ERLID#: 7759

State of Rhode Island and Providence Plantations
A. Ralph Mollis
Secretary of State

Rules and Regulations Filing Form

1. Agency Name and Address
Public Utilities Commission

89 Jefferson Blvd., Warwick, RI

2. Title of Rule
Rules and Regulations Governing the Implementation of a Renewable Energy Standard

3. Statutory Source of Authority
R.I.G.L. §39-26 et seq. and §45-35 et seq.

4. Concise Explanatory Statement - §42-35-2.3
To implement and facilitate the developement of a Renewable Energy Standard in compliance with R.I.G.L. 39-26-1 et seq. Technical revision include corrections and updates to references in various sections as follows: 1)Page 3 - Section 3.23 (iv), first line, Section 5.1.1 (vi) was changed to Section 5.1(i)(f); 2)Page 5 - Section 3.29 (i), second line, Section 3.26 was changed to Section 3.27; 3)Page 6 - Section 3.33, last line, 6.8 (iii)(b), (c),(e), and (g) was changed to 6.8 (iii)(b),(c),(f), and (g); 4)Page 6 Section 4.2, Table Footnote 1, added reference Docket No. 4404; 5)Page 9 - Section 6.1 (iv), last line, Section 3.22 was changed to Section 3.23; 6)Page 11 - Section 6.8(ii),lines 6 and 8, added commas as appropriate and added (f) n both lines; 7)Page 15 - Section 7.3, changed Economic Development Corporation to Commerce Corporation; 8)Page 17 - Section 7.9(i), line 2, Section 3.1 was changed to Section 3.2.; and 9)Page 20 Section 8.5(i) changed State Energy Office (SEO) to Office of Energy Resources (OER), and changed Economic Development Corporation (EDC) to Commerce Corporation. No substantive changes were made.

5. Type of Filing

Emergency Rules

A1. Emergency 120-day initial - §42-35-3(b)
☐ Adoption
☐ Amendment of ERLID:
". ☐ Repeal of ERLID:

A2. Emergency 90-day renewal - §42-35-3(b)
☐ Adoption
☐ Amendment
Indicate ERLID of 120-day initial:

Brief Statement of Reason for Finding Imminent Peril §42-35-3(b)(2):

Final Rules

☐ B1. Amendment ☐ B2. Adoption ☐ B3. Repeal ☑ C. Technical Revision

Supersedes ERLID: 4694 Repeals ERLID: Expires ERLID:

If B1 or C, please indicate new, amended, deleted, or revised sections:
Amended Sections 3.23(iv), 3.29(i), Section 3.33, Section 4.2, Section 6.1(iv), Section 6.8(ii), Section 7.3, Section 7.9(i), and Section 8.5(i)

6. Notice and Hearing Information
Date of Public Notice - §42-35-3(a)(1):Notice Not Required
Date of Public Hearing - §42-35-3(a)(2):Hearing Not Required
End of Comment Period:00/00/0000

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7. Agency Additional Information - Web Page
http://http://www.ripuc.org/rulesregs/commrules/RESRules.pdf

8. Certification

I hereby certify that the attached rules and regulations were adopted in accordance with the Administrative Procedures Act (42-35) and that they are true copies of this Department, attest,

Judy E. Massaro
Name
Commission Clerk

Patricia Chiarelli
Notary Public my commission expires: 1/27/18

Subscribed and sworn before me
this 28th day of April, 2014

Title

ERLID#: 7759

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

RULES AND REGULATIONS GOVERNING THE IMPLEMENTATION OF A RENEWABLE ENERGY STANDARD

Date of Public Notice:	January 9, 2007 and April 3, 2007
Date of Public Hearing:	February 8, 2007 and April 16, 2007
Effective Date:	July 25, 2007

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Section:
1.0: Authority
2.0: Purpose of Regulations
3.0: Definitions
4.0: Renewable Energy Standard
5.0: Eligibility
6.0: Certification
7.0: Demonstration of Compliance
8.0: Contracting Standards and Procurement Plans
9.0: Sanction for Non-Compliance

1.0: Authority

These regulations are promulgated pursuant to Title 39 Chapter 26 of the General Laws of Rhode Island.

2.0: Purpose of Regulations

The purpose of this chapter is to implement Rhode Island's Renewable Energy Standard law Section 39-26-1 et seq. of the General Laws of Rhode Island as enacted June 29, 2004, referred to hereafter as the "Renewable Energy Act."

3.0: Definitions

Except as otherwise expressly provided, terms with initial capitalization used in these regulations and not defined herein shall have the meaning as defined in the NEPOOL Rules.

3.1 Aggregation Owner: means a person or entity that owns or controls a single Customer-sited or Off-grid Generation Facility, or a collection of such facilities, along with any associated NEPOOL GIS Certificates, and who applies for and receives certification of an aggregation from the commission pursuant to Section 6.8. An Aggregation Owner may be the same entity that owns the generation unit(s) in the aggregation.

3.2 Alternative Compliance Payment: means a payment to the Renewable Energy Development Fund of fifty dollars ($50.00) per megawatt-hour of renewable energy obligation, in 2003 dollars, adjusted annually by the annual change in the U.S. Bureau of Labor Statistics Consumer Price Index, which may be made in lieu of standard means of compliance with these regulations.

3.3 Commission: means the Rhode Island Public Utilities Commission.

3.4 Compliance Year: means a calendar year beginning January 1 and ending December 31, for which an Obligated Entity must demonstrate that it has met the requirements of these regulations.

3.5 Customer-sited Generation Facility: means a Generation Unit that is interconnected on the End-use Customer's side of the retail electricity meter in such a manner that it displaces all or part of the metered consumption of the End-use Customer.

3.6 Electrical Energy Product: means an electrical energy offering, including but not limited to last resort and standard offer service, or any successor service, that can be distinguished by its Generation Attributes or other characteristics, and that is offered for sale by an Obligated Entity to End-use Customers.

3.7 Eligible Biomass Fuel: means fuel sources including brush, stumps, lumber ends and trimmings, wood pallets, bark, wood chips, shavings, slash, yard trimmings, site clearing waste, wood packaging, and other clean wood that is not mixed with other unsorted solid wastes; agricultural waste, food and vegetative material; energy crops; landfill methane or biogas, provided that such gas is collected and conveyed directly to the Generation Unit without use of facilities used as common carriers of natural gas; or neat bio-diesel and other neat liquid fuels that are derived from such fuel sources.

Generation Units using wood sources other than those listed above may make application, as part of the required fuel source plan described in Section 6.9, for the Commission to approve a particular wood source as "clean wood." The burden will be on the applicant to demonstrate that the wood source is at least as clean as those listed in the legislation. Wood sources containing resins, glues, laminates, paints, preservatives, or other treatments that would combust or off-gas, or mixed with any other material that would burn, melt, or create other residue aside from wood ash, will not be approved as clean wood.

