Five individuals attended the hearing to argue in favor of reconsideration. The five individuals either represented project developers or were seeking to install distributed generation facilities. The primary reason in favor of reconsideration was that developers had relied on the ceiling prices in developing distributed generation projects. According to the speakers, the developers of the various projects under consideration had expended funds to promote, design, and prepare the projects for consideration and this was done on the basis of the prices set for the projects. According to the speakers, the projects would not be able to move forward if the Commission did not reconsider its decision.⁵

Counsel for OER responded that based on the experience of National Grid in the 2011 solicitation and the first two solicitations of 2012, OER had determined that the ceiling prices were set higher than necessary to promote the installation of distributed generation projects. The 2011 solicitation resulted in applications for 11 MW of load for 5 MW awarded. The second solicitation of 2012 resulted in applications for 7.5 MW of load for less than 6 MW awarded. The third solicitation of 2012 resulted in 21 applications for 21 MW of load and 5.1 MW awarded. Based on the approved targets, 3.8 MW were left to be fulfilled in 2012. Therefore, because OER believed lower prices could be developed for distributed generation projects, it was requesting the

⁵ Tr. 10/23/12 at 4-13.

Commission affirm its October 4, 2012 Open Meeting Decision and to allow the 3.8 MW to be made part of the 2013 solicitations.⁶

Counsel for National Grid stated that National Grid was relying on its previously filed written comments. Counsel did note that some of the written comments had suggested that there may have been some projects that had not been able to participate in the second 2012 solicitation because National Grid had not completed the feasibility analysis in accordance with its rules. According to Counsel, no applicant with a completed application had been prevented from participating because a feasibility study was not completed within thirty (30) days.⁷ Finally, the Counsel to the Division stated that the Division was in concurrence with OER and National Grid that the Commission should not reconsider its October 4, 2012 open meeting decision granting OER's Motion to reallocate the remaining MW to the 2013 program.⁸

At its Open Meeting conducted on October 25, 2012, the Commission reviewed the record developed at the hearing and voted unanimously not to reconsider its decision made on October 4, 2012, the effect of which was to grant OER's Motion to amend the 2012 Targets and reallocate the remaining 5MW from the 2012 Distributed Generation Standard Contracts program to the 2013 Distributed Generation Standard Contracts program. Pursuant to the Commission's decision in Docket No. 4277 regarding OER's Motion for Extension of Time to file its various recommendations pursuant to the Distributed Generation Standard Contracts Act, the revised targets shall be included in OER's filings to be made no later than November 29, 2012.

Accordingly, it is hereby,

(20883) ORDERED:

⁶ *Id.* at 14-16.

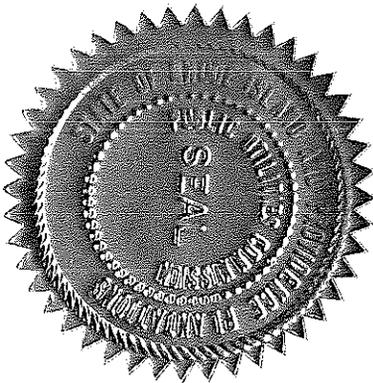
⁷ *Id.* at 16-17.

⁸ *Id.* at 17-18.

1. The Office of Energy Resources Motion for Relief From Ordering Paragraph 6 of Order No. 20676 (issued March 15, 2012) is hereby granted.
2. The remaining megawatts not solicited by National Grid in 2012 will be included in the 2013 Targets to be recommended by the Office of Energy Resources pursuant to R.I. Gen. Laws §§ 39-26.2-4 and 39-26.2-5.

EFFECTIVE AT WARWICK, RHODE ISLAND ON OCTOBER 4, 2012, PURSUANT TO OPEN MEETING DECISIONS ON OCTOBER 4, 2012 AND OCTOBER 25, 2012. WRITTEN ORDER ISSUED NOVEMEBR 21 2012.

PUBLIC UTILITIES COMMISSION

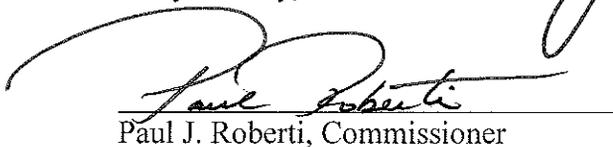


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Elia Germani, Chairman



Mary E. Bray, Commissioner



Paul J. Roberti, Commissioner

*Chairman Germani concurs but is unavailable for signature.

NOTICE OF RIGHT OF APPEAL PURSUANT TO R.I.G.L. SECTION 39-5-1, ANY PERSON AGGRIEVED BY A DECISION OR ORDER OF THE COMMISSION MAY, WITHIN SEVEN DAYS (7) DAYS FROM THE DATE OF THE ORDER, PETITION THE SUPREME COURT FOR A WRIT OF CERTIORARI TO REVIEW THE LEGALITY AND REASONABLENESS OF THE DECISION OR ORDER.