

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: TARIFF ADVICE FILING TO AMEND APPROVAL :
R.I.P.U.C. NO. 2081 OF LONG-TERM CONTRACTING FOR :
RENEWABLE ENERGY RECOVERY PROVISION : DOCKET NO. 4338

REPORT AND ORDER

In 2010, with certain amendments in 2012, the General Assembly passed, with the Governor's signature, Long Term Contracting Statute.¹ On December 29, 2011, The Narragansett Electric Company d/b/a National Grid ("National Grid" or "Company") filed a new tariff, the Long-Term Contracting for Renewable Energy Recovery Provision ("LTCRER") which was approved by the Public Utilities Commission ("Commission") on March 29, 2012, at an Open Meeting finding that these tariffs are necessary due to the unique language in R.I. Gen. Laws §§ 39-26.1-7(d) and 39-26.1-9(8) which required National Grid to negotiate with specific developers and authorize the full recovery by National Grid of certain costs in addition those incurred under the PPAs. The Commission noted that "[o]ther negotiations under the Long Term Contracting Statute (R.I. Gen. Laws § 39-26.1 et seq.) and other renewable contracting requirements are not specifically recoverable outside of the context of National Grid's general administrative operating expenses allowed in general rate cases."²

In that Order, the Commission noted that what was not then before the Commission for consideration were the costs associated with any other PPA under the Long Term Contracting Statute, specifically, R.I. Gen. Laws § 39-26.1-5(f) which states:

The electric distribution company shall file tariffs with the commission for commission review and approval that net the cost of payments made to projects under the long-term contracts against the proceeds obtained from the sale of energy, capacity, RECs or other attributes. The difference shall be credited or charged to all distribution customers through a uniform fully reconciling annual factor in distribution rates, subject to review

¹ R.I. Gen. Laws § 39-26.1 et seq.

² Order No. 20723 (issued May 3, 2012) at 5-6.

and approval of the commission. The reconciliation shall be designed so that customers are credited with any net savings resulting from the long-term contracts and the electric distribution company recovers all costs incurred under such contracts, as well as, recovery of the financial remuneration and incentives specified in § 39-26.1-4.³

This provision of the Long Term Contracting Statute only applies to the contract costs for those PPAs that have begun commercial operation. At the time of the Commission's decision in Docket No. 4308, none of the projects covered by the Long Term Contracting Statute had achieved commercial operation. Therefore, National Grid had not filed any tariff language addressing recovery of such costs.

On July 2, 2012, National Grid filed with the Commission a Tariff Advice to Amend the LTCRER (R.I.P.U.C. No. 2081) "to recover (i) the above market cost of the long-term contracts and [Distributed Generation] ("DG") Standard Contracts...that the Company has entered into pursuant to the [Long Term Contracting] Standard, the Regulations, and the DG Standard Contracts Act, respectively, as authorized by R.I.G.L. § 39-26.1-5(f); (ii) the 2.75% contract remuneration authorized pursuant to R.I.G.L. § 39-26.1-4; and (iii) certain administrative and other costs...pursuant to the [Long Term Contracting] Standard and subsection (7) of the DG Standard Contracts Act."⁴ Under National Grid's proposal, all costs, including the contract remuneration, would be projected, recovered in advance, and then subject to an annual reconciliation.⁵

According to Margaret Janzen, Director of Wholesale Electric Supply for National Grid USA Service Company, Inc., the purpose of the proposed LTCRER amendment is to create a mechanism "that will recover the above market cost of the Contracts, as well as the contract

³ R.I. Gen. Laws § 39-26.1-5(f).

⁴ Filing Letter 7/2/12 at 1-2, citing Section 39-26.2-9 for the proposition that standard contracts entered into under the DG Standard Contracts Act are treated for all purposes as log-term contracts entered into under the Long Term Contract Standard.

