

MEMORANDUM

August 20, 2015

TO: THE RHODE ISLAND PUBLIC UTILITIES COMMISSION
FROM: RICHARD HAHN AND AL PEREIRA, LA CAPRA ASSOCIATES INC., ON BEHALF OF THE
DIVISION OF PUBLIC UTILITIES AND CARRIERS
SUBJECT: NATIONAL GRID’S REQUEST FOR APPROVAL OF A SOLICITATION FOR PROPOSALS
FOR CLEAN ENERGY PROJECTS PURSUANT TO R.I.G.L. § 39-31-1 ET SEQ – DOCKET
NO. 4570

Introduction

On June 26, 2015, National Grid (“NGrid”) filed with the Rhode Island Public Utilities Commission (“Commission”) a Request for Proposal (RFP) for review and approval by the Rhode Island Public Utilities Commission (PUC) pursuant to the Affordable Clean Energy Security Act, R.I.G.L. § 39-31-1 *et seq.* (“Act”). The Narragansett Electric Company (“Narragansett” the “Company” or “NECO”) d/b/a NGrid seeks approval of the RFP as a reasonable, open and competitive method of soliciting proposals for clean energy projects pursuant to R.I.G.L. §39-316(a)(1)(i). The Rhode Island Division of Public Utilities and Carriers (the “Division”) retained La Capra Associates, Inc. (“La Capra Associates”) to review this filing. The scope of this review was to first ascertain whether the RFP complies with the Act, and then provide additional comments on the RFP, if appropriate. This memorandum presents the results of our review.

We note that the June 26, 2015 cover letter to the RFP filing states that the Division monitored the development of the RFP and was periodically updated during its development. It is our understanding that the Division was not an active participant in the development process and no previous comments have been provided by the Division.

Summary

We find that at a high level, the RFP complies with the Act. We do have some concerns with the Delivery Commitment Model (“DCM”) and the lack of Power Purchase Agreements (“PPAs”).

We also have some concerns with provisions of the RFP, including, but not limited, to how the Division and OER will work with NECO in the evaluation of any bids received. These issues are discussed in later sections of this memorandum.

Background

According to the filing, in 2014, Rhode Island enacted the Clean Energy Act, pursuant to which Rhode Island electric distribution companies are permitted to participate in the development and issuance of regional competitive solicitations for the development and construction of regional electric transmission projects that would allow for the reliable transmission of: (1) large or small scale domestic or international hydroelectric power to New England, and/or (2) eligible renewable energy resources to New England, that will benefit the state of Rhode Island and its ratepayers. R.I.G.L. §39-31-4(a)(1) and (a)(2).

Also according to the filing, the RFP proposed for Commission approval was developed jointly by the following companies and agencies: (1) from Rhode Island, Narragansett and the Rhode Island Office of Energy Resources (OER); (2) from Massachusetts, Fitchburg Gas and Electric Light Company d/b/a Grid, NSTAR Electric Company and Western Massachusetts Electric Company, each d/b/a Eversource Energy (collectively, the MA Distribution Companies) and the Massachusetts Department of Energy Resources (MA DOER); and (3) from Connecticut, The Connecticut Light and Power Company d/b/a Eversource Energy, The United Illuminating Company (UI) and the Connecticut Department of Energy and Environmental Protection (CT DEEP).

Overview of the Act

The purpose of the Act is to secure the future of the Rhode Island and New England economies, and their shared environment, by making coordinated, cost-effective, strategic investments in energy resources and infrastructure such that the New England states improve energy system reliability and security; enhance economic competitiveness by reducing energy costs to attract new investment and job growth opportunities; and protect the quality of life and environment for all residents and businesses. This purpose is to be achieved through coordinated competitive processes, in collaboration with other New England states, to advance strategic investment in energy infrastructure and energy resources. {§39-31-2}

The Act authorizes NECO, acting through regional or multi-state competitive solicitation(s), to support the development, construction, and / or procurement of the following types of projects that

will benefit the state of Rhode Island and its ratepayers:

- Projects that provide reliable transmission of large-or small-scale domestic or international hydroelectric power {§39-31-4}, and / or;
- Projects that provide reliable transmission of eligible renewable-energy resources¹ {§39-31-4}, and / or;
- Projects that provide energy from large-or small-scale domestic or international hydroelectric power or eligible renewable-energy resources {§39-31-5(2)}, and / or;
- Projects that provide an expansion of regional natural gas pipeline infrastructure and capacity {§39-31-4, §39-31-5}.

