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September 13, 2022

**VIA EMAIL AND FIRST CLASS MAIL**

Ms. Luly Massaro  
Commission Clerk  
Rhode Island Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, RI 02888

Re: In Re: Ecogy Energy, Inc. – Docket No. 22-14-REG

Dear Ms. Massaro:

Enclosed for docketing, please find the original and five copies of Ecogy Energy, Inc.'s Pre-Hearing Legal Memorandum.

Thank you for your assistance in this matter.

Yours very truly,

Robert K. Taylor

RKT/tlc  
Enclosures

cc: Service List (*via email*)

4335896.1/31696-2

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

In Re:  
ECOGY ENERGY, INC.

Docket No. 22-14-REG

**ECOGY ENERGY, INC.'S PRE-HEARING LEGAL MEMORANDUM**

Ecogy Energy, Inc. (“Ecogy”) submits its Pre-Hearing Legal Memorandum pursuant to the Commission’s Procedural Order issued August 12, 2022.

**I. INTRODUCTION**

In its Response to Ecogy’s Petition, The Narragansett Electric Company d/b/a Rhode Island Energy (“RI Energy” or the “Company”) asks the Commission to somehow create for the Company a previously non-existent “discretion” to “grant or deny COEs for projects that already have outstanding obligations under existing COEs when reviewing its bids during open enrollment for the RE Growth Program in light of the facts and circumstances attendant to those bids.” *See* RI Energy Response at 11. Such standardless “discretion,” based on undefined “facts and circumstances” chosen unilaterally by the Company, would impermissibly delegate to the Company rule making authority that the legislature vested exclusively in the Commission. R.I. Gen. Laws § 39-26.6-5(e) (“Once approved, the commission shall retain exclusive jurisdiction over the performance-based incentive payments, terms, conditions, rights, enforcement, and implementation of the tariffs and rules, subject to appeals pursuant to chapter 5 of this title.”).

The Company’s request for this new power also contradicts the purpose of the Renewable Energy Growth (“REG”) Program: promoting renewable energy projects to meet the State’s climate goals. Instead, the Company is seeking to burden developers that are attempting to build small projects with unwritten, inconsistent, and complicated administrative processes.

Transparency and consistency demand that small renewables projects, such as the ones at issue in this docket, are not disqualified from bidding for COEs based on new requirements announced by the Company without warning after the bidding deadline. The Company's sole reason for denying Ecogy's 2022 applications, COEs previously received by the projects, is not a valid reason under the existing tariff and rules. Ecogy's projects met the eligibility requirements established by the Commission and should have been awarded COEs in the 2022 First Open Enrollment.

## **II. BACKGROUND FACTS AND TRAVEL**

### **A. The Renewable Energy Growth Program**

1. The REG Program is intended to "facilitate and promote installation of grid-connected generation of renewable energy," to "support and encourage development of distributed renewable energy generation systems," and to "reduce carbon emissions that contribute to climate change by encouraging the siting of renewable energy projects in the load zone of the electric distribution company." R.I. Gen. Laws § 39-26.6-1.

2. The REG Program supports the development, construction, and operation of renewable energy distributed generation projects through a performance-based incentive system. Incentives under the REG Program are awarded through a competitive bidding process. *See* R.I. Gen. Laws § 39-26.6-2.

3. The terms and conditions of the REG Program incentives are set forth in RIPUC 2152-I (the "Tariff") and the REG Program Solicitation and Enrollment Rules ("Rules"). By law, "[t]he non-price conditions in the tariffs for small- and medium-scale solar shall take into account the different circumstances for distributed-generation projects of the smaller sizes." R.I. Gen. Laws § 39-26.6-5(a).

4. The General Assembly recognized that for the REG Program to succeed, project developers, owners, investors, customers, and lenders had to be able to rely on the written Tariff. The General Assembly therefore mandated that “the terms under the tariffs for a given program year, once approved by the commission, shall not be altered *in any way* that would undermine such reliance on those tariffs during the applicable terms of the tariffs.” R.I. Gen. Laws § 39-26.6-6 (emphasis added).

5. Open Enrollments in the REG Program are conducted at least three times each program year. R.I. Gen Laws § 39-26.6-12(a). An annual enrollment target for each class of project is set by the Commission each year. R.I. Gen Laws § 39-26.6-12(b). For medium scale solar projects, the current annual enrollment target is 5 MW. For small wind projects the target is 3 MW. *See* Rules, Schedule 1.

6. The Company reviews the Open Enrollment applications for eligibility and selects the eligible applicants that will be awarded COEs based on the lowest bids, up to the annual target enrollment. “As long as the terms of the tariff are met, and the pricing is no higher than the applicable ceiling price, such awards *shall be deemed prudent and approved by the commission* for purposes of recovering the costs in rates.” R.I. Gen Laws § 39-26.6-16(h) (emphasis added).

7. COEs for medium-scale solar projects are issued by the Company without further action by the Commission. R.I. Gen. Laws § 39-26.6-20(a). COEs for small wind projects require Commission approval. R.I. Gen. Laws § 39-26.6-20(b).

8. A COE entitles the renewable energy developer to receive performance-based incentive payments at the rate and for the term specified in the certificate, generally 20 years in the case of medium-scale solar and small wind. *See* R.I. Gen. Laws § 39-26.6-20(c).

Incentive payments do not begin until the effective date of the COE. The effective date of the COE is tied to the completion of the proposed project.

9. The maximum performance-based incentive rate (the “ceiling price”) is reviewed and approved annually by the Commission. R.I. Gen. Laws § 39-26.6-15(c). The ceiling price is defined as “a price that would allow a private owner to invest in a given project at a reasonable rate of return, based on recently reported and forecast information on the cost of capital and the cost of generation equipment.” R.I. Gen. Laws § 39-26.6-3(2).

10. Unlike other REG Program projects, which are allowed more time to become operational, medium-scale solar projects have only 24 months after being awarded a COE to achieve operation at the expected availability and capacity. Tariff Sec. 3(i). Medium-scale solar projects that do not meet the 24 month deadline, for any reason, do not receive performance-based incentive payments under the Tariff. *Id.*

11. By statute, the bidding process for medium scale solar projects (five of the six projects at issue in this docket) must not be administratively burdensome and must not have the effect of discouraging participation. R.I. Gen. Laws § 39-26.6-15(e) (“The commission shall approve the bidding process for medium-scale solar projects recommended by the board only if the commission finds that such bidding process is in a sufficiently simple form that is not administratively burdensome to bidders, and will not have the effect of discouraging participation in the distributed-generation growth program by developers of medium-scale solar projects that may be unrepresented by counsel.”).

12. The General Assembly has directed that the Commission shall have exclusive jurisdiction over the implementation REG Program. R.I. Gen. Laws § 39-26.6-5(e) (“Once approved, the commission shall retain exclusive jurisdiction over the performance-based

incentive payments, terms, conditions, rights, enforcement, and implementation of the tariffs and rules, subject to appeals pursuant to chapter 5 of this title.”).