⁵ Filing Letter 7.2.12 at 2; Pre-Filed Testimony of Jeanne Lloyd at 6.

remuneration and certain other administrative costs incurred under the DG Standard Contracts Act. She explained that the proposed LTCRER factor would be revised two times per year, in January and July, with a single annual reconciliation. The Company would estimate the total payments for energy, capacity and RECs expected to be incurred under the Contracts during the upcoming six-month period.⁶ From this amount, the estimated market price for the products would be deducted from the total estimated payments and the difference would represent the above-market costs upon which the LTCRER factor would be based. The LTCRER factor will be a uniform per kWh factor applied to all delivery customers' bills. In order to estimate the market price of the products, Ms. Janzen explained that National Grid proposed to use the spot market price estimate included in the SOS prices for the Commercial procurement group as a proxy for energy and capacity. Similarly, Ms. Janzen indicated that the Company proposed to use the New REC market price established in the docket setting the RES charge as a proxy for the REC market price.⁷ According to Ms. Janzen, the Company will be able to track the actual settlement prices for each of the facilities. Any capacity payments received by the Company for the various DG projects would also be credited to customers. Finally, she proposed to use recent standalone RES solicitation results, broker information, published REC indexes and competitive solicitations from other states to determine the market cost for RECs. She indicated that the Company would perform this calculation quarterly.⁸

Jeanne Lloyd, National Grid's Manager of Electric Pricing, New England, provided additional information regarding the semi-annual calculation of the LTCRER factor and the reconciliation. She explained that National Grid proposed to estimate the total payments for energy, capacity and RECs expected to be incurred during the upcoming pricing period. From

⁶ Pre-Filed Testimony of Margaret Janzen at 7-8.

⁷ *Id.* at 7-11.

⁸ *Id.* at 11-12.

that estimate would be deducted the estimate of the market value of the Contract Products, valued as described by Ms. Janzen. Added to that amount would be the projected contract remuneration, trued up in the reconciliation. In addition, National Grid included the following in the tariff: costs incurred by the Company under reimbursement agreements, costs incurred by the Company associated with required system upgrades not directly recovered from Distributed Generation Facilities, forfeited Performance Guarantee Deposited as an offset to expense, and the costs incurred for consultants hired to assist the Commission in proceedings involving contract disputes.⁹

On September 11, 2012, following a discovery period, the Division submitted a Memorandum from its consultant, Richard Hahn of La Capra Associates, summarizing the proposed tariff and recommending certain changes.¹⁰ Mr. Hahn indicated that the cumulative costs associated with the PPAs and DG Contracts could exceed \$60 million in 2014 and beyond, necessitating a tariff change.¹¹ However, while “at a high level, [Mr. Hahn found] that the design of this revised tariff should allow the Company to create a monthly revenue stream that should closely match [National Grid’s] monthly PPA payment obligations,”¹² Mr. Hahn disagreed that the financial remuneration should be included with the estimated payments to be made in pricing period.¹³ He explained that unlike the need to forecast the payments that would be required under the PPAs in order to provide the Company with cash on hand to make these payments as required, the contract remuneration is “an additional revenue stream or profit to the Company that has no offsetting expense or cost that needs to be collected in advance.” Additionally, Mr. Hahn noted that the legislation uses the term “actual” in reference to the

⁹ Pre-Filed Testimony of Jeanne A. Lloyd at 6-7.

¹⁰ Memorandum of Dick Hahn dated September 10, 2012.

¹¹ *Id.* at 1-1.

¹² *Id.* at 3.

