

November 23, 2015

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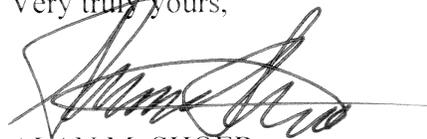
Ms. Luly Massaro  
Division Clerk  
Division of Public Utilities and Carriers  
89 Jefferson Boulevard

**RE: REVIEW OF ELECTRIC DISTRIBUTION DESIGN PURSUANT TO R.I. GEN. LAWS  
§39-26.6-24 - DOCKET NO. 4568**

Dear Luly:

On behalf Hecate Energy, LLC and CME Energy LLC, enclosed please find the joint pre-filed testimony of Nicholas Bullinger and William Martin for filing in the above docket.

Very truly yours,



ALAN M. SHOER

[ashoer@apslaw.com](mailto:ashoer@apslaw.com)

Enclosures

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

IN RE: REVIEW OF ELECTRIC DISTRIBUTION DESIGN

PURSUANT TO R.I. GEN. LAWS §39-26.6-24

DOCKET NO. 4568

Dated: November 23, 2014

1 **Q. Mr. Bullinger, please state your full name, business address and current position.**

2 A. My name is Nicholas Bullinger, and I am the Chief Operating Officer for Hecate Energy,  
3 LLC. Hecate's main corporate address is 115 Rosa Parks Boulevard  
4 Nashville, TN 37203.

5 **Q. Mr. Bullinger, please summarize your relevant background, experience and**  
6 **responsibilities with Hecate Energy LLC.**

7 A. As Hecate's Chief Operating Officer and one of the founding members of the company I  
8 am responsible for managing development and operations for Hecate Energy and several of our  
9 renewable energy projects. Most recently, and working with Bill Martin and the City of East  
10 Providence, I was the lead developer for Hecate for the successful development and construction  
11 of the 3 MW Forbes Street Landfill project in East Providence, Rhode Island. I have also led the  
12 sale and financing of multiple solar PV projects in California, Massachusetts, and Georgia. I  
13 also lead Hecate Energy's efforts on the continent of Africa and has helped the company receive  
14 a USTDA grant for the development of a 55 MW solar PV project in Tanzania.  
15 Prior to founding Hecate Energy, I served as COO and Board Member of OCI Solar Power  
16 where I was the lead negotiator of the 400 MW solar PV PPA awarded by CPS Energy in San  
17 Antonio (the largest municipal solar project including an economic development and jobs-

1 growth package in the United States). In addition to negotiating the Power Purchase Agreement  
2 I was instrumental in formulating the consortium of manufacturers that were assembled to open  
3 manufacturing facilities in San Antonio to create over 800 jobs. In addition, I led the team  
4 responsible for developing a pipeline of over 700 MW of solar PV projects in the United States.  
5 I serve as a Board Member of Empower Gas & Electric, a Columbus-based energy services  
6 company designed to help communities capture the economic benefit of their spending on  
7 electricity through local generation projects and the deployment of energy efficiency strategies.  
8 I am a *magna cum laude* graduate of the John M. Olin School of Business, Washington  
9 University – St. Louis, Missouri (1989 – 1992) with a BSBA with Honors in Management,  
10 concentration in Marketing, and minor in English Literature. More information about Hecate is  
11 available at our web page at <http://www.hecateenergy.com>

12 **Q. Mr. Martin, please state your full name, business address and current position.**

13 **A.** My name is William J. Martin, and I am the President of CME Energy LLC. CME is  
14 located at 20 Park Plaza, Suite 400, Boston, Massachusetts 02116.