The Act defines a "commercially reasonable" standard under which projects offered in response to the RFP will be evaluated. Commercially reasonable means terms and pricing that are reasonably consistent with what an experienced power market analyst would expect to see in transactions involving regional-energy resources and regional-energy infrastructure. Commercially reasonable shall include having a credible project operation date, as determined by the Commission, but a project need not have completed the requisite permitting process to be considered commercially reasonable. Commercially reasonable shall require a determination by the Commission that the benefits to Rhode Island exceed the cost of the project. The Commission shall determine, based on the preponderance of the evidence, that the total energy security, reliability, environmental and economic benefits to the state of Rhode Island and its ratepayers exceed the costs of such projects. {§39-31-3}

The Act has other requirements and authorizations that are pertinent to the filed RFP.

- 1) The Act requires that, prior to any binding commitments being made by any agencies of the state, NECO, or any other entity that would result in costs being incurred directly, or indirectly, by Rhode Island electric and/or gas consumers through distribution or commodity rates, the Office of Energy Resources ("OER") and the Division shall jointly file any energy infrastructure project recommendation(s) with the Commission. The Commission shall consider any such recommendation(s). {§39-31-4(4)(b)}
- 2) Pursuant to {§39-31-6(1)}, NECO may voluntarily file proposals with the Commission that may include, but are not limited to, authorization to enter into long-term contracts for large-or small-scale hydroelectric power and / or eligible renewable energy resources that (a) utilize open and competitive solicitations {§39-31-6(1)(i)}, (b) are the result of a

¹ Eligible renewable-energy resources are defined by §39-26-5(a)

reasonable period of arms-length negotiations {§39-31-6(1)(ii)}, (c) are subject to Commission approval {§39-31-6(1)(ii)}, and (d) are filed with the Commission {§39-31-6(1)(iv)}.

- 3) Pursuant to {§39-31-6(1)(v)}, NECO may voluntarily file proposals with the Commission that may include, but are not limited to, authorization to enter into long-term contracts for natural gas pipeline infrastructure and capacity.
- 4) Subject to Commission approval, NECO may enter into long-term contracts through appropriate competitive processes for (a) large-or small-scale hydroelectric power and/or eligible renewable energy resources or (b) natural-gas pipeline infrastructure and capacity. Each such long-term contract shall contain a condition that it shall not be effective without Commission review and approval. {§39-31-6(1)}
- 5) The Commission may approve the contract(s) if it determines that: the contract is commercially reasonable; the requirements for the solicitation have been met; the contract is consistent with the region's greenhouse gas reduction targets; and the contract is consistent with the purposes of the Act. {§39-31-6(1)}
- 6) The Act authorizes the Commission to approve long-term contracts for (a) large-or small-scale hydroelectric power and/or eligible renewable energy resources or (b) natural-gas pipeline infrastructure and capacity. The Act also authorizes the Commission to approve rate-recovery mechanisms proposed by the NECO relating to costs incurred under this chapter, including the allocation of costs between electric and gas customers. {§39-31-7}

The RFP

Even though it is filed by NECO, the RFP was written to be issued by the three states of Rhode Island, Massachusetts, and Connecticut (the “Procuring States”), and provides the enabling statutes in each state that support the RFP. The RFP seeks bids for the following types of projects

- 1) Qualified Clean Energy and / or RECs via PPA
- 2) Qualified Clean Energy and / or RECs via PPA with a transmission project under a FERC tariff
- 3) Qualified Clean Energy via a transmission project under a performance-based tariff containing Qualified Clean Energy delivery commitment, no PPA.