3.8 Eligible Renewable Energy Resource: means a resource as defined in Section 5.0 of these regulations.

3.9 End-use Customer: means a person or entity in Rhode Island that purchases electrical energy at retail from an Obligated Entity except that a Generating Unit, taking station service at wholesale from ISO or self-supplying from its other generating stations, shall not be considered an End-use Customer.

3.10 Existing Renewable Energy Resources: means Generation Units using Eligible Renewable Energy Resources and first entering commercial operation before December 31, 1997.

3.11 FERC: means the Federal Energy Regulatory Commission, or its successor.

3.12 Generation Attributes: means the non-price characteristics of the electrical energy output of a generation unit including, but not limited to, the unit's location, fuel type, actual emissions, vintage and policy eligibility. The Commission may modify this list as appropriate.

3.13 Generation Unit: means a facility that converts a fuel or an energy resource into electrical energy.

3.14 Historical Generation Baseline: means, for all Eligible Renewable Energy Resources including Intermittent Resources, the average annual electrical production from the Eligible Renewable Energy Resources, stated in megawatt-hours (MWhs), for the three calendar years 1995 through 1997, or for the first 36 months after the Commercial Operation Date if that date is after December 31, 1994 (the "Baseline Period"); provided however, that the Historical Generation Baseline shall be measured regardless of whether or not the average annual electrical production during the Baseline Period meets the eligibility requirements of Section 5 of these regulations.

3.15 Intermittent Resource: means a Generation Unit utilizing wind, solar, or Small Hydro energy resources.

3.16 ISO: means ISO New England Inc., authorized by the FERC to exercise for the New England Control Area the functions required pursuant to FERC's Order No. 2000 and the FERC's corresponding regulations, and any successor organization.

3.17 Load Asset: means the term as used in the New England Markets.

3.18 NEPOOL GIS: means the Generation Information System operated by NEPOOL, its designee or successor entity, which includes a generation information database and certificate system, and that accounts for certain of the Generation Attributes of electrical energy consumed within, imported into or exported from NEPOOL.

3.19 NEPOOL GIS Certificate: means an electronic record produced by the NEPOOL GIS that identifies certain of the Generation Attributes of each megawatt-hour of electrical energy accounted for in the NEPOOL GIS.

3.20 NEPOOL: means the New England Power Pool or its successor.

3.21 NEPOOL Rules**:** means all rules adopted by NEPOOL or the ISO, as such rules may be amended, modified, supplemented or superseded and restated from time to time, including but not limited to, the NEPOOL Agreement, the ISO Tariff, the ISO New England Operating Documents, the Transmission Operating Agreement, the Participants Agreement, the NEPOOL Manuals, and the NEPOOL Operating Procedures, as amended, superseded or restated from time to time.

3.22 New England Markets: means the Markets or programs for the purchase of energy, capacity, ancillary services, demand response services or other related products or services (including Financial Transmission Rights) that are delivered through or useful to the operation of the New England Transmission System and that are administered by the ISO pursuant to rules, rates, or agreements on file from time to time with the FERC.

3.23 New Renewable Energy Resources: means:

(i) at a new site, the entire output of a Generation Unit which uses Eligible Renewable Energy Resources and first entered commercial operation after December 31, 1997; or

(ii) at the site of an Existing Renewable Energy Resource, the entire output of a new Generation Unit which uses Eligible Renewable Energy Resources and first entered commercial operation after December 31, 1997, provided that the Existing Renewable Energy Resource has been retired and replaced with such new Generation Unit; or

(iii) the entire output of a Repowered Generation Unit which uses Eligible Renewable Energy Resources and such Repowered Generation Unit first entered commercial operation after December 31, 1997 at the site of an existing Generation Unit; or

(iv) for a multi-fuel facility, pursuant to Section 5.1(i)(f), the renewable energy fraction of output from a Generation Unit in which an Eligible Biomass Fuel is first co-fired with fossil fuels after December 31, 1997; or

(v) for an Existing Renewable Energy Resource other than an Intermittent Resource, the incremental output in any Compliance Year over the Historical Generation Baseline, provided that such Existing Renewable Energy Resource using Eligible Renewable Energy Resources was certified by the Commission pursuant to

Section 6 to have demonstrably completed capital investments after December 31, 1997 attributable to the efficiency improvements or additions of capacity that are sufficient to, were intended to, and can be demonstrated to increase annual electricity output in excess of ten percent (10%). The determination of incremental production for purposes of this paragraph shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity; or

(vi) for an Existing Renewable Energy Resource that is an Intermittent Resource, provided that such Existing Renewable Energy Resource using Eligible Renewable Energy Resources was certified by the Commission pursuant to Section 6 to have demonstrably completed capital investments after December 31, 1997 attributable to the efficiency improvements or additions of capacity that are sufficient to, were intended to, and have demonstrated on a normalized basis to increase annual electricity output in excess of ten percent (10%), the incremental production in any Compliance Year shall be determined as a percentage of production in each month. Such percentage shall be equal to the percentage of average annual production at the Generation Unit following the improvements or additions of capacity that are attributable to the efficiency improvements or additions of capacity placed in service after December 31, 1997 as determined by the Commission using the information consistent with that used to determine the Historical Generation Baseline for such facility. Such percentage shall be certified by the Commission. The determination of incremental production for purposes of this paragraph shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity. In no event shall any production that would have existed during the Historical Generation Baseline period in the absence of the efficiency improvements or additions to capacity be considered incremental production for purposes of this paragraph.

3.24 Nonregulated Power Producers: shall be as defined in Section 39-1-2(19) of the General Laws of Rhode Island.

3.25 Obligated Entity: means: (i) a person or entity that sells electrical energy to End-use Customers in Rhode Island, including, but not limited to: Nonregulated Power Producers and electric utility distribution companies, as defined in Section 39-1-2 of the General Laws of Rhode Island, supplying standard offer service, last resort service, or any successor service to End-use Customers; including Narragansett Electric, but not to include Block Island Power Company or Pascoag Utility District; or (ii) to the extent not otherwise required to register and act as a NPP, any customer buying electricity supply directly from wholesale markets. In no event shall the ISO or NEPOOL be considered an Obligated Entity.

3.26 Off-grid Generation Facility: means a Generation Unit that is not connected to a utility transmission or distribution system.

3.27 Prime Mover: means

(i) for a landfill gas facility, the entire internal combustion engine or combustion turbine;

(ii) for a biomass facility, the entire boiler;

(iii) for a wind facility, the entire wind turbine, including the generator, gearbox (if any), nacelle, and turbine;

(iv) for a small hydro-electric facility, the entire turbine and structures supporting the turbine;

(v) for a geothermal facility, the entire steam turbine, including the turbine rotors, shaft, stationary blades, and gear assemblies;

(vi) for a digester gas facility, the entire digester unit and internal combustion engine or combustion turbine as applicable; and

(vii) for a solar thermal facility, the entire steam turbine.

3.28 Real Time Load Obligation: means the energy obligation as defined and determined by the ISO in the New England Markets.