15 **Q. Mr. Martin, please summarize your relevant background, education, experience  
16 and responsibilities with CME Energy LLC and with the energy development business.**

17 **A.** Most recently, working with Hecate and the City of East Providence I managed the  
18 successful development of the Forbes Street Solar project, a 3 MW project that secured a PPA  
19 from National Grid in the DG Standard Contract Program. This was one of the first, and largest,  
20 solar energy project in Rhode Island. Before this Rhode Island project, and over the last 30 years  
21 I have participated in the successful development of environmentally conscious private power,  
22 energy conservation and energy related projects, either as lead developer, team member or  
23 financier in the USA, South America, Europe and North Africa. I began his energy career in

1 1980 developing and financing energy conservation projects, such as heat recovery projects in  
2 industrial facilities and developed one of the first biomass projects in the USA under PURPA  
3 located in Western Massachusetts. After forming CME International Inc. in 1992, I was the lead  
4 developer of the first independent power project in North Africa, partnering with Caterpillar  
5 Corporation. The project, located near Zarzis Tunisia captures oil field gas, prior to flaring as  
6 greenhouse gases, utilizing the gas in turbines, reducing the greenhouse gas impact by over 90%  
7 while providing low cost energy to the Tunisian grid. During the early 1990's I served as an  
8 advisor to Scudder Stevens and Clark in the formation of the Latin American Trust for  
9 Independent Power, and we developed the first independent private power project in Latin  
10 America. Throughout the 1990' s I served as an advisor to such firms as Tractebel, Duke, and  
11 Cogentrics and Massachusetts Institute of Technology (MIT), serving as principal advisor  
12 regarding the re-development of their cogeneration facility in Cambridge Massachusetts. I  
13 partnered with Calpine Corporation for the development of the nominally 700+ MW gas fired  
14 combined cycle plant in Fremont Ohio, now owned and operated by AMP. In 2011, I formed a  
15 joint venture, North America Project Development, LLC {NAPD} to develop CCGT plants,  
16 largely in the Northeast USA. I have collectively developed over 10,000 MW of private power  
17 plants on virtually every continent. I am a graduate of Potsdam Central High School, Potsdam  
18 New York. He earned his B.S. from Saint Lawrence University, Canton New York and his  
19 Masters from the University of North Carolina, Greensboro. My full bio is available at  
20 <http://www.cme-energy.com>.

21 **Q. Gentlemen, what is the purpose of your testimony?**

22 A. We are providing this testimony to oppose the recent proposal submitted by Narragansett  
23 Electric, or National Grid, for a “Distributed Rate for Stand-Alone Generators” or an “Access

1 Fee.” We just recently became aware of a notification by National Grid to project developers  
2 with existing projects that National Grid is proposing this type of monthly Access Fee. We are  
3 opposing the proposed Access Fee charges that National Grid is proposing in this rate design  
4 proceeding, and we offer this testimony in opposition to this Access Charge or Fee from our  
5 perspective as successful developers in this growing industry, and as the recipients of a DG  
6 Standard Contract and a Certificate of Eligibility under the Renewable Energy Growth program.

7 **Q. Please explain your understanding of National Grid’s access charge proposal.**

8 A. As we understand it, this new charge would be based on the size of the facility and the  
9 voltage level at which the project is connected to the distribution system. The formula for the fee  
10 is outlined in a form letter from National Grid, dated November 5, 2015. We also understand  
11 that National Grid proposes to impose this new “Access Fee” to be assessed not only to new  
12 projects, but also to existing distributed generation projects awarded power purchase agreements  
13 (“PPA”) in the DG Standard Contracts program, and also to projects recently awarded  
14 Certificates of Eligibility (“COE”) in the Renewable Energy Growth program. If approved, the  
15 Access Fee would impose hundreds of thousands, perhaps more than a million dollars, on our  
16 Projects in Rhode Island, over the term of the Projects.

17 **Q. Has your company been awarded a PPA or a COE on any Rhode Island projects? If  
18 so please provide some details.**

19 A. Yes. Working together with the City of East Providence as the host community for the  
20 siting of our projects we submitted bids into the DG Standard Contracts program, and more  
21 recently with the Renewable Energy Growth Program. These bids involve two large scale solar  
22 energy projects that are part of the efforts of the City of East Providence to finalize the closure  
23 plans for the Forbes Street Landfill, a former municipal landfill site in East Providence, and to do

1 this closure in an environmentally safe manner that also deploys a sustainable energy resource on  
2 land that would otherwise be of no commercial value. The first project was one of the first, and  
3 largest solar energy projects in Rhode Island.

