



State of Rhode Island and Providence Plantations

DEPARTMENT OF ATTORNEY GENERAL

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*Peter F. Kilmartin, Attorney General*

April 30, 2012

*VIA HAND DELIVERY & ELECTRONIC MAIL*

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

Re: Docket 4316 – Long-Term Contracts for Renewable Energy Projects Pursuant to R.I. Gen. Laws Sections 39-26.1 et seq.

Dear Ms. Massaro:

Enclosed please find an original and nine (9) copies of the Memorandum of Division witness Richard S. Hahn for filing by the Division of Public Utilities and Carriers in the above-captioned proceeding.

I appreciate your attention in this matter and if you should have any questions, please feel free to contact me.

Very truly yours,

Jon G. Hagopian  
Special Assistant Attorney General

Enclosures

cc: Service List

# *La Capra Associates*

**To:** Rhode Island Public Utilities Commission  
**From:** Richard Hahn, La Capra Associates, on behalf of the Division of Public Utilities and Carriers  
**Re:** Long-Term Contracts for Renewable Energy Projects Pursuant to Rhode Island General Laws Section 39-26.1 et seq., Docket 4316  
**Date:** April 30, 2012

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At the request of the Rhode Island Division of Public Utilities and Carriers (“Division”), La Capra Associates reviewed National Grid’s (“NGRID’s”) March 1, 2012 filing for Long-Term Contracts for Renewable Energy Projects Pursuant to Rhode Island General Laws (R.I.G.L.) Section 39-26-1 *et seq.* The purpose of this review was to assess NGRID’s compliance with the Rhode Island Public Utilities Commission (“the Commission”) Rules and Regulations Governing Long-Term Contracting Standards for Renewable Energy (“Regulations”) in light of new Rhode Island legislation regarding distributed generation and net metering and identify areas of non-compliance, if any. This memorandum summarizes the results of this review.

The NGRID filing of March 1, 2012 describes NGRID’s revised request for proposals (“Revised RFP”) to purchase the output from newly developed renewable energy projects. I believe that NGRID has generally made reasonable revisions in light of the new legislation and that the Revised RFP largely continues to comply with the Commission’s requirements. I note a few issues below where adjustments to the Revised RFP should be made. With the acceptance of these minor revisions, I believe that the NGRID RFP is acceptable and should be approved.

## **Background**

Rhode Island has recently enacted two pieces of legislation that impact NGRID’s Revised RFP for newly developed renewable energy projects: a) the Net Metering provision of the Renewable Energy Standard, R.I.G.L. 39-26.4-1 *et seq.* and b) the Distributed Generation Standard Contracts Act, R.I.G.L. 39-26.2-1 *et seq.*

The first of these new policies stipulates that certain renewable energy systems up to 5 MW of nameplate capacity are eligible to receive net metering treatment, such that energy generated from these facilities may “run the meter backward” and produce a credit equal to the customer’s retail rate of electricity. The aggregate amount of new capacity allowed under this program is capped at 3% of peak load.

The other new policy creates a separate enrollment process for distributed generation (“DG Enrollment”). Contracts for enrolled projects would also qualify for treatment as Long-Term Renewable Contracts under 39-26-1 *et seq.* The new legislation sets a goal of enrolling either 40 MW of nameplate generation or 10% of the required 90 MW<sup>1</sup> in Long-Term Renewable Contracts inclusive of the requirement for 3 MW of solar generation capacity over four years. The enrollments are processed on a first-come first-served basis limited by ceiling prices and capacity targets by technology class.

In response to these new policies, NGRID has revised its RFP for Long-Term Renewable Contracts to:

- Eliminate the 250 kW minimum size requirement for new solar projects (though the 1 MW minimum size requirement remains in place); and
- Eliminate REC-only bids for net metered projects.

It also continues to advocate that solar projects be evaluated against all other technologies and not just other solar projects.

In addition, NGRID has added language to its Revised RFP to “clarify” treatment of out-of-state projects. Section 5.2 of the Regulations states:

“All approved projects, regardless of their location, shall provide other direct economic benefits to the State of Rhode Island, such as job creation, increased property tax revenues or other similar revenues deemed substantial by the Commission as determined on a case-by-case basis.”

In Section 2.2.2.2 part c of the Revised RFP NGRID added “pricing benefits” to this list and in Section 2.2.3.6 described this as “the benefits of cost savings for Rhode Island customers resulting from competitive pricing”. Moreover, Section 2.2.4.2 for the RFP was revised such

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<sup>1</sup> The 90 MW long term renewable contract standard is for an amount of energy equivalent to 90 MW for 8,760 hours per year.

that NGRID may require pricing based on the Rhode Island zone.

**Findings Regarding New Legislation**

NGRID's adjustments to its RFP to account for the new legislation are generally reasonable. Based on my review of the new legislation, the new DG Enrollment process would not guarantee that NGRID will reach its required 3 MW of new solar contract capacity by 2013. But the process could easily be administered such that this goal is met. My only hesitation in approving NGRID's revisions as proposed surrounds the rejection of the minimum 250 kW size requirement for new solar projects. The Commission ordered NGRID to use this lower size requirement in Docket 4150.<sup>2</sup> Although this is likely no longer necessary to help NGRID to procure enough solar generation to meet its 3 MW target, letting the provision remain in place may provide some bidders one additional opportunity to have their projects evaluated and likely would not cause any harm. I note that the DG Enrollment process is for facilities up to 5 MW. Whether the minimum size in the long-term renewable contracting process is set at 1 MW, as the Company proposes, or at 250 KW, as I suggest, there will be an overlap between the long-term renewable contracting process and the DG Enrollment process. Therefore, I recommend the 250 kW size threshold for solar generation remain in the Revised RFP.