3.29 Repowered Generation Unit: means:

(i) an existing Generation Unit that completely replaces its Prime Mover with a new one pursuant to Section 3.27; and

(ii) the then existing Generation Unit must demonstrate to the satisfaction of the Commission either (a) a material increase in its efficiency or (b) a material decrease in its air emissions such as obtaining a new Title V air permit based upon BACT (best alternative control technology) for that generation technology; and

(iii) the completed repowered Generation Unit must demonstrate that 80% of its resulting tax basis of the entire Generation Unit's plant and equipment (but not its property and intangible assets) is derived from capital expenditures made after December 31, 1997.

3.30 Reserved Certificate: means a NEPOOL GIS certificate sold independent of a transaction involving electrical energy, pursuant to Rule 3.4 or a successor rule of the operating rules of the NEPOOL GIS.

3.31 Reserved Certificate Account: means a specially designated account established by an Obligated Entity, pursuant to Rule 3.4 or a successor rule of the operating rules of the NEPOOL GIS, for transfer and retirement of Reserved Certificates from the NEPOOL GIS.

3.32 Small Hydro Facility: means a facility employing one or more hydroelectric turbine generators and with an aggregate capacity not exceeding thirty (30) megawatts. For purposes of this definition, "facility" shall be defined in a manner consistent with Title 18 of the Code of Federal Regulations Section 292.204(a)(2)(i) and (ii) as of the date of enactment of the Renewable Energy Act (June 29th, 2004); provided, however, that the size of the facility is limited to no greater than thirty (30) megawatts, rather than eighty (80) megawatts. For a Small Hydro Facility to be eligible as a New Renewable Energy Resource it must in no case involve any new impoundment or diversion of water with an average salinity of twenty (20) parts per thousand or less.

3.33 Verifier: means a person or entity, independent of a Generation Unit in an aggregation, an Aggregation Owner, the operator of an aggregation, or any other party that might create a conflict of interest in assuring accurate NEPOOL GIS Certificate creation, who (i) is responsible for monitoring, verifying and entering into the NEPOOL GIS the quantity of eligible energy produced by Generation Units in an aggregation, a Customer-Sited Generation Facility, or an Off-grid Generation Facility whose energy production

data (or any part thereof) is not automatically included in the ISO Market Settlement System; and (ii) meets the requirements of a Verifier under Section 6.8. A Verifier may be the local electric distribution company, provided all qualifications contained in Section 6.8 (ii) and 6.8(iii)(b), (c), (f), and (g) are met.

4.0: Renewable Energy Standard

4.1 Starting in Compliance Year 2007, all Obligated Entities shall obtain, from Eligible Renewable Energy Resources, a target percentage of at least three percent (3%) of electricity sold by an Obligated Entity at retail to Rhode Island End-use Customers, inclusive of losses. For the purposes of this section, electricity sold by an Obligated Entity at retail to Rhode Island End-use Customers shall equal the sum of the Real Time Load Obligations for each Load Asset in the New England Markets that represents the electricity sold by an Obligated Entity at retail to Rhode Island End-use Customers. In each subsequent Compliance Year through Compliance Year 2019, the target percentage shall increase according to the table in Section 4.2 below, except as provided in Section 4.4.

4.2 For each Obligated Entity and in each Compliance Year, the amount of retail electricity sales used to meet this obligation that is derived from Existing Renewable Energy Resources shall not exceed two percent (2%) of total retail electricity sales.

Compliance Year	Total Target Percentage	Percentage from New Renewable Energy Resources	Percentage from *either* New *or* Existing Renewable Energy Resources
2007	3.0%	1.0%	2.0%
2008	3.5%	1.5%	2.0%
2009	4.0%	2.0%	2.0%
2010	4.5%	2.5%	2.0%
2011[1]	5.5%	3.5%	2.0%
2012[1]	6.5%	4.5%	2.0%
2013[1]	7.5%	5.5%	2.0%
2014[1]	8.5%	6.5%	2.0%
2015[1]	10.0%	8.0%	2.0%
2016[1]	11.5%	9.5%	2.0%
2017[1]	13.0%	11.0%	2.0%
2018[1]	14.5%	12.5%	2.0%
2019[1]	16.0%	14.0%	2.0%
2020 and thereafter[2]	16.0%	14.0%	2.0%

[1] Increases in 2011 and thereafter subject to Commission determination pursuant to Section 4.4. See Commission Docket No. 4404.[2] Duration of continuation subject to Commission determination pursuant to Section 4.5.

4.3 If an Obligated Entity represents to a customer that the Obligated Entity is selling to the customer a portfolio of supply sources that includes more than the amount of Eligible Renewable Energy Resources requested under these regulations, the Eligible Renewable

Energy Resources necessary to supply more than the minimum required under these regulations of that customer's load may not be applied to meet the aggregate requirements of the Renewable Energy Standard.

4.4 On or about January 1, 2010, the Commission will open a docket to determine the adequacy, or potential adequacy, of renewable energy supplies to meet the increase in the percentage requirement of energy from renewable energy resources to go into effect in 2011. On or about January 1, 2014, the Commission may open a docket to determine the adequacy, or potential adequacy, of renewable energy supplies to meet the increase in the percentage requirement of energy from renewable energy resources to go into effect in 2015. Adequacy may be evaluated in terms of actual number of NEPOOL GIS Certificates available and/or net cost of NEPOOL GIS Certificates. In making such determination of NEPOOL GIS Certificate availability, the Commission will consider the history of NEPOOL GIS Certificate availability relative to NEPOOL GIS Certificate requirements and Alternative Compliance Payments for Rhode Island and other New England state requirements. The Commission will also consider future NEPOOL GIS Certificate availability based on the status of projects under development in the region and other states' future NEPOOL GIS Certificate requirements, renewable and NEPOOL GIS Certificate trends across the region, trends in renewable technology costs, the benefits to Rhode Island and the region, and any such other information brought to the attention of the Commission during the investigation. In the event that the Commission determines an inadequacy or potential inadequacy of supplies for scheduled percentage increases, the Commission may delay the implementation of the scheduled percentage increase and all subsequent increases for a period of one year or recommend to the general assembly a revised schedule of percentage increases, if any, to achieve the purposes of this chapter.

4.5 In 2020 and each year thereafter the minimum Renewable Energy Standard established in 2019 or in such year that the ultimate target is reached shall be maintained indefinitely unless the Commission determines that such maintenance is no longer necessary for either amortization of investments in New Renewable Energy Resources or for maintaining targets and objectives for renewable energy.

5.0: <u>Eligibility</u>

5.1 Eligible Renewable Energy Resources are either:

(i) Generation Units in the NEPOOL Control Area using:

- (a) direct solar radiation;
- (b) the wind;
- (c) movement of or the latent heat of the ocean;
- (d) the heat of the earth;
- (e) Small Hydro Facilities;
- (f) biomass facilities using Eligible Biomass Fuels and maintaining compliance with current air permits; Eligible Biomass Fuels may be co-fired with fossil fuels, provided that only the renewable energy fraction of production from multi-fuel facilities shall be considered eligible; or
- (g) fuel cells using the renewable resources referenced in this section.