4 **Q. With regard to the first project, awarded the PPA, was that project successfully**  
5 **constructed and operational?**

6 A. Yes. In response to National Grid solicitations as part of the DG Standard Contract  
7 Program, we were successful in securing a PPA on May 12, 2012 with National Grid. That  
8 project was constructed and is currently operational.

9 **Q. Have you secured eligibility for a second project on the Forbes Street Solar site?**

10 A. Yes. In response to the Renewable Energy Growth Program, and the new ceiling prices  
11 set by OER we were successful in receiving a COE for a second large scale project, also located  
12 on the Forbes Street Landfill. On November 19, 2015 we received confirmation from National  
13 Grid that we were awarded an approved COE. We are in the process of developing that project  
14 now.

15 **Q. Do you have a sense of the impact to these projects if the Access Fee proposal is**  
16 **approved ?**

17 A. According to National Grid's data response (Supplemental PUC 1-18), a 3 MW project,  
18 such as the Forbes Street Solar Project, would incur new additional annual fees of \$72,000 per  
19 year, or \$1,080,000 for the initial 15 years of the PPA, or \$1.8 Million Dollars for the expected  
20 25 year life of the project. And, while National Grid's response to Supplemental PUC 1-18 does  
21 not appear to include our recently awarded Renewable Energy Growth Program COE project, we  
22 expect a similar access fee impact. Also, in the testimony of Mr. Jason Gifford, on behalf of the  
23 OER (Oct. 23, 2015)(at Table 4), he calculates an impact to large solar projects and his analysis

1 reveals that the impact on a 2015 large solar project is also estimated to be approximately \$1.8  
2 Million Dollars.

3 **Q. Are you opposed to the implementation of a new access fee on these two projects?**

4 A. We certainly oppose the retroactive implementation of an Access Fee on these Projects  
5 after the contract and COE were awarded. The Commission should first understand that in order  
6 to interconnect and construct these projects we were required to pay a substantial interconnection  
7 charge, through the interconnection feasibility and interconnection study program, to pay for any  
8 necessary upgrades to National Grid's network in order to accommodate the distributed energy  
9 project. Imposing another Access Fee on top of the interconnection charges appears to be double  
10 payment for the same upgrades. Worse, this new Access Fee would destroy the financial  
11 fundamentals and reasonable rate of return assumptions that were relied upon for submitting  
12 winning bids in both competitive processes sponsored by National Grid. The financial terms we  
13 used, based on all the inputs provided to us at the time were critical in securing sufficient  
14 investment to site, design, construct, interconnect and operate these large scale solar energy  
15 projects. We are very concerned with the financial impact of such a proposal on these existing,  
16 and newly planned, projects.

17 **Q. Please explain further.**

18 A. We have a number of objections that the Commission should consider in its review of the  
19 Access Fee proposal. We believe that it is fundamentally unfair to apply retroactive charges to a  
20 PPA or a COE project. As the Commission is aware, these renewable energy programs require  
21 companies to bid against other projects in a competitive bidding process, as applied to a "ceiling  
22 price" that was fixed by the OER and National Grid using a methodology that was approved by  
23 the Commission. At the time we bid in for these projects we were not informed that we would

1 be responsible for such extra access charges, on top of the interconnection service charges  
2 incurred to connect the projects to National Grid's distribution system. Nor did the ceiling prices  
3 that were approved by the Commission include any consideration for this type of monthly fixed  
4 Access Fee that would exist for the life of the contract or project. Many of the details of the  
5 unfairness and impacts of applying the Access Fee to these projects is explained in detail in the  
6 testimony of the Governor's Energy Office. As for our specific projects, it is our view that  
7 retroactive changes to these renewable energy regulations will only serve to increase projects'  
8 operating costs and will devalue our existing and recently awarded project. This new Access Fee  
9 will unfairly punish existing and pending project developers, and punish investors and  
10 developers that relied upon the cost structure and market economics that formed the basis for the  
11 bid prices and reasonable rate of return assumptions against the "ceiling price" methodology  
12 approved by the Commission.

