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March 21, 2013

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

***Re: Docket 4364 - Narragansett Bay Commission***

Dear Ms. Massaro:

Enclosed please find an original and nine (9) copies of the following:

1. Narragansett Bay Commission's Supplemental Response to the Division of Public Utilities and Carriers Second Set of Data Requests (Div. 2-13).

Please note that an electronic copy of this filing has been sent to the service list.

Thank you for your attention to this matter.

Sincerely,



Joseph A. Keough Jr.

JAK/kf  
Enclosures

Narragansett Bay Commission  
Docket 4364  
Supplemental Response to Division's Second Set of Data Requests

**CERTIFICATION**

I hereby certify that on March 21, 2013, a copy of the within was sent to all parties set forth on the attached Service List by electronic mail and copies to Luly Massaro, Commission Clerk, by electronic mail and hand delivery.

<b>Parties/Address</b>	<b>E-mail Distribution</b>	<b>Phone</b>
Joseph A. Keough, Jr., Esq. Keough & Sweeney 41 Mendon Ave. Pawtucket, RI 02861	<a href="mailto:jkeoughjr@keoughsweeney.com">jkeoughjr@keoughsweeney.com</a>	401-724-3600
Karen L. Giebink, Director of A&F Narragansett Bay Commission One Service Road Providence, RI 02905	<a href="mailto:Kgiebink@narrabay.com">Kgiebink@narrabay.com</a>	401-461-8848
	<a href="mailto:Sherri.arnold@narrabay.com">Sherri.arnold@narrabay.com</a>	
	<a href="mailto:wedge@beconsulting.biz">wedge@beconsulting.biz</a>	
Christy Hetherington, Esq. Karen Lyons, Esq. Dept. of Attorney General 150 South Main St. Providence, RI 02903	<a href="mailto:Chetherington@riag.ri.gov">Chetherington@riag.ri.gov</a>	401-222-2424
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	<a href="mailto:Sscialabba@ripuc.state.ri.us">Sscialabba@ripuc.state.ri.us</a>	
	<a href="mailto:dmacrae@riag.ri.gov">dmacrae@riag.ri.gov</a>	
	<a href="mailto:jmunoz@riag.ri.gov">jmunoz@riag.ri.gov</a>	
	<a href="mailto:psmith@ripuc.state.ri.us">psmith@ripuc.state.ri.us</a>	
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<b>File an original and nine (9) copies w/:</b> Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick, RI 02888	<a href="mailto:lmassaro@puc.state.ri.us">lmassaro@puc.state.ri.us</a>	401-780-2107
	<a href="mailto:plucarelli@puc.state.ri.us">plucarelli@puc.state.ri.us</a>	
	<a href="mailto:sccamara@puc.state.ri.us">sccamara@puc.state.ri.us</a>	



Narragansett Bay Commission  
Docket 4364  
Supplemental Response to Division's Second Set of Data Requests

DIV. 2-13. With regards to the response to DIV. 1-18, is it NBC's intent to stay on National Grid's Standard Offer Service going forward or to seek a new alternative supply contract. If the latter, please explain NBC's plans to solicit competitive offers.

Answer: NBC extended its contract with TransCanada for supply through March 2013 at a rate of \$0.07455. In the meantime, NBC has initiated the process of competitive bidding with the intent of having a new supplier in place upon the expiration of the contract with TransCanada.

Supplemental

Answer: NBC indicated in the response to Div. 2-13 that it would provide the Division with updated information regarding NBC's electricity supply rate if new information became available. Since then, NBC has concluded the electricity supply procurement process and has entered into a three (3) year contract with Direct Energy at a contracted rate of \$0.0641/kWh. The electricity supply rate originally filed in Docket 4364 and included in NBC's cost of service was based on a projected rate of \$0.0635/kWh. The new electricity supply contract will go into effect for the facilities first meter read in April 2013 and remain in effect through April 2016. See attached copy of NBC's agreement with Direct Energy.

Prepared by: WEE



**PowerSupply Coordination®  
Service Agreement  
Rhode Island**

This Agreement is entered into on March 12, 2013 and is between Direct Energy Business, LLC ("Direct Energy") and NARRAGANSETT BAY COMMISSION ("Buyer"). Direct Energy and Buyer are sometimes individually referred to herein as a "Party" or collectively as the "Parties".