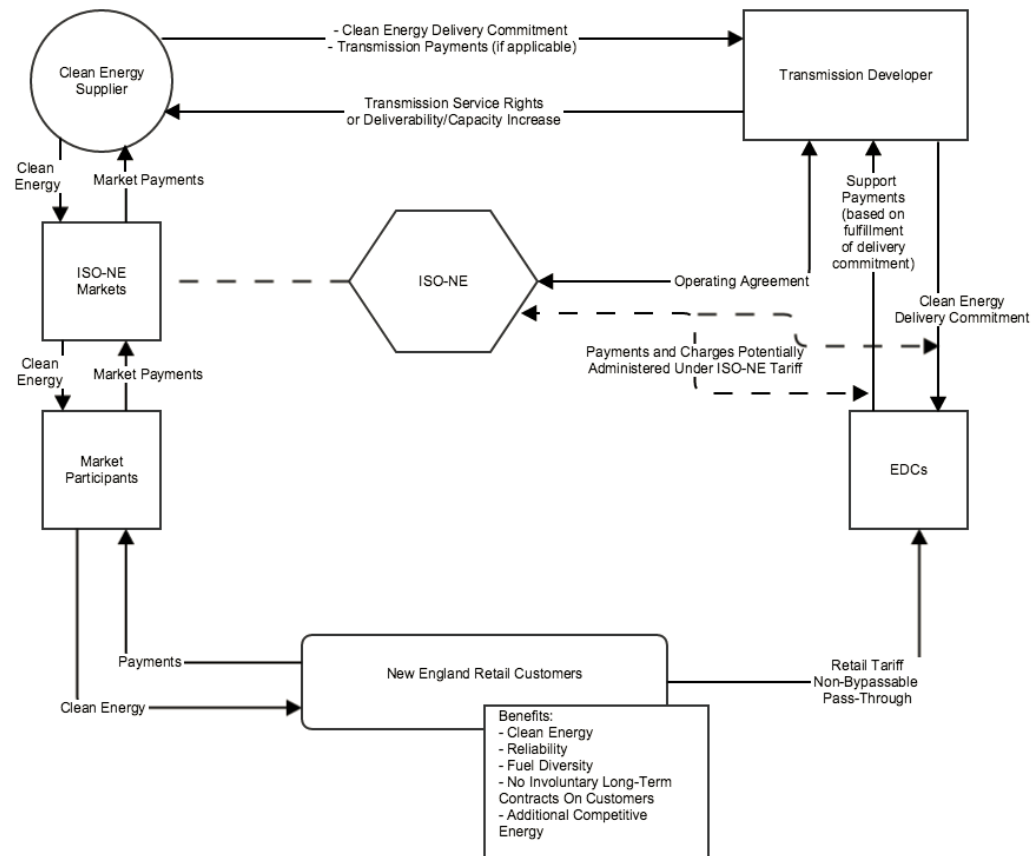
According to the RFP, “Qualified Clean Energy” means (i) energy produced by a generating resource qualified to produce Class I or New (collectively, “Tier 1) Renewable Energy Credits (“RECs”) under the Renewable Portfolio Standard (“RPS”) statutes of at least one of the Procuring States (“Tier 1 Qualified Energy”), or (ii) energy produced by a generating resource that meets the

requirements of (i) except that it is located in a non-contiguous control area, or (iii) energy produced by a hydro resource (for CT a resource that meets the requirements Conn. Gen. Stat. § 16-1(47) and for RI a resource that meets the requirements of Chapter 39-31 of the General Laws of Rhode Island, for MA a resource with a capacity greater than 30 MW (“Hydropower Resource”). Rhode Island §39-31 specifically refers to domestic or international large scale hydro power as being eligible. Rhode Island §39-31 also refers to §39-26, which defines eligible renewable energy resources to be: (1) Direct solar radiation; (2) The wind; (3) Movement or the latent heat of the ocean; (4) The heat of the earth; (5) Small hydro facilities; (6) Biomass facilities using eligible biomass fuels and maintaining compliance with current air permits; eligible biomass fuels may be co-fired with fossil fuels, provided that only the renewable energy fraction of production from multi-fuel facilities shall be considered eligible; (7) Fuel cells using the renewable resources referenced above in this section; and (8) Waste-to-energy combustion of any sort or manner shall in no instance be considered eligible except for fuels identified in §39-26-2(6). For the purposes of the regulations promulgated under this chapter, eligible renewable energy resources are generation units in the NEPOOL control area or resources located in an adjacent control area outside of the NEPOOL to the extent that the energy produced is actually delivered into NEPOOL for consumption by New England customers { §39-26-5 }

Thus, the RFP seeks the delivery of power from either (a) large-scale domestic or international hydro projects which are not an eligible renewable energy resource according to §39-26-2(6), or (b) eligible renewable energy resources according to §39-26-2(6).