**B. Ecogy’s Rhode Island Renewable Energy Projects**

13. Ecogy’s Rhode Island projects at issue in this proceeding are five medium scale solar projects<sup>1</sup> and one small wind project<sup>2</sup> (the “Six Projects”). Each of the Six Projects has an executed Interconnection Service Agreement (“ISA”). Each was awarded a COE in a prior enrollment round,<sup>3</sup> having complied with all eligibility requirements under the Tariff and Rules (the “Existing COEs”). Exhibit A (Certificates of Eligibility).

14. To be awarded a COE for its small wind project, Ecogy was required to pay (and did pay) a non-refundable performance guarantee deposit of \$49,975. *See* Data Response 1-3. In the event that this small wind project is terminated prior to operation, Ecogy’s \$49,975 deposit will be forfeited. Tariff Sec. 3(c).

15. Although the Six Projects have been issued COEs, none of Ecogy’s COEs are yet effective. Every COE reflects that the “Certificate Effective Date” has not yet been determined. Exhibit A. Every COE further reflects that “as a condition of receiving payment, [Ecogy] must provide confirmation” of specified conditions reflecting that the project is operational. *Id.* No incentive payments have ever been made under Ecogy’s Existing COEs.

16. Ecogy’s Existing COEs were awarded when the REG Program ceiling price for medium scale solar projects was 21.65 cents/kWh<sup>4</sup> and the ceiling price for small wind

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<sup>1</sup> Ecogy Energy RI I LLC (250 kW in Tiverton, R.I.), Ecogy Energy RI V LLC (184 kW in Pawtucket, R.I.), Ecogy Energy RI XIV LLC (250 kW in Cranston, R.I.), Ecogy Energy RI XX LLC (250 kW in Richmond, R.I.) and Ecogy Energy RI XXIII LLC (250 kW in Pawtucket, R.I.).

<sup>2</sup> Ecogy Energy RI VII LLC, is a 1,000 kW small wind project in Tiverton, R.I.

<sup>3</sup> Ecogy VII’s COE was issued on October 7, 2020. The COEs for the other five projects were issued on June 4, 2021.

<sup>4</sup> *See* Tariff Supplement to RIPUC 2152-I for Program Year: April 1, 2021 through March 31, 2022, Sheet 1 of 3.

projects was 18.85 cents/kWh.<sup>5</sup> However, it is common knowledge that severe labor shortages and widespread supply chain dislocations dramatically affected the U.S. economy in 2021 and 2022. In addition, rapid cost inflation – initially described as “transitory” by the Federal Reserve in 2021, but now the cause of the largest Federal Reserve interest rate increases in 40 years – is a continuing challenge for U.S. businesses. Rapid interest rate increases also affect project financing. The Commission can take judicial notice of the pandemic lockdowns, war in Ukraine, and Federal Reserve interest rate policies that have sharply driven up costs for U.S businesses in recent months. *See* Rule of Practice and Procedure 1.23(A) (“Commission shall not be bound by technical evidentiary rules, and, when necessary to ascertain facts not reasonably susceptible of proof under the rules, evidence not otherwise admissible may be submitted, unless precluded by statute, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.”).

17. Ecogy’s Six Projects have not escaped these economic forces. As noted in a detailed submission to the Commission in February 2022, component prices for Ecogy’s Six Projects have escalated by 25% or more. *See* Response to Data Request 1-2 and Exhibit 1-2(A). All of Ecogy’s projects are struggling with long lead times on equipment, which not only adds costs but also adds project risk because the 24 month deadline for medium scale solar projects means that equipment delays may put the entire investment into jeopardy. *See* Response to Data Request 1-6.

18. In Docket No. 5202, the Commission considered changes to the REG Program for the 2022 program year. The Company and stakeholders, including Ecogy,

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<sup>5</sup> *See* Sixth Tariff Supplement, RIPUC 2152-I, Sheet 2 of 2.

submitted extensive data and comments.<sup>6</sup> During a public hearing, Michael W. Brennan on behalf of the Division of Public Utilities stated that Ecogy's evidence of inflationary cost pressures was "compelling, and it certainly adds to the record that inflationary pressures are real, at least at this point they are persistent. They're likely to persist going forward in 2022." Exhibit B, February 24, 2022 Hearing Tr. at 275. The Commission approved a 2022 program year increase in the ceiling price for medium scale solar projects to 24.45 cents/kWh, and for small wind projects to 22.40 cents/kWh.<sup>7</sup>

19. In early 2022, Ecogy submitted applications for COEs for the Six Projects in the 2022 First Open Enrollment. Ecogy's submitted bid prices for each of the Six Projects that were higher than its Existing COEs, but lower than the new ceiling prices established by the Commission for the 2022 program year.

20. Ecogy intended to relinquish any rights to the existing COEs for those projects (and, in the case of its small wind project, to forfeit the \$49,750 deposit and to pay a new non-refundable deposit of \$49,750) if the new applications were successful. This was the procedure followed by the Company in 2021, when Ecogy submitted open enrollment applications in the 2021 Third Open Enrollment for two other Ecogy medium-scale solar projects that had existing COEs.<sup>8</sup> The Company advised Ecogy, in writing, that the proper procedure was for Ecogy to give up its existing COEs for those projects *after* the new award, which Ecogy did.

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<sup>6</sup> Ecogy's comments on ceiling prices noted that Ecogy had multiple projects "requiring a re-bid to make the projects economical." See Data Response Ex. 1-2(A) at 7.

<sup>7</sup> See Tariff Supplement to RIPUC 2152-I for Program Year: April 1, 2022 through March 31, 2023, Sheet 1 of 3.

<sup>8</sup> The Company awarded COEs to Ecogy Energy RI IV LLC (250 kW in Tiverton, R.I.) and Ecogy Energy RI IX LLC (250 kW in Rumford, R.I.) in the 2020 First Open Enrollment and again in the 2021 Third Open Enrollment. See Docket 5088, 2021 Third Open Enrollment Report; Docket 4983, 2020 First Open Enrollment Report.



See Petition Exhibits A and E; RI Energy Response ¶ 15 (in 2021 the Company “offered potential COEs to projects with the condition that the projects relinquish existing COEs”).

21. The Company (by then under the control of its new owner PPL) notified Ecogy on June 27, 2022 that the Six Projects had not been awarded COEs in the 2022 First Open Enrollment. The sole reason given was that the Six Projects had existing COEs awarded in earlier enrollment rounds. See Petition Exhibit B; RI Energy Response ¶ 16 (“The Company admits that it notified Ecogy that it was not eligible to participate in the 2022 First Open Enrollment because the Ecogy RI Projects had been awarded COEs in a prior enrollment round.”). This was contrary to the Company’s past practice of awarding Ecogy new COEs contingent on Ecogy relinquishing any rights under an existing COE. See RI Energy Response ¶ 15.

22. On July 7, 2022, in response to Ecogy’s pre-petition demand letter, the Company further asserted that “the Company must consent to termination” of the Existing COEs *before* the Six Projects would be eligible to participate in REG Program Open Enrollments. See Petition Exhibit D.

