

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ADMINISTRATION

DIVISION OF PUBLIC UTILITIES DOCKET NO. D-10-36

IN RE: DOCKET NO. D-10-36- NARRAGANSETT ELECTRIC CO. D/B/A NATIONAL GRID – TOWN OF JOHNSTON PROJECT – POWER PURCHASE AGREEMENT BETWEEN NATIONAL GRID AND RHODE ISLAND LFG GENCO, LLC.

**CERTIFICATION DECISION OF RHODE ISLAND DEPARTMENT OF
ADMINISTRATION**

In accordance with my responsibilities as stated in S-2842 Sub A as Amended, I am complying with the certification process relative to the new landfill gas fueled electric generating facility project to be constructed in the town of Johnston, Rhode Island at the State's Central Landfill. This project, referred to in RIGL §39-26.1-9 as the "Town of Johnston Project" ("Project") has been determined by the General Assembly to contain a number of favorable attributes that could offer significant benefits to the State.

Under the law, the Director of the Department of Administration can provide a certification or decline certification that the contractual terms of the power purchase agreement are reasonable and in the best interest of the State. Under the law, the Department of Administration is one of four (4) agencies that must "issue a certification or decline certification in writing" "within thirty (30) days of receipt of the agreement..."

Background: The reasons for the expedited review process provided for in S-2842 Sub A As Amended, 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 born 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 land filling space worth more than two hundred million dollars (\$200,000,000); and*
 - (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.*
 - (viii) Provides for funding on an annual basis from the new landfill gas fueled electric generation facility to assist the 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.*

The Department of Administration reviewed the Power Purchase Agreement ("PPA") executed between Narragansett Electric Company d/b/a National Grid, and the owner of the project Rhode Island LFG GENCO, LLC and the significant information that was provided through coordinated data gathering efforts of the Public Utilities Commission. The Department of Administration on June 2, 2010 specifically asked for responses to 14 questions which were designed to determine if the Power Purchase Agreement ("PPA") was reasonable and in the best interest of the State. All data requests from all four (4) agencies and data responses were posted on the RI Division of Public Utilities website for public viewing:

Date Requests and Data Responses

- Department of Administration's (DOA) Data Request directed to RI LFG GENCO (6/7/10)
 - RI LFG GENCO response to DOA's data requests (6/22/10)
- Division of Public Utilities' 1st set of data requests directed to RI LFG GENCO (6/14/10)
 - RI LFG GENCO response to Division's 1st set of data requests (6/22/10)
- Division of Public Utilities' 2nd set of data requests directed to RI LFG GENCO (6/23/10)
 - RI LFG GENCO response to Division's 2nd data requests (6/24/10)
- Division's 1st set of data requested directed to national Grid (6/14/10)
 - National Grid's response to Division's 1st set of data requests (6/21/10)
- Office of Energy Resources' (OER) data request directed to RI Resource Recovery Corp.
 - RI Resource Recovery response to OER's data requests including the following:
 - Phase VI Permitting Application for RIRCC (excerpts)
 - Daily Gas Monitoring Reports
 - Phase V Air Permit for RIRRC
 - Phase VI Air Permit for RIRRC
 - Air Pollution Control Permit Application for RI Central GENCO, LLC
 - Addendum to Air Pollution Control Permit Application for RI Central GENCO
- OER's data request directed to Office of Air Resources, RIDEM (6/16/10)
 - Office of Air resources, DEM response to OER's data requests including the following
 - Air Pollution Control Permit Application for Landfill Gas-Fired Combustion Turbine Combined Cycle Power Plant for RI Central GENCO, LLC
 - Addendum to Air Pollution Control Permit Application
 - Major Source Permit issued to RI Central GENCO, LLC

- OER's data request directed to RI LFG GENCO (6/16/10)
 - RI LFG GENCO response to OER's data requests (6/22/10)
- OER's data request directed to National Grid (6/16/10)
 - National Grid's response to OER's data requests (6/23/10)

Additional Filings

- RI LFG GENCO Letter from Randall D. Holmes to Division Re: Written Consent of Sole Manager of Rhode Island LFG GENCO, LLC and gross nameplate capacity of proposed facility (6/28/10)
- RI LFG GENCO Letter from Stephen D. Galowitz Re: RIDEM Wetlands Permit for transmission easement (6/29/10)

Additionally, GENCO provided the four (4) departments with a binder with a document index containing thirty-three (33) tabs with discrete documents relevant to the Project on June 15, 2010.

