

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DIVISION OF PUBLIC UTILITIES AND CARRIERS**

IN RE: COMPLAINT OF BENJAMIN RIGGS RELATING TO PORTSMOUTH GENERATING FACILITY	) ) ) ) ) )	DOCKET NO. D-10-126
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**REPLY IN SUPPORT OF  
MOTION FOR SUMMARY DISPOSITION  
BY  
THE TOWN OF PORTSMOUTH,  
WASHINGTON COUNTY REGIONAL PLANNING COUNCIL,  
CHURCH COMMUNITY HOUSING CORPORATION,  
PEOPLE’S POWER & LIGHT, and  
THE TOWN OF WESTERLY**

By its attorneys, the Town of Portsmouth (Portsmouth), the Washington County Regional Planning Council (WCRPC), Church Community Housing Corporation (CCHC), People’s Power & Light (PP&L) and the Town of Westerly hereby reply to the objections filed by National Grid and the Advocacy Section to their motion for summary disposition.

National Grid and the Advocacy Section built this proceeding on the foundation that federal law conflicts with Rhode Island’s net metering statute. They argued that state law cannot be construed to allow Portsmouth to receive the benefit of renewable generation credits because any such reading would be preempted by federal law and would be unconstitutional. These arguments led the Division to frame the central issue of this case as “Whether the Town of Portsmouth’s wind facility is a net metering configuration or a wholesale generator according to federal law?” (emphasis added) Now National Grid and the Advocacy Section change their tune, saying that the Division can interpret the state law without referring to federal law and even admit that state law need not be construed in a way that conflicts with federal law. We agree that federal law is not at all inconsistent

with our state law that clearly allows towns like Portsmouth to either credit ten of its meters or receive a check for its renewable generation credits. In the absence of a federal issue, this investigation need not proceed. If the federal issue persists, the Division does not have jurisdiction to resolve it.

National Grid and the Advocacy Section have also flipped on the rate question. This matter was initiated with the contention that Portsmouth is a wholesale generator that cannot be paid more than avoided cost for its power according to the Federal Power Act and PURPA. That argument is what led the Division to frame the second issue for this proceeding as “Whether the Town of Portsmouth is receiving an excessive rate for the output it sells back to National Grid?” Now the objectors say that the proper rate is only a question of state law and the fact that Portsmouth is exempt from those federal laws is irrelevant.<sup>1</sup> Once again, if federal law is not at issue there is no basis for this proceeding. If the federal issues persist, then Portsmouth is exempt from the federal laws put at issue and is not subject to avoided cost restrictions.

Finally, the issue of retroactive impact is not at all about whether a rate reduction could be back-charged against Portsmouth. The issue is whether it is ever equitable to reclassify the rate class applicable to a project that was developed in reliance on a clear, shared understanding of Rhode Island’s net metering program; and precedent clearly answers that it is not.

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<sup>1</sup> The apparent claims that Portsmouth is not a political subdivision of the State or is not the owner of the wind turbine at issue in this case are facetious and totally inconsistent with the agreed facts.

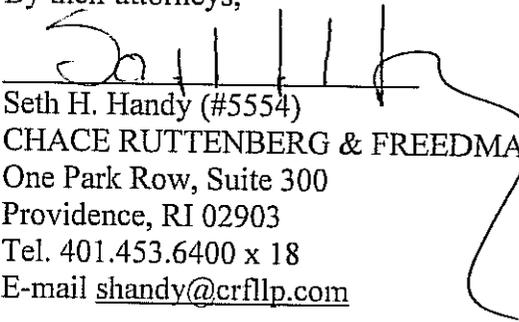
**CONCLUSION**

For these reasons, movants respectfully request summary disposition of this proceeding.

Respectfully submitted,

THE TOWN OF PORTSMOUTH,  
CHURCH COMMUNITY HOUSING  
CORPORATION, THE WASHINGTON  
COUNTY REGIONAL PLANNING COUNCIL,  
PEOPLE'S POWER & LIGHT and THE TOWN  
OF WESTERLY

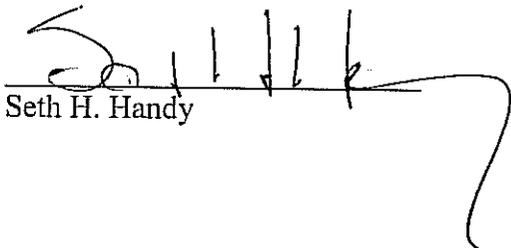
By their attorneys,



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CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2011, I delivered a true copy of the foregoing document to the parties by electronic mail.



Seth H. Handy