23. The results of the 2022 First Open Enrollment posted by the Company show that only 1.455 MW of medium scale solar projects was enrolled. See Docket 5202, 2022 First Open Enrollment Report. In contrast, in 2021, nearly all of the available capacity was taken in the first enrollment. See Docket 5088, 2021 First Open Enrollment Report.

### **III. LEGAL STANDARD**

“Once the PUC adopts a tariff, it becomes the standard for determining the duties and obligations between a regulated public utility and its customers.” *Laprocina v. Lourie*, 250 A.3d 1281, 1282 (R.I. 2021). Under R.I. Gen. Laws § 42-35-8, “a person may petition an agency for a declaratory order that interprets or applies a statute administered by the agency or states whether,

or in what manner, a rule, guidance document, or order issued by the agency applies to the petitioner.”

When interpreting a statute or tariff, the Commission must give words their “plain and ordinary meaning.” *Grasso v. Raimondo*, 177 A.3d 482, 489 (R.I. 2018) (“[W]hen a statutory section is clear and unambiguous, we apply the plain and ordinary meaning of the statute and we need not delve into any further statutory interpretation.”). “This is particularly true where the Legislature has not defined or qualified the words used within the statute.” *Freepoint Solar LLC v. Richmond Zoning Bd. Of Review*, 274 A.3d 1, 6 (R.I. 2022) (quoting *Drs. Pass and Bertherman, Inc. v. Neighborhood Health Plan of R.I.*, 31 A.3d 1263, 1269 (R.I. 2011)). A statute is ambiguous only when a word or phrase is “susceptible of more than one reasonable meaning.” *Id.* However, a court or agency must not “seek out ambiguity where none otherwise exists.” *Freepoint Solar*, 274 A.3d at 7 (citing cases). It is also well settled that a court or agency must “refrain from ‘read[ing] into a statute a requirement that the drafters omitted,’ . . . and will do so only if ‘the clear purpose of the legislation would fail without the implication[.]’” *Freepoint Solar*, 274 A.3d at 8 (citations omitted).

When a statute is ambiguous, or reasonably susceptible of more than one meaning, a court or agency “employ[s] [its] well-established maxims of statutory construction in an effort to glean the intent of the Legislature.” *Town of Burrillville v. Pascoag Apartment Associates, LLC*, 950 A.2d 435, 445 (R.I. 2008) (quoting *Unistrut Corp. v. State Department of Labor and Training*, 922 A.2d 93, 98-99 (R.I. 2007)). Even with an ambiguous statute, the court begins with the “plain language of the statute to determine the legislative intent.” *Matter of Falstaff Brewing Corp. re: Narragansett Brewery Fire*, 637 A.2d 1047, 1050 (R.I. 1994). To derive legislative intent it is necessary to “attribute to the enactment the meaning most consistent with

its policies or obvious purposes.” *Brennan v. Kirby*, 529 A.2d 633, 637 (R.I. 1987). “[W]here an agency interprets a tariff or rate contract, its interpretation must be reasonable.” *Verizon New England, Inc. v. Maine Public Utilities Comm’n*, 509 F.3d 1, 8 (1st Cir. 2007). Furthermore, “all tariffs should be interpreted in accordance with equity and good conscience regardless of the specific language in which they may be couched.” *Narragansett Elec. Co. v. Public Utilities Comm’n*, 773 A.2d 237, 242 (R.I. 2001).

#### IV. ARGUMENT

The Company urges that the Commission should read into the REG Program “a requirement that the drafters omitted.” *Freepoint Solar*, 274 A.3d at 8. This proposed requirement is in direct opposition to how the Company interpreted and applied the Tariff while under prior ownership. Specifically, the Company claims that a project holding a COE is ineligible to participate in REG Program Open Enrollments unless and until that COE is terminated by the Company. Termination of an existing COE is allegedly at the Company’s “discretion” and will be based on undefined “facts and circumstances” chosen by the Company without notice to or approval from the Commission. *See* RI Energy Response at 11.

The Company’s position that Ecogy’s Six Projects were not eligible for REG Program Open Enrollments, because the COEs awarded in prior enrollment rounds were not terminated first, is contrary to both the language in the Tariff and related Rules, as well as to the Company’s own practice before the PPL acquisition. In non-legal terms, the Company has unilaterally changed the rules in the middle of the game.

The eligibility requirements for the Open Enrollment process are stated in the Rules. First, an applicant must be in “good standing on its obligations” to the Company. Rules Section 1.2.2.2. “Such obligations include but are not limited to meeting obligations under an

Interconnection Service Agreement and being current with amounts due on the electric service account(s) or fulfilling the requirements of an approved payment plan.” *Id.*

Ecogy’s Six Projects have always been and continue to be in “good standing” with the Company. The Company has never claimed that Ecogy is not current on its obligations under an ISA or on other payment obligations to the Company. In fact, the Company has taken the *opposite* position – that Ecogy should be *required* to move forward with building out the Six Projects under its existing COEs until such time as the Company in its sole discretion says otherwise. The Company’s insistence that Ecogy is prohibited from bidding in any Open Enrollment because it already holds COEs for the Six Projects would make no sense if Ecogy were not in good standing under the terms of the Tariff and Rules.

In addition, in order to bid, a project must “(1) be an eligible renewable energy resource under the RE Growth Program, as determined by the Board and approved by the Commission; (2) have a nameplate capacity equal to or less than five megawatts (5 MW); (3) interconnect with the distribution system of The Narragansett Electric Company; and (4) be located in The Narragansett Electric Company ISO-NE load zone.” Rules Section 1.2.2.3. Furthermore, the project must not be “(1) already operating; (2) under construction, except for preparatory site work that is less than twenty-five percent (25%) of the estimated total project cost; or (3) fully financed for construction, except to the extent that financing agreements are conditioned upon the selection of the project in this program.” *Id.*

Again, the Company has never asserted that any of these actual eligibility conditions were not met by the Six Projects. Instead, the Company has arbitrarily and without notice imposed an *additional* eligibility condition: prior termination of any existing COE for the same project. There is no such prior termination requirement set out in the Tariff and Rules.

Open enrollment applications are required to be evaluated under a “consistent, defined review and selection process.” Rules Section 2.1. Projects that meet certain threshold criteria (relating to interconnection progress prior to enrollment, site control, and application completeness and timeliness) are then evaluated based on bid price. Projects are selected “by ranking the eligible projects from lowest bid price received to highest, but not to exceed the applicable ceiling price.” Rules Section 2.1.4. The Rules do not limit the eligibility of projects that were awarded COEs in prior enrollment rounds in any way. Instead, by law, “[a]s long as the terms of the tariff are met, and the pricing is no higher than the applicable ceiling price, such awards *shall* be deemed prudent and approved by the commission for purposes of recovering the costs in rates.” R.I. Gen Laws § 39-26.6-16(h) (emphasis added). Ecogy’s bids in the 2022 First Open Enrollment were all below the 2022 ceiling price and therefore “shall” be deemed prudent and approved for cost recovery purposes.