**1. Nature of Service:**

This Agreement shall become effective only upon (i) execution by Buyer of the Confirmation and this Agreement; and (ii) the earlier of execution of this Agreement by Direct Energy or written confirmation by Direct Energy of its acceptance of the Confirmation and this Agreement to Buyer. Upon such effectiveness, Direct Energy will provide PSC Services and Electricity to meet Buyer's full usage requirements at Buyer's Facility(ies) and Buyer will receive and pay for PSC Services and Electricity to meet such usage requirements pursuant to the terms of this Agreement. Direct Energy will deliver or arrange for delivery of Electricity to the applicable meter.

**2. Term:**

Direct Energy shall use reasonable efforts to commence service on the Facility(ies) meter read date in the start month stated on the Pricing Attachment or Exhibit B, as applicable. However, Buyer acknowledges that the commencement of service hereunder is dependent upon confirmation by the Host Utility of the completion of all required switching and enrollment processes and if such switching and enrollment processes occur after the Facility(ies) meter read date in the start month stated on the Pricing Attachment or Exhibit B, as applicable. Buyer's Facility(ies) shall be enrolled at the next available meter read date. Direct Energy shall not be liable for any lost savings or lost opportunity as a result of a delay in service commencement and Buyer shall not be liable for any failure to purchase from Direct Energy due to actions or inactions of the Host Utility.

Service shall continue through the Facility(ies) meter read date in the end month or with respect to PowerPortfolio™ or PowerAdvantage™ service, until the meter read date after the expiration of the Transaction or Transaction Confirmation, if later as stated on the Pricing Attachment or Exhibit B, as applicable (the "Term"), unless sooner terminated as provided herein. At the end of the Term, if Buyer and Direct Energy have not entered into any written modification, amendment or renewal of this Agreement and if Buyer has not elected to obtain service from another supplier, this Agreement shall automatically continue on a month-to-month basis ("Monthly Renewal") at the market-based costs as defined in the Confirmation.

**3. Definitions:**

As used herein, unless the context clearly indicates otherwise, the following terms shall have the meaning set forth below:

**"Actual Damages"**

means the total amount of the loss that the non-defaulting party (or, in the event of a termination without cause, the non-terminating party) (as applicable, the "Damaged Party") would experience as a result of termination. As to each terminated transaction, Actual Damages shall be deemed to equal: (A) where Direct Energy is the Damaged Party, the positive difference, if any, between the contract price of the Electricity - as described in the Confirmation - for the remaining term of such terminated transaction and the market price of the Electricity for the remaining term of such terminated transaction, in each case as determined by Direct Energy in a commercially reasonable manner; and (B) where Buyer is the Damaged Party, the positive difference, if any, between the market price of the Electricity for the remaining term of such terminated transaction and the contract price of the Electricity - as described in the Confirmation - for the remaining term of such terminated transaction, in each case as determined by Direct Energy in a commercially reasonable manner. For the avoidance of doubt, "contract price" shall include the PSC Services fee for purpose of the above calculations. Direct Energy shall provide to Buyer a reasonably understandable calculation of Actual Damages, and Buyer shall have the right to have that calculation reviewed and evaluated by a third party provided such third party agrees to keep the calculation information confidential in accordance with section 18 of the Agreement. If Buyer disputes any portion of Direct Energy's calculation of Actual Damages, such dispute shall be subject to the procedure for disputed invoices in Section 8 below.

**"Ancillary Services"**

means wholesale electric services and products required to facilitate delivery of Energy to the Host Utility.

**"Confirmation"**

refers to the product and pricing attachment(s) to this Agreement, which set forth a description of the Energy product selected by Buyer, describes the pricing for such Energy product, and identifies the Facilities covered by this Agreement. For fixed price service, the Confirmation includes a Part I (Energy product description) and a Part II (Pricing Attachment), in addition to any special provisions to the Agreement agreed to between the Parties. For PowerPortfolio™ or PowerAdvantage™ service, the Confirmation includes a Part I (Product and Pricing description), together with an Exhibit A and Exhibit B, in each case as

defined herein. The PowerSupply Coordination Services Agreement – Product Confirmation for Rhode Island shall contain any special provisions agreed to by the Parties.

**"Distribution"**

means all delivery service for Energy and applicable Ancillary Services provided by the Host Utility.

**"Electricity"**

means the combination of Energy and Ancillary Services which are provided by Direct Energy under this Agreement.