According to the RFP, NECO will not sign any PPAs, nor will it procure or take title to energy or RECs. Thus, NECO will only accept bids for the third type of project listed above. In the RFP, this is referred to as the Delivery Commitment Model (“DCM”), which is described in Appendix G of the RFP. Appendix G describes two different models (Model A and Model B), but states that NECO will use only Model A, which is illustrated in an excerpt from Appendix G shown in Figure 1 below.

Figure 1



Under Model A, NECO will make annual support payments² to a transmission developer who builds, owns, and operates new transmission facilities that specifically deliver Qualified Clean Energy to a particular pricing node in the ISO-NE energy market. These annual support payments will be made subject to a transmission tariff that will be filed with and subject to the approval of FERC. The portion of the annual support payment actually paid will be determined by comparing the actual annual Qualified Clean Energy delivered in the previous year to a specific annual target amount. It is our understanding that the full amount of support payments will be made if the actual

² The RFP states that fixed prices are encouraged for transmission projects, cost of service formula rates are allowed, and cost of service formula rates with provisions that include cost containment features will be viewed more favorably than cost of service formula rates without cost containment features. It is our experience that most previous transmission projects utilize cost of service formula rates without cost containment features.

Qualified Clean Energy delivered equals or exceeds the target. If the actual Qualified Clean Energy delivered in the previous year is less than the target amount, the support payment will be reduced by multiplying the full support payment by the ratio of actual Qualified Clean Energy delivered to the target amount. For example, if only 60% of the targeted amount of Qualified Clean Energy is delivered in year 1, only 60% of the support payments will be made in year 2. The level of support payments made appear to be tied to the volume of Qualified Clean Energy delivered, but not the price at which it is delivered. In order for this model to be feasible, the transmission developer would need to enter into a business arrangement with the actual supplier of the Qualified Clean Energy to be delivered, but NECO will have no role in negotiating that arrangement, nor will it have any liability or obligation to that supplier. The name of this supplier and its source used to produce the Qualified Clean Energy must be known to NECO, and NECO, the transmission developer, and the supplier must establish a mechanism for measuring the amount of Qualified Clean Energy delivered to ensure compliance with the Act.

This RFP appears to be limited to projects for the transmission and / or delivery of electric energy. It does not appear to solicit bids for projects to expand natural gas infrastructure and capacity.

PPAs vs. DCM

The DCM is dramatically different from a PPA. A PPA, with or without an associated transmission project, is a long-term contract between the supplier of Qualified Clean Energy and NECO which specifies, among other terms and conditions, the supply source to be used, the delivery point, the volume of energy to be delivered, and the price at which it is delivered. Once signed and approved, the PPA is a long-term commitment, which cannot be unilaterally terminated and can facilitate the financing and construction of new renewable energy resources. Previous contracts entered by or on behalf of NECO, such as Deep Water Wind or Bower Wind, were required before the supplier could secure financing. The DCM is based upon a FERC tariff, which is not a long-term contract. There is a robust history of using tariffs to facilitate the financing and construction of new transmission facilities. The most notable example of this is ISO-NE's Open Access Transmission Tariff ("OATT"), which has led to the installation of many billions of dollars' worth of new transmission. The payments made under the ISO-NE OATT are based upon cost of service revenues requirements with true-up mechanisms. However, we are unaware of new transmission projects in ISO-NE where the level of payment under the tariff is tied to and dependent upon the delivery of energy from a third party. It is uncertain how FERC will respond to such a proposed tariff. The DCM is a novel approach and it is possible that we might not know FERC's reaction until such a tariff is filed, which will be long after this RFP is completed and proposed projects

have been evaluated.

In a July 20th conference call with NGrid, NGrid acknowledged that potential bidders would prefer a PPA, but stated that it wanted to encourage innovation to obtain benefits without a long-term commitment. NGrid also cited concern about the impacts of imputed debt on its capitalization structure and cost of capital.