Before it was acquired by PPL, the Company was operating in accordance with the Tariff and Rules when it awarded Ecogy COEs for two medium-scale solar projects that, like the Six Projects, had obtained COEs in a previous open enrollment. The alleged requirement to terminate an existing COE *before* applying in a new enrollment round is entirely new and found nowhere in the eligibility requirements set out in the Rules, which are unambiguous and must be applied in accordance with their plain and ordinary meaning. *Grasso*, 177 A.3d at 489. Moreover, granting the Company unlimited discretion to determine whether Ecogy’s projects holding existing COEs should be eligible to rebid in a later open enrollment based on “facts and circumstances” selected by the Company would illegally delegate to the Company rulemaking powers that the General Assembly reserved to the Commission. Only the Commission has

jurisdiction to determine the “terms, conditions, rights, enforcement, and implementation” of the Tariff and the Rules. R.I. Gen. Laws § 39-26.6-5(e).

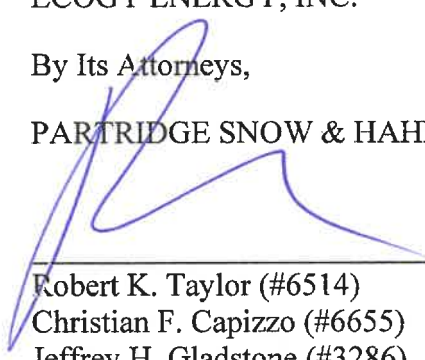
**V. CONCLUSION**

For all of the foregoing reasons, the Commission should declare that the Six Projects were eligible to bid in the 2022 First Open Enrollment and that COEs shall be awarded to any and all of the Six Projects that were competitively priced in comparison with other applicants in the 2022 First Open Enrollment.

ECOGY ENERGY, INC.

By Its Attorneys,

PARTRIDGE SNOW & HAHN LLP



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DATED: September 13, 2022

**CERTIFICATE OF SERVICE**

I hereby certify that on September 13, 2022, a copy of the foregoing document was sent by electronic mail to the parties on the Service List for Docket No. 22-14-REG.



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**Ecogy Energy LLC – Petition for Dispute Resolution – Docket No. 22-14-REG  
Service List Updated 8/12/2022**

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EXHIBIT A  
(Certificates of Eligibility)



# Certificate of Eligibility for Small-Scale and Medium-Scale Solar Projects

## Rhode Island Renewable Energy Growth Program

### The Narragansett Electric Company d/b/a National Grid

This Certificate of Eligibility is written confirmation that the Distributed Generation (“DG”) Project referenced below has been selected for participation in the Rhode Island Renewable Energy Growth Program. The Project Applicant is bound by the terms and conditions of the applicable Tariff for the Renewable Energy Growth Program (either the “Non-Residential Tariff” or “Residential Tariff”) that applies as well as Other Company Tariff Requirements described and referenced therein. In addition, the facility is interconnected with the distribution system of the Narragansett Electric Company and is located in the Narragansett Electric Company ISO-NE load zone.

**Project Name:** Ecogy Energy RI I LLC

**Project Owner/  
Project Contact:** Ecogy Energy RI I LLC  
Julia Magliozzo

**Facility Address:** 43 Muse Way  
Tiverton, RI 02878

**Phone Number:** (718) 304-0945

**Email Address:** projectmanagement@ecogyenergy.com

**RI Interconnection Application ID or Case#:** 00195666

**Renewable Technology:** Solar PV - ground mount  
*Solar PV – rooftop; Solar PV – ground mount*

**Renewable Energy Class:** Medium-Scale Solar  
*Small-Scale Solar; Medium-Scale Solar*

**Nameplate Capacity (kW):** 250  
*The total rated power output of all solar panels measured in DC*

**Maximum Hourly Output (kWh AC per hour):** 200  
*Maximum amount of energy produced in an hour measured in AC for all technologies*

**Expected Annual Energy Output (MWh per year): 326.9**

*Expected amount of energy produced in a year measured in AC for all technologies*

**Applicable Renewable Energy Growth Program Tariff: Non-Residential Tariff**

*Indicate which tariff the Project Applicant is bound by the terms and conditions of: Renewable Energy Growth Program Tariff for Residential Customers, RIPUC No. 2151-H or Renewable Energy Growth Program Tariff for Non-Residential Customers, RIPUC No. 2152-H.*

**Performance Based Incentive (cents/kWh): 20.94**

**Term of Performance Based Incentive (# years): 20**

*The term of the applicable Tariff supplement beginning on the Certificate Effective Date.*

**Certificate Issuance Date: 06/24/2021**

*This project must become operational and meet all other requirements pursuant to the Tariff by 6/24/2023; which is 24 months from receiving the Certificate of Eligibility. If the project does not meet this 24 month deadline, the project's Certificate of Eligibility will be voided.*

**Payment Option: Option 1**

*Residential Customers automatically receive Option 2. For Non-Residential Customers, subject to the conditions set forth in Section 8.c of the Non-Residential Tariff, an Applicant must notify the Company of the manner by which it will be compensated for its output under the Program. Option 1 – Direct payment of the entire PBI or Option 2 – a combination of direct payment and customer bill credit.*

**Certificate Effective Date: [Click here to enter a date](#)**

*The standard performance-based incentive is paid beginning on this date for the applicable term of the tariff. As a condition of receiving payments, the Applicant must provide confirmation of: 1) the Company's written authority to interconnect to its electric distribution system and Applicant's payment of all amounts due; 2) Commission certification of the DG Project as an Eligible Renewable Energy Resource; 3) except for Residential small-scale solar projects, registration of the DG Project with the ISO-NE and NEPOOL GIS; and 4) being current with amounts due on the electric service accounts or fulfilling the requirements of an approved payment plan.*

**Certificate Termination Date: [Click here to enter a date.](#)**

*The performance-based incentive is paid up to this date covering the applicable term of the tariff. If the Certificate Effective Date is x and the Term of Performance Based Incentive is y, then the Certificate Termination Date is x+y. Section 9 of the Residential Tariff and Section 11 of the Non-Residential Tariff respectively highlight termination provisions under which the tariff might be terminated earlier than the stated Certificate Termination Date.*

# Certificate of Eligibility for Small-Scale and Medium-Scale Solar Projects

## Rhode Island Renewable Energy Growth Program

### The Narragansett Electric Company d/b/a National Grid

This Certificate of Eligibility is written confirmation that the Distributed Generation (“DG”) Project referenced below has been selected for participation in the Rhode Island Renewable Energy Growth Program. The Project Applicant is bound by the terms and conditions of the applicable Tariff for the Renewable Energy Growth Program (either the “Non-Residential Tariff” or “Residential Tariff”) that applies as well as Other Company Tariff Requirements described and referenced therein. In addition, the facility is interconnected with the distribution system of the Narragansett Electric Company and is located in the Narragansett Electric Company ISO-NE load zone.