**"Energy"**

means electrical energy, as measured in kilowatt hours (kWh) or megawatt hours (MWh).

**"Event of Default"**

means: (a) the failure of a Party to make, when due, any payment that is required under this Agreement; (b) any representation or warranty made by a Party that proves to be false or misleading in any material respect; (c) the failure of a Party to perform its material obligations under this Agreement, except to the extent such failure is excused by a Force Majeure event; and (d) Buyer's failure to cooperate with Direct Energy as reasonably required in order for Direct Energy to perform its obligations under this Agreement. If an Event of Default has occurred, (a) the non-defaulting Party shall have the right to setoff and net against any undisputed amounts owed by the defaulting Party to the non-defaulting Party under this Agreement, and (b) the non-defaulting Party shall additionally have the right to setoff and net against any deposit or security provided by the defaulting Party in accordance with Section 7 of this Agreement any amounts, charges or damages owed by defaulting Party to the non-defaulting Party.

**"Exhibit A"**

applies only to PowerPortfolio™ or PowerAdvantage™ service, and refers to the form of Transaction Confirmation attached to this Agreement, identified as Exhibit A, and which is used to confirm Transactions entered into under this Agreement, as described in the Confirmation.

**"Exhibit B"**

applies only to PowerPortfolio™ or PowerAdvantage™ service, and refers to the list of Facilities attached to this Agreement and identified as Exhibit B, which list specifies the Facilities covered under the scope of this Agreement or Exhibit B, as applicable.

**"Facility (ies)"**

means the electric account meter(s) located at the service address(es) for which Buyer has the authority to purchase Electricity under this Agreement and which are set forth on the Pricing Attachment or Exhibit B, as applicable.

**"Firm"**

means that Parties may only suspend performance hereunder to the extent that such performance is prevented for reasons of Force Majeure.

**"Force Majeure"**

means any "Act of God" or other unexpected and disruptive event beyond the reasonable control of either Party that interferes with its ability to perform its obligations under this Agreement, except for the obligation to pay monies due. Any Party which is unable to perform its obligations hereunder as a result of a Force Majeure event shall provide written notice to the other Party of the existence of such event and exercise due diligence to remove such event with all reasonable dispatch, but shall in no event be required to incur any commercially unreasonable expense in doing so. It is expressly understood by the Parties that the ability of Direct Energy to sell the services provided hereunder at a price greater than the Price paid by Buyer shall not constitute an event of Force Majeure. Conversely, the ability of Buyer to purchase the products and services provided hereunder for an amount less than the Price shall not constitute an event of Force Majeure. The Parties agree that Direct Energy shall not be liable for any damages associated with any failure in the delivery of Energy in connection with the failure of such transmission or distribution systems.

**"Host Utility"**

means any investor-owned utility, municipal utility, public utility, or other provider of electric lines whose system is directly interconnected with and which provides Delivery Service to Buyer's Facility(ies).

**"Point(s) of Delivery"**

shall mean the point(s) where Energy is delivered to the Buyer's Facility.

**"PowerSupply Coordination (PSC) Services"**

are the services provided by Direct Energy to match the Facility(ies) load, as described in this Agreement. As described in the Confirmation, the fee for PSC Service (the "PSC Services fee") is included in the Price to be paid by Buyer.

**"Pricing Attachment"**

applies only to fixed price service, and refers to Part II of the Confirmation and describes (together with Part I) the pricing terms applicable to, and the Facilities covered by, this Agreement.

**"Transaction Confirmation"**

applies only to PowerPortfolio™ or PowerAdvantage™ service, and is defined in Part I of the Confirmation.

**4. Type of Service:**

Firm - subject only to Force Majeure.

**5. Price:**

Pricing is as set forth in the Confirmation.

**6. Billing and Payment:**

Payment of undisputed amounts is due thirty (30) days from the date of the invoice. If Buyer fails to remit the undisputed payment as required, interest will be assessed on the late balance at the lower of one-and-one-half (1.5%) percent per month or the highest rate allowed by law (the "Late Payment Rate"). Buyer may in good faith dispute any portion of an invoice by providing Direct Energy with a written explanation specifying the amount in dispute and the reason for the dispute by the payment due date. In all cases, the Parties shall use good faith efforts to resolve any dispute. In the event the Parties are unable to resolve the dispute within ten (10) business days after receipt of written notice of a dispute, either Party may begin legal proceedings to resolve the dispute. Any amounts determined owed, together with interest thereon as provided above, shall be paid within three (3) business days of the date on which the dispute is resolved.

