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Luly E. Massaro, Commission Clerk
Division of Public Utilities & Carriers
89 Jefferson Boulevard
Warwick, RI 02888

Re: Docket no. D-10-126; Comment on Complaint

Dear Ms. Massaro:

The following represents my statement on the reason I filed this complaint and, based on responses of the parties to date, my position as a taxpayer and ratepayer on an equitable resolution.

1. The Town of Portsmouth, with the cooperation of National Grid, entered into an arrangement whereby the Town, by its admission (see letter of April 1, 2010 to Nicholas Ratti, Jr.) could financially profit at the expense of state-wide ratepayers by operating as a net power producer in the wholesale market while being reimbursed at retail rates. The letter states: "We do not "save" money by using power from the turbine that we would otherwise have to purchase from NGrid. We make money by selling power to NGrid. The distinction is important." Since this appeared to be in violation of R.I.G.L. 39§26.2, and in addition, because the wholesale production of power for sale into the power grid, which crosses state lines, appears to be properly governed by Federal, not state, law, and consequently because this arrangement appeared to be an unlawful procurement of public money by the Town of Portsmouth for its own use, I filed the subject complaint.
2. Subsequent to the Division's investigation of my complaint, the facts have been confirmed as follows:
 - a) That the Town and NGrid entered into this arrangement without asking the Division or the PUC, formally or even informally, if it was proper to do so.
 - b) That the "basis", if any, of the Town's actions were predicated on "gaming" the provisions of R.I.G.L. 39§26.2, as described in the PUC's letter to Speaker Gordon Fox dated August 17, 2010. (Unfortunately, the General Assembly's response has been to introduce revised legislation to legitimize this sort of activity in the future.)

- c) That, regardless, the net production of electrical power (defined as exceeding the producer's own monthly usage) for sale is governed by Federal law, specifically 16 U.S.C. §2621 et. seq., and that law limits reimbursement to the utilities' "avoided cost". As a Qualifying Facility, the rate is required to comply with PURPA, and setting the rate should be done pursuant to a public notice and hearing.
3. The remedy for correcting this should be retroactive to the beginning. Regardless of how this happened, it was not the fault of the ratepayers, and the ratepayers should be reimbursed in full. How National Grid and the Town of Portsmouth want to share this cost is a matter to be resolved between the two of them.
4. The remedy should also establish guidelines for other excess producers, regardless of whether before or after the meter, so that this issue does not have to be addressed repeatedly in the near future.
5. The Statement of Facts submitted in this matter is either incorrect or irrelevant as follows:
 - a) Items 1 and 2 are not true. Based on the facts in the record, along with the Town's own admissions, this arrangement was not entered into either to protect the environment or to reduce its electrical demand.
 - b) Items 3-25 are immaterial to these proceedings.
6. The position of the Town to date does not have merit, as follows:
 - a) Jurisdiction: The Division and the PUC are charged with administering Federal regulations, as is common in many other areas such as Medicaid. State net metering law does not apply now, and will not in the future regardless of how new legislation is written.
 - b) Portsmouth as a municipality is not exempt from the laws and regulations that govern here. If they were, one town could legally "tax" another under the guise of being a "utility". Regardless, there has been no evidence presented that Portsmouth is actually the sole owner of the wind turbine in question.
 - c) Portsmouth is not somehow an innocent victim that should be immune from financial responsibility. The Town knowingly entered into this arrangement without PUC approval, or even informal consultation, to make a profit at the expense of other municipalities and their citizens.
7. Public Interest and Policy: I do not believe that a debate about so-called "green energy" is relevant in this proceeding. But since some of the parties will likely raise it anyway, I will address the main points as follows.
 - a) Wind energy is not "green". On a life cycle basis, it is far more environmentally damaging than natural gas, which is plentiful. The production of around 4,000 pounds of magnets for each turbine causes significant and deadly ground pollution where they are made, in China. The transportation of components to the U.S. for assembly and then to the site, along with construction of large foundations, causes more pollution. The ultimate disposal issues to be dealt with at the end of their short life cycles (15-20 years) causes additional environmental impact. Multiply this by the 10-15,000 wind turbines necessary to produce (when the wind blows) as much as a single medium sized conventional plant, and you have an idea of scale.

- b) The electricity produced can actually result in more fuel usage and carbon emissions overall. That is because it forces conventional plants to ramp up and down to accommodate for the fickle nature of wind, which can actually result in more fuel usage and carbon emissions than it saves. (This is similar to what happens when you drive your car in stop and go traffic instead of on the highway.) A study commissioned by the Energy Reliability Council of Texas (ERCOT), called Bentek IV, has documented this result in Texas.
 - c) Because the wind is intermittent, wind power on any scale will not replace a single conventional plant. But it will create a challenge to the utility to try to keep a constant voltage in the grid and avoid damage to electrical equipment.
 - d) Wind power costs around three times as much as conventional power, between subsidies and rates. The argument that all energy is subsidized in some way is true; however, according to the U.S. Department of Energy, in 2009 the wind segment received 23 times the rate of direct subsidies as oil and gas. That number has grown since. And the cost to the consumers results in less spending for food, clothing, shelter, and medical care here in Rhode Island, and a reduction in the competitiveness of our industries.
8. Conclusion: It is my hope as a citizen, taxpayer, and ratepayer that the Division will address the following issues in its ruling:
- a) That the reimbursement rate for the Town of Portsmouth be set at avoided cost, without regard to the method of production;
 - b) That the PUC should set a rate, based on the daily ISO average, for all electrical power production from any source in the future that exceeds the producer's usage and results in reimbursement;
 - c) That the cost adjustment will be retroactive to the beginning, providing reimbursement to the ratepayers;
 - d) That the regulations that apply to wholesale production are based on Federal law and will apply in the future regardless of any changes to state "net metering" legislation.

Thank you for your considerable time and effort in addressing this issue.

Very truly yours,

Benjamin C. Riggs, Jr.

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