**Project Name:** Ecogy Energy RI V LLC

**Project Owner/  
Project Contact:** Ecogy Energy RI V LLC  
Julia Magliozzo

**Facility Address:** 85 York Ave  
Pawtucket, RI 02860

**Phone Number:** (718) 304-0945

**Email Address:** projectmanagement@ecogyenergy.com

**RI Interconnection Application ID or Case#:** 00303256

**Renewable Technology:** Solar PV - rooftop  
*Solar PV – rooftop; Solar PV – ground mount*

**Renewable Energy Class:** Medium-Scale Solar  
*Small-Scale Solar; Medium-Scale Solar*

**Nameplate Capacity (kW):** 184  
*The total rated power output of all solar panels measured in DC*

**Maximum Hourly Output (kWh AC per hour):** 200  
*Maximum amount of energy produced in an hour measured in AC for all technologies*

**Expected Annual Energy Output (MWh per year): 254.6**

*Expected amount of energy produced in a year measured in AC for all technologies*

**Applicable Renewable Energy Growth Program Tariff: Non-Residential Tariff**

*Indicate which tariff the Project Applicant is bound by the terms and conditions of: Renewable Energy Growth Program Tariff for Residential Customers, RIPUC No. 2151-H or Renewable Energy Growth Program Tariff for Non-Residential Customers, RIPUC No. 2152-H.*

**Performance Based Incentive (cents/kWh): 20.93**

**Term of Performance Based Incentive (# years): 20**

*The term of the applicable Tariff supplement beginning on the Certificate Effective Date.*

**Certificate Issuance Date: 06/24/2021**

*This project must become operational and meet all other requirements pursuant to the Tariff by **6/24/2023**; which is 24 months from receiving the Certificate of Eligibility. If the project does not meet this 24 month deadline, the project's Certificate of Eligibility will be voided.*

**Payment Option: Option 1**

*Residential Customers automatically receive Option 2. For Non-Residential Customers, subject to the conditions set forth in Section 8.c of the Non-Residential Tariff, an Applicant must notify the Company of the manner by which it will be compensated for its output under the Program. Option 1 – Direct payment of the entire PBI or Option 2 – a combination of direct payment and customer bill credit.*

**Certificate Effective Date: [Click here to enter a date](#)**

*The standard performance-based incentive is paid beginning on this date for the applicable term of the tariff. As a condition of receiving payments, the Applicant must provide confirmation of: 1) the Company's written authority to interconnect to its electric distribution system and Applicant's payment of all amounts due; 2) Commission certification of the DG Project as an Eligible Renewable Energy Resource; 3) except for Residential small-scale solar projects, registration of the DG Project with the ISO-NE and NEPOOL GIS; and 4) being current with amounts due on the electric service accounts or fulfilling the requirements of an approved payment plan.*

**Certificate Termination Date: [Click here to enter a date.](#)**

*The performance-based incentive is paid up to this date covering the applicable term of the tariff. If the Certificate Effective Date is x and the Term of Performance Based Incentive is y, then the Certificate Termination Date is x+y. Section 9 of the Residential Tariff and Section 11 of the Non-Residential Tariff respectively highlight termination provisions under which the tariff might be terminated earlier than the stated Certificate Termination Date.*

## Certificate of Eligibility

### Rhode Island Renewable Energy Growth Program

#### The Narragansett Electric Company d/b/a National Grid

This Certificate of Eligibility is written confirmation that the Distributed Generation (“DG”) Project referenced below has been selected for participation in the Rhode Island Renewable Energy Growth Program. The Project Applicant is bound by the terms and conditions of the Tariff for the Renewable Energy Growth Program (the “Non-Residential Tariff”) as well as Other Company Tariff Requirements described and referenced therein. In addition, the facility is interconnected with the distribution system of the Narragansett Electric Company and is located in the Narragansett Electric Company ISO-NE load zone.

**Project Name:** Ecogy Energy RI VII LLC

**Project Owner/** Ecogy Energy RI VII LLC  
**Project Contact:** Julia Magliozzo Brock Gibian

**Facility Address:** Cornell Rd  
Tiverton, RI 02837

**Phone Number:** (718) 304-0945

**Email Address:** projectmanagement@ecogyenergy.com  
assetmanagement@ecogyenergy.com

**RI Interconnection Application ID or Case#:** 280574

**Renewable Technology:** Wind  
*Solar PV – rooftop; Solar PV – ground mount; Wind; Anaerobic Digestion; Hydropower*

**Renewable Energy Class:** Small Wind  
*Commercial Scale Solar; Large Scale Solar; Small Wind; Large Wind; Small DG Project; Large DG Project; CRDG Commercial Solar; CRDG Large Solar; Small Scale Hydropower I; Small Scale Hydropower II*

**Nameplate Capacity (kW):** 1,000  
*Maximum rated output or gross output of a generator; For Solar, the total rated output of all panels measured in DC.*

**Maximum Hourly Output (kWh AC per hour):** 1,000  
*Maximum amount of energy produced in an hour measured in AC for all technologies*

**Expected Annual Energy Output (MWh per year):** 1,999

*Expected amount of energy produced in a year measured in AC for all technologies*

**Applicable Renewable Energy Growth Program Tariff: Non-Residential Tariff**

*Indicate which tariff the Project Applicant is bound by the terms and conditions of: Renewable Energy Growth Program Tariff for Residential Customers, RIPUC No. 2151-G or Renewable Energy Growth Program Tariff for Non-Residential Customers, RIPUC No. 2152-G.*

**Required Performance Guarantee Deposit Paid (\$): \$49,975**

**Additional Required Performance Guarantee Deposit Paid (\$): \$0**

*Subject to the conditions set forth in Section 3.f of the Tariff, an Applicant may elect to extend the DG Project deadline a second time for providing the Output Certification by posting an additional Deposit amount equal to one-half of the original Deposit amount.*

**Performance Based Incentive (cents/kWh): 18.73**

**Term of Performance Based Incentive (# years): 20**

*The term of the applicable Tariff supplement beginning on the Certificate Effective Date.*

**Certificate Issuance Date: 10/07/2020**

**Payment Option: Option 1**

*Subject to the conditions set forth in Section 8.c of the Tariff, an Applicant must notify the Company of the manner by which it will be compensated for its output under the Program. Option 1 – Direct payment of the entire PBI or Option 2 – a combination of direct payment and customer bill credit.*

**Output Certification Deadline: 10/07/2022**

*If the Output Certification is not received within the required timeframe, subject to the conditions set forth in Section 3 of the Tariff, the project's Certificate of Eligibility will be voided and its performance guarantee deposit will be forfeited. Once a DG Project has provided the Output Certification, the Project then has 90 days to meet all other requirements pursuant to Section 8.a. of the Tariff in order to receive payment.*

**Certificate Effective Date: [Click here to enter a date.](#)**

*The performance-based incentive is paid beginning on this date for the applicable term of the tariff. As a condition of receiving payments, the Applicant must provide confirmation of: 1) the Company's written authority to interconnect to its electric distribution system and Applicant's payment of all amounts due; 2) Commission certification of the DG Project as an Eligible Renewable Energy Resource; 3) registration of the DG Project with the ISO-NE and NEPOOL GIS; 4) the Output Certification; and 5) being current with amounts due on the electric service accounts or fulfilling the requirements of an approved payment plan.*