Buyer will receive from Direct Energy a monthly invoice following its meter read date for services provided under this Agreement and the Host Utility will continue to bill Buyer directly for any transmission and Distribution charges. Buyer shall receive a separate invoice per Facility unless Buyer selects the Aggregated Billing option as described in this paragraph and reflected in a "Billing Contract Information and Selection Form." "Aggregated Billing" means that billing for Buyer's Facility(ies) may be combined into a single monthly invoice (excepting however, that a aggregated invoice may contain no more than fifty (50) Facilities. If Buyer has more than fifty (50) Facility(ies), Buyer shall receive more than one aggregated invoice). If Buyer selects Aggregated Billing, Direct Energy shall choose the day of the month on which to deliver an invoice to Buyer based upon the Facility (ies) meter read dates. In the event Buyer desires to discontinue Aggregated Billing and instead receive a separate invoice for each Facility, Buyer shall submit such request in writing to Direct Energy and Direct Energy shall separate Buyer's invoice provided that there are no outstanding invoice balance(s) on Buyer's Facility(ies).

If in any month Direct Energy does not receive the information necessary to invoice Buyer or uses information obtained from a third party meter reading service, Direct Energy may use estimated data or the third party meter usage data to calculate Buyer's invoice and, upon receipt of actual data in the case of an estimated read, reconcile the amount billed on future invoices. If Buyer's Facility(ies) have any interval meters, Buyer acknowledges that the usage information for such meters contained on the Direct Energy invoice may vary from that contained upon the Host Utility bill as a result of different billing cycles being utilized for those meter reads.

Buyer shall have the right, not more than once per calendar year and upon reasonable advance notice, and at its sole expense during normal working hours, to examine the records of Direct Energy solely and exclusively related to Buyer to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof shall be made promptly and shall bear interest at the Late Payment Rate from the date the overpayment or underpayment was made until paid. In no event shall any adjustments or corrections be made to any amount billed after the lapse of the longer of twenty-four (24) months from the date of the invoice or the time frame permitted by the Regional Transmission Operator, the Independent System Operator of the Host Utility's tariff for adjustments to consumption information.

**7. Credit:**

Direct Energy may request that Buyer provide financial information sufficient for Direct Energy to complete a credit review prior to providing service hereunder. If, prior to commencing service or at any time during the Term of this Agreement, Direct Energy has good faith concerns about the creditworthiness of Buyer's ability to perform hereunder, Direct Energy may require that Buyer provide reasonable credit assurance(s), in an amount and in a form reasonably determined by Direct Energy in a commercially reasonable manner including but not limited to, an escrow account, deposit, letter of credit, or parental guaranty.

Buyer may request that Direct Energy provide financial information sufficient for Buyer to complete a credit review prior to providing service hereunder. If, prior to commencing service or at any time during the Term of this Agreement, Buyer has good faith concerns about the creditworthiness of Direct Energy or its ability to perform hereunder, Buyer may require that the Direct Energy provide reasonable credit assurance(s), in an amount and in a form reasonably determined by Buyer in a commercially reasonable manner including but not limited to, an escrow account, deposit, letter of credit, or parental guaranty.

**8. Title, Control and Possession:**

Title to, control and possession of Energy shall pass from Direct Energy to Buyer at the Point of Delivery.

**9. Load Change information:**

In order to assist Direct Energy in providing accurate expected usage information to Buyer's Host Utility, Buyer shall timely notify Direct Energy of any anticipated significant changes in its actual usage. Without limiting Buyer's obligation to provide such notice, Buyer shall give Direct Energy at least thirty (30) days' notice ("Notice of Load Change") prior to removing a Facility(ies) from service hereunder as a result of ceasing operations (closing of the Facility(ies) or sale of the Facility(ies) to an unrelated third party) at such Facility(ies).

Except for any PowerPortfolio and PowerAdvantage Agreements, the following shall also apply:

If Buyer's monthly usage for its Facilities changes 25% or more from its average usage over the three prior years for three consecutive months, Direct Energy may pass through the resulting cost increases to Buyer and shall pass through any cost decreases to Buyer for that month. If Direct Energy elects to pass through such cost increases or passes through such cost decreases, Direct Energy will calculate the amount of such costs in a commercially reasonable manner and submit an invoice to Buyer, which invoice will be due and payable pursuant to the payment terms of this Agreement, or in the event of a credit, will credit Buyer's next invoice.

