

February 23, 2011

VIA HAND DELIVERY & ELECTRONIC MAIL

Luly E. Massaro, Division Clerk
Rhode Island Division of Public Utilities and Carriers
89 Jefferson Boulevard
Warwick, RI 02888

**RE: Complaint of Benjamin Riggs Relating to Portsmouth Generating Facility
Division Docket No. D-10-126**

Dear Ms. Massaro:

As requested by the Division of Public Utilities and Carriers (the "Division"), I am writing to respond to the Advocacy Section's recent memorandum in this proceeding. The Advocacy Section's memorandum provides a helpful historical review and analysis of the applicable state and federal statutes and regulations. The purpose of the Company's reply comments is not to take issue with the Division's analysis, but to offer a reasonable solution to allow the Town of Portsmouth ("Town") to realize a continuing, reasonable revenue stream from its generating facility while avoiding running afoul of applicable federal law and regulations.

In its memorandum, the Advocacy Section correctly notes that, where a utility is required to purchase power from a Qualified Facility, the Public Utility Regulatory Policies Act ("PURPA") and FERC regulations provide that the utility may not be required to pay rates for that power that exceed the utility's avoided costs. 16 USC §824a-3(b)(2006); 18 U.S.C. 292.304(a) 2. Under the current arrangement, Portsmouth receives net metering credits which include not only the standard offer supply charge but also the distribution charge, transmission charge, and transition charge. R.I.G.L. § 39-26-2 (22). Thus, the current pricing does not comply with the federal avoided-costs cap.

In light of the issues raised in this docket, the Company suggests a curative approach under which it would purchase the output of the Portsmouth facility for use as Standard Offer supply at a rate that approximates the average wholesale cost of power that it pays to service its Standard Offer customers. In turn, the Town could still sell its renewable energy certificates in the market for additional revenue. Because of its voluntary nature, this procurement would not be a transaction that is subject to the above-referenced federal provisions, and the resulting pricing would eliminate concerns about ratepayer subsidization. The Company believes that this would be a fair and reasonable approach that would remove concerns about the facility's compliance with applicable federal provisions and at the same time allow the Town of Portsmouth to benefit from its generating facility. Of course, this arrangement also would need PUC approval.

Thank you for your attention to this transmittal. If you have any questions, please feel free to contact me at (401) 784-7667.

Very truly yours,



Thomas R. Teehan

Enclosure

cc: Jon Hagopian, Esq.
Steve Scialabba, Division