

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

DOCKET NO. D-10-36

IN RE: LONG-TERM CONTRACTING STANDARD FOR RENEWABLE ENERGY -  
DETERMINATION OF WHETHER THE "TOWN OF JOHNSTON PROJECT"  
OUGHT TO BE CERTIFIED BY THE RHODE ISLAND DIVISION OF PUBLIC  
UTILITIES AND CARRIERS, THE RHODE ISLAND DEPARTMENT OF  
ADMINISTRATION, THE RHODE ISLAND ECONOMIC DEVELOPMENT  
CORPORATION AND THE RHODE ISLAND OFFICE OF ENERGY  
RESOURCES, PURSUANT TO RHODE ISLAND GENERAL LAWS, SECTION  
39-26-1-9.

**NOTICE OF OPPORTUNITY TO OFFER WRITTEN COMMENT**

Introduction

In accordance with the provisions of Rhode Island General Laws, Chapter 39-26.1, and particularly Section 39-26.1-9, the Rhode Island Division of Public Utilities and Carriers ("DPUC"), the Rhode Island Department of Administration ("DOA"), the Rhode Island Economic Development Corporation ("EDC") and the Rhode Island Office of Energy Resources ("OER") hereby give notice of the public's opportunity to offer written comment in the matter of whether the "Town of Johnston Project" ought to be certified by the DPUC, DOA, EDC and OER under the regulatory certification process established under Rhode Island General Laws, Section 39-26.1-9.

As a brief introduction, the instant certification process has its genesis in a recent amendment to the State of Rhode Island's "Long-Term Contracting Standard for Renewable Energy" laws (R.I.G.L., Chapter 39-26.1). The amendment in issue relates to a new landfill gas fueled electric generating facility project to be constructed in Johnston, Rhode Island at the State's Central Landfill. This project, referred to in the amended law as the "Town of Johnston Project" (the "Project") has been determined by the General Assembly to contain a number of favorable attributes that could offer significant benefits to the State. At the same time, however, the financing plan associated with the construction of the Project is subject to certain time constraints, which necessitates that a regulatory review process be completed "on a timetable earlier than is otherwise set forth in this chapter." The expedited regulatory review mandated under Section 39-26.1-9 is designed to address the time constraints linked to the Project's financing plan.

The anticipated benefits of the Project, as well as the reasons for the expedited review, are enumerated in the amendment's preamble, which contains the following legislative findings and declarations:

- (1) *The cost effective safe collection, processing and destruction of landfill gas produced from the natural decomposition of municipal solid waste at the central landfill in Johnston, Rhode Island is essential to the health and welfare of the residents of Rhode Island;*

- (2) *The construction and operation of a new landfill gas fueled electric generating facility is an integral component of the cost-effective collection, processing and destruction of landfill gas;*
- (3) *A new landfill gas fueled electric generating facility could qualify as a new renewable energy resource pursuant to section 39-26-2;*
- (4) *The construction and operation of a new landfill gas fueled electric generating facility at the central landfill would result in direct economic benefits to Rhode Island, including:*
  - (i.) *An investment of more than one hundred million dollars (\$100,000,000) in a new renewable energy generating facility located entirely within the State of Rhode Island;*
  - (ii.) *Very near-term benefits with the start of construction of the facility in calendar year 2010;*
  - (iii.) *Creation and retention of jobs during the construction and operating phases of the facility;*
  - (iv.) *Reduction in capital and operating costs that would otherwise be borne by the Rhode Island Resource Recovery Corporation;*
  - (v.) *Increases in taxes or payments-in-lieu-of-taxes to the town of Johnston;*
  - (vi.) *Enabling the timely decommissioning of existing generation facilities at the central landfill that would free up valuable landfilling space worth more than two hundred million dollars (\$200,000,000);*
  - (vii.) *Providing substantial amounts of renewable energy to Rhode Island in furtherance of the state's policies of increasing diversity of energy resources, reducing reliance on fossil fuels and reducing the state's carbon footprint; [and]*
  - (viii.) *Provides for funding on an annual basis from the new landfill gas fueled electric generation facility to assist the town of Johnston School System with economic needs including capital improvements and other school related expenses including athletic programs, textbooks, and extracurricular activities. The annual funding shall be deposited in a restricted receipt account that shall be known as the "Johnston School Renewable Energy Assistance Fund."*
- (5) *The financing plan for the construction of a new landfill gas fueled electric generating facility is supported by more than fifty million dollars (\$50,000,000) of federal government grants, which are only available if construction of the facility is actually commenced before the end of the calendar year 2010;*
- (6) *In order to complete the financing plan and secure the federal government grants that are necessary for the financing and construction of the facility, the owner/builder of the facility must obtain a long-term contract for the sale of the output of the facility;*
- (7) *Under the current process, set forth in this chapter, relating to long-term renewable energy contracts, the owner/builder will not be able to obtain an executed long-term contract and otherwise complete the financing plan for the facility in sufficient time to meet the end of the calendar year 2010 requirement of the federal government grants;*
- (8) *The development of an electric generating facility fueled by landfill gas from the central landfill will provide unique benefits to Rhode Island ratepayers and residents that are not reasonably available from other alternatives; and*
- (9) *The amendments to the process for obtaining long-term renewable energy contracts as set forth herein are necessary in order to ensure that the owner/builder of the facility can promptly obtain a long-term renewable energy contract otherwise consistent with the provisions of this section to support the financing and construction of the facility, for the aforesaid legitimate local purposes including, without limitation, the benefit of Rhode Island ratepayers.*

#### Regulatory "Certification" Process

Under the amendment, the above-identified four State agencies share in the responsibility of reviewing the power purchase agreement ("PPA") executed between the

Narragansett Electric Company ("Narragansett") and the owner/builder of the Project, Rhode Island LFG Genco, LLC ("LFG Genco"). Each of the four agencies has a specific review mandate under the law, which is described below:

"Within thirty (30) days of receipt of the agreement each of the four (4) agencies...shall issue a certification or decline certification in writing."

DPUC "shall certify the agreement if the administrator determines that the agreement is consistent with the provisions of this chapter and this section."

EDC "shall certify the agreement if the executive director determines that the project encourages and facilitates the creation of jobs in Rhode Island in the renewable energy sector."

OER "shall certify the agreement if the director determines that the agreement fulfills the declared policy of this chapter and this section."

DOA "shall certify the agreement if the director determines that the contractual terms of the agreement are reasonable and in the best interest of the state in accordance with this chapter and section."

Narragansett and LFG Genco submitted copies of the executed PPA to the DPUC, DOA, EDC and OER on June 7, 2010. In accordance with the requirements contained in Section 39-26.1-9, the PPA was "published on the website of the ... [DPUC] for public inspection." Members of the public are afforded "fifteen (15) days to submit written comments to the four (4) agencies for the respective agency consideration."

Interested persons wishing to offer written comments on this matter, to any or all of the four (4) State agencies identified herein, may do by submitting their written comments in person, or by addressing their written comments to the attention of Ms. Luly Massaro, Division Clerk, Division of Public Utilities and Carriers, 89 Jefferson Boulevard, Warwick, Rhode Island 02888. Kindly specify the desired agency or agencies to which you are submitting your comments. Also, in order to be considered by the DPUC, DOA, EDC and/or OER, all written comments must be received at the foregoing address by June 23, 2010.

Inquiries regarding this matter may be directed to the Division's Clerk, Ms. Luly Massaro at 941-4500, Ext. 107.

Thomas F. Ahern  
DPUC Administrator  
June 8, 2010