(ii) Generation Units located in a control area adjacent to NEPOOL, provided the associated Generation Attributes shall be applied to the Renewable Energy Standard only to the extent that the energy produced by the Generation Unit is actually delivered into NEPOOL for consumption by New England customers. The delivery of such energy from the Generation Unit into NEPOOL must be verified by:

(a) a unit-specific bilateral contract for the sale and delivery of such energy into NEPOOL; and

(b) confirmation from ISO that the renewable energy was actually settled in the ISO Market Settlement System; and

(c) (1) confirmation through the North American Reliability Council tagging system that the import of the energy into NEPOOL actually occurred; or

(2) any such other requirements as the Commission deems appropriate.

(iii) Furthermore, any party using Generation Attributes from a Generation Unit located in a control area adjacent to NEPOOL must provide documentation satisfactory to the Commission that the Generation Attributes have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Rhode Island such as a report from a neighboring Generation Attribute accounting system or an affidavit.

5.2 Waste-to-energy technologies or processes of any sort or manner, whether thermal or non-thermal, whether aerobic or non-aerobic, shall in no instance be considered an eligible fuel or resource. Waste-to-energy technologies or processes include, but are not limited to, oxidation of waste, anaerobic treatments, and thermal treatments such as pyrolysis, gasification or plasma processes or treatment of inorganic and/or organic wastes with or without the recovery of the combustion heat generated. Eligible Biomass Fuels removed from the waste stream are eligible only if used after being fully separated from other waste. Gas resulting from the anaerobic digestion of sewage or manure is considered to be a type of biogas, and therefore an Eligible Biomass Fuel that has been fully separated from the waste stream. Landfill gas, which is an Eligible Biomass Fuel, means only that gas recovered from inside a landfill and resulting from the natural decomposition of waste, and that would otherwise be vented or flared as part of the landfill's normal operation if not used as a fuel source.

5.3 NEPOOL GIS Certificates associated with energy production from Off-grid Generation and Customer-sited Generation Facilities certified by the Commission as Eligible Renewable Energy Resources may also be used to demonstrate compliance, provided that the facilities are physically located in Rhode Island.

5.4 Initial title to tradable emission credits under existing programs from all Eligible Renewable Energy generation facilities shall accrue to the owner of such a Generation Unit, unless such title has been explicitly deemed transferred pursuant to contract or regulatory order.

6.0: Certification

6.1 The Commission will certify Eligible Renewable Energy Resources by issuing statements of qualification within ninety (90) days of application.

(i) Applicants for certification of Renewable Energy Resources and those requesting a Declaratory Judgment under Section 6.2 of these regulations must use the standardized application form for certification developed by the Commission for such purpose entitled **Renewable Energy Resources Eligibility Form** posted on the Commission's web site. If a Generation Unit has been certified in another state, then the applicant must attach that state's order to its certification application. Applicants proposing the use of a biomass fuel must include with the application a biomass fuel source plan, as described in Section 6.9. All filings must be in conformance with the Commission's Rules of Practice and Procedure, in particular Rule 1.5, or its successor regulation, entitled "Formal Requirements as to Filings."

(ii) The Commission Clerk will keep a list of interested parties who wish to be notified when an application for certification is filed or a Declaratory Judgment is requested under Section 6.2 of these rules. Such list will include the Division of Public Utilities and Carriers. In addition to filing with the Commission applicants are required to send, either electronically or in paper copy, a copy of the completed application form to the interested parties including any attachments. The Commission Clerk will post all completed Renewable Energy Resources Eligibility forms, including all attachments to the Commission website.

(iii) Any party in interest may comment on such filings to the Commission in writing within 30 days. Following the 30-day comment period, the Commission will consider an application for certification or request for Declaratory Judgment in an open meeting. The Commission may approve the application or request at that time, or set the matter for hearing following not less than 10-day notice.

(iv) The Commission's statement of qualification will include a unique certification number for each Generation Unit, and will designate whether the facility is qualified as a New Renewable Energy Resource, an Existing Renewable Energy Resource, or a resource capable of producing as both a New and Existing Renewable Energy Resource. For any Generation Unit qualified as capable of producing as both a New and Existing Renewable Energy Resource, and therefore able to produce "new" and "existing" NEPOOL GIS Certificates, the Commission will issue two statements of qualification, one as a New Renewable Energy Resource and one as an Existing Renewable Energy Resource. For such Generation Units with both New and Existing Renewable Energy Resource statements of qualification, each statement of qualification shall clearly delineate all information necessary for the NEPOOL GIS administrator to properly allocate the Generation Unit's production among New and Existing Renewable Energy Resources, consistent with Section 3.23 of these regulations.

6.2 The Commission will provide prospective reviews for applicants seeking a preliminary determination as to whether a facility would be eligible prior to the formal certification process described in Section 6.1 as follows:

(i) Such applicants for prospective review should file a Request for Declaratory Judgment under Rule 1.10(c) of the Commission's Rules of Practice and Procedure.

(ii) Once a request for Declaratory Judgment is received by the Commission under this section, the Commission will proceed under Section 6.1 (i) through (iii). The Commission will act upon a request for Declaratory Judgment filed under this section within 120 days from receipt of the materials required under Section 6.1(i).

6.3 The Commission will verify the on-going eligibility of renewable energy generators and the production of energy from such Generation Units, as follows:

(i) Renewable Energy Resources of the type that combust fuel to generate electricity including but not limited to biomass facilities and dual fuel facilities must file quarterly reports due 60 days after the end of each quarter on the fuel stream used during the quarter. Such reports shall include the amounts, energy content, and other details of all fuels used and energy generated, sufficient to allow the Commission to determine the resource's eligibility under the Renewable Energy Act and, in the case of plants that co-fire an Eligible Biomass Fuel with a fossil fuel, to allow the Commission to determine or verify what amount of the Renewable Energy Resource's generation during that quarter is certified as being eligible. Generation Units that fail to supply such reports shall be immediately de-certified.

(ii) Any other verification as required by the Commission in its certification order.

(iii) The Commission or persons acting at its behest may conduct audits or site visits to assist in verification at any time at the Commission's discretion.

6.4 To the extent consistent with the requirements of these regulations, the Commission will rely upon the NEPOOL GIS for verification of production of energy from Generation Units certified as eligible

6.5 Generators, once certified, shall notify the Commission in the event of a change in a generator's eligibility status. When and if, in the Commission's opinion, after due consideration, there is a material change in the characteristics of a Generation Unit or its fuel stream that could alter its eligibility, such Generation Unit must be recertified. Recertification of a Generation Unit will be conducted in the same manner as the certification process outlined above. Applicants for recertification of a Generation Unit must clearly state on the Renewable Energy Resources Eligibility Form that they are applying for recertification.

6.6 Suspension or Revocation: The Commission may suspend or revoke the certification of Generation Units, certified in accordance with Section 6.1, that are found, after notice and an opportunity for hearing, to provide false information or that fail to notify the Commission in the event of a change in eligibility status or otherwise comply with its rules. Other sanctions are detailed in Section 9 of these regulations.

