



STATE OF RHODE ISLAND

DIVISION OF PUBLIC UTILITIES & CARRIERS

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January 26, 2022

Luly Massaro, Clerk  
Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, RI 02888

**Re: Docket 5212- Petition of the City of Newport for Approval of the Proposed  
Community Electricity Aggregation Plan Pursuant to R.I. Gen. Laws § 39-3-1.2**

Dear Ms. Massaro,

The Division of Public Utilities and Carriers (“Division”) writes to provide the Public Utilities Commission (“Commission”) with its recommendation regarding the Petition of the City of Newport (“Newport” or “Petitioner”) for approval of the City’s Community Electricity Aggregation Plan (“Petition”) pursuant to R.I. Gen. Laws § 39-3-1.2. The Division’s recommendation is the product of a review that focused principally on (i) compliance of the City of Newport’s Community Electricity Aggregation Plan (“Plan” or “Program”) with the requirements of R.I. Gen. Laws § 39-3-1.2; and (ii) recent Commission Orders in Docket Nos. 5042, 5061, and 5062. The Division believes that the Plan complies with the requirements of R.I. Gen. Laws § 39-3-1.2 and recommends its approval.

The Plan appropriately authorizes aggregation, identifying the majority vote of the Newport City Council<sup>1</sup> with the approval of the Mayor.<sup>2</sup>

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<sup>1</sup> *Plan* at 11. (identifies that, on December 8, 2021, the Newport City Council passed a resolution authorizing the initiation of an aggregation program).

<sup>2</sup> *Id.* (Because Newport’s City Council Chair also serves as the City’s Mayor, the statutory requirement that initiation of the aggregation process be “...approved by a city mayor or manager...” was satisfied upon the passage of the authorizing resolution).

The Plan also properly provides for its own development<sup>3</sup>, as well as the operation and governance of the aggregation program. That is, the Plan identifies the classes of customers that may participate in the aggregation Program<sup>4</sup>; contains a statement of universal access and equitable treatment for all applicable customers<sup>5</sup>; identifies the organizational structure of the Program<sup>6</sup>; identifies the Program’s operations<sup>7</sup>; identifies the Program’s funding and sets forth a process for establishing rates<sup>8</sup>; identifies the process of allocation costs among Plan participants<sup>9</sup>; sets out the methods of entering and terminating agreements with other entities<sup>10</sup>; establishes the rights and responsibilities of the participants<sup>11</sup>; provides the method for entering and terminating the agreements with other entities<sup>12</sup>; designates the method for terminating the Program<sup>13</sup>; identifies the terms and conditions under which retail customers who have chosen to opt-out may take service from the aggregated entity<sup>14</sup>; and reserves for the City the right to terminate the Plan by placing customers on Last Resort Service (“LRS”).<sup>15</sup>

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<sup>3</sup> *Id.* (identifies that a notice of public hearing on the Plan was published once a week for two consecutive weeks in the Newport Daily News on November 23rd and November 30th and that a public hearing on the Plan took place on December 8, 2021).

<sup>4</sup> *Id.* at 2 (identifies the residential class, A-16 (Basic Residential) and A-60 (Low Income); commercial class C-06 (Small Commercial), G-02 (General Commercial, S-05 (Street and Area Lighting, Customer Owned Equipment), S-06 (Decorative Street and Area Lighting), S-10 (Private Lighting), S-14 (General Street and Area Lighting); industrial class B-32 (Large Demand and Back-up Service, and G-32 (Large Demand).

<sup>5</sup> *Id.* at 2 (states that the plan provides universal access to consumers by guaranteeing that all customers in Applicable Classes will be included in the program under equitable terms).

<sup>6</sup> *Id.* at 3-5 (identifies entities that have a specific role in the development, implementation, operation, and oversight of the plan).

<sup>7</sup> *Id.* at 5-8 (identifies key operational steps following approval of the Plan by the Commission including issuance of a request for proposal for power supply, selection of a competitive supplier, implementation of public education campaigns, enrollment of consumers, and provision of service).

<sup>8</sup> *Id.* at 8-9 (identifies that power supply charges will be set through the competitive bidding process and will include the aggregation fee and applicable taxes).

<sup>9</sup> *Id.* (provides that prices, terms, and conditions may differ among classes).

<sup>10</sup> *Id.* at 9 (provides the process for terminating agreements must comply with the City of Newport’s municipal charter and ordinances, and federal and state law and regulations).

<sup>11</sup> *Id.* (establishes, among other things, the right of all participants to opt-out of the Plan without charge).