**Certificate Termination Date: [Click here to enter a date.](#)**

*The performance-based incentive is paid up to this date covering the applicable 20-year term of the tariff. Section 11 of the Tariff highlights termination provisions under which the tariff might be terminated earlier than the stated Certificate Termination Date.*

# Certificate of Eligibility for Small-Scale and Medium-Scale Solar Projects

## Rhode Island Renewable Energy Growth Program

### The Narragansett Electric Company d/b/a National Grid

This Certificate of Eligibility is written confirmation that the Distributed Generation (“DG”) Project referenced below has been selected for participation in the Rhode Island Renewable Energy Growth Program. The Project Applicant is bound by the terms and conditions of the applicable Tariff for the Renewable Energy Growth Program (either the “Non-Residential Tariff” or “Residential Tariff”) that applies as well as Other Company Tariff Requirements described and referenced therein. In addition, the facility is interconnected with the distribution system of the Narragansett Electric Company and is located in the Narragansett Electric Company ISO-NE load zone.

**Project Name:** Ecogy Energy RI XIV LLC

**Project Owner/  
Project Contact:** Ecogy Energy RI XIV LLC  
Julia Magliozzo

**Facility Address:** 1441 Elmwood Ave  
Cranston, RI 02910

**Phone Number:** (718) 304-0945

**Email Address:** projectmanagement@ecogyenergy.com

**RI Interconnection Application ID or Case#:** 320335

**Renewable Technology:** Solar PV - rooftop  
*Solar PV – rooftop; Solar PV – ground mount*

**Renewable Energy Class:** Medium-Scale Solar  
*Small-Scale Solar; Medium-Scale Solar*

**Nameplate Capacity (kW):** 250  
*The total rated power output of all solar panels measured in DC*

**Maximum Hourly Output (kWh AC per hour):** 200  
*Maximum amount of energy produced in an hour measured in AC for all technologies*



**Expected Annual Energy Output (MWh per year): 316**

*Expected amount of energy produced in a year measured in AC for all technologies*

**Applicable Renewable Energy Growth Program Tariff: Non-Residential Tariff**

*Indicate which tariff the Project Applicant is bound by the terms and conditions of: Renewable Energy Growth Program Tariff for Residential Customers, RIPUC No. 2151-H or Renewable Energy Growth Program Tariff for Non-Residential Customers, RIPUC No. 2152-H.*

**Performance Based Incentive (cents/kWh): 20.81**

**Term of Performance Based Incentive (# years): 20**

*The term of the applicable Tariff supplement beginning on the Certificate Effective Date.*

**Certificate Issuance Date: 06/24/2021**

*This project must become operational and meet all other requirements pursuant to the Tariff by 6/24/2023; which is 24 months from receiving the Certificate of Eligibility. If the project does not meet this 24 month deadline, the project's Certificate of Eligibility will be voided.*

**Payment Option: Option 1**

*Residential Customers automatically receive Option 2. For Non-Residential Customers, subject to the conditions set forth in Section 8.c of the Non-Residential Tariff, an Applicant must notify the Company of the manner by which it will be compensated for its output under the Program. Option 1 – Direct payment of the entire PBI or Option 2 – a combination of direct payment and customer bill credit.*

**Certificate Effective Date: [Click here to enter a date](#)**

*The standard performance-based incentive is paid beginning on this date for the applicable term of the tariff. As a condition of receiving payments, the Applicant must provide confirmation of: 1) the Company's written authority to interconnect to its electric distribution system and Applicant's payment of all amounts due; 2) Commission certification of the DG Project as an Eligible Renewable Energy Resource; 3) except for Residential small-scale solar projects, registration of the DG Project with the ISO-NE and NEPOOL GIS; and 4) being current with amounts due on the electric service accounts or fulfilling the requirements of an approved payment plan.*

**Certificate Termination Date: [Click here to enter a date.](#)**

*The performance-based incentive is paid up to this date covering the applicable term of the tariff. If the Certificate Effective Date is x and the Term of Performance Based Incentive is y, then the Certificate Termination Date is x+y. Section 9 of the Residential Tariff and Section 11 of the Non-Residential Tariff respectively highlight termination provisions under which the tariff might be terminated earlier than the stated Certificate Termination Date.*

# Certificate of Eligibility for Small-Scale and Medium-Scale Solar Projects

## Rhode Island Renewable Energy Growth Program

### The Narragansett Electric Company d/b/a National Grid

This Certificate of Eligibility is written confirmation that the Distributed Generation (“DG”) Project referenced below has been selected for participation in the Rhode Island Renewable Energy Growth Program. The Project Applicant is bound by the terms and conditions of the applicable Tariff for the Renewable Energy Growth Program (either the “Non-Residential Tariff” or “Residential Tariff”) that applies as well as Other Company Tariff Requirements described and referenced therein. In addition, the facility is interconnected with the distribution system of the Narragansett Electric Company and is located in the Narragansett Electric Company ISO-NE load zone.

**Project Name:** Ecogy Energy RI XX LLC

**Project Owner/  
Project Contact:** Ecogy Energy RI XX LLC  
Julia Magliozzo

**Facility Address:** 12 Stilson Road  
Richmond, RI 02898

**Phone Number:** (718) 304-0945

**Email Address:** projectmanagement@ecogyenergy.com

**RI Interconnection Application ID or Case#:** 00325037

**Renewable Technology:** Solar PV - rooftop  
*Solar PV – rooftop; Solar PV – ground mount*

**Renewable Energy Class:** Medium-Scale Solar  
*Small-Scale Solar; Medium-Scale Solar*

**Nameplate Capacity (kW):** 250  
*The total rated power output of all solar panels measured in DC*

**Maximum Hourly Output (kWh AC per hour):** 200  
*Maximum amount of energy produced in an hour measured in AC for all technologies*

**Expected Annual Energy Output (MWh per year): 346.7**

*Expected amount of energy produced in a year measured in AC for all technologies*

**Applicable Renewable Energy Growth Program Tariff: Non-Residential Tariff**

*Indicate which tariff the Project Applicant is bound by the terms and conditions of: Renewable Energy Growth Program Tariff for Residential Customers, RIPUC No. 2151-H or Renewable Energy Growth Program Tariff for Non-Residential Customers, RIPUC No. 2152-H.*

**Performance Based Incentive (cents/kWh): 20.41**

**Term of Performance Based Incentive (# years): 20**

*The term of the applicable Tariff supplement beginning on the Certificate Effective Date.*

**Certificate Issuance Date: 06/24/2021**

*This project must become operational and meet all other requirements pursuant to the Tariff by 6/24/2023; which is 24 months from receiving the Certificate of Eligibility. If the project does not meet this 24 month deadline, the project's Certificate of Eligibility will be voided.*