In Response to the Divisions' first set of data requests to NECO, the Company states that under this RFP, Narragansett intends to consider proposals submitted pursuant to the Qualified Clean Energy via Transmission Project under a Performance-Based Tariff containing a Qualified Clean Energy Delivery Commitment (no PPA) bid option. Such a proposal, if selected, could result in Narragansett agreeing to a contract with the transmission developer in the form of a transmission tariff with a schedule of rates dependent on and in proportion to the fulfillment of a Qualified Clean Energy Delivery Commitment specified within that tariff. Although the merits of such a transmission tariff would ultimately be subject to FERC jurisdiction and need to be filed for FERC approval, Narragansett would first submit the agreement to the Rhode Island Commission for consideration pursuant to the Act. Thus, the DCM does envision a contract, but apparently not a PPA. NECO has not provided the form of the contract to be used, as has been done for the PPAs.

One concern with the DCM approach is that it may affect the pool of potential bidders. Existing "surplus" resources whose output is not currently committed or utilized and do not require financing may not need a PPA and can accept the DCM, while resources to be newly constructed and need a PPA for financing might not be able to accept the DCM. For example, if Hydro Quebec has an existing surplus of large-scale hydro power and wishes to export it to ISO-NE, Hydro Quebec may be willing to accept the DCM. In this example, Hydro Quebec would be the energy supplier, and either Hydro Quebec or some other entity could be the transmission developer.³ This might provide Hydro Quebec, or any other bidder with surplus energy, with an advantage over developers of new resources for which construction financing (and a PPA) is required.

A second concern with the DCM approach is that it will be difficult to evaluate such bids because the pricing for the Qualified Clean Energy will not be known to NECO or the Evaluation Team. Under the PPA approach, the price will be specified and can more easily be compared among

³ We note that Hydro Quebec has already committed via a transmission service agreement to pay for and use the transmission capacity of the Northern Pass Transmission project, a 140 mile, 1,200 MW HVDC transmission line proposed to be built from the Hydro Quebec system to an interconnection point in Southern New Hampshire. Eversource is the transmission developer and will own this facility.

competing bids. Consider the following hypothetical example of a project for a 500 MW wind farm in Northern Maine, whose energy will be delivered into downtown Boston via a new HVDC transmission line. Expected annual energy deliveries are 1,500,000 MWH, the energy price for the wind farm output is \$80 per MWH, and the transmission support payments are \$200 million per year. If this project used the PPA with transmission approach to be considered in Connecticut and Massachusetts, it would bid a PPA price of \$80 per MWH and a transmission support payment of \$200 million per year. This bid can be evaluated against existing resources and / or other bids providing similar information to determine the benefits to Rhode Island. The PPA provides a mechanism to ensure that the clean energy produced is scheduled for delivery into ISO-NE markets. If this project used the DCM, it would bid a transmission support payment of \$200 million per year, and a delivery commitment of 1,500,000 MWH per year. It does not appear from the RFP that a DCM-based bid requires a price for the clean energy to be delivered. In fact, NECO's response to Division 2-5 part c) states bids containing a DCM will not contain a purchase price for energy and / or RECs. Without such a price, it will be very difficult to evaluate this bid and to determine if the project complies with the Commercially Reasonable standard.

The Act and the RFP each contain numerous references to contracts. For example, the RFP itself contemplates that NECO will utilize long-term contracts in supporting projects bid in response to this RFP. On page three of the cover letter associated with the filing, it states that "*Narragansett is responsible for negotiation and execution of final contracts*". Further on this page when describing the Solicitation Timetable, it states as follows:

"After the PUC approves the method for solicitation, as encompassed within the RFP, Narragansett will promptly issue the RFP to a wide range of potentially interested parties. As set forth in Section 3.1 of the proposed RFP, a bidders' conference will be held approximately two weeks after the RFP is issued. Thirty-one days later will be the deadline for potential bidders to submit written questions regarding the RFP with responses due fifteen days thereafter. See RFP, §1.3 (stating that prospective bidders may submit written questions to the Evaluation Team and that the Evaluation Team will endeavor to publish responses to same on a rolling basis).