Notwithstanding anything in this Section 9 to the contrary, If Seller has disclosed to Direct Energy prior to this Agreement becoming effective that Buyer expects its electricity consumption to be materially affected during the Term of this Agreement, or any renewal thereof, then Direct Energy shall have no right to payment from Buyer for Actual Damages incurred as a result of such material changes in consumption.

#### 10. Change in Law or Regulation:

If regulatory changes shift costs from the Host Utility or ISO to Direct Energy or from Direct Energy to the Host Utility or ISO, then such costs or credits may be passed through to the Buyer. If any laws, orders or regulations are passed, modified, implemented or interpreted by judicial or regulatory order, administrative proceeding or legislative enactment, or if there is a change in rate class which applies to Buyer's Facilities, which creates additional costs not currently included in the Price or increases in the cost components of the Price ("Incremental Charges"), then Direct Energy may pass through such Incremental Charges to be paid by Buyer in addition to the Price and in accordance with the payment terms in this Agreement.

#### 11. Limitation of Liability Disclaimer:

EXCEPT WITH RESPECT TO REMEDIES OTHERWISE SPECIFICALLY PROVIDED FOR IN THIS AGREEMENT, LIABILITY IS LIMITED TO DIRECT DAMAGES AS THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE EXPRESSLY WAIVED. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR ANY BUSINESS INTERRUPTION DAMAGES. EACH PARTY AGREES THAT IT HAS A DUTY TO MITIGATE DAMAGES AND AGREES THAT IT WILL USE COMMERCIALY REASONABLE EFFORTS TO MINIMIZE ANY DAMAGES IT MAY INCUR AS A RESULT OF THE OTHER PARTY'S PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT.

THE MAXIMUM EXTENT POSSIBLE UNDER LAW, ARTICLE 2 OF THE UNIFORM COMMERCIAL CODE SHALL APPLY TO ENERGY SOLD HEREUNDER. DIRECT ENERGY MAKES NO REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT, AND EXPRESSLY DISCLAIMS AND NEGATES ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

#### 12. Right To Rescind:

If the aggregate demand at all of Buyer's Facility(ies) is less than five hundred (500) kW, Buyer has until midnight of the third (3rd) business day following the date that Buyer executes this Agreement to call Direct Energy at the number provided in Section 17 below and cancel (rescind) this Agreement.

#### 13. Termination:

This Agreement may be terminated at any time after the date hereof (i) by mutual consent in writing by the Parties, (ii) by the non-defaulting Party if there has been an Event of Default that is not cured within fifteen (15) calendar days of the defaulting Party's receipt of written notice from the non-defaulting Party; (iii) by a Party that has not received credit assurance pursuant to Section 7 above within seven (7) days of being requested by the other Party; or (iv) during a Monthly Renewal pursuant to the Term, by either Party upon providing the other Party with at least thirty (30) days prior written notice.

Buyer acknowledges that upon termination of Service under this Agreement, provided Buyer has not selected another supplier, Buyer will be returned to the basic service (default service) provided by the Host Utility.

#### 14. Effect of Termination:

In the event of termination as provided in this Agreement, all further obligations of the Parties under this Agreement shall terminate without further liability of the Parties, except for the payment by the owing Party of any sums due and owing to the other Party for services rendered prior to the termination date, Actual Damages (in the event of termination under subsection (ii) or (iii) of Section 13 above), any indemnification or confidentiality obligation of either Party which has arisen hereunder and any other obligation hereunder which by its nature survives the termination of this Agreement.

#### 15. Applicable Law:

As to all matters of construction and interpretation, this Agreement shall be construed, interpreted, and governed under and by the laws of the State of Rhode Island, without regard to its choice of law provisions.

#### 16. Parties, Assignment:

This Agreement shall inure to and benefit the Parties hereto and their permitted successors and assigns. Neither Party may

assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the above, Direct Energy may, without the consent of Buyer, assign this Agreement and its rights and obligations hereunder to any third party for the limited purpose of securing credit and financing or to any person or entity succeeding to all or substantially all of the assets of Direct Energy. Further, either Party may, without the need for consent from the other Party transfer or assign this Agreement to an Affiliate of such Party provided that such Affiliate has equivalent financial capability to that of the assigning Party and agrees to be bound by the terms and conditions hereof. Direct Energy and Buyer agree to execute any documents reasonably necessary to effectuate such assignment. As used herein, "Affiliate" shall mean with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For purposes of the foregoing definitions, "control" means the direct or indirect ownership of more than fifty percent (50%) of the outstanding capital stock or other equity interests having ordinary voting power.