13 **Q. Please elaborate on your concerns with regard to existing and pending projects in**  
14 **Rhode Island.**

15 A. The generation output and operating costs of DG Standard Contracts and Renewable  
16 Energy Growth Program projects (specifically solar energy projects) are highly predictable for  
17 the entire term of their long-term contracts. The investment and reasonable rate of return  
18 requirements in these projects is based on receiving predictable cash flows for the term of their  
19 signed off-take contracts and tariff awards. These predictable cash flows formed the basis for  
20 the company to put in a bid price sufficient to secure investment, financing and development  
21 costs and to be as competitive as possible, since the renewable energy program is heavily  
22 contingent on the lowest bid price offered. Of course, to secure the necessary investment in such  
23 a project a reasonable rate of return is required. A retroactive increase of renewable energy

1 projects' operating costs via regulatory approval of a new tariff proposal not factored in to the  
2 bid price methodology undermines complete confidence in the integrity of these renewable  
3 energy programs and discredits the investors that believed Rhode Island was serious about  
4 promoting the development of distributed energy resources.

5 **Q. Do you have similar concerns for recently awarded COE projects in the Renewable**  
6 **Energy Growth Program?**

7 A. Yes. In order to meet the application standards of the 2015 Renewable Energy Growth  
8 Program (site control, interconnection studies, etc.) we again invested substantial financial  
9 resources to develop another project based on the existing regulations and market cost structures  
10 at the time of program's launch by National Grid, which the PUC sanctioned. Again, we  
11 understand that the OER's experts did not include any such Access Charges in the market  
12 structure fundamentals that they used to establish the ceiling prices. For our project that recently  
13 received a COE after a competitive bidding process, we again successfully met the application  
14 standards to bid the lowest price possible to secure sufficient cash flows to support the project,  
15 based on the known cost structure at the time, which did not include a yearly Access Fee, as now  
16 proposed by National Grid.

17 **Q. When you were awarded a COE by National Grid after your competitive bid did**  
18 **National Grid inform you that you would be paying their Access Fee for the life of the**  
19 **project?**

20 A. No. National Grid has accepted offers in the First 2015 Open Enrollment and submitted  
21 the projects for approval by the Rhode Island PUC to receive a Certificate of Eligibility for the  
22 Rhode Island Renewable Energy Growth Program. National Grid required a substantial payment  
23 from us (and others we expect) in the form of Interconnection charges, and Performance

1 Guarantee Deposits in order for projects to be submitted for approval to the PUC. Having  
2 received acceptance by National Grid, and having paid their Performance Guarantee Deposits,  
3 awarded project developers, including Hecate and CME have spent substantial funds, and  
4 incurred substantial financial investments, in order to prepare for the construction of the project.  
5 At no point did National Grid tell us that we would also be paying them a monthly fixed Access  
6 Fee for the life of the project.

7 **Q. What type of costs have you been required to fund for the DG Standard Contract**  
8 **PPA and the Renewable Energy Growth Program COE that you refer to above?**

9 A. For our DG Standard Contract PPA, and for our recently awarded Renewable Energy  
10 Growth COE award, we have spent substantial funds on site control, interconnection, permitting,  
11 site prep, engineering, financing, legal, and procurement initiatives. Again, the investment of  
12 these development dollars was based on the known and transparent regulations and costs in the  
13 market set by National Grid and sanctioned by the PUC.

14 **Q. How will imposing a new Access Fee impact the economic models and investment**  
15 **decisions you made for these projects?**

16 A. Changing regulations and retroactively applying new charges to past and pending  
17 projects in the midst of projects' development processes undermines and nullifies the economic  
18 models on which these development investments were made and can only hamper renewable  
19 energy development industry in Rhode Island. This will certainly cause financial harms to our  
20 companies, and will only chill further investment in Rhode Island.