Section 3.1 of the proposed RFP lists additional timeframes, as follows:

<i>Submission of Proposals</i>	<i>75 days from RFP issuance</i>
<i>Selection of Bidders</i>	<i>165-255 "</i>
<i>Negotiate and Execute Contracts, if any</i>	<i>225-315 "</i>
<i>Submit Contracts, if any, for regulatory approval</i>	<i>255-345 "</i>

Narragansett believes that this schedule sets out a fair process for bidders and sufficient opportunity for Narragansett to: (1) evaluate the bids; (2) negotiate and conclude

commercially reasonable contracts, if any, that satisfy the criteria under R.I.G.L. § 39-31-1 et seq; and, if it voluntarily chooses to move forward in filing a proposal (3) submit to the PUC any resulting commercially reasonable contract(s) subject to the jurisdiction of the PUC for approval. After the PUC issues an order on the contract(s), Narragansett will have five business days to review the order to determine if there are unsatisfactory terms that require further action, including termination of the contract at Narragansett's sole discretion. See RFP, § 2.5.2."

Because of these numerous references to contracts, a plain reading of the Act could lead one to the conclusion that the Act envisioned that NECO would enter into PPAs. The DCM is not expressly authorized by the Act. However, under {§39-31-6(1)}, "*NECO may voluntarily file proposals with the Commission that may include, but are not limited to, authorization to enter into long-term contracts for large-or small-scale hydroelectric power and / or eligible renewable energy resources."* This appears to be the only provision of the Act that would allow the DCM as an alternative to a PPA. Because NECO can voluntarily file proposals with the Commission, it seems uncertain whether the Commission could order NECO to use the PPA approach if NECO does not wish to utilize that procurement model.

Based upon this discussion, we find that the DCM approach is generally in compliance with the Act, but the Company must provide further explanations of how such bids will be evaluated.

Compliance Issues

Based upon a review of the Act and the RFP, we find the following:

- The resources that will be used to provide the Qualified Clean Energy via the RFP do comport with the Act.
- Despite the lack of a PPA, the DCM approach is in compliance with the Act, but the Company must provide further explanations of how such bids will be evaluated.
- The process described in the RFP for evaluating proposals received should allow adequate time for NECO, OER, the Division, and ultimately the Commission to determine whether any selected project complies with the commercially reasonable standard of the Act and to determine the benefits to Rhode Island. As discussed later in this memorandum, this assumes that OER and the Division have adequate and timely access to the work of the Evaluation Team and its consultants. This statement also assumes that the issues surrounding the evaluation of DCM-based bids that was discussed previously are resolved.
- The RFP timeline allows for 90 days of negotiation between NECO and potential bidders, which complies with the requirement of the Act to allow for adequate arms-length

negotiations.

- The RFP states that no contract will be effective unless and until the Commission has approved it, which complies with §39-31-7 of the Act.
- The lack of bids for projects to expand natural gas infrastructure and capacity does not violate any provisions of the ACT, which allows NECO to make voluntary filings. NECO could pursue natural gas projects via other RFPs.

Other Issues

Page 10 of the RFP states that *“Note that staff of the EDCs who are participating in the solicitation and evaluation of bids under this RFP are bound by a Utility Standard of Conduct, which, among other things, prohibits signatory staff from communicating any non-public information regarding this RFP with any other utility staff who may be developing or submitting a bid responsive to this RFP.”* The Company’s response to Division 2-1 clarifies that this prohibition applies to all staff who have or will participate in the development of the RFP and / or the evaluation of any bids received. The RFP should be modified to clarify this point.

Page 13 of the RFP states that *“Each of the members of the Evaluation Team, as well as their employees, agents, and consultants, shall be held harmless for any release of confidential information as long as reasonable efforts to protect the information have been followed. In any event, each of the Soliciting Parties, as well as their employees, agents, and consultants, shall be held harmless for any release of confidential information made available through any public source by any other party.”* The Company’s response to Division 2-2 states that this provision is intended to hold NECO harmless in the event that NECO provides confidential information to the Division and / or OER, and the Division and / or OER do not adequately protect this information. It would seem that the obligation to protect confidential information would be dealt with through an appropriate protective order or confidentiality agreement, rather than this RFP.

Copies of Appendices C-1, C-2, E, and F were not provided by the filed copy of the RFP. The response to Division 2-3 states appendices C-1 and C-2 are forms of PPAs which are still being prepared and are not available. This response also states that NECO has not previously filed draft forms of PPAs, and that NECO does not intend to enter into PPAs as the result of this RFP. The response to Division 2-3 also states that Appendices E and F were eliminated from the RFP and that the appendices will be renumbered when the final RFP is issued. We accept these clarifications.