When asked by the Department of Administration to provide history of the National Grid contract, the need for it, and its purpose, and to provide the history, purpose and the date of execution of the contract between Resource Recovery Corporation and Ridgewood, the response was:

“The purpose of the Power Purchase Agreement with National Grid (“NGRID”) (“the PPA”) is to secure a long-term off-take arrangement for the output of the new proposed power plant. A long-term off-take arrangement from a credit worthy counterparty is a necessary prerequisite to securing financing to build the power plant. Initial informal discussions about a long-term contract with National Grid date back to July 2008. A copy of the PPA was filed by NGRID with the DPUC on June 7, 2010. Ridgewood's relationship with RIRRC dates back to approximately 1995 when Ridgewood first purchased its interest in the 12MW power plant from the original developer. The relationship between RIRRC and Ridgewood (and its affiliates) is complex and there are many contracts and agreements between the parties that govern various aspects of this relationship. Please see Tabs 10 to 14 of the Document Index for the key agreements that would be most relevant to the above matter.” (The document referenced contains 33 items that were provided by GENCO, with items 10-14 relative to the agreements with RI Resource Recovery Corporation)

Information provided by GENCO indicated that the Power Purchase Agreement was the last key element to a project which would benefit the State's landfill, owned and operated by the RI Resource Recovery Corporation. This benefit is described in GENCO's statement:

"In 2008, RILG [LFG GENCO] negotiated an agreement with ... RIRRC..., the statutorily created public benefit corporation that owns and operates the Central Landfill, to decommission the 12 MW facility and to construct a new larger facility that would utilize the excess landfill gas that is currently being flared. The new plant will be ultra-high efficiency combined cycle plant that utilizes four combustion turbines and a single steam turbine to capture and reutilize the waste heat from the exhaust of the combustion turbines. In addition to its efficiency, the plan will utilize state-of-the-art post combustion emissions control systems that will establish a new standard for low emissions across the country. The plant will also include a significant gas clean-up system that will remove water, siloxanes and sulfur from the gas prior to combustion."

GENCO indicated that the PPA with NGRID [Narragansett] is the last key element required to commence construction of the new facility during this calendar year.

According to Richard Licht speaking on behalf of Ridgewood at a House hearing in May 2010:

"An affiliate of Ridgewood Renewable Power ("Ridgewood") operates an electric generation plant at the Central Landfill in Johnston which is owned and operated by the Rhode Island Resource Recovery Corporation ("RIRRC"). That plant captures the methane gas created as trash decomposes. The existing plant is located at two sites on RIRRC property. The first generates approximately 12 megawatts of electricity, and the second generates approximately 6 megawatts of electricity. The larger plant is in the precise area which RIRRC needs for the next phase of the landfill. Consequently, RIRRC and Ridgewood entered into a long term agreement whereby Ridgewood give up its existing rights to the plant in the path of landfill expansion, and would lease two sites one on either side of Shun Pike on land which is not necessary for landfill operations. The existing 6 megawatt plant will remain.

The project encompasses several components. First, there will be a \$10 million upgrade to the existing gas collection system which Ridgewood will take over from

RIRRC. Second, Ridgewood will assume the future obligation to finance the ongoing construction and maintenance of the collection system, which has historically cost RIRRC about \$5 million per year. The improved collection system will result in significantly less methane escaping into the atmosphere which will reduce odors in the neighborhood and constitute a significant reduction in greenhouse gases. Third, there will be a \$10 million gas treatment plant to clean and purify the gas, principally removing sulfur from the gas. Fourth, there will be a new ultra-high efficiency combustion turbine combined cycle (“CTCC”) electric generation plan with a 32 megawatt capacity. The landfill gas will power large turbine generators and the by-product of the turbine process produces an excess amount of heat which will be captured to produce steam to drive a steam turbine generator. Lastly, the electricity generated will be conveyed to the transmission grid by a short interconnection loop on poles located on RIRRC property”.