(i) A Commission order suspending certification will include a fixed period of time during which the Generation Unit shall not be eligible to provide NEPOOL GIS Certificates under these regulations.

(ii) A Commission order revoking certification of a generator under these rules may include a specific time period which must elapse before the Generation Unit may apply for recertification.

(iii) Time periods listed in Section 6.6 (i) and (ii) as well as other sanctions levied by the Commission should reflect the seriousness and number of instances of non-compliance by the Generation Unit.

6.7 With the exception of contracts for generation supply entered into prior to 2002, initial title to NEPOOL GIS Certificates from Off-grid and Customer-sited Generation Facilities and from all other Eligible Renewable Energy Resources shall accrue to the owner of such a Generation Unit, unless such title has been explicitly deemed transferred pursuant to contract or regulatory order.

6.8 Customer-sited and Off-grid Generation facility:

(i) Customer-sited and Off-grid Generation Facilities may be certified as an eligible resource if their NEPOOL GIS Certificates are created by way of an aggregation of Generation Units using the same generation technology and vintage (e.g. New versus Existing), and so long as the aggregation is certified by the Commission. Such Generation Units that are interconnected on the End-use Customer's side of the retail electricity meter in such a manner that it displaces all or part of the metered consumption of the End-use Customer, or not connected to a utility transmission or distribution system, will be eligible only if the Generation Unit is physically located in the State of Rhode Island.

An aggregation may consist of as few as one Generation Unit, and the aggregation may be owned and/or operated by the same entities that own the Generation Units in the aggregation. In applying for certification by the Commission, the Aggregation Owner shall submit proposed procedures under which their particular aggregation will operate ("Aggregation Agreement," see Section 6.8(iii)). The Commission may then certify the aggregation as an eligible Generation Unit, stipulating that the aggregation follow the procedures specified in the Aggregation Agreement. For the purposes of these Renewable Energy Standard regulations, an aggregation so certified will be considered a single "Generation Unit." Once certified by the Commission, individual Generation Units may enter or leave the aggregation without requiring approval of the Commission, so long as additions or subtractions from the aggregation comply with the Aggregation Agreement. Any changes to or deviations from the Aggregation Agreement will be considered a change in generator status, and will require recertification by the Commission.

(ii) NEPOOL GIS Certificates created by an aggregation shall be monitored and verified by a "Verifier". A Verifier may seek certification from the Commission. A request for certification by a Verifier must demonstrate the Verifier's independence, and describe procedures and qualifications by which the Verifier would fulfill each of the obligations placed upon the Verifier under Section 6.8(ii) and 6.8(iii)(b),(c),(e),(f) and (g). Nothing in this language is meant to preclude the electric distribution company from being retained as the Verifier, assuming all qualifications contained in Section 6.8(ii) and 6.8(iii)(b),(c),(e),(f) and (g) are met.

(iii) In making application for certification of an aggregation as an eligible Generation Unit, the Aggregation Owner shall provide the Commission a proposed Aggregator Agreement, which shall contain the following information:

(a) Name and contact information of the Aggregation Owner, to which these regulations and stipulations of certification shall apply, and who shall be the owner of any NEPOOL GIS Certificates so certified;

(b) Name, contact information, and qualifications of the Verifier. Qualifications shall include any information the applicant believes will assist the Commission in determining that the Verifier will accurately and efficiently carry out its duties. After receipt of the application, the Commission may require additional evidence of qualifications;

(c) A declaration of any and all business or financial relations between Aggregation Owner and Verifier, which the Commission will use to evaluate the independence of the Verifier. Reasons for ruling that a Verifier is not sufficiently independent include, but are not limited to: i) If one entity owns, directly or indirectly, or if a natural person so owns, 10% or more of the voting stock or other equity interest in the other entity; ii) If 10% or more of the voting stock or other equity interests in both entities are owned, directly or indirectly, by the same entity or a natural person; or iii) If one entity is a natural person, and such entity or a member of such entity's immediate family is an officer, director, partner, employee or representative of the other entity. Further, the Aggregator Agreement shall include a statement indicating under what circumstances the Verifier would not be considered sufficiently independent of the individual Generation Unit, and that Generation Units not meeting this independence test would not be allowed to participate in the aggregation;

(d) Type of technology that will be included in the aggregation, and statement that the aggregation will include only individual Generation Units that meet all the requirements of these regulations, for example physical location, vintage, etc.;

(e) Proposed operating procedures for the aggregation, by which the Aggregation Owner shall ensure that individual Generation Units in the aggregation comply with all eligibility requirements and that the NEPOOL GIS Certificates created accurately represent generation. At a minimum, these procedures will: i) require a determination by the Aggregation Owner that the Generation Unit is in compliance with these Renewable Energy Standard regulations and that the Aggregation Agreement is approved by the Commission and an independent determination by the Verifier that the Generation Unit exists; ii) require a meter reading procedure that allows the Verifier to read meters on the Generation Units; meter readings may be manual or remote and via the aggregators own system or via an independent system, but in all cases shall comply with NEPOOL GIS Operating Rules regarding metering; iii) require confirmation that Verifier will be entering NEPOOL GIS Certificates in to the NEPOOL GIS system, as described in paragraph (g) and iv) include a

procedure for the Verifier to report to the Commission on the results of their verification process.

(f) Description of how the Verifier will be compensated for its services by the aggregator. In no instances will an aggregation be certified in which the Verifier is compensated in a manner linked to the number of NEPOOL GIS Certificates created by the aggregation.

(g) No less frequently than quarterly, the Verifier shall directly enter into the NEPOOL GIS the quantity of energy production in the applicable time period from each Generation Unit in the aggregation. Such generation data shall not include any generation data from previous time periods, except as provided for in this section. The entry of generation data by the Verifier will be through an interface designated for this purpose by the NEPOOL GIS and in accordance with NEPOOL GIS Operating Rules applicable to Third-Party Meter Readers, and to which the Aggregation Owner shall not have access. Output of less than one MWh by any single Generation Unit within the aggregation may be applied to the entire aggregation's generation, and generation of the aggregation less than one full MWh may be applied to the subsequent quarter in accordance with NEPOOL GIS Operation rules.

(iv) In the event the Aggregation Agreement is not followed, the Commission may impose penalties, up to and including decertifying the aggregation as an eligible Generation Unit.