¹³ *Id.* at 5.

calculation of the remuneration,¹⁴ referencing R.I. Gen. Laws § 39-26.1-4 which states, “[t]he financial remuneration and incentives shall be in the form of annual compensation, equal to two and three quarters percent (2.75%) of the actual annual payments made under the contracts for those projects that are commercially operating.”¹⁵ Therefore, Mr. Hahn recommended the financial remuneration be calculated as part of the annual reconciliation based on the actual payments made during the prior year.¹⁶

With regard to the forecast of REC prices, Mr. Hahn noted that if RECs acquired from long-term contracts and DG Contracts are used to meet the Standard Offer Service (“SOS”) RES requirements, “a ‘transfer price’ will need to be set in order to determine how much all customers – both SOS and those served by competitive suppliers – will be credited for RECs acquired under the long-term contacting prices and how much SOS customers will be charged (through the RES charge) for those same RECs.”¹⁷ Mr. Hahn suggested that the timing and methodology is important in order to reflect current market prices. He recommended that the price be set quarterly, after the end of each calendar quarter, with the first being set on or before April 15, 2013 for the first quarter of 2013. Additionally, he proposed prices be averaged over several days.¹⁸

Mr. Hahn also discussed coordinating the propose LTCRER tariff with other tariff provisions and associated rate changes. He suggested a wording change to clarify that the estimated costs would be subject to an annual reconciliation and further suggested that instead of including the annual reconciliation with a November filing, it be included in the retail rate

¹⁴ *Id.* at 7.

¹⁵ R.I.G.L. §39-26.1-4.

¹⁶ Memorandum of Dick Hahn dated September 10, 2012 at 5.

¹⁷ *Id.* at 4-5.

¹⁸ *Id.* at 5.

reconciliation filing effective April 1st.¹⁹ He also recommended that the interest rate applied to the recovery of under-collections and refunding over-collections be the Company's actual short-term cost of funds.²⁰

On September 21, 2012, the Company submitted Reply Comments to the Division's recommendations. The Company accepted the recommendation to conduct the annual reconciliation to coincide with other rate changes which occur on April 1st. However, the Company proposed including language allowing it to adjust the LTCRER charge more frequently in the event the over- or under-collection of LTCRER expenses is significant.²¹ The Company also had no objection to utilizing the actual cost of short-term debt in calculating interest charges.²² Furthermore, the Company did not object to the Division's proposal to collect the financial remuneration on a retrospective basis.²³ With regard to the setting of REC prices, the Company agreed not to set prices at a single point in time, but suggested setting the quarterly prices closer to the closing of each REC trading period. As the Company noted, the trading period for the first quarter of 2013 will commence July 15, 2013. National Grid proposed to gather price data approximately ten days before and ten days after the transfer date, all within the month of July.²⁴

Finally, although not specifically addressed by Mr. Hahn in the Division's comments, the Company indicated that it had reevaluated its methodology used to forecast the capacity portion of the spot market price based on discussions with Mr. Hahn and had developed an "enhanced calculation methodology."²⁵ National Grid indicated that the new methodology was in response

¹⁹ *Id.* at 3.

²⁰ *Id.* at 4.

²¹ National Grid's Reply Comments at 2.

²² *Id.* at 5.

²³ *Id.* at 6.

²⁴ *Id.* at 4.

²⁵ *Id.* at 6.

to the fact that the previously approved methodology resulted in an underestimation of the capacity costs by approximately twenty-one percent (21%) for the Residential Group and approximately one percent (1%) for the Commercial Group.²⁶ Using the revised methodology would have resulted in an underestimation of capacity costs of one percent (1%) for the Residential Group and four percent (4%) for the Commercial Group. Therefore, the Company proposed using the revised methodology “consistently across future SOS rate calculations, the LTCRER calculations, as well as the SOS RFP calculations.”²⁷

The difference between the previously approved methodology and the proposed methodology is that for the capacity cost component, the new methodology would use the Installed Capacity ("ICAP") tags which represent the contribution that each specific customer group had to the system peak demand hour as opposed to an estimate of the monthly charges calculated via a load factor percentage based on each specific customer group's historical peak demand. The ICAP tag is an actual value determined after the system peak occurs and before the beginning of the next capacity period which is the following June 1st. The ISO-NE uses the ICAP tags to assign cost responsibility for the amount of installed capacity the system needs to be able to meet the peak load. The electric system needs to be designed to meet the peak demand plus contingency factors. Therefore, rather than forecasting using load factors, the ICAP tag is the actual specific customer group's contribution to the actual system peak. Therefore, using the ISO-NE's cost allocation methodology should increase the accuracy of the forecasted capacity costs for each customer group and result in a reduced contribution to the reconciliation.