The Resource Recovery Corporation can enhance its financial position by collecting royalties from a private sector partner operating a power facility capable of producing electricity by burning methane gas created by decomposing trash! There are also environmental benefits from such an arrangement. Rhode Island Resource Recovery must meet certain air quality standards and this project will assist in achieving those goals. It appears all environmental permits have been received by GENCO. GENCO discussed the “environmental benefits calculator” used by the U. S. Environmental Protection Agency to quantify the environmental benefits of the Project. The calculation shows that the environmental benefits attached to the Project “include a reduction of approximately 165,000 tons of CO₂ emissions per year or the equivalent of approximately 260,000 passenger vehicles or 161.2 million gallons of gasoline. Michael O’Connell, Executive Director of RIRRC expressed support for the Project in May 10, 2010 letter to the State of Rhode Island’s Senate members. The letter reflects that RIRRC supports the Project for three reasons: “(1) It is an attractive financial arrangement for RIRRC with a guaranteed annual savings of \$2 million as compared to today’s contract. (2) Includes demolition of Ridgewood’s existing power generating facility which is in the path of the required landfill expansion...at no cost to RIRRC. (3) Will increase power producing capacity, gas clean up capabilities, and back up [sic] systems which will contribute both positively to the environment and to our financials.”

The term of the Power Purchase Agreement is consistent with the statutory requirements that the duration of the contract not be “less than ten (10) years” or “in excess of twenty (20) years.” The contract provides for a “Service Term” “of fifteen (15) years...” The Power Purchase Agreement is consistent the statutory requirement that the agreement be linked to a “newly developed renewable energy resource” as evidenced by the following Project attributes: (1) using “eligible renewable energy resources” (a generation unit with the NEPOOL control area using landfill methane); (2) located within the state of Rhode Island; and (3) will obtain project financing after January 1, 2009.

The Department of Administration attempted to determine how the project financing has evolved over time and the impact of new federal funding made available through ARRA. GENCO provided the following response:

“To clarify, the Project is not anticipated to benefit from the use of federal tax credits. Rather the development will take advantage of two distinct federal grant programs.

The first grant is a highly competitive and discretionary DOE job stimulus grant in the amount of \$15 million secured with the support of the Rhode Island delegation on Washington, DC. This grant program is structured as a reimbursement program that offsets a pro rata portion of the qualified expenditures for the project. For details about the grant and a copy of the grant application please see Section VI of the Document Index. (Document referenced was contained as one of 33 items submitted on June 15, 2010)

The second grant is an as-of-right program that permits certain qualified renewable energy projects that start construction prior to the end of the calendar year 2010 to elect to receive a grant equal to 30 % of the tax basis in the project in lieu of receiving production tax credits or investment tax credits. This grant is anticipated to be approximately \$40 million. This program was established by Congress in recognition of the fact that, as a result of the financial meltdown, the market for tax credits had become thin or non-existent. Without this grant program it would be very difficult to find a third party who was capable and interested in monetizing the tax credits. The grant money is payable after commercial operation of the facility.”

When asked by the Department of Administration who ultimately benefits from the availability of this federal money, GENCO's response was:

"As discussed above, the Project is not anticipated to benefit from the use of federal tax credits. With respect to the DOE jobs stimulus grant, one of the primary factors considered in the awarding of this grant was the jobs created by the project. For a detailed description of the jobs to be created in Rhode Island please see Section VI.B. of RIGL 6-15 Letter and Exhibit C thereto. These job calculations were performed in connection with the federal grant application. The grant application also identifies the exact application of the funds to equipment, labor and other qualified project expenses. With respect to the grant-in-lieu of tax credits, without this grant no party would be willing to finance this project and it would not be built. Accordingly all of the benefits to Rhode Island as outlined in Section VI. B. and C. of RIGL 6-15 Letter are predicated on the receipt of this grant money. Briefly, however, it is the ratepayers who receive the real benefit. Under Rhode Island law NGRID must purchase a certain amount of renewable energy. Also, RIRRC must expand the landfill and under EPA requirements, RIRRC must also deal with the landfill gas. Assuming, for the moment, that the Project could be built in the absence of the grants, it would cost whoever developed it significantly more which means that the cost of the electricity to NGRID and ultimately the ratepayers would be significantly higher."