6.9 Eligible Biomass Fuel Generation Units

(i) At the time of application for certification, Generation Units proposing to use an Eligible Biomass Fuel are required to submit a fuel source plan, which shall specify:

(a) The type of Eligible Biomass Fuel to be used at the Generation Unit;

(b) If the proposed fuel is clean wood, any further substantiation the applicant may wish to supply as to why the fuel source should be considered a clean wood;

(c) In the case of co-firing with a fossil fuel, a description of how such co-firing will occur and how the relative amounts of Eligible Biomass Fuel and fossil fuel will be measured, and how the eligible portion of generation output will be calculated. Such calculations shall be based on the energy content of the proposed fuels used;

(d) A description of what measures the applicant will take to ensure that only the Eligible Biomass Fuel are used, examples of which may include: standard operating protocols or procedures that will be implemented at the Generation Unit, contracts with fuel suppliers, testing or sampling regimes;

(e) That the fuels stored at or brought to the Generation Unit will only be either Eligible Biomass Fuels or fossil fuels used for co-firing. Biomass Fuels not deemed eligible will not be allowed at the premises of certified Generation Units; and

(f) If the proposed fuel includes recycled wood waste, documentation that such fuel meets the definition of Eligible Biomass Fuel and also meets material separation, storage, or handling standards acceptable to the Commission and furthermore consistent with these regulations.

(ii) In determining if an Eligible Biomass Generation Unit shall be certified, the Commission will consider if the fuel source plan can reasonably be expected to ensure that only Eligible Biomass Fuels will be used, and in the case of co-firing ensure that only that proportion of generation attributable to an Eligible Biomass Fuel be eligible. Certification will not be granted to those Generation Units with fuel source plans the Commission deems inadequate for these purposes.

(iii) Should the Commission have reason to believe that a Generation Unit is using a non-eligible biomass fuel, or claiming eligibility for a portion of generation in excess of that attributable to the Eligible Biomass Fuel, the Commission will schedule within 30 days a hearing to determine if the Generation Unit is in compliant with its certification, and provide written notice to the applicant of the hearing date and reasons for the hearing. Should the applicant fail to appear at the hearing, the Generation Unit will be immediately de-certified.

(iv) Should the Commission determine that a Generation Unit is in fact non-compliant, it will take the following actions depending on the Commission's determination of why such non-compliance occurred:

(a) If the applicant, or Generation Unit owners or operators, willfully attempted to circumvent, disregard, or disobey either these regulations, the application for certification, or the fuel source plan, the Generation Unit shall be immediately de-certified and the case referred to the Attorney General's office and subject to the sanctions provided in Section 9.0.

(b) If the Commission determines that the fuel source plan was in fact being followed, but the plan was inadequate to ensure compliance, the applicant may submit a revised fuel source plan within 30 days of receiving such a ruling from the Commission. Should the Commission approve the revised plan, certification of the Generation Unit will continue uninterrupted without prejudice or penalty. Should the applicant fail to have a revised fuel source plan approved by the Commission within 60 days of the Commission's determination that a revised plan is required, the Generation Unit shall be de-certified.

(c) If the Commission determines that the fuel source plan was not being followed, but not for reasons of willful misconduct on the part of the applicant or the Generation Unit owner or operator, the applicant shall provide a written explanation of why or how the failure to comply occurred, and describing what measures will be taken to prevent such compliance failure from happening again. If the same Generation Unit is later again found to be out of compliance, and the Commission finds the measures proposed for preventing such non-compliance in a previous instance were in fact not followed, the Generation Unit will be immediately de-certified. If the measures were found to have been followed but proved inadequate to ensure compliance, or the reason for non-compliance did not relate to the measures previously implemented,

the applicant may again provide written explanation and description of corrective measures to prevent future non-compliance. However, if a Generation Unit is found to not be following its fuel source plan in three instances in any ten-year period, it shall be immediately de-certified and subject to the sanctions provided in Section 9.0.

7.0: Demonstration of Compliance

7.1 NEPOOL GIS Certificates applied towards Rhode Island Renewable Energy Standard compliance may not be used towards compliance with state renewable energy obligations relating to an Obligated Entity's load in other states.

7.2 Compliance with the Renewable Energy Standard may be demonstrated through procurement of NEPOOL GIS Certificates relating to Generating Units certified by the Commission as using eligible renewable energy sources, as evidenced by reports issued by the NEPOOL GIS Administrator. Procurement of NEPOOL GIS Certificates from Off-grid and Customer-sited Generation Facilities, if located in Rhode Island and verified by the Commission as Eligible Renewable Energy Resources, may also be used to demonstrate compliance.

7.3 In lieu of providing NEPOOL GIS Certificates, an Obligated Entity may also discharge all or any portion of its compliance obligations by making an Alternative Compliance Payment to the Renewable Energy Development Fund ("REDF"). An Obligated Entity shall include with its annual compliance filing copies of any receipt(s) for Alternative Compliance Payments made to the REDF during the Compliance Year. If the REDF uses Alternative Compliance Payment to create NEPOOL GIS Certificates it must do so in a way that avoids double counting. Where an Obligated Entity enters into a prospective agreement with the Rhode Island Commerce Corporation to accept Alternative Compliance Payments pursuant to Rhode Island General Laws Section 39-26-7(b) and the EDC thereby purchases NEPOOL GIS Certificates, such NEPOOL GIS Certificates shall be credited against the Renewable Energy Standard for the Obligated Entity in the year of the certificate.

7.4 The following flexibility mechanisms are allowed for the purposes of easing compliance burdens, facilitating bringing New Renewable Energy Resources online, and avoiding and/or mitigating conflicts with state level source disclosure requirements and green marketing claims throughout the region:

(i) Obligated Entities may demonstrate compliance over a full Compliance Year, rather than any fraction thereof;

(ii) Obligated Entities may bank excess compliance for up to two (2) subsequent Compliance Years, capped at thirty percent (30%) of the current year's obligation;

(iii) Allow Renewable energy generated during calendar year 2006 to be banked by an Obligated Entity as early compliance, usable towards meeting an Obligated Entity's Compliance Year 2007 requirement only. Generation used for early compliance must result in the retirement of a NEPOOL GIS Certificate in a Reserved Certificate Account designated for such purposes.

7.5 Compliance Procedures. Annual compliance filings to the Commission shall be made by all Obligated Entities within thirty (30) calendar days after NEPOOL GIS reports are

available for the fourth (4th) quarter of each Compliance Year. Obligated Entities shall utilize such forms as provided by the Commission for the annual compliance filing. Obligated Entities shall provide, in the annual compliance filing, such NEPOOL GIS or other reports to demonstrate compliance to the satisfaction of the Commission. Obligated Entities shall arrange with the ISO Meter Reader to provide to the Commission final, reconciled values of the Real Time Load Obligations for each Load Asset in the New England Markets that represents the electricity sold by an Obligated Entity at retail to Rhode Island End-use Customers. All electric utility distribution companies shall cooperate with the Commission in providing data necessary to assess the magnitude of obligation and verify the compliance of all Obligated Entities.

7.6 Standard Compliance. Each Obligated Entity shall be deemed to be in compliance with these regulations if the information provided in the Compliance Filing submitted pursuant to these regulations is true and accurate and demonstrates compliance with Rhode Island Renewable Energy Standard targets applicable to the applicable Compliance Year.

7.7 Early Compliance. An Obligated Entity seeking to use NEPOOL GIS Certificates associated with production during calendar year 2006 for compliance in Compliance Year 2007, shall be subject to the following limitations.