**Payment Option: Option 1**

*Residential Customers automatically receive Option 2. For Non-Residential Customers, subject to the conditions set forth in Section 8.c of the Non-Residential Tariff, an Applicant must notify the Company of the manner by which it will be compensated for its output under the Program. Option 1 – Direct payment of the entire PBI or Option 2 – a combination of direct payment and customer bill credit.*

**Certificate Effective Date: [Click here to enter a date](#)**

*The standard performance-based incentive is paid beginning on this date for the applicable term of the tariff. As a condition of receiving payments, the Applicant must provide confirmation of: 1) the Company's written authority to interconnect to its electric distribution system and Applicant's payment of all amounts due; 2) Commission certification of the DG Project as an Eligible Renewable Energy Resource; 3) except for Residential small-scale solar projects, registration of the DG Project with the ISO-NE and NEPOOL GIS; and 4) being current with amounts due on the electric service accounts or fulfilling the requirements of an approved payment plan.*

**Certificate Termination Date: [Click here to enter a date.](#)**

*The performance-based incentive is paid up to this date covering the applicable term of the tariff. If the Certificate Effective Date is x and the Term of Performance Based Incentive is y, then the Certificate Termination Date is x+y. Section 9 of the Residential Tariff and Section 11 of the Non-Residential Tariff respectively highlight termination provisions under which the tariff might be terminated earlier than the stated Certificate Termination Date.*

# Certificate of Eligibility for Small-Scale and Medium-Scale Solar Projects

## Rhode Island Renewable Energy Growth Program

### The Narragansett Electric Company d/b/a National Grid

This Certificate of Eligibility is written confirmation that the Distributed Generation (“DG”) Project referenced below has been selected for participation in the Rhode Island Renewable Energy Growth Program. The Project Applicant is bound by the terms and conditions of the applicable Tariff for the Renewable Energy Growth Program (either the “Non-Residential Tariff” or “Residential Tariff”) that applies as well as Other Company Tariff Requirements described and referenced therein. In addition, the facility is interconnected with the distribution system of the Narragansett Electric Company and is located in the Narragansett Electric Company ISO-NE load zone.

**Project Name:** Ecogy Energy RI XXIII LLC

**Project Owner/  
Project Contact:** Ecogy Energy RI XXIII LLC  
Julia Magliozzo

**Facility Address:** 50 Ann Mary Street  
Pawtucket, RI 02860

**Phone Number:** (718) 304-0945

**Email Address:** projectmanagement@ecogyenergy.com

**RI Interconnection Application ID or Case#:** 00328446

**Renewable Technology:** Solar PV - rooftop  
*Solar PV – rooftop; Solar PV – ground mount*

**Renewable Energy Class:** Medium-Scale Solar  
*Small-Scale Solar; Medium-Scale Solar*

**Nameplate Capacity (kW):** 250  
*The total rated power output of all solar panels measured in DC*

**Maximum Hourly Output (kWh AC per hour):** 200  
*Maximum amount of energy produced in an hour measured in AC for all technologies*

**Expected Annual Energy Output (MWh per year): 318**

*Expected amount of energy produced in a year measured in AC for all technologies*

**Applicable Renewable Energy Growth Program Tariff: Non-Residential Tariff**

*Indicate which tariff the Project Applicant is bound by the terms and conditions of: Renewable Energy Growth Program Tariff for Residential Customers, RIPUC No. 2151-H or Renewable Energy Growth Program Tariff for Non-Residential Customers, RIPUC No. 2152-H.*

**Performance Based Incentive (cents/kWh): 19.79**

**Term of Performance Based Incentive (# years): 20**

*The term of the applicable Tariff supplement beginning on the Certificate Effective Date.*

**Certificate Issuance Date: 06/24/2021**

*This project must become operational and meet all other requirements pursuant to the Tariff by **6/24/2023**; which is 24 months from receiving the Certificate of Eligibility. If the project does not meet this 24 month deadline, the project's Certificate of Eligibility will be voided.*

**Payment Option: Option 1**

*Residential Customers automatically receive Option 2. For Non-Residential Customers, subject to the conditions set forth in Section 8.c of the Non-Residential Tariff, an Applicant must notify the Company of the manner by which it will be compensated for its output under the Program. Option 1 – Direct payment of the entire PBI or Option 2 – a combination of direct payment and customer bill credit.*

**Certificate Effective Date: [Click here to enter a date](#)**

*The standard performance-based incentive is paid beginning on this date for the applicable term of the tariff. As a condition of receiving payments, the Applicant must provide confirmation of: 1) the Company's written authority to interconnect to its electric distribution system and Applicant's payment of all amounts due; 2) Commission certification of the DG Project as an Eligible Renewable Energy Resource; 3) except for Residential small-scale solar projects, registration of the DG Project with the ISO-NE and NEPOOL GIS; and 4) being current with amounts due on the electric service accounts or fulfilling the requirements of an approved payment plan.*

**Certificate Termination Date: [Click here to enter a date.](#)**

*The performance-based incentive is paid up to this date covering the applicable term of the tariff. If the Certificate Effective Date is x and the Term of Performance Based Incentive is y, then the Certificate Termination Date is x+y. Section 9 of the Residential Tariff and Section 11 of the Non-Residential Tariff respectively highlight termination provisions under which the tariff might be terminated earlier than the stated Certificate Termination Date.*

EXHIBIT B  
(February 24, 2022 Hearing Transcript)

**In The Matter Of:**  
*NGRID 2022 REG PROGRAM PROPOSALS*  
*DOCKET NO. 5202*

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*February 24, 2022*

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*A-1 COURT REPORTERS, INC.*  
*200 HEROUX BLVD., NO. 811*  
*CUMBERLAND, RI 02864*  
*(401) 439-6196*

Original File NGRIDDGBOARD02242022.txt

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8 NARRAGANSETT ELECTRIC COMPANY  
9 D/B/A NATIONAL GRID AND THE RHODE  
10 ISLAND DISTRIBUTED GENERATION BOARD  
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13  
14 -----/  
15  
16 FEBRUARY 24, 2022  
17 9:30 A.M.  
18  
19 VIA ZOOM  
20  
21 BEFORE THE COMMISSION:  
22  
23 RONALD GERWATOWSKI, CHAIRMAN  
24 ABIGAIL ANTHONY, COMMISSIONER  
25 JOHN REVENS, JR., COMMISSIONER  
26  
27 CYNTHIA WILSON-FRIAS, LEGAL COUNSEL  
28 TODD BIANCO, PRINCIPAL POLICY ASSOCIATE  
29 ALAN NAULT, CHIEF ACCOUNTANT  
30