As with any large construction project, there are jobs created during the construction period that could be viewed as positive attributes to the overall project. According to Richard Licht, on behalf of Ridgewood, at a May 2010 hearing, there are 100 construction jobs to be created and 26 permanent jobs. GENCO discusses other benefits to the Town of Johnston (i.e., \$250,000 annually in payments in lieu of taxes over the next ten years and \$50,000 annually paid by LFG GENCO to the Johnston School System); as well as the economic benefits that would be realized by RI Resource Recovery Corporation.

RIGL §39-26.1-9 provides that the Division of Public Utilities is required to certify the Agreement if the Division determines that the Agreement "is consistent with the provisions of this chapter and this section." A provision of the chapter, as stated in its purpose at 39-26.1-1, provides that "the purpose of this Chapter is to encourage and facilitate the creation of commercially reasonable long-term contracts between electric distribution companies and developers or sponsors of newly developed renewable energy

resources. Therefore, in order to certify the Agreement, the Division of Public Utilities must agree that the PPA is “commercially reasonable.”

GENCO provided significant data supporting the argument that the prices in the PPA are “commercially reasonable” and that this newly developed renewable energy resource. GENCO pointed out that, based on historical market pricing, the “bundled” product that LFG GENCO will sell National Grid for \$11.98 cents/kWh, consisting of “energy,” “renewable energy credits” and “capacity” will actually represent a savings of approximately 1.12 cents to ratepayers “compared to the estimated current market price of the individual components. The claim of commercial reasonableness was supported by expert Peter Zaborowsky, of Evolution Markets Inc.

When asked by the Department of Administration to provide comparable pricing for long term contracts like the National Grid contract and an explanation of variances in pricing methane gas by region, the response was as follows:

“Ridgewood is not aware of any comparable prices for long-term contracts like the PPA. There are numerous factors that render this contract and the underlying project unique. Some of these factors include, the size of the project, the gas clean-up technology, the post combustion emissions technology, the location, the qualification for particular environmental attribute incentive programs in Rhode Island and in other New England states, and the load profile.”

Given the time constraints for review, the Department of Administration was not able to independently research comparable arrangements across the country.

Also with respect to pricing, NGRID’s June 21, 2010 response to the Division of Public Utilities’ data request noted that the PPA pricing is approximately \$10 million under market value on a net present value basis. On July 1, 2010, the Division of Public Utilities provided its certification for the project pursuant RIGL §39-26.1-9.

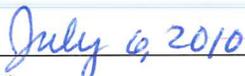
The Department of Administration has examined the Power Purchase Agreement that was filed by National Grid (Narragansett Electric) and LFG GENCO on June 7, 2010, as well as the information provided by Narragansett and LFG GENCO in support of the PPA filing. The Department of Administration has taken into account other information provided by or concerning interested parties during the review process, including for example, the impact on the RI Resource Recovery Corporation and the reduction in capital and operating costs, and the Town of Johnston and the annual funding which will be placed in the “Johnston School Renewal Energy Assistance Fund.” The

Department of Administration has also taken into account the expected statewide progress towards achieving diversity of our energy resources and the reduction in our reliance on fossil fuels. When completed, the project will be the second largest landfill gas-to-energy plant in the country and will expand the State's renewable energy infrastructure.

Given the broad nature of the certification required by the Director of the Department of Administration "that the contractual terms of the power purchase agreement are reasonable and in the best interest of the State" and the data submitted to support the many positive attributes of the project, the Director of Administration hereby certifies in accordance with the review process established in RIGL Section 39-26.1-9 the Power Purchase Agreement filed by the Narragansett Electric Company and Rhode Island LFG GENCO, LLC with the Rhode Island Division of Public Utilities and Carriers on June 7, 2010.



Rosemary Booth Gallogly, Director
Department of Administration


Date