(i) The Obligated Entity shall demonstrate to the satisfaction of the Commission that such NEPOOL GIS Certificates were retired in a Reserved Certificate Account designated for such purposes in accordance with Section 7.4 (iii).

(ii) The Obligated Entity must file an Early Compliance Filing pursuant to Section 7.11 of these regulations.

(iii) The Obligated Entity shall demonstrate to the satisfaction of the Commission that such Generation Attributes have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sale, or used to satisfy obligations in jurisdictions other than Rhode Island.

7.8 Banked Compliance: For meeting the required percentage from New Renewable Energy Resources in any Compliance Year, an Obligated Entity may use NEPOOL GIS Certificates associated with production during one Compliance Year for compliance in either or both of the two subsequent Compliance Years, subject to the limitations set forth herein and provided that the Obligated Entity is in compliance with the Renewable Energy Standard for all previous Compliance Years. In addition, the Obligated Entity shall demonstrate to the satisfaction of the Commission that:

(i) Banked NEPOOL GIS Certificates were in excess of the New Renewable NEPOOL GIS Certificates needed for compliance in the Compliance Year in which they were generated, that such excess NEPOOL GIS Certificates have not previously been used for compliance with the Renewable Energy Standard, and were not otherwise sold pursuant to Section 4.3;

(ii) Banked NEPOOL GIS Certificates do not exceed thirty percent of the Attributes needed by the Obligated Entity for compliance in the year they were generated;

(iii) Banked NEPOOL GIS Certificates were produced by the generation of electrical energy sold to Rhode Island End-use Customers during the Compliance Year in which they were generated; and have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sale, or used to satisfy obligations in jurisdictions other than Rhode Island. Obligated Entities

shall make such demonstration by retiring banked NEPOOL GIS Certificates in the Compliance Year they were generated.

7.9 Alternative Compliance. An Obligated Entity shall receive Alternative Compliance Credits from the Commission, subject to the following:

(i) The Alternative Compliance Payment rate shall be determined according to Section 3.2 of these regulations. For each Compliance Year, the Commission will publish the Alternative Compliance Payment rate by January 31 of the Compliance Year;

(ii) The quantity of credits, specified in MWhs, that can be applied to its obligations under these regulation shall be determined by calculating the ratio of the total of payments to the REDF for the Compliance Year to the Alternative Compliance Payment rate for that Compliance Year; and

(iii) The Obligated Entity shall include with its Annual Compliance Filing copies of any Alternative Compliance Payment receipt(s) for payments made to the REDF applicable to the Compliance Year.

7.10 Annual Compliance Filing. For each Obligated Entity, the filing shall document compliance with the provisions of these regulations to the satisfaction of the Commission and shall include, but not be limited to, the following:

(i) Total Retail Electrical Energy Sales. Documentation of the total MWhs of electrical energy sold to End-use Customers in the Compliance Year;

(ii) Retail Electricity Sales by Product. Documentation of the total MWhs sold to End-use Customers in the Compliance Year, verified by an independent third party satisfactory to the Commission. The Commission will consider requests made pursuant to Commission Rules of Practice and Procedure 1.2(g) to keep product information confidential to the extent permitted by law;

(iii) NEPOOL GIS Certificates Allocated from the Compliance Year. Documentation of the total MWhs of each Electrical Energy Product sold to End-use Customers that was generated by New Renewable Energy Resources, and the total MWhs of each Electrical Energy Product sold to End-use Customers that was generated by Existing Renewable Energy Resources in the Compliance Year as follows:

(a) For electrical energy transactions included in the ISO Market Settlement System, the Compliance Filings shall include documentation from the NEPOOL GIS Administrator of the Obligated Entity's ownership of NEPOOL GIS Certificates representing generation by New or Existing Renewable Energy Resources during the Compliance Year;

(b) For electrical energy transactions not included in the ISO Market Settlement System, but for which the Obligated Entity has secured NEPOOL GIS Certificates, the Compliance Filings shall include documentation from the NEPOOL GIS Administrator of the Obligated Entity's ownership of Generation Attributes representing generation by New or Existing Renewable Energy Resources during the Compliance Year;

(c) The identification of each Generation Unit from which New or Existing Renewable Generation Attributes were claimed by the Obligated Entity for its compliance in the Compliance Year;

(d) The quantity of New or Existing Renewable NEPOOL GIS Certificates produced by each such Unit for each applicable month of the Compliance Year; and

(e) Assurances satisfactory to the Commission that the New or Existing Renewable NEPOOL GIS Certificates have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Rhode Island.

(iv) Attributes Allocated from Early Compliance. Allocation by Electrical Energy Product of any NEPOOL GIS Certificates claimed for Early Compliance pursuant to these regulations;

(v) Attributes Allocated from Banked Compliance. Allocation by Electrical Energy Product of any NEPOOL GIS Certificates banked from one or both of the two previous years pursuant to these regulations that are used to demonstrate compliance in the current Compliance Year;

(vi) Alternative Compliance Credits. Allocation by Electrical Energy Product of any Alternative Compliance Credits claimed pursuant to these regulations along with a copy of any Alternative Compliance Payment receipt(s) from the Renewable Energy Development Fund;

(vii) Attributes Banked for Future Compliance. Identification of any NEPOOL GIS Certificates that the Obligated Entity anticipates claiming for purposes of Banked Compliance in subsequent years**.**

7.11 Early Compliance Filing. An Obligated Entity that anticipates claiming 2006 New Renewable NEPOOL GIS Certificates for purposes of compliance in 2007 under the Early Compliance provisions of Section 7.7 shall submit to the Commission an Early Compliance filing no later than July 1, 2007. Such NEPOOL GIS Certificates shall be reported in such filing pursuant to the documentation requirements of these regulations.

8.0: Contracting Standards and Procurement Plans

8.1 Standards for Contracts:

Contracts for renewable energy certificate transactions by Obligated Entities to meet the Renewable Energy Standard shall contain provisions and terms to address the features and risks that are unique to the purchase of Eligible Renewable Energy Resources. Such terms may include the following:

(i.) Definitions particular to renewable energy certificate transactions;

(ii.) Specialized financial instruments and warranties thereof;

(iii.) Purchase and sale of renewable energy certificates;

(iv.) Quantities;

(v.) Representations and warranties of the parties;

(vi.) Obligations of the parties;

(vii.) Relationship of the parties;

(viii.) Non-performance and Remedies;

(ix.) Default;

(x.) Term, termination and waiver;

(xi.) Binding milestones, if any;

(xii.) Credit and Collateral, if any; and

(xiii.) Additional agreements conforming to the nature of the transaction.