21 **Q. What do you think are the adverse consequences of imposing the proposed Access**  
22 **Charge on existing and pending awarded projects?**

1 A. If approved as submitted, the Access Fee will put our projects at risk of failure, and it is  
2 entirely possible that projects from this most recent COE awards, including our second Forbes  
3 Street Landfill project, will not be built. We have an Interconnection Service Agreement with  
4 National Grid, and Site Control arrangements with the City of East Providence, for the time  
5 being; however these contracts have term limits. Also, these projects will likely become more  
6 expensive to build, once the federal Investment Tax Credit expires at the end of 2016. For  
7 pending projects, if they are ever re-bid, these will not only have to add in the cost of the Access  
8 Fee, but also add in higher costs to reflect the loss of the federal Investment Tax Credit. It is  
9 highly unlikely that the projects would be economical to develop under the burden of these extra  
10 costs that did not exist when the projects were awarded contracts and COEs by National Grid in  
11 the first place. The entire renewable energy market in Rhode Island will be seriously impacted  
12 and projects will likely not get developed here.

13 **Q. Do you have any general concerns on how the renewable energy industry would be**  
14 **impacted in Rhode Island if this Access Fee is approved?**

15 A. We would like to point out that the state of Rhode Island has invested tremendous time  
16 and resources to develop a renewable energy industry in the state. These efforts have led to the  
17 creation of many new jobs and the greening of the state's electricity grid. If the proposed Access  
18 Fee is retroactively applied to awarded projects, and projects in the midst of development, we  
19 fear the result will be abandoned projects, the loss of millions of dollars invested for  
20 development, and successful developers who have historically brought economic growth and  
21 jobs to the state of Rhode Island leaving the state. Retroactively changing the cost structure of  
22 operating and awarded renewable energy projects via an Access Fee will introduce untenable  
23 regulatory uncertainty and risk into the market. It will signal that National Grid is capable of

1 changing the rules at any point, destroying any ability to predict future costs and revenues  
2 associated with these projects. We believe that this is why the legislature guaranteed developers  
3 that they would be able to rely on the awarded bid pricing methodology for the entire term of the  
4 selected project for purposes of obtaining financing.

5 From the development community perspective we can assure the Commission that project  
6 financing uncertainty slows down, reduces, or halts investment in development. The Renewable  
7 Energy Growth program requires rapid development from contract award to commercial  
8 operation. The only way to deliver on that timeframe is for developers to deploy development  
9 capital prior to contract award. Without development capital being deployed prior to contract  
10 award, the Renewable Energy Growth Program is not feasible. And even if developers deploy  
11 some of the capital they otherwise would have, bid prices are higher when less development and  
12 feasibility work has been done before the bid. Bidders must build in contingency for the  
13 feasibility studies they have not completed. Simply stated, imposing new charges to reach back  
14 into the investment already made in projects through established rules and policies unfairly  
15 punishes project investors and developers and will seriously threaten the growth of a renewable  
16 energy industry in Rhode Island. Industry participants will lose faith in the state's ability and  
17 willingness to fulfill its commitments, and distrust investing in projects in Rhode Island when  
18 there exists the very real potential the ceiling price, contract price and/or tariff price relied upon  
19 by the developer when signing the contract for performance with National Grid could change at  
20 any time, if approved by a new filing with this Commission. This undermines any confidence in  
21 these renewable energy programs in Rhode Island.

22 **Q. What do you recommend?**

1 A. We recommend the Commission reject National Grid's proposed new Access Fee as  
2 proposed for existing DG Standard Contract projects, and for any projects awarded COEs under  
3 the Renewable Energy Growth Program. We understand further that there are other parties that  
4 suggest that the Commission do a further evaluation of the need and appropriate methodology for  
5 assessing fixed charges on future projects, on or after 2017. We support that effort and agree  
6 that this work should be done with stakeholders apart from the National Grid proposal that was  
7 included in this filing.

8 **Q. Does this conclude your testimony?**

9 A. Yes.