<sup>12</sup> *Id.* at 9-10 (provides the manner for the Municipality to solicit bids for a new supply agreement and plans to continue the Program with the same or new supplier).

<sup>13</sup> *Id.* (identifies the manner for terminating the Program).

<sup>14</sup> *Id.* at 3 (describes the rights of consumers to join the Program after having opted-out).

<sup>15</sup> *Id.* at 10 (provides that in the event of termination, consumers return to LRS).

Lastly, the plan appropriately describes customers' rights once the plan is approved. More specifically, the Plan identifies that customers may elect to receive retail supply from another licensed Supplier or the electric distribution company.<sup>16</sup> The Plan also provides that, 30 days after the aggregated entity is operational, ratepayers who have not elected an alternative supplier will be transferred to the aggregated entity, subject to an opt out provision.<sup>17</sup> Following adoption of the Program, the Plan provides that any retail customer may opt-out and choose any supplier or provider the retail customer wishes.<sup>18</sup> The Plan requires that the aggregated entity must fully inform participating ratepayers in advance of automatic enrollment that they are to be automatically enrolled and have the right to opt-out.<sup>19</sup> The Plan provides that participating ratepayers must be informed of all changes that are to be made<sup>20</sup>, provides for full disclosure of the LRS rate<sup>21</sup>, identifies how customers may access LRS<sup>22</sup>, and requires that the plan must be made available to ratepayers without penalty if they were previously on LRS.<sup>23</sup>

In Docket Nos. 5042, 5061, 5062 and 5169, the Division expressed concern about the availability of an arrearage management payment ("AMP") plan and budget and budget billing for LIHEAP eligible customers. The Division also expressed concern about the time (45-60 days) it might take for LIHEAP eligible customers to opt out of the Plan and return to National Grid for supply and delivery service. The Division, therefore, recommended that the petitioner engage the George Wiley Center, the Center for Justice and the appropriate Community Action Program agency to conduct at least one workshop with these groups to educate them as to the terms of the Plan and its potential impact on their respective members. It was the Division's understanding that these issues would be fully resolved with the implementation of a purchase of receivables ("POR") program.

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<sup>16</sup> *Id.* at 9 (provides that Plan participants may opt-out of the Program at any time by enrolling with another competitive supplier).

<sup>17</sup> *Id.* at 7 (after completion of opt-out period, competitive supplier will enroll into the Program all Applicable Consumers on LRS with National Grid who did not opt out).

<sup>18</sup> *Id.* at 9 (discussing the opt-out process).

<sup>19</sup> *Id.* at 7 (describing the initial outreach, consumer notification letter, and opt-out card that will be forwarded to the consumers).

<sup>20</sup> *Id.* (provides that the notice prominently states all program charges and price and primary terms of the Municipality's competitive supply and compare the price and terms to the current LRS).

<sup>21</sup> *Id.* at 7 (provides for disclosure of the LRS rate).

<sup>22</sup> *Id.* at 12-13 (provides that all information relating to the Program will be posted on the Programs website and that the Program will also maintain a toll-free number to address Applicable Consumer questions).

<sup>23</sup> *Id.* at 16 (sample consumer notification letter provides that there is no penalty for leaving the Program and that participants can leave the Program at any time).

The Division has reviewed Order Nos. 24099, 024101, 24102 and 24261, the Orders that the Commission issued in Docket No. 5042, 5061, 5062, and 5169 respectively. In those Orders, the Commission recognized the Division's concerns<sup>24</sup>.

In Docket No. 5073, although the standard complete billing percentage and payment periods of the pending POR program remain subject to the Commission's review, the Commission has approved the implementation of the POR program in principle. National Grid is recommending an effective date for the POR program of February 22, 2022. Assuming the POR program is implemented on or about that date, the Division believes that the concerns expressed above will be moot. Accordingly, the Division recommends that the Commission approve Newport's aggregation plan on the same terms and conditions as set forth in Order No. 24261 in Docket No. 5169 (with the exception of Paragraph No. 2 relating to conducting one workshop with the relevant local agency). If implementation of the POR program will be substantially delayed beyond February 22, 2022, then the Commission could still require inclusion of Paragraph No. 2 in the Order of this matter.

Respectfully submitted,

Division of Public Utilities and Carriers

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Mark Allen Simpkins  
Deputy Chief of Legal Services

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<sup>24</sup> See Order Nos. 24099 at 9; 24101 at 9-10; 24102 at 8-9; 24261 at 10.