#### 17. Notices and Correspondence:

Except for when the Parties are effectuating a Transaction or Transaction Confirmation, any notice or other document to be given or served hereunder or under any document or Instrument executed pursuant hereto, including without limitation any termination or disconnection notices, shall be in writing and shall be delivered to either the address specified below or to such other address as is acceptable to the Parties for the receipt of such notices. Notice sent by facsimile or other electronic means shall be deemed to have been received by the close of the business day on which it was transmitted or such earlier time as is confirmed by the receiving Party. Notice delivered by courier shall be deemed to have been received on the business day after it was sent or such earlier time as is confirmed by the receiving Party. Notice delivered by mail shall be deemed to have been received at the end of the third business day after the date of mailing by prepaid first class mail, except that when there is a strike affecting delivery of mail, all notices shall be delivered by overnight delivery service and shall be deemed received by the close of business on the day such service confirms delivery.

**Direct Energy**  
Attn: Customer Service Manager  
1001 Liberty Avenue  
Pittsburgh, PA 15222  
Phone: (888) 925-9115  
Fax: (888) 421-0257  
Email: CustomerRelations@directenergy.com

**NARRAGANSETT BAY COMMISSION**  
Attn: Samuel Celone  
1 Service Road

Providence, RI 02905  
Phone: 401-461-8848 x336  
Fax: 401-461-6540

**Monday through Thursday from 7:00AM  
to 7:00PM Eastern Time and Friday  
7:00AM to 6:00PM Eastern Time**

#### 18. Confidentiality:

Neither Party will disclose the terms of this Agreement, or any information of the other Party which it knows or reasonably should know to be confidential or proprietary (other than to the Rhode Island League of Cities and Towns and that Party's employees, lenders, counsel, consultants, agents or accountants who have agreed to keep such terms confidential) except to the extent that disclosure is otherwise required by law, is required to carry out the terms of this Agreement or is made with the prior written consent of the other Party. Direct Energy agrees that such confidential treatment shall extend to Buyer's usage and consumption data which is not otherwise in the public domain. The parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation. This provision shall survive the termination of this Agreement for a period of two (2) years.

#### 19. Representations and Warranties:

As a material inducement to entering into this Agreement, each party, with respect to itself, hereby represents and warrants to the other Party as follows:

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary to perform this Agreement;
- (b) the execution and delivery of this Agreement are within its powers, have been duly authorized by all necessary actions and/or board approvals, and do not violate any of the terms or conditions in its governing documents or any contract to which it is a Party or any law applicable to it;
- (c) as of the date of service commencement hereunder, it shall have all regulatory authorizations necessary for it to legally perform its obligations;
- (d) this Agreement constitutes a legal, valid and binding obligation of such Party enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, and other laws affecting creditors' rights generally and with regard to equitable remedies, subject to the discretion of the court before which proceedings to obtain same may be pending;
- (e) there are no bankruptcy, insolvency, reorganization, receivership or other similar proceedings pending or being



contemplated by it or, to its knowledge, threatened against it;

(f) if a broker or other intermediary has been involved in this transaction, such broker or intermediary is an agent of Buyer in this transaction and may receive a commission to be paid by Direct Energy from payments received from Buyer under this Agreement;

(g) if it is a property management company acting on behalf of the owner of the Facility(ies), it has the authority to execute and bind the Facility(ies) to this Agreement for the Term stated in the Pricing Attachment or Exhibit B, as applicable, and that the term of its property management agreement with the owner of the Facility(ies) is equal to or greater than the Term of this Agreement;

(h) the Facility(ies) to be provided the services described herein are not contractually bound by another agreement for Electricity services that will overlap with the Term stated in the Pricing Attachment or Exhibit B, as applicable; and

(i) Buyer and Direct Energy confirm that prior to execution of this Agreement they have discussed Buyer's expected electricity consumption at the Facilities, including but not limited to any plans Buyer may have that would materially affect its electricity consumption during the Term of this Agreement or any renewal thereof.