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3 FOR NATIONAL GRID:  
4 LETICIA PIMENTEL, ESQ.  
5  
6 FOR THE DIVISION:  
7 MARGARET HOGAN, ESQ.  
8 JONATHAN HAGOPIAN, ESQ.  
9  
10 FOR THE OER AND DG BOARD:  
11 ALBERT VITALI, ESQ.  
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5 ADAM CRARY VISHAL AHIRRAO  
6 ARIEL MAIORANO ROCCO LATANZIO  
7 DANIEL GALLAGHER JOHN KENNEDY  
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1 (COMMENCED AT 9:32 A.M.)  
2 THE CHAIRMAN: Good morning. This  
3 is a public hearing by the Public Utilities  
4 Commission in Docket 5202 relating to the  
5 2022 renewable energy growth program  
6 proposals by the Narragansett Electric  
7 Company and the Rhode Island Distributed  
8 Generation Board.  
9 Pursuant to Rhode Island General  
10 Laws, the Commission is conducting a  
11 hearing. It is Thursday, February 24th.  
12 We're in our hearing room in Warwick. This  
13 hearing may continue from time to time as  
14 required. The hearing is being streamed  
15 live on our video link.  
16 I'm going to go through and I'm  
17 actually going to try to read most of the  
18 notice here because there's complexities  
19 related to this filing that went in.  
20 At this hearing the PUC will  
21 examine the priority of proposals submitted  
22 by the Narragansett Electric Company, doing  
23 business as National Grid, at least for a  
24 little while longer anyway, and the Rhode



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1 Q. So in your direct testimony you focused on  
2 the third round of enrollment for solar much  
3 to the criticism in the rebuttal testimony.  
4 Why did you consider it relevant to consider  
5 the recent pricing of bids submitted in the  
6 third round of the 2021 open enrollment  
7 period?  
8 A. Yes. I felt like that that data would  
9 represent obviously the most recent bidding  
10 information in this program across all of  
11 the classes and so it made sense to look at  
12 that and to take that into consideration  
13 when looking at the proposed ceiling prices  
14 and the history of bid prices in the classes  
15 over the last few years and the fact that  
16 that pricing came in in the -- I think that  
17 enrollment period closed in October of 2021.  
18 And so I expected that that -- that  
19 developers and project owners that were  
20 submitting proposals at that point would be  
21 reflecting some level of inflationary  
22 impacts on their projects. So based on all  
23 of that, I felt like that was a reasonable  
24 thing to include. I also noted that -- I

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1 don't have the statutory reference, but when  
2 discussing -- in the statute when it talks  
3 about how ceiling prices should be arrived  
4 at, review of previous enrollments and  
5 previous bids is a factor that is  
6 statutorily allowed or, you know, stated to  
7 be considered as part of the overall  
8 gathering of evidence. So I felt like it  
9 was something that should be considered.  
10 Q. Very good. And a little over 24 hours ago  
11 Ecology Energy submitted a letter to the PUC,  
12 an extensive letter with voluminous amounts  
13 of information in it. Have you read that  
14 letter?  
15 A. Yes, I have.  
16 Q. Okay. And in that letter Ecology presented  
17 information concerning inflationary pricing  
18 pressures on renewable projects including  
19 those in the medium class. Do you have a  
20 comment about that?  
21 A. Yes, I do. I think the information is  
22 relevant and helpful to the discussion  
23 today. They provided some information that  
24 is as timely as this month and provided

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1 comparisons to similarly priced equipment  
2 and construction services from last year,  
3 and I think the evidence is compelling and  
4 it certainly adds to the record that  
5 inflationary pressures are real, at least at  
6 this point they're persistent. They're  
7 likely to persist going forward in 2022. So  
8 I think this certainly adds an additional  
9 piece of information to the overall record  
10 suggesting that there are significant  
11 pressures, cost pressures on these projects.  
12 Q. In that letter Ecology was substantially  
13 critical of the Division's position in the  
14 stakeholder process in general and they  
15 indicated at Page 1 of their letter that  
16 they had submitted four comments in 2021 and  
17 participated in all the stakeholder meetings  
18 and they expressed concern that they had not  
19 received feedback or comment from the  
20 Division regarding their written comments.  
21 Do you have a response to this?  
22 A. Yes. I did not engage directly with  
23 stakeholders. The engagement that I had  
24 with stakeholders was through the

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1 stakeholder meeting and with SEA as an  
2 intermediary. I think SEA certainly  
3 provided a summary of stakeholder comments  
4 and I understand that in many cases, and Jim  
5 mentioned this, Mr. Kennerly mentioned this  
6 earlier, that there's certain information  
7 that's confidential and they may not be able  
8 to share. But I was not -- I was not given  
9 direct verbatim comments from Ecology or  
10 others unless there was a verbatim comment  
11 that was contained but maybe not attributed  
12 in the presentation material.  
13 Q. In the rebuttal testimony there was a copy  
14 of an Ecology letter that was submitted at  
15 some point late last summer. I think it was  
16 in August. And do I understand your  
17 testimony to be that you were not aware of  
18 that correspondence or the contents prior to  
19 submitting your testimony?  
20 A. That's right. Well, I think prior to  
21 seeing the rebuttal testimony where that  
22 letter was an exhibit to Mr. Kennerly's  
23 rebuttal testimony.  
24 Q. Would you agree with Ecology and any other

1 footnote says it adjusts for both income tax  
 2 and the post tariff market prices. What I'm  
 3 interested to know is what the -- how much  
 4 of that almost \$.06 difference relates to  
 5 the tax compared to the post tariff market  
 6 prices, and if you don't know what that is,  
 7 we can just take it as a record request and  
 8 send it along.

9 A. Yeah. I think I would -- at the risk of  
 10 doing some back-of-the-napkin calculations  
 11 that might get me in trouble, would rather  
 12 do it as a record request.

13 THE CHAIRMAN: So you can take that  
 14 as a record request, whatever number that  
 15 would be. We can figure that out.

16 DR. BIANCO: I think we're at 10.

17 THE CHAIRMAN: We're at 10. Well,  
 18 that's all I had. Commissioner, do you have  
 19 anything? Anything else from the parties,  
 20 any followup for Mr. Brennan's testimony?

21 MR. VITALI: No followup from OER.

22 THE CHAIRMAN: Very good. Well, I  
 23 want to thank everyone. I'm not going to  
 24 officially adjourn the hearings, not because

1 I'm anticipating another hearing date, but  
 2 we have some record requests that are coming  
 3 in. We may need to enter those into the  
 4 record. I would just ask if anything comes  
 5 in in a record request and anyone objects to  
 6 it becoming a part of the record, I'll leave  
 7 it up to you to file the objection, and if  
 8 not, I'll assume that there's no objection.  
 9 Are we all set? Am I missing anything?  
 10 Okay. Thank you very much. Have a good  
 11 weekend.

12 (ADJOURNED AT 4:43 P.M.)

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1 C E R T I F I C A T E  
 2  
 3 I hereby certify that the foregoing  
 4 is a true and accurate transcript of the  
 5 hearing taken before the State of Rhode  
 6 Island Public Utilities Commission, on  
 7 February 24, 2022, at 9:30 a.m.



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11 JO ANNE M. SUTCLIFFE, RPR/CSR  
 12 NOTARY PUBLIC, STATE OF RHODE ISLAND  
 13 MY NOTARY EXPIRES ON 10/10/2024  
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