On October 5, 2012, National Grid filed revised tariffs R.I.P.U.C. 2127, LTCRER and R.I.P.U.C. 2125 LTCRER Reconciliation Provision in order to incorporate the modifications

²⁶ *Id.*

²⁷ *Id.*

addressed in the Division's Comments and the Company's Reply Comments. National Grid noted that it intends to include the LTCRER reconciliation as part of the annual retail reconciliation submitted each February for rates effective April 1. The Company also incorporated the use of the actual short-term debt rate. Finally, the Company indicated that the Division was in agreement with the methodologies it proposed regarding the transfer price and capacity cost calculation referenced in the National Grid's reply comments.²⁸

On October 25, 2012, the Commission considered National Grid's proposed revised LTCRER tariff and LTCRER Reconciliation Provision and the associated comments. The Commission approved the revised tariffs filed on October 5, 2012, finding them to be consistent with the Long Term Contracting Statute and the DG Standard Contract Act. In light of the magnitude of above-market costs that are anticipated under the various contract requirements for renewable energy over the next several years, the Commission agrees with the Division's witness that it is reasonable for the Company to seek recovery of estimated above-market costs over each six-month period with an annual reconciliation to provide protection against large over- or under-recoveries. Furthermore, the Commission finds that the Division's interpretation of R.I. Gen. Laws § 39-26.1-4 was correct. Additionally, the Commission approves the "enhanced calculation methodology" for estimating capacity charges. This methodology is consistent with the methodology used for estimating the spot market prices embedded in the SOS retail rate. It is appropriate to use a consistent methodology for the calculation of similar costs in various dockets.

Accordingly, it is hereby,

(20905) ORDERED:

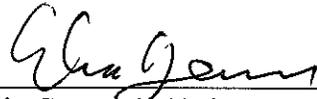
²⁸ Filing Letter dated October 5, 2012.

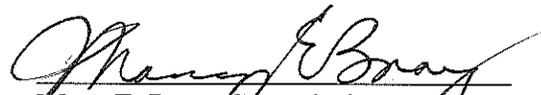
1. The Narragansett Electric Company d/b/a National Grid's Tariff R.I.P.U.C. No. 2125, Long-Term Contracting For Renewable Energy Recovery Provision, filed on July 2, 2012, is hereby denied.
2. The Narragansett Electric Company d/b/a National Grid's Tariff R.I.P.U.C. No. 2125, Long-Term Contracting For Renewable Energy Recovery Reconciliation Provision, filed on October 5, 2012, is hereby approved.
3. The Narragansett Electric Company d/b/a National Grid's Tariff R.I.P.U.C. No. 2127, Long-Term Contracting For Renewable Energy Recovery Provision, filed on October 5, 2012, is hereby approved.
4. The Narragansett Electric Company d/b/a National Grid's proposed enhanced capacity cost calculation is hereby approved.
5. The Narragansett Electric Company d/b/a National Grid's proposal regarding the date used to set the Renewable Energy Certificate prices is hereby approved.
6. The Narragansett Electric Company d/b/a National Grid's Tariff R.I.P.U.C. No. 2125 and Tariff No. 2127 compliance filing made on November 14, 2012, is hereby approved.
7. The Narragansett Electric Company d/b/a National Grid shall comply with all other findings and instructions contained in this Order.

EFFECTIVE AT WARWICK, RHODE ISLAND ON OCTOBER 25, 2012 PURSUANT TO AN OPEN MEETING DECISION ON OCTOBER 25, 2012. WRITTEN ORDER ISSUED DECEMBER 20, 2012.



PUBLIC UTILITIES COMMISSION


Elia Germani, Chairman


Mary E. Bray, Commissioner


Paul J. Roberti, Commissioner

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.