Each party covenants that it shall cause its respective representations and warranties to remain true and correct throughout the Term of this Agreement.

#### 20. Waiver:

No waiver by either party of any default by the other Party under this Agreement shall operate as a waiver of any future default, whether of a like or different character or nature. No delay or failure by Direct Energy in enforcing any part of this Agreement shall be deemed a waiver of any of its rights or remedies.

#### 21. Severability:

The various provisions of this Agreement are severable. The invalidity, illegality or unenforceability of any portion or provision shall not affect the validity, legality or enforceability of any other portion or provision of this Agreement.

#### 22. Entire Agreement:

This Agreement and the Confirmation contain the entire understanding of the parties with respect to the subject matter contained herein. There are no promises, covenants or understanding other than those expressly set forth herein. This Agreement may only be amended by a written instrument executed by both Parties.

#### 23. Counterparts:

This Agreement may be executed in one or more counterparts and each executed counterpart shall be considered an original, provided that such counterpart is delivered to the other Party by facsimile, mail, courier or electronic mail, all of which together shall constitute one and the same Agreement.

#### 24. Legal Counsel:

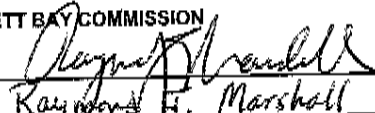
Buyer acknowledges that it has read and understands this Agreement and the Confirmation and has had the opportunity to review the same with its attorney before signing below.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed.

DIRECT ENERGY BUSINESS, LLC

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

NARRAGANSETT BAY COMMISSION

By:   
Print Name: Raymond H. Marshall  
Title: Executive Director  
Date: 3/12/13

DE Proprietary

**EXHIBIT B**

DE Proprietary

Notice: This Offer is not valid and binding until: (1) Direct Energy receives the fully executed Agreement and Pricing Attachment; and (2) Direct Energy confirms and accepts the Price in a writing to be delivered to the Customer. If the preceding conditions are not met, this offer will be withdrawn and will be null and void. Direct Energy reserves the right to rescind this offer at any time prior to Direct Energy providing written acceptance.

**PRICING ATTACHMENT TO POWERSUPPLY COORDINATION SERVICES AGREEMENT**

dated March 12, 2013 between  
**DIRECT ENERGY BUSINESS LLC**  
 and  
**NARRAGANSETT BAY COMMISSION**  
**NEP\_FP\_AL RI**

Location	Host Utility	Account Number	Utility Rate Class	Price (cents/kWh)	Historical Annual Usage
102 Campbell Avenue ( Narragansett Bay Commission )	Narragansett	8930794002	G32	*	12,248,930
2 Dexter Road ( Narragansett Bay Commission )	Narragansett	6508432000	G02	*	73,958
Shipyard Street ( Narragansett Bay Commission )	Narragansett	8930480003	G02	*	95,106
Moshassuck Ind Highway Sewer Pole 25-1SA ( Narragansett Bay Commission )	Narragansett	7844200001	G02	*	77,550
692 George Washington Highway Pole 28 ( Narragansett Bay Commission )	Narragansett	6598403006	G02	*	88,596
Reservoir Avenue ( Narragansett Bay Commission )	Narragansett	5190023007	G02	*	35,106
1 Ernest Street (IM) ( Narragansett Bay Commission )	Narragansett	6437036001	G02	*	51,661
George Washington Highway Pole 83 ( Narragansett Bay Commission )	Narragansett	7845318002	G02	*	97,561
21 Ernest Street ( Narragansett Bay Commission )	Narragansett	5273860017	G82	*	6,416,387
1 Service Road ( Narragansett Bay Commission )	Narragansett	8942196002	G32	*	1,389,754
2 Ernest Street ( Narragansett Bay Commission )	Narragansett	8929236008	G32	*	11,358,473
Central Avenue Pole 60 ( Narragansett Bay Commission )	Narragansett	7771500001	C08	*	20,538

\* The Price for all Facilities listed above shall be 6.41 cents per kWh for each kilowatt-hour of Electricity for a Term of 36 months, starting on the Facilities meter read date in APRIL 2013 and continuing through the Facilities meter read date in APRIL 2016. This Price is based on a Weighted Average Price, therefore any strikeouts of any of the Facilities listed above will render this Pricing Attachment null and void for all Facilities listed above.

Accepted and Agreed to:

By: Raymond J. Donald Executive Director Date: 3/12/13