**Findings Regarding Other RFP Revisions**

NGRID appears to be arguing that out-of-state projects that do not directly or indirectly create jobs in Rhode Island or new state tax revenues could still create economic benefits in the state of Rhode Island and thus be selected as long as they are less costly than in-state generation. There is merit to the argument that reduced electric rates can help support businesses and create or sustain local jobs. However, in practice it may be difficult to directly compare pricing benefits and non-price benefits such as new jobs in evaluating bids.

I understand the Company's filing to request a change in the threshold requirement for eligibility of projects that can participate in the long-term renewable contracting RFP. This requested change would allow projects that produce lower rates to Rhode Island ratepayers (i.e., projects whose costs are expected to be below market prices over their term) to submit proposals and be evaluated pursuant to the price and non-price scoring system. I also understand that NGRID

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<sup>2</sup> State of Rhode Island and Providence Plantations Public Utilities Commission. Report and Order. Docket No. 4150. December 1, 2010. p. 17.

does not propose to modify the non-price scoring system contained in Appendix B of the RFP. Currently, category E - Economic Benefits awards non-price “points” for providing direct employment, indirect employment, and / or additional tax revenue. I do not see anything in NGRID’s filing that alters Appendix B. I agree with this approach. Out-of-state renewable projects should be allowed to participate in the long-term contracting process. This will expand the potential list of RFP responders. There is no need to modify Appendix B, as the “pricing benefits” or below market costs would be captured in the price score, not the non-price score. Plus, this avoids the mixing of electric price benefits with the traditional direct economic benefits such as jobs and taxes. NGRID’s revision to the RFP to allow consideration of pricing benefits as threshold eligibility requirement but not to modify the non-price scoring system should be accepted, as long as the Commission and the Division receive ample opportunity to review the bid evaluation process.

Regarding the need for Rhode Island zone pricing versus out-of-state delivery points, I understand the potential for increased costs due to price separation between Rhode Island load and remote generation. However, the remote price will likely be lower than the Rhode Island price, even when price separation costs are added. I do not dispute that NGRID should take such risk under consideration in its bid evaluation process. Requiring or allowing bidders to submit proposals with both in-state and out-of-state pricing could yield a better project for Rhode Island ratepayers. Sellers may wish to assume this price separation risk, but at some fixed cost to Rhode Island ratepayers.<sup>3</sup> It may be less costly to Rhode Island ratepayers not to accept Rhode Island zone pricing. I do not recommend bidders with out-of-state projects be required to only submit bids that completely hedge this risk for Rhode Island customers. NGRID should specify how it intends to compare bids that are subject to price separation risk with ones that are not, and provide the Commission and the Division with its analysis of that risk for each project.

### **Additional Issues**

In my review of NGRID’s RFP in Docket 4150, I made four recommendations that NGRID did not oppose.<sup>4</sup> However, appropriate language has not been incorporated into the Revised RFP. I continue to support the following recommendations listed below.

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<sup>3</sup> This issue arose in Docket 4319 regarding the proposed PPA between NGRID and Black Bear Hydro. Please refer to my comments filed on April 24, 2012.

<sup>4</sup> NGRID Reply Comments. Docket No. 4150. May 17, 2010. p. 6.

- Regarding late proposals (See Revised RFP Section 3.4, p. 16) NGRID has reserved the right to reject any late proposals. I recommend *all* late proposals be rejected.
- Regarding the RFP review timeline in Section 3.1, NGRID is required to submit the bids to the Division for review five days after they are submitted. I recommend NGRID clarify that the Division should have at least thirty days to conduct its review.
- Regarding the market price forecast used to evaluate the bids, I recommend this be provided to the Division in advance of the bid due date to provide more time for its evaluation.
- Regarding the Notice of Intent to bid and the Bidder's Conference (See Revised RFP Section 3.2, page 16), I recommend NGRID clarify that bidders may still submit bids without submitting a Notice of Intent or attending the Bidder's Conference.

In addition to these recommendations, I also recommend NGRID revise the language in Section 2.2.2, page 6 of the Revised RFP, which states that failure to meet eligibility requirements *could* lead to a proposal being disqualified. NGRID should revise the statement to read that such proposals *will* be disqualified or else explain possible circumstances for proposals to remain under consideration. Moreover, regarding the market price forecast, in addition to my recommendation regarding time for Commission review, I also recommend that the forecast NGRID provides the Commission be up-to-date and not one-year old. It should also be updated prior to use in evaluating bids.

Finally, I recommend NGRID clean up some of the language in the Revised RFP that appears outdated and unnecessary. First, in Section 1.2, the first two paragraphs on page 3 can be deleted. These paragraphs refer to the fact that before the first solicitation, NGRID had already met the requirement for procuring 25% of the total renewable capacity target. NGRID must procure more renewable energy to meet the requirement for 2012. Second, I recommend NGRID delete the references to the January 1, 2009 cut-off date for eligibility as a newly-developed resource. That date only applied to the first solicitation. The following references should be deleted:

- Section 1.2 on page 3, final sentence of the second-to-last paragraph
- Section 2.2.2.2 part b on page 6, final sentence