Page 27 of the RFP states that *“The quantitative evaluation process will include an evaluation of the indirect economic benefits to customers using the outputs from a nodal electric market simulation model (e.g. Ventyx PROMOD). The indirect economic benefits will be measured by comparing the model outputs with and without the bid. Benefits to be considered are based on a combination of change in locational marginal price (LMP) and change in production cost including consideration of net imports and exports to customers of the Procuring States. Benefits may also include economic impact based upon changes in LMP during stressed system conditions to customers of the Procuring States. The references case system topology will be*

based on the 2015 ISO New England Capacity, Energy, Load and Transmission (CELT") report. At the Evaluation Team's option, the evaluation may use representative projects to estimate the indirect benefits of projects that are bid that are very similar in technology type, size and delivery location." This section raises several questions about the detailed process by which bids will be evaluated. In Division 2-4, we sought further clarification on the following.

- The RFP should define direct and indirect benefits.
- The RFP should explain why changes in LMPs and production costs are deemed to be indirect benefits, rather than direct benefits.
- The RFP should explain in detail how the combination of changes in LMPs and production costs will be determined and used in the evaluation.
- The RFP should explain in detail how changes in LMPs during stressed system conditions will be evaluated.
- The RFP should explain in detail what assumptions will be made about transmission facilities in-service.
- The RFP should explain in detail list and describe all assumptions that will be used in this evaluation that are not provided in the 2015 CELT report.
- Since the price for the clean energy delivered under the Deliver Commitment Model is not included in a bid, the RFP should explain in detail explain how the bid based upon the Deliver Commitment Model can be evaluated.

Page 27 of the RFP states that *"Bids including one or more PPA's will be evaluated on both direct contract price benefits and indirect economic benefits. Direct contract price benefits will be evaluated using a mark-to-market comparison of the purchase price of any Incremental Qualified Clean Energy and/or RECs under a PPA (including any associated transmission costs under a Rate Schedule or Tariff and Service Agreement) to their projected market prices at the delivery point with the project in-service."* In Division 2-5, we sought further clarification on the following.

- The RFP should explain if the mark-to-market analysis in addition to the PROMOD analysis, and if so, what value would be gained by this comparison. The RFP should explain in detail explain why this comparison is being used, in light of the PROMOD analysis that will be performed. If both types of analyses are to be done, the RFP should explain the process by which the results will be used to determine the final ranking. For example, will the PROMOD analysis and the mark-to-market analysis results be weighted equally, or will one be given more weight than the other.
- The RFP should explain in detail how the project market prices will be determined?
- The RFP should explain in detail whether, and if so how, this evaluation will be performed on bids based upon the Deliver Commitment Model?

The Company's responses to Division 2-4 and 2-5 provide some clarification on these issues, but are not dispositive. For example, these responses do not define direct or indirect benefits, but rather state that regardless of how they are labeled, such benefits will be determined and considered. These responses also state that the methodology for calculating indirect benefits has not yet been finalized. We think that it is critically important that the Company, OER, and the

Division finalize the methodology, assumptions, and protocols that will be used in evaluating potential bids. This will greatly facilitate the ability of OER and the Division to determine if the Commercially Reasonable standard is met. This finalization does not need to be complete prior to the approval of this RFP by the Commission, but it should certainly be completed before any bids are received.

The RFP does not explain in detail the process by which OER, the Division, and their consultants will interact with the Evaluation Team and the Evaluation Team Consultant. Such an explanation would include what information will be available, and when will it be available. The RFP timeline calls for the selection of bids to occur 90 to 180 days after proposals are submitted. If OER and the Division are involved throughout this process, it will make it easier to render opinions regarding the commercial reasonableness of any proposal. If the Evaluation Team uses all or most of this time to perform the evaluations without involvement of OER or the Division, it will make it very difficult for OER and the Division to offer such opinions. The Company's response to Division 2-6 states that protocols for this evaluation will be finalized prior to receipt of any bids. As noted above, we encourage the Company to establish such protocols sooner rather than later in order to avoid any delays in the evaluation process.