8.2 **Procurement Plans**

All obligated electric utility distribution companies ("Obligated Distribution Companies") must submit annual plans for procurement of NEPOOL GIS Certificates from Eligible Renewable Energy Resources for compliance with these regulations to the Commission ("Renewable Energy Procurement Plan"). Obligated Distribution Companies shall demonstrate to the Commission that, in preparation of the Renewable Energy Procurement Plan, such companies have:

(i) Determined their needs, including the demand for renewable energy certificates from Eligible Renewable Energy Resources under the range of anticipated future conditions;

(ii) Developed a schedule of planned purchases of NEPOOL GIS Certificates from Eligible Renewable Energy Resources to supply the identified needs;

(iii) Developed key criteria to evaluate the providers and product options;

(iv) Identified the major risk factors and how mitigated;

(v) Developed a process to implement the filed Renewable Energy Procurement Plan; and

(vi) Provided the means of monitoring the procurement over time to make sure it performs as planned, to hold counter parties accountable, and to identify areas where improvement is needed;

8.3 The Renewable Energy Procurement Plan shall contain the Obligated Distribution Company's procedure for procuring its target percentage of Eligible Renewable Energy Resources for each Electrical Energy Product offered to End-use Customers, including long-term contracts which shall be made a part of the Obligated Distribution Company's portfolio for procuring its target percentage of Eligible Renewable Energy Resources for each Electrical Energy Product offered to End-use Customers. The Renewable Energy Procurement Plan shall provide for, at a minimum, separate Annual Request for Proposals (each, an "Annual RFP") to meet its requirement for purchases of NEPOOL GIS Certificates from Eligible Renewable Energy Resources from existing and new renewable energy sources and the conditions under which it may contract with Eligible Renewable Energy Resources between Annual RFPs. The Renewable Energy Procurement Plan shall be filed with the Commission annually. All the components of the Renewable Energy Procurement Plan shall be subject to Commission review and approval. Once a Renewable Energy Procurement Plan is approved by the Commission,

the Obligated Distribution Company shall be authorized to acquire NEPOOL GIS Certificates from Eligible Renewable Energy Resources consistent with the approved plan and recover its costs incurred from procuring NEPOOL GIS Certificates from Eligible Renewable Energy Resources pursuant to the approved Renewable Energy Procurement Plan. The Commission may periodically review the Renewable Energy Procurement Plan to determine whether it should be prospectively modified due to changed market or other conditions.

8.4 Subject to review by the Commission, Obligated Distribution Companies are entitled by R.I. Gen. Laws Sec. 39-26-6(4)(b), to recovery of all prudent incremental costs arising from the implementation of these regulations and its approval of a Renewable Energy Procurement Plan, including, without limitation, the purchases of NEPOOL GIS Certificates from Eligible Renewable Energy Resources, the payment of Alternative Compliance Payments, and required payments to support the NEPOOL GIS; except for those costs arising from sanctions for non-compliance.

8.5 Procurement During Standard Offer Period

During the period in which Standard Offer service is provided to customers, the Annual RFP shall request bids for NEPOOL GIS Certificates from Eligible Renewable Energy Resources for the following Periods: (I) the subsequent Standard Offer calendar year (and to satisfy any outstanding Standard Offer renewable obligations in the current calendar year), (II) the remaining Standard Offer period, and (III) the years 2010 and beyond. For the period 2010 and beyond the Annual RFP will request proposals for NEPOOL GIS Certificates that may also include bundled energy. Such bids will be solicited for periods individually as well as for long term offers spanning Periods I, II and III.

(i) The Obligated Distribution Company shall share the bids received under the Annual RFP for Periods II and III above, initially with the Office of Energy Resources ("OER") in its role as administrator of the Rhode Island Renewable Energy Fund and the Commerce Corporation as administrator of the REDF and the Division of Public Utilities and Carriers (the "Division"). The OER (and/or Commerce Corporation) at their discretion and after executing a confidentiality agreement, may collaborate with the electric distribution company throughout the remainder of the procurement process, and implement complementary programs.

(ii) The Obligated Distribution Company may purchase NEPOOL GIS Certificates from Eligible Renewable Energy Resources for Periods I and II above from the bids provided in the annual RFPs if such bids meet the established criteria of the Renewable Energy Procurement Plan. The Obligated Distribution Company may purchase NEPOOL GIS Certificates from Eligible Renewable Energy Resources for Periods I and II above from the bids provided in the Annual RFPs if such bids do not meet the established criteria of the Renewable Energy Procurement Plan provided such purchase is reviewed and approved by the Commission. The Obligated Distribution Company shall file the results of its Annual Procurement Plan with the Commission, and

(iii) The Obligated Distribution Company will also request expressions of interest to purchase NEPOOL GIS Certificates from Eligible Renewable Energy Resources from any qualified interested party that executes a non-disclosure agreement with the Obligated Distribution Company ("Participating Purchaser"). A Participating

Purchaser may purchase the remaining Eligible Renewable Energy Resources for Periods II or III above from the bids provided in response to the Annual RFPs. The Obligated Distribution Company shall share the bids with any Participating Purchaser, and shall delineate the process by which it will initiate negotiations between the bidders of Eligible Renewable Energy Resources and Participating Purchasers whereby the Eligible Renewable Energy Resources may be procured for Periods II and III, above. Both the Obligated Distribution Company and the Participating Purchaser shall have the right to decline to enter into a purchase commitment for any period or portion thereof.

9.0: <u>Sanctions for Non-Compliance</u>

9.1 Obligated Entities that fail to comply with the Commission's regulations related to the Rhode Island Renewable Energy Standard will first receive a warning letter with a stated date of compliance. If such Obligated Entity then fails to comply by the date indicated in the warning letter its license will be suspended and it will not be allowed to enroll new customers. If problem is still not corrected by the dates in the suspension notice, its license will be revoked. Outstanding payments (e.g., to the Alternative Compliance Payment) will include interest.

9.2 No sanction or penalty shall relieve or diminish an Obligated Entity from liability for fulfilling any shortfall in its compliance obligation, provided, however, that no sanction shall be imposed if compliance is achieved through Alternative Compliance Payments.

9.3 Financial penalties resulting from sanctions from Obligated Entities shall not be recoverable in rates of electric distribution companies as defined in Rhode Island General Laws section 39-1-2(12).

9.4 Generation Units that fail to abide by the Commission's regulations or which are found by the Commission after notice and opportunity for hearing to have reported falsely to the Commission are subject to the following sanctions:

(i) Immediate revocation or suspension of the Generation Unit's certification;

(ii) The Commission may order the Generation Unit to make payments to the REDF in the amount of the Alternative Compliance Payment multiplied by the number of NEPOOL GIS Certificates involved in the false reporting;

(iii) The Commission may also order Generation Units that have reported falsely to secure substitute NEPOOL GIS Certificates in the number involved in the false reporting and retire them);

(iv) NEPOOL GIS Certificates purchased by Obligated Entities later found to be tainted will not be deemed ineligible for compliance purposes unless it can be demonstrated that the Obligated Entity was aware of the problem;

(v) Once a Generation Unit has paid the penalties and brought the facility into compliance it can be recertified by the Commission. Recertification will be effected by the same process as outlined in Section 6 of these regulations; and

(vi) Additionally, Generation Units and Obligated Entities reporting falsely to the Commission are subject to laws against perjury.

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